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To: County Affairs; Municipalities

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1400

1 AN ACT TO AMEND SECTION 19-7-3, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE BOARD OF SUPERVISORS TO AUCTION OFF CERTAIN REAL
3 ESTATE OF THE COUNTY; TO AMEND SECTION 21-17-1, MISSISSIPPI CODE
4 OF 1972, TO AUTHORIZE THE GOVERNING AUTHORITIES TO AUCTION OFF
5 CERTAIN REAL ESTATE OF THE MUNICIPALITY; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 19-7-3, Mississippi Code of 1972, is
8 amended as follows:

9 19-7-3. In case any of the real estate belonging to the
10 county shall cease to be used for county purposes, the board of
11 supervisors may sell, convey or lease the same on such terms as
12 the board may elect and may, in addition, exchange the same for
13 real estate belonging to any other political subdivision located
14 within the county. In case of a sale on a credit, the county
15 shall have a lien on the same for the purchase money, as against
16 all persons, until paid and may enforce the lien as in such cases
17 provided by law. The deed of conveyance in such cases shall be
18 executed in the name of the county by the president of the board
19 of supervisors, pursuant to an order of the board entered on its
20 minutes.

21 Before any lease, deed or conveyance is executed, the board
22 shall publish at least once each week for three (3) consecutive
23 weeks, in a public newspaper of the county in which the land is
24 located, or if no newspaper be published in said county then in a
25 newspaper having general circulation therein, the intention to
26 lease or sell, as the case may be, the county-owned land and to
27 accept sealed competitive bids for the leasing or sale. The board
28 shall thereafter accept bids for the lease or sale and shall award



29 the lease to the highest bidder in the manner provided by law or
30 the board may auction off the land to the highest bidder at a
31 public auction. The board may reserve the right to reject any and
32 all bids. However, whenever the board of supervisors shall find
33 and determine, by resolution duly and lawfully adopted and spread
34 upon its minutes (a) that any county-owned property is no longer
35 needed for county or related purposes and is not to be used in the
36 operation of the county, (b) that the sale of the property in the
37 manner otherwise provided by law is not necessary or desirable for
38 the financial welfare of the county, and (c) that the use of the
39 county property for the purpose for which it is to be sold,
40 conveyed or leased will promote and foster the development and
41 improvement of the community in which it is located and the civic,
42 social, educational, cultural, moral, economic, or industrial
43 welfare thereof, the board of supervisors of such county shall be
44 authorized and empowered, in its discretion, to sell, convey,
45 lease, or otherwise dispose of same for any of the purposes set
46 forth herein without having to advertise for and accept
47 competitive bids. In any case in which a board of supervisors
48 proposes to sell, convey or lease real property under the
49 provisions of this section without advertising for and accepting
50 competitive bids, consideration for the purchase, conveyance or
51 lease of the property shall be not less than the average of the
52 fair market price for such property as determined by three (3)
53 professional property appraisers selected by the board of
54 supervisors and approved by the purchaser or lessee. Appraisal
55 fees shall be shared equally by the county and the purchaser or
56 lessee.

57 **SECTION 2.** Section 21-17-1, Mississippi Code of 1972, is
58 amended as follows:

59 21-17-1. Every municipality of this state shall be a
60 municipal corporation and shall have power to sue and be sued; to
61 purchase and hold real estate, either within or without the



62 corporate limits, for all proper municipal purposes, including
63 parks, cemeteries, hospitals, schoolhouses, houses of correction,
64 waterworks, electric lights, sewers and other proper municipal
65 purposes; to purchase and hold personal property for all proper
66 municipal purposes; to acquire equipment and machinery by
67 lease-purchase agreement and to pay interest thereon, if
68 contracted, when needed for proper municipal purposes; to sell and
69 convey any real and personal property owned by it, and make such
70 order respecting the same as may be deemed conducive to the best
71 interest of the municipality, and exercise jurisdiction over the
72 same.

73 In case any of the real property belonging to a municipality
74 shall cease to be used for municipal purposes, the governing
75 authorities of the municipality may sell, convey or lease the same
76 on such terms as the municipal authorities may elect. In case of
77 a sale on a credit, the municipality shall charge appropriate
78 interest as contracted and shall have a lien on the same for the
79 purchase money, as against all persons, until paid and may enforce
80 the lien as in such cases provided by law. The deed of conveyance
81 in such cases shall be executed in the name of the municipality by
82 the governing authorities of the municipality pursuant to their
83 order entered on the minutes of their meetings. In any sale or
84 conveyance of real property, the municipality shall retain all
85 mineral rights that it owns, together with the right of ingress
86 and egress to remove same. Before any such lease, deed or
87 conveyance is executed, the governing authorities of the
88 municipality shall publish at least once each week for three (3)
89 consecutive weeks, in a public newspaper of the municipality in
90 which the real property is located, or if no newspaper be
91 published as such, then in a newspaper having general circulation
92 therein, the intention to lease or sell, as the case may be, the
93 municipally owned real property and to accept sealed competitive
94 bids for the leasing or sale. The governing authorities of the



