

By: Representative Wells-Smith

To: Judiciary B

HOUSE BILL NO. 1440

1 AN ACT TO AMEND SECTION 89-1-49, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT MORTGAGES OR DEEDS OF TRUST THAT SECURE LINES OF
3 CREDIT SHALL NOT BE EXTINGUISHED UPON PAYMENT OF THE MONEY
4 SECURED; TO AMEND SECTION 89-5-21, MISSISSIPPI CODE OF 1972, TO
5 SPECIFY WHEN SATISFACTION OF MORTGAGES OR DEEDS OF TRUST SECURING
6 A LINE OF CREDIT SHALL BE ENTERED UPON THE RECORD; AND FOR RELATED
7 PURPOSES.

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

9 SECTION 1. Section 89-1-49, Mississippi Code of 1972, is
10 amended as follows:

11 89-1-49. (1) Except as provided in subsections (2), (3) and
12 (4) of this section, payment of the money secured by any mortgage
13 or deed of trust shall extinguish it, and revert the title in the
14 mortgagor as effectually as if reconveyed.

15 (2) This section shall have no application to security
16 agreements executed under the Mississippi Uniform Commercial Code
17 nor to security interests created by such security agreements.

18 (3) This section shall not apply to a mortgage or deed of
19 trust which states on its face that it secures a line of credit if
20 such line of credit is:

21 (a) Used primarily for business, commercial or
22 agricultural purposes; or

23 (b) To other than a natural person.

24 This subsection (3) shall not apply to consumer loans used
25 primarily for personal, family or household purposes. Mortgages
26 or deeds of trust not covered by this section shall be
27 extinguished as provided in subsection (2) of Section 89-5-21. As
28 used in this section, the term "line of credit" means any loan,

29 extension of credit or financing arrangement where the lender has
30 agreed to make additional or future advances.

31 (4) This section shall have no application to a mortgage or
32 deed of trust which secures a line of credit.

33 SECTION 2. Section 89-5-21, Mississippi Code of 1972, is
34 amended as follows:

35 89-5-21. (1) Except as otherwise provided in this section,
36 any mortgagee or cestui que trust, or assignee of any mortgagee or
37 cestui que trust, of real or personal estate, having received full
38 payment of the money due by the mortgage or deed of trust, shall
39 enter satisfaction upon the margin of the record of the mortgage
40 or deed of trust, which entry shall be attested by the clerk of
41 the chancery court and discharge and release the same, and shall
42 bar all actions or suits brought thereon, and the title shall
43 thereby revert in the grantor.

44 (2) With respect to a mortgage or deed of trust which states
45 on its face that it secures a line of credit, if such line of
46 credit is:

47 (a) Used primarily for business, commercial or
48 agricultural purposes, or

49 (b) To other than a natural person,
50 satisfaction of record shall be accomplished as set forth in
51 subsection (3) of this section, and extinguishment shall occur as
52 provided in subsection (4) of this section.

53 (3) A mortgagee or cestui que trust, or the assignee of a
54 mortgagee or cestui que trust, under a mortgage or deed of trust
55 described in subsection (2) of this section, shall, upon

56 (a) The termination or maturity of the line of credit
57 and the payment of all sums owing in connection with the line of
58 credit, or

59 (b) The payment of all sums owing in connection with
60 the line of credit and the written request by the debtor to cancel
61 the line of credit and mortgage or deed of trust securing the line
62 of credit, enter satisfaction of the mortgage or deed of trust in
63 the same manner as with other mortgages or deeds of trust.

64 (4) Upon the occurrence of either paragraph (a) or (b) of
65 subsection (3) of this section, a mortgage or deed of trust

66 described in subsection (2) of this section shall be extinguished
67 and title shall revert in the mortgagor as effectually as if
68 reconveyed.

69 (5) Subsections (2), (3) and (4) of this section shall not
70 apply to consumer loans used primarily for personal, family or
71 household purposes.

72 (6) Any such mortgagee or cestui que trust, or such assignee,
73 by himself or his attorney, who does not, after payment of all sums
74 owed, within one (1) month after written request, cancel on the
75 record the mortgage or deed of trust shall forfeit the sum of Two
76 Hundred Dollars (\$200.00), which can be recovered by suit on part
77 of the party aggrieved, and if after request, he fails or refuses
78 to make such acknowledgment of satisfaction, the person so
79 neglecting or refusing shall forfeit and pay to the party aggrieved
80 any sum not exceeding the mortgage money, to be recovered by
81 action; but such entry of satisfaction may be made by anyone
82 authorized to do it by the written authorization of the mortgagee
83 or beneficiary, duly acknowledged and recorded, and shall have the
84 same effect as if done by the mortgagee or beneficiary.

85 (7) As used in this section, the term "line of credit" means
86 any loan, extension of credit or financing arrangement where the
87 lender has agreed to make additional or future advances.

88 (8) Any mortgagee or cestui que trust, or the assignee of a
89 mortgagee or cestui que trust, under a mortgage or deed of trust
90 securing a line of credit shall, upon (a) the termination or
91 maturity of the line of credit and the payment of all sums owing
92 in connection with the line of credit, or (b) the payment of all
93 sums owing in connection with the line of credit and a written
94 request by the debtor to cancel the line of credit and the
95 mortgage or deed of trust securing the line of credit, enter
96 satisfaction upon the margin of the record of the mortgage or deed
97 of trust, which entry shall be attested by the clerk of the
98 chancery court and discharge and release the same, and shall bar

99 all actions or suits brought thereon, and the title shall thereby
100 revest in the grantor.

101 SECTION 3. This act shall take effect and be in force from
102 and after its passage.