

By: Representative Smith (39th)

To: Judiciary A

HOUSE BILL NO. 1227

1 AN ACT TO AMEND SECTION 91-9-7, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE FILING OF A CERTIFICATE OF TRUST AGREEMENT IN LIEU OF  
3 THE ENTIRE TRUST AGREEMENT; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 91-9-7, Mississippi Code of 1972, is  
6 amended as follows:

7 91-9-7. (1) A certificate of a trust agreement which  
8 conveys or entrusts an interest in real property may be lodged for  
9 record with the clerk of the appropriate chancery court, in lieu  
10 of the entire trust agreement, in accordance with the provisions  
11 of this section. The certificate must be executed by the  
12 trustee \* \* \* and it must contain the following: (a) the name of  
13 the trust; (b) the street and mailing address of the office, and  
14 the name and street and mailing address of the trustee; (c) the  
15 name and street and mailing address of the grantor; (d) a legally  
16 sufficient description of all interests in real property owned by  
17 or conveyed to the trust; (e) the anticipated date of termination  
18 of the trust; and (f) the general powers granted to the trustee.

19 (2) The trust shall be formed and take full effect as of the  
20 filing of the certificate of trust in the office of the chancery  
21 clerk. For all purposes, a copy of the certificate of trust, duly  
22 recorded, is conclusive evidence of the formation of a trust and  
23 prima facie evidence of its existence. Any person, who in good  
24 faith deems it necessary to review the terms and conditions of the  
25 trust, shall be entitled to inspect the trust agreement in the  
26 office of the trustee upon reasonable notification.

27           (3) If the trustee does not allow a person to inspect the  
28 trust agreement as provided in subsection (2) of this section  
29 within thirty (30) days after reasonable notification, such person  
30 may petition a court of competent jurisdiction to compel the  
31 trustee to produce the trust agreement for inspection by the  
32 petitioner. In the event such court grants the petition all  
33 necessary costs incurred by the petitioner, including reasonable  
34 attorney's fees, shall be taxed against the trustee.

35           (4) The certificate of trust may be amended by filing a  
36 certificate of amendment thereto with the chancery clerk. The  
37 certificate of amendment shall set forth the amendment to the  
38 original certificate with particularity and the future effective  
39 date of the amendment, which must be a date certain. Each  
40 certificate of amendment filed under this subsection must be  
41 executed in the following manner: (a) the original certificate of  
42 trust must be signed and acknowledged by \* \* \* the trustee; (b)  
43 the certificate of amendment must be acknowledged in a manner that  
44 is suitable for recordation; and (c) \* \* \* the certificate of  
45 amendment must be filed in the office of the chancery clerk where  
46 the original trust or certificate of trust is recorded.

47           SECTION 2. This act shall take effect and be in force from  
48 and after July 1, 2001.