

By: Representative Guice

To: Banking and Financial
Services

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 collection. The remaining funds shall
12 be transmitted monthly to the State Treasurer who will deposit the
13 funds into the Mortgage Lending Fraud Prosecution Fund created in
14 Section 2 of this act. The Department of Finance and
15 Administration is responsible for the distribution of the funds in
16 the account and shall, in consultation with the Attorney General
17 and local prosecutors, develop rules for the use of these funds to
18 pursue criminal prosecution of fraudulent activities within the
19 mortgage lending process.

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

23 **SECTION 2.** The Mortgage Lending Fraud Prosecution Fund is
24 created in the custody of the State Treasury. All receipts from
25 the surcharge imposed in Section 1 of this act, except those
26 retained by the chancery clerk for administration, shall be
27 deposited into the account. Except as otherwise provided in this
28 section, expenditures from the account may be used only for

29 criminal prosecution of fraudulent activities related to mortgage
30 lending fraud crimes. Only the Director of the Department of
31 Finance and Administration or the director's designee may
32 authorize expenditures from the account.

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

35 25-7-9. (1) The clerks of the chancery courts shall charge
36 the following fees:

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

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

43 Each additional page..... \$ 1.00

44 (ii) Sectional index entries per section or
45 subdivision lot..... \$ 1.00

46 (iii) Recording each cancellation
47 per deed of trust..... \$ 10.00

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

50 Each additional page..... \$ 1.00

51 Sectional index entries per section or subdivision
52 lot..... \$ 1.00

53 Mortgage Lending Fraud Prosecution Fund
54 surcharge..... \$ 1.25

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

58 Each additional page..... \$ 1.00

59 (ii) Sectional index entries per section or
60 subdivision lot..... \$ 1.00

61 (iii) Recording each oil and gas

62 assignment per assignee..... \$ 18.00

63 (e) Furnishing copies of any papers of record or on
64 file and entering marginal notations on documents of record:

65 If performed by the clerk or his employee,
66 per page..... \$.50

67 If performed by any other person, per page..... \$.25

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

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

74 (h) For each day's attendance on the chancery court, to
75 be approved by the chancellor:

76 For the first chancellor sitting only, clerk and two (2)
77 deputies, each..... \$ 50.00

78 For the second chancellor sitting, clerk only..... \$ 50.00

79 Provided that the fees herein prescribed shall be the total
80 remuneration for the clerk and his deputies for attending chancery
81 court.

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

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

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

91 The chancery clerk shall itemize on the original document a
92 detailed fee bill of all charges due or paid for filing, recording
93 and abstracting same. No person shall be required to pay such

94 fees until same have been so itemized, but said fees may be
95 demanded before the document is recorded.

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

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

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

120 (4) Cost of process shall be borne by the issuing party.
121 Additionally, should the attorney or person filing the pleadings
122 desire the clerk to pay the cost to the sheriff for serving
123 process on one (1) person or more, or to pay the cost of
124 publication, the clerk shall demand the actual charges therefor,
125 at the time of filing.

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