

By: Senator(s) Tollison, Chamberlin

To: Judiciary

SENATE BILL NO. 2925

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.