

By: Representative Williams

To: Ways and Means

HOUSE BILL NO. 814
(As Passed the House)

1 AN ACT TO AMEND SECTION 27-13-9, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THE METHOD USED BY CERTAIN HOLDING CORPORATIONS TO
3 DETERMINE THE PORTION OF CAPITAL EXCLUDED FOR PURPOSES OF THE
4 STATE CORPORATION FRANCHISE TAX; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 27-13-9, Mississippi Code of 1972, is
7 amended as follows:

8 27-13-9. (1) The tax imposed, levied and assessed, under
9 the provisions of this chapter, shall be calculated on the basis
10 of the value of the capital employed in this state for the year
11 preceding the date of filing the return, whether a calendar year,
12 or fiscal year, except where otherwise provided in this chapter,
13 measured by the combined issued and outstanding capital stock,
14 paid-in capital, surplus and retained earnings; provided, that in
15 computing capital, paid-in capital, surplus and retained earnings,
16 there shall be included deferred taxes, deferred gains, deferred
17 income, contingent liabilities and all true reserves, including
18 all reserves other than for definite known fixed liabilities which
19 do not enhance the value of assets; and amounts designated for the
20 payment of dividends shall not be excluded from such calculations
21 until such amounts are definitely and irrevocably placed to the
22 credit of stockholders, subject to withdrawal on demand; provided,
23 however, there shall not be included in the value of the capital
24 stock any sums representing debts, notes, bonds and mortgages due
25 and payable, except where notes or debts due are provided by an
26 affiliated company as a substitute for stock or paid-in capital;
27 nor depreciation reserves, bad debt reserves, nor reserves

representing valuation accounts, nor redeemable preference shares issued by a railroad pursuant to Section 506 of the Railroad Revitalization and Regulatory Reform Act of 1976, and capital shall be reduced by the cost of treasury stock of the corporation purchased with earnings of the corporation. In the case of an association or other organization, except those exempted under Section 27-13-63, that does not have a capital structure like a corporation, the tax is based on that organization's accounts that are equivalent to the aforementioned corporate accounts, or any other capital employed in Mississippi. There shall not be any exclusion of capital by a corporation relating to the stock of another corporation except as otherwise provided in subsection (2). In no case shall the franchise tax so computed be less than Twenty-five Dollars (\$25.00) for the period covering which the return is filed. In no case shall the determined capital in Mississippi be less than the assessed value of the real estate and tangible personal property in Mississippi for the year preceding the year in which the return is due.

(2) In the case of a holding corporation, the value of the capital used, invested or employed in this state shall exclude that portion of the book value of the holding corporation's investment in stock or securities of its subsidiary corporation determined under the following formula: (a) The ratio between (i) the holding corporation's investment in stock or securities of its subsidiary corporation, computed * * * pursuant to regulations promulgated by the commissioner, and (ii) the holding corporation's total assets shall be computed; (b) such ratio then shall be applied to the total capital stock, surplus, undivided profits and true reserves of the holding corporation in order to arrive at the amount of the exclusion.

SECTION 2. This act shall take effect and be in force from and after its passage.