

By: Senator(s) Wiggins, Horhn, Hickman

To: Judiciary, Division A

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2461

1 AN ACT TO CREATE PROCEDURES AND PROTECTIONS FOR RESIDENTIAL  
2 EVICTIONS WITHIN THE RESIDENTIAL LANDLORD AND TENANT ACT; TO  
3 CREATE NEW SECTION 89-8-31, MISSISSIPPI CODE OF 1972, TO PROSCRIBE  
4 WHEN A LANDLORD MAY COMMENCE PROCEEDINGS TO EVICT A TENANT; TO  
5 CREATE NEW SECTION 89-8-33, MISSISSIPPI CODE OF 1972, TO PROSCRIBE  
6 CERTAIN DOCUMENTS TO BE FILED TO COMMENCE AN EVICTION; TO CREATE  
7 NEW SECTION 89-8-35, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE  
8 ISSUANCE OF SUMMONS; TO REQUIRE CERTAIN DISCLOSURES TO BE MADE IN  
9 THE SUMMONS INCLUDING THE FACT THAT THE TENANT SHALL HAVE A  
10 CERTAIN PERIOD OF TIME AFTER THE EXECUTION OF A WARRANT OF REMOVAL  
11 TO REMOVE PERSONAL PROPERTY; TO CREATE NEW SECTION 89-8-37,  
12 MISSISSIPPI CODE OF 1972, TO REQUIRE THE JUDGE TO ORDER THE TENANT  
13 TO VACATE THE PREMISES BY A CERTAIN DATE IF A JUDGMENT OF  
14 POSSESSION IS GRANTED TO THE LANDLORD; TO PROVIDE THAT PRIOR TO  
15 THE DATE TO VACATE SET BY THE JUDGE THE TENANT SHALL HAVE THE SAME  
16 ACCESS TO THE PREMISES AS PREVIOUSLY ALLOWED UNDER THE TERMS OF  
17 THE RENTAL AGREEMENT; TO AUTHORIZE THE LANDLORD TO REQUEST A  
18 WARRANT OF REMOVAL; TO REQUIRE THE LANDLORD TO PROVIDE THE TENANT  
19 WITH REASONABLE ACCESS FOR A CERTAIN PERIOD TO THE DWELLING UNIT  
20 TO RETRIEVE PERSONAL PROPERTY AFTER THE EXECUTION OF THE WARRANT;  
21 TO PROVIDE THAT A JUDGE SHALL NOT ISSUE A WARRANT OF REMOVAL IF  
22 THE TENANT HAS PAID THE SUMS OWED TO THE LANDLORD IN CASES OF A  
23 JUDGMENT OF POSSESSION FOR FAILURE TO PAY RENT; TO CREATE NEW  
24 SECTION 89-8-39, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR  
25 CONTINUANCES; TO CREATE NEW SECTION 89-8-41, MISSISSIPPI CODE OF  
26 1972, TO PROVIDE THAT APPEALS FROM A FINAL JUDGMENT SHALL BE  
27 PURSUANT TO APPLICABLE MISSISSIPPI RULES OF COURT; TO CREATE NEW  
28 SECTION 89-8-43, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A  
29 LANDLORD MAY CHARGE THE TENANT DOUBLE THE RENT FOR THE TIME THAT  
30 THE TENANT CONTINUES IN POSSESSION OF THE PREMISES FOLLOWING THE  
31 DATE TO VACATE; TO AMEND SECTION 89-8-11, MISSISSIPPI CODE OF  
32 1972, TO REQUIRE RULES AND REGULATIONS TO BE WRITTEN; TO AMEND  
33 SECTION 89-8-13, MISSISSIPPI CODE OF 1972, TO PROVIDE A CERTAIN  
34 TIME PERIOD FOR A TENANT TO QUIT THE PREMISES IF THE MATERIAL



