

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: S1/23/17

A Bill

SENATE BILL 25

5 By: Senators B. Johnson, B. Sample, D. Wallace, Rice, Caldwell, Hester, Hickey
6 By: Representatives B. Smith, Bentley, L. Fite, Rushing, Ballinger, Drown, Dalby, D. Ferguson,
7 Holcomb, Warren, Collins, Penzo, Cozart, Henderson, Vaught, Rye
8

For An Act To Be Entitled

9
10 AN ACT TO AMEND ARKANSAS CODE § 18-16-101 CONCERNING
11 THE FAILURE TO PAY RENT AND THE REFUSAL TO VACATE
12 UPON NOTICE; AND FOR OTHER PURPOSES.
13
14

Subtitle

15 TO AMEND ARKANSAS CODE § 18-16-101
16 CONCERNING THE FAILURE TO PAY RENT AND
17 THE REFUSAL TO VACATE UPON NOTICE.
18
19
20

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

22
23 SECTION 1. DO NOT CODIFY. Findings and legislative intent.

24 (a) The General Assembly finds that:

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

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

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

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



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

7
8 SECTION 2. Arkansas Code § 18-16-101 is amended to read as follows:
9 18-16-101. Failure to pay rent – Refusal to vacate upon notice –
10 Penalty.

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

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

21 (2)(A) Upon conviction before any justice of the peace or other
22 court of competent jurisdiction in the county where the premises are
23 situated, the tenant shall be fined in any sum not less than one dollar
24 (\$1.00) nor more than twenty-five dollars (\$25.00) per day for each day that
25 the tenant fails to vacate the premises for each offense.

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

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

1 ~~written or oral.~~

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

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

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

11
12 /s/B. Johnson
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36