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Keeping Uncle Sam and Aunt Jackson Happy

Fair Housing in Mississippi:
Overview of the Fair Housing Act and the Mississippi
Residential Landlord Tenant Act



I AM NOT YOUR LAWYER

The information contained in this presentation is for educational purposes only and should not be considered specific legal advice.

Today's Objective

What You Should Learn



FAIR HOUSING ACT 101

An overview and rudimentary framework of Fair Housing components as mandated by the Federal Government.



RESIDENTIAL LANDLORD TENANT ACT

Historical and General Overview of Mississippi's Residential Landlord Tenant Act. What it means, What it Does, and What it Expects.



WHAT'S CHANGED IN MISSISSIPPI

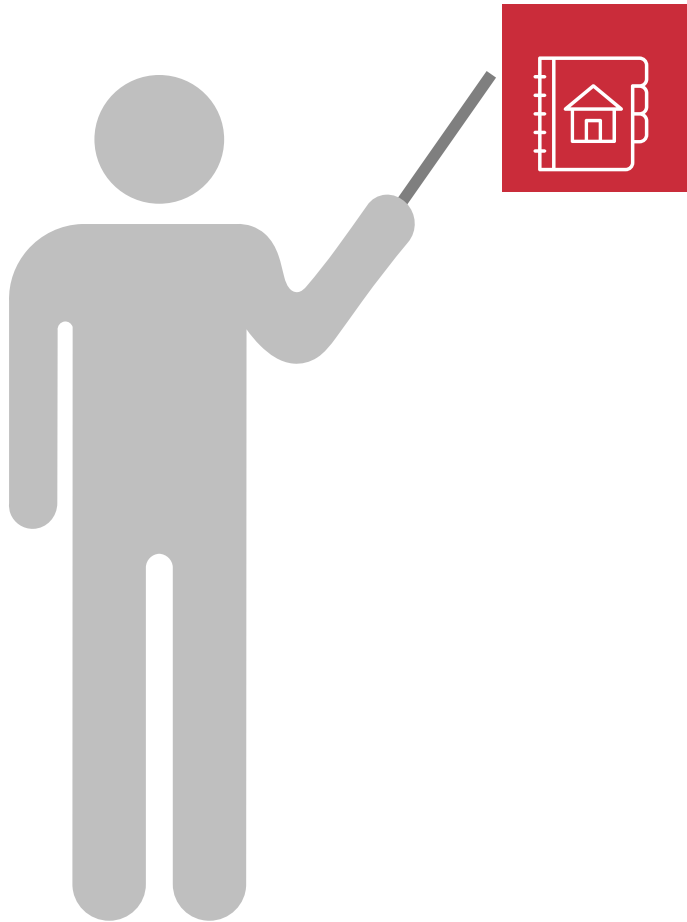
Overview of Conner v. Alltin, LLC, et al. and Senate Bill 2461 of the 2022 Regular Session.

FAIR HOUSING ACT 101

Keeping Uncle Sam Happy when it comes to the duties, requirements, and responsibilities of Fair Housing by knowing about 42 U.S.C. 3601, et seq. and other federal mandates.

Fair Housing Act 101

What You Should Know

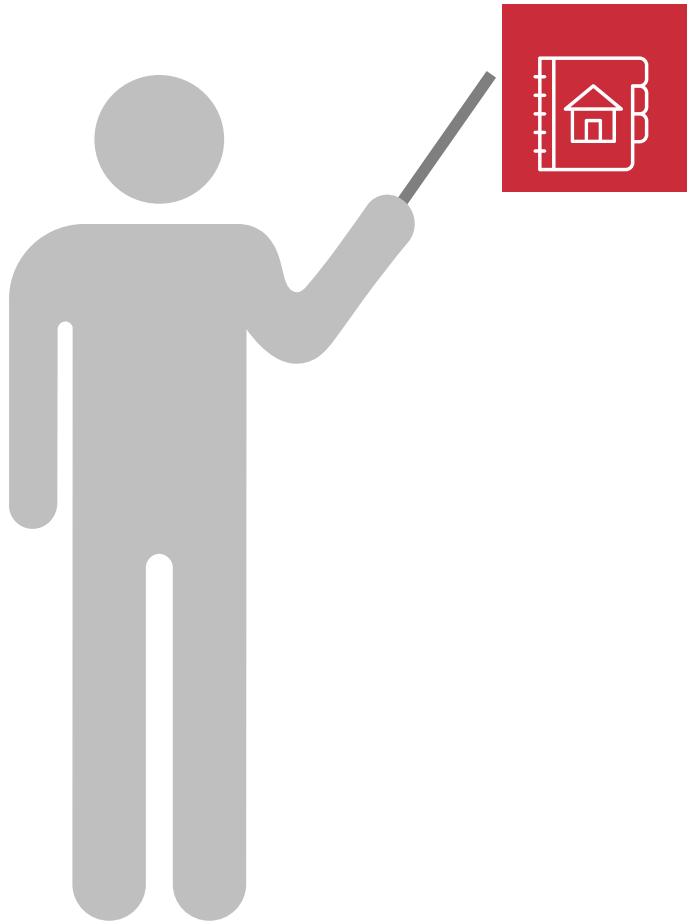


Mississippi

Mississippi's prohibition against discrimination is codified at Mississippi Code Annotated (MCA) § 43-33-723: No person shall be discriminated against because of race, religious principles, color, sex, national origin, ancestry or handicap by the corporation, any qualified sponsor, any lender, or any agent or employee thereof in connection with any housing development or eligible loan. No person shall be discriminated against because of age, nor shall any family be discriminated against because of children, in admission to, or continuance of occupancy in, any housing project receiving assistance under this article except for any housing project constructed under a program restricting occupancy to persons sixty-two (62) years of age or older and any directors of their immediate households or their occupant surviving spouses.

