

By: Representatives McGee, Stamps, Crudup

To: Municipalities

HOUSE BILL NO. 617

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITY OF ANY  
 2 MUNICIPALITY, TO WAIVE LIENS, UNDER CERTAIN CIRCUMSTANCES, THAT  
 3 ARE IMPOSED ON REAL PROPERTY FOR COSTS AND/OR PENALTIES ASSOCIATED  
 4 WITH A MUNICIPALITY'S CLEANING OF REAL PROPERTY THAT HAS BEEN  
 5 DEEMED A MENACE; TO PROVIDE THAT AN APPLICATION FOR THE WAIVER BE  
 6 SUBMITTED FOR CONSIDERATION OF SUCH WAIVER; TO PROHIBIT THE  
 7 PROPERTY OWNER WHO CAUSED THE PROPERTY TO BE DEEMED A MENACE BY  
 8 THE MUNICIPALITY FROM SUBMITTING SUCH APPLICATION; TO AMEND  
 9 SECTION 21-19-11, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE  
 10 PRECEDING SECTIONS; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** As used in this act unless the context otherwise  
 13 requires:

14 (a) "Amnesty" or "waiver" means the forgiveness of an  
 15 assessment against a property or individual(s) of the costs and  
 16 related penalties associated with the cleanup incurred by or paid  
 17 by the municipality to clear code violations. Approvals for such  
 18 amnesty or waiver shall specify dollar amounts or are otherwise  
 19 assumed to be in full. Amnesty or waiver referenced in this  
 20 section applies to those costs and penalties applicable set out in  
 21 Section 21-19-11 and in no way relieves costs, fines or other  
 22 orders imposed by any court.



23 (b) "Governing authority" means the governing authority  
24 of a municipality.

25 (c) "Municipality" means any incorporated city, town or  
26 village within the state.

27 **SECTION 2.** The governing authority of any municipality is  
28 authorized with the conditions enumerated in this act to consider  
29 and award, when it deems appropriate, the full or partial waiver  
30 of assessments against properties or individuals as a result of  
31 the municipality having acted to clear code violations.

32 **SECTION 3.** Whereas, the purpose of the governing authority  
33 in exercising the authority under this act, is to foster  
34 development and reuse of properties formerly found to be a menace  
35 by the municipality by virtue of any number of code violations or  
36 blight conditions, the following circumstances must exist to  
37 consider such waiver or amnesty:

38 (a) The governing authority must have adopted a  
39 resolution and entered on its minutes a finding that (i)  
40 collection of the assessment and related penalties through the  
41 ordinary process of law has been and will likely be ineffectual  
42 and therefore is a doubtful claim; and (ii) it will be more  
43 beneficial to the municipality for the new owner of the property  
44 to have the property free of any liens of the municipality, which  
45 will make it easier for the owner to develop, reuse or redevelop  
46 the property.



47 (b) Such waiver or amnesty shall not unduly benefit the  
48 owner(s) responsible for the property's past code violation  
49 condition. Application shall be made by a new owner or a  
50 prospective new owner.

51 (c) The property for which such waiver or amnesty is  
52 requested are those where the municipality, by its own labor or  
53 its contractors, have acted to clear violations by any legal  
54 process available to it and where there are costs and/or penalties  
55 associated with the property and/or its owner(s) and where the  
56 work performed was no less than one year prior to the application  
57 for amnesty.

58 (d) Costs and/or penalties may be considered for  
59 waiver/amnesty regardless of whether or not the associated costs  
60 have been assessed by the tax collector to be collected along with  
61 the standard taxes for the property. Costs and/or penalties may  
62 also be considered for waiver/amnesty if they have been sold for  
63 taxes but have not yet been redeemed. Costs/penalties already  
64 paid or sold at tax sale and already redeemed shall not be  
65 eligible for waiver/amnesty.

66 **SECTION 4.** The municipality shall require application for  
67 consideration of lien waiver/amnesty to include the following:

68 (a) An owner or prospective owner must make application  
69 to the municipality for such amnesty, but in no case may the owner  
70 responsible for the past code enforcement action or anyone in any  
71 way affiliated with such owner be eligible to apply.



72           (b) Application must include plans for redevelopment,  
73 reuse, alternative use, or improved maintenance of the property,  
74 and the governing authority shall use the assurances of the  
75 developer as the basis for negotiating any terms and conditions it  
76 deems appropriate.

