

By: Representative Moak

To: Judiciary A

HOUSE BILL NO. 1223

1 AN ACT TO CREATE A NEW SECTION TO BE CODIFIED AS SECTION
2 89-8-29, MISSISSIPPI CODE OF 1972, TO DETERMINE RIGHT OF
3 POSSESSION IN ACTION OR SURRENDER OR ABANDONMENT OF PREMISES; TO
4 AMEND SECTION 89-8-13, MISSISSIPPI CODE OF 1972, IN CONFORMITY;
5 AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** The following shall be codified as Section

8 89-8-29, Mississippi Code of 1972:

9 89-8-29. The landlord shall recover possession of rented
10 premises only:

11 (a) In an action for possession under Section 89-7-27,
12 or other civil action in which the issue of right of possession is
13 determined;

14 (b) When the tenant has surrendered possession of the
15 rented premises to the landlord;

16 (c) When the tenant has abandoned the rented premises.

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

19 89-8-13. (1) If there is a material noncompliance by the
20 tenant with the rental agreement or the obligations imposed by
21 Section 89-8-25, the landlord may terminate the tenancy as set out
22 in subsection (3) of this section or resort to any other remedy at
23 law or in equity except as prohibited by this chapter.

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

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

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

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

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

52 (d) Recovery of possession of rented premises by the
53 landlord shall be governed by Section 89-8-29.

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

57 (5) Notwithstanding the provisions of this section or any
58 other provisions of this chapter to the contrary, if the material
59 noncompliance by the tenant is the nonpayment of rent pursuant to
60 the rental agreement, the landlord shall not be required to
61 deliver thirty (30) days' written notice as provided by subsection

62 (3) of this section. In such event, the landlord may seek removal
63 of the tenant from the premises in the manner and with the notice
64 prescribed by Chapter 7, Title 89, Mississippi Code of 1972.

65 **SECTION 3.** This act shall take effect and be in force from
66 and after July 1, 2006.