

By: Representative Broomfield

To: Judiciary A

HOUSE BILL NO. 1263

1 AN ACT TO AMEND SECTIONS 89-8-13 AND 89-8-23, MISSISSIPPI  
2 CODE OF 1972, TO CLARIFY THE LANDLORD'S DUTY TO REPAIR AND THE  
3 REMEDIES AVAILABLE TO THE LANDLORD AND THE TENANT; AND FOR RELATED  
4 PURPOSES.

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

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

8 89-8-13. (1) If there is a material noncompliance by the  
9 tenant with the rental agreement or the obligations imposed by  
10 Section 89-8-25, the landlord may terminate the tenancy as set out  
11 in subsection (3) of this section or resort to any other remedy at  
12 law or in equity, including an action for eviction, for judgment  
13 for rent or retention of a security deposit as provided by Section  
14 89-8-21, except as prohibited by this chapter.

15 (2) If there is a material noncompliance by the landlord  
16 with the rental agreement or the obligations imposed by Section  
17 89-8-23, the tenant may terminate the tenancy as set out in  
18 subsection (3) of this section or resort to any other remedy at  
19 law or in equity, including an action or counterclaim for damages,  
20 a petition for injunctive relief or, in a landlord's action for  
21 rent, a setoff of rent by the amount of the tenant's damages,  
22 except as prohibited by this chapter.

23 (3) The nonbreaching party may deliver a written notice to  
24 the party in breach specifying the acts and omissions constituting  
25 the breach and that the rental agreement will terminate upon a  
26 date not less than thirty (30) days after receipt of the notice if  
27 the breach is not remedied within a reasonable time not in excess  
28 of thirty (30) days; and the rental agreement shall terminate and

29 the tenant shall surrender possession as provided in the notice  
30 subject to the following:

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

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

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

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

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

57 **SECTION 2.** Section 89-8-23, Mississippi Code of 1972, is  
58 amended as follows:

59 89-8-23. (1) A landlord shall at all times during the  
60 tenancy:

61 (a) Comply with the requirements of applicable building  
62 and housing codes materially affecting health and safety;

63 (b) Maintain the dwelling unit, its plumbing, heating  
64 and/or cooling system, in substantially the same condition as at  
65 the inception of the lease, reasonable wear and tear excluded,  
66 unless the dwelling unit, its plumbing, heating and/or cooling  
67 system is damaged or impaired as a result of the deliberate or  
68 negligent actions of the tenant.

69 (c) Provide and maintain the dwelling unit in a  
70 habitable condition, unless the unit is damaged or impaired as a  
71 result of the deliberate or negligent actions of the tenant.

72 (2) No duty on the part of the landlord shall arise under  
73 this section in connection with a defect which is caused by the  
74 deliberate or negligent act of the tenant or persons on the  
75 premises with the tenant's permission.

76 (3) Subject to the provisions of Section 89-8-5, the  
77 landlord and tenant may agree in writing that the tenant perform  
78 some or all of the landlord's duties under this section, but only  
79 if the transaction is entered into in good faith.

80 (4) No duty on the part of the landlord shall arise under  
81 this section in connection with a defect which is caused by the  
82 tenant's affirmative act or failure to comply with his obligations  
83 under Section 89-8-25.

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