

By: Representative Remak

To: Judiciary A

HOUSE BILL NO. 201

1 AN ACT TO AMEND SECTION 19-5-105, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE BOARD OF SUPERVISORS OF ANY COUNTY TO REMOVE
3 PERSONAL PROPERTY FROM PROPERTY THAT HAS BEEN ADJUDICATED A MENACE
4 BY A BOARD AFTER CERTAIN NOTICE IS GIVEN; TO REQUIRE THE COUNTY TO
5 MAKE CERTAIN PUBLIC POSTINGS THAT THE PERSONAL PROPERTY HAS BEEN
6 RECEIVED BY THE COUNTY; TO PROVIDE A MECHANISM FOR THE OWNER OF
7 THE PERSONAL PROPERTY TO RECOVER SUCH PERSONAL PROPERTY; TO
8 PROVIDE THAT IF THE PERSONAL PROPERTY IS NOT CLAIMED BY A CERTAIN
9 TIME FRAME THEN THE COUNTY MAY SALE THE PROPERTY AT PUBLIC
10 AUCTION; UPON THE SALE OF THE PROPERTY, THE PROCEEDS OF THE SALE
11 SHALL BE DEPOSITED INTO THE COUNTRY TREASURY TO BE UTILIZED FOR
12 CERTAIN PURPOSES; TO PROVIDE THAT IF SUCH PROPERTY IS NOT SOLD,
13 THEN THE COUNTY MAY DEEM IT SURPLUS PROPERTY AND IT MAY BE
14 DISPOSED OF AS PRESCRIBED BY LAW; TO AMEND SECTION 17-25-25,
15 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; AND
16 FOR RELATED PURPOSES.

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

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

20 19-5-105. (1) To determine whether property or a parcel of
21 land located within a county is in such a state of uncleanliness
22 as to be a menace to the public health, safety and welfare of the
23 community, the board of supervisors of any county is authorized
24 and empowered to conduct a hearing on its own motion, or upon the
25 receipt of a petition requesting the board of supervisors to act



signed by a majority of the residents eighteen (18) years of age or older, residing upon any street or alley, within reasonable proximity of any property alleged to be in need of cleaning, or within seven hundred fifty (750) feet of the precise location of the alleged menace situated on any parcel of land which is located in a populated area or in a housing subdivision and alleged to be in need of cleaning.

Notice shall be provided to the property owner by:

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

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

The notice required by this subsection (1) shall include language that informs the property owner that an adjudication at the hearing that the property or parcel of land is in need of cleaning will authorize the board of supervisors to reenter the property or parcel of land for a period of one (1) year after the hearing without any further hearing, if notice is posted on the property or parcel of land and at the county courthouse or another place in the county where such notices are generally posted at least seven (7) days before the property or parcel of land is



51 reentered for cleaning. A copy of the required notice mailed and
52 posted as required by this subsection (1) shall be recorded in the
53 minutes of the board of supervisors in conjunction with the
54 hearing required by this subsection.

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

72 A county may reenter the property or parcel of land to
73 maintain cleanliness without further notice of hearing no more
74 than six (6) times in any twelve-month period with respect to
75 removing dilapidated buildings, dilapidated fences and outside



76 toilets, and no more than twelve (12) times in any
77 twenty-four-month period with respect to cutting grass and weeds
78 and removing rubbish, personal property and other debris on the
79 land. The expense of cleaning the property shall not exceed an
80 aggregate amount of Twenty Thousand Dollars (\$20,000.00) per year,
81 or the fair market value of the property subsequent to cleaning,
82 whichever is less. The board of supervisors may assess the same
83 penalty each time the property or land is cleaned as otherwise
84 provided in this subsection (1).

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

90 The assessment authorized by this subsection (1) shall be a
91 lien against the property and may be enrolled in the office of the
92 circuit clerk of the county as other judgments are enrolled, and
93 the tax collector of the county shall, upon order of the board of
94 supervisors, proceed to sell the land to satisfy the lien as now
95 provided by law for the sale of lands for delinquent taxes.
96 Furthermore, the property owner whose land has been sold pursuant
97 to this subsection (1) shall have the same right of redemption as
98 now provided by law for the sale of lands for delinquent taxes.
99 All decisions rendered under the provisions of this subsection may



be appealed in the same manner as other appeals from county boards.

(2) (a) If private property or a parcel of land located within a county is a perpetual care cemetery subject to Section 41-43-1 et seq., the board of supervisors of the county may proceed pursuant to the same provisions of subsection (1) of this section used to determine whether a property is a public health menace to instead determine if the perpetual care cemetery and all structures on the cemetery are not being properly maintained and have become detrimental to the public health and welfare. A perpetual care cemetery that is "not being properly maintained and has become detrimental to the public health and welfare" means a perpetual care cemetery that shows signs of neglect, including, without limitation, the unchecked growth of vegetation, repeated and unchecked acts of vandalism, unusable entrances and exits, excess rubbish or debris, or the disintegration of grave markers or boundaries. Upon notice and opportunity to be heard as provided in subsection (1) of this section, the board of supervisors of the county may adjudicate the property or parcel of land in its then condition to be not properly maintained and detrimental to the public health and welfare, and if the owner does not do so itself, may proceed to clean the property or parcel of land as provided in subsection (1) of this section. When cleaning the property or parcel of land of a perpetual care cemetery pursuant to this subsection (2), the penalty or penalties



provided in subsection (1) of this section shall not be assessed against owners of the perpetual care cemeteries.

