

By: Senator(s) McDaniel

To: Judiciary, Division B

SENATE BILL NO. 2807

1 AN ACT TO AMEND SECTIONS 89-7-31, 89-7-41 AND 89-8-13,
2 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AFTER A SEVEN-DAY
3 WAITING PERIOD, A LANDLORD MAY DISPOSE OF PERSONAL PROPERTY
4 ABANDONED BY AN EVICTED TENANT IN A DWELLING UNIT; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 89-7-31, Mississippi Code of 1972, is
8 amended as follows:

9 89-7-31. (1) On receiving such affidavit, the county judge,
10 justice, mayor, or other officer shall issue a summons, directed
11 to the sheriff or any constable of the county, or the marshal of
12 the city, town, or village wherein the premises, or some part
13 thereof, are situated, describing the premises, and commanding him
14 to require the person in possession of the same or claiming the
15 possession thereof, forthwith to remove therefrom, or to show
16 cause before the justice or other officer, on a day to be named
17 not less than three (3) nor more than five (5) days from the date
18 of the summons, why possession of the premises should not be
19 delivered to the applicant.

20 (2) In addition to subsection (1) of this section, the
21 summons shall include the following statement:

22 At the hearing, a judge will decide if the landlord will
23 be granted exclusive possession of the premises. If the
24 judge grants possession of the premises to the landlord,
25 you must remove all articles of personal property owned
26 by you from the premises before the date and time
27 ordered by the judge. If you do not remove your
28 personal property, then the landlord may remove and



29 store your property for a period of seven (7) days at
30 your expense. If you fail to claim the property and to
31 reimburse the landlord before the seven-day period ends,
32 then the landlord may dispose of your property without
33 any further notice or obligation to you.

34 **SECTION 2.** Section 89-7-41, Mississippi Code of 1972, is
35 amended as follows:

36 89-7-41. (1) If the decision be in favor of the landlord or
37 other person claiming the possession of the premises, the
38 magistrate shall issue his warrant to the sheriff, constable, or
39 other officer, commanding him forthwith to put such landlord or
40 other person into possession of the premises, and to levy the
41 costs of the proceedings of the goods and chattels, lands and
42 tenements, of the tenant or person in possession of the premises
43 who shall have controverted the right of the landlord or other
44 person.

45 (2) If the judge rules in favor of the landlord or other
46 person claiming possession of the premises, the judge shall decide
47 a day and time before which the tenant must remove the personal
48 property that the tenant owns from the premises. If the tenant
49 fails to remove his personal property by such time, then the
50 landlord may remove and store the tenant's property for a period
51 of seven (7) days at the tenant's expense. If the tenant fails to
52 claim the property and to reimburse the landlord before the
53 seven-day period ends, the property shall be deemed abandoned.
54 The landlord may dispose of the abandoned property without further
55 notice or obligation to the tenant.

56 **SECTION 3.** Section 89-8-13, Mississippi Code of 1972, is
57 amended as follows:

58 89-8-13. (1) If there is a material noncompliance by the
59 tenant with the rental agreement or the obligations imposed by
60 Section 89-8-25, the landlord may terminate the tenancy as set out



61 in subsection (3) of this section or resort to any other remedy at
62 law or in equity except as prohibited by this chapter.

63 (2) If there is a material noncompliance by the landlord
64 with the rental agreement or the obligations imposed by Section
65 89-8-23, the tenant may terminate the tenancy as set out in
66 subsection (3) of this section or resort to any other remedy at
67 law or in equity except as prohibited by this chapter.

68 (3) The nonbreaching party may deliver a written notice to
69 the party in breach specifying the acts and omissions constituting
70 the breach and that the rental agreement will terminate upon a
71 date not less than thirty (30) days after receipt of the notice if
72 the breach is not remedied within a reasonable time not in excess
73 of thirty (30) days; and the rental agreement shall terminate and
74 the tenant shall surrender possession as provided in the notice
75 subject to the following:

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

80 (b) In the absence of a showing of due care by the
81 breaching party, if substantially the same act or omission which
82 constituted a prior noncompliance of which notice was given recurs
83 within six (6) months, the nonbreaching party may terminate the
84 rental agreement upon at least fourteen (14) days' written notice
85 specifying the breach and the date of termination of the rental
86 agreement;

87 (c) Neither party may terminate for a condition caused
88 by his own deliberate or negligent act or omission or that of a
89 member of his family or other person on the premises with his
90 consent.

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



94 (5) Notwithstanding the provisions of this section or any
95 other provisions of this chapter to the contrary, if the material
96 noncompliance by the tenant is the nonpayment of rent pursuant to
97 the rental agreement, the landlord shall not be required to
98 deliver thirty (30) days' written notice as provided by subsection
99 (3) of this section. In such event, the landlord may seek removal
100 of the tenant and the tenant's personal property from the premises
101 in the manner and with the notice prescribed by Chapter 7, Title
102 89, Mississippi Code of 1972.

103 **SECTION 4.** This act shall take effect and be in force from
104 and after July 1, 2012.

