

By: Representative Brown

To: Municipalities

HOUSE BILL NO. 1019  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 21-19-11, MISSISSIPPI CODE OF 1972,  
2 TO INCREASE THE PENALTIES AND COSTS WHICH MAY BE ASSESSED AGAINST  
3 OWNERS OF PROPERTY OR LAND WITHIN MUNICIPALITIES WHO FAIL TO KEEP  
4 THEIR PROPERTY OR LAND CLEAN, TO THE EXTENT THAT SUCH FAILURE  
5 RESULTS IN THE PROPERTY OR LAND BEING A MENACE TO THE PUBLIC  
6 HEALTH AND SAFETY OF THE COMMUNITY AND TO ALLOW MUNICIPALITIES TO  
7 ENACT CRIMINAL PENALTIES FOR FAILURE TO MAINTAIN PROPERTY; TO  
8 AMEND SECTION 21-19-20, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
9 A MUNICIPALITY SHALL INSTITUTE PROCEEDINGS TO HAVE AN ABANDONED  
10 HOUSE OR BUILDING DEMOLISHED, IF IT DETERMINES THAT THE HOUSE OR  
11 BUILDING CONSTITUTES A PUBLIC HAZARD AND NUISANCE; TO PROVIDE THAT  
12 A MAJORITY OF THE RESIDENTS RESIDING WITHIN 400 FEET OF THE  
13 PROPERTY MAY PETITION THE MUNICIPALITY TO HOLD A HEARING ON THE  
14 QUESTION OF WHETHER THE PROPERTY SHOULD BE DEMOLISHED; TO REQUIRE  
15 THE MUNICIPALITY TO NOTIFY THE PROPERTY OWNER OF THE HEARING BY  
16 UNITED STATES MAIL OR BY PUBLICATION; AND FOR RELATED PURPOSES.

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

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

20 21-19-11. (1) The governing authority of any municipality  
21 is \* \* \* authorized \* \* \*, on its own motion, or upon the receipt  
22 of a petition requesting the municipal authority to so act signed  
23 by a majority of the residents residing \* \* \* within four hundred  
24 (400) feet of any property or parcel of land alleged to be in need  
25 of cleaning, to give notice to the property owner by United  
26 States \* \* \* mail two (2) weeks before the date of a hearing, or  
27 by service of notice as provided in this section by a police  
28 officer at least two (2) weeks before the date of a hearing, or if  
29 the property owner \* \* \* or his address is unknown, then by two  
30 (2) weeks' notice in a newspaper having a general circulation in  
31 the municipality, of a hearing to determine whether or not the  
32 property or land is in such a state of uncleanliness as to be a  
33 menace to the public health and safety of the community. If, at  
34 such hearing, the governing authority shall, \* \* \* adjudicate the

35 property or land in its then condition to be a menace to the  
36 public health and safety of the community, the governing authority  
37 shall, if the owner does not do so himself, proceed to clean the  
38 land, by the use of municipal employees or by contract, by cutting  
39 weeds; filling cisterns; removing rubbish, dilapidated fences,  
40 outside toilets, dilapidated buildings and other debris; and  
41 draining cesspools and standing water therefrom. Thereafter, the  
42 governing authority may, at its next regular meeting, by  
43 resolution adjudicate the actual cost of cleaning the property and  
44 may also impose a penalty of One Thousand Five Hundred (\$1,500.00)  
45 or fifty percent (50%) of such actual cost, whichever is more.  
46 The cost and any penalty may become a civil debt against the  
47 property owner, or, at the option of the governing authority, an  
48 assessment against the property. The cost assessed against the  
49 property means the cost to the municipality of using its own  
50 employees to do the work or the cost to the municipality of any  
51 contract executed by the municipality to have the work done. The  
52 action herein authorized shall not be undertaken against any one  
53 (1) parcel of land more than six (6) times in any one (1) calendar  
54 year, and the expense of cleaning of said property shall not  
55 exceed an aggregate amount of Twenty Thousand Dollars (\$20,000.00)  
56 per year, or the fair market value of the property subsequent to  
57 cleaning, whichever is less. If it is determined by the governing  
58 authority that it is necessary to clean any property or land more  
59 than once within a calendar year, then the municipality may clean  
60 it provided notice to the property owner is given by United  
61 States \* \* \* mail to the last known address at least ten (10) days  
62 before cleaning the property. The governing authority may assess  
63 the same penalty for each time the property or land is cleaned as  
64 otherwise provided in this section. The penalty provided herein  
65 shall not be assessed against the State of Mississippi upon  
66 request for reimbursement under Section 29-1-145, nor shall a

67 municipality clean a parcel owned by the State of Mississippi  
68 without first giving notice.

69 (2) In the event the governing authority declares, by  
70 resolution, that the cost and any penalty shall be collected as a  
71 civil debt, the governing authority may authorize the institution  
72 of a suit on open account against the owner of the property in a  
73 court of competent jurisdiction in the manner provided by law for  
74 the cost and any penalty, plus court costs, reasonable attorney's  
75 fees and interest from the date that the property was cleaned.

76 (3) In the event that the governing authority does not  
77 declare that the cost and any penalty shall be collected as a  
78 civil debt, then the assessment above provided for shall be a lien  
79 against the property and may be enrolled in the office of the  
80 circuit clerk of the county as other judgments are enrolled, and  
81 the tax collector of the municipality shall, upon order of the  
82 board of governing authorities, proceed to sell the land to  
83 satisfy the lien as now provided by law for the sale of lands for  
84 delinquent municipal taxes.