35 NONCOMPLIANCE BY THE TENANT IS THE NONPAYMENT OF RENT PURSUANT TO  
36 THE RENTAL AGREEMENT; TO AMEND SECTION 89-8-19, MISSISSIPPI CODE  
37 OF 1972, TO CLARIFY THAT NOTICE TO TERMINATE THE TENANCY SHALL NOT  
38 BE REQUIRED WHEN THE LANDLORD OR TENANT HAS COMMITTED A  
39 SUBSTANTIAL VIOLATION OF THE RENTAL AGREEMENT OF THIS CHAPTER THAT  
40 MATERIALLY AFFECTS HEALTH OR SAFETY; TO AMEND SECTION 89-7-29,  
41 MISSISSIPPI CODE OF 1972, TO PROSCRIBE CERTAIN DOCUMENTS TO BE  
42 FILED TO COMMENCE AN EVICTION FOR PREMISES OR OTHER LANDS THAT ARE  
43 NOT DWELLING UNITS; TO REQUIRE THE LANDLORD TO IDENTIFY ANY ITEMS  
44 OF TENANT PROPERTY LOCATED AT THE PREMISES AS TO WHICH THE  
45 LANDLORD ASSERTS A VALID LIEN; TO AMEND SECTIONS 89-7-27, 89-7-31,  
46 89-7-33, 89-7-35, 89-7-37, 89-7-39, 89-7-43, 89-7-47, 89-8-3,  
47 89-8-7, 89-8-9, 89-8-15 AND 89-8-17, MISSISSIPPI CODE OF 1972, TO  
48 CONFORM; TO REPEAL SECTIONS 89-7-41 AND 89-7-45, MISSISSIPPI CODE  
49 OF 1972, WHICH GOVERN THE DISPOSITION OF TENANT PERSONAL PROPERTY  
50 AND WHEN A WARRANT OF REMOVAL MAY ISSUE; AND FOR RELATED PURPOSES.

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

52 **SECTION 1.** The following shall be codified as Section  
53 89-8-31, Mississippi Code of 1972:

54 89-8-31. A landlord may commence proceedings to evict a  
55 tenant:

56 (a) For breach of the rental agreement or for violation  
57 of this chapter pursuant to Section 89-8-13; or

58 (b) For failing to vacate after the expiration of the  
59 rental agreement pursuant to Sections 89-8-17 and 89-8-19.

60 **SECTION 2.** The following shall be codified as Section  
61 89-8-33, Mississippi Code of 1972:

62 89-8-33. To commence an eviction under Section 89-8-31, the  
63 landlord shall file:

64 (a) A sworn affidavit or complaint, based upon the  
65 terms of the rental agreement, that:

66 (i) States the facts requiring the removal of the  
67 tenant;



68 (ii) Identifies the address of the dwelling unit  
69 and, if applicable, the amount of rent and any additional fees  
70 owed; and

71 (b) (i) A copy of the written notice of breach  
72 delivered to the tenant pursuant to Section 89-8-13; or

73 (ii) A copy of the written notice to terminate the  
74 tenancy delivered to the tenant pursuant to Sections 89-8-17 and  
75 89-8-19.

76 **SECTION 3.** The following shall be codified as Section  
77 89-8-35, Mississippi Code of 1972:

78 89-8-35. (1) On receiving the sworn affidavit or complaint,  
79 summons shall be issued requiring the tenant or other person then  
80 in possession of the identified premises to vacate the premises or  
81 to show cause before the judge on a day to be named in the  
82 summons, why possession of the premises should not be delivered to  
83 the applicant.

84 (2) In addition to information required by the applicable  
85 Mississippi Rules of Court, the summons shall state:

86 "At the hearing, the judge will determine if the landlord is  
87 to be granted exclusive possession of the premises.

88 If the landlord is granted exclusive possession of premises,  
89 then you will have at least seven (7) days to move out, unless a  
90 shorter or longer period of time for vacating the premises is  
91 ordered because of an emergency or other compelling circumstances.



92 If the judgment of possession is based on nonpayment of rent,  
93 you do not have to move out if you pay all unpaid rent and other  
94 sums awarded to the landlord by the court-ordered move-out date.

95 If you move out by the date ordered by the court, leaving  
96 personal property behind, then the landlord may dispose of such  
97 abandoned property without further notice.

98 If you do not move out by the date and time ordered by the  
99 court, the landlord can have you removed by law enforcement, after  
100 which you will have seventy-two (72) hours to remove your personal  
101 property.

102 After seventy-two (72) hours, the landlord may remove any  
103 personal property remaining on the premises to the curb, an area  
104 designated for garbage or some other location agreed to by you and  
105 the landlord."

106 (3) Service of summons shall be pursuant to applicable  
107 Mississippi Rules of Court.

