

By: Senator(s) Turner

To: Judiciary

SENATE BILL NO. 2572

1 AN ACT TO AMEND SECTION 11-3-23, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT THE STATUTORY APPEAL PENALTY SHALL NOT APPLY TO  
3 CLAIMS AGAINST THE STATE OR ITS POLITICAL SUBDIVISIONS MADE UNDER  
4 THE TORTS CLAIM ACT; AND FOR RELATED PURPOSES.

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

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

8 11-3-23. (1) In case the judgment or decree of the court  
9 below be affirmed, or the appellant fails to prosecute his appeal  
10 to effect, the supreme court shall render judgment against the  
11 appellant for damages, at the rate of fifteen percent (15%), as  
12 follows: If the judgment or decree affirmed be for a sum of  
13 money, the damages shall be upon such sum. If the judgment or  
14 decree be for the possession of real or personal property, the  
15 damages shall be assessed on the value of the property. If the  
16 judgment or decree be for the dissolution of an injunction or  
17 other restraining process at law or in chancery, the damages shall  
18 be computed on the amount due the appellee which was enjoined or  
19 restrained. If the judgment or decree be for the dissolution of  
20 an injunction or other restraining process as to certain property,  
21 real or personal, or a certain interest in property, or be a  
22 judgment or decree for the sale of property, or some interest in  
23 it, to satisfy a sum out of the proceeds of sale, or to enforce or  
24 establish a lien or charge or claim upon or some interest in  
25 property, and the only matter complained of on the appeal is the  
26 decree as to some particular property or claim on it, the damages  
27 shall be computed on the value of the property or the interest in

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

35 (2) This section shall not apply to an appeal of a judgment  
36 entered in a claim under Title 11, Chapter 46.

37 SECTION 2. This act shall take effect and be in force from  
38 and after its passage.