

By: Representative Moak

To: Judiciary A

HOUSE BILL NO. 94

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

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

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

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

23 89-8-13. (1) If there is a material noncompliance by the
24 tenant with the rental agreement or the obligations imposed by
25 Section 89-8-25, the landlord may terminate the tenancy as set out
26 in subsection (3) of this section or resort to any other remedy at
27 law or in equity except as prohibited by this chapter.

28 (2) If there is a material noncompliance by the landlord
29 with the rental agreement or the obligations imposed by Section
30 89-8-23, the tenant may terminate the tenancy as set out in
31 subsection (3) of this section or resort to any other remedy at
32 law or in equity except as prohibited by this chapter. The tenant
33 may terminate the tenancy under the provisions of Section 1 of
34 House Bill No. _____, 2004 Regular Session.

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

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

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

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

58 (4) If the rental agreement is terminated, the landlord
59 shall return all prepaid and unearned rent and security
60 recoverable by the tenant under Section 89-8-21.

61 (5) Notwithstanding the provisions of this section or any
62 other provisions of this chapter to the contrary, if the material
63 noncompliance by the tenant is the nonpayment of rent pursuant to
64 the rental agreement, the landlord shall not be required to
65 deliver thirty (30) days' written notice as provided by subsection
66 (3) of this section. In such event, the landlord may seek removal
67 of the tenant from the premises in the manner and with the notice
68 prescribed by Chapter 7, Title 89, Mississippi Code of 1972.

69 **SECTION 3.** This act shall take effect and be in force from
70 and after July 1, 2004.