108 **SECTION 4.** The following shall be codified as Section  
109 89-8-37, Mississippi Code of 1972:

110 89-8-37. (1) If a judgment of possession is granted to the  
111 landlord, either after a hearing or by default judgment, then the  
112 judge shall order the tenant to vacate the premises in seven (7)  
113 days, unless the court finds that a shorter or longer period of  
114 time is justified because of an emergency or other compelling  
115 circumstances. Circumstances that justify setting the move-out



116 date less than seven (7) days after the eviction hearing, include,  
117 but are not limited to:

118 (a) The tenant has committed a substantial violation of  
119 the rental agreement or of this chapter that materially affects  
120 health or safety; or

121 (b) The tenant poses an immediate and significant risk  
122 of damage to the premises or of harm or injury to persons on the  
123 premises.

124 Prior to the court-ordered move-out date, the tenant shall  
125 have the same access to the premises as previously allowed under  
126 the terms of the rental agreement. If the tenant moves out by the  
127 date ordered by the court, leaving personal property behind, then  
128 the landlord may dispose of such abandoned property without  
129 further notice.

130 (2) After the court-ordered move-out date, the landlord may  
131 request a warrant for removal. Upon such request and the payment  
132 of applicable fees, the judge shall, except as otherwise  
133 prohibited under subsection (4) of this section, immediately issue  
134 a warrant to the sheriff or any constable of the county in which  
135 the premises, or some part thereof, are situated, immediately  
136 commanding the sheriff or constable to remove all persons from the  
137 premises, and to put the landlord into full possession thereof.

138 (3) After the warrant for removal has been executed, the  
139 landlord shall allow the tenant reasonable access to the premises  
140 for seventy-two (72) hours to enable the tenant to remove the



141 tenant's personal property, including any manufactured home. If  
142 the tenant moves out within seventy-two (72) hours of the  
143 execution of the warrant of removal, leaving personal property  
144 behind, then the landlord may dispose of such abandoned property  
145 without further notice. After said seventy-two (72) hours, the  
146 landlord may remove any property remaining on the premises to the  
147 curb, an area designated for garbage or some other location agreed  
148 to by the tenant and the landlord.

149 (4) (a) In cases in which the possession judgment is based  
150 solely on the tenant's nonpayment of rent, the judge shall not  
151 issue a warrant for removal if:

152 (i) By the court-ordered move-out date, the tenant  
153 has paid in full all unpaid rent and other sums awarded to  
154 landlord in the judgment; or

155 (ii) After such date, the landlord has accepted  
156 payment of such amounts.

157 (b) A landlord has an obligation of good faith to  
158 accept full payment if so tendered.

159 **SECTION 5.** The following shall be codified as Section  
160 89-8-39, Mississippi Code of 1972:

161 89-8-39. (1) The court may, at the request of either party,  
162 adjourn a hearing under this chapter from time to time.

163 (2) A single adjournment shall not exceed ten (10) days,  
164 except by consent of both the landlord and tenant. When an



165 adjournment is granted, the court may issue subpoenas and  
166 attachments to compel the attendance of witnesses.

167 (3) In hearings for the removal of the tenant from the  
168 premises under this chapter, no adjournment shall extend the  
169 entire hearing beyond thirty (30) days from the date the eviction  
170 action was filed.

171 **SECTION 6.** The following shall be codified as Section  
172 89-8-41, Mississippi Code of 1972:

173 89-8-41. Appeals from final judgments under this chapter  
174 shall be pursuant to applicable Mississippi Rules of Court.

175 **SECTION 7.** The following shall be codified as Section  
176 89-8-43, Mississippi Code of 1972:

177 89-8-43. When a rental agreement with a definite term  
178 expires and the tenant fails or refuses to vacate the premises  
179 after being notified by the landlord to do so, then the landlord  
180 may, if not contradicted by the rental agreement, charge the  
181 tenant double the rent for the time that the tenant continues in  
182 possession of the premises following the date to vacate the  
183 premises specified in the notification.

184 **SECTION 8.** Section 89-8-11, Mississippi Code of 1972, is  
185 amended as follows:

186 89-8-11. (1) A landlord may, from time to time, adopt  
187 written rules or regulations, however described, concerning the  
188 tenant's use and occupancy of the premises. They are enforceable  
189 against the tenant only if:



190 (a) Their purpose is to promote the convenience, safety  
191 or welfare of the tenants in the premises, preserve the landlord's  
192 property from abuse, or make a fair distribution of services and  
193 facilities provided for the tenants generally;

194 (b) They are reasonably related to the purpose for  
195 which they are adopted;

196 (c) They apply to all tenants in the premises in a fair  
197 manner;

198 (d) They are sufficiently explicit in their  
199 prohibition, direction or limitation of the tenant's conduct to  
200 fairly inform what must or must not be done to comply;

201 (e) They are not for the purpose of evading the  
202 obligations of the landlord.

