

By: Representative Baker (74th)

To: Judiciary A

HOUSE BILL NO. 444

1 AN ACT TO AMEND SECTION 89-1-63, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT IN THE CASE OF A FORECLOSURE PROCEEDING ON A DEED OF
3 TRUST, ANY SUBSTITUTE TRUSTEE APPOINTED FOR THE PROCEEDING SHALL
4 BE A MISSISSIPPI RESIDENT, OR IF NOT A NATURAL PERSON, SHALL HAVE
5 ITS PRINCIPAL OFFICE LOCATED IN MISSISSIPPI; AND FOR RELATED
6 PURPOSES.

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

8 **SECTION 1.** Section 89-1-63, Mississippi Code of 1972, is
9 amended as follows:

10 89-1-63. (1) A deed of trust or mortgage may be in the form
11 of a conveyance, to the end, before the words "witness my
12 signature," and then as follows * * *:

13 "In trust to secure (here state what is secured, and all the
14 necessary provisions).

15 Witness my signature, the _____ day of _____, A.D.
16 _____.

17 _____"

18 (2) Notwithstanding the form of conveyance, any deed of
19 trust or mortgage that has been made or is hereafter * * * made
20 may confer on the trustee or mortgagee and their successors,
21 assignees and agents the power of sale. Furthermore, any person
22 may be appointed and may perform the duties of the trustee in a
23 deed of trust, and that person shall not be disqualified nor shall
24 the acts of that person be invalid because of the relationship of
25 that person to any other party to the deed of trust. The
26 beneficiary of a deed of trust or the mortgagee of a mortgage may
27 purchase at any sale that has been made or is hereafter * * * made
28 under a power of sale, and any such sale shall not be invalid



29 because of the relationship of that person to any other party to
30 the deed of trust.

31 (3) The beneficiary or holder of any deed of trust,
32 including his agents, employees, successors, assigns,
33 attorneys-in-fact or other legal representatives, may appoint a
34 trustee or substitute a trustee, with or without the permission of
35 the mortgagor or mortgagors. The trustee or substitute trustee so
36 appointed may be a natural person, partnership, corporation,
37 limited liability company, professional association or any other
38 legal entity. In the case of a foreclosure proceeding on a deed
39 of trust, any substitute trustee appointed by the beneficiary or
40 holder of the deed of trust for the proceeding shall be a resident
41 of the State of Mississippi, or if the substitute trustee is not a
42 natural person, shall have its principal office located in the
43 State of Mississippi.

44 **SECTION 2.** This act shall take effect and be in force from
45 and after July 1, 2009.

