

By: Senator(s) Harden

To: Municipalities;
Judiciary, Division B

SENATE BILL NO. 2828
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 21-19-11, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE CRIMINAL PENALTIES FOR FAILURE TO CLEAN PRIVATE
3 PROPERTY WHEN DULY ORDERED BY A MUNICIPALITY; AND FOR RELATED
4 PURPOSES.

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

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

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

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

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

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

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

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

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

79 (a) Form of personal notice:

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

84 This, the ____ day of _____ 20 ____.

85 _____ (Police Officer)"

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

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

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

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

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

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

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

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

118 (6) The officer shall mark on all notices the day of the
119 receipt thereof by him, and he shall return the same on or before
120 the day of the hearing, with a written statement of his
121 proceedings thereon. For failing to note the time of the receipt
122 of notice or for failing to return the same, the officer shall
123 forfeit to the party aggrieved the sum of Twenty-five Dollars
124 (\$25.00).

125 (7) Nothing contained in this section shall prevent a
126 municipality from enacting criminal penalties for failure to

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

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