

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

To: Judiciary, Division A

SENATE BILL NO. 2073
(As Passed the Senate)

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 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, *** if not
24 otherwise disqualified or prohibited by law, shall have the
25 capacity to enter into binding agreements to lease real property
26 to be occupied by the person as the actual place of residence, and
27 to secure the necessary utility services necessary to make such
28 place of residence habitable, including, but not limited to,
29 electricity, natural gas, propane, water, sewage, garbage disposal
30 and Internet services.

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

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

37 1-3-27. The term "minor," when used in *** statute, except
38 as otherwise provided by law shall include any person, male or
39 female, under twenty-one (21) years of age. If a statute refers
40 to the ability to enter into a contract affecting personal
41 property or real property, "minor" shall mean any person, male or
42 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. The full age of ratification
51 shall be eighteen (18) years of age.

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

54 11-5-115. When a decree shall be made for the sale or
55 conveyance of the real estate of an infant, such decree shall be
56 binding on the infant unless he shall, within one year after
57 attaining the age of * * * eighteen (18) years, show to the court
58 good cause to the contrary; and it shall not be necessary to
59 insert the saving in the decree, but the saving shall not extend
60 to decrees for the sale of the property of deceased persons,
61 authorizing sales by guardians, or enforcing deeds of trust or
62 mortgages.

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

65 89-1-301. The provisions of Sections 89-1-301 through
66 89-1-329 shall apply only in the event that the President of the
67 United States has declared that an emergency or major disaster
68 exists in this state and shall apply only to persons or property
69 directly damaged in an enemy attack, or a man-made, technological
70 or natural disaster declared by the Governor in which Sections
71 89-1-301 through 89-1-329 * * * were specifically included as a



72 relief measure for those counties covered by such disaster
73 declaration. The provisions of Sections 89-1-301 through 89-1-329
74 shall apply to any mortgage or deed of trust on real property
75 executed prior to the date of the disaster declaration by the
76 Governor, and to any such instruments executed after the date of
77 the disaster declaration by the Governor which renewed or extended
78 any mortgage or deed of trust executed prior to the date of the
79 disaster declaration by the Governor. When the mortgagee, or
80 owner, or holder, or trustee, or other person having like power
81 shall hereafter determine to foreclose a mortgage or deed of trust
82 on real estate covered by the provisions of Sections 89-1-301
83 through 89-1-329, he may proceed by bill in chancery, and in the
84 same manner as in proceedings to foreclose under existing statutes
85 in cases where the mortgage or deed of trust contains no
86 provisions for sale by a trustee or otherwise. Any stipulations
87 in the mortgage or deed of trust as to the manner of foreclosure
88 thereunder shall not preclude proceedings to foreclose any
89 mortgage or deed of trust under the provisions of Sections
90 89-1-301 through 89-1-329. If any mortgagee, holder, owner,
91 trustee, or other person shall attempt to foreclose otherwise than
92 as herein provided, such proceedings may be enjoined by the
93 mortgagor or owner in possessing of the mortgaged premises, or
94 anyone claiming under the mortgagor, or anyone liable for the
95 mortgage debt. Upon the filing of a sworn petition which
96 affirmatively sets forth that neither the petitioner nor any other



97 person owning an interest in the legal title to the mortgaged
98 premises is able to pay the sums in arrears on the mortgaged debt,
99 that no such person or persons have been able to secure a
100 refinancing of the mortgaged debt up to the date of the filing of
101 the petition, after diligent effort, and that because of the
102 destruction of or damage to improvements on the mortgaged premises
103 or because of economic conditions brought about by the effects of
104 such an enemy attack or man-made, technological or natural
105 disaster declared by the Governor, the mortgaged property has
106 depreciated in value as a proximate result of said disaster in an
107 amount in excess of fifteen percent (15%) of its fair market value
108 prior to said disaster, the chancellor of any chancery court of
109 competent jurisdiction shall issue a preliminary injunction
110 enjoining any foreclosure proceedings which have been commenced.
111 The chancellor shall likewise issue a preliminary injunction
112 enjoining any foreclosure proceedings which have been commenced if
113 a sworn petition shall be filed which affirmatively sets forth
114 that as a direct and proximate result of said disaster the
115 petitioner or any other person owning an interest in the legal
116 title to the mortgaged premises is unable to pay the sums in
117 arrears on the mortgage debt, that the petitioner or such other
118 person or persons have not been able to secure the refinancing of
119 the mortgage debt up to the date of the filing of the petition
120 after diligent effort, and that the petitioner has actually
121 sustained a loss in income derived from the mortgaged property, or



122 is presently threatened with such loss as a proximate result of
123 such disaster, in an amount in excess of fifteen percent (15%) of
124 the average annual income from the mortgaged property for the
125 three (3) years immediately prior to said disaster; provided,
126 however, for mortgages or deeds of trust on real property leased
127 or rented for residential purposes from the mortgagor to a third
128 party or parties, the provisions of Sections 89-1-301 through
129 89-1-329 shall apply only if the mortgagor or landlord has made or
130 is making a good-faith effort to rehabilitate the property to a
131 reasonable standard of habitability.

