By: Representatives Snowden, Mims, Gipson To: Judiciary A

HOUSE BILL NO. 723
(As Sent to Governor)

AN ACT TO AMEND SECTION 89-3-7, MISSISSIPPI CODE OF 1972, TO REVISE THE ACKNOWLEDGMENT REQUIREMENT FOR INSTRUMENTS PERTAINING TO REAL PROPERTY; TO PRESCRIBE AN ADDITIONAL ACKNOWLEDGMENT FORM FOR MULTIPLE-LAYER REPRESENTATIVE CAPACITY EXECUTION BY LEGAL ENTITIES; TO CLARIFY THE DATES OF DOCUMENTS RELATIVE TO THE ACKNOWLEDGMENT DATE; TO AMEND SECTIONS 89-3-1 AND 89-5-1, MISSISSIPPI CODE OF 1972, AS AMENDED BY HOUSE BILL NO. 599, 2011 REGULAR SESSION, TO REQUIRE THAT ALL INSTRUMENTS PERTAINING TO REAL PROPERTY TO BE RECORDED SHALL HAVE AN ACKNOWLEDGMENT; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 89-3-7, Mississippi Code of 1972, is amended as follows:

89-3-7. The following forms of acknowledgment may be used in the case of conveyances or other written instruments affecting real estate or personal property; and any acknowledgment so taken and certified shall be sufficient to satisfy all requirements of law:

(a) In the case of natural persons acting in their own right:

"STATE OF _____

COUNTY OF _____

Personally appeared before me, the undersigned authority in and for the said county and state, on this _____ day of _____, 20_____, within my jurisdiction, the within named _____, who acknowledged that (he) (she) (they) executed the above and foregoing instrument.

_____

(NOTARY PUBLIC)

My commission expires:

_____"

(Affix official seal, if applicable)

(b) In the case of corporations:

"STATE OF _____

COUNTY OF _____

Personally appeared before me, the undersigned authority in and for the said county and state, on this _____ day of _____, 20_____, within my jurisdiction, the within named _____, who acknowledged that (he) (she) is _____ of _____, a _____ corporation, and that for and on behalf of the said corporation, and as its act and deed (he) (she) executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.

_____

(NOTARY PUBLIC)

My commission expires:

_____"

(Affix official seal, if applicable)

(c) In the case of a corporate general partner of a limited partnership:

"STATE OF _____

COUNTY OF_____

Personally appeared before me, the undersigned authority in and for the said county and state, on this_____ day of_____, 20_____, within my jurisdiction, the within named_____, who acknowledged to me that (he) (she) is_____ of_____, a _____ corporation and general partner of_____, a_____ limited partnership, and that for and on behalf of said corporation as general partner of said limited partnership, and as the act and deed of said corporation as general partner of said limited partnership, and as the act and deed of said limited partnership, (he) (she) executed the above and foregoing

instrument, after first having been duly authorized by said corporation and said limited partnership so to do.

_____

(NOTARY PUBLIC)

My commission expires:

_____"

(Affix official seal, if applicable)

(d) In the case of a corporate member of a member-managed limited liability company:

"STATE OF _____

COUNTY OF _____

Personally appeared before me, the undersigned authority in and for the said county and state, on this_____ day of _____, 20_____, within my jurisdiction, the within named _____, who acknowledged to me that (he) (she) is _____ of _____, a _____ corporation and member of _____, a _____ member-managed limited liability company, and that for and on behalf of said corporation as member of said limited liability company, and as the act and deed of said corporation as member of said limited liability company, and as the act and deed of said limited liability company, (he) (she) executed the above and foregoing instrument, after first having been duly authorized by said corporation and said limited liability company so to do.

_____

(NOTARY PUBLIC)

My commission expires:

_____"

(Affix official seal, if applicable)

(e) In the case of a corporate manager of a manager-managed limited liability company:

"STATE OF _____

COUNTY OF _____

Personally appeared before me, the undersigned authority in and for the said county and state, on this_____ day of_____, 20_____, within my jurisdiction, the within named_____, who acknowledged to me that (he) (she) is_____ of_____, a _____ corporation and manager of_____, a_____ manager-managed limited liability company, and that for and on behalf of said corporation as manager of said limited liability company, and as the act and deed of said corporation as manager of said limited liability company, and as the act and deed of said limited liability company, (he) (she) executed the above and foregoing instrument, after first having been duly authorized by said corporation and said limited liability company so to do.

