

By: Senator(s) Wiggins, Horhn, Hickman

To: Judiciary, Division A

SENATE BILL NO. 2461
(As Sent to Governor)

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 COURT TO GRANT A JUDGMENT
13 TO THE LANDLORD WHERE THE LANDLORD IS OTHERWISE ENTITLED TO A
14 JUDGMENT UNDER LAW AND EITHER THE TENANT FAILED TO APPEAR OR THE
15 JUDGE FINDS THAT THE TENANT FAILED TO PRESENT A VALID DEFENSE OR
16 COUNTERCLAIM; TO PROVIDE THAT JUDGMENTS GRANTED IN EVICTION
17 ACTIONS SHALL BE SIGNED AND EXECUTED ON THE SAME BUSINESS DAY THAT
18 THE JUDGMENT IS GRANTED; TO CREATE NEW SECTION 89-8-39,
19 MISSISSIPPI CODE OF 1972, TO REQUIRE THE JUDGE TO ORDER THE TENANT
20 TO VACATE THE PREMISES BY A CERTAIN DATE IF A JUDGMENT OF
21 POSSESSION IS GRANTED TO THE LANDLORD; TO PROVIDE THAT PRIOR TO
22 THE DATE TO VACATE SET BY THE JUDGE THE TENANT SHALL HAVE THE SAME
23 ACCESS TO THE PREMISES AS PREVIOUSLY ALLOWED UNDER THE TERMS OF
24 THE RENTAL AGREEMENT; TO AUTHORIZE THE LANDLORD TO REQUEST A
25 WARRANT OF REMOVAL; TO REQUIRE THE LANDLORD TO PROVIDE THE TENANT
26 WITH REASONABLE ACCESS FOR A CERTAIN PERIOD TO THE DWELLING UNIT
27 TO RETRIEVE PERSONAL PROPERTY AFTER THE EXECUTION OF THE WARRANT;
28 TO PROVIDE THAT A JUDGE SHALL NOT ISSUE A WARRANT OF REMOVAL IF
29 THE TENANT HAS PAID THE SUMS OWED TO THE LANDLORD IN CASES OF A
30 JUDGMENT OF POSSESSION FOR FAILURE TO PAY RENT; TO CREATE NEW
31 SECTION 89-8-41, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
32 CONTINUANCES; TO CREATE NEW SECTION 89-8-43, MISSISSIPPI CODE OF
33 1972, TO PROVIDE THAT APPEALS FROM A FINAL JUDGMENT SHALL BE
34 PURSUANT TO APPLICABLE MISSISSIPPI RULES OF COURT; TO CREATE NEW