Fair Housing Act 101

What You Should Know



Federal

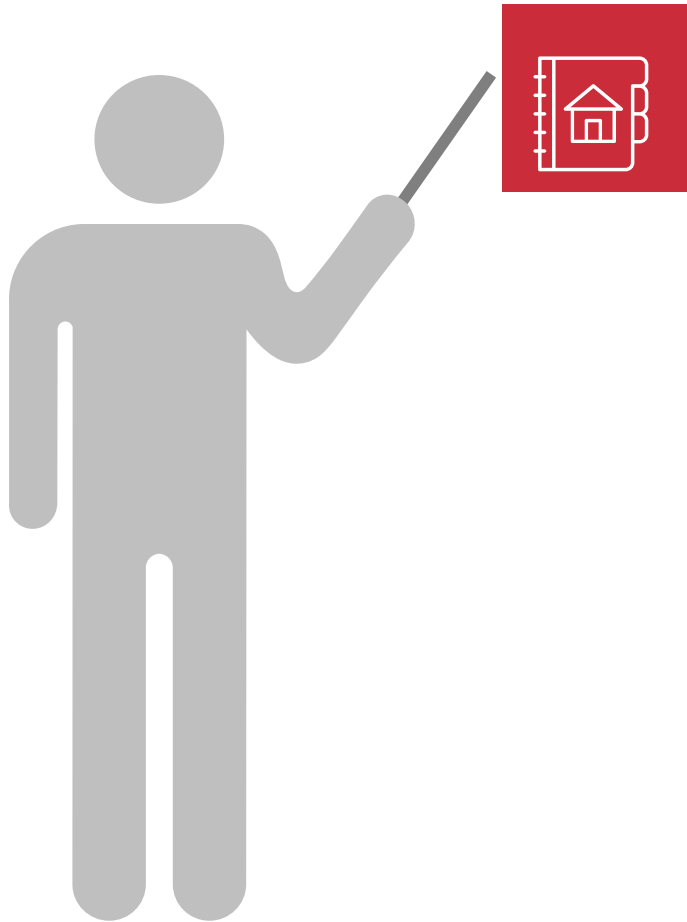
The Federal prohibition against discrimination is codified at 42 U.S. Code § 3601 *et seq.* The declaration is very simple.

§ 3601 (implemented on April 11, 1968) states, “It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.”

So, what does this mean?

Fair Housing Act 101

What You Should Know

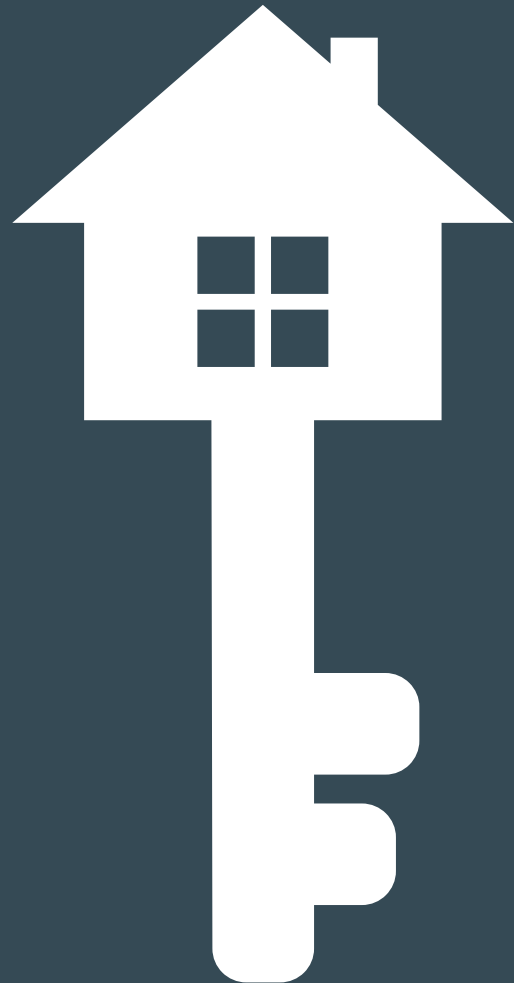


Federal

The Fair Housing Act, *42 U.S.C. 3601 et seq.*, prohibits discrimination by direct providers of housing, such as landlords and management companies, as well as other entities, such as lending institutions, companies who insure properties, and municipalities (basically anyone who receives any federal financial assistance) whose discriminatory practices make housing unavailable to persons because of: race or color, religion, sex, national origin, familial status, or disability.

Fair Housing Act 101

What You Should Know



Race

A central component of 1968 legislation. Still a significant emphasis by the Justice Department.



National Origin

Country of birth or ancestors originated. Private landlords are susceptible—the fast-growing Hispanic population.



Religion/Familial Status

Overt and less direct discrimination. Families with kids, elderly, etc.



Color

Justice Dept. looks closely for false information about availability. Fair Housing Testing Program seeks to uncover hidden discrimination.



Sex

Looking for sexual harassment, pricing discrimination, and other unfair treatments based on a person's sex.



Disability

Mental or physical impairments that substantially limit major life activities.

Fair Housing Act 101

What You Need to Know

Fair Housing Act

- Evidence of a pattern or practice of discrimination or where a denial of rights to a group of persons raises an issue of general public importance.
- Potential criminal indictments when force or threat of force denies fair housing rights.
- Complaints with HUD or individual lawsuits

Prohibitions

- Denying housing, facilities, other benefits, etc.
- Providing **DIFFERENT** housing, facilities, services, etc.
- Restricting access to housing, facilities, accommodations, etc.

More Prohibitions

- Inadequate record-keeping.
- Treat **DIFFERENTLY** in occupancy, admission, waitlists, etc., for housing accommodations and facilities.
- Restricting access to services, aid, or other benefits.

Fair Housing Act 101

What You Need to Know

Even More Prohibitions

- Threatening, coercing, intimidating, or interfering with anyone exercising a fair housing right or assisting another with exercising a fair housing right.
- Creating an untenable living environment by demanding sexual favors from tenants or creating a sexually hostile environment.
- Public and common areas must be accessible to people with disabilities.

More Prohibitions

- Not affording a qualified person the same opportunity as others.
- Segregation of housing.
- Not providing significant assistance.
- Denying qualified persons an opportunity to participate on planning or advisory boards.

More Prohibitions, but not all

- Denying qualified persons the opportunity to participate in the benefit of housing, aid, or service.
- Not affording a qualified person the opportunity for equal participation and benefit.

Other Places for Fair Housing Laws



Civil Rights Act, Title VI

Prohibits discrimination based on race, color, and national origin in federal financial assistance programs and activities.



Rehabilitation Act

Section 504 of the Rehabilitation Act of 1973 guarantees certain rights of people with disabilities.



Americans with Disabilities

Prohibits discrimination in any CPD programs, services, and activities based on disability, including housing assistance and housing referrals.



ABA

The Architectural Barriers Act requires buildings and facilities to be accessible and usable by disabled persons.



HCDA

Section 109 of the Housing and Community Development Act of 1974 prohibits discrimination within CDBG programs.



Age Discrimination

Prohibits discrimination based on age in programs and activities receiving federal financial assistance.



Education Amendment Acts

Title IX is a federal law that prohibits any educational program or activity that receives federal financial assistance from discriminating based on sex.