77           (c) Application for amnesty requires that the new or  
78 prospective owner supply one recent appraisal of the property from  
79 a reputable real estate appraiser or the county tax assessor's  
80 appraised value, or if vacant land, an appraisal, the tax  
81 assessor's appraised value, or a competitive sales analysis by a  
82 reputable real estate professional, identifying its post-cleaning  
83 condition. The applicant must also provide a copy of the contract  
84 or closing documents for purchase revealing that the purchase  
85 price does not exceed the appraised or analyzed value.

86           **SECTION 5.** The governing authority of a municipality shall  
87 be the decision-making body determining what developments warrant  
88 lien waiver/amnesty and conditions to apply.

89           (a) Amnesty may be denied or may be granted in full or  
90 in part by the governing authority and its consideration of all  
91 factors, but in no case shall any such lien be waived or reduced  
92 until such time that the governing authority has acted to confirm  
93 that its conditions have been met.

94           (b) For properties where demolition is a part of the  
95 agreed upon plan, demolition must occur within twelve (12) months  
96 of approval. For reuse or redevelopment of structures, all



97 conditions must be satisfied within eighteen (18) months of  
98 approval. For agreements where demolition is the only proposed  
99 action or where improved maintenance of a vacant parcel is the  
100 only proposed action, the property must be sufficiently maintained  
101 for no less than twelve (12) months prior to finding that all  
102 conditions of amnesty have been satisfied. For good cause shown,  
103 the municipality may allow an additional six (6) to twelve (12)  
104 months to satisfy conditions.

105 (c) Approvals for lien waivers/amnesty shall be  
106 approved on conditional basis only, and releases therefor shall  
107 not be approved or filed until the governing authority of the  
108 municipality has formally acknowledged that the conditions of the  
109 lien waiver/amnesty agreement have been met.

110 (d) Upon approval of a conditional waiver/amnesty where  
111 the cost has already been posted to the tax rolls, the  
112 municipality will coordinate with the tax collector to withdraw  
113 and hold in abeyance that assessment until such time that the  
114 conditions of the governing authority have been satisfied.

115 (e) If the owner has not satisfied the conditions  
116 within the time period established and the municipality has not  
117 extended the period allowed, the owner must pay the principal  
118 amount of the municipality's lien plus interest at the rate of  
119 eight percent (8%) per annum.

120 (f) If the owner desires to sell or dispose of the real  
121 property prior to satisfying the conditions, the owner must first



122 obtain the municipality's approval. If the municipality approves  
123 the sale or disposal of the real estate prior to satisfying the  
124 conditions, the owner shall pay the principal amount of the lien  
125 on or before the closing date of the sale unless a subsequent  
126 purchaser of the blighted real property has applied for and been  
127 granted conditional lien amnesty.

128 (g) If an owner sells or disposes of the real property  
129 prior to satisfying the conditions without the municipality's  
130 approval, then the owner shall be liable to the municipality for  
131 the principal amount of the lien plus interest at the rate of  
132 eight percent (8%), and a penalty of One Thousand Five Hundred  
133 Dollars (\$1,500.00) will also be assessed against the owner.

134 **SECTION 6.** Section 21-19-11, Mississippi Code of 1972, is  
135 amended as follows:

136 21-19-11. (1) To determine whether property or parcel of  
137 land located within a municipality is in such a state of  
138 uncleanliness as to be a menace to the public health, safety and  
139 welfare of the community, a governing authority of any  
140 municipality shall conduct a hearing, on its own motion, or upon  
141 the receipt of a petition signed by a majority of the residents  
142 residing within four hundred (400) feet of any property or parcel  
143 of land alleged to be in need of the cleaning. Notice shall be  
144 provided to the property owner by:

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



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

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

154 Any notice required by this section shall include language  
155 that informs the property owner that an adjudication at the  
156 hearing that the property or parcel of land is in need of cleaning  
157 will authorize the municipality to reenter the property or parcel  
158 of land for a period of two (2) years after final adjudication  
159 without any further hearing if notice is posted on the property or  
160 parcel of land and at city hall or another place in the  
161 municipality where such notices are generally posted at least  
162 seven (7) days before the property or parcel of land is reentered  
163 for cleaning. A copy of the required notice mailed and posted as  
164 required by this section shall be recorded in the minutes of the  
165 governing authority in conjunction with the hearing required by  
166 this section.

