

By: Representative Baker (74th)

To: Judiciary B

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 81

1 AN ACT TO AMEND SECTION 11-53-81, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THE RECOVERY OF ATTORNEY'S FEES ON OPEN ACCOUNTS OR
3 OTHER LAWFUL DEBTS; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 11-53-81, Mississippi Code of 1972, is
6 amended as follows:

7 11-53-81. When any person fails to pay an open account or
8 other lawful debt within thirty (30) days after receipt of written
9 demand therefor correctly setting forth the amount owed and an
10 itemized statement of the account or debt in support thereof, that
11 person shall be liable for reasonable attorney's fees to be set by
12 the judge for the prosecution and collection of such claim when
13 judgment on the claim is rendered in favor of the plaintiff.
14 Recovery of attorney's fees for other lawful debts shall not
15 exceed twenty percent (20%) if the debt is One Thousand Dollars
16 (\$1,000.00) or less or thirty percent (30%) if the debt is more
17 than One Thousand Dollars (\$1,000.00) but not more than Two
18 Thousand Five Hundred Dollars (\$2,500.00). Evidence of receipt of
19 written demand by the spouse of the debtor when they are living
20 together as husband and wife on behalf of the debtor may be
21 introduced as evidence of written demand on the debtor. If that
22 person sued on the open account or other lawful debt shall prevail
23 in the suit, he shall be entitled to reasonable attorney's fees to
24 be set by the judge.

25 If delivery of written demand on the debtor is attempted, but
26 not accomplished because circumstances made delivery of written
27 demand impossible, a notation, on the envelope containing the

28 written demand, made by the person attempting delivery stating the
29 date of the attempted delivery, the reasons why delivery could not
30 be accomplished along with the initials of the person attempting
31 delivery and making said notation may be introduced as evidence of
32 written demand on the debtor, and if the judge in his discretion
33 finds that sufficient evidence of due diligence in delivery of
34 written demand has been made, he may make a conclusion of written
35 demand for purposes of justice and find that there has been
36 written demand on the debtor.

37 **SECTION 2.** This act shall take effect and be in force from
38 and after July 1, 2006.