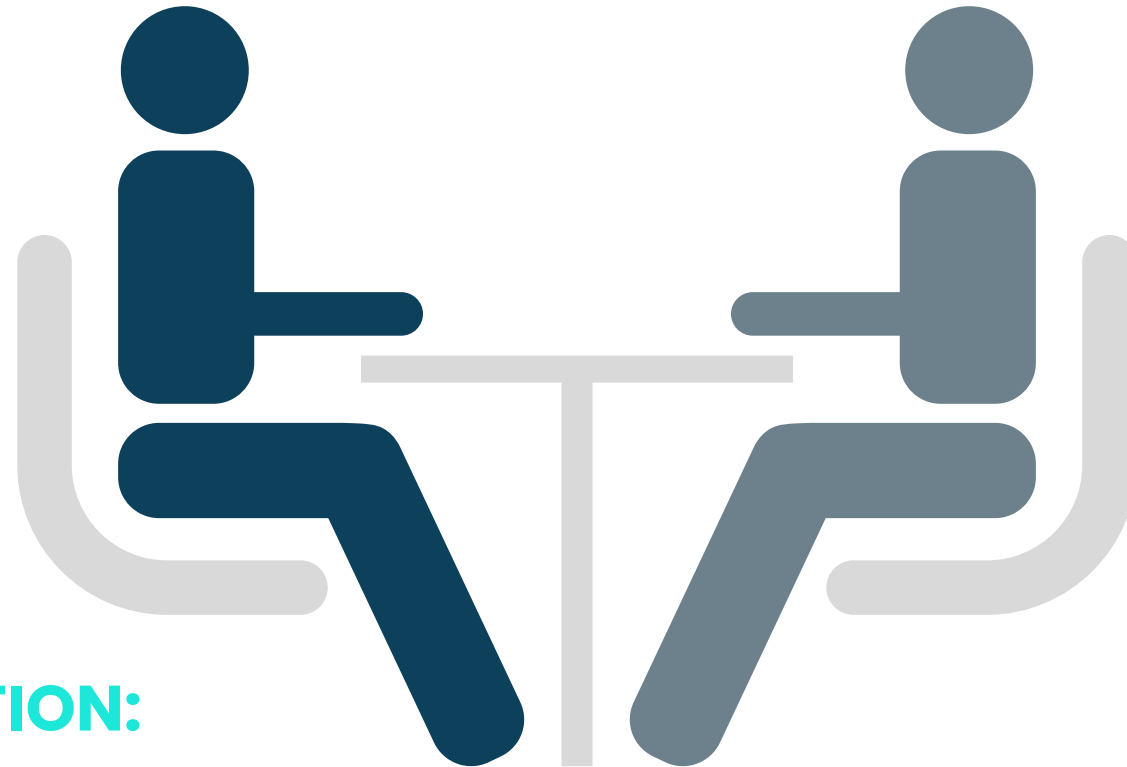


HUD Act OF 1968

Section 3 requires certain HUD funds to be used for low- and very low-income persons.

Fair Housing Act 101

What You Should Know



QUESTION:

Does the Fair Housing Act only apply in states that don't have state fair housing laws?



Fair Housing Act 101

What You Should Know



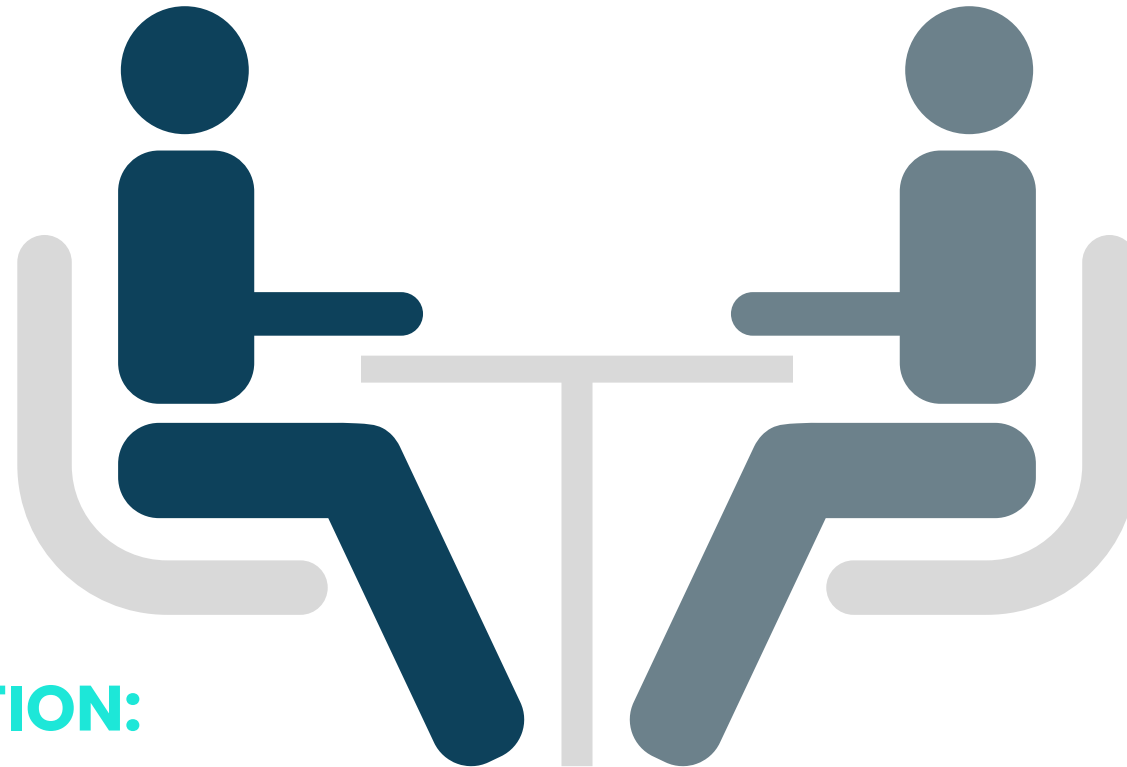
ANSWER:



No. The Fair Housing Act applies regardless of state law.

Fair Housing Act 101

What You Should Know



QUESTION:

If a person asks about the racial composition of a neighborhood, should you answer the person's question?



