

By: McBride

To: Judiciary B

HOUSE BILL NO. 1544

1 AN ACT TO AMEND SECTION 89-1-49 AND 89-5-21, MISSISSIPPI CODE  
2 OF 1972, TO REVISE PROVISIONS REGARDING EXTINGUISHING MORTGAGES OR  
3 DEEDS OF TRUST; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 89-1-49, Mississippi Code of 1972, is  
6 amended as follows:

7 89-1-49. (1) Except as provided in subsections (2) and (4)  
8 of this section, payment of the money secured by any mortgage or  
9 deed of trust shall extinguish it, and revert the title in the  
10 mortgagor as effectually as if reconveyed.

11 (2) This section shall have no application to security  
12 agreements executed under the Mississippi Uniform Commercial Code  
13 nor to security interests created by such security agreements.

14 (3) As used in this section, the term "line of credit"  
15 means any loan, extension of credit or financing arrangement where  
16 the lender has agreed to make additional or future advances.

17 (4) This section shall have no application to a mortgage or  
18 deed of trust which states on its face that it secures a line of  
19 credit. Mortgages or deeds of trust not covered by this section  
20 shall be extinguished as provided in subsection (5) of Section  
21 89-5-21.

22 SECTION 2. Section 89-5-21, Mississippi Code of 1972, is  
23 amended as follows:

24 89-5-21. (1) Except as otherwise provided in subsections  
25 (3), (4) or (5), any mortgagee or cestui que trust, or assignee of  
26 any mortgagee or cestui que trust, of real or personal estate,

27 having received full payment of the money due by the mortgage or  
28 deed of trust, shall enter satisfaction upon the margin of the  
29 record of the mortgage or deed of trust, which entry shall be  
30 attested by the clerk of the chancery court and discharge and  
31 release the same, and shall bar all actions or suits brought  
32 thereon, and the title shall thereby revert in the grantor.

33 (2) Any such mortgagee or cestui que trust, or such  
34 assignee, by himself or his attorney, who does not, after payment  
35 of all sums owed, within one (1) month after written request,  
36 cancel on the record the mortgage or deed of trust shall forfeit  
37 the sum of Two Hundred Dollars (\$200.00), which can be recovered  
38 by suit on part of the party aggrieved, and if after request, he  
39 fails or refuses to make such acknowledgment of satisfaction, the  
40 person so neglecting or refusing shall forfeit and pay to the  
41 party aggrieved any sum not exceeding the mortgage money, to be  
42 recovered by action; but such entry of satisfaction may be made by  
43 anyone authorized to do it by the written authorization of the  
44 mortgagee or beneficiary, duly acknowledged and recorded, and  
45 shall have the same effect as if done by the mortgagee or  
46 beneficiary.

47 (3) With respect to a mortgage or deed of trust which states  
48 on its face that it secures a line of credit, satisfaction or  
49 record shall be accomplished and extinguishment shall occur as  
50 provided in subsection (5).

51 (4) As used in this section, the term "line of credit" means  
52 any loan, extension of credit or financing arrangement where the  
53 lender has agreed to make additional or future advances.

54 (5) Any mortgagee or cestui que trust, or the assignee of a  
55 mortgagee or cestui que trust, under a mortgage or deed of trust  
56 securing a line of credit shall, upon (a) the termination or  
57 maturity of the line of credit and the payment of all sums owing  
58 in connection with the line of credit, or (b) the payment of all  
59 sums owing in connection with the line of credit and a written  
60 request by the debtor to cancel the line of credit and the  
61 mortgage or deed of trust securing the line of credit, enter  
62 satisfaction upon the margin of the record of the mortgage or deed  
63 of trust, which entry shall be attested by the clerk of the

64 chancery court and discharge and release the same, and shall bar  
65 all actions or suits brought thereon, and the title shall thereby  
66 revert in the grantor. For the purpose of this subsection (5),  
67 the requirement of a written request by the debtor may be  
68 satisfied by a prospective creditor's delivery of a document,  
69 signed by the debtor, requesting cancellation of the line of  
70 credit and the mortgage or deed of trust securing the line of  
71 credit.

72 SECTION 3. This act shall take effect and be in force from  
73 and after its passage.