

By: Senator(s) Michel, Parker, Blackwell,
Simmons (13th), McMahan

To: Judiciary, Division A;
Judiciary, Division B

SENATE BILL NO. 2328
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 89-8-35, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY A PROVISION OF THE NOTICE PROVIDED TO TENANTS IN AN
3 EVICTION PROCEEDING RELATED TO THE TIMEFRAME FOR THE REMOVAL OF
4 PERSONAL PROPERTY FROM THE PREMISES; TO AMEND SECTION 89-8-39,
5 MISSISSIPPI CODE OF 1972, TO CLARIFY WHEN A WRIT OF REMOVAL SHALL
6 BE CONSIDERED EXECUTED; TO AMEND SECTIONS 89-8-3 AND 89-8-31,
7 MISSISSIPPI CODE OF 1972, TO CONFORM; TO PROVIDE THAT THE OWNER OR
8 OPERATING AGENT OF A RECREATIONAL VEHICLE PARK MAY HAVE A PERSON
9 REMOVED FROM THE PARK FOR CERTAIN REASONS; TO PROVIDE THE PROCESS
10 FOR REMOVAL WHEN A PERSON REFUSES TO LEAVE; TO AUTHORIZE A LAW
11 ENFORCEMENT OFFICER TO ARREST SUCH PERSON; TO PROVIDE THAT SUCH
12 REFUSAL OF ACCOMMODATIONS, SERVICE OR ACCESS TO THE PREMISES MAY
13 NOT BE BASED UPON RACE, COLOR, NATIONAL ORIGIN, SEX, PHYSICAL
14 DISABILITY OR CREED; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** Section 89-8-35, Mississippi Code of 1972, is
17 amended as follows:

18 89-8-35. (1) Upon the filing of the sworn affidavit or
19 complaint, a summons shall be issued for service upon the person
20 in possession of the identified premises or claiming possession
21 thereof. The summons shall command such person to immediately
22 vacate the premises or to show cause before the judge, on a day to
23 be named in the summons, why possession of the premises should not
24 be delivered to the applicant.



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

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

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

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

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

If you do not move out by the date and time ordered by the court, the landlord can have you removed by law enforcement * * *. You will have no right to reside at the premises once you have been removed. The landlord must grant you reasonable access to the premises during the seventy-two (72) hours following your removal to retrieve your personal property.



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

55 (3) Service of summons shall be pursuant to applicable
56 Mississippi Rules of Court.

57 **SECTION 2.** Section 89-8-39, Mississippi Code of 1972, is
58 amended as follows:

59 89-8-39. (1) If a judgment of possession is granted to the
60 landlord, either after a hearing or by default judgment, then the
61 judge shall order the tenant to vacate the premises in seven (7)
62 days from the date of the judgment, unless the court finds that a
63 shorter or longer period of time is justified because of an
64 emergency or other compelling circumstances. Circumstances that
65 justify setting the move-out date less than seven (7) days from
66 the date of the judgment, include, but are not limited to:

67 (a) The tenant has committed a substantial violation of
68 the rental agreement or of this chapter that materially affects
69 health or safety; or

70 (b) The tenant poses an immediate and significant risk
71 of damage to the premises or of harm or injury to persons on the
72 premises.



73 Prior to the court-ordered move-out date, the tenant shall
74 have the same access to the premises as previously allowed under
75 the terms of the rental agreement. Unless the tenant makes the
76 payment contemplated by subsection (4)(i) of this section, the
77 tenant will have no right to reside in or on the premises after
78 the court-ordered move out date. If the tenant moves out by the
79 date ordered by the court, leaving personal property behind, then
80 the landlord may dispose of such abandoned property without
81 further notice.

82 (2) After the court-ordered move-out date, the landlord may
83 request a warrant for removal. Upon such request and the payment
84 of applicable fees, the judge shall, except as otherwise
85 prohibited under subsection (4) of this section, immediately issue
86 a warrant to the sheriff or any constable of the county in which
87 the premises, or some part thereof, are situated, immediately
88 commanding the sheriff or constable to remove all persons from the
89 premises, and to put the landlord into full possession thereof.
90 The warrant of removal shall not be considered executed by law
91 enforcement posting the warrant of removal on the door of the
92 premises. Law enforcement must remove all occupants from the
93 premises and place the landlord into physical possession of the
94 premises.