Fair Housing Act 101

What You Should Know



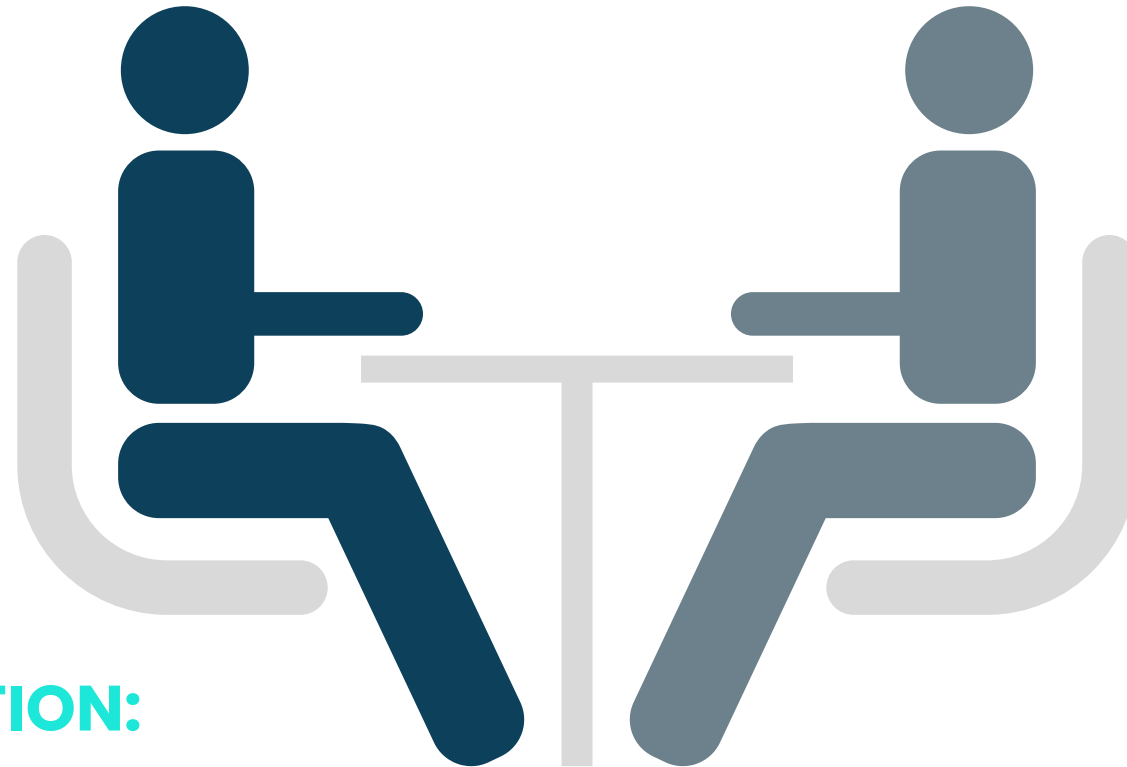
ANSWER:



No. Refer them to the local library or the internet.

Fair Housing Act 101

What You Should Know



QUESTION:

In renting, may I include a preference for ethnic groups in advertisements?



Fair Housing Act 101

What You Should Know



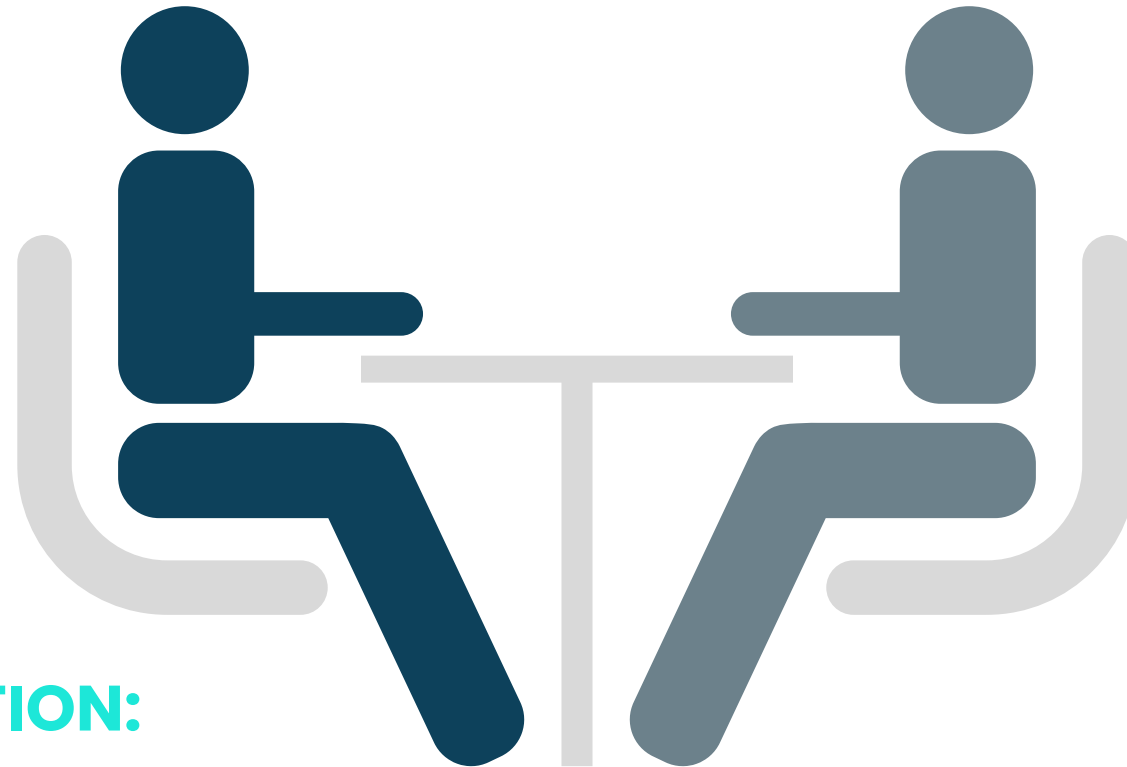
ANSWER:



No. It is illegal to advertise or make any statement that indicates a limitation or preference based on race, color, national origin, religion, sex, familial status, or disability.

Fair Housing Act 101

What You Should Know



QUESTION:

Are there exceptions to this advertisement limitation?