_____

(NOTARY PUBLIC)

My commission expires:

_____"

(Affix official seal, if applicable)

(f) In the case of persons acting in representative capacities:

"STATE OF _____

COUNTY OF _____

Personally appeared before me, the undersigned authority in and for the said county and state, on this _____ day of _____, 20_____, within my jurisdiction, the within named _____, who acknowledged that (he) (she) is _____ of _____, and that in said representative capacity (he) (she) executed the above and foregoing instrument, after first having been duly authorized so to do.

_____

(NOTARY PUBLIC)

My commission expires:

_____"

(Affix official seal, if applicable)

(g) In the case of proof of execution of the instrument made by a subscribing witness:

"STATE OF _____

COUNTY OF _____

Personally appeared before me, the undersigned authority in and for the said county and state, on this _____ day of _____, 20_____, within my jurisdiction, CD, one of the subscribing witnesses to the above and foregoing instrument, who, being first duly sworn, states that (he) (she) saw the within (or above) named AB, whose name is subscribed thereto, sign and deliver the same to EF (or that (he) (she) heard AB acknowledge that (he) (she) signed and delivered the same to EF); and that the affiant subscribed (his) (her) name as witness thereto in the presence of AB.

_____(CD)

(NOTARY PUBLIC)

My commission expires:

_____"

(Affix official seal, if applicable)

(h) In the case of any business organization, foreign or domestic:

"STATE OF _____

COUNTY OF _____

Personally appeared before me, the undersigned authority in and for the said county and state, on this _____ day of _____, 20_____, within my jurisdiction, the within named _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed in the above and foregoing instrument and acknowledged that he/she/they executed the same in his/her/their representative capacity(ies), and that by his/her/their signature(s) on the instrument, and as the act and deed of the person(s) or entity(ies) upon behalf of

which he/she/they acted, executed the above and foregoing instrument, after first having been duly authorized so to do.

_____

(NOTARY PUBLIC)

My commission expires:

_____"

(Affix official seal, if applicable)

SECTION 2. Section 89-3-1, Mississippi Code of 1972, as amended by House Bill No. 599, 2011 Regular Session, is amended as follows:

89-3-1. (1) Except in cases governed by the Uniform Commercial Code, the provisions of Sections 1 through 7 of House Bill No. 599, 2011 Regular Session, or otherwise specially provided for by law, the execution of a written instrument of or concerning the sale of lands, whether the same be made for passing an estate of freehold or inheritance, or for a term of years, or for any other purpose, or any writing conveying personal estate, shall * * * be * * * acknowledged or proved, and the acknowledgment or proof duly certified by an officer competent to take the same in the manner directed by this chapter * * *.

(2) Unless an instrument is acknowledged or proved as provided in subsection (1) of this section, the clerk's office may refuse to admit the instrument to record. However, if an instrument is not so acknowledged or proved but is otherwise admitted to record, then all persons shall be on constructive notice of the contents of the instrument.

(3) The provisions of subsection (2) of this section shall apply to all instruments of record on or after July 1, 2011. However, if the relative priorities of conflicting claims to real property were established before July 1, 2011, then the law applicable to those claims at the time those claims were established shall determine their priority.

SECTION 3. Section 89-5-1, Mississippi Code of 1972, as amended by House Bill No. 599, 2011 Regular Session, is amended as follows:

89-5-1. Except as provided by Sections 1 through 7 of House Bill No. 599, 2011 Regular Session, a conveyance of land shall not be good against a purchaser for a valuable consideration without notice, or any creditor, unless it * * * be lodged with the clerk of the chancery court of the county in which the lands are situated to be recorded; but after filing with the clerk, the priority of time of filing shall determine the priority of all conveyances of the same land as between the several holders of such conveyances.

SECTION 4. This act shall take effect and be in force from and after July 1, 2011.