

By: Representative Clark

To: Ways and Means

HOUSE BILL NO. 1487

1 AN ACT TO AMEND SECTIONS 75-76-3 AND 75-76-35, MISSISSIPPI
 2 CODE OF 1972, TO PROVIDE THAT GAMING ESTABLISHMENTS SHOULD
 3 DISCOURAGE PERSONS FROM GAMBLING AWAY THEIR HOMES OR OTHER
 4 VALUABLE ASSETS THAT COULD LEAD TO SERIOUS FINANCIAL HARM; TO
 5 AMEND SECTION 81-5-1, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
 6 BANKING CORPORATIONS SHOULD DISCOURAGE PERSONS FROM OBTAINING
 7 LOANS FOR GAMBLING PURPOSES WHEN SUCH LOANS COULD LEAD TO SERIOUS
 8 FINANCIAL HARM; AND FOR RELATED PURPOSES.

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

10 SECTION 1. Section 75-76-3, Mississippi Code of 1972, is
 11 amended as follows:

12 75-76-3. (1) The provisions of this act shall not be
 13 construed to legalize any form of gaming which is prohibited under
 14 the Mississippi Constitution or the laws of this state. All legal
 15 gaming which is conducted in this state and which is otherwise
 16 authorized by law shall be regulated and licensed pursuant to the
 17 provisions of this chapter, unless the Legislature specifically
 18 provides otherwise. Nothing in this chapter shall be construed as
 19 encouraging the legalization of gambling in this state.

20 (2) The Legislature hereby finds and declares that lotteries
 21 and gaming both consist of the material element of chance. The
 22 Legislature is prohibited from legislating upon lotteries and
 23 permitted by virtue of its inherent powers to legislate upon
 24 gaming as the occasion arises. The Legislature derives its power
 25 to legislate upon gaming or gambling devices from its inherent
 26 authority over the morals and policy of the people and such power
 27 shall not be considered to conflict with the constitutional
 28 prohibition of lotteries.

29 (3) The Legislature hereby finds, and declares it to be the
30 public policy of this state, that:

31 (a) Regulation of licensed gaming is important in order
32 that licensed gaming is conducted honestly and competitively, that
33 the rights of the creditors of licensees are protected and that
34 gaming is free from criminal and corruptive elements.

35 (b) Public confidence and trust can only be maintained
36 by strict regulation of all persons, locations, practices,
37 associations and activities related to the operation of licensed
38 gaming establishments and the manufacture or distribution of
39 gambling devices and equipment.

40 (c) All establishments where gaming is conducted and
41 where gambling devices are operated, and manufacturers, sellers
42 and distributors of certain gambling devices and equipment must
43 therefore be licensed, controlled and assisted to protect the
44 public health, safety, morals, good order and general welfare of
45 the inhabitants of the state.

46 (d) All establishments where gaming is conducted and
47 where gambling devices are operated should discourage individuals
48 from gambling away all of their assets such as their home or other
49 valuable assets that could lead to serious financial harm.

50 (4) It is the intent of the Legislature that gaming
51 licensees, to the extent practicable, employ residents of
52 Mississippi as gaming employees and other employees in the
53 operation of their gaming establishments located in this state.

54 (5) No applicant for a license or other affirmative
55 commission approval has any right to a license or the granting of
56 the approval sought. Any license issued or other commission
57 approval granted pursuant to the provisions of this chapter is a
58 revocable privilege, and no holder acquires any vested right
59 therein or thereunder.

