

By: Thames

To: Business and  
Financial  
Institutions

SENATE BILL NO. 2578

1 AN ACT TO AMEND SECTIONS 81-8-1, 81-8-3 AND 81-23-9,  
2 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A DEFINITION OF BANKER'S  
3 BANK; TO ALLOW OUT-OF-STATE BANK HOLDING COMPANIES TO ACQUIRE  
4 BANKER'S BANKS THAT HAVE BEEN IN EXISTENCE LESS THAN FIVE YEARS;  
5 TO ALLOW INTERSTATE BRANCHING TRANSACTIONS INVOLVING BANKER'S  
6 BANKS; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 81-8-1, Mississippi Code of 1972, is  
9 amended as follows:

10 81-8-1. For the purposes of this chapter, the following  
11 words shall have the following meanings:

12 (a) The term "acquire" means:

13 (i) The merger or consolidation of one bank  
14 holding company with another;

15 (ii) The acquisition by a bank holding company of  
16 the direct or indirect ownership or control of voting shares of a  
17 bank or of another bank holding company if, after such  
18 acquisition, such bank holding company will directly or indirectly  
19 own or control more than five percent (5%) of any class of voting  
20 shares of such bank holding company or bank;

21 (iii) The direct or indirect acquisition by a bank  
22 holding company of all or substantially all of the assets of a  
23 bank or of another bank holding company; or

24 (iv) Any other action that would result in the  
25 direct or indirect control by a bank holding company of a bank or  
26 of another bank holding company.

27 (b) "Bank" means any "insured bank" as such term is  
28 defined in Section 3(h) of the Federal Deposit Insurance Act, 12

29 USCS Section 1813(h), or any institution eligible to become an  
30 insured bank as such term is defined therein, which, in either  
31 event:

32 (i) Accepts deposits that the depositor has a  
33 legal right to withdraw on demand; and

34 (ii) Engages in the business of making commercial  
35 loans.

36 (c) "Banker's bank" has the same meaning as the term is  
37 defined in 12 USCS Section 24.

38 (d) "Banking office" means any bank, branch of a bank,  
39 or any other office at which a bank accepts deposits; however, the  
40 term "banking office" shall not include:

41 (i) Unmanned automatic teller machines, point of  
42 sale terminals, or other similar unmanned electronic banking  
43 facilities at which deposits may be accepted;

44 (ii) Offices located outside the United States; or

45 (iii) Loan production offices, representative  
46 offices or other offices at which deposits are not accepted.

47 (e) "Bank holding company" means any company which is a  
48 bank holding company under the federal Bank Holding Company Act of  
49 1956, as amended, 12 USCS Section 1841(a)(1).

50 (f) "Commissioner" means the Commissioner of Banking  
51 and Consumer Finance as provided for in Section 81-1-61.

52 (g) "Control" has the meaning set forth in Section  
53 2(a)(2) of the federal Bank Holding Company Act of 1956, as  
54 amended, 12 USCS Section 1841(a)(2).

55 (h) "Department" means the Mississippi Department of  
56 Banking and Consumer Finance established in Section 81-1-59.

57 (i) "Deposits" means all demand, time and savings  
58 deposits, without regard to the location of the depositor;  
59 provided, however, that "deposits" shall not include any deposits  
60 by banks. For purposes of this chapter, determinations of  
61 deposits shall be made by reference to regulatory reports of  
62 condition or similar reports made by or to state and federal  
63 regulatory agencies.

64 (j) "Mississippi bank" means a bank organized under the  
65 laws of this state, or a bank organized under the laws of the

66 United States which has its main office in Mississippi.

67           (k) "Mississippi bank holding company" means a bank  
68 holding company in which the total Mississippi deposits of all  
69 bank subsidiaries of such company exceed the total deposits of  
70 such bank subsidiaries in any other state.

71           (l) The "principal place of business" of a bank holding  
72 company is the state in which the total deposits of the bank  
73 subsidiaries of the bank holding company are the largest.

74           (m) "Out-of-state bank holding company" means a bank  
75 holding company other than a Mississippi bank holding company.