203 (2) A rule or regulation adopted or amended after the tenant  
204 enters into the rental agreement is enforceable against the tenant  
205 if reasonable notice of its adoption or amendment is given to the  
206 tenant and it does not work a substantial modification of the  
207 rental agreement.

208 (3) If the dwelling unit is an apartment in a horizontal  
209 property regime, the tenant shall comply with the bylaws of the  
210 association of the apartment owners; and if the dwelling unit is  
211 an apartment in a cooperative housing corporation, the tenant  
212 shall comply with the bylaws of the corporation.

213 (4) Unless otherwise agreed, the tenant shall occupy the  
214 dwelling unit only as a dwelling unit.





215           **SECTION 9.** Section 89-8-13, Mississippi Code of 1972, is  
216 amended as follows:

217           89-8-13. (1) If there is a material noncompliance by the  
218 tenant with the rental agreement or the obligations imposed by  
219 Section 89-8-25, the landlord may terminate the tenancy as  
220 set \* \* \* forth herein or resort to any other remedy at law or in  
221 equity \* \* \* not prohibited by this chapter.

222           (2) If there is a material noncompliance by the landlord  
223 with the rental agreement or the obligations imposed by Section  
224 89-8-23, the tenant may terminate the tenancy as set out in  
225 subsection (3) of this section or resort to any other remedy at  
226 law or in equity \* \* \* not prohibited by this chapter.

227           (3) The nonbreaching party may deliver a notice to the party  
228 in breach in writing, or by email or text message if the breaching  
229 party has agreed in writing to be notified by email or text  
230 message, specifying the acts and omissions constituting the breach  
231 and that the rental agreement will terminate upon a date not less  
232 than fourteen (14) days after receipt of the notice if the breach  
233 is not remedied within a reasonable time not in excess of fourteen  
234 (14) days; and the rental agreement shall terminate and the tenant  
235 shall surrender possession as provided in the notice subject to  
236 the following:

237           (a) If the breach is remediable by repairs, the payment  
238 of damages, or otherwise, and the breaching party adequately



239 remedies the breach before the date specified in the notice, the  
240 rental agreement shall not terminate;

241 (b) In the absence of a showing of due care by the  
242 breaching party, if substantially the same act or omission which  
243 constituted a prior noncompliance of which notice was given recurs  
244 within six (6) months, the nonbreaching party may terminate the  
245 rental agreement upon at least fourteen (14) days' notice in  
246 writing, or by email or text message if the breaching party has  
247 agreed in writing to be notified by email or text message,  
248 specifying the breach and the date of termination of the rental  
249 agreement;

250 (c) \* \* \* A party may not terminate for a condition  
251 caused by \* \* \* that party's own deliberate or negligent act or  
252 omission or \* \* \* an act or omission by a family member \* \* \* or  
253 other person on the premises when done with \* \* \* the consent of  
254 the party.

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

258 (5) (a) If the material noncompliance by the tenant is the  
259 nonpayment of rent pursuant to the rental agreement, \* \* \* the  
260 landlord may deliver a notice in writing or by email or text  
261 message if the breaching party has agreed in writing to be  
262 notified by email or text message, specifying the rental agreement



263 will terminate if payment of such rent is not made within three  
264 (3) days.

265 (b) Any \* \* \* judge or other judge presiding over a  
266 hearing in which a landlord seeks to \* \* \* evict a tenant for the  
267 nonpayment of rent shall abide by the provisions of the rental  
268 agreement that was signed by the landlord and the defaulting  
269 tenant.

270 (6) \* \* \* The parties' obligations regarding a tenant's  
271 personal property, including any manufactured home, \* \* \* shall be  
272 governed by Section \* \* \* 89-8-37.

273 **SECTION 10.** Section 89-8-19, Mississippi Code of 1972, is  
274 amended as follows:

275 89-8-19. (1) Unless the rental agreement fixes a definite  
276 term a tenancy shall be week to week in case of a tenant who pays  
277 weekly rent, and in all other cases month to month.