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

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

90 (a) Form of personal notice:

91 "I have this day delivered the within notice  
92 personally, by delivering to the within named property  
93 owner, \_\_\_\_\_ (here state name of party  
94 summoned), a true copy of this notice.

95 This, the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

96 \_\_\_\_\_ (Police Officer)"

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

98 "I have this day delivered the within notice to

99 \_\_\_\_\_, within named property owner, by

100 leaving a true copy of the same at his (or her) usual  
101 place of abode in my municipality, with  
102 \_\_\_\_\_, his (or her) (here insert wife,  
103 husband, son, daughter or some other person, as the case  
104 may be), \_\_\_\_\_ a member of his (or her)  
105 family above the age of sixteen (16) years, and willing  
106 to receive such copy. The said property owner is not  
107 found in my municipality.

108 This, the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.  
109 \_\_\_\_\_ (Police Officer)"

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

112 "I have this day attempted to deliver the within  
113 notice to \_\_\_\_\_, the within named property  
114 owner, and after diligent search and inquiry, I failed  
115 to find the same property owner within my municipality,  
116 nor could I ascertain the location of any residence of  
117 the property owner within my municipality.

118 This, the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.  
119 \_\_\_\_\_ (Police Officer)"

120 The first mode of notice should be made, if it can be; if  
121 not, then the second mode should be made, if it can be; and the  
122 return of the second mode of service must negate the officer's  
123 ability to make the first. If neither the first nor second mode  
124 of service can be made, then the third mode should be made, and  
125 the return thereof must negate the officer's ability to make both  
126 the first and second. In the event the third mode of service is  
127 made, then service shall also be made by publication as provided  
128 in subsection (1) of this section.

129 (6) The officer shall mark on all notices the day of the  
130 receipt thereof by him, and he shall return the same on or before  
131 the day of the hearing, with a written statement of his  
132 proceedings thereon. For failing to note the time of the receipt

133 of notice or for failing to return the same, the officer shall  
134 forfeit to the party aggrieved the sum of Twenty-five Dollars  
135 (\$25.00).

136 (7) Nothing contained under this section shall prevent any  
137 municipality from enacting criminal penalties for failure to  
138 maintain property so as not to constitute a menace to public  
139 health, safety and welfare.

140 **SECTION 2.** Section 21-19-20, Mississippi Code of 1972, is  
141 amended as follows:

142 21-19-20. (1) (a) A municipality shall institute  
143 proceedings to have demolished an abandoned house or building that  
144 is used for the sale or use of drugs \* \* \*. The local law  
145 enforcement authority of the municipality shall have documented  
146 proof of drug sales or use in the abandoned property before a  
147 municipality may initiate proceedings to have the property  
148 demolished.

149 (b) (i) A municipality shall institute proceedings to  
150 have an abandoned house or building demolished if the governing  
151 authority of the municipality determines that the house or  
152 building is a menace to the public health and safety of the  
153 community and that it constitutes a public hazard and nuisance.

154 (ii) Upon the receipt of a petition requesting the  
155 municipality to demolish an abandoned house or building that  
156 constitutes a public hazard and nuisance signed by a majority of  
157 the residents residing within four hundred (400) feet of the  
158 property, the governing authority of the municipality shall notify  
159 the property owner that the petition has been filed and that a  
160 date for a hearing on the petition has been set. Notice to the  
161 property owner shall be by United States mail, or if the property  
162 owner or his address is unknown, publication of the notice shall  
163 be made twice each week during two (2) successive weeks in a  
164 public newspaper of the county in which the municipality is  
165 located; where there is no newspaper in the county, the notice

166 shall be published in a newspaper having a general circulation in  
167 the state. The hearing shall be held not less than thirty (30)  
168 nor more than sixty (60) days after service or completion of  
169 publication of the notice. At the hearing, the governing  
170 authority shall determine whether the property is a menace to the  
171 public health and safety of the community which constitutes a  
172 public hazard and nuisance. If the governing authority determines  
173 that the property is a public hazard and nuisance, the  
174 municipality shall institute proceedings under subsection (2) of  
175 this section to demolish the abandoned house or building.

176 (2) The municipality shall file a petition to declare the  
177 abandoned property a public hazard and nuisance and to have the  
178 property demolished with the circuit clerk of the county in which  
179 the property or some part of the property is located. All of the  
180 owners of the property involved, and any mortgagee, trustee, or  
181 other person having any interest in or lien on the property shall  
182 be made defendants to the proceedings. The circuit clerk shall  
183 present the petition to the circuit judge who, by written order  
184 directed to the circuit clerk, shall fix the time and place for  
185 the hearing of the matter in termtime or vacation. The time of  
186 the hearing shall be fixed on a date to allow sufficient time for  
187 each defendant named to be served with process, as otherwise  
188 provided by law, not less than thirty (30) days before the  
189 hearing. If a defendant or other party in interest is not served  
190 for the specified time before the date fixed, the hearing shall be  
191 continued to a day certain to allow the thirty-day period  
192 specified.

193 (3) Any cost incurred by a municipality for demolishing  
194 abandoned property shall be paid by the owners of the property.

195 **SECTION 3.** This act shall take effect and be in force from  
196 and after its passage.