Fair Housing Act 101

What You Should Know



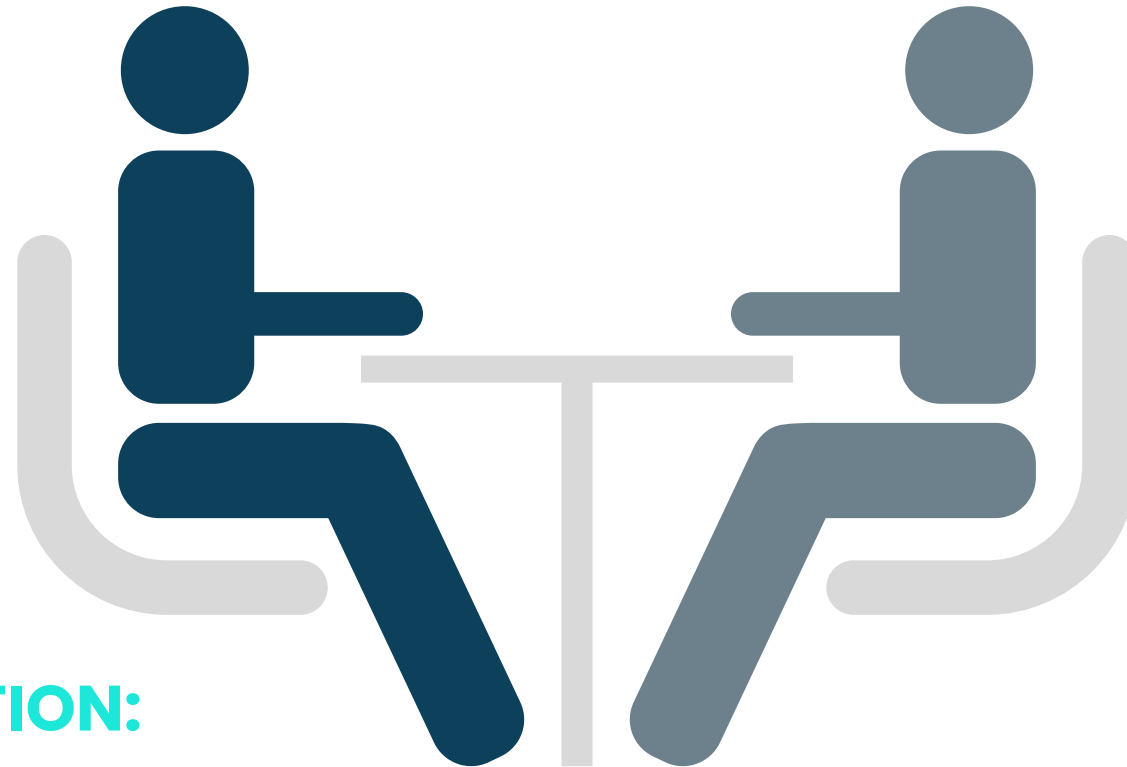
ANSWER:



Yes. For some Shared Housing, Public Club and Religious Exemptions, and Housing for Older Persons.

Fair Housing Act 101

What You Should Know



QUESTION:

Is it illegal to discriminate because a person has been convicted of illegally distributing a controlled substance?



Fair Housing Act 101

What You Should Know



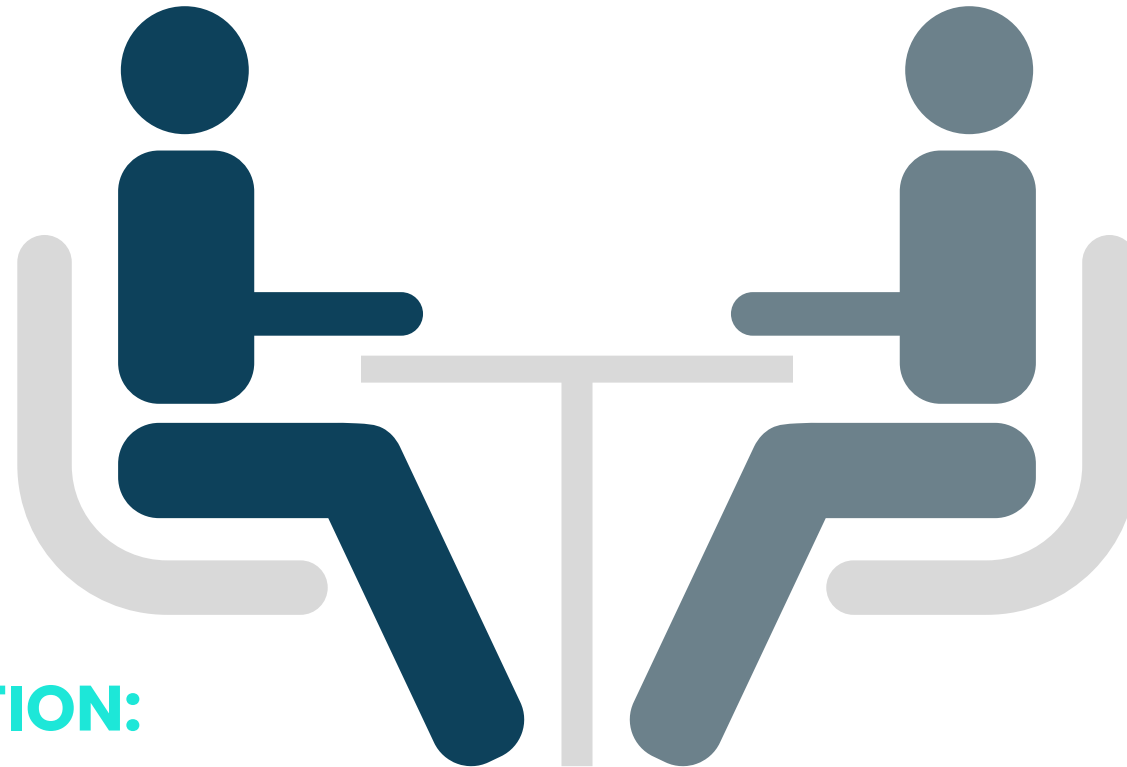
ANSWER:



No. You may choose not to rent to a person who has ever been convicted of illegally distributing a controlled substance without violating the Fair Housing Act.

