

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015

# A Bill

SENATE BILL 904

4  
5 By: Senator Hester

## For An Act To Be Entitled

8 AN ACT TO AMEND ARKANSAS CODE § 18-16-101 CONCERNING  
9 THE FAILURE TO PAY RENT AND THE REFUSAL TO VACATE  
10 UPON NOTICE; AND FOR OTHER PURPOSES.

## Subtitle

14 TO AMEND ARKANSAS CODE § 18-16-101  
15 CONCERNING THE FAILURE TO PAY RENT AND  
16 THE REFUSAL TO VACATE UPON NOTICE.

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. DO NOT CODIFY. Findings and legislative intent.

22 (a) The General Assembly finds that:

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

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

28 (3) In January 2015, the Circuit Court of Pulaski County, in  
29 State of Arkansas v. Artoria Smith, Case No. CR 2014-2707, ruled that Ark.  
30 Code § 18-16-101, as amended, is unconstitutional; and

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

35 (b) It is the intent of the General Assembly by this act to amend Ark.  
36 Code § 18-16-101 so that the language of Ark. Code § 18-16-101 is exactly as



1 was previously in effect when Ark. Code § 18-16-101 was upheld as  
2 constitutional in the Munson and Duhon decisions, and to eliminate the  
3 amendments to Ark. Code Ann. § 18-16-101 that were found to be  
4 unconstitutional in the Smith decision.

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6 SECTION 2. Arkansas Code § 18-16-101 is amended to read as follows:  
7 18-16-101. Failure to pay rent – Refusal to vacate upon notice –  
8 Penalty.

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

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

19 (2)(A) Upon conviction before any justice of the peace or other  
20 court of competent jurisdiction in the county where the premises are  
21 situated, the tenant shall be fined in any sum not less than one dollar  
22 (\$1.00) nor more than twenty-five dollars (\$25.00) ~~per day for each day that~~  
23 ~~the tenant fails to vacate the premises~~ for each offense.

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

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

36 ~~(2)(A) If the tenant is found not guilty of refusal to vacate~~

1 ~~upon notice, the rental payments shall be returned to the tenant.~~

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

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

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