60 (6) The Legislature recognizes that Section 98 of the
61 Mississippi Constitution of 1890 prohibits the conducting of any

62 lottery in this state and that, while not defining the term
63 "lottery," Section 98 clearly contemplates, as indicated by
64 specific language contained therein, that a lottery involves the
65 sale of tickets and a drawing in order to determine the winner.
66 The Legislature also recognizes that Section 98 of the Mississippi
67 Constitution of 1890 directs the Legislature to provide by law for
68 the enforcement of its provisions. Therefore, in carrying out its
69 duties under the Constitution and effectuating the intent of
70 Section 98, the Legislature hereby finds that a lottery, as
71 prohibited by the Constitution, does not include all forms of
72 gambling but means any activity in which:

73 (a) The player or players pay or agree to pay something
74 of value for chances, represented and differentiated by tickets,
75 slips of paper or other physical and tangible documentation upon
76 which appear numbers, symbols, characters or other distinctive
77 marks used to identify and designate the winner or winners; and

78 (b) The winning chance or chances are to be determined
79 by a drawing or similar selection method based predominately upon
80 the element of chance or random selection rather than upon the
81 skill or judgment of the player or players; and

82 (c) The holder or holders of the winning chance or
83 chances are to receive a prize or something of valuable
84 consideration; and

85 (d) The activity is conducted and participated in
86 without regard to geographical location, with the player or
87 players not being required to be present upon any particular
88 premises or at any particular location in order to participate or
89 to win.

90 SECTION 2. Section 75-76-35, Mississippi Code of 1972, is
91 amended as follows:

92 75-76-35. (1) The Legislature hereby declares that the
93 exclusion or ejection of certain persons from licensed gaming
94 establishments is necessary to effectuate the policies of this

95 chapter and to maintain effectively the strict regulation of
96 licensed gaming.

97 (2) The commission may by regulation provide for the
98 establishment of a list of persons who are to be excluded or
99 ejected from any licensed gaming establishment. The list may
100 include any person whose presence in the establishment is
101 determined by the commission or the executive director to pose a
102 threat to the interests of this state or to licensed gaming, or
103 both.

104 (3) In making that determination, the commission and the
105 executive director may consider any:

106 (a) Prior conviction of a crime which is a felony in
107 this state or under the laws of the United States, a crime
108 involving moral turpitude, or a violation of the gaming laws of
109 any state;

110 (b) Violation or conspiracy to violate the provisions
111 of this chapter relating to:

112 (i) The failure to disclose an interest in a
113 gaming establishment for which the person must obtain a license;
114 or

115 (ii) Willful evasion of fees or taxes;

116 (c) Notorious or unsavory reputation which would
117 adversely affect public confidence and trust that the gaming
118 industry is free from criminal or corruptive elements; or

119 (d) Written order of a governmental agency which
120 authorizes the exclusion or ejection of the person from an
121 establishment at which gaming is conducted.

122 (4) Race, color, creed, national origin or ancestry, or sex
123 shall not be grounds for placing the name of a person upon the
124 list.

125 (5) Persons should be discouraged from gambling away their
126 homes or other valuable assets that could lead to serious
127 financial harm.

128 SECTION 3. Section 81-5-1, Mississippi Code of 1972, is
129 amended as follows:

130 81-5-1. (1) All banking corporations are prohibited, either
131 through their officers or as a banking agency, from participating,
132 directly or indirectly, in the operation of any underwriting
133 syndicate which handles securities for resale. However, this
134 inhibition shall not apply to bonds issued by federal, state,
135 county or other governmental agencies.

136 (2) The executive officers of banking corporations now
137 existing or hereafter organized under the laws of the State of
138 Mississippi, are prohibited from owning stock in private banking
139 houses or other agencies engaged in the business of underwriting
140 securities for resale.

141 (3) The Commissioner of Banking and Consumer Finance is
142 authorized, empowered and directed to promulgate rules and
143 regulations, relative to withdrawals of deposits from savings
144 banks, trust companies and other banking institutions, and the
145 commissioner may, in cases of emergency, declare bank holidays and
146 do any and all things necessary to insure, protect and conserve
147 the resources of such banks.