35 SECTION 89-8-45, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A
36 LANDLORD MAY CHARGE THE TENANT DOUBLE THE RENT FOR THE TIME THAT
37 THE TENANT CONTINUES IN POSSESSION OF THE PREMISES FOLLOWING THE
38 DATE TO VACATE; TO AMEND SECTION 89-8-11, MISSISSIPPI CODE OF
39 1972, TO REQUIRE RULES AND REGULATIONS TO BE WRITTEN; TO AMEND
40 SECTION 89-8-13, MISSISSIPPI CODE OF 1972, TO PROVIDE A CERTAIN
41 TIME PERIOD FOR A TENANT TO QUIT THE PREMISES IF THE MATERIAL
42 NONCOMPLIANCE BY THE TENANT IS THE NONPAYMENT OF RENT PURSUANT TO
43 THE RENTAL AGREEMENT; TO AMEND SECTION 89-8-19, MISSISSIPPI CODE
44 OF 1972, TO CLARIFY THAT NOTICE TO TERMINATE THE TENANCY SHALL NOT
45 BE REQUIRED WHEN THE LANDLORD OR TENANT HAS COMMITTED A
46 SUBSTANTIAL VIOLATION OF THE RENTAL AGREEMENT OF THIS CHAPTER THAT
47 MATERIALLY AFFECTS HEALTH OR SAFETY; TO AMEND SECTION 89-7-29,
48 MISSISSIPPI CODE OF 1972, TO PROSCRIBE CERTAIN DOCUMENTS TO BE
49 FILED TO COMMENCE AN EVICTION FOR PREMISES OR OTHER LANDS THAT ARE
50 NOT DWELLING UNITS; TO REQUIRE THE LANDLORD TO IDENTIFY ANY ITEMS
51 OF TENANT PROPERTY LOCATED AT THE PREMISES AS TO WHICH THE
52 LANDLORD ASSERTS A VALID LIEN; TO AMEND SECTIONS 89-7-27, 89-7-31
53 AND 89-7-33, MISSISSIPPI CODE OF 1972, TO CONFORM; TO CREATE NEW
54 SECTION 89-7-34, MISSISSIPPI CODE OF 1972, TO REQUIRE THE COURT TO
55 GRANT A JUDGMENT TO THE LANDLORD WHERE THE LANDLORD IS OTHERWISE
56 ENTITLED TO A JUDGMENT UNDER LAW AND EITHER THE TENANT FAILED TO
57 APPEAR OR THE JUDGE FINDS THAT THE TENANT FAILED TO PRESENT A
58 VALID DEFENSE OR COUNTERCLAIM; TO PROVIDE THAT JUDGMENTS GRANTED
59 IN EVICTION ACTIONS SHALL BE SIGNED AND EXECUTED ON THE SAME
60 BUSINESS DAY THAT THE JUDGMENT IS GRANTED; TO AMEND SECTIONS
61 89-7-35, 89-7-37, 89-7-39, 89-7-43, 89-7-47, 89-8-3, 89-8-7,
62 89-8-9, 89-8-15 AND 89-8-17, MISSISSIPPI CODE OF 1972, TO CONFORM;
63 TO REPEAL SECTIONS 89-7-41 AND 89-7-45, MISSISSIPPI CODE OF 1972,
64 WHICH GOVERN THE DISPOSITION OF TENANT PERSONAL PROPERTY AND WHEN
65 A WARRANT OF REMOVAL MAY ISSUE; AND FOR RELATED PURPOSES.

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

67 **SECTION 1.** The following shall be codified as Section
68 89-8-31, Mississippi Code of 1972:

69 89-8-31. A landlord may commence proceedings to evict a
70 tenant:

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

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



75 **SECTION 2.** The following shall be codified as Section
76 89-8-33, Mississippi Code of 1972:

77 89-8-33. To commence an eviction under Section 89-8-31, the
78 landlord shall file:

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

81 (i) States the facts requiring the removal of the
82 tenant;

83 (ii) Identifies the address of the dwelling unit
84 and, if applicable, the amount of rent and any additional fees
85 owed; and

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

88 (ii) A copy of the written notice to terminate the
89 tenancy delivered to the tenant pursuant to Sections 89-8-17 and
90 89-8-19.

91 **SECTION 3.** The following shall be codified as Section
92 89-8-35, Mississippi Code of 1972:

93 89-8-35. (1) Upon the filing of the sworn affidavit or
94 complaint, a summons shall be issued for service upon the person
95 in possession of the identified premises or claiming possession
96 thereof. The summons shall command such person to immediately
97 vacate the premises or to show cause before the judge, on a day to
98 be named in the summons, why possession of the premises should not
99 be delivered to the applicant.



100 (2) In addition to the information required by subsection
101 (1) of this section and the applicable Mississippi Rules of Court,
102 the summons shall state:

103 "You are being sued for eviction. At the eviction hearing,
104 the judge will determine if the landlord is entitled to possession
105 of your rental unit.

106 If the landlord is granted possession of the rental unit,
107 then you will have at least seven (7) days from the date of the
108 judgment to move out, unless a shorter or longer period of time
109 for vacating the premises is ordered because of an emergency or
110 other compelling circumstances.

111 If the landlord seeks possession based on nonpayment of rent,
112 you do not have to move out if you pay all the sums owed to the
113 landlord either before the eviction hearing or, afterwards, by the
114 court-ordered move-out date.