278 (2) The landlord or the tenant may terminate a week-to-week  
279 tenancy by written notice given to the other at least seven (7)  
280 days prior to the termination date.

281 (3) The landlord or the tenant may terminate a  
282 month-to-month tenancy by a written notice given to the other at  
283 least thirty (30) days prior to the termination date.

284 (4) Notwithstanding the provisions of this section or any  
285 other provision of this chapter to the contrary, notice to  
286 terminate a tenancy shall not be required to be given when the  
287 landlord or tenant has committed a substantial violation of the



288 rental agreement or this chapter that materially affects  
289 health \* \* \* or safety.

290 **SECTION 11.** Section 89-7-29, Mississippi Code of 1972, is  
291 amended as follows:

292 89-7-29. \* \* \* To commence a civil action under Section  
293 89-7-27, the landlord shall file a sworn affidavit or complaint,  
294 based upon the terms of the rental agreement that:

295 (a) States the facts requiring the removal of the  
296 tenant;

297 (b) Identifies the address of, or otherwise describes,  
298 the premises and, if applicable, the amount of rent and any  
299 additional fees owed;

300 (c) Declares that the necessary notice has been given  
301 to terminate the tenancy; and

302 (d) Identifies any specific items of tenant property  
303 located at the premises as to which the landlord asserts a valid  
304 lien and has commenced, or is commencing, proceedings governed by  
305 Section 89-7-51 et seq., Mississippi Code of 1972.

306 **SECTION 12.** Section 89-7-27, Mississippi Code of 1972, is  
307 amended as follows:

308 89-7-27. A tenant or lessee at will or at sufferance, or for  
309 part of a year, or for one or more years, of \* \* \* premises or  
310 other lands not constituting a dwelling unit as defined in Section  
311 89-8-7(b), and the assigns, undertenants, or legal representatives  
312 of such tenant or lessee, shall be removed from the premises by



313 the county court judge \* \* \*, justice court judge or municipal  
314 judge where the premises, or some part thereof, are situated, in  
315 the following cases, to wit:

316 **First.** Where such tenant shall hold over and continue in  
317 possession of the demised premises, or any part thereof, after the  
318 expiration of his possessory term, without the permission of the  
319 landlord.

320 **Second.** After any default in the payment of the rent  
321 pursuant to the agreement under which such premises are  
322 held, \* \* \* and three (3) days' notice, in writing, requiring the  
323 payment of such rent or the possession of the premises, shall have  
324 been served by the person entitled to the rent on the person who  
325 owes the rent. Notice of default by email or text message is  
326 proper if the tenant has agreed in writing to be notified by that  
327 means.

328 **Third.** If a written agreement between the landlord and  
329 tenant exists, any event calling for eviction in the rental  
330 agreement may trigger the eviction process under this section.  
331 Notice of default by email or text message is proper if the \* \* \*  
332 tenant has agreed in writing to be notified by that means.

333 **SECTION 13.** Section 89-7-31, Mississippi Code of 1972, is  
334 amended as follows:

335 89-7-31. (1) On receiving the affidavit, the county judge,  
336 justice court judge, or municipal judge, \* \* \* shall issue a  
337 summons, directed to the sheriff or any constable of the county,



338 or the marshal of the municipality in which the premises, or some  
339 part thereof, are situated, describing the premises, and  
340 commanding \* \* \* the officer to require the person in possession  
341 of the same or claiming the possession thereof, immediately to  
342 remove from the premises, or to show cause before the \* \* \*  
343 judge \* \* \*, on a day to be named in the summons, why possession  
344 of the premises should not be delivered to the applicant.

345 (2) In addition to \* \* \* information required \* \* \* by the  
346 applicable Mississippi Rules of Court, the summons shall state:

347 "At the hearing, a judge will determine if the landlord is  
348 granted exclusive possession of the premises. \* \* \*

349 If the landlord is granted exclusive possession of the  
350 premises, then you will have at least seven (7) days to move out,  
351 unless a shorter or longer period of time for vacating the  
352 premises is ordered because of an emergency or other compelling  
353 circumstances.

354 If the judgment of possession is based on nonpayment of rent,  
355 you do not have to move out if you pay all unpaid rent and other  
356 sums awarded to the landlord by the court-ordered move-out date.

357 If you move out by the date ordered by the court, leaving  
358 property behind, then the landlord may dispose of such abandoned  
359 property without further notice.