Fair Housing Act 101

What You Should Know



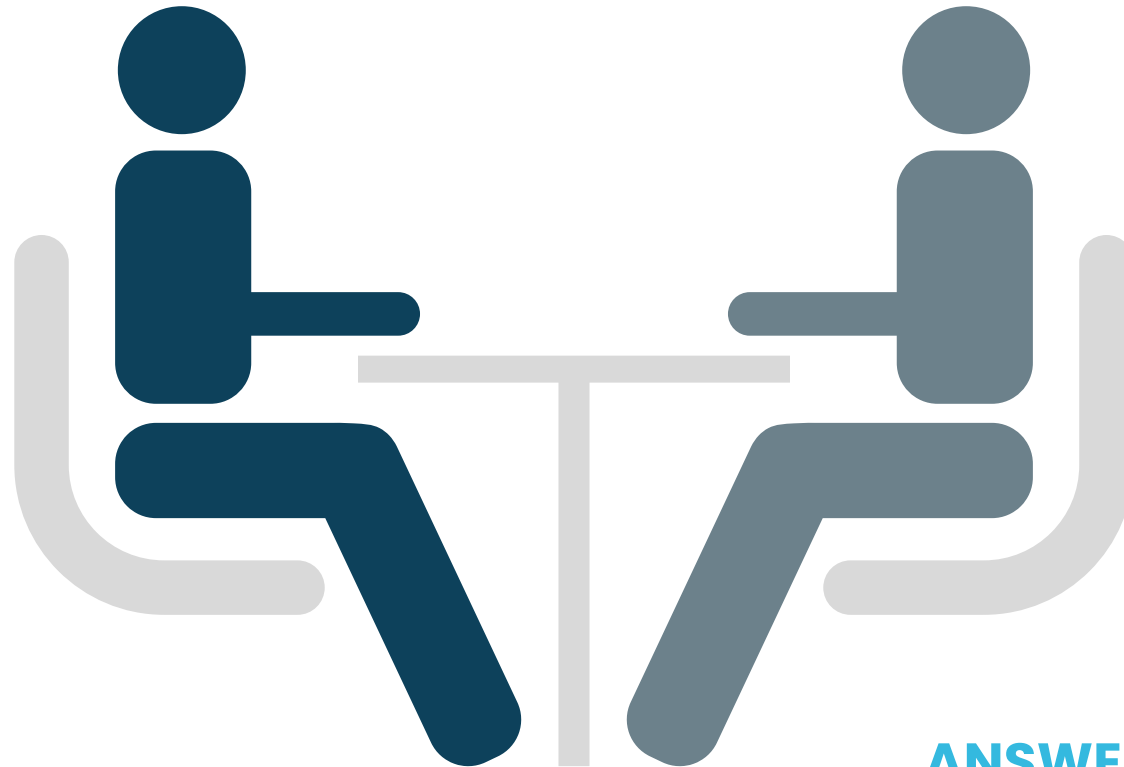
QUESTION:

Is interfering with anyone exercising a fair housing right or assisting another with exercising a fair housing right illegal?



Fair Housing Act 101

What You Should Know



ANSWER:



Yes. This is where criminal charges can be brought.

MISSISSIPPI RESIDENTIAL LANDLORD TENANT ACT

Keeping Aunt Jackson happy when it relates to the Landlord-Tenant relationship in Mississippi according to state statute.

Landlord-Tenant in Mississippi

What You Need to Know



State Statutes

MCA § 89-8-1, et seq. Mississippi Residential Landlord-Tenant Act and selected MCA § 89-7-1, et seq. statutory laws.



Federal Case law

Conner v. Alltin, LLC, Civil Action 3:20-CV-057-MPM-RP, 571 F.Supp.3d 544 (N.D. Miss.)

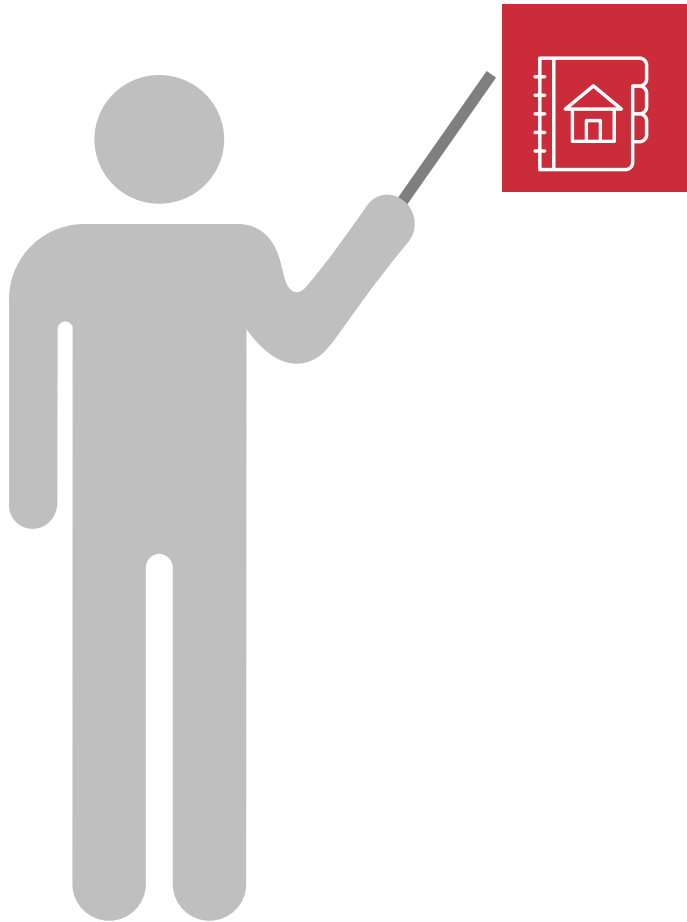


Senate Bill 2461

Legislation in the 2022 Regular Session of the Legislature that addresses state and federal implications

Landlord-Tenant in Mississippi

What You Should Know



Overview

Landlord-Tenant law in Mississippi is codified mainly in two places.

First, you have the Landlord-Tenant Act at MCA § 89-7-1, et seq., that deals with all aspects of the lessee/lessor relationship regardless of status.

Secondly, and more attuned for today, is the Residential Landlord and Tenant Act (RLTA) at MCA § 89-8-1, et seq. This code section was first put into place from the Laws of 1991. The primary driver behind this statute was the University of Mississippi law professor; Deborah Bell. Who incidentally founded the UM Housing Law Clinic that represented the plaintiff in *Conner v. Alltin*. We will concentrate on the RLTA.

Landlord–Tenant in Mississippi

What You Need to Know

Overview of Statues

Sec. 89-8-1 Short title

Sec. 89-8-3 Application of chapter

Sec. 89-8-5 Waiver of rights prohibited; provisions prohibited in rental agreement year.

More overview

Sec. 89-8-7 Definitions; agent of landlord

Sec. 89-8-9 Obligation to act in good faith

Sec. 89-8-11 Rules and regulations of landlord concerning tenant's use and occupancy of premises

More overview

Sec. 89-8-13 Right to terminate tenancy for breach; notice of breach; return of prepaid rent and security; disposition of tenant's abandoned personal property

Sec. 89-8-15 Repair of defects by tenant

Landlord-Tenant in Mississippi

What You Need to Know

Not much more overview

Sec. 89-8-17 Rights of landlord after expiration of rental agreement

Sec. 89-8-19 Length of term of tenancy; notice to terminate tenancy; exception to notice requirement

