

By: Senator(s) Turner

To: Judiciary

SENATE BILL NO. 2308

1 AN ACT TO AMEND SECTION 11-3-23, MISSISSIPPI CODE OF 1972, TO
2 ALLOW THE COURT OF APPEALS TO ASSESS A 15% STATUTORY PENALTY IN
3 CASES FINALIZED IN THE COURT OF APPEALS; 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 Court of Appeals shall render
10 judgment against the appellant for damages, at the rate of fifteen
11 percent (15%), as follows: If the judgment or decree affirmed be
12 for a sum of money, the damages shall be upon such sum. If the
13 judgment or decree be for the possession of real or personal
14 property, the damages shall be assessed on the value of the
15 property. If the judgment or decree be for the dissolution of an
16 injunction or other restraining process at law or in chancery, the
17 damages shall be computed on the amount due the appellee which was
18 enjoined or restrained. If the judgment or decree be for the
19 dissolution of an injunction or other restraining process as to
20 certain property, real or personal, or a certain interest in
21 property, or be a judgment or decree for the sale of property, or
22 some interest in it, to satisfy a sum out of the proceeds of sale,
23 or to enforce or establish a lien or charge or claim upon or some
24 interest in property, and the only matter complained of on the
25 appeal is the decree as to some particular property or claim on
26 it, the damages shall be computed on the value of the property or

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

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