

By: Representative Yancey

To: Ways and Means

HOUSE BILL NO. 955

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 or
 22 landowner of a reason that the manufactured home or mobile home is
 23 not 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 or landowner.

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, by
33 a sale order issued by a court in a proceeding, shall act pursuant
34 to the sale order, including, but not limited to, advertising the
35 sale, receiving funds paid at any sale ordered by the court of the
36 abandoned manufactured or mobile home and associated personal
37 property, and making all disbursements arising out of the sale
38 with the sale being conducted by the sheriff. The commissioner
39 need not be a disinterested third party and may be counsel or a
40 representative of the community owner or landowner 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 or landowner.

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



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

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

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

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

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

72 (j) "Inventory" means an itemized list of associated
73 personal property with an estimate of value for the sum and not



74 individual component parts of all associated personal property
75 located within or adjacent to a manufactured or mobile home by a
76 disinterested third party with items of like kind being grouped
77 together for inventory purposes.

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

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

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

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

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

97 (p) "Necessary party" shall mean the owner, any
98 lienholder, or any other person known to have a lien or claim upon



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

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

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

118 (s) "Owner" of a manufactured home or mobile home means
119 the person holding legal title to the manufactured home or mobile
120 home.

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



123 (u) "Proceeding" shall mean the civil action filed or
124 to be filed in a court of competent jurisdiction depending upon
125 the amount in controversy being the Justice Court, County Court or
126 Chancery Court of the State of Mississippi in the county where the
127 manufactured or mobile home is located seeking relief including
128 the disposition of the abandoned manufactured or mobile home and
129 associated personal property.

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

133 (w) "Sale order" means an interim order in the
134 proceeding authorizing the sale of the abandoned manufactured or
135 mobile home and associated personal property and addressing other
136 matters in the discretion of the court.

137 (x) "Sheriff" means the sheriff (or any deputy sheriff
138 appointed by the sheriff) of the county where the abandoned
139 manufactured or mobile home and any associated personal property
140 is located.

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

143 (z) "Uninhabitable" means an abandoned manufactured or
144 mobile home where, in the opinion of an independent third party
145 who is an appraiser, contractor or other person familiar with cost
146 of repair of manufactured or mobile homes, the cost to repair to
147 the home to a condition where it is habitable for human occupation



148 as a residence considering the health, safety and general welfare
149 of the occupant, is more than the cost of demolition and removal
150 of the abandoned manufactured or mobile home.

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

169 **SECTION 2. Complaint for disposition of abandoned**
170 **manufactured or mobile homes.** Any community owner or landowner,
171 his agent or attorney, may initiate a proceeding by filing a
172 complaint under oath for the disposition of an abandoned



173 manufactured or mobile home and associated personal property,
174 setting forth:

175 (a) A statement that the abandoned manufactured home or
176 mobile home is abandoned, including the address and county where
177 it is abandoned and the date when it was vacated by the owner in a
178 manner that the community owner or landowner believes led to an
179 abandonment.

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

183 (c) A copy of the notice of abandonment sent by the
184 community owner or landowner to the owner at the owner's last
185 known address, on a date at least thirty (30) days after the date
186 of abandonment and at least thirty (30) days before the
187 commencement of the proceeding, and any response thereto.

188 (d) The value of the abandoned manufactured home or
189 mobile home.

190 (e) A statement as to whether or not the abandoned
191 manufactured home or mobile home is believed to be uninhabitable
192 and, if so, the statement of the person making such determination
193 and the bid of the person establishing the cost of demolition and
194 removal, which may be one and the same person.

195 (f) An inventory of any personal property within or
196 adjacent to the abandoned manufactured home or mobile home and a
197 statement of value.



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

200 (h) A statement as to known or presumed owner of the
201 abandoned manufactured or mobile home and the last known address
202 of the owner.

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

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

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

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

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



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

225 **SECTION 3. Filing of complaint constitutes consent by the**
226 **community owner or landowner to a temporary easement for removal**
227 **of the manufactured or mobile home and associated personal**
228 **property.** The filing of a complaint by the community owner or
229 landowner shall constitute consent by the community owner or
230 landowner to the purchaser receiving a Bill of Sale from the
231 sheriff exercising an implied temporary easement to remove the
232 manufactured or mobile home and associated personal property in a
233 reasonable manner and for a reasonable time following the entry of
234 the final order. Such purchaser shall repair any damage to the
235 real property caused by such removal leaving the real property in
236 an unreasonable condition and such purchaser shall be liable to
237 the community owner or landowner for unreasonable damage to the
238 real property.

