

By: Senator(s) Hill, Parker

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2716

1 AN ACT TO AMEND SECTION 89-7-31, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY WHEN A COMPLAINT FOR EVICTION IS TRIABLE; TO AMEND
3 SECTIONS 89-7-35, 89-7-41 AND 89-7-45, MISSISSIPPI CODE OF 1972,
4 TO CLARIFY WHEN A WARRANT FOR EVICTION IS TO BE ISSUED AND WHEN A
5 STAY OF EXECUTION IS OR IS NOT APPROPRIATE; AND FOR RELATED
6 PURPOSES.

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

8 **SECTION 1.** Section 89-7-31, Mississippi Code of 1972, is
9 amended as follows:

10 89-7-31. (1) On receiving the affidavit, the county judge,
11 justice court judge, municipal judge, or other officer shall issue
12 a summons, directed to the sheriff or any constable of the county,
13 or the marshal of the municipality in which the premises, or some
14 part thereof, are situated, describing the premises, and
15 commanding him to require the person in possession of the same or
16 claiming the possession thereof, immediately to remove from the
17 premises, or to show cause before the justice court judge or other
18 officer, on a day to be named * * * in the summons, why possession
19 of the premises should not be delivered to the applicant.



20 (2) In addition to other information required for the
21 summons, the summons shall state: "At the hearing, a judge will
22 determine if the landlord is granted exclusive possession of the
23 premises. If the judge grants possession of the premises to the
24 landlord and you do not remove your personal property, including
25 any manufactured home, from the premises before the date and time
26 ordered by the judge, then the landlord may dispose of your
27 personal property without any further legal action."

28 **SECTION 2.** Section 89-7-35, Mississippi Code of 1972, is
29 amended as follows:

30 89-7-35. **Issuance of warrant for removal.** (1) If, at the
31 time appointed, it appears that the summons has been duly served,
32 and if * * * a judgment of eviction is granted, the magistrate
33 shall issue * * * a warrant to the sheriff or any constable of the
34 county, or to a marshal of the municipality in which the premises,
35 or some part thereof, are situated, immediately upon request,
36 except when prohibited or otherwise provided under Section
37 89-7-45, commanding him to remove all persons from the premises,
38 and to put the applicant into full possession thereof.

39 (2) If the summons complied with the requirements of Section
40 89-7-31(2) and if the tenant has failed to remove any of tenant's
41 personal property, including any manufactured home, from the
42 premises, then, if the judge has not made some other finding
43 regarding the disposition of any personal property in the vacated
44 premises, the personal property shall be deemed abandoned and may



45 be disposed of by the landlord without further notice or
46 obligation to the tenant.

47 **SECTION 3.** Section 89-7-41, Mississippi Code of 1972, is
48 amended as follows:

49 89-7-41. (1) If the decision is in favor of the landlord or
50 other person claiming the possession of the premises, the
51 magistrate shall issue * * * a warrant to the sheriff, constable,
52 or other officer immediately upon request, except when prohibited
53 or otherwise provided under Section 89-7-45, commanding him
54 immediately to put the landlord or other person into possession of
55 the premises, and to levy the costs of the proceedings of the
56 goods and chattels, lands and tenements, of the tenant or person
57 in possession of the premises who shall have controverted the
58 right of the landlord or other person.

59 (2) If the summons complied with the requirements of Section
60 89-7-31(2) and if the tenant has failed to remove any of tenant's
61 personal property, including any manufactured home, from the
62 premises, then, if the judge has not made some other finding
63 regarding the disposition of any personal property in the vacated
64 premises, the personal property shall be deemed abandoned and may
65 be disposed of by the landlord without further notice or
66 obligation to the tenant.

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



69 89-7-45. When warrant for removal may issue in cases of
70 nonpayment of rent. If * * * a judgment of eviction is founded
71 solely upon the nonpayment of rent * * * and, at the time of the
72 request for the warrant for removal the full and complete amount
73 of rent due, including any late fees as provided in the rental
74 agreement that have accrued * * * as of the date of judgment, and
75 the costs of the proceedings, have been paid to the person
76 entitled to the rent, * * * the magistrate shall not issue a
77 warrant for removal. If the rent, late fees and costs * * * have
78 not been paid * * * in full at the time of the request for the
79 warrant for removal, the magistrate must immediately issue the
80 warrant * * * for removal unless the judge determines that, for
81 good cause shown, a stay not to exceed three (3) days would best
82 serve the interests of justice and equity. If it is shown that a
83 stay is likely to result in material injury to the property of the
84 person entitled to the rent, no stay shall be granted.

85 **SECTION 5.** This act shall take effect and be in force from
86 and after its passage.

