

By: Representatives McGee, Willis

To: Municipalities

HOUSE BILL NO. 1393

1 AN ACT TO AMEND SECTION 21-19-11, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT WHEN NOTICE IS GIVEN FOR THE CLEANING OF CERTAIN
3 MENACED PROPERTY THAT IS LESS THAN ONE ACRE WITHIN A MUNICIPALITY
4 THAT HAS A POPULATION OVER 25,000, THE NOTICE MAY BE MAILED TO THE
5 ADDRESS WHERE THE AD VALOREM TAX NOTICE FOR THE PROPERTY IS SENT
6 IF THE PROPERTY IS VACANT RATHER THAN SENDING NOTICE TO BOTH THE
7 ADDRESS WHERE THE AD VALOREM TAX IS SENT AND TO THE ADDRESS OF THE
8 MENACED PROPERTY; TO PROVIDE THAT A MUNICIPALITY MAY REENTER
9 MENACED PROPERTY FOR ADDITIONAL CLEANING FOR A PERIOD OF TWO YEARS
10 RATHER THAN ONE YEAR; TO PROVIDE THAT SUCH REENTRY MAY OCCUR
11 FOLLOWING THE INITIAL DETERMINATION AND NOTIFICATION OF A MENACING
12 CONDITION RATHER THAN AFTER THE INITIAL CLEANING; TO CLARIFY THAT
13 A MUNICIPALITY MAY IMPOSE A CERTAIN PENALTY FOR THE CLEANING OF
14 SUCH MENACED PROPERTY; TO PROVIDE THAT A MUNICIPALITY MAY ASSESS
15 THE SAME ACTUAL COSTS AND ADMINISTRATIVE COSTS EACH TIME THE
16 PROPERTY IS SUBSEQUENTLY CLEANED; TO PROVIDE THAT LIENS PERTAINING
17 TO THE COST AND ANY PENALTIES FOR THE CLEANING OF MENACED PROPERTY
18 MAY BE ENROLLED BY A MUNICIPALITY IN THE CHANCERY CLERK OF THE
19 COUNTY RATHER THAN THE CIRCUIT CLERK OF THE COUNTY; AND FOR
20 RELATED PURPOSES.

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

22 **SECTION 1.** Section 21-19-11, Mississippi Code of 1972, is
23 amended as follows:

24 21-19-11. (1) To determine whether property or parcel of
25 land located within a municipality is in such a state of
26 uncleanliness as to be a menace to the public health, safety and
27 welfare of the community, a governing authority of any



28 municipality shall conduct a hearing, on its own motion, or upon
29 the receipt of a petition signed by a majority of the residents
30 residing within four hundred (400) feet of any property or parcel
31 of land alleged to be in need of the cleaning. Notice shall be
32 provided to the property owner by:

33 (a) United States mail two (2) weeks before the date of
34 the hearing mailed to the address of the subject property and to
35 the address where the ad valorem tax notice for such property is
36 sent by the office charged with collecting ad valorem tax; and

37 (b) Posting notice for at least two (2) weeks before
38 the date of a hearing on the property or parcel of land alleged to
39 be in need of cleaning and at city hall or another place in the
40 municipality where such notices are posted.

41 Any notice required by this section shall include language
42 that informs the property owner that an adjudication at the
43 hearing that the property or parcel of land is in need of cleaning
44 will authorize the municipality to reenter the property or parcel
45 of land for a period of one (1) year after final adjudication
46 without any further hearing if notice is posted on the property or
47 parcel of land and at city hall or another place in the
48 municipality where such notices are generally posted at least
49 seven (7) days before the property or parcel of land is reentered
50 for cleaning. A copy of the required notice mailed and posted as
51 required by this section shall be recorded in the minutes of the



governing authority in conjunction with the hearing required by this section.

If, at such hearing, the governing authority shall adjudicate the property or parcel of land in its then condition to be a menace to the public health, safety and welfare of the community, the governing authority, if the owner does not do so himself, shall proceed to clean the land, by the use of municipal employees or by contract, by cutting grass and weeds; filling cisterns; removing rubbish, abandoned or dilapidated fences, outside toilets, abandoned or dilapidated buildings, slabs, personal property, which removal of personal property shall not be subject to the provisions of Section 21-39-21, and other debris; and draining cesspools and standing water therefrom. The governing authority may by resolution adjudicate the actual cost of cleaning the property and may also impose a penalty not to exceed One Thousand Five Hundred Dollars (\$1,500.00) or fifty percent (50%) of the actual cost, whichever is more. The cost and any penalty may become a civil debt against the property owner, and/or, at the option of the governing authority, an assessment against the property. The "cost assessed against the property" means either the cost to the municipality of using its own employees to do the work or the cost to the municipality of any contract executed by the municipality to have the work done, and administrative costs and legal costs of the municipality. For subsequent cleaning within the one-year period after the date of the hearing at which



