

By: Thames

To: Business and
Financial
Institutions

SENATE BILL NO. 2578
(As Passed the Senate)

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 REVISE THE DEFINITION OF THE TERM "PRINCIPAL PLACE OF
4 BUSINESS"; TO ALLOW OUT-OF-STATE BANK HOLDING COMPANIES TO ACQUIRE
5 BANKER'S BANKS THAT HAVE BEEN IN EXISTENCE LESS THAN FIVE YEARS;
6 TO ALLOW INTERSTATE BRANCHING TRANSACTIONS INVOLVING BANKER'S
7 BANKS; AND FOR RELATED PURPOSES.

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

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

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

13 (a) The term "acquire" means:

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

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

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

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

28 (b) "Bank" means any "insured bank" as such term is

29 defined in Section 3(h) of the Federal Deposit Insurance Act, 12
30 USCS Section 1813(h), or any institution eligible to become an
31 insured bank as such term is defined therein, which, in either
32 event:

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

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

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

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

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

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

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

48 (e) "Bank holding company" means any company which is a
49 bank holding company under the federal Bank Holding Company Act of
50 1956, as amended, 12 USCS Section 1841(a)(1).

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

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

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

58 (i) "Deposits" means all demand, time and savings
59 deposits, without regard to the location of the depositor;
60 provided, however, that "deposits" shall not include any deposits
61 by banks. For purposes of this chapter, determinations of

62 deposits shall be made by reference to regulatory reports of
63 condition or similar reports made by or to state and federal
64 regulatory agencies.

65 (j) "Mississippi bank" means a bank organized under the
66 laws of this state, or a bank organized under the laws of the
67 United States which has its main office in Mississippi.

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

72 (l) The "principal place of business" of a bank holding
73 company is the state in which the total deposits of the bank
74 subsidiaries of the bank holding company are the largest, or the
75 state designated by the bank holding company.

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

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

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

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

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

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

94 (c) Determines that a copy of the completed application

95 or applications which are filed with the appropriate federal bank
96 regulatory authority seeking approval of the acquisition, and a
97 consent to service of process (all on such form or forms as the
98 commissioner by regulation may require) shall have been filed with
99 the commissioner for at least sixty (60) days, and notice of such
100 acquisition, specifying the name of the out-of-state bank holding
101 company, the name of the Mississippi bank or Mississippi bank
102 holding company sought to be acquired and a brief description of
103 the transaction shall have been published once in a newspaper of
104 general circulation in each county in which the Mississippi bank
105 or the subsidiary of the Mississippi bank holding company has
106 banking offices.

107 (2) Nothing in this section shall prohibit the acquisition
108 by an out-of-state bank holding company of all or substantially
109 all of the shares of (a) a bank organized solely for the purpose
110 of facilitating the acquisition of a bank which has been in
111 existence and continuously operated as a bank for more than five
112 (5) years, or (b) a banker's bank that has been in existence less
113 than five (5) years, if the acquisition has otherwise been
114 approved pursuant to this section. However, any state or
115 federally chartered banker's bank that is acquired by an
116 out-of-state bank holding company as provided in this subsection
117 shall remain a banker's bank for a period of not less than five
118 (5) years after the date of acquisition.

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

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

126 81-23-9. (1) An interstate branching transaction shall not
127 be permitted under this chapter if, upon consummation of such

128 transaction, the resulting bank would control in excess of
129 twenty-five percent (25%) of the total deposits of all offices
130 located in the State of Mississippi of commercial banks, savings
131 banks, savings and loan associations and credit unions in the
132 State of Mississippi, as determined according to Section 81-7-8.

133 (2) An interstate branching transaction resulting in:

134 (a) The acquisition by an out-of-state bank of a
135 Mississippi bank,

136 (b) The acquisition of all or substantially all of the
137 assets (including all or substantially all of the branches) of a
138 Mississippi bank, or

139 (c) The merger or consolidation of a Mississippi bank
140 with or into another bank shall not be permitted unless such
141 Mississippi bank has been in continuous operation as a state or
142 federally chartered bank, savings bank or savings association for
143 at least its previous five (5) years of existence, as determined
144 according to Section 81-7-8, or is defined as a banker's bank
145 according to Section 81-8-1. However, any state or federally
146 chartered banker's bank that has been merged or consolidated with
147 or into another bank as provided in this subsection shall remain a
148 banker's bank for a period of not less than five (5) years after
149 the date of merger or consolidation.

150 (3) In the sale of any insolvent bank made pursuant to the
151 provisions of Chapter 9, Title 81, Mississippi Code of 1972, or
152 pursuant to federal banking laws, the restrictions contained in
153 subsections (1) and (2) of this section shall not apply to prevent
154 the acquisition of such insolvent bank by another bank; and,
155 additionally, neither restriction shall apply to prohibit any
156 purchasing bank from retaining any established branches of the
157 insolvent bank which the purchasing bank would otherwise be
158 prohibited from establishing.

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