

By: Senator(s) Doty, Michel, Carter, Massey, To: Judiciary, Division A
Blackwell

SENATE BILL NO. 2657

1 AN ACT TO AMEND SECTION 89-7-27, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE A TENANT TO BE REMOVED FROM THE PREMISES WHEN THE TENANT
3 HOLDS OVER WITHOUT THE LANDLORD'S PERMISSION OR DEFAULTS ON HIS OR
4 HER RENT PAYMENT; TO ALLOW NOTICE TO A HOLDOVER OR DEFAULTING
5 TENANT VIA WRITTEN NOTICE DELIVERED TO THE PREMISES PLUS EMAIL OR
6 TEXT MESSAGE; TO AMEND SECTION 89-7-29, MISSISSIPPI CODE OF 1972,
7 TO REQUIRE REMOVAL OF A TENANT FOR NONPAYMENT OF RENT AND ANY LATE
8 FEES; TO AMEND SECTION 89-7-39, MISSISSIPPI CODE OF 1972, TO
9 PROHIBIT ADJOURNMENTS DURING HEARINGS FOR EVICTION DUE TO THE
10 NONPAYMENT OF RENT OR ALLOWING THE HEARING TO EXTEND BEYOND A
11 PERIOD OF MORE THAN 30 DAYS; TO AMEND SECTION 89-7-45, MISSISSIPPI
12 CODE OF 1972, TO REQUIRE ANY LATE FEES ACCRUED UNDER THE RENTAL
13 AGREEMENT TO ALSO BE PAID BEFORE THE ISSUANCE OF A WARRANT WILL BE
14 STAYED; TO REMOVE THE ABILITY OF A TENANT TO GIVE SATISFACTORY
15 SECURITY INSTEAD OF PAYING THE RENT DUE; TO AMEND SECTION 89-7-49,
16 MISSISSIPPI CODE OF 1972, TO REMOVE THE DISCRETION OF THE JUSTICE
17 COURT JUDGE TO PUT THE LANDLORD IN POSSESSION OF THE PREMISES WHEN
18 A TENANT FAILS TO PAY RENT; TO AMEND SECTION 89-8-7, MISSISSIPPI
19 CODE OF 1972, TO EXPAND THE DEFINITION OF "RENT" TO INCLUDE ANY
20 LATE FEES THAT A DEFAULTING TENANT IS REQUIRED TO PAY UNDER THE
21 RENTAL AGREEMENT; TO AMEND SECTION 89-8-13, MISSISSIPPI CODE OF
22 1972, TO REVISE THE NOTICE REQUIRED TO BE GIVEN WHEN A RENTAL
23 AGREEMENT IS BREACHED FROM 30 DAYS TO 14 DAYS; AND FOR RELATED
24 PURPOSES.

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

26 **SECTION 1.** Section 89-7-27, Mississippi Code of 1972, is
27 amended as follows:

28 89-7-27. A tenant or lessee at will or at sufferance, or for
29 part of a year, or for one * * * or more years, of any houses,



30 lands, or tenements, and the assigns, undertenants, or legal
31 representatives of such tenant or lessee, * * * shall be removed
32 from the premises by the judge of the county court, any justice of
33 the peace of the county, or by the mayor or police justice of any
34 city, town, or village where the premises, or some part thereof,
35 are situated, in the following cases, to wit:

36 **First.** Where such tenant shall hold over and continue in
37 possession of the demised premises, or any part thereof, after the
38 expiration of his term, without the permission of the landlord.

39 **Second.** After any default in the payment of the rent
40 pursuant to the agreement under which such premises are held, and
41 when complete satisfaction of the rent and any late fees due
42 cannot be obtained by distress of goods, and three (3) days'
43 notice, in writing, requiring the payment of such rent or the
44 possession of the premises, shall have been served by the person
45 entitled to the rent on the person * * * delivered to the
46 premises; additional notice may be given or by email or text
47 message if the person who owes the rent has provided an email
48 address or number to a cellular phone that is capable of receiving
49 text messages.

50 **SECTION 2.** Section 89-7-29, Mississippi Code of 1972, is
51 amended as follows:

52 89-7-29. The landlord or lessor, his legal representatives,
53 agents, or assigns, in order to have the benefit of such
54 proceedings, shall * * * present to the court a sworn affidavit



55 that contains the facts which, according to * * * Section
56 89-7-27, * * * require the removal of the tenant, describing * * *
57 in the affidavit the premises claimed and the amount of rent and
58 any late fees due and when payable, and that the necessary notice
59 has been given to terminate such tenancy. These facts shall be
60 based on the rental agreement signed or agreed to by the landlord
61 or lessor, his legal representatives, agents, or assigns, and the
62 tenant. The court shall initiate the removal of the tenant for
63 the nonpayment of rent upon receipt of the sworn affidavit.

