

By: Senator(s) Ross

To: Judiciary, Division A

SENATE BILL NO. 2509
(As Passed the Senate)

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

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

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

11 (a) Each document or instrument shall consist of one or
12 more individual pages printed only on one (1) side. The document
13 or instrument shall not consist of pages that are permanently
14 bound or in a continuous form and 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 typed or computer generated text, 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 required 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 or customer notations may be placed in a margin other than
64 the top margin. A document may be recorded if a minor portion of
65 a seal or incidental writing extends into a margin. The recorder
66 shall not incur any liability for failure to show a seal or
67 information that extends beyond the margin of the permanent
68 archival record.

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

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

76 (b) A return address.

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

78 (d) All grantors' names.

79 (e) All grantees' names.

80 (f) Any address and telephone number required by
81 Section 27-3-51, Mississippi Code of 1972.

82 (g) The legal description of the property or indexing
83 instruction per Section 89-5-33(3) and parcel identification
84 number, if required. If there is insufficient space on the first
85 page for the entire legal description, an abbreviated description
86 or the indexing instruction shall be substituted, with a reference
87 to the document page number where the entire legal description
88 appears. If the legal description is on a separate page, the
89 grantor(s) shall be required to sign that page for verification.

90 (h) A document or instrument number for statutory
91 requirements, if applicable.

92 (3) All pages shall be consecutively numbered, beginning
93 with the first page; the page number shall be placed within the
94 bottom margin of each page, and the page number shall be in a

95 format showing each page number relative to the total number of
96 pages.

97 (4) The recorder may record the following documents or
98 instruments which are exempt from the format requirements of this
99 section:

100 (a) A document or instrument that was executed before
101 January 1, 2008.

102 (b) A military separation document or instrument.

103 (c) A document or instrument executed outside the
104 United States.

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

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

109 (f) A document or instrument formatted to meet court
110 requirements.

111 (g) A federal tax lien.

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

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

116 (6) The recorder may elect to record a document or
117 instrument that does not substantially conform to the format
118 standards specified in subsections (1) through (3) of this section
119 upon payment of an additional recording fee of Ten Dollars
120 (\$10.00) per document or instrument. The fee shall be charged
121 only for documents or instruments dated on or after January 1,
122 2008; this fee may not be charged for those documents or
123 instruments specifically exempted in subsection (4).

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

126 89-5-25. (1) It shall be the duty of the clerk of the
127 chancery court to whom any written instrument is delivered to be

128 recorded, and which is properly recordable in his county, to
129 record the same without delay, together with the acknowledgments
130 of proofs and the certificates thereof, and also the plats of
131 surveys, schedules, and other papers thereto annexed, by entering
132 them word for word in a fair handwriting, or typewriting, or by
133 filling up printed forms, or by recording by photostat machine or
134 other equally permanent photographic or electronic process, and
135 entering the hour and minute, the day of the month, and the year
136 when the instrument was delivered to him for record, and when
137 recorded. Records filed or stored electronically may be in
138 addition to, or in lieu of, the physical record on paper. He
139 shall also carefully preserve all instruments of writing which are
140 properly acknowledged and delivered to him to be recorded, and
141 after recording deliver them to the party entitled thereto on
142 demand. He shall also put a complete alphabetical index, both
143 direct and reverse, to each book, except as provided in subsection
144 (2), herein; and every person shall have access, at proper times,
145 to such books, and be entitled to transcripts from the same on
146 paying the lawful fees. He shall record the deeds and other
147 instruments in the order of time in which they are filed for
148 record as far as practicable.

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

161 (3) This section shall not be construed to authorize and
162 empower the boards of supervisors to purchase any photostat
163 machines or other equally permanent photographic or electronic
164 processes.

165 (4) From and after January 1, 2008, instruments to be
166 recorded shall comply with the provisions of Section 1 of Senate
167 Bill No. 2509, 2007 Regular Session.

168 **SECTION 3.** This act shall take effect and be in force from
169 and after January 1, 2008.