

By: Senator(s) Nunnelee

To: Judiciary, Division A

SENATE BILL NO. 2221

1 AN ACT TO AMEND SECTION 89-8-13, MISSISSIPPI CODE OF 1972, TO
2 REVISE TERMINATION OF TENANCY FOR CONTROLLED SUBSTANCE VIOLATIONS;
3 AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 89-8-13, Mississippi Code of 1972, is
6 amended as follows:

7 89-8-13. (1) If there is a material noncompliance by the
8 tenant with the rental agreement or the obligations imposed by
9 Section 89-8-25, the landlord may terminate the tenancy as set out
10 in subsection (3) of this section or resort to any other remedy at
11 law or in equity except as prohibited by this chapter.

12 (2) If there is a material noncompliance by the landlord
13 with the rental agreement or the obligations imposed by Section
14 89-8-23, the tenant may terminate the tenancy as set out in
15 subsection (3) of this section or resort to any other remedy at
16 law or in equity except as prohibited by this chapter.

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

25 (a) If the breach is remediable by repairs, the payment
26 of damages, or otherwise, and the breaching party adequately

27 remedies the breach prior to the date specified in the notice, the
28 rental agreement shall not terminate;

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

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

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

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

51 (6) (a) A rental agreement may be terminated where the
52 premises are knowingly used or occupied in whole or in part to
53 violate Section 41-29-139 or 41-29-313.

54 (b) The district attorney may serve personally upon the
55 landlord of the premises so used or occupied, or upon the
56 landlord's agent, a written notice requiring the landlord to
57 inform such district attorney in writing of the landlord's intent
58 to diligently and in good faith seek the eviction of the tenant or
59 tenants so using or occupying the premises. If the landlord or

60 landlord's agent does not so inform such district attorney in
61 writing within five (5) days of receiving written notice, or,
62 having done so, does not in good faith diligently prosecute such
63 eviction, the district attorney may bring a proceeding under this
64 chapter for such eviction as though the district attorney was the
65 owner or landlord of the premises, and such proceeding shall have
66 precedence over any similar proceeding thereafter brought by such
67 landlord or to a proceeding previously brought by such landlord
68 but not prosecuted diligently and in good faith. The person in
69 possession of the property and the landlord shall be made parties
70 to such a proceeding.

71 (c) A court granting relief pursuant to this subsection
72 (6) may order, in addition to any other costs provided by law, the
73 payment by the defendant or defendants of reasonable attorney's
74 fees and the prepaid costs of the proceeding to the district
75 attorney. In such cases, multiple defendants are jointly and
76 severally liable for any payment so ordered. Any costs collected
77 shall be remitted to the office of the district attorney, and any
78 attorney's fees collected shall be remitted to the general fund of
79 the county where the proceeding occurred.

80 (d) A proceeding brought under this section for
81 repossession of the premises does not preclude the owner or
82 landlord from recovering monetary damages from the tenants or
83 occupants of such premises in a civil action.

84 **SECTION 2.** This act shall take effect and be in force from
85 and after July 1, 2004.