

By: Representative Yancey

To: Judiciary A

HOUSE BILL NO. 1533

1 AN ACT TO ESTABLISH A PROCEDURE FOR THE DISPOSITION OF
2 ABANDONED MANUFACTURED OR MOBILE HOMES AND ASSOCIATED PERSONAL
3 PROPERTY; TO PROVIDE DEFINITIONS; TO PROVIDE FOR A COMPLAINT FOR
4 DISPOSITION OF ABANDONED MANUFACTURED OR MOBILE HOMES; TO PROVIDE
5 FOR THE ENTRY OF AN ORDER BY THE COURT NAMING A COMMISSIONER TO
6 HANDLE THE DISPOSITION AND SETTING THE DATE AND TIME OF THE SALE;
7 TO PROVIDE FOR ADVERTISEMENT AND PROCEDURES FOR THE SALE; TO
8 PROVIDE FOR PAYMENT OF DEBT AND EXERCISE OF POSSESSION; TO PROVIDE
9 FOR DISBURSEMENT OF BID AMOUNT BY THE COMMISSIONER; TO PROVIDE FOR
10 ENTRY OF A FINAL ORDER AND SUBMISSION OF THE BILL OF SALE TO THE
11 MISSISSIPPI DEPARTMENT OF REVENUE; TO PROVIDE THAT THIS PROCEEDING
12 IS A GOOD FAITH DEFENSE OF THE OWNER OF REAL PROPERTY TO CLAIMS OF
13 WRONGFUL SALE; TO AMEND SECTION 19-3-85, MISSISSIPPI CODE OF 1972,
14 IN CONFORMITY; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** **Definitions.** As used in this act, unless the
17 context clearly indicates otherwise:

18 (a) "Abandoned" means that no person is occupying the
19 manufactured home or mobile home at the present, nor has any
20 person occupied it for the past sixty (60) days, nor has the owner
21 or any representative of the owner informed the community owner of
22 a reason that the manufactured home or mobile home is not
23 occupied.



24 (b) "Abandoned manufactured or mobile home" means a
25 manufactured home or mobile home that has been abandoned for at
26 least sixty (60) consecutive days, located on property owned by
27 another community owner.

28 (c) "Associated personal property" means any personal
29 property excluding motor vehicles located within or adjacent to
30 the abandoned manufactured or mobile home.

31 (d) "Commissioner" shall mean a resident of the county
32 where the abandoned manufactured or mobile home is located, who,
33 by a sale order issued by a court in a proceeding, shall act
34 pursuant to the sale order, including, but not limited to,
35 advertising the sale, receiving funds paid at any sale ordered by
36 the court of the abandoned manufactured or mobile home and
37 associated personal property, and making all disbursements arising
38 out of the sale with the sale being conducted by the sheriff. The
39 commissioner need not be a disinterested third party and may be
40 counsel or a representative of the community owner and shall not
41 be disqualified nor shall the acts of such person be invalid
42 because of the relationship of such person to the community owner.

43 (e) "Community" means a contiguous residential real
44 estate development operated by a community owner as one (1)
45 development consisting of six (6) or more lots for lease to the
46 public where at least one (1) of such lots is vacant and may be
47 subject to a lease, lease-purchase or other agreement with the



owner of a manufactured or mobile home who may locate such owner's
manufactured or mobile home on the lot.

(f) "Community owner" means a person other than the
owner of the manufactured or mobile home who owns fee simple or
ground leasehold interest in residential real property developed
and operated as a community on which an abandoned manufactured or
mobile home and any associated personal property is located
pursuant to a lease, lease-purchase or other agreement.

(g) "Complaint" means the pleading filed by the
community owner in the proceeding seeking a judicial sale of an
abandoned manufactured or mobile home and associated personal
property.

(h) "Date of abandonment" means the date on which the
community owner determines that the manufactured or mobile home
and associated personal property may in fact have been vacated by
the owner in a manner that may lead to an abandonment.

(i) "Final order" means the final order entered by a
court in a proceeding adjudicating the disposition of an abandoned
manufactured or mobile home and associated personal property, that
confirms the sale of the abandoned manufactured or mobile home and
associated personal property or makes other adjudications as
deemed appropriate by the court.

