

By: Senator(s) Posey

To: Business and  
Financial  
Institutions;  
Judiciary

SENATE BILL NO. 2563

1 AN ACT TO AMEND SECTION 89-1-49, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT MORTGAGES AND DEEDS OF TRUST THAT SECURE LINES OF  
3 CREDIT SHALL NOT BE EXTINGUISHED UPON PAYMENT OF THE MONEY OWED;  
4 TO AMEND SECTION 89-5-21, MISSISSIPPI CODE OF 1972, TO SPECIFY  
5 WHEN SATISFACTION OF MORTGAGES OR DEEDS OF TRUST THAT SECURE LINES  
6 OF CREDIT SHALL BE ENTERED UPON THE RECORD; TO SPECIFY WHEN  
7 EXTINGUISHMENT OF MORTGAGES AND DEEDS OF TRUST THAT SECURE LINES  
8 OF CREDIT SHALL OCCUR; AND FOR RELATED PURPOSES. BE IT ENACTED BY  
9 THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

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

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

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

20 (3) This section shall not apply to a mortgage or deed of  
21 trust which states on its face that it secures a line of  
22 credit \* \* \*. \* \* \* Mortgages or deeds of trust not covered by  
23 this section shall be extinguished as provided in subsection (2)  
24 of Section 89-5-21. As used in this section, the term "line of  
25 credit" means any loan, extension of credit or financing  
26 arrangement where the lender has agreed to make additional or  
27 future advances.

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

30 89-5-21. (1) Except as otherwise provided in this section,

31 any mortgagee or cestui que trust, or assignee of any mortgagee or  
32 cestui que trust, of real or personal estate, having received full  
33 payment of the money due by the mortgage or deed of trust, shall  
34 enter satisfaction upon the margin of the record of the mortgage  
35 or deed of trust, which entry shall be attested by the clerk of  
36 the chancery court and discharge and release the same, and shall  
37 bar all actions or suits brought thereon, and the title shall  
38 thereby revert in the grantor.

39 (2) With respect to a mortgage or deed of trust which states  
40 on its face that it secures a line of credit, \* \* \* satisfaction  
41 of record shall be accomplished as set forth in subsection (3) of  
42 this section, and extinguishment shall occur as provided in  
43 subsection (4) of this section.

44 (3) A mortgagee or cestui que trust, or the assignee of a  
45 mortgagee or cestui que trust, under a mortgage or deed of trust  
46 described in subsection (2) of this section, shall, upon:

47 (a) The termination or maturity of the line of credit  
48 and the payment of all sums owing in connection with the line of  
49 credit, or

50 (b) The payment of all sums owing in connection with  
51 the line of credit and the written request by the debtor to cancel  
52 the line of credit and mortgage or deed of trust securing the line  
53 of credit, enter satisfaction of the mortgage or deed of trust in  
54 the same manner as with other mortgages or deeds of trust.

55 (4) Upon the occurrence of either paragraph (a) or (b) of  
56 subsection (3) of this section, a mortgage or deed of trust  
57 described in subsection (2) of this section shall be extinguished  
58 and title shall revert in the mortgagor as effectually as if  
59 reconveyed.

60 \* \* \*

61 (5) Any such mortgagee or cestui que trust, or such  
62 assignee, by himself or his attorney, who does not, after payment  
63 of all sums owed, within one (1) month after written request,

64 cancel on the record the mortgage or deed of trust shall forfeit  
65 the sum of Two Hundred Dollars (\$200.00), which can be recovered  
66 by suit on part of the party aggrieved, and if after request, he  
67 fails or refuses to make such acknowledgment of satisfaction, the  
68 person so neglecting or refusing shall forfeit and pay to the  
69 party aggrieved any sum not exceeding the mortgage money, to be  
70 recovered by action; but such entry of satisfaction may be made by  
71 anyone authorized to do it by the written authorization of the  
72 mortgagee or beneficiary, duly acknowledged and recorded, and  
73 shall have the same effect as if done by the mortgagee or  
74 beneficiary.

75       (6) As used in this section, the term "line of credit" means  
76 any loan, extension of credit or financing arrangement where the  
77 lender has agreed to make additional or future advances.

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