

By: Posey

To: Business and
Financial
Institutions

SENATE BILL NO. 3144
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 89-1-49 AND 89-5-21, MISSISSIPPI
2 CODE OF 1972, TO SPECIFY WHEN SATISFACTION OF A MORTGAGE OR DEED
3 OF TRUST WHICH STATES ON ITS FACE THAT IT SECURES A LINE OF CREDIT
4 SHALL BE ENTERED UPON THE RECORD; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 89-1-49, Mississippi Code of 1972, is
7 amended as follows:[JMR1]

8 89-1-49. (1) Except as provided in subsections (2) and (4)
9 of this section, payment of the money secured by any mortgage or
10 deed of trust shall extinguish it, and revert the title in the
11 mortgagor as effectually as if reconveyed.

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

15 (3) As used in this section, the term "line of credit" means
16 any loan, extension of credit or financing arrangement where the
17 lender has agreed to make additional or future advances.

18 (4) This section shall have no application to a mortgage or
19 deed of trust which states on its face that it secures a line of
20 credit; nor to one which secures a line of credit and, under prior
21 law, was not required to state on its face that it secures a line
22 of credit. Mortgages or deeds of trust not covered by this
23 section shall be extinguished as provided in subsection (5) of
24 Section 89-5-21.

25 SECTION 2. Section 89-5-21, Mississippi Code of 1972, is
26 amended as follows:[JMR2]

27 89-5-21. (1) Except as otherwise provided in this

28 subsections (3), (4) and (5), any mortgagee or cestui que trust,
29 or assignee of any mortgagee or cestui que trust, of real or
30 personal estate, having received full payment of the money due by
31 the mortgage or deed of trust, shall enter satisfaction upon the
32 margin of the record of the mortgage or deed of trust, which entry
33 shall be attested by the clerk of the chancery court and discharge
34 and release the same, and shall bar all actions or suits brought
35 thereon, and the title shall thereby revest in the grantor.

36 (2) Any such mortgagee or cestui que trust, or such
37 assignee, by himself or his attorney, who does not, after payment
38 of all sums owed, within one (1) month after written request,
39 cancel on the record the mortgage or deed of trust shall forfeit
40 the sum of Two Hundred Dollars (\$200.00), which can be recovered
41 by suit on part of the party aggrieved, and if after request, he
42 fails or refuses to make such acknowledgment of satisfaction, the
43 person so neglecting or refusing shall forfeit and pay to the
44 party aggrieved any sum not exceeding the mortgage money, to be
45 recovered by action; but such entry of satisfaction may be made by
46 anyone authorized to do it by the written authorization of the
47 mortgagee or beneficiary, duly acknowledged and recorded, and
48 shall have the same effect as if done by the mortgagee or
49 beneficiary.

50 (3) With respect to a mortgage or deed of trust which states
51 on its face that it secures a line of credit, satisfaction of
52 record shall be accomplished and extinguishment shall occur as
53 provided in subsection (5).

54 (4) As used in this section, the term "line of credit" means
55 any loan, extension of credit or financing arrangement where the
56 lender has agreed to make additional or future advances.

57 (5) Any mortgagee or cestui que trust, or the assignee of a
58 mortgagee or cestui que trust, under a mortgage or deed of trust
59 securing a line of credit shall, upon (a) the termination or
60 maturity of the line of credit and the payment of all sums owing

61 in connection with the line of credit, or (b) the payment of all
62 sums owing in connection with the line of credit and a written
63 request by the debtor to cancel the line of credit and the
64 mortgage or deed of trust securing the line of credit, enter
65 satisfaction upon the margin of the record of the mortgage or deed
66 of trust, which entry shall be attested by the clerk of the
67 chancery court and discharge and release the same, and shall bar
68 all actions or suits brought thereon, and the title shall thereby
69 revert in the grantor. For the purpose of this subsection (5),
70 the requirement of a written request by the debtor may be
71 satisfied by a prospective creditor's delivery of a document,
72 signed by the debtor, requesting cancellation of the line of
73 credit and the mortgage or deed of trust securing the line of
74 credit.

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