

House Amendments to Senate Bill No. 2328

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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.

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

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

31 If the landlord is granted possession of the rental unit,
32 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.

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

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

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

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

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

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

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

(2) After the court-ordered move-out date, the landlord may request a warrant for removal. Upon such request and the payment of applicable fees, the judge shall, except as otherwise

prohibited under subsection (4) of this section, immediately issue a warrant to the sheriff or any constable of the county in which the premises, or some part thereof, are situated, immediately commanding the sheriff or constable to remove all persons from the premises, and to put the landlord into full possession thereof. The warrant of removal shall not be considered executed by law enforcement posting the warrant of removal on the door of the premises. Law enforcement must remove any occupants from the premises and place the landlord into physical possession of the premises.

(3) During the seventy-two (72) hours, after the warrant for removal has been executed, the landlord shall allow the tenant reasonable access to the premises * * * to enable the tenant to remove the tenant's personal property, including any manufactured home. If the tenant moves out within seventy-two (72) hours of the execution of the warrant of removal, leaving personal property behind, then the landlord may dispose of such abandoned property without further notice. After said seventy-two (72) hours, the landlord may remove any property remaining on the premises to the curb, an area designated for garbage or some other location agreed to by the tenant and the landlord.

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

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

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

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

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

89-8-3. (1) This chapter shall apply to, regulate and determine rights, obligations and remedies under any rental 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.

(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 his or her property removed under the supervision of the officer. It is the duty of such law enforcement officer, upon the request of such owner and/or operator, to remove from the premises or place under arrest any person who, according to the owner and/or operator, violated subsection (1). If a warrant has been issued by the proper judicial officer for the arrest of any person who violates subsection (1), the officer shall serve the warrant, arrest the person, and take the person into custody. Upon removal or arrest, with or without warrant, the person is deemed to have abandoned or given up any right to occupancy of the premises of the recreational vehicle park; and the operator of the park shall employ all reasonable and proper means to care for any personal property left on the premises by such person. If conditions do not allow for immediate removal of the person's property, he or she may arrange a reasonable time, not to exceed forty-eight (48) hours, with the owner and/or operator to come remove the property,

185 accompanied by a law enforcement officer. If, after forty-eight
186 (48) hours, the person has not removed his or her property, the
187 owner and/or operator of the recreational vehicle park shall have
188 the right to have the property removed. A law enforcement officer
189 shall not be liable for any claim involving the removal of the
190 person or property from the recreational vehicle park under this
191 section.

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

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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.

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Andrew Ketchings
Clerk of the House of Representatives