

MISSISSIPPI LEGISLATURE  
2023 Regular Session  
To: Judiciary, Division A  
By: Senator(s) Hill, Branning, Jordan, Parker

## Senate Bill 2073

### (As Sent to Governor)

AN ACT TO AMEND SECTIONS 93-19-13, 1-3-27, 15-3-11, 11-5-115, 89-1-301, 93-19-1, 93-19-9, 91-20-3, 91-20-41 AND 15-1-17, MISSISSIPPI CODE OF 1972, TO LOWER THE AGE OF MAJORITY TO 18 FOR SECURING LOANS AND ENTERING CONTRACTS FOR REAL PROPERTY; TO REPEAL SECTION 93-3-11, MISSISSIPPI CODE OF 1972, WHICH IS THE PROVISION OF LAW THAT REMOVES THE DISABILITY OF MINORITY FOR CERTAIN MARRIED PERSONS SOLELY WITH RESPECT TO HOMESTEAD TRANSACTIONS; AND FOR RELATED PURPOSES.

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

**SECTION 1.** Section 93-19-13, Mississippi Code of 1972, is amended as follows:

93-19-13. (1) All persons eighteen (18) years of age or older, if not otherwise disqualified, or prohibited by law, shall have the capacity to enter into binding contractual relationships affecting personal property, mortgages and real property. In addition, all persons eighteen (18) years of age or older shall have the capacity to enter into binding contractual relationships for the purpose of investing in mutual funds, stocks, bonds and any other publicly traded equities. Nothing in this section shall be construed to affect any contracts entered into prior to July 1, 1976.

(2) Any person who, upon attaining eighteen (18) years of age, but not having reached the age of majority, \* \* \* if not otherwise disqualified or prohibited by law, shall have the

capacity to enter into binding agreements to lease real property to be occupied by the person as the actual place of residence, and to secure the necessary utility services necessary to make such place of residence habitable, including, but not limited to, electricity, natural gas, propane, water, sewage, garbage disposal and Internet services.

(3) In any legal action founded on a contract entered into by a person eighteen (18) years of age or older, the said person may sue in his own name as an adult and be sued in his own name as an adult and be served with process as an adult.

**SECTION 2.** Section 1-3-27, Mississippi Code of 1972, is amended as follows:

1-3-27. The term "minor," when used in \* \* \* statute, except as otherwise provided by law shall include any person, male or female, under twenty-one (21) years of age. If a statute refers to the ability to enter into a contract affecting personal property or real property, "minor" shall mean any person, male or female, under eighteen (18) years of age.

**SECTION 3.** Section 15-3-11, Mississippi Code of 1972, is amended as follows:

15-3-11. An action shall not be maintained whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy, or upon any ratification after full age of any promise or contract made during infancy, unless such promise or ratification shall be made by some writing, signed by the person to be charged therewith. The full age of ratification shall be eighteen (18) years of age.

**SECTION 4.** Section 11-5-115, Mississippi Code of 1972, is amended as follows:

11-5-115. When a decree shall be made for the sale or conveyance of the real estate of an infant, such decree shall be binding on the infant unless he shall, within one year after attaining the age of \* \* \* eighteen (18) years, show to the court good cause to the contrary; and it shall not be necessary to insert the saving in the decree, but the saving shall not extend to decrees for the sale of the property of deceased persons, authorizing sales by guardians, or enforcing deeds of trust or mortgages.

**SECTION 5.** Section 89-1-301, Mississippi Code of 1972, is amended as follows:

89-1-301. The provisions of Sections 89-1-301 through 89-1-329 shall apply only in the event that the President of the United States has declared that an emergency or major disaster exists in this state and shall apply only to persons or property directly damaged in an enemy attack, or a man-made, technological or natural disaster declared by the Governor in which Sections 89-1-301 through 89-1-329 \* \* \* were specifically included as a relief measure for those counties covered by such disaster declaration. The provisions of Sections 89-1-301 through 89-1-329 shall apply to any mortgage or deed of trust on real property executed prior to the date of the disaster declaration by the Governor, and to any such instruments executed after the date of the disaster declaration by the Governor which renewed or extended any mortgage or deed of trust

