

By: Representative Warren

To: Judiciary A

HOUSE BILL NO. 795

1 AN ACT TO AMEND SECTIONS 9-1-53, 9-1-57, 89-5-1 AND 89-5-3,
2 MISSISSIPPI CODE OF 1972, TO REQUIRE HARD COPIES OF LAND RECORDS
3 AND OTHER RECORDS TO BE MAINTAINED; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 9-1-53, Mississippi Code of 1972, is
6 amended as follows:

7 9-1-53. Courts and county offices are hereby authorized but
8 not required to institute procedures for the electronic filing and
9 electronic storage of court documents to further the efficient
10 administration and operation of the courts. Electronically filed
11 or stored documents may be kept but each court shall also keep
12 paper documents. Courts governed by rules promulgated by the
13 Mississippi Supreme Court that institute electronic filing and
14 electronic storage of court documents and offices of circuit and
15 chancery clerks that institute electronic filing and electronic
16 storage of court documents shall do so in conformity with such
17 rules and regulations prescribed by the Administrative Office of
18 Courts and adopted by the Mississippi Supreme Court concerning
19 court records or court-related records. The provisions of
20 Sections 9-1-51 through 9-1-57 shall not be construed to amend or
21 repeal any other provision of existing state law which requires or
22 provides for the maintenance of official written documents,
23 records, dockets, books, ledgers or proceedings by a court or
24 clerk of court in those courts which do not elect to exercise the
25 discretion granted by this section. It is hereby declared to be
26 the intent of the Legislature that official written documents,
27 records, dockets, books, ledgers or proceedings may be filed,

28 stored, maintained, reproduced and recorded in the manner
29 authorized by Sections 9-1-51 through 9-1-57 or as otherwise
30 provided by law, in the discretion of the clerk; provided,
31 however, that the originals of such records shall be maintained.

32 **SECTION 2.** Section 9-1-57, Mississippi Code of 1972, is
33 amended as follows:

34 9-1-57. A plan for the storage system shall require, but not
35 be limited to, the following:

36 (a) All original documents shall be recorded and
37 released into the system within a specified minimum time period
38 after presentation to the clerk;

39 (b) Original paper records may be used during the
40 pendency of any legal proceeding and shall be maintained as a
41 permanent record;

42 (c) The plan shall include setting standards for
43 organizing, identifying, coding and indexing so that the image
44 produced during the duplicating process can be certified as a true
45 and correct copy of the original and may be retrieved rapidly;

46 (d) All materials used in the duplicating process which
47 correctly and legibly reproduces or which forms a medium of
48 copying or reproducing all public records, as herein authorized,
49 and all processes of development, fixation and washing of said
50 photographic duplicates shall be of a quality approved for
51 permanent photographic records by the United States Bureau of
52 Standards;

53 (e) The plan shall provide for retention of the court
54 records consistent with other law and in conformity with rules and
55 regulations prescribed by the Administrative Office of Courts and
56 adopted by the Mississippi Supreme Court and shall provide
57 security provisions to guard against physical loss, alterations
58 and deterioration; and

59 (f) All transcripts, exemplifications, copies or
60 reproductions on paper or on film of an image or images of any

61 microfilmed or otherwise duplicated record shall be deemed to be
62 certified copies of the original for all purposes.

63 **SECTION 3.** Section 89-5-1, Mississippi Code of 1972, is
64 amended as follows:

65 89-5-1. A conveyance of land shall not be good against a
66 purchaser for a valuable consideration without notice, or any
67 creditor, unless it be acknowledged by the party who executed it,
68 or be proved by one or more of the subscribing witnesses to it
69 that such party signed and delivered the same as his or her
70 voluntary act before some officer authorized to take such
71 acknowledgment or proof; and a certificate of such acknowledgment
72 or proof shall be written upon or under the conveyance, and be
73 signed by the officer before whom it was made, and be lodged with
74 the clerk of the chancery court of the county in which the lands
75 are situated to be recorded; but after filing with the clerk, the
76 priority of time of filing shall determine the priority of all
77 conveyances of the same land as between the several holders of
78 such conveyances. The clerk shall maintain written paper records
79 of such instruments as a permanent record.

80 **SECTION 4.** Section 89-5-3, Mississippi Code of 1972, is
81 amended as follows:

82 89-5-3. All bargains and sales, and all other conveyances
83 whatsoever of lands, whether made for passing an estate of
84 freehold or inheritance, or for a term of years; and all
85 instruments of settlement upon marriage wherein land, money, or
86 other personalty should be settled or covenanted to be left or
87 paid at the death of the party, or otherwise; and all deeds of
88 trust and mortgages whatsoever, shall be void as to all creditors
89 and subsequent purchasers for a valuable consideration without
90 notice, unless they be acknowledged or proved and lodged with the
91 clerk of the chancery court of the proper county, to be recorded
92 in the same manner that other conveyances are required to be
93 acknowledged or proved and recorded. Failure to file such

94 instrument with the clerk for record shall prevent any claim of
95 priority by the holder of such instrument over any similar
96 recorded instrument affecting the same property, to the end that
97 with reference to all instruments which may be filed for record
98 under this section, the priority thereof shall be governed by the
99 priority in time of the filing of the several instruments, in the
100 absence of actual notice. But as between the parties and their
101 heirs, and as to all subsequent purchasers with notice or without
102 valuable consideration, said instruments shall nevertheless be
103 valid and binding. The clerk shall maintain written paper records
104 of such instruments as a permanent record.

105 **SECTION 5.** This act shall take effect and be in force from
106 and after its passage and the requirements of this act shall apply
107 to all instruments recorded on or after that date.