

By: Representatives McGee, Stamps, Crudup,
Gibbs (72nd)

To: Municipalities

HOUSE BILL NO. 616

1 AN ACT TO AMEND SECTION 21-19-11, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE GOVERNING AUTHORITY OF ANY MUNICIPALITY TO
3 SECURE ABANDONED OR DILAPIDATED BUILDINGS ONCE PROPERTY IS
4 ADJUDICATED TO BE A MENACED PROPERTY AND THE OWNER HAS FAILED TO
5 CLEAN THE PROPERTY; AND FOR RELATED PURPOSES.

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

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

9 21-19-11. (1) To determine whether property or parcel of
10 land located within a municipality is in such a state of
11 uncleanliness as to be a menace to the public health, safety and
12 welfare of the community, a governing authority of any
13 municipality shall conduct a hearing, on its own motion, or upon
14 the receipt of a petition signed by a majority of the residents
15 residing within four hundred (400) feet of any property or parcel
16 of land alleged to be in need of the cleaning. Notice shall be
17 provided to the property owner by:

18 (a) United States mail two (2) weeks before the date of
19 the hearing mailed to the address of the subject property, except



20 where the land or structure(s) is apparently vacant, and to the
21 address where the ad valorem tax notice for such property is sent
22 by the office charged with collecting ad valorem tax; and

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

27 Any notice required by this section shall include language
28 that informs the property owner that an adjudication at the
29 hearing that the property or parcel of land is in need of cleaning
30 will authorize the municipality to reenter the property or parcel
31 of land for a period of two (2) years after final adjudication
32 without any further hearing if notice is posted on the property or
33 parcel of land and at city hall or another place in the
34 municipality where such notices are generally posted at least
35 seven (7) days before the property or parcel of land is reentered
36 for cleaning. A copy of the required notice mailed and posted as
37 required by this section shall be recorded in the minutes of the
38 governing authority in conjunction with the hearing required by
39 this section.

40 If, at such hearing, the governing authority shall adjudicate
41 the property or parcel of land in its then condition to be a
42 menace to the public health, safety and welfare of the community,
43 the governing authority, if the owner does not do so himself,
44 shall proceed to clean the land, by the use of municipal employees



45 or by contract, by cutting grass and weeds; filling cisterns;
46 securing abandoned or dilapidated buildings; removing rubbish,
47 abandoned or dilapidated fences, outside toilets, abandoned or
48 dilapidated buildings, slabs, personal property, which removal of
49 personal property shall not be subject to the provisions of
50 Section 21-39-21, and other debris; and draining cesspools and
51 standing water therefrom. The governing authority may by
52 resolution adjudicate the actual cost of cleaning the property and
53 may also impose a penalty not to exceed One Thousand Five Hundred
54 Dollars (\$1,500.00) or fifty percent (50%) of the actual cost,
55 whichever is more. The cost and any penalty may become a civil
56 debt against the property owner, and/or, at the option of the
57 governing authority, an assessment against the property. The
58 "cost assessed against the property" means either the cost to the
59 municipality of using its own employees to do the work or the cost
60 to the municipality of any contract executed by the municipality
61 to have the work done, and administrative costs and legal costs of
62 the municipality. For subsequent cleaning within the one-year
63 period after the date of the hearing at which the property or
64 parcel of land was adjudicated in need of cleaning, upon seven (7)
65 days' notice posted both on the property or parcel of land
66 adjudicated in need of cleaning and at city hall or another place
67 in the municipality where such notices are generally posted, and
68 consistent with the municipality's adjudication as authorized in
69 this subsection (1), a municipality may reenter the property or



70 parcel of land to maintain cleanliness without further notice or
71 hearing no more than six (6) times in any twelve-month period with
72 respect to removing or securing abandoned or dilapidated
73 buildings, slabs, dilapidated fences and outside toilets, and no
74 more than twelve (12) times in any twenty-four-month period with
75 respect to cutting grass and weeds and removing rubbish, personal
76 property and other debris on the land, and the expense of cleaning
77 of the property, except as otherwise provided in this section for
78 removal of hazardous substances, shall not exceed an aggregate
79 amount of Twenty Thousand Dollars (\$20,000.00) per year, or the
80 fair market value of the property subsequent to cleaning,
81 whichever is more. The aggregate cost of removing hazardous
82 substances will be the actual cost of such removal to the
83 municipality and shall not be subject to the * * * cost
84 limitations provided in this subsection. The governing authority
85 may assess the same penalty for each time the property or land is
86 cleaned as otherwise provided in this section. The penalty
87 provided herein shall not be assessed against the State of
88 Mississippi upon request for reimbursement under Section 29-1-145,
89 nor shall a municipality clean a parcel owned by the State of
90 Mississippi without first giving notice. Upon written authority
91 from the Secretary of State's office, for state-owned properties,
92 a municipality may forgo the notification process that is
93 prescribed in this subsection and proceed to clean the properties



94 and assess costs as prescribed in this subsection, except that
95 penalties shall not be assessed against the State of Mississippi.