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

145 Upon the hearing of the motion to dissolve, unless the
146 petitioner shall prove all of the material allegations of his



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

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

164 Provided, however, if a deed of trust be foreclosed according
165 to the provisions therein contained, and the sale be actually
166 consummated without the mortgagor or his heirs or assigns availing
167 themselves of the right to enjoin said sale as provided in
168 Sections 89-1-301 through 89-1-329, the foreclosure and the title
169 resting thereon, if otherwise regular, shall not be controverted
170 on account of any of the provisions of Sections 89-1-301 through
171 89-1-329, and this limitation shall also apply to minors who are



172 younger than eighteen (18) years of age, and all others under
173 legal disability. The provisions of this section shall apply to
174 advertisements for sales already published at the time of the
175 disaster declaration by the Governor in which he specifically
176 included the relief provided for in Sections 89-1-301 through
177 89-1-329, but in which the sale has not been made; provided that
178 in such case the costs of the advertisement be tendered in cash
179 with the bill for injunction.

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

182 93-19-1. The chancery court of the county in which a minor
183 resides, or the chancery court of a county in which a resident
184 minor owns real estate in matters pertaining to such real estate,
185 may remove the disability of minority of such minor. In cases of
186 married minors, the residence of the husband shall be the
187 residence of the parties. The chancery court of a county in which
188 a nonresident minor of the State of Mississippi owns real estate
189 or any interest in real estate may remove the disability of
190 minority of such minor as to such real estate, so as to enable
191 said minor to do and perform all acts with reference to such real
192 estate, to sell and convey, to mortgage, to lease, and to make
193 deeds of trust and contracts, including promissory notes,
194 concerning said real estate, or any interest therein which may be
195 owned by such minor, as fully and effectively as if said minor
196 were * * * eighteen (18) years of age. The jurisdiction thus



197 exercised shall be that of a court of general equity jurisdiction,
198 and all presumptions in favor of that adjudged shall be accorded
199 at all times.

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

202 93-19-9. The decree may be for the partial removal of the
203 disability of the minor so as to enable him to do some particular
204 act proposed to be done and specified in the decree; or it may be
205 general, and empower him to do all acts in reference to his
206 property, and making contracts, and suing and being sued, and
207 engaging in any profession or avocation, which he could do if he
208 were * * * eighteen (18) years of age; and the decree made shall
209 distinctly specify to what extent the disability of the minor is
210 removed, and what character of acts he is empowered to perform
211 notwithstanding his minority, and may impose such restrictions and
212 qualifications as the court may adjudge proper.

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

215 91-20-3. In this chapter:

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

264 91-20-41. The custodian shall transfer in an appropriate
265 manner the custodial property to the minor or to the minor's
266 estate upon the earlier of:

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



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

273 (c) The minor's death.

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

276 93-20-102. In this chapter:

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

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

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

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

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

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

292 (g) "Guardian" means a person appointed by the court to
293 make decisions with respect to the personal affairs of the ward.



294 The term includes a co-guardian but does not include a guardian ad
295 litem.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

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

346 15-1-17. The owner, mortgagee or other person interested in
347 any land which has been sold or forfeited to the state for
348 delinquent taxes may bring a suit or action to cancel the title of
349 the state, or its patentees, or to recover said land from the
350 state, or its patentees, on account of any defect, irregularity or
351 illegality in the assessment, levy or sale of such land for
352 delinquent taxes within two years after the period of redemption
353 shall have expired, and not thereafter. However, the limitations
354 herein fixed shall not apply when the taxes on such land had been
355 paid prior to the time it was sold for taxes.

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

364 The completion of the limitation herein prescribed to bar any
365 action shall defeat and extinguish all the right, title and
366 interest, including the right of possession in and to such land,



367 of any and all persons whatsoever, except the State of Mississippi
368 and its patentees, and it shall vest in the state, and its
369 patentees, a fee simple title to such lands.

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

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

