

Chapter No. 475
10/HR40/R1068SG
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HOUSE BILL NO. 1412

Originated in House Don Richardson Clerk

HOUSE BILL NO. 1412

AN ACT TO AMEND SECTION 21-19-11, MISSISSIPPI CODE OF 1972, TO AUTHORIZE COSTS AND PENALTIES ASSESSED BY A MUNICIPAL GOVERNING AUTHORITY TO CLEAN PRIVATE PROPERTY TO BE ADDED TO AD VALOREM TAX BILLS AND COLLECTED BY THE TAX COLLECTOR/ASSESSOR; TO AUTHORIZE THE TAX COLLECTOR/ASSESSOR TO SELL PROPERTY WHEN SUCH COST AND PENALTY ARE NOT PAID; AND FOR RELATED PURPOSES.

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

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

21-19-11. (1) The governing authority of any municipality is authorized, on its own motion, or upon the receipt of a petition requesting the municipal authority to so act signed by a majority of the residents residing within four hundred (400) feet of any property or parcel of land alleged to be in need of cleaning, to give notice to the property owner by United States mail, as provided in this section, two (2) weeks before the date of a hearing, or by service of notice as provided in this section by a police officer at least two (2) weeks before the date of a hearing, or if the property owner or his address is unknown, then by two (2) weeks' notice in a newspaper having a general circulation in the municipality, of a hearing to determine whether the property or land is in such a state of uncleanliness as to be a menace to the public health, safety and welfare of the community. If, at such hearing, the governing authority shall adjudicate the property or land in its then condition to be a menace to the public health, safety and welfare of the community, the governing authority, if the owner does not do so himself, shall proceed to clean the land, by the use of municipal employees

or by contract, by cutting grass and weeds; filling cisterns; removing rubbish, dilapidated fences, outside toilets, dilapidated buildings, personal property, which removal of personal property shall not be subject to the provisions of Section 21-39-21, and other debris; and draining cesspools and standing water therefrom. The governing authority may by resolution adjudicate the actual cost of cleaning the property and may also impose a penalty of One Thousand Five Hundred Dollars (\$1,500.00) or fifty percent (50%) of the actual cost, whichever is more. The cost and any penalty may become a civil debt against the property owner, or, at the option of the governing authority, an assessment against the property. The "cost assessed against the property" means either the cost to the municipality of using its own employees to do the work or the cost to the municipality of any contract executed by the municipality to have the work done, and administrative costs and legal costs of the municipality. The action authorized in this subsection (1) shall not be undertaken against any one (1) parcel of land more than six (6) times in any twelve-month period with respect to removing dilapidated buildings, dilapidated fences and outside toilets and no more than twelve (12) times in any twenty-four-month period with respect to cutting grass and weeds and removing rubbish, personal property and other debris on the land, and the expense of cleaning of said property shall not exceed an aggregate amount of Twenty Thousand Dollars (\$20,000.00) per year, or the fair market value of the property subsequent to cleaning, whichever is less. The governing authority may assess the same penalty for each time the property or land is cleaned as otherwise provided in this section. The penalty provided herein shall not be assessed against the State of Mississippi upon request for reimbursement under Section 29-1-145, nor shall a municipality clean a parcel owned by the State of Mississippi without first giving notice.

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

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

(b) (i) All assessments levied under the provisions of this section shall be included with municipal ad valorem taxes and payment shall be enforced in the same manner in which payment is enforced for municipal ad valorem taxes, and all statutes regulating the collection of other taxes in a municipality shall apply to the enforcement and collection of the assessments levied under the provisions of this section, including utilization of the procedures authorized under Sections 17-13-9(2) and 27-41-2.

