

By: Senator(s) Hill, Branning, Jordan,
Parker

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2073

1 AN ACT TO AMEND SECTIONS 93-19-13, 1-3-27, 15-3-11, 11-5-115,
2 89-1-301, 93-19-1, 93-19-9, 91-20-3, 91-20-41, 93-20-102, AND
3 15-1-17, MISSISSIPPI CODE OF 1972, TO LOWER THE AGE OF MAJORITY TO
4 EIGHTEEN FOR SECURING HOME LOANS AND ENTERING CONTRACTS FOR REAL
5 PROPERTY; TO REPEAL SECTION 93-3-11, MISSISSIPPI CODE OF 1972,
6 WHICH IS THE PROVISION OF LAW THAT REMOVES THE DISABILITY OF
7 MINORITY FOR CERTAIN MARRIED PERSONS SOLELY WITH RESPECT TO
8 HOMESTEAD TRANSACTIONS; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 93-19-13, Mississippi Code of 1972, is
11 amended as follows:

12 93-19-13. (1) All persons eighteen (18) years of age or
13 older, if not otherwise disqualified, or prohibited by law, shall
14 have the capacity to enter into binding contractual relationships
15 affecting personal property, mortgages, and real property. In
16 addition, all persons eighteen (18) years of age or older shall
17 have the capacity to enter into binding contractual relationships
18 for the purpose of investing in mutual funds, stocks, bonds and
19 any other publicly traded equities. Nothing in this section shall
20 be construed to affect any contracts entered into prior to July 1,
21 1976.



22 (2) Any person who, upon attaining eighteen (18) years of
23 age, but not having reached the age of majority, was in or remains
24 in the legal custody of the Department of Human Services or Child
25 Protection Services and residing within a qualified residential
26 child care agency, as defined in Section 37-106-81, at any time on
27 or after attaining thirteen (13) years of age, if not otherwise
28 disqualified or prohibited by law, shall have the capacity to
29 enter into binding agreements to lease real property to be
30 occupied by the person as the actual place of residence, and to
31 secure the necessary utility services necessary to make such place
32 of residence habitable, including, but not limited to,
33 electricity, natural gas, propane, water, sewage, garbage disposal
34 and Internet services.

35 (3) In any legal action founded on a contract entered into
36 by a person eighteen (18) years of age or older, the said person
37 may sue in his own name as an adult and be sued in his own name as
38 an adult and be served with process as an adult.

39 **SECTION 2.** Section 1-3-27, Mississippi Code of 1972, is
40 amended as follows:

41 1-3-27. The term "minor," when used in * * * statute, except
42 as otherwise provided by law shall include any person, male or
43 female, under twenty-one (21) years of age. If a statute refers
44 to the ability to enter into a contract affecting personal
45 property or real property, "minor" shall mean any person, male or
46 female, under eighteen (18) years of age.



47 **SECTION 3.** Section 15-3-11, Mississippi Code of 1972, is
48 amended as follows:

49 15-3-11. An action shall not be maintained whereby to charge
50 any person upon any promise made after full age to pay any debt
51 contracted during infancy, or upon any ratification after full age
52 of any promise or contract made during infancy, unless such
53 promise or ratification shall be made by some writing, signed by
54 the person to be charged therewith. The full age of ratification
55 shall be eighteen (18) years of age.

56 **SECTION 4.** Section 11-5-115, Mississippi Code of 1972, is
57 amended as follows:

58 11-5-115. When a decree shall be made for the sale or
59 conveyance of the real estate of an infant, such decree shall be
60 binding on the infant unless he shall, within one year after
61 attaining the age of * * * eighteen (18) years, show to the court
62 good cause to the contrary; and it shall not be necessary to
63 insert the saving in the decree, but the saving shall not extend
64 to decrees for the sale of the property of deceased persons,
65 authorizing sales by guardians, or enforcing deeds of trust or
66 mortgages.