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

118 If you do not move out by the date and time ordered by the
119 court, the landlord can have you removed by law enforcement, after
120 which you will have seventy-two (72) hours to remove your
121 belongings.

122 After seventy-two (72) hours, the landlord may remove any
123 personal property remaining on the premises to the curb, an area
124 designated for garbage or some other location agreed to by you and



125 the landlord. You may still retrieve your personal property, but
126 the landlord will have no obligation to preserve the personal
127 property upon removal."

128 (3) Service of summons shall be pursuant to applicable
129 Mississippi Rules of Court.

130 **SECTION 4.** The following shall be codified as Section
131 89-8-37, Mississippi Code of 1972:

132 89-8-37. (1) In eviction actions, the court shall grant a
133 default judgment to the landlord where:

- 134 (a) The landlord complies with Section 89-8-33;
- 135 (b) Issuance and service of summons is proper;
- 136 (c) The tenant fails to appear; and
- 137 (d) The landlord is otherwise entitled to a judgment
138 under law.

139 (2) In eviction actions, the court shall grant judgment to
140 the landlord where:

- 141 (a) The landlord complies with Section 89-8-33;
- 142 (b) The judge finds that the tenant failed to present a
143 valid defense or counterclaim; and
- 144 (c) The landlord is otherwise entitled to a judgment
145 under law.

146 (3) In eviction actions, judgments granted by the court
147 shall be signed and executed on the same business day that the
148 judgment is granted.



149 **SECTION 5.** The following shall be codified as Section
150 89-8-39, Mississippi Code of 1972:

151 89-8-39. (1) If a judgment of possession is granted to the
152 landlord, either after a hearing or by default judgment, then the
153 judge shall order the tenant to vacate the premises in seven (7)
154 days from the date of the judgment, unless the court finds that a
155 shorter or longer period of time is justified because of an
156 emergency or other compelling circumstances. Circumstances that
157 justify setting the move-out date less than seven (7) days from
158 the date of the judgment, include, but are not limited to:

159 (a) The tenant has committed a substantial violation of
160 the rental agreement or of this chapter that materially affects
161 health or safety; or

162 (b) The tenant poses an immediate and significant risk
163 of damage to the premises or of harm or injury to persons on the
164 premises.

165 Prior to the court-ordered move-out date, the tenant shall
166 have the same access to the premises as previously allowed under
167 the terms of the rental agreement. If the tenant moves out by the
168 date ordered by the court, leaving personal property behind, then
169 the landlord may dispose of such abandoned property without
170 further notice.

171 (2) After the court-ordered move-out date, the landlord may
172 request a warrant for removal. Upon such request and the payment
173 of applicable fees, the judge shall, except as otherwise



174 prohibited under subsection (4) of this section, immediately issue
175 a warrant to the sheriff or any constable of the county in which
176 the premises, or some part thereof, are situated, immediately
177 commanding the sheriff or constable to remove all persons from the
178 premises, and to put the landlord into full possession thereof.

179 (3) After the warrant for removal has been executed, the
180 landlord shall allow the tenant reasonable access to the premises
181 for seventy-two (72) hours to enable the tenant to remove the
182 tenant's personal property, including any manufactured home. If
183 the tenant moves out within seventy-two (72) hours of the
184 execution of the warrant of removal, leaving personal property
185 behind, then the landlord may dispose of such abandoned property
186 without further notice. After said seventy-two (72) hours, the
187 landlord may remove any property remaining on the premises to the
188 curb, an area designated for garbage or some other location agreed
189 to by the tenant and the landlord.

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

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

196 (ii) After such date, the landlord has accepted
197 payment of such amounts.



198 (b) A landlord has an obligation of good faith to
199 accept full payment of all sums owed pursuant to the money
200 judgment entered if so tendered on or before the court-ordered
201 move-out date.