(ii) All assessments levied under the provisions of this section shall become delinquent at the same time municipal ad valorem taxes become delinquent. Delinquencies shall be collected in the same manner and at the same time delinquent ad valorem taxes are collected and shall bear the same penalties as those provided for delinquent taxes. If the property is sold for the nonpayment of an assessment under this section, it shall be sold in the manner that property is sold for the nonpayment of delinquent ad valorem taxes. If the property is sold for

delinquent ad valorem taxes, the assessment under this section shall be added to the delinquent tax and collected at the same time and in the same manner.

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

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

(a) Form of personal notice:

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

This, the ____ day of _____, 20 ____.

_____ (Police Officer)"

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

"I have this day delivered the within notice to _____, within named property owner, by leaving a true copy of the same at his (or her) usual place of abode in my municipality, with _____, his (or her) (here insert wife, husband, son, daughter or some other person, as the case may be), _____ a member of his (or her) family above the age of sixteen (16) years, and willing to receive such copy. The said property owner is not found in my municipality.

This, the ____ day of _____, 20 ____.

_____ (Police Officer)"

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

"I have this day attempted to deliver the within notice to _____, the within named property owner, and after diligent search and inquiry, I failed

to find the same property owner within my municipality, nor could I ascertain the location of any residence of the property owner within my municipality.

This, the _____ day of _____, 20 ____.

_____ (Police Officer)"

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

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

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

(8) In the event that notice is provided to the property owner by United States mail, the municipality shall include, together with a notice of the hearing, an acknowledgment in the form set forth below and a return envelope, postage prepaid, addressed to the sender.

(a) The acknowledgment shall be in substantially the following form:

ACKNOWLEDGEMENT OF NOTICE OF HEARING

TO: [Name and Address]

The enclosed Notice of Hearing is given to you as owner of the property located at [Insert address], pursuant to Section 21-19-11 of the Mississippi Code.

You must sign and date this acknowledgement at the bottom of this page. If you have received notice on behalf of a corporation, unincorporated association (including a partnership), or other entity, you must indicate under your signature your relationship to that entity. If you have received notice on behalf of another person and you are authorized to receive such notice, you must indicate under your signature your authority.

If you do not complete and return this form to the sender within fourteen (14) days from the date of mailing shown below, another hearing date may be set and a notice of hearing to you will be published in a newspaper of general circulation in this area.

I declare that the notice with this acknowledgement was mailed on [Date of Mailing].

Signature

THIS ACKNOWLEDGEMENT OF RECEIPT OF NOTICE OF HEARING MUST BE COMPLETED.

I acknowledge that I have received a copy of the Notice of Hearing of the City/County of [Insert City/County], Mississippi, to be held on [Insert Date] at [Insert Address of Hearing].

Signature

Relationship to Entity/Authority to Receive
Notice of Hearing, if applicable

Date of Signature

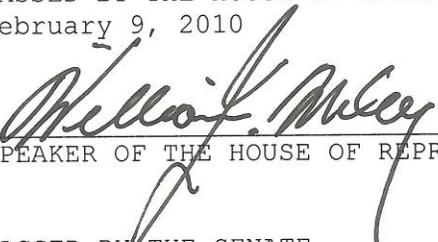
(b) In the event the acknowledgement is not returned within fourteen (14) days of the date of mailing, then service

shall also be made by publication as provided in subsection (1) of this section.

SECTION 2. It is the intent of the Legislature that the amendments contained in Section 1 of this bill shall be integrated with the amendments contained in House Bill No. 1281, 2010 Regular Session, without regard to the effective date of such acts.

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

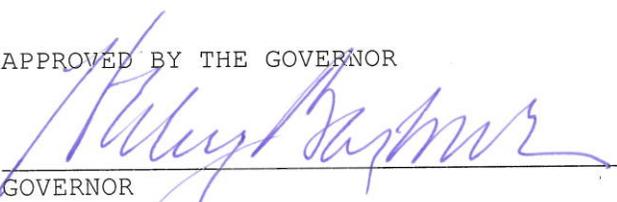
PASSED BY THE HOUSE OF REPRESENTATIVES
February 9, 2010


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 9, 2010


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR

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