

By: Representative Guice

To: Banks and Banking

## HOUSE BILL NO. 1414

1 AN ACT TO AMEND SECTION 27-105-5, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT ANY FINANCIAL INSTITUTION MAINTAINING A  
3 DEPOSIT-TAKING FACILITY IN MISSISSIPPI WHOSE ACCOUNTS ARE  
4 FEDERALLY INSURED MAY QUALIFY AS A STATE DEPOSITORY; TO AMEND  
5 SECTION 27-105-9, MISSISSIPPI CODE OF 1972, TO REVISE THE FORMULA  
6 FOR ALLOCATING STATE FUNDS AMONG STATE DEPOSITORIES; AND FOR  
7 RELATED PURPOSES.

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

9 SECTION 1. Section 27-105-5, Mississippi Code of 1972, is  
10 amended as follows:

11 27-105-5. (1) Any financial institution maintaining a  
12 deposit-taking facility in this state whose accounts are insured  
13 by the Federal Deposit Insurance Corporation or any successors to  
14 such insurance corporation, may qualify as a state depository by  
15 submitting an application to the State Treasurer as provided by  
16 Section 27-105-9, if such institution has a primary capital to  
17 total assets ratio of five and one-half percent (5-1/2%) or more.

18 Such ratio shall be determined not later than December 1 in each  
19 calendar year by the State Treasurer on the basis of balance  
20 sheets of applying institutions at June 30 of the same calendar  
21 year, and an institution shall not be a qualified depository and  
22 shall not receive any state funds unless its ratio has been  
23 certified annually by the Treasurer as meeting the prescribed  
24 requirement. Each applicant shall furnish to the State Treasurer  
25 such financial statements, balance sheets or other documentation,  
26 sworn to by a duly elected officer, on such date or dates and on  
27 such forms as the State Treasurer may require. Any knowing or  
28 willful misstatement of fact on such forms shall subject the

29 officer swearing thereto to the penalty of perjury, and the  
30 financial institution of which he is an officer shall not be  
31 eligible to serve as a depository for a period of one (1) year  
32 commencing with the date on which the State Treasurer certifies  
33 that such a misstatement has been made. When so approved by the  
34 State Treasurer, such institution shall place on deposit with the  
35 State Treasurer the following bonds, notes and liquid securities  
36 in an aggregate amount at least equal to one hundred five percent  
37 (105%) of the amount of funds on deposit in the aggregate by the  
38 State of Mississippi or any agency or department thereof in excess  
39 of that portion of accounts insured by the Federal Deposit  
40 Insurance Corporation, or any successor thereto, to wit:

41 (a) All securities that are direct obligations of the  
42 United States Treasury or any other obligations fully guaranteed  
43 by the United States Government.

44 (b) Bonds, notes and other obligations of the Federal  
45 Home Loan Bank, Federal National Mortgage Association, Federal  
46 Land Banks, Banks for Cooperatives, and Federal Intermediate  
47 Credit Banks, the Government National Mortgage Association, the  
48 Federal Housing Administration, the Farmers Home Administration,  
49 the Farm Credit System Financial Assistance Corporation, the  
50 United States Postal Service, the Federal Financing Bank, the  
51 Student Loan Marketing Association, the Small Business  
52 Administration, the General Services Administration, the  
53 Washington Metropolitan Area Transit Authority, the Maritime  
54 Administration, the Export-Import Bank, the International Bank for  
55 Reconstruction and Development, the Inter-American Development  
56 Bank, the Asian Development Bank, loan participations which carry  
57 the guarantee of the Commodity Credit Corporation, an  
58 instrumentality of the United States Department of Agriculture or  
59 other similar agencies approved by the State Treasurer.

60 (c) Obligations of the Tennessee Valley Authority.