202 **SECTION 6.** The following shall be codified as Section
203 89-8-41, Mississippi Code of 1972:

204 89-8-41. (1) The court may, at the request of either party,
205 adjourn a hearing under this chapter from time to time.

206 (2) A single adjournment shall not exceed ten (10) days,
207 except by consent of both the landlord and tenant. When an
208 adjournment is granted, the court may issue subpoenas and
209 attachments to compel the attendance of witnesses.

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

214 **SECTION 7.** The following shall be codified as Section
215 89-8-43, Mississippi Code of 1972:

216 89-8-43. Appeals from final judgments under this chapter
217 shall be pursuant to applicable Mississippi Rules of Court.

218 **SECTION 8.** The following shall be codified as Section
219 89-8-45, Mississippi Code of 1972:

220 89-8-45. When a rental agreement with a definite term
221 expires and the tenant fails or refuses to vacate the premises
222 after being notified by the landlord to do so, then the landlord



223 may, if not contradicted by the rental agreement, charge the
224 tenant double the rent for the time that the tenant continues in
225 possession of the premises following the date to vacate the
226 premises specified in the notification.

227 **SECTION 9.** Section 89-8-11, Mississippi Code of 1972, is
228 amended as follows:

229 89-8-11. (1) A landlord may, from time to time, adopt
230 written rules or regulations, however described, concerning the
231 tenant's use and occupancy of the premises. They are enforceable
232 against the tenant only if:

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

237 (b) They are reasonably related to the purpose for
238 which they are adopted;

239 (c) They apply to all tenants in the premises in a fair
240 manner;

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

244 (e) They are not for the purpose of evading the
245 obligations of the landlord.

246 (2) A rule or regulation adopted or amended after the tenant
247 enters into the rental agreement is enforceable against the tenant



248 if reasonable notice of its adoption or amendment is given to the
249 tenant and it does not work a substantial modification of the
250 rental agreement.

251 (3) If the dwelling unit is an apartment in a horizontal
252 property regime, the tenant shall comply with the bylaws of the
253 association of the apartment owners; and if the dwelling unit is
254 an apartment in a cooperative housing corporation, the tenant
255 shall comply with the bylaws of the corporation.

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

258 **SECTION 10.** Section 89-8-13, Mississippi Code of 1972, is
259 amended as follows:

260 89-8-13. (1) If there is a material noncompliance by the
261 tenant with the rental agreement or the obligations imposed by
262 Section 89-8-25, the landlord may terminate the tenancy as
263 set * * * forth herein or resort to any other remedy at law or in
264 equity * * * not prohibited by this chapter.

265 (2) If there is a material noncompliance by the landlord
266 with the rental agreement or the obligations imposed by Section
267 89-8-23, the tenant may terminate the tenancy as set out in
268 subsection (3) of this section or resort to any other remedy at
269 law or in equity * * * not prohibited by this chapter.

270 (3) The nonbreaching party may deliver a notice to the party
271 in breach in writing, or by email or text message if the breaching
272 party has agreed in writing to be notified by email or text



273 message, specifying the acts and omissions constituting the breach
274 and that the rental agreement will terminate upon a date not less
275 than fourteen (14) days after receipt of the notice if the breach
276 is not remedied within a reasonable time not in excess of fourteen
277 (14) days; and the rental agreement shall terminate and the tenant
278 shall surrender possession as provided in the notice subject to
279 the following:

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

284 (b) In the absence of a showing of due care by the
285 breaching party, if substantially the same act or omission which
286 constituted a prior noncompliance of which notice was given recurs
287 within six (6) months, the nonbreaching party may terminate the
288 rental agreement upon at least fourteen (14) days' notice in
289 writing, or by email or text message if the breaching party has
290 agreed in writing to be notified by email or text message,
291 specifying the breach and the date of termination of the rental
292 agreement;

293 (c) * * * A party may not terminate for a condition
294 caused by * * * that party's own deliberate or negligent act or
295 omission or * * * an act or omission by a family member * * * or
296 other person on the premises when done with * * * the consent of
297 the party.



