

By: Representatives Upshaw, Simpson, Bentz

To: Judiciary B

HOUSE BILL NO. 1229
(As Passed the House)

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

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

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

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

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

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

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

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

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

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

62 Nonessential information including, but not limited to, form

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

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

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

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

76 (c) A return address.

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

78 (e) All grantors' names.

79 (f) All grantees' names.

80 (g) Any address required by statute.

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

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

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

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

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

95 (b) A military separation document or instrument.

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

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

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

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

104 (g) A federal tax lien.

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

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

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

117 (7) The board of supervisors of any county that wishes to
118 adopt and enforce the requirements of this section must do so by a
119 majority vote of the board spread on its minutes. A county that
120 does not vote to adopt such requirements shall be governed by the
121 law governing recordation of documents existing before the
122 effective date of this act.

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

125 89-5-25. (1) It shall be the duty of the clerk of the
126 chancery court to whom any written instrument is delivered to be
127 recorded, and which is properly recordable in his county, to
128 record the same without delay, together with the acknowledgments

129 of proofs and the certificates thereof, and also the plats of
130 surveys, schedules, and other papers thereto annexed, by entering
131 them word for word in a fair handwriting, or typewriting, or by
132 filling up printed forms, or by recording by photostat machine or
133 other equally permanent photographic or electronic process, and
134 entering the hour and minute, the day of the month, and the year
135 when the instrument was delivered to him for record, and when
136 recorded. Records filed or stored electronically may be in
137 addition to, or in lieu of, the physical record on paper. He
138 shall also carefully preserve all instruments of writing, which
139 are properly acknowledged and delivered to him to be recorded, and
140 after recording deliver them to the party entitled thereto on
141 demand. He shall also put a complete alphabetical index, both
142 direct and reverse, to each book, except as provided in subsection
143 (2), herein; and every person shall have access, at proper times,
144 to such books, and be entitled to transcripts from the same on
145 paying the lawful fees. He shall record the deeds and other
146 instruments in the order of time in which they are filed for
147 record as far as practicable.

148 (2) In counties having a population in excess of one hundred
149 nineteen thousand (119,000) with an assessed valuation of all
150 taxable property therein in excess of Sixty-three Million Dollars
151 (\$63,000,000.00), and having two (2) cities wholly located
152 therein, each with a population in excess of thirty thousand
153 (30,000) persons according to the preceding Federal Census,
154 wherein the clerk of the chancery court has a well kept general
155 index, both direct and reverse, for each kind or class of record
156 books as required by Section 89-5-33, the board of supervisors
157 may, by order spread upon its minutes, authorize the clerk of the
158 chancery court to omit putting such index in each separate book of
159 the records to which such general index is kept.

160 (3) This section shall not be construed to authorize and
161 empower the boards of supervisors to purchase any photostat

162 machines or other equally permanent photographic or electronic
163 processes.

164 (4) On or after January 1, 2007, instruments to be recorded
165 shall comply with the provisions of Section 1 of this act unless a
166 county does not adopt the requirements as provided in subsection
167 (7) of Section 1 of this act.

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