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



172 or by contract, by cutting grass and weeds; filling cisterns;  
173 removing rubbish, abandoned or dilapidated fences, outside  
174 toilets, abandoned or dilapidated buildings, slabs, personal  
175 property, which removal of personal property shall not be subject  
176 to the provisions of Section 21-39-21, and other debris; and  
177 draining cesspools and standing water therefrom. The governing  
178 authority may by resolution adjudicate the actual cost of cleaning  
179 the property and may also impose a penalty not to exceed One  
180 Thousand Five Hundred Dollars (\$1,500.00) or fifty percent (50%)  
181 of the actual cost, whichever is more. The cost and any penalty  
182 may become a civil debt against the property owner, and/or, at the  
183 option of the governing authority, an assessment against the  
184 property. The "cost assessed against the property" means either  
185 the cost to the municipality of using its own employees to do the  
186 work or the cost to the municipality of any contract executed by  
187 the municipality to have the work done, and administrative costs  
188 and legal costs of the municipality. For subsequent cleaning  
189 within the one-year period after the date of the hearing at which  
190 the property or parcel of land was adjudicated in need of  
191 cleaning, upon seven (7) days' notice posted both on the property  
192 or parcel of land adjudicated in need of cleaning and at city hall  
193 or another place in the municipality where such notices are  
194 generally posted, and consistent with the municipality's  
195 adjudication as authorized in this subsection (1), a municipality  
196 may reenter the property or parcel of land to maintain cleanliness





197 without further notice or hearing no more than six (6) times in  
198 any twelve-month period with respect to removing abandoned or  
199 dilapidated buildings, slabs, dilapidated fences and outside  
200 toilets, and no more than twelve (12) times in any  
201 twenty-four-month period with respect to cutting grass and weeds  
202 and removing rubbish, personal property and other debris on the  
203 land, and the expense of cleaning of the property, except as  
204 otherwise provided in this section for removal of hazardous  
205 substances, shall not exceed an aggregate amount of Twenty  
206 Thousand Dollars (\$20,000.00) per year, or the fair market value  
207 of the property subsequent to cleaning, whichever is more. The  
208 aggregate cost of removing hazardous substances will be the actual  
209 cost of such removal to the municipality and shall not be subject  
210 to the Twenty Thousand Dollars (\$20,000.00) limitation provided in  
211 this subsection. The governing authority may assess the same  
212 penalty for each time the property or land is cleaned as otherwise  
213 provided in this section. The penalty provided herein shall not  
214 be assessed against the State of Mississippi upon request for  
215 reimbursement under Section 29-1-145, nor shall a municipality  
216 clean a parcel owned by the State of Mississippi without first  
217 giving notice. Upon written authority from the Secretary of  
218 State's office, for state-owned properties, a municipality may  
219 forgo the notification process that is prescribed in this  
220 subsection and proceed to clean the properties and assess costs as



221 prescribed in this subsection, except that penalties shall not be  
222 assessed against the State of Mississippi.

223 (2) When the fee or cost to clean property or a parcel of  
224 land that is one (1) acre or less does not exceed Two Hundred  
225 Fifty Dollars (\$250.00), excluding administrative costs, and the  
226 property or parcel is located within a municipality having a  
227 population over one thousand five hundred (1,500), the governing  
228 authority of the municipality may authorize one or more of its  
229 employees to determine whether the property or parcel of land is  
230 in such a state of uncleanliness as to be a menace to the public  
231 health, safety and welfare of the community and the determination  
232 made by the authorized municipal employee shall be set forth and  
233 recorded in the minutes of the governing authority. Notice of  
234 this determination shall be provided to the property owner by:

235 (a) United States mail seven (7) days before the date  
236 of cleaning of the property or parcel of land mailed to the  
237 address of the subject property, except where the land or  
238 structure(s) is apparently vacant, and to the address where the ad  
239 valorem tax notice for such property is sent by the office charged  
240 with collecting ad valorem tax; and

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

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



246 official has determined that the property or parcel of land is a  
247 menace to the public health, safety and welfare of the community  
248 and in need of cleaning and the municipality is authorized to  
249 enter the property for cleaning and that the municipality is  
250 further authorized to reenter the property or parcel of land for a  
251 period of two (2) years after this cleaning without any further  
252 hearing or action if notice is posted on the property or parcel of  
253 land and at city hall or another place in the municipality where  
254 such notices are generally posted at least seven (7) days before  
255 the property or parcel of land is reentered for cleaning. A copy  
256 of the required notice mailed and posted as required by this  
257 subsection shall be recorded in the minutes of the governing  
258 authority in conjunction with the determination made by the  
259 municipal employee in this subsection (2).

