

By: Senator(s) McDaniel

To: Judiciary, Division B

SENATE BILL NO. 2808

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

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

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

8 89-7-31. (1) On receiving such affidavit, the county judge,
9 justice, mayor, or other officer shall issue a summons, directed
10 to the sheriff or any constable of the county, or the marshal of
11 the city, town, or village wherein the premises, or some part
12 thereof, are situated, describing the premises, and commanding him
13 to require the person in possession of the same or claiming the
14 possession thereof, forthwith to remove therefrom, or to show
15 cause before the justice or other officer, on a day to be named
16 not less than three (3) nor more than five (5) days from the date
17 of the summons, why possession of the premises should not be
18 delivered to the applicant.

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

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



28 property without any further notice or obligation to
29 you.

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

32 89-7-41. (1) If the decision be in favor of the landlord or
33 other person claiming the possession of the premises, the
34 magistrate shall issue his warrant to the sheriff, constable, or
35 other officer, commanding him forthwith to put such landlord or
36 other person into possession of the premises, and to levy the
37 costs of the proceedings of the goods and chattels, lands and
38 tenements, of the tenant or person in possession of the premises
39 who shall have controverted the right of the landlord or other
40 person.

41 (2) If the judge rules in favor of the landlord or other
42 person claiming possession of the premises, the judge shall decide
43 a day and time before which the tenant must remove the personal
44 property that the tenant owns from the premises. If the tenant
45 fails to remove his personal property by such time, the property
46 shall be deemed abandoned. The landlord may dispose of the
47 abandoned property without further notice or obligation to the
48 tenant.

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

51 89-8-13. (1) If there is a material noncompliance by the
52 tenant with the rental agreement or the obligations imposed by
53 Section 89-8-25, the landlord may terminate the tenancy as set out
54 in subsection (3) of this section or resort to any other remedy at
55 law or in equity except as prohibited by this chapter.

56 (2) If there is a material noncompliance by the landlord
57 with the rental agreement or the obligations imposed by Section
58 89-8-23, the tenant may terminate the tenancy as set out in
59 subsection (3) of this section or resort to any other remedy at
60 law or in equity except as prohibited by this chapter.



61 (3) The nonbreaching party may deliver a written notice to
62 the party in breach specifying the acts and omissions constituting
63 the breach and that the rental agreement will terminate upon a
64 date not less than thirty (30) days after receipt of the notice if
65 the breach is not remedied within a reasonable time not in excess
66 of thirty (30) days; and the rental agreement shall terminate and
67 the tenant shall surrender possession as provided in the notice
68 subject to the following:

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

73 (b) In the absence of a showing of due care by the
74 breaching party, if substantially the same act or omission which
75 constituted a prior noncompliance of which notice was given recurs
76 within six (6) months, the nonbreaching party may terminate the
77 rental agreement upon at least fourteen (14) days' written notice
78 specifying the breach and the date of termination of the rental
79 agreement;

80 (c) Neither party may terminate for a condition caused
81 by his own deliberate or negligent act or omission or that of a
82 member of his family or other person on the premises with his
83 consent.

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

87 (5) Notwithstanding the provisions of this section or any
88 other provisions of this chapter to the contrary, if the material
89 noncompliance by the tenant is the nonpayment of rent pursuant to
90 the rental agreement, the landlord shall not be required to
91 deliver thirty (30) days' written notice as provided by subsection
92 (3) of this section. In such event, the landlord may seek removal
93 of the tenant and the tenant's personal property from the premises



94 in the manner and with the notice prescribed by Chapter 7, Title
95 89, Mississippi Code of 1972.

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