77 the property or parcel of land was adjudicated in need of
78 cleaning, upon seven (7) days' notice posted both on the property
79 or parcel of land adjudicated in need of cleaning and at city hall
80 or another place in the municipality where such notices are
81 generally posted, and consistent with the municipality's
82 adjudication as authorized in this subsection (1), a municipality
83 may reenter the property or parcel of land to maintain cleanliness
84 without further notice or hearing no more than six (6) times in
85 any twelve-month period with respect to removing abandoned or
86 dilapidated buildings, slabs, dilapidated fences and outside
87 toilets, and no more than twelve (12) times in any
88 twenty-four-month period with respect to cutting grass and weeds
89 and removing rubbish, personal property and other debris on the
90 land, and the expense of cleaning of the property, except as
91 otherwise provided in this section for removal of hazardous
92 substances, shall not exceed an aggregate amount of Twenty
93 Thousand Dollars (\$20,000.00) per year, or the fair market value
94 of the property subsequent to cleaning, whichever is more. The
95 aggregate cost of removing hazardous substances will be the actual
96 cost of such removal to the municipality and shall not be subject
97 to the Twenty Thousand Dollars_ (\$20,000.00) limitation provided in
98 this subsection. The governing authority may assess the same
99 penalty for each time the property or land is cleaned as otherwise
100 provided in this section. The penalty provided herein shall not
101 be assessed against the State of Mississippi upon request for



reimbursement under Section 29-1-145, nor shall a municipality clean a parcel owned by the State of Mississippi without first giving notice.

(2) When the fee or cost to clean property or a parcel of land that is one (1) acre or less does not exceed Two Hundred Fifty Dollars (\$250.00), excluding administrative costs, and the property or parcel is located within a municipality having a population over twenty-five thousand (25,000), the governing authority of the municipality may authorize one or more of its employees to determine whether the property or parcel of land is in such a state of uncleanness as to be a menace to the public health, safety and welfare of the community and the determination made by the authorized municipal employee shall be set forth and recorded in the minutes of the governing authority. Notice of this determination shall be provided to the property owner by:

(a) United States mail seven (7) days before the date of cleaning of the property or parcel of land mailed to the address of the subject property and to the address where the ad valorem tax notice for such property is sent by the office charged with collecting ad valorem tax; however, if the subject property is a vacant lot or vacant building, then notice may be provided as prescribed in this paragraph by only mailing the notice to the address where the ad valorem tax notice for such property is sent by the office charged with collecting ad valorem tax; and



(b) Posting notice for at least seven (7) days before the cleaning of the property or parcel of land and at city hall or another place in the municipality where such notices are posted.

Any notice required by this subsection shall include language that informs the property owner that the appropriate municipal official has determined that the property or parcel of land is a menace to the public health, safety and welfare of the community and in need of cleaning and the municipality is authorized to enter the property for cleaning and that the municipality is further authorized to reenter the property or parcel of land for a period of * * * two (2) years * * * following the initial determination and notification of a menacing condition without any further hearing or action if notice is posted on the property or parcel of land and at city hall or another place in the municipality where such notices are generally posted at least seven (7) days before the property or parcel of land is reentered for cleaning. A copy of the required notice mailed and posted as required by this subsection shall be recorded in the minutes of the governing authority in conjunction with the determination made by the municipal employee in this subsection (2).

If an authorized municipal employee determines that the condition of property or parcel of land is a menace to the public health, safety and welfare of the community, the governing authority, if the owner does not do so himself, shall proceed to clean the land, by the use of municipal employees or by contract,



