

**ARKANSAS SENATE**  
91st General Assembly - Regular Session, 2017  
**Amendment Form**

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**Subtitle of Senate Bill No. 25**

TO CLARIFY THE LAW CONCERNING THE OFFENSE OF FAILURE TO VACATE UPON NOTICE.

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**Amendment No. 1 to Senate Bill No. 25**

Amend Senate Bill No. 25 as originally introduced:

Add Senators B. Sample, D. Wallace, Rice, Caldwell, Hester, Hickey as cosponsors of the bill

AND

Add Representatives Bentley, L. Fite, Rushing, Ballinger, Drown, Dalby, D. Ferguson, Holcomb, Warren, Collins, Penzo, Cozart, Henderson, Vaught, Rye as cosponsors of the bill

AND

Page 1, delete lines 9 through 11, and substitute the following:  
"AN ACT TO AMEND ARKANSAS CODE § 18-16-101 CONCERNING THE FAILURE TO PAY RENT AND THE REFUSAL TO VACATE UPON NOTICE; AND FOR OTHER PURPOSES."

AND

Delete lines 15 and 16 and substitute the following:  
"TO AMEND ARKANSAS CODE § 18-16-101  
CONCERNING THE FAILURE TO PAY RENT AND  
THE REFUSAL TO VACATE UPON NOTICE."

AND

Delete everything after the enacting clause and substitute the following:  
"SECTION 1. DO NOT CODIFY. Findings and legislative intent.

(a) The General Assembly finds that:

(1) The decision of the United States Court of Appeals, Eighth Circuit, in Munson v. Gilliam, 543 F.2d 48 (8th Cir. 1976), and the decision of the Arkansas Supreme Court in Duhon v. State, 299 Ark. 503, 774 S.W.2d 830 (Ark. 1989), upheld the constitutionality of Ark Code § 18-16-101;

(2) The General Assembly amended Ark. Code § 18-16-101 in 2001;

(3) In January 2015, the Circuit Court of Pulaski County, in



State of Arkansas v. Artoria Smith, Case No. CR 2014-2707, ruled that Ark. Code § 18-16-101, as amended, is unconstitutional; and

(4) It is in the best interests of the people of the State of Arkansas for property owners to continue to have remedies against tenants who fail to pay rent for a dwelling house or other building but refuse to surrender possession of the dwelling house or other building.

(b) It is the intent of the General Assembly by this act to amend Ark. Code § 18-16-101 so that the language of Ark. Code § 18-16-101 is exactly as was previously in effect when Ark. Code § 18-16-101 was upheld as constitutional in the Munson and Duhon decisions, and to eliminate the amendments to Ark. Code Ann. § 18-16-101 that were found to be unconstitutional in the Smith decision.

SECTION 2. Arkansas Code § 18-16-101 is amended to read as follows:

18-16-101. Failure to pay rent – Refusal to vacate upon notice – Penalty.

(a) Any person who shall rent any dwelling house or other building or any land situated in the State of Arkansas and who shall refuse or fail to pay the rent therefor when due according to contract shall at once forfeit all right to longer occupy the dwelling house or other building or land.

(b)(1) If, after ten (10) days' notice in writing shall have been given by the landlord or the landlord's agent or attorney to the tenant to vacate the dwelling house or other building or land, the tenant shall willfully refuse to vacate and surrender the possession of the premises to the landlord or the landlord's agent or attorney, the tenant shall be guilty of a misdemeanor.

(2)(A) Upon conviction before any justice of the peace or other court of competent jurisdiction in the county where the premises are situated, the tenant shall be fined in any sum not less than one dollar (\$1.00) nor more than twenty-five dollars (\$25.00) per day for each day that the tenant fails to vacate the premises for each offense.

(B) Each day the tenant shall willfully and unnecessarily hold the dwelling house or other building or land after the expiration of notice to vacate shall constitute a separate offense.

~~(c)(1) Any tenant charged with refusal to vacate upon notice who enters a plea of not guilty to the charge of refusal to vacate upon notice and who continues to inhabit the premises after notice to vacate pursuant to subsection (b) of this section shall be required to deposit into the registry of the court a sum equal to the amount of rent due on the premises. The rental payments shall continue to be paid into the registry of the court during the pendency of the proceedings in accordance with the rental agreement between the landlord and the tenant, whether the agreement is written or oral.~~

~~(2)(A) If the tenant is found not guilty of refusal to vacate upon notice, the rental payments shall be returned to the tenant.~~

~~(B) If the tenant is found guilty of refusal to vacate upon notice, the rental payment paid into the registry of the court shall be paid over to the landlord by the court clerk.~~

~~(3) Any tenant who pleads guilty or nolo contendere to or is found guilty of refusal to vacate upon notice and has not paid the required rental payments into the registry of the court shall be guilty of a Class B misdemeanor."~~

The Amendment was read the first time, rules suspended and read the second time and \_\_\_\_\_

By: Senator B. Johnson

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Secretary