

By: Representative Reeves

To: Municipalities;
Judiciary B

HOUSE BILL NO. 843

1 AN ACT TO AMEND SECTION 21-19-11, MISSISSIPPI CODE OF 1972,
2 TO ALLOW MUNICIPALITIES TO ENACT CRIMINAL PENALTIES FOR FAILURE TO
3 MAINTAIN PROPERTY; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 21-19-11, Mississippi Code of 1972, is
6 amended as follows:

7 21-19-11. (1) The governing authority of any municipality
8 is hereby authorized and empowered, on its own motion, or upon the
9 receipt of a petition requesting the municipal authority to so act
10 signed by a majority of the residents residing upon any street or
11 alley within three hundred (300) feet of any parcel of land
12 alleged to be in need of cleaning, to give notice to the property
13 owner by United States registered mail or certified mail two (2)
14 weeks before the date of a hearing, or by service of notice as
15 provided in this section by a police officer at least two (2)
16 weeks before the date of a hearing, or if the property owner be
17 unknown or his address unknown, then by two (2) weeks' notice in a
18 newspaper having a general circulation in the municipality, of a
19 hearing to determine whether or not any parcel of land is in such
20 a state of uncleanliness as to be a menace to the public health
21 and safety of the community. If, at such hearing, the governing
22 authority shall, in its resolution, adjudicate such a parcel of
23 land in its then condition to be a menace to the public health and
24 safety of the community, the governing authority shall, if the
25 owner does not do so himself, proceed to clean the land, by the
26 use of municipal employees or by contract, by cutting weeds;
27 filling cisterns; removing rubbish, dilapidated fences, outside

28 toilets, dilapidated buildings and other debris; and draining
29 cesspools and standing water therefrom. Thereafter, the governing
30 authority may, at its next regular meeting, by resolution
31 adjudicate the actual cost of cleaning the property and may also
32 impose a penalty of Two Hundred Fifty Dollars (\$250.00) or
33 twenty-five percent (25%) of such actual cost, whichever is more.
34 The cost and any penalty may become a civil debt against the
35 property owner, or, at the option of the governing authority, an
36 assessment against the property. The cost assessed against the
37 property means the cost to the municipality of using its own
38 employees to do the work or the cost to the municipality of any
39 contract executed by the municipality to have the work done. The
40 action herein authorized shall not be undertaken against any one
41 (1) parcel of land more than five (5) times in any one (1)
42 calendar year, and the expense of cleaning of said property shall
43 not exceed an aggregate amount of Ten Thousand Dollars
44 (\$10,000.00) per year, or the fair market value of the property
45 subsequent to cleaning, whichever is less. If it is determined by
46 the governing authorities of a municipality that it is necessary
47 to clean a parcel of land more than once within a calendar year,
48 then the municipality may clean such property provided notice to
49 the property owner is given by United States regular mail to the
50 last known address at least ten (10) days before cleaning the
51 property. The governing authorities of a municipality may assess
52 the same penalty for each time they clean as otherwise provided in
53 this section. The penalty provided herein shall not be assessed
54 against the State of Mississippi upon request for reimbursement
55 under Section 29-1-145, nor shall a municipality clean a parcel
56 owned by the State of Mississippi without first giving notice.

57 (2) In the event the governing authority declares, by
58 resolution, that the cost and any penalty shall be collected as a
59 civil debt, the governing authority may authorize the institution
60 of a suit on open account against the owner of the property in a

61 court of competent jurisdiction in the manner provided by law for
62 the cost and any penalty, plus court costs, reasonable attorney's
63 fees and interest from the date that the property was cleaned.

64 (3) In the event that the governing authority does not
65 declare that the cost and any penalty shall be collected as a
66 civil debt, then the assessment above provided for shall be a lien
67 against the property and may be enrolled in the office of the
68 circuit clerk of the county as other judgments are enrolled, and
69 the tax collector of the municipality shall, upon order of the
70 board of governing authorities, proceed to sell the land to
71 satisfy the lien as now provided by law for the sale of lands for
72 delinquent municipal taxes.

73 (4) All decisions rendered under the provisions of this
74 section may be appealed in the same manner as other appeals from
75 municipal boards or courts are taken.

76 (5) The police officer's return on the notice may be in one
77 (1) of the following forms:

78 (a) Form of personal notice:

79 "I have this day delivered the within notice
80 personally, by delivering to the within named property
81 owner, _____ (here state name of party
82 summoned), a true copy of this notice.

83 This, the ____ day of _____ 20 ____.

84 _____ (Police Officer)"

85 (b) Form of notice where copy left at residence:

86 "I have this day delivered the within notice to
87 _____, within named property owner, by
88 leaving a true copy of the same at his (or her) usual
89 place of abode in my municipality, with
90 _____, his (or her) (here insert wife,
91 husband, son, daughter or some other person, as the case
92 may be), _____ a member of his (or her)
93 family above the age of sixteen (16) years, and willing

94 to receive such copy. The said property owner is not
95 found in my municipality.

96 This, the _____ day of _____ 20 _____.
97 _____ (Police Officer)"

98 (c) Form of return when property owner not found within
99 municipality and is a nonresident thereof:

100 "I have this day attempted to deliver the within
101 notice to _____, the within named property
102 owner, and after diligent search and inquiry, I failed
103 to find the same property owner within my municipality,
104 nor could I ascertain the location of any residence of
105 the property owner within my municipality.

106 This, the _____ day of _____ 20 _____.
107 _____ (Police Officer)"

108 The first mode of notice should be made, if it can be; if
109 not, then the second mode should be made, if it can be; and the
110 return of the second mode of service must negate the officer's
111 ability to make the first. If neither the first nor second mode
112 of service can be made, then the third mode should be made, and
113 the return thereof must negate the officer's ability to make both
114 the first and second. In the event the third mode of service is
115 made, then service shall also be made by publication as provided
116 in subsection (1) of this section.

117 (6) The officer shall mark on all notices the day of the
118 receipt thereof by him, and he shall return the same on or before
119 the day of the hearing, with a written statement of his
120 proceedings thereon. For failing to note the time of the receipt
121 of notice or for failing to return the same, the officer shall
122 forfeit to the party aggrieved the sum of Twenty-five Dollars
123 (\$25.00).

124 (7) Nothing contained under this section shall prevent any
125 municipality from enacting criminal penalties for failure to

126 maintain property so not to constitute a menace to public, health,
127 safety, and welfare.

128 **SECTION 2.** This act shall take effect and be in force from
129 and after July 1, 2005.