67 **SECTION 5.** Section 89-1-301, Mississippi Code of 1972, is
68 amended as follows:

69 89-1-301. The provisions of Sections 89-1-301 through
70 89-1-329 shall apply only in the event that the President of the
71 United States has declared that an emergency or major disaster



72 exists in this state and shall apply only to persons or property
73 directly damaged in an enemy attack, or a man-made, technological
74 or natural disaster declared by the Governor in which Sections
75 89-1-301 through 89-1-329 * * * were specifically included as a
76 relief measure for those counties covered by such disaster
77 declaration. The provisions of Sections 89-1-301 through 89-1-329
78 shall apply to any mortgage or deed of trust on real property
79 executed prior to the date of the disaster declaration by the
80 Governor, and to any such instruments executed after the date of
81 the disaster declaration by the Governor which renewed or extended
82 any mortgage or deed of trust executed prior to the date of the
83 disaster declaration by the Governor. When the mortgagee, or
84 owner, or holder, or trustee, or other person having like power
85 shall hereafter determine to foreclose a mortgage or deed of trust
86 on real estate covered by the provisions of Sections 89-1-301
87 through 89-1-329, he may proceed by bill in chancery, and in the
88 same manner as in proceedings to foreclose under existing statutes
89 in cases where the mortgage or deed of trust contains no
90 provisions for sale by a trustee or otherwise. Any stipulations
91 in the mortgage or deed of trust as to the manner of foreclosure
92 thereunder shall not preclude proceedings to foreclose any
93 mortgage or deed of trust under the provisions of Sections
94 89-1-301 through 89-1-329. If any mortgagee, holder, owner,
95 trustee, or other person shall attempt to foreclose otherwise than
96 as herein provided, such proceedings may be enjoined by the



97 mortgagor or owner in possessing of the mortgaged premises, or
98 anyone claiming under the mortgagor, or anyone liable for the
99 mortgage debt. Upon the filing of a sworn petition which
100 affirmatively sets forth that neither the petitioner nor any other
101 person owning an interest in the legal title to the mortgaged
102 premises is able to pay the sums in arrears on the mortgaged debt,
103 that no such person or persons have been able to secure a
104 refinancing of the mortgaged debt up to the date of the filing of
105 the petition, after diligent effort, and that because of the
106 destruction of or damage to improvements on the mortgaged premises
107 or because of economic conditions brought about by the effects of
108 such an enemy attack or man-made, technological or natural
109 disaster declared by the Governor, the mortgaged property has
110 depreciated in value as a proximate result of said disaster in an
111 amount in excess of fifteen percent (15%) of its fair market value
112 prior to said disaster, the chancellor of any chancery court of
113 competent jurisdiction shall issue a preliminary injunction
114 enjoining any foreclosure proceedings which have been commenced.
115 The chancellor shall likewise issue a preliminary injunction
116 enjoining any foreclosure proceedings which have been commenced if
117 a sworn petition shall be filed which affirmatively sets forth
118 that as a direct and proximate result of said disaster the
119 petitioner or any other person owning an interest in the legal
120 title to the mortgaged premises is unable to pay the sums in
121 arrears on the mortgage debt, that the petitioner or such other



122 person or persons have not been able to secure the refinancing of
123 the mortgage debt up to the date of the filing of the petition
124 after diligent effort, and that the petitioner has actually
125 sustained a loss in income derived from the mortgaged property, or
126 is presently threatened with such loss as a proximate result of
127 such disaster, in an amount in excess of fifteen percent (15%) of
128 the average annual income from the mortgaged property for the
129 three (3) years immediately prior to said disaster; provided,
130 however, for mortgages or deeds of trust on real property leased
131 or rented for residential purposes from the mortgagor to a third
132 party or parties, the provisions of Sections 89-1-301 through
133 89-1-329 shall apply only if the mortgagor or landlord has made or
134 is making a good-faith effort to rehabilitate the property to a
135 reasonable standard of habitability.

