

By: Representatives Upshaw, Simpson, Bentz

To: Judiciary B

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1229

1 AN ACT TO ADOPT DOCUMENT FORMATTING STANDARDS FOR CERTAIN
2 INSTRUMENTS FILED WITH THE CLERK OF THE CHANCERY COURT; TO PROVIDE
3 FOR THE PAYMENT OF A FEE FOR NONCONFORMING DOCUMENTS; TO AMEND
4 SECTION 89-5-25, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;
5 AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** (1) Except as otherwise provided in subsection
8 (6), the clerk of the chancery court shall refuse any document or
9 instrument presented for recording that does not meet the
10 following requirements:

11 (a) Each document or instrument shall consist of one or
12 more individual pages not permanently bound or in a continuous
13 form. The document or instrument shall not have any attachment
14 stapled or otherwise affixed to any page except as necessary to
15 comply with statutory requirements. However, the individual pages
16 of a document or instrument may be stapled together for
17 presentation for recording. A label that is firmly attached with
18 a bar code or return address may be accepted for recording.

19 (b) All preprinted text shall be at least eight (8)
20 point in size and no more than twenty (20) characters and spaces
21 per inch. All other text typed or computer generated including,
22 but not limited to, all names of parties to an agreement, shall be
23 at least ten (10) point in size and no more than sixteen (16)
24 characters and spaces per inch. If a document or instrument,
25 other than a plat or survey or a drawing related to a plat or
26 survey, presented for recording contains type smaller than eight
27 (8) point type for the preprinted text and ten (10) point type for
28 all other text, the document or instrument shall be accompanied by

29 an exact typewritten or printed copy that meets the requirements
30 of this section.

31 (c) Each document shall be of sufficient legibility to
32 produce a clear reproduction. If a document or instrument, other
33 than a plat or survey or a drawing related to a plat or survey, is
34 not sufficiently legible to produce a clear reproduction, the
35 document or instrument shall be accompanied by an exact
36 typewritten or printed copy that meets the type size requirements
37 of paragraph (b) and shall be recorded contemporaneously as
38 additional pages of the document or instrument.

39 (d) Each document or instrument, other than a plat or
40 survey or a drawing related to a plat or survey, shall be on white
41 paper of not less than twenty-pound weight without watermarks or
42 other visible inclusions. All text within the document or
43 instrument shall be of sufficient color and clarity to ensure that
44 the text is readable when reproduced from the record.

45 (e) All signatures on a document or instrument shall be
46 in black or dark blue ink and of sufficient color and clarity to
47 ensure that the signatures are readable when the document or
48 instrument is reproduced from the record. The corresponding name
49 shall be typed, printed or stamped beneath the original signature.
50 The typing or printing of a name or the application of an embossed
51 or inked stamp shall not cover or otherwise materially interfere
52 with any part of the document or instrument except where provided
53 by law. Failure to print or type signatures as provided in this
54 paragraph does not invalidate the document or instrument.

55 (f) The first page of each document or instrument,
56 other than a plat or survey or a drawing related to a plat or
57 survey, shall have a top margin of at least three (3) inches of
58 vertical space from left to right which shall be reserved for the
59 recorder's use. All other margins on the document or instrument
60 shall be a minimum of three-fourths (3/4) of one (1) inch.

61 Nonessential information including, but not limited to, form

62 numbers, page numbers or customer notations may be placed in a
63 margin except the top margin. The recorder shall not incur any
64 liability for not showing a seal or information that extends
65 beyond the margin of the permanent archival record.

66 (2) Each document or instrument, other than a plat or survey
67 or a drawing related to a plat or survey, that is presented for
68 recording and that contains any of the following information shall
69 have that information on the first page below the three-inch
70 margin:

71 (a) The name, address and telephone number of the
72 individual who prepared the document.

73 (b) The name of the taxpayer and a complete mailing
74 address for any document or instrument of conveyance.

75 (c) A return address.

76 (d) The title of the document or instrument.

77 (e) All grantors' names.

