

By: Representative Harness

To: Judiciary A; Rules

HOUSE BILL NO. 1169

1 AN ACT TO REPEAL SECTION 11-1-66.1, MISSISSIPPI CODE OF 1972,
2 WHICH CREATES THE LANDOWNERS PROTECTION ACT; TO AMEND SECTION
3 85-5-7, TO CONFORM TO SUCH REPEAL; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 11-1-66.1, Mississippi Code of 1972,
6 which creates the Landowners Protection Act, is repealed.

7 **SECTION 2.** Section 85-5-7, Mississippi Code of 1972, is
8 amended as follows:

9 85-5-7. (1) As used in this section, "fault" means an act
10 or omission of a person which is a proximate cause of injury or
11 death to another person or persons, damages to property, tangible
12 or intangible, or economic injury, including, but not limited to,
13 negligence, malpractice, strict liability, absolute liability or
14 failure to warn. * * * "Fault" shall not include any tort which
15 results from an act or omission committed with a specific wrongful
16 intent. * * *

17 (2) Except as otherwise provided in subsection (4) of this
18 section, in any civil action based on fault, the liability for



19 damages caused by two (2) or more persons shall be several only,
20 and not joint and several and a joint tortfeasor shall be liable
21 only for the amount of damages allocated to him in direct
22 proportion to his percentage of fault. In assessing percentages
23 of fault an employer and the employer's employee or a principal
24 and the principal's agent shall be considered as one (1) defendant
25 when the liability of such employer or principal has been caused
26 by the wrongful or negligent act or omission of the employee or
27 agent.

28 (3) Nothing in this section shall eliminate or diminish any
29 defenses or immunities which currently exist, except as expressly
30 noted herein.

31 (4) Joint and several liability shall be imposed on all who
32 consciously and deliberately pursue a common plan or design to
33 commit a tortious act, or actively take part in it. Any person
34 held jointly and severally liable under this section shall have a
35 right of contribution from his fellow defendants acting in
36 concert.

37 (5) In actions involving joint tortfeasors, the trier of
38 fact shall determine the percentage of fault for each party
39 alleged to be at fault without regard to whether the joint
40 tortfeasor is immune from damages. Fault allocated under this
41 subsection to an immune tortfeasor or a tortfeasor whose liability
42 is limited by law shall not be reallocated to any other
43 tortfeasor.



44 (6) Nothing in this section shall be construed to create a
45 cause of action. Nothing in this section shall be construed, in
46 any way, to alter the immunity of any person.

47 **SECTION 3.** This act shall take effect and be in force from
48 and after July 1, 2020.