136 Upon the issuance of any such preliminary injunction, the
137 mortgagee may file a motion to dissolve said injunction, which
138 motion shall be heard in termtime or in vacation, at a time to be
139 fixed by the court not less than thirty (30) days from the date of
140 the filing thereof. The mortgagor may implead any and all persons
141 owning or claiming an interest in the legal title to said property
142 and all persons who may be primarily or secondarily liable on the
143 mortgaged indebtedness. Process shall be issued for all parties
144 so impleaded in the manner now provided by law in suits to confirm
145 titles and the cause shall be triable five (5) days after
146 completion of service of process on all parties. The court may



147 grant such continuances as may be necessary for the completion of
148 service of process on all parties.

149 Upon the hearing of the motion to dissolve, unless the
150 petitioner shall prove all of the material allegations of his
151 petition by a preponderance of the evidence, the preliminary
152 injunction shall be dissolved. No injunction bond shall be
153 required for the issuance of the preliminary injunction. If the
154 court shall find the petition was filed solely for the purpose of
155 hindering and delaying collection of the mortgaged debt and
156 without reasonable grounds therefor, reasonable attorney's fees
157 shall be allowed as in other cases upon dissolution of preliminary
158 injunctions, but not otherwise.

159 If, upon hearing of the motion to dissolve, it shall be
160 determined that said motion should not be granted, then the
161 hearing shall continue in the same manner as provided for in
162 Section 89-1-303, and the court shall enter its order granting the
163 relief provided for by Sections 89-1-301 through 89-1-329 in the
164 case of bills to foreclose. All the terms and provisions of
165 Sections 89-1-301 through 89-1-329 relating to the proceedings had
166 on, or to relief granted under, bills to foreclose shall be
167 applicable.

168 Provided, however, if a deed of trust be foreclosed according
169 to the provisions therein contained, and the sale be actually
170 consummated without the mortgagor or his heirs or assigns availing
171 themselves of the right to enjoin said sale as provided in



172 Sections 89-1-301 through 89-1-329, the foreclosure and the title
173 resting thereon, if otherwise regular, shall not be controverted
174 on account of any of the provisions of Sections 89-1-301 through
175 89-1-329, and this limitation shall also apply to minors who are
176 younger than eighteen (18) years of age, and all others under
177 legal disability. The provisions of this section shall apply to
178 advertisements for sales already published at the time of the
179 disaster declaration by the Governor in which he specifically
180 included the relief provided for in Sections 89-1-301 through
181 89-1-329, but in which the sale has not been made; provided that
182 in such case the costs of the advertisement be tendered in cash
183 with the bill for injunction.

184 **SECTION 6.** Section 93-19-1, Mississippi Code of 1972, is
185 amended as follows:

186 93-19-1. The chancery court of the county in which a minor
187 resides, or the chancery court of a county in which a resident
188 minor owns real estate in matters pertaining to such real estate,
189 may remove the disability of minority of such minor. In cases of
190 married minors, the residence of the husband shall be the
191 residence of the parties. The chancery court of a county in which
192 a nonresident minor of the State of Mississippi owns real estate
193 or any interest in real estate may remove the disability of
194 minority of such minor as to such real estate, so as to enable
195 said minor to do and perform all acts with reference to such real
196 estate, to sell and convey, to mortgage, to lease, and to make



197 deeds of trust and contracts, including promissory notes,
198 concerning said real estate, or any interest therein which may be
199 owned by such minor, as fully and effectively as if said minor
200 were * * * eighteen (18) years of age. The jurisdiction thus
201 exercised shall be that of a court of general equity jurisdiction,
202 and all presumptions in favor of that adjudged shall be accorded
203 at all times.

204 **SECTION 7.** Section 93-19-9, Mississippi Code of 1972, is
205 amended as follows:

206 93-19-9. The decree may be for the partial removal of the
207 disability of the minor so as to enable him to do some particular
208 act proposed to be done and specified in the decree; or it may be
209 general, and empower him to do all acts in reference to his
210 property, and making contracts, and suing and being sued, and
211 engaging in any profession or avocation, which he could do if he
212 were * * * eighteen (18) years of age; and the decree made shall
213 distinctly specify to what extent the disability of the minor is
214 removed, and what character of acts he is empowered to perform
215 notwithstanding his minority, and may impose such restrictions and
216 qualifications as the court may adjudge proper.