(j) "Inventory" means an itemized list of associated
personal property with an estimate of value for the sum and not
individual component parts of all associated personal property



73 located within or adjacent to a manufactured or mobile home by a
74 disinterested third party with items of like kind being grouped
75 together for inventory purposes.

76 (k) "Last known address" shall mean the last known
77 address of the owner of an abandoned manufactured or mobile home
78 or any forwarding address or emergency contact address known to
79 the community owner.

80 (l) "Lien" means an interest, other than a lien for the
81 payment of taxes, on or against an abandoned manufactured home or
82 mobile home or associated personal property imposed by law or by
83 written instrument providing for an indebtedness or obligation of
84 a person secured in a manner that in the event of a default
85 provides the lienholder a right to recover the manufactured home
86 or mobile home or associated personal property or title thereto
87 using lawful means.

88 (m) "Lienholder" means any person holding a lien on an
89 abandoned manufactured home or mobile home or associated personal
90 property.

91 (n) "Manufactured home" shall have the meaning set
92 forth in Section 75-49-3(a), Mississippi Code of 1972.

93 (o) "Mobile home" shall have the meaning set forth in
94 Section 75-49-3(b), Mississippi Code of 1972.

95 (p) "Necessary party" shall mean the owner, any
96 lienholder, or any other person known to have a lien or claim upon
97 the abandoned manufactured or mobile home or associated personal



98 property except the following who are not to be a party to the
99 proceeding to dispose of the abandoned manufactured or mobile home
100 or associated personal property: any commissioner appointed by
101 the court, County Tax Assessor, County Tax Collector, County Board
102 of Supervisors, County Sheriff or any Deputy Sheriff and the
103 Department of Revenue of the State of Mississippi.

104 (q) "Notice of abandonment" shall mean a written notice
105 by the community owner to the owner notifying the owner at least
106 thirty (30) days after the date of abandonment that the
107 manufactured or mobile home and any associated personal property
108 in or adjacent to the abandoned manufactured home or mobile home
109 should be immediately removed or be subject to a judicial finding
110 of abandonment which may lead to a sale of the abandoned
111 manufactured or mobile home and all associated personal property.

112 (r) "Notice of sale" shall mean the notice advertising
113 the sale of the abandoned manufactured or mobile home.

114 (s) "Owner" of a manufactured home or mobile home means
115 the person holding legal title to the manufactured home or mobile
116 home.

117 (t) "Person" means any individual, firm, corporation,
118 partnership, association or other type of business entity.

119 (u) "Proceeding" shall mean the civil action filed or
120 to be filed in a court of competent jurisdiction depending upon
121 the amount in controversy being the Justice Court, County Court or
122 Chancery Court of the State of Mississippi in the county where the



123 manufactured or mobile home is located seeking relief including
124 the disposition of the abandoned manufactured or mobile home and
125 associated personal property.

126 (v) "Purchaser" shall mean the successful bidder at the
127 sale of the abandoned manufactured or mobile home and associated
128 personal property who purchases the same.

129 (w) "Sale order" means an interim order in the
130 proceeding authorizing the sale of the abandoned manufactured or
131 mobile home and associated personal property and addressing other
132 matters in the discretion of the court.

133 (x) "Sheriff" means the sheriff (or any deputy sheriff
134 appointed by the sheriff) of the county where the abandoned
135 manufactured or mobile home and any associated personal property
136 is located.

137 (y) "Title" means the writing evidencing ownership by
138 the owner of a manufactured home or mobile home.

139 (z) "Uninhabitable" means an abandoned manufactured or
140 mobile home where, in the opinion of an independent third party
141 who is an appraiser, contractor or other person familiar with cost
142 of repair of manufactured or mobile homes, the cost to repair the
143 home to a condition where it is habitable for human occupation as
144 a residence considering the health, safety and general welfare of
145 the occupant, is more than the cost of demolition and removal of
146 the abandoned manufactured or mobile home.



