

By: Representative Sanford

To: Judiciary A

HOUSE BILL NO. 1200

1 AN ACT TO AMEND SECTION 89-1-55, MISSISSIPPI CODE OF 1972, TO
 2 REQUIRE THAT ANY SECOND OR ADDITIONAL JUNIOR MORTGAGORS BE
 3 NOTIFIED OF THE SALE OF LAND UNDER MORTGAGES AND DEEDS OF TRUST;
 4 TO BRING FORWARD SECTIONS 13-3-31, 13-3-185 AND 81-12-169,
 5 MISSISSIPPI CODE OF 1972, WHICH RELATE TO FORECLOSURES AND
 6 PUBLICATION REQUIREMENTS FOR PURPOSES OF POSSIBLE AMENDMENT; AND
 7 FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 89-1-55, Mississippi Code of 1972, is
 10 amended as follows:

11 89-1-55. All lands comprising a single tract, and wholly
 12 described by the subdivisions of the governmental surveys, sold
 13 under mortgages and deeds of trust, shall be sold in the manner
 14 provided by Section 111 of the Mississippi Constitution of 1890
 15 for the sale of lands in pursuance of a decree of court, or under
 16 execution. All lands sold at public outcry under deeds of trust
 17 or other contracts shall be sold in the county in which the land
 18 is located, or in the county of the residence of the grantor, or
 19 one (1) of the grantors in the trust deed, provided that where the
 20 land is situated in two (2) or more counties, the parties may



21 contract for a sale of the whole in any of the counties in which
22 any part of the land lies. Sale of said lands shall be advertised
23 for three (3) consecutive weeks preceding such sale, in a
24 newspaper published in the county, or, if none is so published, in
25 some paper having a general circulation therein, and by posting
26 one (1) notice at the courthouse of the county where the land is
27 situated, for said time, and such notice and advertisement shall
28 disclose the name of the original mortgagor or mortgagors, and any
29 second or additional junior mortgagors, in said deed of trust or
30 other contract. No sale of lands under a deed of trust or
31 mortgage, shall be valid unless such sale shall have been
32 advertised as herein provided for, regardless of any contract to
33 the contrary. An error in the mode of sale such as makes the sale
34 void will not be cured by any statute of limitations, except as to
35 the ten-year statute of adverse possession.

36 **SECTION 2.** Section 13-3-31, Mississippi Code of 1972, is
37 brought forward as follows:

38 13-3-31. (1) Whenever it is required by law that any
39 summons, order, citation, advertisement or other legal notice
40 shall be published in a newspaper in this state, it shall mean, in
41 addition to any other requirements imposed by law, publication in
42 some newspaper which:

43 (a) Maintains a general circulation predominantly to
44 bona fide paying subscribers within the political subdivision
45 within which publication of such legal notice is required. The



46 term "general circulation" means numerically substantial,
47 geographically widespread, demographically diversified circulation
48 to bona fide paying subscribers. In no event shall the term
49 "general circulation" be interpreted to require that legal notices
50 be published in a newspaper having the greatest circulation. The
51 term "bona fide paying subscribers" means persons who have
52 subscribed at a subscription rate which is not nominal, whether by
53 mail subscriptions, purchases through dealers and carriers, street
54 vendors and counter sellers, or any combination thereof, but shall
55 not include free circulation, sales at a token or nominal
56 subscription price and sales in bulk for purposes other than for
57 resale for individual subscribers.

58 (b) Maintains a legitimate list of its bona fide paying
59 subscribers by the following categories where applicable:

- 60 (i) Mail subscribers;
- 61 (ii) Dealers and carriers; and
- 62 (iii) Street vendors and counter sellers.

63 (c) Is not published primarily for advertising purposes
64 and has not contained more than seventy-five percent (75%)
65 advertising in more than one-half (1/2) of its issues during the
66 period of twelve (12) months next prior to the first publication
67 of any legal notice therein, excluding separate advertising
68 supplements inserted into but separately identifiable from any
69 regular issue or issues.



70 (d) Has been established and published continuously for
71 at least twelve (12) months next prior to the first publication of
72 such matter to be published, is regularly issued at stated
73 intervals no less frequently than once a week, bears a date of
74 issue, and is numbered consecutively; provided, however, that
75 publication on legal holidays of this state or of the United
76 States and on Saturdays and Sundays shall not be required, and
77 failure to publish not more than two (2) regular issues in any
78 calendar year shall not disqualify a paper otherwise qualified.

79 (e) Is issued from a known office of publication, which
80 shall be the principal public business office of the newspaper and
81 need not be the place at which the newspaper's printing presses
82 are physically located. A newspaper shall be deemed to be
83 "published" at the place where its known office of publication is
84 located.

85 (f) Is formed of printed sheets. However, the word
86 "printed" does not include reproduction by the stencil, mimeograph
87 or hectograph process.

88 (g) Is originated and published for the dissemination
89 of current news and intelligence of varied, broad and general
90 public interest, announcements and notices, opinions as editorials
91 on a regular or irregular basis, and advertising and miscellaneous
92 reading matter.

93 (h) Is not designed primarily for free circulation or
94 for circulation at nominal rates.



95 (2) "Newspaper," as used in this section, shall not include
96 a newspaper, publication, or periodical which is published,
97 sponsored by, is directly supported financially by, or is
98 published to further the interests of, or is directed to, or has a
99 circulation restricted in whole or in part to any particular sect,
100 denomination, labor or fraternal organization or other special
101 group or class of citizens, or which primarily contains
102 information of a specialized nature rather than information of
103 varied, broad and general interest to the general public, or which
104 is directed to any particular geographical portion of any given
105 political subdivision within which publication of such legal
106 notice is required, rather than to such political subdivision as a
107 whole. No newspaper otherwise qualified under this section shall
108 be disqualified from publishing legal notices for the sole reason
109 that such newspaper does not have as great a circulation as some
110 other newspaper publishing in the same political subdivision.

111 (3) In the event of the discontinuance of the publication of
112 all newspapers in any county qualified under this section to
113 publish legal notices, any other such newspaper published in the
114 same county, regardless of the length of time it has been
115 published, shall be deemed qualified to publish such legal
116 notices, provided such newspaper meets all requirements of this
117 section other than the requirements of subsection (1)(d) of this
118 section.



119 (4) A newspaper otherwise qualified under this section which
120 is published in a municipality whose corporate limits encompass
121 territory in more than one (1) county shall be qualified to
122 publish legal notices, including foreclosure sale notices as
123 described in Section 89-1-55, for any county a portion of whose
124 territory is included within the municipality, irrespective of the
125 actual physical location within the municipality of the principal
126 public business office of the newspaper.

127 **SECTION 3.** Section 13-3-185, Mississippi Code of 1972, is
128 brought forward as follows:

129 13-3-185. The purchaser of any property sold at execution
130 sale by the sheriff or other officer shall take the same discharge
131 of all liens of judgments and decrees, whether the same be sold
132 under an execution issued upon the elder or junior judgment or
133 decree.

134 **SECTION 4.** Section 81-12-169, Mississippi Code of 1972, is
135 brought forward as follows:

136 81-12-169. The directors of an association may, at any time
137 before an actual sale of property on a foreclosure proceeding
138 previously instituted by the association, reinstate a loan and any
139 savings account securing the same. The effect of such
140 reinstatement shall be to place the association, the borrower, and
141 any other interested person in the same legal position as if no
142 action had been taken, looking to such foreclosure.



143 **SECTION 5.** This act shall take effect and be in force from
144 and after July 1, 2022.