64 **SECTION 3.** Section 89-7-39, Mississippi Code of 1972, is
65 amended as follows:

66 89-7-39. The magistrate may, at the request of either party,
67 adjourn the hearing from time to time, one (1) adjournment not to
68 exceed ten (10) days, except by consent, and may issue subpoenas
69 and attachments to compel the attendance of witnesses. However,
70 in hearings for eviction due to the nonpayment of rent, no
71 adjournment shall extend the entire hearing beyond a period of
72 more than thirty (30) days from the date the nonpayment of rent
73 occurred.

74 **SECTION 4.** Section 89-7-45, Mississippi Code of 1972, is
75 amended as follows:

76 89-7-45. If the proceedings be founded upon the nonpayment
77 of rent, the issuance of the warrant for the removal of the tenant
78 shall be stayed if the person owing the rent shall, before the
79 warrant * * * is actually issued, pay the full and complete amount



80 of rent due, including any late fees that have accrued as a result
81 of the nonpayment of rent as provided in the rental agreement, and
82 the costs of the proceedings, * * * to the person entitled to the
83 rent, for the payment thereof and costs in ten (10) days; and if
84 the rent and costs shall not be paid accordingly, the warrant
85 shall then issue as if the proceedings had not been stayed.

86 **SECTION 5.** Section 89-7-49, Mississippi Code of 1972, is
87 amended as follows:

88 89-7-49. If a tenant of lands, being in arrear for rent,
89 shall desert the demised premises and leave the same uncultivated
90 or unoccupied, so that a sufficient distress cannot be had to
91 satisfy the arrears of rent, any constable of the county may, at
92 the request of the landlord, and upon due proof by affidavit that
93 the premises have been deserted, leaving rent in arrear, and not
94 sufficient distress thereon, go upon and view the premises, and
95 upon being satisfied that the premises have been so deserted, he
96 shall affix a notice, in writing, upon a conspicuous part of the
97 premises, stating what day he will return to take a second view
98 thereof, not less than five (5) days nor more than fifteen (15)
99 days thereafter, and requiring the tenant then to appear and pay
100 the rent and any late fees due. At the time specified in the
101 notice the constable shall again view the premises, and if, upon
102 second view, the tenant shall not pay the rent and any late fees
103 due, or there shall not be sufficient distress upon the premises,
104 then the justice court * * * shall immediately or within



105 forty-eight (48) hours put the landlord in possession of the
106 premises, and the lease thereof to such tenant shall become void.
107 The tenant may appeal to the circuit court from the proceedings of
108 the justice court at any time within thirty (30) days after
109 possession delivered, by serving notice in writing thereof upon
110 the landlord, and by giving bond, with sufficient sureties, to be
111 approved by the justice court, for the payment to the landlord of
112 the costs of appeal, which may be adjudged against the tenant; and
113 thereupon the justice court shall return the proceedings before
114 him to the next term of the circuit court, and * * * the court
115 shall, at the return term, examine the proceedings in a summary
116 way, and may order restitution to be made to the tenant, with
117 costs of appeal, to be paid by the landlord; or in case of
118 affirming the proceedings, shall award costs against the tenant
119 and sureties in his bond.

120 **SECTION 6.** Section 89-8-7, Mississippi Code of 1972, is
121 amended as follows:

122 89-8-7. (1) Subject to additional definitions contained in
123 subsequent sections of this chapter which apply to specific
124 sections or parts thereof, and unless the context otherwise
125 requires, in this chapter:

126 (a) "Building and housing codes" includes any law,
127 ordinance, or governmental regulation concerning fitness for
128 habitation, construction, maintenance, operation, occupancy or use
129 of any premises or dwelling unit;



(b) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence or sleeping place by one (1) person who maintains a household or by two (2) or more persons who maintain a common household;

(c) "Good faith" means honesty in fact in the conduct of the transaction concerned and observation of reasonable community standards of fair dealing;

(d) "Landlord" means the owner, lessor or sublessor of the dwelling unit or the building of which it is a part, or the agent representing such owner, lessor or sublessor;

(e) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest, and any other legal or commercial entity;

(f) "Owner" means one or more persons, jointly or severally, in whom is vested (i) all or part of the legal title to property or (ii) all or part of the beneficial ownership and a right to present use and enjoyment of the premises, and the term includes a mortgagee in possession;