(aa) "Value" in the case of an abandoned manufactured or mobile home shall mean the estimated fair market value of the abandoned manufactured home or mobile home from an independent third party based upon: (i) a written statement from an appraiser or other person familiar with such values; or (ii) a recognized national publisher of values of manufactured homes or mobile homes; provided, however, that if the abandoned manufactured or mobile home is uninhabitable the value shall be based upon a written estimate from a third party of demolition and removal of the abandoned manufactured or mobile home. "Value" in the case of an inventory of personal property means the estimate of the fair market value of the personal property of the owner within or adjacent to an abandoned manufactured home or mobile home based upon similar values that an individual might use in claiming a deduction for United States Income Tax purposes for a charitable contribution of used personal property to a qualified charitable organization for charitable purposes including estimated consignment or thrift shop values for the lot.

SECTION 2. Complaint for disposition of abandoned manufactured or mobile homes. Any community owner, his agent or attorney, may initiate a proceeding by filing a complaint under oath for the disposition of an abandoned manufactured or mobile home and associated personal property, setting forth:

(a) A statement that the abandoned manufactured home or mobile home is abandoned, including the address and county where



172 it is abandoned and the date when it was vacated by the owner in a
173 manner that the community owner believes led to an abandonment.

174 (b) A description of the abandoned manufactured home or
175 mobile home, including all reasonably available information as to
176 the year, make, model number and serial number.

177 (c) A copy of the notice of abandonment sent by the
178 community owner to the owner at the owner's last known address, on
179 a date at least thirty (30) days after the date of abandonment and
180 at least thirty (30) days before the commencement of the
181 proceeding, and any response thereto.

182 (d) The value of the abandoned manufactured home or
183 mobile home.

184 (e) A statement as to whether or not the abandoned
185 manufactured home or mobile home is believed to be uninhabitable
186 and, if so, the statement of the person making such determination
187 and the bid of the person establishing the cost of demolition and
188 removal, which may be one and the same person.

189 (f) An inventory of any personal property within or
190 adjacent to the abandoned manufactured home or mobile home and a
191 statement of value.

192 (g) A statement as to the current, delinquent or other
193 status of the personal property taxes on the home.

194 (h) A statement as to known or presumed owner of the
195 abandoned manufactured or mobile home and the last known address
196 of the owner.



(i) A statement as to the known or presumed liens and lienholders of the abandoned manufactured or mobile home and associated personal property and the amount of such liens.

(j) A statement as to whether the property owner has knowledge of any other person having or asserting a lien or claim upon the abandoned manufactured or mobile home.

(k) A statement that in addition to the manufactured or mobile home being abandoned, the owner is in breach of a lease, lease-purchase or agreement with the community owner of the lot on which the manufactured or mobile home is situated and setting out the damages incurred by the community owner, including any credit for a security or other deposit by the owner.

(l) A statement requesting that a commissioner be appointed for the public sale of the abandoned manufactured or mobile home and designating the proposed commissioner by name, address and phone number.

(m) A statement identifying all necessary parties who shall be made defendants and served with process in the time and manner required by law.

(n) Such other statements as may be appropriate under the circumstances.

SECTION 3. Filing of complaint constitutes consent by the community owner to a temporary easement for removal of the manufactured or mobile home and associated personal property. The filing of a complaint by the community owner shall constitute



consent by the community owner to the purchaser receiving a bill of sale from the sheriff exercising an implied temporary easement to remove the manufactured or mobile home and associated personal property in a reasonable manner and for a reasonable time following the entry of the final order. Such purchaser shall repair any damage to the real property caused by such removal leaving the real property in an unreasonable condition and such purchaser shall be liable to the community owner for unreasonable damage to the real property.

SECTION 4. Entry of an order naming the commissioner and setting the date and time of the sale. Upon finding that the manufactured or mobile home and associated personal property that are the subject of the complaint are in fact abandoned and have not been claimed and the indebtedness of the community owner has not been paid in full, the court shall enter an order adjudicating whether or not the manufactured or mobile home is uninhabitable, approving the inventory, approving the sale by the sheriff of the abandoned manufactured or mobile home and the associated personal property as reflected on the inventory and setting a date, time and place for the sale, with the advertisement, determination of liens and financial responsibility for the sale to be the responsibility of the commissioner appointed by the court.