239 **SECTION 4. Entry of an order naming the commissioner and**
240 **setting the date and time of the sale.** Upon finding that the
241 manufactured or mobile home and associated personal property that
242 are the subject of the complaint are in fact abandoned and have
243 not been claimed and the indebtedness of the community owner or
244 landowner has not been paid in full, the court shall enter an
245 order adjudicating whether or not the manufactured or mobile home
246 is uninhabitable, approving the inventory, approving the sale by
247 the sheriff of the abandoned manufactured or mobile home and the



248 associated personal property as reflected on the inventory and
249 setting a date, time and place for the sale, with the
250 advertisement, determination of liens and financial responsibility
251 for the sale to be the responsibility of the commissioner
252 appointed by the court.

253 **SECTION 5. Oath of commissioner.** Before the commissioner
254 enters upon the discharge of the commissioner's duties, the
255 commissioner shall take and subscribe an oath before some
256 competent officer, and shall file a copy of the same in the
257 proceeding, that the commissioner will honestly, faithfully and
258 impartially advertise the sale, receive the highest bid, disburse
259 the same and file a report as to such disbursement required by
260 law, and perform the duties required of a commissioner to the best
261 of the commissioner's skill, knowledge and judgment.

262 **SECTION 6. Advertisement for the sale.** The commissioner
263 shall advertise a notice of sale by publication and posting. The
264 notice of sale shall be published one (1) time a week for three
265 (3) weeks prior to the sale in a newspaper published in the county
266 where the manufactured or mobile home is located, or, if none such
267 paper is so published in said county, in some paper having a
268 general circulation therein. The notice of sale shall be posted
269 by the commissioner at the courthouse of the county where the
270 abandoned manufactured or mobile home is located. The notice of
271 sale shall contain a detailed description of the abandoned
272 manufactured or mobile home and a general description of the



273 associated personal property to be sold and the date, time and
274 place of the sale. Upon request, the commissioner shall provide
275 the inventory to any interested person. The commissioner shall
276 mail a copy of the notice of sale by United States mail postage
277 prepaid to the last known address of the owner as shown in the
278 complaint if the owner has not appeared as a party to the
279 proceeding.

280 **SECTION 7. Procedure for the sale.** The sale shall be made
281 at the place, on the date and during the time set by the court.
282 The sheriff shall conduct the sale and shall charge a reasonable
283 fee for conducting the sale with the fee to be applied to the
284 sheriff's operating fund. The abandoned manufactured or mobile
285 home and associated personal property shall be sold for cash to
286 the highest bidder. Each bidder shall submit a bid in at least a
287 minimum amount that will pay the sheriff's fee, the tax collector
288 for any past due taxes, the lien creditors in their order of
289 priority and all costs of court and commissioner's fees. The
290 community owner or landowner may purchase at any sale, and any
291 such sale shall not be invalid because of the relationship of such
292 purchaser to the community owner or landowner or any lienholder.
293 The community owner or landowner and any lienholder may credit bid
294 by deducting the amount due to such bidder from the bidder's bid.
295 The highest bid accepted by the sheriff at the sale shall be paid
296 to the commissioner. The sheriff, promptly upon completion of the
297 sale, shall deliver to the commissioner a report of the sale,



298 including a copy of the notice of sale authorizing the sale of the
299 abandoned manufactured or mobile home and a list of the associated
300 personal property sold along with the same, the total amount paid,
301 the name of the commissioner to whom it was paid, the name of the
302 sheriff conducting the sale and the name of the person to whom the
303 sale was made. The sheriff shall execute and deliver a bill of
304 sale to the purchaser who shall be the highest bidder with the
305 commissioner to witness the bill of sale. The signature by the
306 sheriff and the commissioner to the bill of sale is a
307 certification by them that the sale was conducted pursuant to the
308 sale order and to the highest bidder for cash. The bill of sale
309 may be conditioned upon the entry by the court of the final order.
310 If there is no bidder at the sale, the sheriff's fees shall be
311 paid by the community owner or landowner with such costs to be
312 assessed as costs of court, upon filing of proof of payment of the
313 same in the proceeding. If there is no bid, the community owner
314 or landowner may seek a new sale order providing for another sale
315 of the manufactured or mobile home and associated personal
316 property.

317 **SECTION 8. Payment of debt and exercise of possession.** Any
318 interested party may, at any time before a sale is made under the
319 terms and provisions of the sale order, stop a threatened sale of
320 a manufactured or mobile home by paying the amount due to the
321 community owner or landowner on the amount actually past due
322 rather than any amount accelerated, along with all accrued costs,



323 attorneys' fees, commissioners' fees, sheriffs' fees, such taxes
324 due and not paid, with proper interest and penalties thereon. Any
325 such payment or payments shall reinstate, according to the terms
326 of the agreement with the community owner or landowner, the amount
327 so accelerated, the same as if such amount had not been
328 accelerated or put in default.

