

**Adopted  
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**House Bill No. 413**

**BY: Committee**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

6        SECTION 1. (1) An action shall be dismissed when the  
7 plaintiff fails to take any step in its prosecution in the trial  
8 court for a period of three (3) years, unless it is a probate  
9 proceeding:

10           (a) Which has been opened;

11           (b) In which an administrator or executor has been  
12 appointed; or

13           (c) In which a testament has been probated.

14        (2) On motion of any party suggesting that no step has been  
15 taken for a period of three (3) years in the prosecution of the  
16 action, the trial court shall enter a formal order dismissing the  
17 action.

18        (3) A motion to set aside a dismissal may be made in  
19 accordance with the Mississippi Rules of Civil Procedure. Such a  
20 motion shall be denied unless the plaintiff can show that the  
21 action was not prosecuted due to circumstances beyond the  
22 plaintiff's control.

23        (4) An appeal of an order of dismissal may be taken in  
24 accordance with the Mississippi Rules of Appellate Procedure. An

25 appeal of an order of denial may be taken only within thirty (30)  
26 days of the date of the entry of the order of dismissal.

27 (5) Any formal discovery served on all parties, whether or  
28 not filed of record, including the taking of a deposition with or  
29 without formal notice, shall be deemed to be a step in the  
30 prosecution or defense of an action.

31 **SECTION 2.** This act shall take effect and be in force from  
32 and after July 1, 2006, and shall apply only to causes of action  
33 accruing on or after that date.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO PROVIDE FOR THE ABANDONMENT OF ACTIONS IN TRIAL AND  
2 APPELLATE COURTS; TO PROVIDE FOR A MOTION TO SET ASIDE A  
3 DISMISSAL; TO PROVIDE FOR AN APPEAL OF AN ORDER OF DISMISSAL; AND  
4 FOR RELATED PURPOSES.