SECTION 5. Oath of commissioner. Before the commissioner enters upon the discharge of the commissioner's duties, the commissioner shall take and subscribe an oath before some



competent officer, and shall file a copy of the same in the proceeding, that the commissioner will honestly, faithfully and impartially advertise the sale, receive the highest bid, disburse the same and file a report as to such disbursement required by law, and perform the duties required of a commissioner to the best of the commissioner's skill, knowledge and judgment.

SECTION 6. Advertisement for the sale. The commissioner shall advertise a notice of sale by publication and posting. The notice of sale shall be published one (1) time at least a week prior to the sale in a newspaper published in the county where the manufactured or mobile home is located, or, if none such paper is so published in said county, in some paper having a general circulation therein. The notice of sale shall be posted by the commissioner at the courthouse of the county where the abandoned manufactured or mobile home is located. The notice of sale shall contain a detailed description of the abandoned manufactured or mobile home and a general description of the associated personal property to be sold and the date, time and place of the sale. Upon request, the commissioner shall provide the inventory to any interested person. The commissioner shall mail a copy of the notice of sale by United States mail postage prepaid to the last known address of the owner as shown in the complaint if the owner has not appeared as a party to the proceeding.

SECTION 7. Procedure for the sale. The sale shall be made at the place, on the date and during the time set by the court.



272 The sheriff shall conduct the sale. The abandoned manufactured or
273 mobile home and associated personal property shall be sold for
274 cash to the highest bidder. The community owner may purchase at
275 any sale and any such sale shall not be invalid because of the
276 relationship of such purchaser to the community owner or any
277 lienholder. The community owner and any lienholder may credit bid
278 by deducting the amount due to such bidder from the bidder's bid.
279 The highest bid accepted by the sheriff at the sale shall be paid
280 to the commissioner. The sheriff, promptly upon completion of the
281 sale, shall deliver to the commissioner a report of the sale,
282 including a copy of the notice of sale authorizing the sale of the
283 abandoned manufactured or mobile home and a list of the associated
284 personal property sold along with the same, the total amount paid,
285 the name of the commissioner to whom it was paid, the name of the
286 sheriff conducting the sale and the name of the person to whom the
287 sale was made. The sheriff shall execute and deliver a bill of
288 sale to the purchaser who shall be the highest bidder with the
289 commissioner to witness the bill of sale. The signature by the
290 sheriff and the commissioner to the bill of sale is a
291 certification by them that the sale was conducted pursuant to the
292 sale order and to the highest bidder for cash. The bill of sale
293 may be conditioned upon the entry by the court of the final order.
294 If there is no bidder at the sale, the sheriff's fees shall be
295 paid by the community owner with such costs to be assessed as
296 costs of court, upon filing of proof of payment of the same in the



proceeding. If there is no bid, the community owner may seek a new sale order providing for another sale of the manufactured or mobile home and associated personal property.

SECTION 8. **Payment of debt and exercise of possession.** Any interested party may, at any time before a sale is made under the terms and provisions of the sale order, stop a threatened sale of a manufactured or mobile home by paying the amount due to the community owner on the amount actually past due rather than any amount accelerated, along with all accrued costs, attorneys' fees, commissioners' fees, sheriffs' fees, such taxes due and not paid, with proper interest and penalties thereon. Any such payment or payments shall reinstate, according to the terms of the agreement with the community owner, the amount so accelerated, the same as if such amount had not been accelerated or put in default.

SECTION 9. **Disbursement of bid amount by commissioner.** The commissioner shall disburse the bid proceeds as follows: first, to the sheriff for the sheriff's fee; second, to the tax collector for any past due taxes, liens and assessments; third, to the lien creditors in their order of priority; fourth, to the community owner for the indebtedness, interest and attorney's fees owed thereto and all costs of court and commissioner's fees; and fifth, to the owner, or if the abandoned manufactured or mobile home was adjudicated by the sale order as uninhabitable, then to the community owner in the amount of the estimate of demolition and removal. If the owner has appeared in the proceeding or was



served with process other than by publication, any amount to be paid to the owner and not paid directly to the owner may be paid by interpleading the same with the clerk of court where the proceeding is pending for the benefit of the owner. If the owner has not appeared in the proceeding and service of process was obtained by publication, then the commissioner shall pay the same to the Treasurer of the State of Mississippi as unclaimed funds on such forms as may be prescribed by the Treasurer. The commissioner shall have the right to delay disbursement of the bid amount until the court has entered a final order.

