

3/24/14

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Chapter No. 423
14/SS01/R1056CS
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SENATE BILL NO. 2856

Originated in Senate Liz Welch Secretary

SENATE BILL NO. 2856

AN ACT TO PROVIDE FOR THE RENEWAL OF RESIDENTIAL PROPERTY LEASES IN THE PAT HARRISON WATERWAY DISTRICT; TO PROVIDE FOR THE RENEWAL OF COMMERCIAL PROPERTY LEASES IN THE PAT HARRISON WATERWAY DISTRICT; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) At any time more than fifteen (15) years after the commencement date of any residential lease from the district, the leaseholder shall have the option to renew and extend the lease for a new sixty-year term by giving the district notice of his exercise of this option to renew.

(2) At any time after the first fifteen (15) years of the term of any residential lease, the then present lessee may obtain from the district a new sixty-year lease on the terms and conditions contained in the then current lease form approved for use in residential leases with the exception of rent. Rent under such sixty-year leases will be payable on the same annual payment date as rent under the lease being renewed. The maximum annual

rental under the new lease will be determined by the district as follows:

(a) **Renewal of leases with fixed rental**

(nonescalating). The district will recompute the annual rental due under the lease being renewed as if the lease had contained annual rents at the fixed amount stated in the lease for the first ten-year period, escalating thereafter at ten percent (10%); rounded to the nearest Five Dollars (\$5.00), every five-year period. The annual rental which would have been payable as of the renewal date will be the annual rent payable for the first ten-year period of the renewed lease. Annual rental will escalate thereafter at ten percent (10%), rounded to the nearest Five Dollars (\$5.00), every five (5) years. Recomputed annual rental will be payable from and after the first day of the renewed lease term and not for the period prior to renewal.

(b) **Renewal of leases with escalating rental**. Annual rental will remain payable in accordance with the terms of the lease being renewed with rental continuing to escalate at ten percent (10%), rounded to the nearest Five Dollars (\$5.00), every five (5) years during the renewed term.

(3) The district will charge a reasonable nonrefundable fee for preparation of the renewal lease. The lessee will be responsible for obtaining the consent of any mortgage holder to the lease modification.

(4) At any time a lessee is found to be in default or in breach of the terms and conditions contained in the lease, the district shall give thirty (30) days' written notice to such lessee before terminating the lease. Such notice shall be by certified mail and shall specifically state the default or breach. If the lessee does not cure the default or breach within thirty (30) days of such notice, then the district shall give written notice to the holder of any mortgage or deed of trust on the leasehold and such holder shall thereupon have thirty (30) days to cure the default or breach before the lease is terminated.

SECTION 2. (1) Any holder of a lease that is not a residential lease subject to Section 1 of this act shall have the right, exclusive of all other persons, to renew the lease at fair market rental value at any time prior to expiration of the lease.

(2) Other than the right of a lessee to renew at fair market rental value, nothing in this section is intended to limit or restrict the right of the district to negotiate terms of any lease in furtherance of any of the purposes authorized by this section and in a manner deemed favorable to the district by the board of directors.

(3) (a) Prior to entering into any lease under this section, whether a new or renewal lease, the district shall obtain at least one (1) appraisal from a competent appraiser establishing the fair market rental value of the land, exclusive of improvements made by the leaseholder or any predecessor in title,

and, except as otherwise provided in paragraph (b) of this subsection, the land shall not be leased for an amount less than the fair market rental as determined by the appraiser and approved by the board. The district may require such other terms as it deems advisable. The cost of the appraisal shall be paid by the district and may be included in the costs of lease renewal to be reimbursed by the lessee.

(b) The lessee may obtain an appraisal from a certified real estate appraiser establishing the fair market rental value of the land. If the fair market rental value of the land established in such appraisal differs from the fair market rental value of the land established in the appraisal obtained by the district, the land shall not be leased for an amount less than the average of the fair market rental value established by the two (2) appraisals.

(4) For the purposes of this section, "terms" means rent, rent escalation clauses, rental adjustment periods and method of determination, term of years, permitted use, condition of improvements, removal of improvements, and compliance with district rules and regulations.

(5) In the event a lessee has not obtained a new lease pursuant to the provisions of this section, any preemptive right of the lessee to lease the property shall be extinguished upon expiration of the lease, and, at the direction of the district,

the lessee shall remove all improvements and other structures on the property immediately upon termination of the lease.

SECTION 3. Sections 1 and 2 of this act shall be codified in Chapter 15, Title 51, Mississippi Code of 1972.

SECTION 4. This act shall take effect and be in force from and after July 1, 2014.

PASSED BY THE SENATE

February 6, 2014



PRESIDENT OF THE SENATE

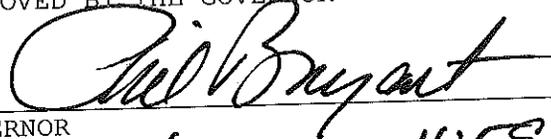
PASSED BY THE HOUSE OF REPRESENTATIVES

March 11, 2014



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

3/29/2014 11:59 am