

By: Representative Brown

To: Judiciary B

HOUSE BILL NO. 1328

1 AN ACT TO AMEND SECTION 89-1-501, MISSISSIPPI CODE OF 1972,
2 TO EXCLUDE THE SALE OF NEW HOMES BY A BUILDER TO INITIAL
3 PURCHASERS FROM MISSISSIPPI REAL ESTATE TRANSFER DISCLOSURE
4 REQUIREMENTS; TO DEFINE CERTAIN TERMS; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 89-1-501, Mississippi Code of 1972, is
7 amended as follows:

8 89-1-501. (1) The provisions of Sections 89-1-501 through
9 89-1-523 apply only with respect to transfers by sale, exchange,
10 installment land sale contract, lease with an option to purchase,
11 any other option to purchase or ground lease coupled with
12 improvements, of real property on which a dwelling unit is
13 located, or residential stock cooperative improved with or
14 consisting of not less than one (1) nor more than four (4)
15 dwelling units, when the execution of such transfers is by, or
16 with the aid of, a duly licensed real estate broker or
17 salesperson.

18 (2) There are specifically excluded from the provisions of
19 Sections 89-1-501 through 89-1-523:

20 (a) Transfers pursuant to court order, including, but
21 not limited to, transfers ordered by a probate court in
22 administration of an estate, transfers pursuant to a writ of
23 execution, transfers by any foreclosure sale, transfers by a
24 trustee in bankruptcy, transfers by eminent domain, and transfers
25 resulting from a decree for specific performance.

26 (b) Transfers to a mortgagee by a mortgagor or
27 successor in interest who is in default, transfers to a
28 beneficiary of a deed of trust by a trustor or successor in

29 interest who is in default, transfers by any foreclosure sale
30 after default, in an obligation secured by a mortgage, transfers
31 by a sale under a power of sale or any foreclosure sale under a
32 decree of foreclosure after default in an obligation secured by a
33 deed of trust or secured by any other instrument containing a
34 power of sale, or transfers by a mortgagee or a beneficiary under
35 a deed of trust who has acquired the real property at a sale
36 conducted pursuant to a power of sale under a mortgage or deed of
37 trust or a sale pursuant to a decree of foreclosure or has
38 acquired the real property by a deed in lieu of foreclosure.

39 (c) Transfers by a fiduciary in the course of the
40 administration of a decedent's estate, guardianship,
41 conservatorship or trust.

42 (d) Transfers from one co-owner to one or more other
43 co-owners.

44 (e) Transfers made to a spouse, or to a person or
45 persons in the lineal line of consanguinity of one or more of the
46 transferors.

47 (f) Transfers between spouses resulting from a decree
48 of dissolution of marriage or a decree of legal separation or from
49 a property settlement agreement incidental to such a decree.

50 (g) Transfers or exchanges to or from any governmental
51 entity.

52 (h) Transfers of real property on which no dwelling is
53 located.

54 (i) The provisions of Section 89-1-527.

55 (j) The transfer of a new home to the initial purchaser
56 by a builder. As used herein, the terms "home" and "builder"
57 shall have meanings ascribed to such terms in the Mississippi New
58 Home Warranty Act, Section 83-58-3. "Initial purchaser" means any
59 person for whom a home is built or the first person to whom a new
60 home is conveyed upon completion of construction.

61 **SECTION 2.** This act shall take effect and be in force from
62 and after July 1, 2007.