SECTION 10. Entry of a final order. Upon the commissioner filing a report with the court attaching a copy of the sheriff's report of the sale and a list of the actual or proposed disbursements from the accepted bid, the court may enter a final order approving the sale and the disbursement of the proceeds from the accepted bid and include such other provisions as deemed appropriate by the court. The court may enter any other order finally disposing of the proceeding, including an order of dismissal.

SECTION 11. Submission to the Department of Revenue. The purchaser shall submit a copy of the bill of sale and the final order to the Department of Revenue along with such forms as may be prescribed by it for the issuance of a new title to the purchaser.

SECTION 12. Good faith defense of owner of real property to claims of wrongful sale of a manufactured or mobile home and



347 **associated personal property.** A community owner who believes in
348 good faith that the manufactured or mobile home and associated
349 personal property that was the subject of a proceeding to dispose
350 of the same was in fact abandoned shall not be liable for any
351 damages whatsoever to the owner or a lienholder or other
352 interested person arising from the proceedings provided the owner
353 served process by publication to all unknown persons having an
354 interest in the manufactured or mobile home and associated
355 personal property.

356 **SECTION 13.** Section 19-3-85, Mississippi Code of 1972, is
357 amended as follows:

358 19-3-85. The board of supervisors of any county, upon the
359 receipt or recovery of any lost, stolen, abandoned or misplaced
360 personal property by the sheriff or other law enforcement officers
361 of the county, shall cause to be posted, in three (3) public
362 places in the county, notice that such property has been received
363 or recovered. Such notice shall contain an accurate and detailed
364 description of such property and, if the board of supervisors is
365 advised as to who owns the property, a copy of the notice shall be
366 mailed to such person or persons in addition to being posted as
367 required in this section. The owner may recover the property by
368 filing a claim with the board of supervisors and establishing his
369 right to the property. The board may require bond of the person
370 claiming the property before delivering it to him. Parties having
371 adverse claims to the property may proceed according to law.



372 If no person claims the property within one hundred twenty
373 (120) days from the date the notice is given, the board of
374 supervisors shall cause the property to be sold at public auction
375 to the highest bidder for cash after first posting notice of the
376 sale in three (3) public places in the county at least ten (10)
377 days before the date of the sale. The notice shall contain a
378 detailed and accurate description of the property to be sold and
379 shall be addressed to the unknown owners or other persons
380 interested in the property to be sold. The notice shall also set
381 forth the date, time and place the sale is to be conducted and
382 shall designate the sheriff to make the sale.

383 However, lost, stolen, abandoned or misplaced motor vehicles
384 and bicycles may be sold in the manner provided in the preceding
385 paragraph after the expiration of ninety (90) days from their
386 receipt or recovery by law enforcement officers of the county.

387 The sheriff, promptly upon completion of the sale, shall
388 deliver to the chancery clerk a copy of the notice authorizing the
389 sale, a list of the property sold, the amount paid for each item,
390 the person to whom each item was sold, and all monies received
391 from such sale. The clerk then shall deposit the monies into the
392 county treasury and the proceeds of the sale shall be first
393 applied to the necessary costs and expenses of the sale, with the
394 remainder to be credited to the special supplemental budget of the
395 sheriff to be expended by the sheriff for any law enforcement
396 purpose upon approval of the board of supervisors. The chancery



clerk shall file the information concerning the sale among the other records of his office. If, within ninety (90) days after the date of the sale, any person claims to be the owner of the property sold, the board, upon satisfactory proof of ownership, shall pay to such person the amount for which the property was sold, and the board may require of such person a bond in such cases as the board deems advisable. No action shall be maintained against the county or any of its officers or employees or the purchaser at the sale for any property sold or the proceeds therefrom after the expiration of ninety (90) days from the date of the sales as authorized in this section.

The provisions of Sections 1 through 12 of this act relating to the disposition of abandoned manufactured or mobile homes and associated personal property shall be in addition to, and shall supersede, the provisions of this section.

SECTION 14. This act shall take effect and be in force from and after July 1, 2020.

