

By: Senator(s) Blackwell

To: County Affairs

SENATE BILL NO. 2030

1 AN ACT TO AMEND SECTION 19-5-105, MISSISSIPPI CODE OF 1972,
2 TO REVISE PROCEDURES USED BY THE COUNTY BOARDS OF SUPERVISORS TO
3 CLEAN PROPERTY THAT IS ADJUDICATED A MENACE TO THE PUBLIC HEALTH,
4 SAFETY AND WELFARE OF THOSE IN THE COUNTY; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 19-5-105, Mississippi Code of 1972, is
8 amended as follows:

9 19-5-105. (1) To determine whether property or a parcel of
10 land located within a county is in such a state of uncleanliness
11 as to be a menace to the public health, safety and welfare of the
12 community, the board of supervisors of any county is authorized
13 and empowered to conduct a hearing on its own motion, or upon the
14 receipt of a petition requesting the board of supervisors to act
15 signed by a majority of the residents eighteen (18) years of age
16 or older, residing upon any street or alley, within reasonable
17 proximity of any property alleged to be in need of cleaning, or
18 within seven hundred fifty (750) feet of the precise location of
19 the alleged menace situated on any parcel of land which is located



20 in a populated area or in a housing subdivision and alleged to be
21 in need of cleaning.

22 Notice shall be provided to the property owner by:

23 (a) United States mail two (2) weeks before the date of
24 the hearing mailed to the address of the subject property and to
25 the address where the ad valorem tax notice for such property is
26 sent by the office charged with collecting ad valorem tax; and

27 (b) Posting notice for at least two (2) weeks before
28 the date of a hearing on the property or parcel of land alleged to
29 be in need of cleaning and at the county courthouse or another
30 place in the county where such notices are posted.

31 The notice required by this subsection (1) shall include
32 language that informs the property owner that an adjudication at
33 the hearing that the property or parcel of land is in need of
34 cleaning will authorize the board of supervisors to reenter the
35 property or parcel of land for a period of one (1) year after the
36 hearing without any further hearing, if notice is posted on the
37 property or parcel of land and at the county courthouse or another
38 place in the county where such notices are generally posted at
39 least seven (7) days before the property or parcel of land is
40 reentered for cleaning. A copy of the required notice mailed and
41 posted as required by this subsection (1) shall be recorded in the
42 minutes of the board of supervisors in conjunction with the
43 hearing required by this subsection.



44 If at such hearing the board of supervisors shall in its
45 resolution adjudicate such parcel of land in its then condition to
46 be a menace to the public health and safety of the community, the
47 board of supervisors may, if the owner not do so himself, proceed
48 to have the land cleaned by cutting weeds, filling cisterns, and
49 removing rubbish, dilapidated fences, outside toilets, dilapidated
50 buildings and other debris, and draining cesspools and standing
51 water. Thereafter, the board of supervisors may at its next
52 regular meeting by resolution adjudicate the actual cost of
53 cleaning the land and may also impose a penalty not to exceed One
54 Thousand Five Hundred Dollars (\$1,500.00) or fifty percent (50%)
55 of the actual cost, whichever is more. The cost and any penalty
56 shall become an assessment against the property. The "cost
57 assessed against the property" means either the cost to the county
58 of using its own employees to do the work or the cost to the
59 county of any contract executed by the county to have the work
60 done, and administrative costs and legal costs of the county.

61 A county may reenter the property or parcel of land to
62 maintain cleanliness without further notice of hearing no more
63 than six (6) times in any twelve-month period with respect to
64 removing dilapidated buildings, dilapidated fences and outside
65 toilets, and no more than twelve (12) times in any
66 twenty-four-month period with respect to cutting grass and weeds
67 and removing rubbish, personal property and other debris on the
68 land. The expense of cleaning the property shall not exceed an



69 aggregate amount of Twenty Thousand Dollars (\$20,000.00) per year,
70 or the fair market value of the property subsequent to cleaning,
71 whichever is less. The board of supervisors may assess the same
72 penalty each time the property or land is cleaned as otherwise
73 provided in this subsection (1).

74 The penalty provided in this subsection (1) shall not be
75 assessed against the State of Mississippi upon request for
76 reimbursement under Section 29-1-145, nor shall a county clean a
77 parcel owned by the State of Mississippi without first giving
78 notice.

79 The assessment authorized by this subsection (1) shall be a
80 lien against the property and may be enrolled in the office of the
81 circuit clerk of the county as other judgments are enrolled, and
82 the tax collector of the county shall, upon order of the board of
83 supervisors, proceed to sell the land to satisfy the lien as now
84 provided by law for the sale of lands for delinquent taxes.
85 Furthermore, the property owner whose land has been sold pursuant
86 to this subsection (1) shall have the same right of redemption as
87 now provided by law for the sale of lands for delinquent taxes.
88 All decisions rendered under the provisions of this subsection may
89 be appealed in the same manner as other appeals from county
90 boards.

91 If the board of supervisors of any county removes any
92 personal property from a parcel of land adjudicated to be a menace
93 to the public health, safety and welfare of the community, it



94 shall, upon the receipt of any such personal property, cause the
95 property to be stored in a reasonable manner, and cause to be
96 posted, in three (3) public places in the county, notice that the
97 property has been received. The notice shall contain an accurate
98 and detailed description of the property and, if the board of
99 supervisors knows who owns the property, a copy of the notice
100 shall be mailed to the owner or owners in addition to being posted
101 as required in this section. The owner may recover the property
102 by paying any lien amount owed to the county for having cleaned
103 the property and giving adequate assurances to the board of
104 supervisors that the property will be properly stored to not be a
105 menace to the public health, safety and welfare of the community.
106 The owner is solely responsible for retrieving any property once
107 he has paid any costs owed the county. Parties having adverse
108 claims to the property may proceed according to law.