executed prior to the date of the disaster declaration by the Governor. When the mortgagee, or owner, or holder, or trustee, or other person having like power shall hereafter determine to foreclose a mortgage or deed of trust on real estate covered by the provisions of Sections 89-1-301 through 89-1-329, he may proceed by bill in chancery, and in the same manner as in proceedings to foreclose under existing statutes in cases where the mortgage or deed of trust contains no provisions for sale by a trustee or otherwise. Any stipulations in the mortgage or deed of trust as to the manner of foreclosure thereunder shall not preclude proceedings to foreclose any mortgage or deed of trust under the provisions of Sections 89-1-301 through 89-1-329. If any mortgagee, holder, owner, trustee, or other person shall attempt to foreclose otherwise than as herein provided, such proceedings may be enjoined by the mortgagor or owner in possession of the mortgaged premises, or anyone claiming under the mortgagor, or anyone liable for the mortgage debt. Upon the filing of a sworn petition which affirmatively sets forth that neither the petitioner nor any other person owning an interest in the legal title to the mortgaged premises is able to pay the sums in arrears on the mortgaged debt, that no such person or persons have been able to secure a refinancing of the mortgaged debt up to the date of the filing of the petition, after diligent effort, and that because of the destruction of or damage to improvements on the mortgaged premises or because of economic conditions brought about by the effects of such an enemy attack or man-made, technological or natural disaster

declared by the Governor, the mortgaged property has depreciated in value as a proximate result of said disaster in an amount in excess of fifteen percent (15%) of its fair market value prior to said disaster, the chancellor of any chancery court of competent jurisdiction shall issue a preliminary injunction enjoining any foreclosure proceedings which have been commenced. The chancellor shall likewise issue a preliminary injunction enjoining any foreclosure proceedings which have been commenced if a sworn petition shall be filed which affirmatively sets forth that as a direct and proximate result of said disaster the petitioner or any other person owning an interest in the legal title to the mortgaged premises is unable to pay the sums in arrears on the mortgage debt, that the petitioner or such other person or persons have not been able to secure the refinancing of the mortgage debt up to the date of the filing of the petition after diligent effort, and that the petitioner has actually sustained a loss in income derived from the mortgaged property, or is presently threatened with such loss as a proximate result of such disaster, in an amount in excess of fifteen percent (15%) of the average annual income from the mortgaged property for the three (3) years immediately prior to said disaster; provided, however, for mortgages or deeds of trust on real property leased or rented for residential purposes from the mortgagor to a third party or parties, the provisions of Sections 89-1-301 through 89-1-329 shall apply only if the mortgagor or landlord has made or is making a good-faith effort

to rehabilitate the property to a reasonable standard of habitability.

Upon the issuance of any such preliminary injunction, the mortgagee may file a motion to dissolve said injunction, which motion shall be heard in termtime or in vacation, at a time to be fixed by the court not less than thirty (30) days from the date of the filing thereof. The mortgagor may implead any and all persons owning or claiming an interest in the legal title to said property and all persons who may be primarily or secondarily liable on the mortgaged indebtedness. Process shall be issued for all parties so impleaded in the manner now provided by law in suits to confirm titles and the cause shall be triable five (5) days after completion of service of process on all parties. The court may grant such continuances as may be necessary for the completion of service of process on all parties.

Upon the hearing of the motion to dissolve, unless the petitioner shall prove all of the material allegations of his petition by a preponderance of the evidence, the preliminary injunction shall be dissolved. No injunction bond shall be required for the issuance of the preliminary injunction. If the court shall find the petition was filed solely for the purpose of hindering and delaying collection of the mortgaged debt and without reasonable grounds therefor, reasonable attorney's fees shall be allowed as in other cases upon dissolution of preliminary injunctions, but not otherwise.

If, upon hearing of the motion to dissolve, it shall be determined that said motion should not be granted, then the hearing shall continue in the same manner as provided for in Section 89-1-303, and the court shall enter its order granting the relief provided for by Sections 89-1-301 through 89-1-329 in the case of bills to foreclose. All the terms and provisions of Sections 89-1-301 through 89-1-329 relating to the proceedings had on, or to relief granted under, bills to foreclose shall be applicable.

Provided, however, if a deed of trust be foreclosed according to the provisions therein contained, and the sale be actually consummated without the mortgagor or his heirs or assigns availing themselves of the right to enjoin said sale as provided in Sections 89-1-301 through 89-1-329, the foreclosure and the title resting thereon, if otherwise regular, shall not be controverted on account of any of the provisions of Sections 89-1-301 through 89-1-329, and this limitation shall also apply to minors who are younger than eighteen (18) years of age, and all others under legal disability. The provisions of this section shall apply to advertisements for sales already published at the time of the disaster declaration by the Governor in which he specifically included the relief provided for in Sections 89-1-301 through 89-1-329, but in which the sale has not been made; provided that in such case the costs of the advertisement be tendered in cash with the bill for injunction.

**SECTION 6.** Section 93-19-1, Mississippi Code of 1972, is amended as follows:

93-19-1. The chancery court of the county in which a minor resides, or the chancery court of a county in which a resident minor owns real estate in matters pertaining to such real estate, may remove the disability of minority of such minor. In cases of married minors, the residence of the husband shall be the residence of the parties. The chancery court of a county in which a nonresident minor of the State of Mississippi owns real estate or any interest in real estate may remove the disability of minority of such minor as to such real estate, so as to enable said minor to do and perform all acts with reference to such real estate, to sell and convey, to mortgage, to lease, and to make deeds of trust and contracts, including promissory notes, concerning said real estate, or any interest therein which may be owned by such minor, as fully and effectively as if said minor were \* \* \* eighteen (18) years of age. The jurisdiction thus exercised shall be that of a court of general equity jurisdiction, and all presumptions in favor of that adjudged shall be accorded at all times.