Sec. 89-8-21 Tenant's security deposit

Just about done

Sec. 89-8-23 Duties of landlord

Sec. 89-8-25 Duties of tenant

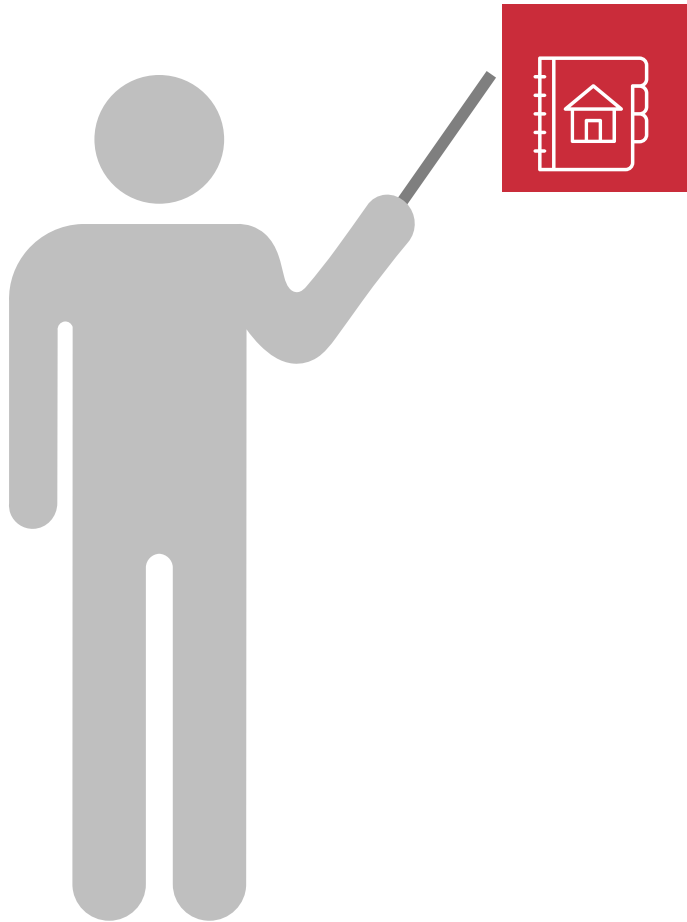
Sec. 89-8-27 Housing authorities authorized to contract with tenant management organizations; authority to sell public housing units to tenant management organizations

Finished

Sec. 89-8-29 Derrick Beard Act; termination of lease of residential premises by cosigner upon death of lessee; presumption of termination; cosigner's choice not to terminate; effect of termination on certain liabilities of lessee's estate or cosigner; applicability of section

Landlord-Tenant in Mississippi

What You Should Know



Federal Lawsuit

Conner v. Alltin, LLC, Civil Action 3:20-CV-057-MPM-RP, 571 F.Supp.3d 544 (N.D. Miss. 2021)

State Statute Constitutionality lawsuit against Alltin LLC, et al. This case was filed in U.S. District Courts, Mississippi Northern District. The Judges overseeing this case were Roy Percy and Michael P. Mills.

Plaintiff Samantha Conner submitted a complaint for Declaratory Judgment that Miss. Code Ann. §89-7-31, §89-7-35, §89-7-41, and §897-45 violate the 5th and 14th Amendment to the U.S. Constitution, for Compensatory and Punitive Damages for violation of 42 U.S.C. §1983, for Conversion, Invasion of Privacy, Negligent Infliction of Emotional Distress, and for Special Damages against ALLTIN LLC, James E. Brooks, Kevin Casteel, and Willie A. “Sonny” Sanders, individually and in his capacity as the duly elected Constable of Lowndes County, Mississippi.

FACTS SUMMARY: A landlord obtained a notice of eviction based on a tenant being behind on their rent. The landlord took a constable to enforce the removal. The landlord and constable did not allow the tenant to remove personal belongings. The landlord sold or threw away the tenant’s personal property.

Landlord-Tenant in Mississippi

What You Need to Know

Overview



This case presents important and novel issues regarding the question of how far a state may constitutionally go in granting landlords the right to seize and keep the property of their tenants during evictions



Mississippi Legislature had gone further than any other state in this nation in allowing landlords to essentially assert full ownership over property of the tenant which is found on the leased premises at the time of eviction.

Claims

- Violation of 42 USC 1983
- Invasion of Privacy



CLAIM FOR DECLARATORY JUDGMENT THAT MISS. CODE ANN. §89-7-31, §89-7-35, §89-7-41, and §89-7-45 VIOLATE THE 5th and 14TH AMENDMENTS TO THE UNITED STATES CONSTITUTION

- Conversion of Personal Property
- Emotional Distress



CLAIM FOR RELIEF AGAINST WILLIE A. "SONNY" SANDERS ACTING IN HIS OFFICIAL AND PERSONAL CAPACITY AS CONSTABLE OF LOWNDES COUNTY, MISSISSIPPI

Landlord-Tenant in Mississippi

What You Need to Know

Order of Court



§§ 89-7-31, 89-7-35, and 89-7-41 of the Mississippi Code are declared unconstitutional, although, as noted below, this finding will be stayed pending interlocutory appeal

Findings

•Sections 89-7-31, 89-7-35, and 89-7-41 of the Mississippi Code



Violates the Fourteen Amendment's Due Process Clause by failing to provide constitutionally adequate notice of the consequences of a tenant's failure to vacate the leased premises prior to eviction

Findings

Sections 89-7-31, 89-7-35, and 89-7-41 of the Mississippi Code



Violates the Fourteen Amendment's Equal Protection Clause by making an arbitrary and capricious distinction between defaulting tenants and other defaulting debtors, specifically concerning the designation of property which is exempt from attachment by creditors

Findings

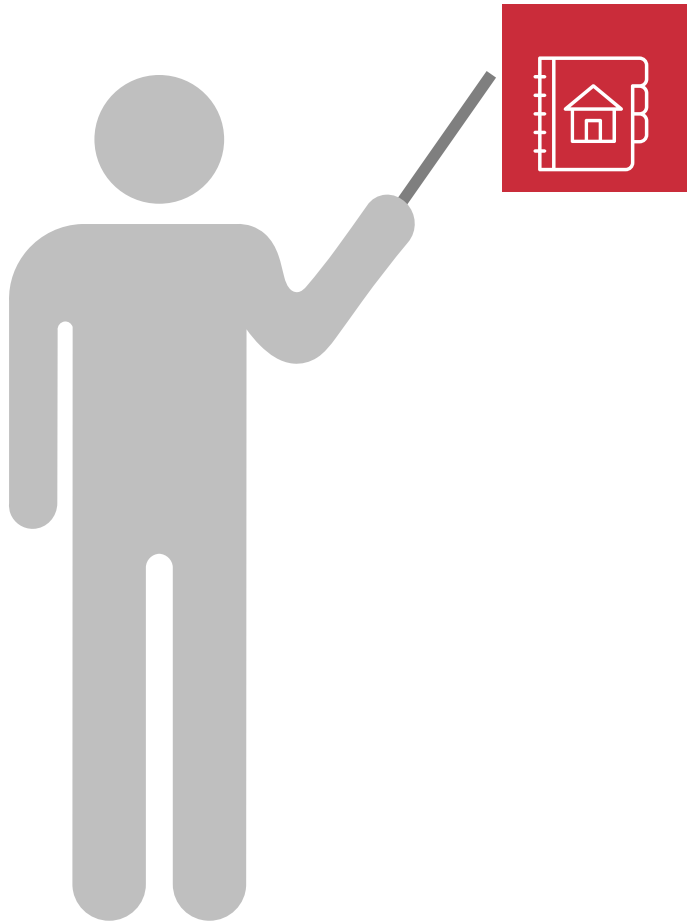
Sections 89-7-31, 89-7-35, and 89-7-41 of the Mississippi Code