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

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

(d) If the Secretary of State is satisfied that the notice and hearing requirements of this section have been met, but makes a determination that the accrued interest of the perpetual care cemetery trust fund is insufficient to reimburse the county for the actual costs of cleanup performed by the county, or that



an order to release accrued interest would threaten the ability of the trust fund to provide for the care and maintenance of the cemetery, the Secretary of State may consider an order directing the trustee to reimburse the county from the principal of the trust fund. If the Secretary of State determines that an order to the trustee to release principal from the trust fund will not threaten the solvency of the trust fund, the Secretary of State may order the trustee to release principal of the trust fund in an amount sufficient to reimburse the county for the actual costs of cleanup performed by the county.

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

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

(3) (a) If the board of supervisors of any county removes any personal property from a parcel of land adjudicated to be a menace to the public health, safety, and welfare of the community it shall upon the receipt of any such personal property cause the property to be stored in a reasonable manner, and cause to be posted, in three (3) public places in the county, notice that such property has been received. The notice shall contain an accurate and detailed description of the property, and if the board of supervisors know who owns the property, a copy of the notice shall



175 be mailed to such person or persons in addition to being posted as
176 required in this section. The owner may recover the property by
177 paying any lien amount owed to the county for having cleaned the
178 property and by giving adequate assurances to the board of
179 supervisors that such property will be properly stored to not be a
180 menace to the public health, safety, and welfare of the community.
181 The owner is solely responsible for retrieving any property once
182 they have paid any costs owed the county. Parties having adverse
183 claims to the property may proceed according to law.

184 (b) If no person claims the property within twenty-one
185 (21) days from the date the notice is given, the board of
186 supervisors shall cause the property to be sold at public auction
187 to the highest bidder for cash after first posting notice of the
188 sale in three (3) public places in the county at least ten (10)
189 days before the date of the sale. The notice shall contain a
190 detailed and accurate description of the property to be sold and
191 shall be addressed to the known owners or other persons interested
192 in the property to be sold. The notice shall also set forth the
193 date, time and place the sale is to be conducted and shall
194 designate the sheriff to make the sale. The sheriff, promptly
195 upon completion of the sale, shall deliver to the chancery
196 clerk a copy of the notice authorizing the sale, a list of the
197 property sold, the amount paid for each item, the person to
198 whom each item was sold, and all monies received from such
199 sale. The clerk then shall deposit the monies into the county



treasury and the proceeds of the sale shall be first applied
to the necessary costs and expenses of the sale, second to the
assessment lien for the cost of cleaning the parcel of land
together with any penalty, with the remainder to be returned
to the known property owner. Should the property owner be
unknown to the board of supervisors, the remainder shall be
placed in the county general fund. The chancery clerk shall
file the information concerning the sale among the other
records of his or her office.

(c) No action shall be maintained against the county
or any of its officers or employees or the purchaser at the
sale for any property sold or the proceeds therefrom after the
expiration of one hundred twenty (120) days from the date of
the sales as authorized in this subsection (3).

(d) If personal property described under this
subsection (3) is not sold at a properly noticed public sale
as set out under this subsection, then such property may be
deemed surplus property of the county and the board of
supervisors may dispose of such property by any means
authorized under Section 17-25-25.

SECTION 2. Section 17-25-25, Mississippi Code of 1972, is
amended as follows:

17-25-25. (1) **General.** The governing authority of a county
or municipality may sell or dispose of any personal property or
real property belonging to the governing authority when the



property has ceased to be used for public purposes or when, in the authority's judgment, a sale thereof would promote the best interest of the governing authority. For purposes of this section, the term "personal property," includes, but is not limited to, equipment, vehicles, fixtures, furniture, firearms and commodities.

(2) **Public sale.** At least ten (10) days before bid opening, the governing authority shall advertise its acceptance of bids by posting notices at three (3) public places located in the county or municipality that the governing authority serves. One (1) of the three (3) notices shall be posted at the governing authority's main office. The governing authority may designate the manner by which the bids will be received, including, but not limited to, bids sealed in an envelope, bids made electronically or bids made by any other method that promotes open competition. The proceeds of the sale shall be placed in a properly approved depository to the credit of the proper fund.

(3) **Private sale.** Where the personal property does not exceed One Thousand Dollars (\$1,000.00) in value, the governing authority, by a unanimous approval of its members, may sell or dispose of the property at a private sale. The proceeds of the sale shall be placed in a properly approved depository to the credit of the proper fund.

(4) **Public auction.** The governing authority of a county or municipality may sell or dispose of any surplus personal or real



property at a public auction that shall be conducted by an auctioneer or auction company that meets the standards established by the State Department of Audit and is hired by the governing authority of a county or municipality.

(5) If the governing authority finds that the fair market value of the personal property or real property is zero and this finding is entered on the minutes of the authority, then the governing authority may dispose of such property in the manner it deems appropriate and in its best interest, but no official or employee of the governing authority shall derive any personal economic benefit from such disposal.

(6) If the property may be of use or benefit to any federal agency or authority, another governing authority or state agency of the State of Mississippi, or a state agency or governing authority of another state, it may be disposed of in accordance with Section 31-7-13(m)(vi).

(7) Nothing contained in this section shall be construed to prohibit, restrict or to prescribe conditions with regard to the authority granted under Section 17-25-3 or under Section 37-7-551. The provisions of this section shall not apply to any equipment disposed of pursuant to trade-in as part of a purchase.

(8) Nothing contained in this section shall be construed to prohibit or restrict conditions with regard to the authority granted to the governing authority of a county as prescribed under



274 Section 19-5-105 (3) for unsold personal property removed from
275 adjudicated menaced property within a county.

276 **SECTION 3.** This act shall take effect and be in force from
277 and after July 1, 2025.