95 municipality shall thereafter accept bids for the lease or sale
96 and shall award the lease or sale to the highest bidder in the
97 manner provided by law or the governing authorities may auction
98 off the land to the highest bidder at a public auction. The
99 governing authorities may reserve the right to reject any and all
100 bids. However, whenever the governing authorities of the
101 municipality shall find and determine, by resolution duly and
102 lawfully adopted and spread upon its minutes (a) that any
103 municipally owned real property is no longer needed for municipal
104 or related purposes and is not to be used in the operation of the
105 municipality, (b) that the sale of such property in the manner
106 otherwise provided by law is not necessary or desirable for the
107 financial welfare of the municipality, and (c) that the use of
108 such property for the purpose for which it is to be sold, conveyed
109 or leased will promote and foster the development and improvement
110 of the community in which it is located and the civic, social,
111 educational, cultural, moral, economic or industrial welfare
112 thereof, the governing authorities of the municipality shall be
113 authorized and empowered, in their discretion, to sell, convey or
114 lease same for any of the purposes set forth herein without having
115 to advertise for and accept competitive bids. In any case in
116 which a municipality proposes to sell, convey or lease real
117 property under the provisions of this section without advertising
118 for and accepting competitive bids, consideration for the
119 purchase, conveyance or lease of the property shall be not less
120 than the average of the fair market price for such property as
121 determined by three (3) professional property appraisers selected
122 by the municipality and approved by the purchaser or lessee.
123 Appraisal fees shall be shared equally by the municipality and the
124 purchaser or lessee.

125 Whenever the governing authorities of the municipality shall
126 find and determine by resolution duly and lawfully adopted and
127 spread upon the minutes that municipally owned real property is



128 not used for municipal purposes and therefore surplus as set forth
129 hereinabove:

130 (a) The governing authority may donate such lands to a
131 bona fide not-for-profit civic or eleemosynary corporation
132 organized and existing under the laws of the State of Mississippi
133 and granted tax exempt status by the Internal Revenue Service and
134 may donate such lands and necessary funds related thereto to the
135 public school district in which the land is situated for the
136 purposes set forth herein. Any deed or conveyance executed
137 pursuant hereto shall contain a clause of reverter providing that
138 the bona fide not-for-profit corporation or public school district
139 may hold title to such lands only so long as they are continued to
140 be used for the civic, social, educational, cultural, moral,
141 economic or industrial welfare of the community, and that title
142 shall revert to the municipality in the event of the cessation of
143 such use for a period of two (2) years. In any such deed or
144 conveyance, the municipality shall retain all mineral rights that
145 it owns, together with the right of ingress and egress to remove
146 same;

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

154 (c) In the event the governing authority does not wish
155 to donate title to such lands to the bona fide not-for-profit
156 civic or eleemosynary corporation, but wishes to retain title to
157 the lands, the governing authority may lease the lands to a bona
158 fide not-for-profit corporation described in paragraph (a) or (b)
159 for less than fair market value.



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

174 The governing authorities of any municipality may contract
175 with a private attorney or private collection agent or agency to
176 collect any type of delinquent payment owed to the municipality,
177 including, but not limited to, past due fees and fines. Any such
178 contract debt may provide for payment contingent upon successful
179 collection efforts or payment based upon a percentage of the
180 delinquent amount collected; however, the entire amount of all
181 delinquent payments collected shall be remitted to the
182 municipality and shall not be reduced by any collection costs or
183 fees. Any private attorney or private collection agent or agency
184 contracting with the municipality under the provisions of this
185 paragraph shall give bond or other surety payable to the
186 municipality in such amount as the governing authorities of the
187 municipality deem sufficient. Any private attorney with whom the
188 municipality contracts under the provisions of this paragraph must
189 be a member in good standing of The Mississippi Bar. Any private
190 collection agent or agency with whom the municipality contracts
191 under the provisions of this paragraph must meet all licensing
192 requirements for doing business in the State of Mississippi.



193 Neither the municipality nor any officer or employee of the
194 municipality shall be liable, civilly or criminally, for any
195 wrongful or unlawful act or omission of any person or business
196 with whom the municipality has contracted under the provisions of
197 this paragraph. The Mississippi Department of Audit shall
198 establish rules and regulations for use by municipalities in
199 contracting with persons or businesses under the provisions of
200 this paragraph. If a municipality uses its own employees to
201 collect any type of delinquent payment owed to the municipality,
202 then from and after July 1, 2000, the municipality may charge an
203 additional fee for collection of the delinquent payment provided
204 the payment has been delinquent for ninety (90) days. The
205 collection fee may not exceed fifteen percent (15%) of the
206 delinquent payment if the collection is made within this state and
207 may not exceed twenty-five percent (25%) of the delinquent payment
208 if the collection is made outside this state. In conducting
209 collection of delinquent payments, the municipality may utilize
210 credit cards or electronic fund transfers. The municipality may
211 pay any service fees for the use of such methods of collection
212 from the collection fee, but not from the delinquent payment.
213 There shall be due to the municipality from any person whose
214 delinquent payment is collected under a contract executed as
215 provided in this subsection an amount, in addition to the
216 delinquent payment, of not to exceed twenty-five percent (25%) of
217 the delinquent payment for collections made within this state, and
218 not to exceed fifty percent (50%) of the delinquent payment for
219 collections made outside of this state.

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



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

231 In addition to the authority to expend matching funds under
232 Section 21-19-65, the governing authorities of any municipality,
233 in their discretion, may expend municipal funds to match any
234 state, federal or private funding for any program administered by
235 the State of Mississippi, the United States government or any
236 nonprofit organization that is exempt under 26 USCS Section
237 501(c)(3) from paying federal income tax.

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

243 **SECTION 3.** This act shall take effect and be in force from
244 and after July 1, 2003.