360 If you do not move out by the date and time ordered by the  
361 court, the landlord can have you removed by law enforcement.



362 If your landlord has asserted a lien against certain  
363 specified items and has commenced separate proceedings concerning  
364 the items, your right to remove the specified items of property  
365 will be addressed by the court.

366 Otherwise, you will have seventy-two (72) hours after your  
367 removal by law enforcement to take your other personal property  
368 that has not been specified by your landlord. If you leave any  
369 such other personal property at the premises for more than  
370 seventy-two (72) hours after your removal, the landlord may remove  
371 those items to the curb, an area designated for garbage or some  
372 other location agreed to by you and the landlord."

373 **SECTION 14.** Section 89-7-33, Mississippi Code of 1972, is  
374 amended as follows:

375 89-7-33. \* \* \* Service of summons shall be pursuant to  
376 applicable Mississippi Rules of Court.

377 **SECTION 15.** Section 89-7-35, Mississippi Code of 1972, is  
378 amended as follows:

379 89-7-35. (1) \* \* \* If a judgment of possession is granted  
380 to the landlord, either after a hearing or by default judgment,  
381 then the judge shall order the tenant to vacate the premises in  
382 seven (7) days, unless the court finds that a shorter or longer  
383 period of time is justified because of an emergency or other  
384 compelling circumstances.

385 (2) \* \* \* Prior to the court-ordered move-out date, the  
386 tenant shall have the same access to the premises as previously



387 allowed under the terms of the rental agreement. Unless the judge  
388 has made some other finding regarding property at the premises,  
389 the tenant may remove its property during this time. If the  
390 tenant has vacated the premises by the court-ordered move-out  
391 date, then the landlord may dispose of any property, not addressed  
392 by the court, which the tenant leaves behind without further  
393 notice to the tenant.

394 (3) After the court-ordered move-out date, the landlord may  
395 request a warrant for removal. Upon such request and the payment  
396 of applicable fees, the judge shall, except as otherwise  
397 prohibited under subsection (5) of this section, immediately issue  
398 a warrant to the sheriff or any constable of the county in which  
399 the premises, or some part thereof, are situated, immediately  
400 commanding the sheriff or constable to remove all persons from the  
401 premises, and to put the landlord into full possession thereof.

402 (4) Unless the judge has made some other finding regarding  
403 property at the premises, the landlord shall allow the tenant  
404 reasonable access to the premises for seventy-two (72) hours after  
405 the warrant for removal has been executed to enable the tenant to  
406 remove the tenant's property, including any manufactured home.  
407 All property the tenant leaves on the premises seventy-two (72)  
408 hours after the execution of the warrant for removal shall be  
409 deemed abandoned and may be disposed of by the landlord without  
410 further notice or obligation to the tenant.





411       (5) In cases in which the possession judgment is based  
412 solely on the tenant's nonpayment of rent, the judge shall not  
413 issue a warrant for removal, on or before the court-ordered  
414 move-out date, if the tenant has paid in full all unpaid rent and  
415 other sums owed pursuant to the judgment. A landlord has an  
416 obligation of good faith to accept full payment if so tendered.

417       **SECTION 16.** Section 89-7-37, Mississippi Code of 1972, is  
418 amended as follows:

419       89-7-37. The \* \* \* tenant in possession of \* \* \* the  
420 premises, or any person claiming possession thereof, may, at or  
421 before the time appointed in the summons for showing cause, file  
422 an affidavit with \* \* \* the court, denying the facts upon which  
423 the summons was issued; and the matters thus controverted may be  
424 tried \* \* \*.

425       **SECTION 17.** Section 89-7-39, Mississippi Code of 1972, is  
426 amended as follows:

427       89-7-39. The court may, at the request of either party,  
428 adjourn \* \* \* a hearing from time to time \* \* \*. A single  
429 adjournment shall not \* \* \* exceed ten (10) days, except by  
430 consent of both the landlord and tenant. When an adjournment is  
431 granted, the court, \* \* \* may issue subpoenas and attachments to  
432 compel the attendance of witnesses. However, in hearings for  
433 eviction, no adjournment shall extend the entire hearing beyond  
434 forty-five (45) days from the date the eviction action was filed.



435           **SECTION 18.** Section 89-7-43, Mississippi Code of 1972, is  
436 amended as follows:

437           89-7-43. \* \* \* If a judgment of possession is not granted to  
438 the landlord, the judge shall assess costs against the landlord  
439 and issue execution therefor.