61 (d) Legal obligation or revenue bonds of the State of  
62 Mississippi, its agencies, or any political subdivision thereof,  
63 or any municipality located in the State of Mississippi, or the  
64 Yazoo Mississippi Delta and the Mississippi Levee Districts, or  
65 the Mississippi Higher Education Assistance Corporation or its

66 successors, or any body corporate and politic created pursuant to  
67 the laws of the State of Mississippi.

68 (e) General obligations issued by any state or by a  
69 county, parish or municipality of any state, the full faith and  
70 credit of which are pledged to the payment of principal and  
71 interest, that are rated "A" or better by any recognized national  
72 rating agency engaged in the business of rating bonds.

73 (f) Surety bonds of any surety company authorized to do  
74 business in the State of Mississippi.

75 (g) All bonds authorized as security for state funds  
76 under items (c), (d) and (e), inclusive, shall be investment  
77 quality, and any bonds under said items (c), (d), (e) and (f),  
78 inclusive, which are rated substandard by any of the appropriate  
79 supervisory authorities having jurisdiction over said depository  
80 or by any recognized national rating agency engaged in the  
81 business of rating bonds, shall not be eligible for pledging as  
82 security to the State of Mississippi by any qualified state  
83 depository.

84 No bonds shall be accepted as security for more than their  
85 stated par value or market value, whichever is lower, except bonds  
86 and obligations of the State of Mississippi and Mississippi State  
87 Highway bonds or notes which may be accepted as security at par  
88 value or market value, whichever is greater.

89 The bonds, notes and liquid securities to be placed on  
90 deposit shall secure both deposits and the accrued interest  
91 thereon.

92 Money shall be drawn from the depositories so as to leave in  
93 each as near as practicable, its equitable proportion of state  
94 funds.

95 The State Treasurer is authorized and empowered to:

96 (i) Deposit for safekeeping in the vaults of any  
97 of the state or national banks located within this state which are  
98 members of the Federal Deposit Insurance Corporation and which

99 have appropriate safekeeping facilities approved by the State  
100 Depository Commission, any federal reserve bank, any federal  
101 reserve branch bank, or any bank which is a member of the Federal  
102 Reserve System and is located in a city where there is a federal  
103 reserve bank or a federal reserve branch bank, the securities  
104 placed with him by financial institutions qualifying as state  
105 depositories; or

106 (ii) Accept, in lieu of the securities themselves,  
107 safekeeping trust receipts issued to the State Treasurer by the  
108 authorized safekeeping banks listed in subparagraph (i) above;  
109 such safekeeping trust receipts to describe the securities and  
110 show that such securities are held for safekeeping for the account  
111 of the State Treasurer. The securities so deposited shall not be  
112 commingled in any manner with the assets of the safekeeping bank.

113 The safekeeping banks listed in subparagraph (i) above are  
114 authorized to issue to the State Treasurer their safekeeping trust  
115 receipts based on safekeeping trust receipts issued to them by any  
116 of their correspondent banks which are members of the Federal  
117 Reserve System and are located in any federal reserve city and  
118 which have physical custody of the pledged securities.

119 In no event shall the State Treasurer deposit for safekeeping  
120 with any depository securities placed by said depository with the  
121 State Treasurer in qualifying as a state depository, nor shall he  
122 accept a safekeeping trust receipt by or from a depository  
123 covering securities it owns in order to secure state funds on  
124 deposit therewith.

125 (2) As used in this section, the following terms shall have  
126 the meanings set forth below:

127 (a) The term "primary capital" means the sum of common  
128 stock, perpetual preferred stock, capital surplus, undivided  
129 profits, capital reserves, mandatory convertible debt (to the  
130 extent of twenty percent (20%) of primary capital exclusive of  
131 such debt), minority interests in consolidated subsidiaries, net

132 worth certificates issued pursuant to 12 USCS 1823(i) and the  
133 allowance for loan and lease losses, and minus assets classified  
134 loss and intangible assets other than mortgage servicing rights.

