

By: Representative Harness

To: Judiciary A; Rules

HOUSE BILL NO. 355

1 AN ACT TO REPEAL SECTION 11-1-66.1, MISSISSIPPI CODE OF 1972,
2 WHICH CREATES THE LANDOWNERS PROTECTION ACT; TO AMEND SECTION
3 85-5-7, TO REVISE THE DEFINITION OF "FAULT" TO CONFORM TO THE
4 REPEAL; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 11-1-66.1, Mississippi Code of 1972,
7 which creates the Landowners Protection Act, is repealed.

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

10 85-5-7. (1) As used in this section, "fault" means an act
11 or omission of a person which is a proximate cause of injury or
12 death to another person or persons, damages to property, tangible
13 or intangible, or economic injury, including, but not limited to,
14 negligence, malpractice, strict liability, absolute liability or
15 failure to warn. * * * "Fault" shall not include any tort which
16 results from an act or omission committed with a specific wrongful
17 intent. * * *

18 (2) Except as otherwise provided in subsection (4) of this
19 section, in any civil action based on fault, the liability for



20 damages caused by two (2) or more persons shall be several only,
21 and not joint and several and a joint tortfeasor shall be liable
22 only for the amount of damages allocated to him in direct
23 proportion to his percentage of fault. In assessing percentages
24 of fault an employer and the employer's employee or a principal
25 and the principal's agent shall be considered as one (1) defendant
26 when the liability of such employer or principal has been caused
27 by the wrongful or negligent act or omission of the employee or
28 agent.

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

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

38 (5) In actions involving joint tortfeasors, the trier of
39 fact shall determine the percentage of fault for each party
40 alleged to be at fault without regard to whether the joint
41 tortfeasor is immune from damages. Fault allocated under this
42 subsection to an immune tortfeasor or a tortfeasor whose liability
43 is limited by law shall not be reallocated to any other
44 tortfeasor.



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

48 **SECTION 3.** This act shall take effect and be in force from
49 and after July 1, 2023.