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

301 (5) (a) If the material noncompliance by the tenant is the
302 nonpayment of rent pursuant to the rental agreement, * * * the
303 landlord may deliver a notice in writing or by email or text
304 message if the breaching party has agreed in writing to be
305 notified by email or text message, specifying the rental agreement
306 will terminate if payment of such rent is not made within three
307 (3) days.

308 (b) Any * * * judge presiding over a hearing in which a
309 landlord seeks to * * * evict a tenant for the nonpayment of rent
310 shall abide by the provisions of the rental agreement that was
311 signed by the landlord and the defaulting tenant.

312 (6) * * * The parties' obligations regarding a tenant's
313 personal property, including any manufactured home, * * * shall be
314 governed by Section * * * 89-8-39.

315 **SECTION 11.** Section 89-8-19, Mississippi Code of 1972, is
316 amended as follows:

317 89-8-19. (1) Unless the rental agreement fixes a definite
318 term a tenancy shall be week to week in case of a tenant who pays
319 weekly rent, and in all other cases month to month.

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



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

326 (4) Notwithstanding the provisions of this section or any
327 other provision of this chapter to the contrary, notice to
328 terminate a tenancy shall not be required to be given when the
329 landlord or tenant has committed a substantial violation of the
330 rental agreement or this chapter that materially affects
331 health * * * or safety.

332 **SECTION 12.** Section 89-7-29, Mississippi Code of 1972, is
333 amended as follows:

334 89-7-29. * * * To commence a civil action under Section
335 89-7-27, the landlord shall file a sworn affidavit or complaint,
336 based upon the terms of the rental agreement that:

337 (a) States the facts requiring the removal of the
338 tenant;

339 (b) Identifies the address of, or otherwise describes,
340 the premises and, if applicable, the amount of rent and any
341 additional fees owed;

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

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



348 **SECTION 13.** Section 89-7-27, Mississippi Code of 1972, is
349 amended as follows:

350 89-7-27. A tenant or lessee at will or at sufferance, or for
351 part of a year, or for one or more years, of * * * premises or
352 other lands not constituting a dwelling unit as defined in Section
353 89-8-7(b), and the assigns, undertenants, or legal representatives
354 of such tenant or lessee, shall be removed from the premises by
355 the justice court judge * * *, county court judge or circuit court
356 judge where the premises, or some part thereof, are situated, in
357 the following cases, to wit:

358 **First.** Where such tenant shall hold over and continue in
359 possession of the demised premises, or any part thereof, after the
360 expiration of his possessory term, without the permission of the
361 landlord.

362 **Second.** After any default in the payment of the rent
363 pursuant to the agreement under which such premises are
364 held, * * * and three (3) days' notice, in writing, requiring the
365 payment of such rent or the possession of the premises, shall have
366 been served by the person entitled to the rent on the person who
367 owes the rent. Notice of default by email or text message is
368 proper if the tenant has agreed in writing to be notified by that
369 means.

370 **Third.** If a written agreement between the landlord and
371 tenant exists, any event calling for eviction in the rental
372 agreement may trigger the eviction process under this section.



373 Notice of default by email or text message is proper if the * * *
374 tenant has agreed in writing to be notified by that means.

375 **SECTION 14.** Section 89-7-31, Mississippi Code of 1972, is
376 amended as follows:

377 89-7-31. (1) * * * Upon the filing of the sworn affidavit
378 or complaint, a summons shall be issued for service upon the
379 person in possession of the identified premises or claiming
380 possession thereof. The summons shall command such person to
381 immediately vacate the premises or to show cause before the judge,
382 on a day to be named in the summons, why possession of the
383 premises should not be delivered to the applicant.

384 (2) In addition to * * * the information required * * * by
385 subsection (1) of this section and the applicable Mississippi
386 Rules of Court, the summons shall state:

387 " * * * You are being sued for eviction. At the eviction
388 hearing, the judge will determine if the landlord is entitled to
389 possession of your rental unit.

