

By: Representatives Owen, Stamps

To: Judiciary A

HOUSE BILL NO. 1351
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 89-5-8, MISSISSIPPI CODE OF 1972, TO
2 REGULATE THE EXECUTION OF SCRIVENER'S ERROR AFFIDAVITS FOR
3 PROPERTY DEEDS; TO CREATE THE "MISSISSIPPI ARCHITECTS AND
4 ENGINEERS GOOD SAMARITAN ACT"; TO PROVIDE IMMUNITY FROM LIABILITY
5 FOR ANY CIVIL ACTIONS ARISING FROM WORK PERFORMED BY ARCHITECTS OR
6 ENGINEERS AT THE REQUEST OF AN ELECTED OFFICIAL DURING A STATE OF
7 EMERGENCY; TO PROVIDE THAT THE IMMUNITY PROVIDED BY THIS ACT SHALL
8 ONLY APPLY TO SAFETY ASSESSMENT SERVICES; AND FOR RELATED
9 PURPOSES.

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

11 **SECTION 1.** Section 89-5-8, Mississippi Code of 1972, is
12 amended as follows:

13 89-5-8. (1) Any affidavit containing a statement relating
14 to the identification, the marital status, the heirship, the
15 relation, the death or the time of death of any person who is a
16 party to a document affecting the title to real property, or any
17 affidavit relating to the identification of any corporation or
18 other legal entity which is a party to a document affecting the
19 title to real property, signed by the affiant and verified upon
20 oath or affirmation before a notarial officer, shall be recordable



21 in the land records in the office of the chancery clerk in the
22 county where the real property is situated.

23 (2) (a) Notice of a typographical or other minor error in a
24 document affecting the title to real property may be given by
25 recording an affidavit containing a statement of scrivener's
26 error. If an affidavit is conspicuously identified as an
27 affidavit of scrivener's error, the chancery clerk shall index the
28 affidavit in the general index under the names of the original
29 parties to the document if they are identified in the affidavit,
30 and in the sectional index as provided in the indexing
31 instructions of the affidavit. Notice of the corrective
32 information provided by the affiant is effective upon recordation.
33 An affidavit under this paragraph (a) may be prepared only by an
34 attorney licensed to practice law in this state * * *.

35 (b) * * * The affidavit of scrivener's error shall be
36 executed and acknowledged by the affiant and verified upon oath or
37 affirmation before a notarial officer, and shall be recordable in
38 the land records in the office of the chancery clerk in the county
39 where the real estate is situated. The affidavit shall recite:
40 (i) the name and Mississippi bar number of the affiant attorney,
41 (ii) the instrument containing clerical error, and (iii) a
42 statement that the affiant is in good standing with The
43 Mississippi Bar, is licensed to practice law in the State of
44 Mississippi, and that his or her license is active at the time of
45 verification or affirmation. Any affidavit of scrivener's error



46 recorded that is not executed by an attorney licensed to practice
47 law in the State of Mississippi, and who prepared any document in
48 the chain of title to the subject real property, regardless of the
49 date of recording shall be void.

50 (c) * * * The chancery clerk shall make a marginal
51 notation on the document to which the affidavit refers.

52 (3) Where title to homestead property is in the titled
53 spouse, the nontitled spouse, in lieu of joining the titled spouse
54 in executing a conveyance, mortgage, deed of trust or other
55 encumbrance upon a homestead, may file an affidavit of
56 nonhomestead verified upon oath or affirmation that either: (a)
57 the nontitled spouse, together with the titled spouse, freely and
58 voluntarily abandoned the old homestead and secured and currently
59 together occupy a new homestead residence; or (b) the nontitled
60 spouse freely and voluntarily separated from the titled spouse
61 with no intent to return to the titled spouse or to reside with
62 the titled spouse, either temporarily or permanently, on the
63 titled spouse's homestead, and the nontitled spouse currently
64 maintains and occupies a separate residence.

65 (4) A person who knowingly makes or causes to be made a
66 false statement in an affidavit is guilty of perjury and liable
67 for the actual damages suffered or incurred by any person as a
68 result or consequence of the making of or reliance upon the false
69 affidavit. The court may award punitive damages, costs and
70 attorney's fees.