135 (b) The term "assets classified loss" means:

136 (i) When measured as of the date of examination of  
137 the financial institution, those assets that have been determined  
138 by an evaluation made by a state or federal examiner as of that  
139 date to be a loss; and

140 (ii) When measured as of any other date, those  
141 assets:

142 (A) That have been determined: 1. by an  
143 evaluation made by a state or federal examiner at the most recent  
144 examination of the financial institution to be a loss, or 2. by  
145 evaluations made by the financial institution since its most  
146 recent examination to be a loss; and

147 (B) That have not been charged off from the  
148 financial institution's books or collected.

149 (c) The term "intangible assets" means those assets  
150 that would be required to be reported in the item for intangible  
151 assets in a Federal Deposit Insurance Corporation (FDIC) banking  
152 institution's "Reports of Condition and Income" (Call Reports),  
153 regardless of whether such institution is insured by the FDIC.

154 (d) The term "mandatory convertible debt" means a  
155 subordinated debt instrument meeting the requirements of the  
156 Federal Deposit Insurance Corporation which requires the issuer to  
157 convert such instrument into common or perpetual preferred stock  
158 by a date at or before the maturity of the debt instrument. The  
159 maturity of these instruments must be twelve (12) years or less.

160 (e) The term "mortgage servicing rights" means the  
161 purchased rights to perform the servicing function for a specific  
162 group of mortgage loans that are owned by others. Mortgage  
163 servicing rights must be amortized over a period not to exceed  
164 fifteen (15) years or their estimated useful life, whichever is

165 shorter.

166 (f) The term "perpetual preferred stock" means a  
167 preferred stock that does not have a stated maturity date or that  
168 cannot be redeemed at the option of the holder. It includes those  
169 issues of preferred stock that automatically convert into common  
170 stock at a stated date. It excludes those issues, the rate on  
171 which increases, or can increase, in such a manner that would  
172 effectively require the issuer to redeem the issue.

173 (g) The term "total assets" means the average of total  
174 assets of any financial institution which are or would be included  
175 in a Federal Deposit Insurance Corporation (FDIC) banking  
176 institution's "Reports of Condition and Income" (Call Reports),  
177 regardless of whether such institution is insured by the FDIC,  
178 plus the allowance for loan and lease losses, minus assets  
179 classified loss and minus intangible assets other than mortgage  
180 servicing rights.

181 SECTION 2. Section 27-105-9, Mississippi Code of 1972, is  
182 amended as follows:

183 27-105-9. The State Treasurer shall give notice of the  
184 provisions of this article once a month to each eligible bank and  
185 financial institution in the state having an amount of state funds  
186 less than the amount authorized to be allocated to the bank or  
187 financial institution under Section 27-105-33 and this section,  
188 and shall receive such applications as they or any of them may  
189 make for the privilege of keeping any part of the state funds on  
190 forms to be furnished by the Treasurer, and shall place the state  
191 funds with the institutions applying therefor if the depository  
192 application has been duly approved by the Treasurer.

193 The Treasurer, when considering the various depository  
194 applications, shall review the financial statement of the applying  
195 depository and become satisfied regarding its liquidity and  
196 capital ratio so as to assure the safety of all state funds, and  
197 likewise to give the equitable apportionment of the state funds

198 throughout the state.

199 State funds required for current operation, as determined  
200 pursuant to Section 27-105-33, shall be deposited in one or more  
201 demand accounts. State funds not required for current operation,  
202 as determined pursuant to Section 27-105-33, shall be deposited in  
203 one or more interest-bearing accounts or time certificates of  
204 deposit, or otherwise invested pursuant to Section 27-105-33.  
205 When any depository holding state demand accounts receives an  
206 order from the Treasurer or his designee to transfer collected  
207 funds out of such accounts to any interest-bearing accounts or  
208 time certificates of deposit in such depository or any other  
209 depository pursuant to the provisions of this chapter, the  
210 transfer shall be made immediately or as soon thereafter as  
211 practicable. If the Treasurer finds that any depository is not  
212 transferring funds as hereinabove provided, such depository shall  
213 be disqualified from holding or receiving any state demand  
214 accounts for a period of time not to exceed one (1) year.