76           (n) "Subsidiary" means that which is set forth in  
77 Section 2(d) of the federal Bank Holding Company Act of 1956, as  
78 amended, 12 USCS Section 1841(d).

79           SECTION 2. Section 81-8-3, Mississippi Code of 1972, is  
80 amended as follows:

81           81-8-3. (1) An out-of-state bank holding company may  
82 establish a bank in Mississippi only by acquiring a Mississippi  
83 bank or Mississippi bank holding company upon approval by the  
84 commissioner, which approval:

85           (a) Determines that the Mississippi bank sought to be  
86 acquired has been in existence and continuously operating for more  
87 than five (5) years or that the Mississippi bank subsidiary of the  
88 Mississippi bank holding company sought to be acquired has been in  
89 existence and continuously operating for more than five (5) years;

90           (b) Determines that the acquisition will not result in  
91 a violation of Sections 81-5-28, 81-7-7, 81-7-8 and 81-7-19.

92           (c) Determines that a copy of the completed application  
93 or applications which are filed with the appropriate federal bank  
94 regulatory authority seeking approval of the acquisition, and a  
95 consent to service of process (all on such form or forms as the  
96 commissioner by regulation may require) shall have been filed with  
97 the commissioner for at least sixty (60) days, and notice of such  
98 acquisition, specifying the name of the out-of-state bank holding

99 company, the name of the Mississippi bank or Mississippi bank  
100 holding company sought to be acquired and a brief description of  
101 the transaction shall have been published once in a newspaper of  
102 general circulation in each county in which the Mississippi bank  
103 or the subsidiary of the Mississippi bank holding company has  
104 banking offices.

105 (2) Nothing in this section shall prohibit the acquisition  
106 by an out-of-state bank holding company of all or substantially  
107 all of the shares of (a) a bank organized solely for the purpose  
108 of facilitating the acquisition of a bank which has been in  
109 existence and continuously operated as a bank for more than five  
110 (5) years, or (b) a banker's bank that has been in existence less  
111 than five (5) years, if the acquisition has otherwise been  
112 approved pursuant to this section.

113 (3) Notwithstanding the foregoing or any other provision of  
114 this chapter to the contrary, a Mississippi bank may enter into an  
115 interstate branching transaction as defined by and pursuant to  
116 Chapter 23, Title 81, Mississippi Code of 1972, known as the  
117 Interstate Bank Branching Act.

118 SECTION 3. Section 81-23-9, Mississippi Code of 1972, is  
119 amended as follows:

120 81-23-9. (1) An interstate branching transaction shall not  
121 be permitted under this chapter if, upon consummation of such  
122 transaction, the resulting bank would control in excess of  
123 twenty-five percent (25%) of the total deposits of all offices  
124 located in the State of Mississippi of commercial banks, savings  
125 banks, savings and loan associations and credit unions in the  
126 State of Mississippi, as determined according to Section 81-7-8.

127 (2) An interstate branching transaction resulting in:

128 (a) The acquisition by an out-of-state bank of a  
129 Mississippi bank,

130 (b) The acquisition of all or substantially all of the  
131 assets (including all or substantially all of the branches) of a

132 Mississippi bank, or

133           (c) The merger or consolidation of a Mississippi bank  
134 with or into another bank shall not be permitted unless such  
135 Mississippi bank has been in continuous operation as a state or  
136 federally chartered bank, savings bank or savings association for  
137 at least its previous five (5) years of existence, as determined  
138 according to Section 81-7-8, or is defined as a banker's bank  
139 according to Section 81-8-1.

140           (3) In the sale of any insolvent bank made pursuant to the  
141 provisions of Chapter 9, Title 81, Mississippi Code of 1972, or  
142 pursuant to federal banking laws, the restrictions contained in  
143 subsections (1) and (2) of this section shall not apply to prevent  
144 the acquisition of such insolvent bank by another bank; and,  
145 additionally, neither restriction shall apply to prohibit any  
146 purchasing bank from retaining any established branches of the  
147 insolvent bank which the purchasing bank would otherwise be  
148 prohibited from establishing.

149           SECTION 4. This act shall take effect and be in force from  
150 and after July 1, 2000.