95 (3) During the seventy-two (72) hours, after the warrant for
96 removal has been executed, the landlord shall allow the tenant
97 reasonable access to the premises * * * to enable the tenant to



98 remove the tenant's personal property, including any manufactured
99 home. If the tenant moves out within seventy-two (72) hours of
100 the execution of the warrant of removal, leaving personal property
101 behind, then the landlord may dispose of such abandoned property
102 without further notice. After said seventy-two (72) hours, the
103 landlord may remove any property remaining on the premises to the
104 curb, an area designated for garbage or some other location agreed
105 to by the tenant and the landlord.

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

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

112 (ii) After such date, the landlord has accepted
113 payment of such amounts.

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

118 **SECTION 3.** Section 89-8-3, Mississippi Code of 1972, is
119 amended as follows:

120 89-8-3. (1) This chapter shall apply to, regulate and
121 determine rights, obligations and remedies under any rental
122 agreement entered into after July 1, 1991, wherever made, for a



dwelling unit located within this state, including the parties'
rights to possession following the termination or expiration of
such an agreement. Any rights, obligations, or remedies at law or
in equity not prohibited by this chapter remain available to
residential landlords and tenants. The provisions of this
chapter shall not be construed to give rights to any person who
trespasses or otherwise enters and/or remains on the property of
another for any length of time without the landlord's knowledge or
permission.

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

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

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

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

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

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

(f) Occupancy under a rental agreement covering
premises used by the occupant primarily for agricultural purposes



or when the occupant is performing agricultural labor for the owner and the premises are rented for less than fair rental value.

SECTION 4. Section 89-8-31, Mississippi Code of 1972, is amended as follows:

89-8-31. A landlord may commence eviction proceedings * * *:

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

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

SECTION 5. (1) The owner and/or operating agent of a recreational vehicle park may refuse to provide accommodations, service or access to the premises to any person whose conduct on the premises of the park displays intoxication, profanity, lewdness, or brawling; who fails to make payment of rent at the rental rate agreed upon and by the time agreed upon; who indulges in such language or conduct as to disturb the peace, quiet enjoyment, or comfort of other guests; who engages in illegal or disorderly conduct; or whose conduct constitutes a nuisance or safety hazard.

(2) The owner and/or operating agent of a recreational vehicle park may request that a person who violates subsection (1) leave the premises immediately. A person who refuses to leave the premises commits the offense of trespass, and the owner and/or operator may call a law enforcement officer to have the person and



173 his or her property removed under the supervision of the officer.
174 It is the duty of such law enforcement officer, upon the request
175 of such owner and/or operator, to remove from the premises or
176 place under arrest any person who, according to the owner and/or
177 operator, violated subsection (1). If a warrant has been issued
178 by the proper judicial officer for the arrest of any person who
179 violates subsection (1), the officer shall serve the warrant,
180 arrest the person, and take the person into custody. Upon removal
181 or arrest, with or without warrant, the person is deemed to have
182 abandoned or given up any right to occupancy of the premises of
183 the recreational vehicle park; and the operator of the park shall
184 employ all reasonable and proper means to care for any personal
185 property left on the premises by such person. If conditions do
186 not allow for immediate removal of the person's property, he or
187 she may arrange a reasonable time, not to exceed forty-eight (48)
188 hours, with the owner and/or operator to come remove the property,
189 accompanied by a law enforcement officer. If, after forty-eight
190 (48) hours, the person has not removed his or her property, the
191 owner and/or operator of the recreational vehicle park shall have
192 the right to have the property removed. A law enforcement officer
193 shall not be liable for any claim involving the removal of the
194 person or property from the recreational vehicle park under this
195 section.



196 (3) Such refusal of accommodations, service, or access to
197 the premises may not be based upon race, color, national origin,
198 sex, physical disability, or creed.

199 **SECTION 6.** This act shall take effect and be in force from
200 and after its passage.

