

By: Senator(s) Hall

To: Municipalities

SENATE BILL NO. 2536
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 21-17-1, MISSISSIPPI CODE OF 1972, TO
2 PERMIT MUNICIPALITIES TO LEASE SURPLUS PROPERTY TO NON-PROFIT
3 CORPORATIONS AT LESS THAN FAIR MARKET VALUE; AND FOR RELATED
4 PURPOSES.

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

6 SECTION 1. Section 21-17-1, Mississippi Code of 1972, is
7 amended as follows:

8 21-17-1. Every municipality of this state shall be a
9 municipal corporation and shall have power to sue and be sued; to
10 purchase and hold real estate, either within or without the
11 corporate limits, for all proper municipal purposes, including
12 parks, cemeteries, hospitals, schoolhouses, houses of correction,
13 waterworks, electric lights, sewers and other proper municipal
14 purposes; to purchase and hold personal property for all proper
15 municipal purposes; to acquire equipment and machinery by
16 lease-purchase agreement and to pay interest thereon, if
17 contracted, when needed for proper municipal purposes; to sell and
18 convey any real and personal property owned by it, and make such
19 order respecting the same as may be deemed conducive to the best
20 interest of the municipality, and exercise jurisdiction over the
21 same.

22 In case any of the real property belonging to a municipality
23 shall cease to be used for municipal purposes, the governing
24 authorities of the municipality may sell, convey or lease the same
25 on such terms as the municipal authorities may elect. In case of
26 a sale on a credit, the municipality shall charge appropriate
27 interest as contracted and shall have a lien on the same for the

28 purchase money, as against all persons, until paid and may enforce
29 the lien as in such cases provided by law. The deed of conveyance
30 in such cases shall be executed in the name of the municipality by
31 the governing authorities of the municipality pursuant to their
32 order entered on the minutes of their meetings. In any sale or
33 conveyance of real property, the municipality shall retain all
34 mineral rights that it owns, together with the right of ingress
35 and egress to remove same. Before any such lease, deed or
36 conveyance is executed, the governing authorities of the
37 municipality shall publish at least once each week for three (3)
38 consecutive weeks, in a public newspaper of the municipality in
39 which the real property is located, or if no newspaper be
40 published as such, then in a newspaper having general circulation
41 therein, the intention to lease or sell, as the case may be, the
42 municipally owned real property and to accept sealed competitive
43 bids for the leasing or sale. The governing authorities of the
44 municipality shall thereafter accept bids for the lease or sale
45 and shall award the lease or sale to the highest bidder in the
46 manner provided by law. However, whenever the governing
47 authorities of the municipality shall find and determine, by
48 resolution duly and lawfully adopted and spread upon its minutes
49 (a) that any municipally owned real property is no longer needed
50 for municipal or related purposes and is not to be used in the
51 operation of the municipality, (b) that the sale of such property
52 in the manner otherwise provided by law is not necessary or
53 desirable for the financial welfare of the municipality, and (c)
54 that the use of such property for the purpose for which it is to
55 be sold, conveyed or leased will promote and foster the
56 development and improvement of the community in which it is
57 located and the civic, social, educational, cultural, moral,
58 economic or industrial welfare thereof, the governing authorities
59 of the municipality shall be authorized and empowered, in their
60 discretion, to sell, convey or lease same for any of the purposes
61 set forth herein without having to advertise for and accept
62 competitive bids. In any case in which a municipality proposes to
63 sell, convey or lease real property under the provisions of this
64 section without advertising for and accepting competitive bids,

65 consideration for the purchase, conveyance or lease of the
66 property shall be not less than the average of the fair market
67 price for such property as determined by three (3) professional
68 property appraisers selected by the municipality and approved by
69 the purchaser or lessee. Appraisal fees shall be shared equally
70 by the municipality and the purchaser or lessee.