151 by cutting grass and weeds; filling cisterns; removing rubbish,
152 abandoned or dilapidated fences, outside toilets, abandoned or
153 dilapidated buildings, slabs, personal property, which removal of
154 personal property shall not be subject to the provisions of
155 Section 21-39-21, and other debris; and draining cesspools and
156 standing water therefrom. The governing authority shall by
157 resolution adjudicate the actual cost of cleaning the property
158 under this provision, provided the same does not exceed Two
159 Hundred Fifty Dollars (\$250.00) and may also impose a penalty not
160 to exceed One Hundred Dollars (\$100.00) or one hundred percent
161 (100%) of the actual cost, whichever is more. The cost and any
162 penalty may become a civil debt against the property owner,
163 and/or, at the option of the governing authority, an assessment
164 against the property. The "cost assessed against the property"
165 means either the cost to the municipality of using its own
166 employees to do the work or the cost to the municipality of any
167 contract executed by the municipality to have the work done, and
168 additionally may include administrative costs of the municipality
169 not to exceed Fifty Dollars (\$50.00). For subsequent cleaning
170 within the * * * two-year period set forth in this subsection (2),
171 upon seven (7) days' notice posted both on the property or parcel
172 of land adjudicated in need of cleaning and at city hall or
173 another place in the municipality where such notices are generally
174 posted, and consistent with the municipal official's determination
175 as authorized in this subsection (2), a municipality may reenter



the property or parcel of land to maintain cleanliness without further notice or hearing under this subsection (2) no more than six (6) times in * * * a twelve-month period with respect to removing abandoned or dilapidated buildings, slabs, dilapidated fences and outside toilets, and no more than twelve (12) times in * * * a twenty-four-month period with respect to cutting grass and weeds and removing rubbish, personal property and other debris on the land, and the expense of cleaning of the property shall not exceed an aggregate amount of One Thousand Dollars (\$1,000.00) per year under this subsection (2). The governing authority may assess the same actual costs, administrative costs and penalty for each time the property or land is cleaned as otherwise provided in this subsection (2). The penalty provided herein shall not be assessed against the State of Mississippi upon request for reimbursement under Section 29-1-145, nor shall a municipality clean a parcel owned by the State of Mississippi without first giving notice. A determination made by an appropriate municipal employee under this subsection (2) that the state or condition of property or a parcel of land is a menace to the public health, safety and welfare of the community shall not subsequently be used to replace a hearing if subsection (1) of this section is later utilized by a municipality when the prerequisites of this subsection (2) are not satisfied.

(3) If the governing authority declares, by resolution, that the cost and any penalty shall be collected as a civil debt, the



governing authority may authorize the institution of a suit on open account against the owner of the property in a court of competent jurisdiction in the manner provided by law for the cost and any penalty, plus court costs, reasonable attorney's fees and interest from the date that the property was cleaned.

(4) (a) If the governing authority declares that the cost and any penalty shall be collected as an assessment against the property, then the assessment above provided for shall be a lien against the property and may be enrolled in the office of the * * * chancery clerk of the county as other * * * liens or encumbrances are filed, and the tax collector of the municipality shall, upon order of the board of governing authorities, proceed to sell the land to satisfy the lien as now provided by law for the sale of lands for delinquent municipal taxes. The lien against the property shall be an encumbrance upon the property and shall follow title of the property.

(b) (i) All assessments levied under the provisions of this section shall be included with municipal ad valorem taxes and payment shall be enforced in the same manner in which payment is enforced for municipal ad valorem taxes, and all statutes regulating the collection of other taxes in a municipality shall apply to the enforcement and collection of the assessments levied under the provisions of this section, including utilization of the procedures authorized under Sections 17-13-9(2) and 27-41-2.



225 (ii) All assessments levied under the provisions
226 of this section shall become delinquent at the same time municipal
227 ad valorem taxes become delinquent. Delinquencies shall be
228 collected in the same manner and at the same time delinquent ad
229 valorem taxes are collected and shall bear the same penalties as
230 those provided for delinquent taxes. If the property is sold for
231 the nonpayment of an assessment under this section, it shall be
232 sold in the manner that property is sold for the nonpayment of
233 delinquent ad valorem taxes. If the property is sold for
234 delinquent ad valorem taxes, the assessment under this section
235 shall be added to the delinquent tax and collected at the same
236 time and in the same manner.

237 (5) All decisions rendered under the provisions of this
238 section may be appealed in the same manner as other appeals from
239 municipal boards or courts are taken. However, an appeal from a
240 decision of a municipal officer or official shall be made to the
241 governing authority and such appeal shall be in writing, state the
242 basis for the appeal and be filed with the city clerk no later
243 than seven (7) days from the latest date of notice required under
244 this section.

245 (6) Nothing contained under this section shall prevent any
246 municipality from enacting criminal penalties for failure to
247 maintain property so as not to constitute a menace to public
248 health, safety and welfare.



249 **SECTION 2.** This act shall take effect and be in force from
250 and after its passage.