215 All funds allocated to approved depositories under the  
216 provisions of subsection (b) of Section 27-105-33 shall be  
217 allocated to qualified depositories of the state on a pro rata  
218 basis determined as follows:

219 (a) Each qualified depository shall be assigned a  
220 numerator which shall be the sum of (i) thirty-five percent (35%)  
221 of that portion of its Mississippi-based deposits that  
222 does not exceed Two Hundred Fifty Million Dollars  
223 (\$250,000,000.00), plus (ii) twenty-five percent (25%) of that  
224 portion of its Mississippi-based deposits that exceed Two Hundred  
225 Fifty Million Dollars (\$250,000,000.00) but does not exceed Five  
226 Hundred Million Dollars (\$500,000,000.00), plus (iii) fifteen  
227 percent (15%) of that portion of its Mississippi-based deposits  
228 that exceeds Five Hundred Million Dollars (\$500,000,000.00).

229 (b) Each such numerator shall be divided by a  
230 denominator, which shall be the sum of (i) thirty-five percent

231 (35%) of the first Two Hundred Fifty Million Dollars  
232 (\$250,000,000.00) or portion thereof of the Mississippi-based  
233 deposits of each qualified depository, plus (ii) twenty-five  
234 percent (25%) of the next Two Hundred Fifty Million Dollars  
235 (\$250,000,000.00) or portion thereof of the Mississippi-based  
236 deposits of each qualified depository, plus (iii) fifteen percent  
237 (15%) of the Mississippi-based deposits of each qualified  
238 depository in excess of Five Hundred Million Dollars  
239 (\$500,000,000.00), being the sum of the numerators of all  
240 depositories. The resulting percentage shall be the pro rata  
241 share of such depository in funds allocated under Section  
242 27-105-33(b).

243 (c) All such computations shall be determined annually by  
244 December 1 on the basis of the deposits held by the depositories  
245 at deposit facilities located in the State of Mississippi as  
246 reported in the Federal Deposit Insurance Corporation's Market  
247 Share Report -- Deposits of All FDIC-Insured Institutions  
248 Operating in Mississippi on June 30 of each year. For the  
249 purposes of this section, "Mississippi-based deposits" means the  
250 total deposits held at deposit facilities located in the State of  
251 Mississippi on June 30 as reported annually by the Federal Deposit  
252 Insurance Corporation in the above-referenced report.

253 State funds allocated to each approved depository shall not  
254 be more than four percent (4%) of the depository's  
255 Mississippi-based deposits. Interest-bearing time certificates of  
256 deposit and other interest-bearing deposits, either general or  
257 special, made pursuant to Section 27-105-33, may be treated as not  
258 coming within this percentage if, in the discretion of the  
259 Treasurer, the best interest of the state can be served to  
260 increase its earnings and decrease its expenses in the handling of  
261 the state funds; however, any and all depositories must first  
262 qualify and be approved by the Treasurer to receive demand  
263 deposits subject to withdrawal or transfer by check of the



264 Treasurer when properly presented and so demanded. For the  
265 purposes of this section, the term "paid-in and earned capital  
266 funds" means the sum of common stock, perpetual preferred stock,  
267 surplus, undivided profits and capital reserves as these amounts  
268 are or would be reflected in a Federal Deposit Insurance  
269 Corporation (FDIC) banking institution's "Reports of Condition and  
270 Income" (Call Reports), regardless of whether such institution is  
271 insured by the FDIC.

272 The depository contract shall be for one (1) year, but may be  
273 renewed from year to year upon proper review and approval of the  
274 Treasurer. Each applicant shall furnish to the Treasurer a  
275 financial statement sworn to by a duly elected officer, and on  
276 such date or dates as the Treasurer may provide.

277 SECTION 3. This act shall take effect and be in force from  
278 and after July 1, 1999.