217 **SECTION 8.** Section 91-20-3, Mississippi Code of 1972, is
218 amended as follows:

219 91-20-3. In this chapter:

220 (a) "Adult" means an individual who has attained the
221 age of * * * eighteen (18) years.



222 (b) "Benefit plan" means an employer's plan for the
223 benefit of an employee or partner.

224 (c) "Broker" means a person lawfully engaged in the
225 business of effecting transactions in securities or commodities
226 for the person's own account or for the account of others.

227 (d) "Conservator" means a person appointed or qualified
228 by a court to act as general, limited or temporary guardian of a
229 minor's property or a person legally authorized to perform
230 substantially the same functions.

231 (e) "Court" means the chancery court of the county in
232 which the parties reside.

233 (f) "Custodial property" means (i) any interest in
234 property transferred to a custodian under this chapter and (ii)
235 the income from and proceeds of that interest in property.

236 (g) "Custodian" means a person so designated under
237 Section 91-20-19 or a successor or substitute custodian designated
238 under Section 91-20-37.

239 (h) "Financial institution" means a bank, trust
240 company, savings institution or credit union, chartered and
241 supervised under state or federal law.

242 (i) "Legal representative" means an individual's
243 personal representative or conservator.

244 (j) "Member of the minor's family" means the minor's
245 parent, stepparent, spouse, grandparent, brother, sister, uncle or
246 aunt, whether of the whole or half blood or by adoption.



247 (k) "Minor" means an individual who has not attained
248 the age of * * * eighteen (18) years.

249 (l) "Person" means an individual, corporation,
250 organization or other legal entity.

251 (m) "Personal representative" means an executor,
252 administrator, successor personal representative or special
253 administrator of a decedent's estate or a person legally
254 authorized to perform substantially the same functions.

255 (n) "State" includes any state of the United States,
256 the District of Columbia, the Commonwealth of Puerto Rico and any
257 territory or possession subject to the legislative authority of
258 the United States.

259 (o) "Transfer" means a transaction that creates
260 custodial property under Section 91-20-19.

261 (p) "Transferor" means a person who makes a transfer
262 under this chapter.

263 (q) "Trust company" means a financial institution,
264 corporation or other legal entity authorized to exercise general
265 trust powers.

266 **SECTION 9.** Section 91-20-41, Mississippi Code of 1972, is
267 amended as follows:

268 91-20-41. The custodian shall transfer in an appropriate
269 manner the custodial property to the minor or to the minor's
270 estate upon the earlier of:



271 (a) The minor's attainment of * * * eighteen (18) years
272 of age with respect to custodial property transferred under
273 Section 91-20-9 or 91-20-11;

274 (b) The minor's attainment of eighteen (18) years of
275 age with respect to custodial property transferred under Section
276 91-20-13 or 91-20-15; or

277 (c) The minor's death.

278 **SECTION 10.** Section 93-20-102, Mississippi Code of 1972, is
279 amended as follows:

280 93-20-102. In this chapter:

281 (a) "Adult" means an individual at least * * * eighteen
282 (18) years of age or an emancipated individual under * * *
283 eighteen (18) years of age.

284 (b) "Claim" includes a claim against an individual or
285 conservatorship estate, whether arising in contract, tort, or
286 otherwise.

287 (c) "Conservator" means a person appointed by a court
288 to make decisions with respect to the property or financial
289 affairs of a ward. The term includes a co-conservator.

290 (d) "Conservatorship estate" means the property subject
291 to conservatorship under this chapter.

292 (e) "Full conservatorship" means a conservatorship that
293 grants the conservator all powers available under this chapter.

294 (f) "Full guardianship" means a guardianship that
295 grants the guardian all powers available under this chapter.



296 (g) "Guardian" means a person appointed by the court to
297 make decisions with respect to the personal affairs of the ward.
298 The term includes a co-guardian but does not include a guardian ad
299 litem.