78 (f) All grantees' names.

79 (g) Any address required by statute.

80 (h) The legal description of the property or indexing
81 instruction per Section 89-5-33(3) and parcel identification
82 number, if required.

83 (i) A document or instrument number for statutory
84 requirements, if applicable.

85 (3) If insufficient space exists on the first page for all
86 of the information described in subsection (2), the page reference
87 of the document or instrument where the information is located
88 shall be noted on the first page.

89 (4) The recorder may record the following documents or
90 instruments which are exempt from the format requirements of this
91 section:

92 (a) A document or instrument that was signed before
93 January 1, 2007.

94 (b) A military separation document or instrument.

95 (c) A document or instrument executed outside the
96 United States.

97 (d) A certified copy of a document or instrument issued
98 by a governmental agency, including a vital record.

99 (e) A document or instrument where one (1) of the
100 original parties is deceased or otherwise incapacitated.

101 (f) A document or instrument formatted to meet court
102 requirements.

103 (g) A federal tax lien.

104 (h) A filing under the Uniform Commercial Code.

105 (5) A document or instrument rejected for recording by a
106 recorder shall be returned to the preparer or presenter
107 accompanied by an explanation of the reason for rejection.

108 (6) On and after January 1, 2007, a document or instrument
109 that does not conform to the format standards specified in
110 subsections (1) through (3) of this section shall not be recorded
111 except upon payment of an additional recording fee of Ten Dollars
112 (\$10.00) per document or instrument. The requirement applies only
113 to documents or instruments dated on or after January 1, 2007, and
114 does not apply to those documents or instruments specifically
115 exempted in subsection (4).

116 **SECTION 2.** Section 89-5-25, Mississippi Code of 1972, is
117 amended as follows:

118 89-5-25. (1) It shall be the duty of the clerk of the
119 chancery court to whom any written instrument is delivered to be
120 recorded, and which is properly recordable in his county, to
121 record the same without delay, together with the acknowledgments
122 of proofs and the certificates thereof, and also the plats of
123 surveys, schedules, and other papers thereto annexed, by entering
124 them word for word in a fair handwriting, or typewriting, or by
125 filling up printed forms, or by recording by photostat machine or
126 other equally permanent photographic or electronic process, and
127 entering the hour and minute, the day of the month, and the year

128 when the instrument was delivered to him for record, and when
129 recorded. Records filed or stored electronically may be in
130 addition to, or in lieu of, the physical record on paper. He
131 shall also carefully preserve all instruments of writing, which
132 are properly acknowledged and delivered to him to be recorded, and
133 after recording deliver them to the party entitled thereto on
134 demand. He shall also put a complete alphabetical index, both
135 direct and reverse, to each book, except as provided in subsection
136 (2), herein; and every person shall have access, at proper times,
137 to such books, and be entitled to transcripts from the same on
138 paying the lawful fees. He shall record the deeds and other
139 instruments in the order of time in which they are filed for
140 record as far as practicable.

141 (2) In counties having a population in excess of one hundred
142 nineteen thousand (119,000) with an assessed valuation of all
143 taxable property therein in excess of Sixty-three Million Dollars
144 (\$63,000,000.00), and having two (2) cities wholly located
145 therein, each with a population in excess of thirty thousand
146 (30,000) persons according to the preceding Federal Census,
147 wherein the clerk of the chancery court has a well kept general
148 index, both direct and reverse, for each kind or class of record
149 books as required by Section 89-5-33, the board of supervisors
150 may, by order spread upon its minutes, authorize the clerk of the
151 chancery court to omit putting such index in each separate book of
152 the records to which such general index is kept.

153 (3) This section shall not be construed to authorize and
154 empower the boards of supervisors to purchase any photostat
155 machines or other equally permanent photographic or electronic
156 processes.

157 (4) On or after January 1, 2007, instruments to be recorded
158 shall comply with the provisions of Section 1 of this act.

159 **SECTION 3.** This act shall take effect and be in force from
160 and after January 1, 2007.