96 (2) When the fee or cost to clean property or a parcel of
97 land that is one (1) acre or less does not exceed Two Hundred
98 Fifty Dollars (\$250.00), excluding administrative costs, and the
99 property or parcel is located within a municipality having a
100 population over one thousand five hundred (1,500), the governing
101 authority of the municipality may authorize one or more of its
102 employees to determine whether the property or parcel of land is
103 in such a state of uncleanliness as to be a menace to the public
104 health, safety and welfare of the community and the determination
105 made by the authorized municipal employee shall be set forth and
106 recorded in the minutes of the governing authority. Notice of
107 this determination shall be provided to the property owner by:

108 (a) United States mail seven (7) days before the date
109 of cleaning of the property or parcel of land mailed to the
110 address of the subject property, except where the land or
111 structure(s) is apparently vacant, and to the address where the ad
112 valorem tax notice for such property is sent by the office charged
113 with collecting ad valorem tax; and

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

117 Any notice required by this subsection shall include language
118 that informs the property owner that the appropriate municipal



119 official has determined that the property or parcel of land is a
120 menace to the public health, safety and welfare of the community
121 and in need of cleaning and the municipality is authorized to
122 enter the property for cleaning and that the municipality is
123 further authorized to reenter the property or parcel of land for a
124 period of two (2) years after this cleaning without any further
125 hearing or action if notice is posted on the property or parcel of
126 land and at city hall or another place in the municipality where
127 such notices are generally posted at least seven (7) days before
128 the property or parcel of land is reentered for cleaning. A copy
129 of the required notice mailed and posted as required by this
130 subsection shall be recorded in the minutes of the governing
131 authority in conjunction with the determination made by the
132 municipal employee in this subsection (2).

133 If an authorized municipal employee determines that the
134 condition of property or parcel of land is a menace to the public
135 health, safety and welfare of the community, the governing
136 authority, if the owner does not do so himself, shall proceed to
137 clean the land, by the use of municipal employees or by contract,
138 by cutting grass and weeds; filling cisterns; securing abandoned
139 or dilapidated buildings; removing rubbish, abandoned or
140 dilapidated fences, outside toilets, abandoned or dilapidated
141 buildings, slabs, personal property, which removal of personal
142 property shall not be subject to the provisions of Section
143 21-39-21, and other debris; and draining cesspools and standing



144 water therefrom. The governing authority shall by resolution
145 adjudicate the actual cost of cleaning the property under this
146 provision, provided the same does not exceed Two Hundred Fifty
147 Dollars (\$250.00) and may also impose a penalty not to exceed One
148 Hundred Dollars (\$100.00) or one hundred percent (100%) of the
149 actual cost of cleaning the property, whichever is more. The cost
150 and any penalty imposed may become a civil debt against the
151 property owner, and/or, at the option of the governing authority,
152 an assessment against the property. The "cost assessed against
153 the property" means either the cost to the municipality of using
154 its own employees to do the work or the cost to the municipality
155 of any contract executed by the municipality to have the work
156 done, and additionally may include administrative costs of the
157 municipality not to exceed Fifty Dollars (\$50.00). For subsequent
158 cleaning within the one-year period set forth in this subsection
159 (2), upon seven (7) days' notice posted both on the property or
160 parcel of land adjudicated in need of cleaning and at city hall or
161 another place in the municipality where such notices are generally
162 posted, and consistent with the municipal official's determination
163 as authorized in this subsection (2), a municipality may reenter
164 the property or parcel of land to maintain cleanliness without
165 further notice or hearing under this subsection (2) no more than
166 six (6) times in any twelve-month period with respect to removing
167 or securing abandoned or dilapidated buildings, slabs, dilapidated
168 fences and outside toilets, and no more than twelve (12) times in



169 any twenty-four-month period with respect to cutting grass and
170 weeds and removing rubbish, personal property and other debris on
171 the land, and the expense of cleaning of the property shall not
172 exceed an aggregate amount of One Thousand Dollars (\$1,000.00) per
173 year under this subsection (2). The governing authority may
174 assess the same actual costs, administrative costs and penalty for
175 each time the property or land is cleaned as otherwise provided in
176 this subsection (2). The penalty provided herein shall not be
177 assessed against the State of Mississippi upon request for
178 reimbursement under Section 29-1-145, nor shall a municipality
179 clean a parcel owned by the State of Mississippi without first
180 giving notice. Upon written authority from the Secretary of
181 State's office, for state-owned properties, a municipality may
182 forgo the notification process that is prescribed in this
183 subsection and proceed to clean the properties and assess costs as
184 prescribed in this subsection, except that penalties shall not be
185 assessed against the State of Mississippi. A determination made
186 by an appropriate municipal employee under this subsection (2)
187 that the state or condition of property or a parcel of land is a
188 menace to the public health, safety and welfare of the community
189 shall not subsequently be used to replace a hearing if subsection
190 (1) of this section is later utilized by a municipality when the
191 prerequisites of this subsection (2) are not satisfied.