390 If the landlord is granted possession of the rental unit,
391 then you will have at least seven (7) days from the date of the
392 judgment to move out, unless a shorter or longer period of time
393 for vacating the premises is ordered because of an emergency or
394 other compelling circumstances.

395 If the landlord seeks possession based on nonpayment of rent,
396 you do not have to move out if you pay all the sums owed to the



397 landlord either before the eviction hearing or, afterwards, by the
398 court-ordered move-out date.

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

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

404 If the landlord has asserted a lien against certain specified
405 items and has commenced proceedings against the items, your right
406 to remove the specified items of property will be addressed by the
407 court.

408 You will have seventy-two (72) hours after your removal by
409 law enforcement to take your other property not subject to a lien
410 proceeding.

411 After seventy-two (72) hours, the landlord may remove any
412 personal property remaining on the premises to the curb, an area
413 designated for garbage or some other location agreed to by you and
414 the landlord. You may still retrieve your personal property, but
415 the landlord will have no obligation to preserve the personal
416 property upon removal."

417 **SECTION 15.** Section 89-7-33, Mississippi Code of 1972, is
418 amended as follows:

419 89-7-33. * * * Service of summons shall be pursuant to
420 applicable Mississippi Rules of Court.



421 **SECTION 16.** The following shall be codified as Section
422 89-7-34, Mississippi Code of 1972:

423 89-7-34. (1) In eviction actions, the court shall grant a
424 default judgment to the landlord where:

- 425 (a) The landlord complies with Section 89-7-29;
- 426 (b) Issuance and service of summons is proper;
- 427 (c) The tenant fails to appear; and
- 428 (d) The landlord is otherwise entitled to a judgment
429 under law.

430 (2) In eviction actions, the court shall grant judgment to
431 the landlord where:

- 432 (a) The landlord complies with Section 89-7-29;
- 433 (b) The judge finds that the tenant failed to present a
434 valid defense or counterclaim; and
- 435 (c) The landlord is otherwise entitled to a judgment
436 under law.

437 (3) In eviction actions, judgments granted by the court
438 shall be signed and executed on the same business day that the
439 judgment is granted.

440 **SECTION 17.** Section 89-7-35, Mississippi Code of 1972, is
441 amended as follows:

442 89-7-35. (1) * * * If a judgment of possession is granted
443 to the landlord, either after a hearing or by default judgment,
444 then the judge shall order the tenant to vacate the premises in
445 seven (7) days from the date of the judgment, unless the court



446 finds that a shorter or longer period of time is justified because
447 of an emergency or other compelling circumstances.

448 (2) * * * Prior to the court-ordered move-out date, the
449 tenant shall have the same access to the premises as previously
450 allowed under the terms of the rental agreement. Unless the judge
451 has made some other finding regarding property at the premises,
452 the tenant may remove its property during this time. If the
453 tenant has vacated the premises by the court-ordered move-out
454 date, then the landlord may dispose of any property, not addressed
455 by the court, which the tenant leaves behind without further
456 notice to the tenant.

457 (3) After the court-ordered move-out date, the landlord may
458 request a warrant for removal. Upon such request and the payment
459 of applicable fees, the judge shall, except as otherwise
460 prohibited under subsection (5) of this section, immediately issue
461 a warrant to the sheriff or any constable of the county in which
462 the premises, or some part thereof, are situated, immediately
463 commanding the sheriff or constable to remove all persons from the
464 premises, and to put the landlord into full possession thereof.

465 (4) Unless the judge has made some other finding regarding
466 property at the premises, the landlord shall allow the tenant
467 reasonable access to the premises for seventy-two (72) hours after
468 the warrant for removal has been executed to enable the tenant to
469 remove the tenant's property, including any manufactured home.

470 All property the tenant leaves on the premises seventy-two (72)



471 hours after the execution of the warrant for removal shall be
472 deemed abandoned and may be disposed of by the landlord without
473 further notice or obligation to the tenant.