**SECTION 7.** Section 93-19-9, Mississippi Code of 1972, is amended as follows:

93-19-9. The decree may be for the partial removal of the disability of the minor so as to enable him to do some particular act proposed to be done and specified in the decree; or it may be general, and empower him to do all acts in reference to his property, and making contracts, and suing and being sued, and engaging in any profession or avocation, which he could do if he were \* \* \* eighteen (18) years of age; and the



decree made shall distinctly specify to what extent the disability of the minor is removed, and what character of acts he is empowered to perform notwithstanding his minority, and may impose such restrictions and qualifications as the court may adjudge proper.

**SECTION 8.** Section 91-20-3, Mississippi Code of 1972, is amended as follows:

91-20-3. In this chapter:

(a) "Adult" means an individual who has attained the age of \* \* \* eighteen (18) years.

(b) "Benefit plan" means an employer's plan for the benefit of an employee or partner.

(c) "Broker" means a person lawfully engaged in the business of effecting transactions in securities or commodities for the person's own account or for the account of others.

(d) "Conservator" means a person appointed or qualified by a court to act as general, limited or temporary guardian of a minor's property or a person legally authorized to perform substantially the same functions.

(e) "Court" means the chancery court of the county in which the parties reside.

(f) "Custodial property" means (i) any interest in property transferred to a custodian under this chapter and (ii) the income from and proceeds of that interest in property.

(g) "Custodian" means a person so designated under Section 91-20-19 or a successor or substitute custodian designated under Section 91-20-37.

(h) "Financial institution" means a bank, trust company, savings institution or credit union, chartered and supervised under state or federal law.

(i) "Legal representative" means an individual's personal representative or conservator.

(j) "Member of the minor's family" means the minor's parent, stepparent, spouse, grandparent, brother, sister, uncle or aunt, whether of the whole or half blood or by adoption.

(k) "Minor" means an individual who has not attained the age of \* \* \* eighteen (18) years.

(l) "Person" means an individual, corporation, organization or other legal entity.

(m) "Personal representative" means an executor, administrator, successor personal representative or special administrator of a decedent's estate or a person legally authorized to perform substantially the same functions.

(n) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory or possession subject to the legislative authority of the United States.

(o) "Transfer" means a transaction that creates custodial property under Section 91-20-19.

(p) "Transferor" means a person who makes a transfer under this chapter.

(q) "Trust company" means a financial institution, corporation or other legal entity authorized to exercise general trust powers.

**SECTION 9.** Section 91-20-41, Mississippi Code of 1972, is amended as follows:

91-20-41. The custodian shall transfer in an appropriate manner the custodial property to the minor or to the minor's estate upon the earlier of:

(a) The minor's attainment of \* \* \* eighteen (18) years of age with respect to custodial property transferred under Section 91-20-9 or 91-20-11;

(b) The minor's attainment of eighteen (18) years of age with respect to custodial property transferred under Section 91-20-13 or 91-20-15; or

(c) The minor's death.

**SECTION 10.** Section 15-1-17, Mississippi Code of 1972, is amended as follows:

15-1-17. The owner, mortgagee or other person interested in any land which has been sold or forfeited to the state for delinquent taxes may bring a suit or action to cancel the title of the state, or its patentees, or to recover said land from the state, or its patentees, on account of any defect, irregularity or illegality in the assessment, levy or sale of such land for delinquent taxes within two (2) years after the period of redemption shall have expired, and not thereafter. However, the limitations herein fixed shall not apply when the taxes on such land had been paid prior to the time it was sold for taxes.

If any person entitled to bring any such suit or action shall, at the time at which the cause of action accrues, be under the disability of infancy, or unsoundness of mind, he may

bring the suit or action within the time in this section respectively limited after his disability shall be removed but the saving of persons under disability shall never extend longer than eighteen (18) years if the disability is infancy, or twenty-one (21) years if the disability is unsoundness of mind.

The completion of the limitation herein prescribed to bar any action shall defeat and extinguish all the right, title and interest, including the right of possession in and to such land, of any and all persons whatsoever, except the State of Mississippi and its patentees, and it shall vest in the state, and its patentees, a fee simple title to such lands.

**SECTION 11.** Section 93-3-11, Mississippi Code of 1972, which is the provision of law that removes the disability of minority for certain married persons solely with respect to homestead transactions, is repealed.

**SECTION 12.** This act shall take effect and be in force from and after July 1, 2023.