440           **SECTION 19.** Section 89-7-47, Mississippi Code of 1972, is  
441 amended as follows:

442           89-7-47. The \* \* \* judge before whom proceedings shall be  
443 had against a tenant holding over, shall keep a full record  
444 of \* \* \* the proceedings, and shall carefully preserve all papers  
445 in the cause \* \* \*. Appeals from final judgements under this  
446 chapter shall be pursuant to applicable Mississippi Rules of  
447 Court.

448           **SECTION 20.** Section 89-8-3, Mississippi Code of 1972, is  
449 amended as follows:

450           89-8-3. (1) This chapter shall apply to, regulate and  
451 determine rights, obligations and remedies under any rental  
452 agreement entered into after July 1, 1991, wherever made, for a  
453 dwelling unit located within this state. \* \* \* Any rights,  
454 obligations, or remedies at law or in equity not prohibited by  
455 this chapter remain available to residential landlords and  
456 tenants.

457           (2) The following arrangements are not governed by this  
458 chapter:



459 (a) Residence at an institution, public or private, if  
460 incidental to detention or the provision of medical, geriatric,  
461 educational, counseling, religious or similar service;

462 (b) Occupancy under a contract of sale of a dwelling  
463 unit or the property of which it is a part, if the occupant is the  
464 purchaser or a person who succeeds to \* \* \* the purchaser's  
465 interest;

466 (c) Occupancy by a member of a fraternal or social  
467 organization in the portion of a structure operated for the  
468 benefit of the organization;

469 (d) Transient occupancy in a hotel, motel or lodgings;

470 (e) Occupancy by an owner of a condominium unit or a  
471 holder of a proprietary lease in a cooperative; or

472 (f) Occupancy under a rental agreement covering  
473 premises used by the occupant primarily for agricultural purposes  
474 or when the occupant is performing agricultural labor for the  
475 owner and \* \* \* the premises are rented for less than fair rental  
476 value.

477 **SECTION 21.** Section 89-8-7, Mississippi Code of 1972, is  
478 amended as follows:

479 89-8-7. (1) \* \* \* As used in this chapter, the following  
480 terms shall have the meaning ascribed herein unless the context  
481 requires otherwise:

482 (a) "Building and housing codes" \* \* \* means any law,  
483 ordinance, or governmental regulation concerning fitness for



484 habitation, construction, maintenance, operation, occupancy or use  
485 of any premises or dwelling unit \* \* \*.

486 (b) "Court" means a justice court, a county court or a  
487 circuit court.

488 ( \* \* \*c) "Dwelling unit" means a structure or the part  
489 of a structure that is used as a home, residence or sleeping place  
490 by one (1) person who maintains a household or by two (2) or more  
491 persons who maintain a common household \* \* \*.

492 ( \* \* \*d) "Good faith" means honesty in fact in the  
493 conduct of the transaction concerned and observation of reasonable  
494 community standards of fair dealing \* \* \*.

495 (e) "Judge" means a justice court judge, a county court  
496 judge or a circuit court judge.

497 ( \* \* \*f) "Landlord" means the owner, lessor or  
498 sublessor of the dwelling unit or the building of which it is a  
499 part, or the agent representing such owner, lessor or  
500 sublessor \* \* \*.

501 ( \* \* \*g) "Organization" \* \* \* means a corporation,  
502 government, governmental subdivision or agency, business trust,  
503 estate, trust, partnership or association, two (2) or more persons  
504 having a joint or common interest, and any other legal or  
505 commercial entity \* \* \*.

506 ( \* \* \*h) "Owner" means one or more persons, jointly or  
507 severally, in whom is vested (i) all or part of the legal title to  
508 property or (ii) all or part of the beneficial ownership and a



509 right to present use and enjoyment of the premises, and the term  
510 includes a mortgagee in possession \* \* \*.

511 ( \* \* \*i) "Premises" means a dwelling unit and the  
512 structure of which it is a part, facilities and appurtenances  
513 therein, and grounds, areas and facilities held out for the use of  
514 tenants generally or whose use is promised to the tenant \* \* \*.

515 (j) "Possession judgment" means a judgment granting or  
516 denying the landlord exclusive possession of the premises pursuant  
517 to this chapter.

518 ( \* \* \*k) "Rent" means all payments to be made to the  
519 landlord under the rental agreement, including any late fees that  
520 are required to be paid under the rental agreement by a defaulting  
521 tenant \* \* \*.