71 (5) From and after July 1, 2021, an affidavit recorded under
72 this section must include a description of the real property
73 covered by the affidavit.

74 (6) Any affidavit so recorded, or a certified copy thereof,
75 shall be admissible as evidence in any action involving the
76 document to which it relates or the title to the real property
77 affected by the document and shall be prima facie evidence of the
78 facts stated therein and the marketability of the title to real
79 property.

80 **SECTION 2.** (1) This section shall be known and may be cited
81 as the "Mississippi Architects and Engineers Good Samaritan Act."

82 (2) As used in this act, the following words shall have the
83 meanings described in this section:

84 (a) "Building inspection official" means any appointed
85 or elected federal, state, or local official with executive
86 responsibility to coordinate building inspection in the
87 jurisdiction in which the emergency or event has occurred;

88 (b) "Emergency" means an earthquake, eruption, flood,
89 storm, hurricane, fire or other catastrophe that has been
90 designated as a major disaster or emergency by the President of
91 the United States, the Governor, or other public official, and
92 shall include the terms "State of Emergency" and "Local emergency"
93 as defined in Section 33-15-5;

94 (c) "Good Samaritan" means a professional engineer or a
95 registered architect who performs safety assessment services only,



96 and who provides such services uncompensated (other than
97 reimbursement of expenses) at the scene of an emergency;

98 (d) "Law enforcement official" means any appointed or
99 elected federal, state, or local official with executive
100 responsibility to coordinate law enforcement in the jurisdiction
101 in which the emergency or event has occurred;

102 (e) "Professional engineer" means a person duly
103 licensed under the engineering licensure laws of a United States
104 or Canadian jurisdiction as a professional engineer;

105 (f) "Public official" means any federal, state, or
106 local official with executive responsibility in the jurisdiction
107 in which the emergency or event has occurred;

108 (g) "Public safety official" means any appointed or
109 elected federal, state, or local official with executive
110 responsibility to coordinate public safety in the jurisdiction in
111 which the emergency or event has occurred;

112 (h) "Registered architect" means a person duly licensed
113 under the architectural licensure laws of a United States or
114 Canadian jurisdiction as a registered architect; and

115 (i) "Safety assessment services" means inspection and
116 evaluation of any structure, building, facility, project utility,
117 equipment, machine, process, piping, or other system at the scene
118 of an emergency related to structural integrity or nonstructural
119 elements affecting life, safety and habitability.



120 (3) (a) Any registered architect or professional engineer
121 who provides safety assessment services as a Good Samaritan at the
122 request of or with the approval of a public official, law
123 enforcement official, public safety official, or building
124 inspection official acting in his or her official capacity as such
125 shall be immune from liability from any civil action arising only
126 from an act, service or omission performed in the course of
127 providing safety assessment services as a Good Samaritan. The
128 immunity provided in this act shall apply only to safety
129 assessment services if, such services: (i) occurred during the
130 emergency or within ninety (90) days following the end of the
131 period for the emergency, unless extended by an executive order;
132 and (ii) if the architect or engineer was acting as a reasonably
133 prudent person would have acted under the same or similar
134 circumstances during a period of declared emergency, to include
135 any other loss of any other nature related to the registered
136 architect's or professional engineer's acts, errors or omissions
137 in the performance of any architectural or engineering services
138 for any structure, building or facility during the declared period
139 of emergency.

140 (b) Architectural or engineering services beyond safety
141 assessment services including, but not limited to, design of
142 repairs, demolition plans, construction documents, or construction
143 administration shall only be undertaken by an architect or
144 professional engineer licensed in Mississippi.



145 (c) Nothing in this act shall be construed to provide
146 immunity for wanton, willful, or intentional misconduct.

147 (4) Any architect or professional engineer not licensed in
148 this state acting within the confines of this act as a Good
149 Samaritan in order to perform safety assessment services shall be
150 exempted from being required to be licensed as an architect or
151 professional engineer in the State of Mississippi, but only to the
152 extent of the services rendered for the period of time as provided
153 for in subsection (4) of this act.

154 **SECTION 3.** This act shall take effect and be in force from
155 and after July 1, 2022.