474 (5) In cases in which the possession judgment is based
475 solely on the tenant's nonpayment of rent, the judge shall not
476 issue a warrant for removal, on or before the court-ordered
477 move-out date, if the tenant has paid in full all unpaid rent and
478 other sums owed pursuant to the judgment. A landlord has an
479 obligation of good faith to accept full payment of all sums owed
480 pursuant to the money judgment entered if so tendered on or before
481 the court-ordered move-out date.

482 **SECTION 18.** Section 89-7-37, Mississippi Code of 1972, is
483 amended as follows:

484 89-7-37. The * * * tenant in possession of * * * the
485 premises, or any person claiming possession thereof, may, at or
486 before the time appointed in the summons for showing cause, file
487 an affidavit with * * * the court, denying the facts upon which
488 the summons was issued; and the matters thus controverted may be
489 tried * * *.

490 **SECTION 19.** Section 89-7-39, Mississippi Code of 1972, is
491 amended as follows:

492 89-7-39. The court may, at the request of either party,
493 adjourn * * * a hearing from time to time * * *. A single
494 adjournment shall not * * * exceed ten (10) days, except by
495 consent of both the landlord and tenant. When an adjournment is



496 granted, the court, * * * may issue subpoenas and attachments to
497 compel the attendance of witnesses. However, in hearings for
498 eviction, no adjournment shall extend the entire hearing beyond
499 forty-five (45) days from the date the eviction action was filed.

500 **SECTION 20.** Section 89-7-43, Mississippi Code of 1972, is
501 amended as follows:

502 89-7-43. * * * If a judgment of possession is not granted to
503 the landlord, the judge shall assess costs against the landlord
504 and issue execution therefor.

505 **SECTION 21.** Section 89-7-47, Mississippi Code of 1972, is
506 amended as follows:

507 89-7-47. The * * * judge before whom proceedings shall be
508 had against a tenant holding over, shall keep a full record
509 of * * * the proceedings, and shall carefully preserve all papers
510 in the cause * * *. Appeals from final judgements under this
511 chapter shall be pursuant to applicable Mississippi Rules of
512 Court.

513 **SECTION 22.** Section 89-8-3, Mississippi Code of 1972, is
514 amended as follows:

515 89-8-3. (1) This chapter shall apply to, regulate and
516 determine rights, obligations and remedies under any rental
517 agreement entered into after July 1, 1991, wherever made, for a
518 dwelling unit located within this state. * * * Any rights,
519 obligations, or remedies at law or in equity not prohibited by



520 this chapter remain available to residential landlords and
521 tenants.

522 (2) The following arrangements are not governed by this
523 chapter:

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

527 (b) Occupancy under a contract of sale of a dwelling
528 unit or the property of which it is a part, if the occupant is the
529 purchaser or a person who succeeds to * * * the purchaser's
530 interest;

531 (c) Occupancy by a member of a fraternal or social
532 organization in the portion of a structure operated for the
533 benefit of the organization;

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

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

537 (f) Occupancy under a rental agreement covering
538 premises used by the occupant primarily for agricultural purposes
539 or when the occupant is performing agricultural labor for the
540 owner and * * * the premises are rented for less than fair rental
541 value.

542 **SECTION 23.** Section 89-8-7, Mississippi Code of 1972, is
543 amended as follows:



544 89-8-7. (1) * * * As used in this chapter, the following
545 terms shall have the meaning ascribed herein unless the context
546 requires otherwise:

547 (a) "Building and housing codes" * * * means any law,
548 ordinance, or governmental regulation concerning fitness for
549 habitation, construction, maintenance, operation, occupancy or use
550 of any premises or dwelling unit * * *.

551 (b) "Court" means a justice court, a county court or a
552 circuit court.

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

557 (* * * d) "Good faith" means honesty in fact in the
558 conduct of the transaction concerned and observation of reasonable
559 community standards of fair dealing * * *.

560 (e) "Judge" means a justice court judge, a county court
561 judge or a circuit court judge.

