To: Judiciary A

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2002
By: Representative Moak

HOUSE BILL NO. 50

AN ACT TO PERMIT PHYSICALLY DISABLED PERSONS TO TERMINATE LEASES WITHOUT PENALTY IF PUBLIC HOUSING ACCOMMODATIONS BECOME AVAILABLE; TO AMEND SECTION 89-8-13, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

SECTION 1. A physically disabled person shall be permitted to terminate a rental lease relative to such person's primary residence without incurring penalties or being obligated to pay rent after ceasing to occupy the property if such person is accepted as a resident of a public housing facility unless the person's current landlord has made significant modifications to the residence to address issues of handicap accessibility. The physically disabled person who terminates a rental lease pursuant to this section shall present written evidence of the public housing facility acceptance to the rental leaseholder and the rental leaseholder shall provide written acknowledgment of the lease termination to the lessee. For the purposes of this section a physically disabled person means a person meets the standard for being "permanently and totally disabled" by the Social Security Administration or the Railroad Retirement Board.

SECTION 2. Section 89-8-13, Mississippi Code of 1972, is amended as follows:

89-8-13. (1) If there is a material noncompliance by the tenant with the rental agreement or the obligations imposed by Section 89-8-25, the landlord may terminate the tenancy as set out in subsection (3) of this section or resort to any other remedy at law or in equity except as prohibited by this chapter.
(2) If there is a material noncompliance by the landlord with the rental agreement or the obligations imposed by Section 89-8-23, the tenant may terminate the tenancy as set out in subsection (3) of this section or resort to any other remedy at law or in equity except as prohibited by this chapter. The tenant may terminate the tenancy under the provisions of Section 1 of House Bill No., 2002 Regular Session.

(3) The nonbreaching party may deliver a written notice to the party in breach specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty (30) days after receipt of the notice if the breach is not remedied within a reasonable time not in excess of thirty (30) days; and the rental agreement shall terminate and the tenant shall surrender possession as provided in the notice subject to the following:

(a) If the breach is remediable by repairs, the payment of damages, or otherwise, and the breaching party adequately remedies the breach prior to the date specified in the notice, the rental agreement shall not terminate;

(b) In the absence of a showing of due care by the breaching party, if substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six (6) months, the nonbreaching party may terminate the rental agreement upon at least fourteen (14) days' written notice specifying the breach and the date of termination of the rental agreement;

(c) Neither party may terminate for a condition caused by his own deliberate or negligent act or omission or that of a member of his family or other person on the premises with his consent.

(4) If the rental agreement is terminated, the landlord shall return all prepaid and unearned rent and security recoverable by the tenant under Section 89-8-21.
(5) Notwithstanding the provisions of this section or any other provisions of this chapter to the contrary, if the material noncompliance by the tenant is the nonpayment of rent pursuant to the rental agreement, the landlord shall not be required to deliver thirty (30) days' written notice as provided by subsection (3) of this section. In such event, the landlord may seek removal of the tenant from the premises in the manner and with the notice prescribed by Chapter 7, Title 89, Mississippi Code of 1972.

SECTION 3. This act shall take effect and be in force from and after July 1, 2002.