71 Whenever the governing authorities of the municipality shall
72 find and determine by resolution duly and lawfully adopted and
73 spread upon the minutes that municipally owned real property is
74 not used for municipal purposes and therefore surplus as set forth
75 hereinabove:

76 (a) The governing authority may donate such lands to a
77 bona fide not-for-profit civic or eleemosynary corporation
78 organized and existing under the laws of the State of Mississippi
79 and granted tax exempt status by the Internal Revenue Service and
80 may donate such lands and necessary funds related thereto to the
81 public school district in which the land is situated for the
82 purposes set forth herein. Any deed or conveyance executed
83 pursuant hereto shall contain a clause of reverter providing that
84 the bona fide not-for-profit corporation or public school district
85 may hold title to such lands only so long as they are continued to
86 be used for the civic, social, educational, cultural, moral,
87 economic or industrial welfare of the community, and that title
88 shall revert to the municipality in the event of the cessation of
89 such use for a period of two (2) years. In any such deed or
90 conveyance, the municipality shall retain all mineral rights that
91 it owns, together with the right of ingress and egress to remove
92 same;

93 (b) The governing authority may donate such lands to a
94 bona fide not-for-profit corporation (such as Habitat for
95 Humanity) which is primarily engaged in the construction of
96 housing for persons who otherwise can afford to live only in
97 substandard housing. In any such deed or conveyance, the
98 municipality shall retain all mineral rights that it owns,
99 together with the right of ingress and egress to remove same;

100 (c) In the event the governing authority does not wish
101 to donate title to such lands to the bona fide not-for-profit or

eleemosynary corporation, but wishes to retain title to the lands,
the governing authority may lease the lands to a bona fide
not-for-profit corporation described in paragraph (a) or (b) for
less than fair market value.

Every municipality shall also be authorized and empowered to loan to private persons or entities, whether organized for profit or nonprofit, funds received from the United States Department of Housing and Urban Development (HUD) under an urban development action grant or a community development block grant under the Housing and Community Development Act of 1974 (Public Law 93-383), as amended, and to charge interest thereon if contracted, provided that no such loan shall include any funds from any revenues other than the funds from the United States Department of Housing and Urban Development; to make all contracts and do all other acts in relation to the property and affairs of the municipality necessary to the exercise of its governmental, corporate and administrative powers; and to exercise such other or further powers as are otherwise conferred by law.

The governing authorities of any municipality may contract with a private attorney or private collection agent or agency to collect any type of delinquent payment owed to the municipality including, but not limited to, past due fees and fines. Any such contract debt may provide for payment contingent upon successful collection efforts or payment based upon a percentage of the delinquent amount collected; however, the entire amount of all delinquent payments collected shall be remitted to the municipality and shall not be reduced by any collection costs or fees. Any private attorney or private collection agent or agency contracting with the municipality under the provisions of this paragraph shall give bond or other surety payable to the municipality in such amount as the governing authorities of the municipality deem sufficient. Any private attorney with whom the municipality contracts under the provisions of this paragraph must

be a member in good standing of the Mississippi Bar. Any private collection agent or agency with whom the municipality contracts under the provisions of this paragraph must meet all licensing requirements for doing business in the State of Mississippi. Neither the municipality nor any officer or employee of the municipality shall be liable, civilly or criminally, for any wrongful or unlawful act or omission of any person or business with whom the municipality has contracted under the provisions of this paragraph. The Mississippi Department of Audit shall establish rules and regulations for use by municipalities in contracting with persons or businesses under the provisions of this paragraph.

In addition to such authority as is otherwise granted under this section, the governing authorities of any municipality may expend funds necessary to maintain and repair, and to purchase liability insurance, tags and decals for, any personal property acquired under the Federal Excess Personal Property Program that is used by the local volunteer fire department.

The governing authorities of any municipality may, in its discretion, donate personal property or funds to the public school district or districts located in the municipality for the promotion of educational programs of the district or districts within the municipality.

The powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law, and nothing contained in this section shall be construed to prohibit, or to prescribe conditions concerning, any practice or practices authorized under any other law.

SECTION 2. This act shall take effect and be in force from and after July 1, 1999.