

By: Representatives McGee, Crudup

To: Municipalities

HOUSE BILL NO. 1174

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITY OF ANY
 2 MUNICIPALITY TO WAIVE LIENS, UNDER CERTAIN CIRCUMSTANCES, THAT ARE
 3 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 (1) year prior to the
57 application 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 (1) recent appraisal of the property
79 from a reputable real estate appraiser or the county tax
80 assessor's appraised value, or if vacant land, an appraisal, the
81 tax assessor's appraised value, or a competitive sales analysis by
82 a reputable real estate professional, identifying its
83 post-cleaning condition. The applicant must also provide a copy
84 of the contract or closing documents for purchase revealing that
85 the purchase price does not exceed the appraised or analyzed
86 value.

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

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

95 (b) For properties where demolition is a part of the
96 agreed upon plan, demolition must occur within twelve (12) months



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

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

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

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



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

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

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

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



146 (a) United States mail two (2) weeks before the date of
147 the hearing mailed to the address of the subject property, except
148 where the land or structure(s) is apparently vacant, and to the
149 address where the ad valorem tax notice for such property is sent
150 by the office charged with collecting ad valorem tax; and

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

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

168 If, at such hearing, the governing authority shall adjudicate
169 the property or parcel of land in its then condition to be a
170 menace to the public health, safety and welfare of the community,



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



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



221 in this subsection and proceed to clean the properties and assess
222 costs as prescribed in this subsection, except that penalties
223 shall not be assessed against the State of Mississippi.

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

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

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



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

261 If an authorized municipal employee determines that the
262 condition of property or parcel of land is a menace to the public
263 health, safety and welfare of the community, the governing
264 authority, if the owner does not do so himself, shall proceed to
265 clean the land, by the use of municipal employees or by contract,
266 by cutting grass and weeds; filling cisterns; securing abandoned
267 or dilapidated buildings; removing rubbish, abandoned or
268 dilapidated fences, outside toilets, abandoned or dilapidated
269 buildings, slabs, personal property, which removal of personal



270 property shall not be subject to the provisions of Section
271 21-39-21, and other debris; and draining cesspools and standing
272 water therefrom. The governing authority shall by resolution
273 adjudicate the actual cost of cleaning the property under this
274 provision, provided the same does not exceed Two Hundred Fifty
275 Dollars (\$250.00) and may also impose a penalty not to exceed One
276 Hundred Dollars (\$100.00) or one hundred percent (100%) of the
277 actual cost of cleaning the property, whichever is more. The cost
278 and any penalty imposed may become a civil debt against the
279 property owner, and/or, at the option of the governing authority,
280 an assessment against the property. The "cost assessed against
281 the property" means either the cost to the municipality of using
282 its own employees to do the work or the cost to the municipality
283 of any contract executed by the municipality to have the work
284 done, and additionally may include administrative costs of the
285 municipality not to exceed Fifty Dollars (\$50.00). For subsequent
286 cleaning within the one-year period set forth in this subsection
287 (2), upon seven (7) days' notice posted both on the property or
288 parcel of land adjudicated in need of cleaning and at city hall or
289 another place in the municipality where such notices are generally
290 posted, and consistent with the municipal official's determination
291 as authorized in this subsection (2), a municipality may reenter
292 the property or parcel of land to maintain cleanliness without
293 further notice or hearing under this subsection (2) no more than
294 six (6) times in any twelve-month period with respect to removing



295 or securing abandoned or dilapidated buildings, slabs, dilapidated
296 fences and outside toilets, and no more than twelve (12) times in
297 any twenty-four-month period with respect to cutting grass and
298 weeds and removing rubbish, personal property and other debris on
299 the land, and the expense of cleaning of the property shall not
300 exceed an aggregate amount of One Thousand Dollars (\$1,000.00) per
301 year under this subsection (2). The governing authority may
302 assess the same actual costs, administrative costs and penalty for
303 each time the property or land is cleaned as otherwise provided in
304 this subsection (2). The penalty provided herein shall not be
305 assessed against the State of Mississippi upon request for
306 reimbursement under Section 29-1-145, nor shall a municipality
307 clean a parcel owned by the State of Mississippi without first
308 giving notice. Upon written authority from the Secretary of
309 State's office, for state-owned properties, a municipality may
310 forgo the notification process that is prescribed in this
311 subsection and proceed to clean the properties and assess costs as
312 prescribed in this subsection, except that penalties shall not be
313 assessed against the State of Mississippi. A determination made
314 by an appropriate municipal employee under this subsection (2)
315 that the state or condition of property or a parcel of land is a
316 menace to the public health, safety and welfare of the community
317 shall not subsequently be used to replace a hearing if subsection
318 (1) of this section is later utilized by a municipality when the
319 prerequisites of this subsection (2) are not satisfied.



320 (3) If the governing authority declares, by resolution, that
321 the cost and any penalty shall be collected as a civil debt, the
322 governing authority may authorize the institution of a suit on
323 open account against the owner of the property in a court of
324 competent jurisdiction in the manner provided by law for the cost
325 and any penalty, plus court costs, reasonable attorney's fees and
326 interest from the date that the property was cleaned.

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

338 (b) (i) All assessments levied under the provisions of
339 this section shall be included with municipal ad valorem taxes and
340 payment shall be enforced in the same manner in which payment is
341 enforced for municipal ad valorem taxes, and all statutes
342 regulating the collection of other taxes in a municipality shall
343 apply to the enforcement and collection of the assessments levied



344 under the provisions of this section, including utilization of the
345 procedures authorized under Sections 17-13-9(2) and 27-41-2.

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

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

366 (6) (a) Nothing contained under this section shall prevent
367 any municipality from enacting criminal penalties for failure to



368 maintain property so as not to constitute a menace to public
369 health, safety and welfare.

370 (b) Nothing contained under this section shall prevent
371 any municipality from awarding, when it deems appropriate, the
372 full or partial waiver of assessments against properties or
373 individuals, as authorized under Sections 1 through 5 of this act,
374 as long as the requirements and conditions set out under Sections
375 3 through 5 of this act are satisfied.

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



393 parcel of land in its then condition to be not properly maintained
394 and detrimental to the public health and welfare, and if the owner
395 does not do so itself, may proceed to clean the property or parcel
396 of land as provided in subsection (1) of this section. When
397 cleaning the property or parcel of land of a perpetual care
398 cemetery pursuant to this subsection (7), the penalty or penalties
399 provided in subsection (1) of this section shall not be assessed
400 against owners of the perpetual care cemeteries.

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

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



418 sufficient to reimburse the municipality for the actual costs of
419 cleanup performed by the municipality.

420 (d) If the Secretary of State is satisfied that the
421 notice and hearing requirements of this section have been met, but
422 makes a determination that the accrued interest of the perpetual
423 care cemetery trust fund is insufficient to reimburse the
424 municipality for the actual costs of cleanup performed by the
425 municipality, or that an order to release accrued interest would
426 threaten the ability of the trust fund to provide for the care and
427 maintenance of the cemetery, the Secretary of State may consider
428 an order directing the trustee to reimburse the municipality from
429 the principal of the trust fund. If the Secretary of State
430 determines that an order to the trustee to release principal from
431 the trust fund will not threaten the solvency of the trust fund,
432 the Secretary of State may order the trustee to release principal
433 of the trust fund in an amount sufficient to reimburse the
434 municipality for the actual costs of cleanup performed by the
435 municipality.

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

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



442 **SECTION 7.** This act shall take effect and be in force from
443 and after July 1, 2024.

