

**Adopted
AMENDMENT NO 2 PROPOSED TO**

Senate Bill No. 2901

BY: Representative Baker

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

7 **SECTION 1.** (1) This section shall be known and may be cited
8 as the "Landowners Protection Act."

9 (2) For any civil actions brought under the laws of the
10 State of Mississippi, no person who owns, leases, operates,
11 maintains, or manages commercial or other real property in the
12 State of Mississippi and no director, officer, employee, agent or
13 independent contractor acting on behalf of any such person shall
14 be civilly liable to any invitee who is injured on said property
15 as the result of the willful, wanton or intentional tortious
16 conduct of any third party who is not a director, officer,



17 employee or agent of the person who owns, leases, operates,
18 maintains or manages such commercial or other real property unless
19 the injured party can prove by a preponderance of the evidence
20 that:

21 (a) The conduct of said third party occurred on the
22 property;

23 (b) The conduct of the person who owns, leases,
24 operates, maintains or manages the property actively and
25 affirmatively, with a degree of conscious decision-making,
26 impelled the conduct of said third party; and

27 (c) The third party's conduct proximately caused the
28 economic and noneconomic damages suffered by the injured party.

29 (3) For any civil actions brought under the laws of the
30 State of Mississippi for the purpose of alleging liability for the
31 injury of an invitee as described in subsection (2) of this
32 section, an atmosphere of violence shall only be established by
33 similar, violent conduct:

34 (a) Which occurred three (3) or more times within three
35 (3) years before the third party act at issue;

36 (b) Which took place only on the commercial or other
37 real property where the acts of the third party occurred; and

38 (c) Which are based upon three (3) or more separate
39 events or incidents that resulted in three (3) or more
40 arraignments of an individual for a felony involving an act of
41 violence.



42 (4) For any civil actions brought under the laws of the
43 State of Mississippi for the purpose of alleging liability for the
44 injury of an invitee as described in subsection (2) of this
45 section, civil liability may not be based on the prior violent
46 nature of the third party whose acts or omissions proximately
47 caused the claimed injury or damage unless the person who owns,
48 leases, operates, maintains or manages the property has actual,
49 not constructive, knowledge of the prior violent nature of said
50 third party.

51 (5) If any provision of this section or its application to
52 any person or circumstance is held unconstitutional or otherwise
53 invalid, the remainder of this section or the application of the
54 provision to other persons or circumstances is not affected.

55 (6) Nothing in this section shall be construed to alter the
56 provisions of Section 97-3-15.

57 **SECTION 2.** Section 85-5-7, Mississippi Code of 1972, is
58 amended as follows:

59 85-5-7. (1) As used in this section, "fault" means an act
60 or omission of a person which is a proximate cause of injury or
61 death to another person or persons, damages to property, tangible
62 or intangible, or economic injury, including, but not limited to,
63 negligence, malpractice, strict liability, absolute liability or
64 failure to warn. "Fault" shall * * * include any tort which
65 results from an act or omission committed with a specific wrongful
66 intent.



67 (2) Except as otherwise provided in subsection (4) of this
68 section, in any civil action based on fault, the liability for
69 damages caused by two (2) or more persons shall be several only,
70 and not joint and several and a joint tortfeasor shall be liable
71 only for the amount of damages allocated to him in direct
72 proportion to his percentage of fault. In assessing percentages
73 of fault an employer and the employer's employee or a principal
74 and the principal's agent shall be considered as one (1) defendant
75 when the liability of such employer or principal has been caused
76 by the wrongful or negligent act or omission of the employee or
77 agent.

78 (3) Nothing in this section shall eliminate or diminish any
79 defenses or immunities which currently exist, except as expressly
80 noted herein.

81 (4) Joint and several liability shall be imposed on all who
82 consciously and deliberately pursue a common plan or design to
83 commit a tortious act, or actively take part in it. Any person
84 held jointly and severally liable under this section shall have a
85 right of contribution from his fellow defendants acting in
86 concert.

87 (5) In actions involving joint tortfeasors, the trier of
88 fact shall determine the percentage of fault for each party
89 alleged to be at fault without regard to whether the joint
90 tortfeasor is immune from damages. Fault allocated under this
91 subsection to an immune tortfeasor or a tortfeasor whose liability



92 is limited by law shall not be reallocated to any other
93 tortfeasor.

94 (6) Nothing in this section shall be construed to create a
95 cause of action. Nothing in this section shall be construed, in
96 any way, to alter the immunity of any person.

97 **SECTION 3.** This act shall take effect and be in force from
98 and after July 1, 2019.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO CREATE THE LANDOWNERS PROTECTION ACT; TO REGULATE
2 LIABILITY OF LANDOWNERS WHEN AN INVITEE IS INJURED ON THE
3 LANDOWNER'S PROPERTY; TO AMEND SECTION 85-5-7, MISSISSIPPI CODE OF
4 1972, TO REVISE THE DEFINITION OF "FAULT" REGARDING JOINT AND
5 SEVERAL LIABILITY; AND FOR RELATED PURPOSES.

