

By: Representative Guice

To: Banking and Financial
ServicesCOMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1034

1 AN ACT TO PROVIDE A SURCHARGE ON DEED OF TRUST FILINGS FOR
2 MORTGAGE LENDING FRAUD PROSECUTION; TO CREATE THE MORTGAGE LENDING
3 FRAUD PROSECUTION FUND; TO AMEND SECTION 25-7-9, MISSISSIPPI CODE
4 OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** (1) Except as provided in subsection (2) of this
7 section, a surcharge of One Dollar and Twenty-five Cents (\$1.25)
8 shall be charged by the chancery clerk at the time of recording of
9 each deed of trust, which will be in addition to any other charge
10 authorized by law. The chancery clerk shall retain Twenty-five
11 Cents (\$.25) to administer the collection of the surcharge. The
12 remaining funds shall be transmitted monthly to the State
13 Treasurer, who shall deposit the funds into the Mortgage Lending
14 Fraud Prosecution Fund created in Section 2 of this act. The
15 Department of Finance and Administration is responsible for the
16 distribution of the funds in the Prosecution Fund and shall, in
17 consultation with the Attorney General and local prosecutors,
18 develop rules for the use of these funds to pursue criminal
19 prosecution of fraudulent activities within the mortgage lending
20 process.

21 (2) The surcharge imposed in this section does not apply to
22 assignments or substitutions of previously recorded deeds of
23 trust.

24 (3) This section shall stand repealed on July 1, 2009.

25 **SECTION 2.** The Mortgage Lending Fraud Prosecution Fund is
26 created as a special fund in the State Treasury. All receipts
27 from the surcharge imposed in Section 1 of this act, except those
28 retained by the chancery clerk for administration, shall be

29 deposited into the special fund. Expenditures from the special
30 fund shall be made only upon appropriation of the Legislature, and
31 may be used only for criminal prosecution of fraudulent activities
32 within the mortgage lending process. Only the Executive Director
33 of the Department of Finance and Administration or the director's
34 designee may authorize expenditures from the special fund.

35 This section shall stand repealed on July 1, 2009.

36 **SECTION 3.** Section 25-7-9, Mississippi Code of 1972, is
37 amended as follows:

38 25-7-9. (1) The clerks of the chancery courts shall charge
39 the following fees:

40 (a) For the act of certifying copies of filed
41 documents, for each complete document..... \$ 1.00

42 (b) (i) Recording deeds, wills, leases, amendments,
43 subordinations, liens, releases, cancellations, orders, decrees,
44 oaths, etc., including indexing; for the first fifteen (15)
45 pages..... \$ 10.00

46 Each additional page..... \$ 1.00

47 (ii) Sectional index entries per section or
48 subdivision lot..... \$ 1.00

49 (iii) Recording each cancellation
50 per deed of trust..... \$ 10.00

51 (c) Recording deeds of trust, for the first fifteen
52 (15) pages..... \$ 15.00

53 Each additional page..... \$ 1.00

54 Sectional index entries per section or subdivision
55 lot..... \$ 1.00

56 Mortgage Lending Fraud Prosecution Fund
57 surcharge, which is authorized until July 1, 2009..... \$ 1.25

58 (d) (i) Recording oil and gas leases,
59 cancellations, etc., including indexing in general
60 indices; for the first fifteen (15) pages \$ 18.00

61 Each additional page..... \$ 1.00

62 (ii) Sectional index entries per section or
63 subdivision lot..... \$ 1.00

64 (iii) Recording each oil and gas
65 assignment per assignee..... \$ 18.00

66 (e) Furnishing copies of any papers of record or on
67 file and entering marginal notations on documents of record:
68 If performed by the clerk or his employee,
69 per page..... \$.50
70 If performed by any other person, per page..... \$.25

71 (f) For each day's attendance on the board of
72 supervisors, for himself and one (1) deputy, each..... \$ 20.00

73 (g) For other services as clerk of the board of
74 supervisors an allowance shall be made to him (payable
75 semiannually at the July and January meetings) out of the county
76 treasury, an annual sum not exceeding..... \$3,000.00

77 (h) For each day's attendance on the chancery court, to
78 be approved by the chancellor:
79 For the first chancellor sitting only, clerk and two (2)
80 deputies, each..... \$ 50.00
81 For the second chancellor sitting, clerk only..... \$ 50.00

82 Provided that the fees herein prescribed shall be the total
83 remuneration for the clerk and his deputies for attending chancery
84 court.

85 (i) On order of the court, clerks and not more than two
86 (2) deputies may be allowed five (5) extra days for each term of
87 court for attendance upon the court to get up records.

88 (j) For public service not otherwise specifically
89 provided for, the chancery court may by order allow the clerk to
90 be paid by the county on the order of the board of supervisors, an
91 annual sum not exceeding..... \$5,000.00

92 (k) For each civil filing, to be deposited into the
93 Civil Legal Assistance Fund..... \$ 5.00

94 The chancery clerk shall itemize on the original document a
95 detailed fee bill of all charges due or paid for filing, recording
96 and abstracting same. No person shall be required to pay such
97 fees until same have been so itemized, but said fees may be
98 demanded before the document is recorded.

99 (2) In accordance with Uniform Chancery Court Rule 9.01 as
100 approved by Order of the Mississippi Supreme Court, the following
101 fees shall be a total fee for all services performed by the clerk
102 with respect to a complaint which shall be payable upon filing and
103 shall accrue to the chancery clerk at the time of filing. The
104 clerk or his successor in office shall perform all duties set
105 forth without additional compensation or fee to wit:

- 106 (a) Divorce to be contested..... \$75.00
- 107 (b) Divorce uncontested..... \$30.00
- 108 (c) Alteration of birth or marriage certificate. \$25.00
- 109 (d) Removal of minority..... \$25.00
- 110 (e) Guardianship or conservatorship..... \$75.00
- 111 (f) Estate of deceased, intestate..... \$75.00
- 112 (g) Estate of deceased, testate..... \$75.00
- 113 (h) Adoption..... \$75.00
- 114 (i) Land dispute..... \$75.00
- 115 (j) Injunction..... \$75.00
- 116 (k) Settlement of small claim..... \$30.00
- 117 (l) Contempt in child support..... \$75.00
- 118 (m) Partition suit..... \$75.00
- 119 (n) Any cross-complaint..... \$25.00

120 (3) For every civil case filed, an additional fee to be
121 deposited to the credit of the Comprehensive Electronic Court
122 Systems Fund established in Section 9-21-14..... \$10.00

123 (4) Cost of process shall be borne by the issuing party.
124 Additionally, should the attorney or person filing the pleadings
125 desire the clerk to pay the cost to the sheriff for serving
126 process on one (1) person or more, or to pay the cost of

127 publication, the clerk shall demand the actual charges therefor,
128 at the time of filing.

129 **SECTION 4.** This act shall take effect and be in force from
130 and after July 1, 2007.