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



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

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

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



218 (ii) All assessments levied under the provisions
219 of this section shall become delinquent at the same time municipal
220 ad valorem taxes become delinquent. Delinquencies shall be
221 collected in the same manner and at the same time delinquent ad
222 valorem taxes are collected and shall bear the same penalties as
223 those provided for delinquent taxes. If the property is sold for
224 the nonpayment of an assessment under this section, it shall be
225 sold in the manner that property is sold for the nonpayment of
226 delinquent ad valorem taxes. If the property is sold for
227 delinquent ad valorem taxes, the assessment under this section
228 shall be added to the delinquent tax and collected at the same
229 time and in the same manner.

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

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



242 (7) (a) If private property or a parcel of land located
243 within a municipality is a perpetual care cemetery subject to
244 Section 41-43-1 et seq., the governing authority of the
245 municipality may proceed pursuant to the same provisions of this
246 section used to determine whether a property is a public health
247 menace to instead determine if the perpetual care cemetery and all
248 structures on the cemetery are not being properly maintained and
249 have become detrimental to the public health and welfare. A
250 perpetual care cemetery that is "not being properly maintained and
251 has become detrimental to the public health and welfare" means a
252 perpetual care cemetery that shows signs of neglect, including,
253 without limitation, the unchecked growth of vegetation, repeated
254 and unchecked acts of vandalism, unusable entrances and exits,
255 excess rubbish or debris, or the disintegration of grave markers
256 or boundaries. Upon notice and opportunity to be heard as
257 provided in subsection (1) of this section, the governing
258 authority of the municipality may adjudicate the property or
259 parcel of land in its then condition to be not properly maintained
260 and detrimental to the public health and welfare, and if the owner
261 does not do so itself, may proceed to clean the property or parcel
262 of land as provided in subsection (1) of this section. When
263 cleaning the property or parcel of land of a perpetual care
264 cemetery pursuant to this subsection (7), the penalty or penalties
265 provided in subsection (1) of this section shall not be assessed
266 against owners of the perpetual care cemeteries.



267 (b) The governing authority of a municipality that
268 cleans the property or parcel of land of a perpetual care cemetery
269 pursuant to this subsection (7) may make application to the
270 Secretary of State for an order directing the trustee of the
271 perpetual care cemetery trust fund to release accrued interest or
272 principal of the trust fund sufficient to reimburse the
273 municipality for only the actual cleanup costs incurred by the
274 municipality. The application to the Secretary of State shall
275 include a statement by the municipality that all of the
276 requirements of this section have been met.

277 (c) If the Secretary of State is satisfied that the
278 notice and hearing requirements of this section have been met, and
279 that the application for an order directing the trustee to release
280 accrued interest of the perpetual care cemetery trust fund does
281 not threaten the ability of the trust fund to provide for the care
282 and maintenance of the cemetery, the Secretary of State may order
283 the trustee to release accrued interest of the trust fund
284 sufficient to reimburse the municipality for the actual costs of
285 cleanup performed by the municipality.

286 (d) If the Secretary of State is satisfied that the
287 notice and hearing requirements of this section have been met, but
288 makes a determination that the accrued interest of the perpetual
289 care cemetery trust fund is insufficient to reimburse the
290 municipality for the actual costs of cleanup performed by the
291 municipality, or that an order to release accrued interest would



292 threaten the ability of the trust fund to provide for the care and
293 maintenance of the cemetery, the Secretary of State may consider
294 an order directing the trustee to reimburse the municipality from
295 the principal of the trust fund. If the Secretary of State
296 determines that an order to the trustee to release principal from
297 the trust fund will not threaten the solvency of the trust fund,
298 the Secretary of State may order the trustee to release principal
299 of the trust fund in an amount sufficient to reimburse the
300 municipality for the actual costs of cleanup performed by the
301 municipality.

302 (i) The Secretary of State may not order the
303 trustee to release an amount of more than fifteen percent (15%) of
304 principal of the trust fund to reimburse the municipality for the
305 actual costs of cleanup performed by the municipality.

306 (ii) The provisions of this section may be
307 utilized no more than once in a four-year period.

308 **SECTION 2.** This act shall take effect and be in force from
309 and after July 1, 2022.