522 ( \* \* \*l) "Rental agreement" means all written or oral  
523 agreements \* \* \* for a dwelling unit \* \* \* located within this  
524 state that are subject to this chapter.

525 ( \* \* \*m) "Tenant" means a person entitled under a  
526 rental agreement to occupy a dwelling unit to the exclusion of  
527 others \* \* \*.

528 ( \* \* \*n) "Qualified tenant management organizations"  
529 means any organization incorporated under the Mississippi  
530 Nonprofit Corporation Act, a majority of the directors of which  
531 are tenants of the housing project to be managed under a contract  
532 authorized by this section and which is able to conform to  
533 standards set by the United States Department of Housing and Urban



534 Development as capable of satisfactorily performing the  
535 operational and management functions delegated to it by the  
536 contract.

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

544 **SECTION 22.** Section 89-8-9, Mississippi Code of 1972, is  
545 amended as follows:

546 89-8-9. Every duty under this chapter and every act which  
547 must be performed as a condition precedent to the exercise of a  
548 right or remedy under this chapter, including the landlord's  
549 termination of a tenancy or the nonrenewal of a \* \* \* rental  
550 agreement or the removal of a tenant from the premises, imposes an  
551 obligation of good faith in its performance or enforcement.

552 **SECTION 23.** Section 89-8-15, Mississippi Code of 1972, is  
553 amended as follows:

554 89-8-15. (1) If, within thirty (30) days after written  
555 notice to the landlord of a specific and material defect which  
556 constitutes a breach of the terms of the rental agreement or of  
557 the obligation of the landlord under Section 89-8-23, the landlord  
558 fails to repair such defect, the tenant:



559 (a) May repair \* \* \* the defect \* \* \*; and

560 (b) Except as otherwise provided in subsection (2) of  
561 this section, shall be entitled to reimbursement of the expenses  
562 of such repairs within forty-five (45) days after submission to  
563 the landlord of receipted bills for such work, provided that:

564 (i) The tenant has fulfilled \* \* \* the obligations  
565 required under Section 89-8-25;

566 (ii) The expenses incurred in making \* \* \* the  
567 repairs do not exceed an amount equal to one (1) month's rent;

568 (iii) The tenant has not exercised the remedy  
569 provided by this section in the six (6) months immediately  
570 preceding; and

571 (iv) The tenant is current in \* \* \* rental  
572 payments.

573 (2) A tenant shall not be entitled to be reimbursed for  
574 repairs made pursuant to this section in an amount greater than  
575 the usual and customary charge for such repairs.

576 (3) Before correcting a condition affecting facilities  
577 shared by more than one (1) dwelling unit, the tenant shall notify  
578 all other tenants sharing such facilities of \* \* \* the plans for  
579 the repairs and shall so arrange the work as to create the least  
580 practicable inconvenience to the other tenants.

581 (4) The cost of repairs made by a tenant pursuant to this  
582 section may be offset against future rent.



583 (5) No provision of this section shall be construed to grant  
584 a lien against the real property.

585 **SECTION 24.** Section 89-8-17, Mississippi Code of 1972, is  
586 amended as follows:

587 89-8-17. (1) A rental agreement that fixes a definite term  
588 expires on the date stated in the rental agreement.

589 (2) Notwithstanding the provisions of Section 89-8-13, the  
590 landlord may, at any time after the expiration of a rental  
591 agreement, \* \* \* provide notice to the tenant in writing, or by  
592 email or text message, if the tenant has agreed to be notified by  
593 email or text message, specifying that the tenant is holding over  
594 after expiration of the rental agreement and that the landlord  
595 will commence eviction proceedings no earlier than three (3) days  
596 after such notice is provided. The landlord may also demand an  
597 increase in rent \* \* \* after the expiration of the rental  
598 agreement if such actions by the landlord did not have the  
599 dominant purpose of retaliation against the tenant for his actions  
600 authorized under this chapter and the landlord received written  
601 notice of each condition which was the subject of such actions of  
602 the tenant.

603 **SECTION 25.** Sections 89-7-41 and 89-7-45, Mississippi Code  
604 of 1972, which govern the disposition of tenant personal property  
605 and when a warrant of removal may issue, are hereby repealed.

606 **SECTION 26.** This act shall take effect and be in force from  
607 and after its passage.