109 If no person claims the property within twenty-one (21) days
110 from the date the notice is given, the board of supervisors shall
111 cause the property to be sold at public auction to the highest
112 bidder for cash after first posting notice of the sale in three
113 (3) public places in the county at least ten (10) days before the
114 date of the sale. The notice shall contain a detailed and
115 accurate description of the property to be sold and shall be
116 addressed to the known owners or other persons interested in the
117 property to be sold. The notice shall also set forth the date,



118 time and place that the sale is to be conducted and shall
119 designate the sheriff to make the sale.

120 The sheriff, promptly upon completion of the sale, shall
121 deliver to the chancery clerk a copy of the notice authorizing the
122 sale, a list of the property sold, the amount paid for each item,
123 the person to whom each item was sold, and all monies received
124 from such sale. The clerk shall then deposit the monies into the
125 county treasury. The proceeds of the sale shall be first applied
126 to the necessary costs and expenses of the sale and then to the
127 assessment lien for the cost of cleaning the parcel of land,
128 together with any penalty with the remaining monies to be returned
129 to the known property owner. Should the property owner be unknown
130 to the board of supervisors, the remainder shall be placed in the
131 county general fund. The chancery clerk shall file the
132 information concerning the sale among the other records of his
133 office. No action shall be maintained against the county or any
134 of its officers or employees or the purchaser at the sale for any
135 property sold or the proceeds therefrom after the expiration of
136 one hundred twenty (120) days from the date of the sale as
137 authorized in this section.

138 Any property not sold at the properly noticed public sale may
139 be deemed surplus property of the county and the board of
140 supervisors may dispose of such property by any means in
141 accordance with Section 17-25-25.



142 (2) (a) If private property or a parcel of land located
143 within a county is a perpetual care cemetery subject to Section
144 41-43-1 et seq., the board of supervisors of the county may
145 proceed pursuant to the same provisions of subsection (1) of this
146 section used to determine whether a property is a public health
147 menace to instead determine if the perpetual care cemetery and all
148 structures on the cemetery are not being properly maintained and
149 have become detrimental to the public health and welfare. A
150 perpetual care cemetery that is "not being properly maintained and
151 has become detrimental to the public health and welfare" means a
152 perpetual care cemetery that shows signs of neglect, including,
153 without limitation, the unchecked growth of vegetation, repeated
154 and unchecked acts of vandalism, unusable entrances and exits,
155 excess rubbish or debris, or the disintegration of grave markers
156 or boundaries. Upon notice and opportunity to be heard as
157 provided in subsection (1) of this section, the board of
158 supervisors of the county may adjudicate the property or parcel of
159 land in its then condition to be not properly maintained and
160 detrimental to the public health and welfare, and if the owner
161 does not do so itself, may proceed to clean the property or parcel
162 of land as provided in subsection (1) of this section. When
163 cleaning the property or parcel of land of a perpetual care
164 cemetery pursuant to this subsection (2), the penalty or penalties
165 provided in subsection (1) of this section shall not be assessed
166 against owners of the perpetual care cemeteries.



167 (b) The board of supervisors of a county that cleans
168 property or parcel of land of a perpetual care cemetery pursuant
169 to this subsection (2) may make application to the Secretary of
170 State for an order directing the trustee of the perpetual care
171 cemetery trust fund to release accrued interest or principal of
172 the trust fund sufficient to reimburse the county for only the
173 actual cleanup costs incurred by the county. The application to
174 the Secretary of State shall include a statement by the county
175 that all of the requirements of this section have been met.

176 (c) If the Secretary of State is satisfied that the
177 notice and hearing requirements of this section have been met, and
178 that the application for an order directing the trustee to release
179 accrued interest of the perpetual care cemetery trust fund does
180 not threaten the ability of the trust fund to provide for the care
181 and maintenance of the cemetery, the Secretary of State may order
182 the trustee to release up to the total amount of accrued interest
183 of the trust fund in an amount sufficient to reimburse the county
184 for the actual costs of cleanup performed by the county.

185 (d) If the Secretary of State is satisfied that the
186 notice and hearing requirements of this section have been met, but
187 makes a determination that the accrued interest of the perpetual
188 care cemetery trust fund is insufficient to reimburse the county
189 for the actual costs of cleanup performed by the county, or that
190 an order to release accrued interest would threaten the ability of
191 the trust fund to provide for the care and maintenance of the



192 cemetery, the Secretary of State may consider an order directing
193 the trustee to reimburse the county from the principal of the
194 trust fund. If the Secretary of State determines that an order to
195 the trustee to release principal from the trust fund will not
196 threaten the solvency of the trust fund, the Secretary of State
197 may order the trustee to release principal of the trust fund in an
198 amount sufficient to reimburse the county for the actual costs of
199 cleanup performed by the county.

200 (i) The Secretary of State may not order the
201 trustee to release an amount of more than fifteen percent (15%) of
202 principal of the trust fund to reimburse the county for the actual
203 costs of cleanup performed by the county.

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

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

