

By: Representative Hudson

To: Judiciary A

HOUSE BILL NO. 1409

1 AN ACT TO AMEND SECTIONS 89-5-1 AND 89-5-25, MISSISSIPPI CODE
2 OF 1972, TO REQUIRE PAYMENT OF ALL MUNICIPAL AND COUNTY TAXES
3 BEFORE RECORDING A DEED; AND FOR RELATED PURPOSES.

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

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

7 89-5-1. A conveyance of land shall not be good against a
8 purchaser for a valuable consideration without notice, or any
9 creditor, unless it be acknowledged by the party who executed it,
10 or be proved by one or more of the subscribing witnesses to it
11 that such party signed and delivered the same as his or her
12 voluntary act before some officer authorized to take such
13 acknowledgment or proof; and a certificate of such acknowledgment
14 or proof shall be written upon or under the conveyance, and be
15 signed by the officer before whom it was made, and be lodged with
16 the clerk of the chancery court of the county in which the lands
17 are situated to be recorded; but after filing with the clerk, the
18 priority of time of filing shall determine the priority of all
19 conveyances of the same land as between the several holders of
20 such conveyances. All applicable municipal and county taxes must
21 be paid before a deed may be recorded.

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

24 89-5-25. (1) It shall be the duty of the clerk of the
25 chancery court to whom any written instrument is delivered to be
26 recorded, and which is properly recordable in his county, to
27 record the same without delay, together with the acknowledgments

28 of proofs and the certificates thereof, and also the plats of
29 surveys, schedules, and other papers thereto annexed, by entering
30 them word for word in a fair handwriting, or typewriting, or by
31 filling up printed forms, or by recording by photostat machine or
32 other equally permanent photographic or electronic process, and
33 entering the hour and minute, the day of the month, and the year
34 when the instrument was delivered to him for record, and when
35 recorded. Records filed or stored electronically may be in
36 addition to, or in lieu of, the physical record on paper. He
37 shall also carefully preserve all instruments of writing, which
38 are properly acknowledged and delivered to him to be recorded, and
39 after recording deliver them to the party entitled thereto on
40 demand. He shall also put a complete alphabetical index, both
41 direct and reverse, to each book, except as provided in subsection
42 (2), herein; and every person shall have access, at proper times,
43 to such books, and be entitled to transcripts from the same on
44 paying the lawful fees. He shall record the deeds and other
45 instruments in the order of time in which they are filed for
46 record as far as practicable. He shall determine that all
47 applicable municipal and county taxes have been paid before
48 recording a deed.

49 (2) In counties having a population in excess of one hundred
50 nineteen thousand (119,000) with an assessed valuation of all
51 taxable property therein in excess of Sixty-three Million Dollars
52 (\$63,000,000.00), and having two (2) cities wholly located
53 therein, each with a population in excess of thirty thousand
54 (30,000) persons according to the preceding Federal Census,
55 wherein the clerk of the chancery court has a well kept general
56 index, both direct and reverse, for each kind or class of record
57 books as required by Section 89-5-33, the board of supervisors
58 may, by order spread upon its minutes, authorize the clerk of the
59 chancery court to omit putting such index in each separate book of
60 the records to which such general index is kept.

61 (3) This section shall not be construed to authorize and
62 empower the boards of supervisors to purchase any photostat
63 machines or other equally permanent photographic or electronic
64 processes.

65 **SECTION 3.** This act shall take effect and be in force from
66 and after its passage.