260 If an authorized municipal employee determines that the  
261 condition of property or parcel of land is a menace to the public  
262 health, safety and welfare of the community, the governing  
263 authority, if the owner does not do so himself, shall proceed to  
264 clean the land, by the use of municipal employees or by contract,  
265 by cutting grass and weeds; filling cisterns; removing rubbish,  
266 abandoned or dilapidated fences, outside toilets, abandoned or  
267 dilapidated buildings, slabs, personal property, which removal of  
268 personal property shall not be subject to the provisions of  
269 Section 21-39-21, and other debris; and draining cesspools and  
270 standing water therefrom. The governing authority shall by



271 resolution adjudicate the actual cost of cleaning the property  
272 under this provision, provided the same does not exceed Two  
273 Hundred Fifty Dollars (\$250.00) and may also impose a penalty not  
274 to exceed One Hundred Dollars (\$100.00) or one hundred percent  
275 (100%) of the actual cost of cleaning the property, whichever is  
276 more. The cost and any penalty imposed may become a civil debt  
277 against the property owner, and/or, at the option of the governing  
278 authority, an assessment against the property. The "cost assessed  
279 against the property" means either the cost to the municipality of  
280 using its own employees to do the work or the cost to the  
281 municipality of any contract executed by the municipality to have  
282 the work done, and additionally may include administrative costs  
283 of the municipality not to exceed Fifty Dollars (\$50.00). For  
284 subsequent cleaning within the one-year period set forth in this  
285 subsection (2), upon seven (7) days' notice posted both on the  
286 property or parcel of land adjudicated in need of cleaning and at  
287 city hall or another place in the municipality where such notices  
288 are generally posted, and consistent with the municipal official's  
289 determination as authorized in this subsection (2), a municipality  
290 may reenter the property or parcel of land to maintain cleanliness  
291 without further notice or hearing under this subsection (2) no  
292 more than six (6) times in any twelve-month period with respect to  
293 removing abandoned or dilapidated buildings, slabs, dilapidated  
294 fences and outside toilets, and no more than twelve (12) times in  
295 any twenty-four-month period with respect to cutting grass and



296 weeds and removing rubbish, personal property and other debris on  
297 the land, and the expense of cleaning of the property shall not  
298 exceed an aggregate amount of One Thousand Dollars (\$1,000.00) per  
299 year under this subsection (2). The governing authority may  
300 assess the same actual costs, administrative costs and penalty for  
301 each time the property or land is cleaned as otherwise provided in  
302 this subsection (2). The penalty provided herein shall not be  
303 assessed against the State of Mississippi upon request for  
304 reimbursement under Section 29-1-145, nor shall a municipality  
305 clean a parcel owned by the State of Mississippi without first  
306 giving notice. Upon written authority from the Secretary of  
307 State's office, for state-owned properties, a municipality may  
308 forgo the notification process that is prescribed in this  
309 subsection and proceed to clean the properties and assess costs as  
310 prescribed in this subsection, except that penalties shall not be  
311 assessed against the State of Mississippi. A determination made  
312 by an appropriate municipal employee under this subsection (2)  
313 that the state or condition of property or a parcel of land is a  
314 menace to the public health, safety and welfare of the community  
315 shall not subsequently be used to replace a hearing if subsection  
316 (1) of this section is later utilized by a municipality when the  
317 prerequisites of this subsection (2) are not satisfied.

318 (3) If the governing authority declares, by resolution, that  
319 the cost and any penalty shall be collected as a civil debt, the  
320 governing authority may authorize the institution of a suit on



321 open account against the owner of the property in a court of  
322 competent jurisdiction in the manner provided by law for the cost  
323 and any penalty, plus court costs, reasonable attorney's fees and  
324 interest from the date that the property was cleaned.

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

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

344 (ii) All assessments levied under the provisions  
345 of this section shall become delinquent at the same time municipal



346 ad valorem taxes become delinquent. Delinquencies shall be  
347 collected in the same manner and at the same time delinquent ad  
348 valorem taxes are collected and shall bear the same penalties as  
349 those provided for delinquent taxes. If the property is sold for  
350 the nonpayment of an assessment under this section, it shall be  
351 sold in the manner that property is sold for the nonpayment of  
352 delinquent ad valorem taxes. If the property is sold for  
353 delinquent ad valorem taxes, the assessment under this section  
354 shall be added to the delinquent tax and collected at the same  
355 time and in the same manner.

