3/22/19 2:40 P.M.

Chapter No. 386
19/SS36/R793CS
LR 17B/LR

SENATE BILL NO. 2716

Originated in Senate Lazewski Secretary

SENATE BILL NO. 2716

AN ACT TO AMEND SECTION 89-7-31, MISSISSIPPI CODE OF 1972, TO CLARIFY WHEN A COMPLAINT FOR EVICTION IS TRIABLE; TO AMEND SECTIONS 89-7-35, 89-7-41 AND 89-7-45, MISSISSIPPI CODE OF 1972, TO CLARIFY WHEN A WARRANT FOR EVICTION IS TO BE ISSUED AND WHEN A STAY OF EXECUTION IS OR IS NOT APPROPRIATE; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 89-7-31, Mississippi Code of 1972, is amended as follows:

89-7-31. (1) On receiving the affidavit, the county judge, justice court judge, municipal judge, or other officer shall issue a summons, directed to the sheriff or any constable of the county, or the marshal of the municipality in which the premises, or some part thereof, are situated, describing the premises, and commanding him to require the person in possession of the same or claiming the possession thereof, immediately to remove from the premises, or to show cause before the justice court judge or other officer, on a day to be named * * * <u>in</u> the summons, why possession of the premises should not be delivered to the applicant.

(2) In addition to other information required for the summons, the summons shall state: "At the hearing, a judge will determine if the landlord is granted exclusive possession of the premises. If the judge grants possession of the premises to the landlord and you do not remove your personal property, including any manufactured home, from the premises before the date and time ordered by the judge, then the landlord may dispose of your personal property without any further legal action."

SECTION 2. Section 89-7-35, Mississippi Code of 1972, is amended as follows:

89-7-35. **Issuance of warrant for removal.** (1) If, at the time appointed, it appears that the summons has been duly served, and if * * * a judgment of eviction is granted, the magistrate shall issue * * * a warrant to the sheriff or any constable of the county, or to a marshal of the municipality in which the premises, or some part thereof, are situated, immediately upon request, except when prohibited or otherwise provided under Section 89-7-45, commanding him to remove all persons from the premises, and to put the applicant into full possession thereof.

(2) If the summons complied with the requirements of Section 89-7-31(2) and if the tenant has failed to remove any of tenant's personal property, including any manufactured home, from the premises, then, if the judge has not made some other finding regarding the disposition of any personal property in the vacated premises, the personal property shall be deemed abandoned and may

be disposed of by the landlord without further notice or obligation to the tenant.

SECTION 3. Section 89-7-41, Mississippi Code of 1972, is amended as follows:

89-7-41. (1) If the decision is in favor of the landlord or other person claiming the possession of the premises, the magistrate shall issue * * * a warrant to the sheriff, constable, or other officer immediately upon request, except when prohibited or otherwise provided under Section 89-7-45, commanding him immediately to put the landlord or other person into possession of the premises, and to levy the costs of the proceedings of the goods and chattels, lands and tenements, of the tenant or person in possession of the premises who shall have controverted the right of the landlord or other person.

(2) If the summons complied with the requirements of Section 89-7-31(2) and if the tenant has failed to remove any of tenant's personal property, including any manufactured home, from the premises, then, if the judge has not made some other finding regarding the disposition of any personal property in the vacated premises, the personal property shall be deemed abandoned and may be disposed of by the landlord without further notice or obligation to the tenant.

SECTION 4. Section 89-7-45, Mississippi Code of 1972, is amended as follows:

89-7-45. **When warrant for removal may issue in cases of nonpayment of rent.** If * * * a judgment of eviction is founded solely upon the nonpayment of rent * * * and, at the time of the request for the warrant for removal the full and complete amount of rent due, including any late fees as provided in the rental agreement that have accrued * * * as of the date of judgment, and the costs of the proceedings, have been paid to the person entitled to the rent, * * * the magistrate shall not issue a warrant for removal. If the rent, late fees and costs * * * have not been paid * * * in full at the time of the request for the warrant for removal, the magistrate must immediately issue the warrant * * * for removal unless the judge determines that, for good cause shown, a stay not to exceed three (3) days would best serve the interests of justice and equity. If it is shown that a stay is likely to result in material injury to the property of the person entitled to the rent, no stay shall be granted.

SECTION 5. This act shall take effect and be in force from and after its passage.

PASSED BY THE SENATE
February 8, 2019

Tate Reeves

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 12, 2019

Philip Gunn

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

Phil Bryant

GOVERNOR

3/22/2019
2:40pm