562 (* * * f) "Landlord" means the owner, lessor or
563 sublessor of the dwelling unit or the building of which it is a
564 part, or the agent representing such owner, lessor or
565 sublessor * * *.

566 (* * * g) "Organization" * * * means a corporation,
567 government, governmental subdivision or agency, business trust,
568 estate, trust, partnership or association, two (2) or more persons



569 having a joint or common interest, and any other legal or
570 commercial entity * * *.

571 (* * *h) "Owner" means one or more persons, jointly or
572 severally, in whom is vested (i) all or part of the legal title to
573 property or (ii) all or part of the beneficial ownership and a
574 right to present use and enjoyment of the premises, and the term
575 includes a mortgagee in possession * * *.

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

580 (j) "Possession judgment" means a judgment granting the
581 landlord exclusive possession of the premises pursuant to this
582 chapter.

583 (* * *k) "Rent" means all payments to be made to the
584 landlord under the rental agreement, including any late fees that
585 are required to be paid under the rental agreement by a defaulting
586 tenant * * *.

587 (* * *l) "Rental agreement" means all written or oral
588 agreements * * * for a dwelling unit * * * located within this
589 state that are subject to this chapter.

590 (* * *m) "Tenant" means a person entitled under a
591 rental agreement to occupy a dwelling unit to the exclusion of
592 others * * *.



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

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

609 **SECTION 24.** Section 89-8-9, Mississippi Code of 1972, is
610 amended as follows:

611 89-8-9. Every duty under this chapter and every act which
612 must be performed as a condition precedent to the exercise of a
613 right or remedy under this chapter, including the landlord's
614 termination of a tenancy or the nonrenewal of a * * * rental
615 agreement or the removal of a tenant from the premises, imposes an
616 obligation of good faith in its performance or enforcement.



617 **SECTION 25.** Section 89-8-15, Mississippi Code of 1972, is
618 amended as follows:

619 89-8-15. (1) If, within thirty (30) days after written
620 notice to the landlord of a specific and material defect which
621 constitutes a breach of the terms of the rental agreement or of
622 the obligation of the landlord under Section 89-8-23, the landlord
623 fails to repair such defect, the tenant:

624 (a) May repair * * * the defect * * *; and

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

629 (i) The tenant has fulfilled * * * the obligations
630 required under Section 89-8-25;

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

633 (iii) The tenant has not exercised the remedy
634 provided by this section in the six (6) months immediately
635 preceding; and

636 (iv) The tenant is current in * * * rental
637 payments.

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



641 (3) Before correcting a condition affecting facilities
642 shared by more than one (1) dwelling unit, the tenant shall notify
643 all other tenants sharing such facilities of * * * the plans for
644 the repairs and shall so arrange the work as to create the least
645 practicable inconvenience to the other tenants.

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

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

650 **SECTION 26.** Section 89-8-17, Mississippi Code of 1972, is
651 amended as follows:

652 89-8-17. (1) A rental agreement that fixes a definite term
653 expires on the date stated in the rental agreement.

654 (2) Notwithstanding the provisions of Section 89-8-13, the
655 landlord may, at any time after the expiration of a rental
656 agreement, * * * provide notice to the tenant in writing, or by
657 email or text message, if the tenant has agreed to be notified by
658 email or text message, specifying that the tenant is holding over
659 after expiration of the rental agreement and that the landlord
660 will commence eviction proceedings no earlier than three (3) days
661 after such notice is provided. The landlord may also demand an
662 increase in rent * * * after the expiration of the rental
663 agreement if such actions by the landlord did not have the
664 dominant purpose of retaliation against the tenant for his actions
665 authorized under this chapter and the landlord received written



666 notice of each condition which was the subject of such actions of
667 the tenant.

668 **SECTION 27.** Sections 89-7-41 and 89-7-45, Mississippi Code
669 of 1972, which govern the disposition of tenant personal property
670 and when a warrant of removal may issue, are hereby repealed.

671 **SECTION 28.** This act shall take effect and be in force from
672 and after its passage.