356 (5) All decisions rendered under the provisions of this  
357 section may be appealed in the same manner as other appeals from  
358 municipal boards or courts are taken. However, an appeal from a  
359 decision of a municipal officer or official shall be made to the  
360 governing authority and such appeal shall be in writing, state the  
361 basis for the appeal and be filed with the city clerk no later  
362 than seven (7) days from the latest date of notice required under  
363 this section.

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

368 (b) Nothing contained under this section shall prevent  
369 any municipality from awarding, when it deems appropriate, the  
370 full or partial waiver of assessments against properties or



371 individuals, as authorized under Sections 1 through 5 of this act,  
372 as long as the requirements and conditions set out under Sections  
373 3 through 5 of this act are satisfied.

374 (7) (a) If private property or a parcel of land located  
375 within a municipality is a perpetual care cemetery subject to  
376 Section 41-43-1 et seq., the governing authority of the  
377 municipality may proceed pursuant to the same provisions of this  
378 section used to determine whether a property is a public health  
379 menace to instead determine if the perpetual care cemetery and all  
380 structures on the cemetery are not being properly maintained and  
381 have become detrimental to the public health and welfare. A  
382 perpetual care cemetery that is "not being properly maintained and  
383 has become detrimental to the public health and welfare" means a  
384 perpetual care cemetery that shows signs of neglect, including,  
385 without limitation, the unchecked growth of vegetation, repeated  
386 and unchecked acts of vandalism, unusable entrances and exits,  
387 excess rubbish or debris, or the disintegration of grave markers  
388 or boundaries. Upon notice and opportunity to be heard as  
389 provided in subsection (1) of this section, the governing  
390 authority of the municipality may adjudicate the property or  
391 parcel of land in its then condition to be not properly maintained  
392 and detrimental to the public health and welfare, and if the owner  
393 does not do so itself, may proceed to clean the property or parcel  
394 of land as provided in subsection (1) of this section. When  
395 cleaning the property or parcel of land of a perpetual care





396 cemetery pursuant to this subsection (7), the penalty or penalties  
397 provided in subsection (1) of this section shall not be assessed  
398 against owners of the perpetual care cemeteries.

399 (b) The governing authority of a municipality that  
400 cleans the property or parcel of land of a perpetual care cemetery  
401 pursuant to this subsection (7) may make application to the  
402 Secretary of State for an order directing the trustee of the  
403 perpetual care cemetery trust fund to release accrued interest or  
404 principal of the trust fund sufficient to reimburse the  
405 municipality for only the actual cleanup costs incurred by the  
406 municipality. The application to the Secretary of State shall  
407 include a statement by the municipality that all of the  
408 requirements of this section have been met.

409 (c) If the Secretary of State is satisfied that the  
410 notice and hearing requirements of this section have been met, and  
411 that the application for an order directing the trustee to release  
412 accrued interest of the perpetual care cemetery trust fund does  
413 not threaten the ability of the trust fund to provide for the care  
414 and maintenance of the cemetery, the Secretary of State may order  
415 the trustee to release accrued interest of the trust fund  
416 sufficient to reimburse the municipality for the actual costs of  
417 cleanup performed by the municipality.

418 (d) If the Secretary of State is satisfied that the  
419 notice and hearing requirements of this section have been met, but  
420 makes a determination that the accrued interest of the perpetual



421 care cemetery trust fund is insufficient to reimburse the  
422 municipality for the actual costs of cleanup performed by the  
423 municipality, or that an order to release accrued interest would  
424 threaten the ability of the trust fund to provide for the care and  
425 maintenance of the cemetery, the Secretary of State may consider  
426 an order directing the trustee to reimburse the municipality from  
427 the principal of the trust fund. If the Secretary of State  
428 determines that an order to the trustee to release principal from  
429 the trust fund will not threaten the solvency of the trust fund,  
430 the Secretary of State may order the trustee to release principal  
431 of the trust fund in an amount sufficient to reimburse the  
432 municipality for the actual costs of cleanup performed by the  
433 municipality.

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

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

440 **SECTION 7.** This act shall take effect and be in force from  
441 and after July 1, 2022.