329 **SECTION 9. Disbursement of bid amount by commissioner.** The
330 commissioner shall disburse the bid proceeds as follows: first,
331 to the sheriff for the sheriff's fee; second, to the tax collector
332 for any past due taxes, liens and assessments; third, to the lien
333 creditors in their order of priority; fourth, to the community
334 owner or landowner for the indebtedness, interest and attorney's
335 fees owed thereto and all costs of court and commissioner's fees;
336 and fifth, to the owner, or if the abandoned manufactured or
337 mobile home was adjudicated by the sale order as uninhabitable,
338 then to the community owner or landowner in the amount of the
339 estimate of demolition and removal. If the owner has appeared in
340 the proceeding or was served with process other than by
341 publication, any amount to be paid to the owner and not paid
342 directly to the owner may be paid by interpleading the same with
343 the clerk of court where the proceeding is pending for the benefit
344 of the owner. If the owner has not appeared in the proceeding and
345 service of process was obtained by publication, then the
346 commissioner shall pay the same to the Treasurer of the State of
347 Mississippi as unclaimed funds on such forms as may be prescribed



348 by the Treasurer. The commissioner shall have the right to delay
349 disbursement of the bid amount until the court has entered a final
350 order.

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

360 **SECTION 11. Submission to the Department of Revenue.** The
361 purchaser shall submit a copy of the Bill of Sale and the Final
362 Order to the Department of Revenue along with such forms as may be
363 prescribed by it for the issuance of a new title to the purchaser.

364 **SECTION 12. Good faith defense of owner of real property to**
365 **claims of wrongful sale of a manufactured or mobile home and**
366 **associated personal property.** A community owner or landowner who
367 believes in good faith that the manufactured or mobile home and
368 associated personal property that was the subject of a proceeding
369 to dispose of the same was in fact abandoned shall not be liable
370 for any damages whatsoever to the owner or a lienholder or other
371 interested person arising from the proceedings provided the owner
372 served process by publication to all unknown persons having an



373 interest in the manufactured or mobile home and associated
374 personal property.

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

377 19-3-85. The board of supervisors of any county, upon the
378 receipt or recovery of any lost, stolen, abandoned or misplaced
379 personal property by the sheriff or other law enforcement officers
380 of the county, shall cause to be posted, in three (3) public
381 places in the county, notice that such property has been received
382 or recovered. Such notice shall contain an accurate and detailed
383 description of such property and, if the board of supervisors is
384 advised as to who owns the property, a copy of the notice shall be
385 mailed to such person or persons in addition to being posted as
386 required in this section. The owner may recover the property by
387 filing a claim with the board of supervisors and establishing his
388 right to the property. The board may require bond of the person
389 claiming the property before delivering it to him. Parties having
390 adverse claims to the property may proceed according to law.

391 If no person claims the property within one hundred twenty
392 (120) days from the date the notice is given, the board of
393 supervisors shall cause the property to be sold at public auction
394 to the highest bidder for cash after first posting notice of the
395 sale in three (3) public places in the county at least ten (10)
396 days before the date of the sale. The notice shall contain a
397 detailed and accurate description of the property to be sold and



398 shall be addressed to the unknown owners or other persons
399 interested in the property to be sold. The notice shall also set
400 forth the date, time and place the sale is to be conducted and
401 shall designate the sheriff to make the sale.

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

406 The sheriff, promptly upon completion of the sale, shall
407 deliver to the chancery clerk a copy of the notice authorizing the
408 sale, a list of the property sold, the amount paid for each item,
409 the person to whom each item was sold, and all monies received
410 from such sale. The clerk then shall deposit the monies into the
411 county treasury and the proceeds of the sale shall be first
412 applied to the necessary costs and expenses of the sale, with the
413 remainder to be credited to the special supplemental budget of the
414 sheriff to be expended by the sheriff for any law enforcement
415 purpose upon approval of the board of supervisors. The chancery
416 clerk shall file the information concerning the sale among the
417 other records of his office. If, within ninety (90) days after
418 the date of the sale, any person claims to be the owner of the
419 property sold, the board, upon satisfactory proof of ownership,
420 shall pay to such person the amount for which the property was
421 sold, and the board may require of such person a bond in such
422 cases as the board deems advisable. No action shall be maintained



423 against the county or any of its officers or employees or the
424 purchaser at the sale for any property sold or the proceeds
425 therefrom after the expiration of ninety (90) days from the date
426 of the sales as authorized in this section.

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

431 **SECTION 14.** This act shall take effect and be in force from
432 and after July 1, 2021.