148 (4) All state banking corporations are prohibited from
149 making loans to state, county, municipal and district governmental
150 agencies, unless such loans are made in strict compliance with
151 legal enactments and regulations which govern, and such banking
152 corporations are further prohibited from transferring funds from
153 one state, county, municipal or district account to another unless
154 authorized by warrant issued by proper authority, and such banking
155 corporations are prohibited from discounting state, county,
156 municipal, district or other public certificates and warrants, but
157 such certificates and warrants may be used as collateral to
158 guarantee the payment of notes or other obligations.

159 (5) The board of directors of any banking corporation
160 created under the laws of this state may, at its option, require

161 any or all employees of such to file with the board of directors a
162 sworn financial statement semiannually or more often if it so
163 desires.

164 (6) Any bank may, at its option, pay all checks drawn on it
165 with currency or valid exchange drawn on a bank in a reserve city
166 not more than five hundred (500) miles distant from such bank; but
167 each depositor is entitled to have his checks paid each day in
168 currency to the total extent of ten percent (10%) of his deposit
169 if it exceeds One Thousand Dollars (\$1,000.00) and at least One
170 Hundred Dollars (\$100.00) each day if his balance is over One
171 Hundred Dollars (\$100.00) and less than One Thousand Dollars
172 (\$1,000.00), and may demand his entire balance in currency at any
173 time if One Hundred Dollars (\$100.00) or less.

174 (7) No loan in excess of Twenty-five Thousand Dollars
175 (\$25,000.00) shall be made by any state banking corporation except
176 on approval of a loan committee selected by a majority of the
177 board of directors. Such committee shall require of all such
178 prospective borrowers a financial statement in connection with all
179 unsecured loans in excess of Twenty-five Thousand Dollars
180 (\$25,000.00).

181 (8) All state banking corporations may purchase for the
182 account of their customers bonds, stocks and other securities, and
183 such banking corporations may charge for their service in
184 connection with the handling of such transactions only actual
185 expenses plus the usual broker's fees allowed for similar service
186 by national banks.

187 (9) Any state bank may purchase, lease or otherwise acquire
188 automatic data processing computers and related machinery and
189 equipment, and such bank may utilize and operate such computers,
190 machinery and equipment in performing for itself, its customers or
191 any other bank such services as may be desired including, but not
192 limited to, check and deposit sorting and posting, computation and
193 posting of interest and other credits and charges, preparation and

194 mailing of checks, statements, notices and similar items, or any
195 other clerical, bookkeeping, accounting, statistical or similar
196 functions performed by and for a bank. Corporations may be
197 organized under the laws of the State of Mississippi for the
198 purpose of owning and operating, by purchase, lease or otherwise,
199 such computers, related machinery and equipment as aforesaid, and
200 such corporations may perform for any bank those services as above
201 mentioned; and stock of such corporations shall be legal
202 investments for state banks to the same extent that stock of bank
203 service corporations is eligible for acquisition by national banks
204 under the provisions of the Bank Service Corporation Act, Public
205 Law 87-856, 76 Stat. 1132.

206 (10) In addition to other powers, a state-chartered bank
207 shall have and possess such of the rights, powers, privileges,
208 immunities, duties and obligations of a national bank having its
209 principal place of business in this state as may be prescribed by
210 the State Board of Banking Review by general regulation under the
211 circumstances and conditions set out therein. In the event of a
212 conflict between the provisions of this subsection (10) and the
213 provisions of any other act or acts, directly or indirectly,
214 governing or regulating the activities of state chartered banks,
215 the provisions of this subsection (10) shall control, and
216 insurance activities of all banks, their subsidiaries, affiliates,
217 branches, officers and employees doing business in this state
218 shall be governed by the provisions of Title 83, Mississippi Code
219 of 1972, only to the extent that Title 83, Mississippi Code of
220 1972, applies to national banks in Mississippi.

221 (11) Banking corporations should discourage persons from
222 obtaining loans for gambling purposes especially when such a loan
223 could cause such persons to lose their home or other valuable
224 assets that could lead to serious financial harm.

225 SECTION 4. This act shall take effect and be in force from
226 and after its passage.