

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.

