

By: Representative Perry

To: Judiciary A

HOUSE BILL NO. 781  
(As Passed the House)

1 AN ACT TO AMEND SECTION 11-3-23, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE THE COURT OF APPEALS TO ASSESS A PENALTY IN CASES  
3 FINALIZED BY THE COURT; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 11-3-23, Mississippi Code of 1972, is  
6 amended as follows:

7 11-3-23. In case the judgment or decree of the court below  
8 be affirmed, or the appellant fails to prosecute his appeal to  
9 effect, the Supreme Court or the Court of Appeals may render  
10 judgment against the appellant for damages, at a rate not to  
11 exceed fifteen percent (15%), as follows: If the judgment or  
12 decree affirmed be for a sum of money, the damages shall be upon  
13 such sum. If the judgment or decree be for the possession of real  
14 or personal property, the damages shall be assessed on the value  
15 of the property. If the judgment or decree be for the dissolution  
16 of an injunction or other restraining process at law or in  
17 chancery, the damages shall be computed on the amount due the  
18 appellee which was enjoined or restrained. If the judgment or  
19 decree be for the dissolution of an injunction or other  
20 restraining process as to certain property, real or personal, or a  
21 certain interest in property, or be a judgment or decree for the  
22 sale of property, or some interest in it, to satisfy a sum out of  
23 the proceeds of sale, or to enforce or establish a lien or charge  
24 or claim upon or some interest in property, and the only matter  
25 complained of on the appeal is the decree as to some particular  
26 property or claim on it, the damages shall be computed on the

27 value of the property or the interest in it, if the value of the  
28 property or interest in it be less than the judgment or decree  
29 against it; but if the value of the property or interest in it be  
30 greater than the amount of the judgment or decree against it, the  
31 damages shall be upon the amount of the judgment or decree;  
32 provided, however, the above penalty shall not be assessed against  
33 any condemnee appealing from a special court of eminent domain in  
34 any circumstances.

35 SECTION 2. This act shall take effect and be in force from  
36 and after July 1, 1999.