(g) "Premises" means a dwelling unit and the structure of which it is a part, facilities and appurtenances therein, and grounds, areas and facilities held out for the use of tenants generally or whose use is promised to the tenant;

(h) "Rent" means all payments to be made to the landlord under the rental agreement, including any late fees that



are required to be paid under the rental agreement by a defaulting
tenant;

(i) "Rental agreement" means all agreements, written or oral, and valid rules and regulations adopted under Section 89-8-11 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises;

(j) "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others;

(k) "Qualified tenant management organizations" means any organization incorporated under the Mississippi Nonprofit Corporation Act, a majority of the directors of which are tenants of the housing project to be managed under a contract authorized by this section and which is able to conform to standards set by the United States Department of Housing and Urban Development as capable of satisfactorily performing the operational and management functions delegated to it by the contract.

(2) For purposes of giving any notice required under this chapter, notice given to the agent of the landlord is equivalent to giving notice to the landlord. The landlord may contract with an agent to assume all the rights and duties of the landlord under this chapter; provided, however, that such a contract does not relieve the landlord of ultimate liability in regard to such rights and duties.

SECTION 7. Section 89-8-13, Mississippi Code of 1972, is amended as follows:



89-8-13. (1) If there is a material noncompliance by the tenant with the rental agreement or the obligations imposed by Section 89-8-25, the landlord may terminate the tenancy as set out in subsection (3) of this section or resort to any other remedy at law or in equity except as prohibited by this chapter.

(2) If there is a material noncompliance by the landlord with the rental agreement or the obligations imposed by Section 89-8-23, the tenant may terminate the tenancy as set out in subsection (3) of this section or resort to any other remedy at law or in equity except as prohibited by this chapter.

(3) The nonbreaching party may deliver a written notice to the * * * premises specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than * * * fourteen (14) days after receipt of the notice if the breach is not remedied within a reasonable time not in excess of * * * fourteen (14) days; * * * additional notice may be given by email or text message if the person who owes the rent has provided an email address or number to a cellular phone that is capable of receiving text messages. The rental agreement shall terminate and the tenant shall surrender possession as provided in the notice subject to the following:

(a) If the breach is remediable by repairs, the payment of damages, or otherwise, and the breaching party adequately remedies the breach * * * before the date specified in the notice, the rental agreement shall not terminate;



205 (b) In the absence of a showing of due care by the
206 breaching party, if substantially the same act or omission which
207 constituted a prior noncompliance of which notice was given recurs
208 within six (6) months, the nonbreaching party may terminate the
209 rental agreement upon at least fourteen (14) days' written notice
210 specifying the breach and the date of termination of the rental
211 agreement; additional notice may be given by email or text message
212 if the person who owes the rent has provided an email address or
213 number to a cellular phone that is capable of receiving text
214 messages.

215 (c) Neither party may terminate for a condition caused
216 by his own deliberate or negligent act or omission or that of a
217 member of his family or other person on the premises with his
218 consent.

219 (4) If the rental agreement is terminated, the landlord
220 shall return all prepaid and unearned rent and security
221 recoverable by the tenant under Section 89-8-21.

222 (5) (a) * * * If the material noncompliance by the tenant
223 is the nonpayment of rent pursuant to the rental agreement, the
224 landlord shall not be required to deliver * * * fourteen (14)
225 days' * * * notice as provided by subsection (3) of this section.
226 In such event, the landlord may seek removal of the tenant from
227 the premises in the manner and with the notice prescribed by
228 Chapter 7, Title 89, Mississippi Code of 1972, and may file for



eviction on the first day the nonpayment of rent occurs as
provided in the rental agreement.

(b) Any justice court judge or other judge presiding
over a hearing in which a landlord seeks to remove a tenant for
the nonpayment of rent shall abide by the provisions of the rental
agreement that was signed by the landlord and the defaulting
tenant. If the defaulting tenant fails to remedy the nonpayment
of rent as provided in Chapter 7, Title 89, Mississippi Code of
1972, the justice court judge or other judge presiding over the
hearing shall have the tenant removed from the premises within
thirty (30) days of the date rent and any late fees due were not
timely paid.

(c) The landlord shall not be held liable for any water
bill, electricity bill, or other similar bill that was left unpaid
by the defaulting tenant.

(6) Disposition of personal property, including any
manufactured home, of a tenant remaining on the landlord's
premises after the tenant has been removed from the premises shall
be governed by Section 89-7-35(2) or Section 89-7-41(2).

SECTION 8. This act shall take effect and be in force from
and after July 1, 2018.

