

By: Senator(s) Hill

To: Judiciary, Division A

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; AND FOR RELATED PURPOSES.

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

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

9 93-19-13. (1) All persons eighteen (18) years of age or
10 older, if not otherwise disqualified, or prohibited by law, shall
11 have the capacity to enter into binding contractual relationships
12 affecting personal property, mortgages, and real property. In
13 addition, all persons eighteen (18) years of age or older shall
14 have the capacity to enter into binding contractual relationships
15 for the purpose of investing in mutual funds, stocks, bonds and
16 any other publicly traded equities. Nothing in this section shall
17 be construed to affect any contracts entered into prior to July 1,
18 1976.



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

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

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

38 1-3-27. The term "minor," when used in * * * most statutes,
39 shall include any person, male or female, under twenty-one (21)
40 years of age. If a statute refers to the ability to enter into
41 mortgage or real property contracts, "minor" shall mean any
42 person, male or female, under eighteen (18) years of age.



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

45 15-3-11. An action shall not be maintained whereby to charge
46 any person upon any promise made after full age to pay any debt
47 contracted during infancy, or upon any ratification after full age
48 of any promise or contract made during infancy, unless such
49 promise or ratification shall be made by some writing, signed by
50 the person to be charged therewith. If the promise concerns
51 mortgages or real property, the full age of ratification shall be
52 eighteen (18) years of age.

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

55 11-5-115. When a decree shall be made for the sale or
56 conveyance of the real estate of an infant, such decree shall be
57 binding on the infant unless he shall, within one year after
58 attaining the age of * * * eighteen (18) years, show to the court
59 good cause to the contrary; and it shall not be necessary to
60 insert the saving in the decree, but the saving shall not extend
61 to decrees for the sale of the property of deceased persons,
62 authorizing sales by guardians, or enforcing deeds of trust or
63 mortgages.

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

66 89-1-301. The provisions of Sections 89-1-301 through
67 89-1-329 shall apply only in the event that the President of the



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



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



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

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



143 completion of service of process on all parties. The court may
144 grant such continuances as may be necessary for the completion of
145 service of process on all parties.

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

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

165 Provided, however, if a deed of trust be foreclosed according
166 to the provisions therein contained, and the sale be actually
167 consummated without the mortgagor or his heirs or assigns availing



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

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

183 93-19-1. The chancery court of the county in which a minor
184 resides, or the chancery court of a county in which a resident
185 minor owns real estate in matters pertaining to such real estate,
186 may remove the disability of minority of such minor. In cases of
187 married minors, the residence of the husband shall be the
188 residence of the parties. The chancery court of a county in which
189 a nonresident minor of the State of Mississippi owns real estate
190 or any interest in real estate may remove the disability of
191 minority of such minor as to such real estate, so as to enable
192 said minor to do and perform all acts with reference to such real



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

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

203 93-19-9. The decree may be for the partial removal of the
204 disability of the minor so as to enable him to do some particular
205 act proposed to be done and specified in the decree; or it may be
206 general, and empower him to do all acts in reference to his
207 property, and making contracts, and suing and being sued, and
208 engaging in any profession or avocation, which he could do if he
209 were * * * eighteen (18) years of age; and the decree made shall
210 distinctly specify to what extent the disability of the minor is
211 removed, and what character of acts he is empowered to perform
212 notwithstanding his minority, and may impose such restrictions and
213 qualifications as the court may adjudge proper.

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

216 91-20-3. In this chapter:



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

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

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

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

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

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

233 (g) "Custodian" means a person so designated under
234 Section 91-20-19 or a successor or substitute custodian designated
235 under Section 91-20-37.

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

239 (i) "Legal representative" means an individual's
240 personal representative or conservator.



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

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

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

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

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

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

258 (p) "Transferor" means a person who makes a transfer
259 under this chapter.

260 (q) "Trust company" means a financial institution,
261 corporation or other legal entity authorized to exercise general
262 trust powers.

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



265 91-20-41. The custodian shall transfer in an appropriate
266 manner the custodial property to the minor or to the minor's
267 estate upon the earlier of:

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

271 (b) The minor's attainment of eighteen (18) years of
272 age with respect to custodial property transferred under Section
273 91-20-13 or 91-20-15; or

274 (c) The minor's death.

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

277 93-20-102. In this chapter:

278 (a) "Adult" means an individual at least * * * eighteen
279 (18) years of age or an emancipated individual under * * *
280 eighteen (18) years of age.

281 (b) "Claim" includes a claim against an individual or
282 conservatorship estate, whether arising in contract, tort, or
283 otherwise.

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

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



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

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

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

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

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

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

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



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

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

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

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

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

324 (q) "Property" includes tangible and intangible
325 property.

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

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

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

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

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



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

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

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

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

347 15-1-17. The owner, mortgagee or other person interested in
348 any land which has been sold or forfeited to the state for
349 delinquent taxes may bring a suit or action to cancel the title of
350 the state, or its patentees, or to recover said land from the
351 state, or its patentees, on account of any defect, irregularity or
352 illegality in the assessment, levy or sale of such land for
353 delinquent taxes within two years after the period of redemption
354 shall have expired, and not thereafter. However, the limitations
355 herein fixed shall not apply when the taxes on such land had been
356 paid prior to the time it was sold for taxes.

357 If any person entitled to bring any such suit or action
358 shall, at the time at which the cause of action accrues, be under
359 the disability of infancy, or unsoundness of mind, he may bring
360 the suit or action within the time in this section respectively



361 limited after his disability shall be removed but the saving of
362 persons under disability shall never extend longer than eighteen
363 (18) years if the disability is infancy, or twenty-one (21) years
364 if the disability is unsoundness of mind.

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

371 **Section 12.** This act shall take effect and be in force from
372 and after June 30, 2023.

