

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2328

BY: Committee

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

9 **SECTION 1.** Section 89-8-35, Mississippi Code of 1972, is
10 amended as follows:
11 89-8-35. (1) Upon the filing of the sworn affidavit or
12 complaint, a summons shall be issued for service upon the person
13 in possession of the identified premises or claiming possession
14 thereof. The summons shall command such person to immediately
15 vacate the premises or to show cause before the judge, on a day to
16 be named in the summons, why possession of the premises should not
17 be delivered to the applicant.



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

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

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

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

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

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



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

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

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

52 89-8-39. (1) If a judgment of possession is granted to the
53 landlord, either after a hearing or by default judgment, then the
54 judge shall order the tenant to vacate the premises in seven (7)
55 days from the date of the judgment, unless the court finds that a
56 shorter or longer period of time is justified because of an
57 emergency or other compelling circumstances. Circumstances that
58 justify setting the move-out date less than seven (7) days from
59 the date of the judgment, include, but are not limited to:

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

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



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

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

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



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

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

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

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

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

111 (5) The same processes set forth herein with respect to the
112 enforcement of eviction judgments shall be followed in cases in
113 which the landlord gives notice pursuant to Section 89-8-17(3).

114 **SECTION 3.** Section 89-8-3, Mississippi Code of 1972, is
115 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. This act shall take effect and be in force from and after its passage.

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

AN ACT TO AMEND SECTION 89-8-35, MISSISSIPPI CODE OF 1972, TO CLARIFY A PROVISION OF THE NOTICE PROVIDED TO TENANTS IN AN EVICTION PROCEEDING RELATED TO THE TIMEFRAME FOR THE REMOVAL OF PERSONAL PROPERTY FROM THE PREMISES; TO AMEND SECTION 89-8-39, MISSISSIPPI CODE OF 1972, TO CLARIFY WHEN A WRIT OF REMOVAL SHALL BE CONSIDERED EXECUTED; TO AMEND SECTIONS 89-8-3 AND 89-8-31, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