300 (h) "Guardian ad litem" means a qualified person
301 appointed by the court to inform the court about the ward, to
302 protect the best interests of the ward, and to make
303 recommendations to the court in the best interests of the ward.

304 (i) "Less restrictive alternative" means an approach to
305 meeting an individual's needs which restricts fewer rights of the
306 individual than would the appointment of a guardian or conservator
307 in the discretion of the court.

308 (j) "Letters of guardianship or conservatorship" means
309 a record issued by a court certifying a guardian's or
310 conservator's authority to act.

311 (k) "Limited conservatorship" means a conservatorship
312 that grants the conservator less than all powers available under
313 this chapter, grants powers over only certain property, or
314 otherwise restricts the powers of the conservator.

315 (l) "Limited guardianship" means a guardianship that
316 grants the guardian less than all powers available under this
317 chapter or otherwise restricts the powers of the guardian.

318 (m) "Minor" means an unemancipated individual
319 under * * * eighteen (18) years of age.



320 (n) "Notice" means any notice as provided by Rule 5 of
321 the Mississippi Rules of Civil Procedure.

322 (o) "Parent" does not include an individual whose
323 parental rights have been terminated.

324 (p) "Person" means an individual, estate, business or
325 nonprofit entity, public corporation, government or governmental
326 subdivision, agency, or instrumentality, or other legal entity.

327 (q) "Property" includes tangible and intangible
328 property.

329 (r) "Record," used as a noun, means information that is
330 inscribed on a tangible medium or that is stored in an electronic
331 or other medium and is retrievable in perceivable form.

332 (s) "Respondent" means an individual for whom
333 appointment of a guardian or conservator is sought.

334 (t) "Sign" means, with present intent to authenticate
335 or adopt a record:

336 (i) To execute or adopt a tangible symbol; or

337 (ii) To attach to or logically associate with the
338 record an electronic symbol, sound, or process.

339 (u) "State" means a state of the United States, the
340 District of Columbia, Puerto Rico, the United States Virgin
341 Islands, or any territory or insular possession subject to the
342 jurisdiction of the United States. The term includes a federally
343 recognized Indian tribe.



344 (v) "Summons" means any properly issued summons as
345 provided by the Mississippi Rules of Civil Procedure.

346 (w) "Ward" means an adult or minor for whom a guardian
347 or conservator has been appointed under this chapter.

348 **SECTION 11.** Section 15-1-17, Mississippi Code of 1972, is
349 amended as follows:

350 15-1-17. The owner, mortgagee or other person interested in
351 any land which has been sold or forfeited to the state for
352 delinquent taxes may bring a suit or action to cancel the title of
353 the state, or its patentees, or to recover said land from the
354 state, or its patentees, on account of any defect, irregularity or
355 illegality in the assessment, levy or sale of such land for
356 delinquent taxes within two years after the period of redemption
357 shall have expired, and not thereafter. However, the limitations
358 herein fixed shall not apply when the taxes on such land had been
359 paid prior to the time it was sold for taxes.

360 If any person entitled to bring any such suit or action
361 shall, at the time at which the cause of action accrues, be under
362 the disability of infancy, or unsoundness of mind, he may bring
363 the suit or action within the time in this section respectively
364 limited after his disability shall be removed but the saving of
365 persons under disability shall never extend longer than eighteen
366 (18) years if the disability is infancy, or twenty-one (21) years
367 if the disability is unsoundness of mind.



368 The completion of the limitation herein prescribed to bar any
369 action shall defeat and extinguish all the right, title and
370 interest, including the right of possession in and to such land,
371 of any and all persons whatsoever, except the State of Mississippi
372 and its patentees, and it shall vest in the state, and its
373 patentees, a fee simple title to such lands.

374 **Section 12.** Section 93-3-11, Mississippi Code of 1972, which
375 is the provision of law that removes the disability of minority
376 for certain married persons solely with respect to homestead
377 transactions, is repealed.

378 **Section 13.** This act shall take effect and be in force from
379 and after July 1, 2023.