Violates the Fourteen Amendment's Equal Protection Clause by arbitrarily and capriciously authorizing landlords to carry out seizures of tenants' property which can only be based on factors such as personal animosity and vindictiveness rather than any legitimate economic interests

Landlord-Tenant in Mississippi

What You Should Know



Senate Bill 2461

Filed in response to the *Conner v. Alltin, LLC* case, Senate Bill 2461 of the 2022 Regular Legislative Session was filed to revise provisions of specific statutes and to create procedures and protections for evictions. The principal authors of the bill were Senators Wiggins, Horhn, and Hickman.

It was referred to the Senate Judiciary, Division A, Committee on January 17, 2022. After going through the usual machinations, a conference report was adopted by the House of Representatives on March 29, 2022, by a vote of 121-0-1, and adopted by the Senate on March 30, 2022, by a vote of 50-0 with 2 voting present.

Governor Reeves approved the enrolled bill on April 21, 2022, and the bill took effect and became enforceable immediately.

SB 2461 New Statutes



Section 89-8-31

WHEN A LANDLORD MAY COMMENCE PROCEEDINGS TO EVICT A TENANT



Section 89-8-33

CERTAIN DOCUMENTS ARE TO BE FILED TO COMMENCE AN EVICTION



Section 89-8-35

THE ISSUANCE OF SUMMONS; CERTAIN DISCLOSURES IN THE SUMMONS: TENANT SHALL HAVE A CERTAIN PERIOD OF TIME AFTER EXECUTION OF A WARRANT OF REMOVAL TO REMOVE PERSONAL PROPERTY



Section 89-8-37 Section 89-7-34

Granting judgment where the landlord is entitled to a judgment and either the tenant failed to appear or present a valid defense or counterclaim; Judgments granted signed and executed the same day as granted.



Section 89-8-39

VACATE THE PREMISES; SAME ACCESS TO THE PREMISES; WARRANT OF REMOVAL; RETRIEVE PERSONAL PROPERTY; PAID SUMS OWED ON A JUDGMENT FOR FAILURE TO PAY RENT



Section 89-8-41

PROVIDE FOR CONTINUANCES



Section 89-8-43

APEALS FROM A FINAL JUDGMENT SHALL BE UNDER APPLICABLE MISSISSIPPI RULES OF COURT



Section 89-8-45

LANDLORD MAY CHARGE THE TENANT DOUBLE THE RENT FOR THE TIME THAT THE TENANT CONTINUES IN POSSESSION OF THE PREMISES FOLLOWING THE DATE TO VACATE

Landlord-Tenant in Mississippi

What You Need to Know

Other Statues Affected

SECTION 89-8-11, REQUIRE RULES AND REGULATIONS TO BE WRITTEN

SECTION 89-8-13, PROVIDE A CERTAIN TIME PERIOD FOR A TENANT TO QUIT THE PREMISES IF THE MATERIAL NONCOMPLIANCE BY THE TENANT IS THE NONPAYMENT OF RENT UNDER THE RENTAL AGREEMENT

SECTION 89-8-19, CLARIFY THAT NOTICE TO TERMINATE THE TENANCY SHALL NOT BE REQUIRED WHEN THE LANDLORD OR TENANT HAS COMMITTED A SUBSTANTIAL VIOLATION OF THE RENTAL AGREEMENT OF THIS CHAPTER THAT MATERIALLY AFFECTS HEALTH OR SAFETY.

More Affected

SECTION 89-7-29, PROSCRIBE CERTAIN DOCUMENTS TO BE FILED TO COMMENCE AN EVICTION FOR PREMISES OR OTHER LANDS THAT ARE NOT DWELLING UNITS; TO REQUIRE THE LANDLORD TO IDENTIFY ANY ITEMS OF TENANT PROPERTY LOCATED AT THE PREMISES AS TO WHICH THE LANDLORD ASSERTS A VALID LIEN

SECTIONS 89-7-27, 89-7-31 AND 89-7-33, MISSISSIPPI CODE OF 1972, TO CONFORM

Finished

SECTIONS 89-7-35, 89-7-37, 89-7-39, 89-7-43, 89-7-47, 89-8-3, 89-8-7, 89-8-9, 89-8-15 AND 89-8-17, MISSISSIPPI CODE OF 1972, TO CONFORM;

TO REPEAL SECTIONS 89-7-41 AND 89-7-45, MISSISSIPPI CODE OF 1972, WHICH GOVERN THE DISPOSITION OF TENANT PERSONAL PROPERTY AND WHEN A WARRANT OF REMOVAL MAY ISSUE

WRAP – UP

What you should know and some trivia.

MISSISSIPPI FIRSTS



1898

Root Beer was invented in Biloxi by Edward Adolf Barq. Sr.



1928

H.T. Merrill from Iuka performed the world's first round trip trans-oceanic flight.



1929

Pine Sol was invented by Jackson native Harry A. Cole, Sr.



1963-64

The University of Mississippi Medical Center accomplished the world's first human lung transplant, and Dr. James D. Hardy performed the world's first heart transplant surgery.



1949

Burnita Shelton Matthews of Hazelhurst was the first woman to serve as a federal judge in the US and served in Washington, D.C.



1986

Walter Payton of Columbia was the first football player on a box of Wheaties.

MISSISSIPPI FIRSTS



1914

Mrs. Mamie Thomas became the first female rural mail carrier in the U.S.



The first bottle of Dr. Tichenor's Antiseptic was produced in Liberty



Leontyne Price was the first African American to become a leading prima donna at the Met in NYC



Mississippi was the first state to have a planned system of junior colleges and the first state-supported institution for the handicapped.



Hiram R. Revels of Mississippi becomes first African American seated in the United States Senate in 1870.



1946

Dr. Emmette F. Izard developed the first fibers of rayon, the first real synthetics.

THAT'S ALL FOR NOW!

Thank you for participating in enhanced learning by the Housing Association of Mississippi, Inc. We hope you find our 2022 Annual Conference rewarding and informative.