

By: Representative Guice

To: Ways and Means

HOUSE BILL NO. 1635

1 AN ACT TO AMEND SECTION 27-35-35, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT ANY UNUSED PORTION OF THE CREDIT AGAINST
3 CORPORATION FRANCHISE TAX ALLOWED FOR THE TAX ASSESSED AND PAID BY
4 A BANK ON THE ASSESSED VALUE OF ITS INTANGIBLES MAY BE CARRIED
5 FORWARD FOR TEN YEARS; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 27-35-35, Mississippi Code of 1972, is
8 amended as follows:

9 27-35-35. The president, cashier or other officer of each
10 bank or banking association in this state, whether organized under
11 the laws of this state or the United States, shall make out and
12 deliver to the county tax assessor, under oath, on or before April
13 1 of each year, a statement, on the form prescribed and furnished
14 by the State Tax Commission, of its assets and liabilities, and of
15 the number and par value of all the shares of its capital stock
16 paid in (preferred or common) and the amount of debentures, if
17 any, and of all surplus, undivided profits, reserves or
18 accumulations of any sort; and then the amount of all due and
19 unpaid taxes, declared and unpaid dividends, interest, actual
20 depreciation of personal property not entered on the books, or
21 other similar items, constituting a debt against the reserves of
22 the bank, which when deducted from the sum of the capital and
23 reserves, as above enumerated, shall show correctly the actual net
24 worth of the bank. From the net worth of the bank thus
25 determined, there shall be deducted the amount of capital invested
26 in real estate owned by the bank, as shown by its books, the par
27 value of preferred stock and debentures owned by the

28 reconstruction finance corporation or other similar government

29 agencies, and "earned surplus" to the extent authorized by Section
30 81-3-11, Mississippi Code of 1972, and the remainder shall be the
31 basis of the assessment of the intangibles of the bank or of the
32 capital to the owner thereof in case the bank be not a corporation
33 or joint stock company. The taxes levied on any bank or banking
34 association shall be a first lien on its assets. A bank not a
35 corporation or stock company shall make a similar return of its
36 capital and be assessed and pay taxes to the same extent as a bank
37 or banking association.

38 The tax provided for in Sections 27-35-35 through 27-35-39
39 shall be in addition to the tax on real property of banks as
40 provided in Section 27-35-11 and the ad valorem tax on the
41 personal property of banks as provided in Section 27-35-12. All
42 ad valorem taxes on personal property paid by a bank to any
43 county, district or municipality pursuant to Section 27-35-12,
44 shall be credited against and reduce the tax provided for in
45 Sections 27-35-35 through 27-35-39. Any tax assessed and paid by
46 a bank to any county, district or municipality on the assessed
47 value of its intangibles pursuant to Sections 27-35-35 through
48 27-35-39 shall be a credit against the corporation franchise tax
49 of that bank due pursuant to Chapter 13, Title 27, Mississippi
50 Code of 1972, in lieu of a deduction thereof from the income of
51 such bank for purposes of Chapter 7, Title 27, Mississippi Code of
52 1972. If the amount of tax paid by a bank to any county, district
53 or municipality on the assessed value of its intangibles pursuant
54 to Sections 27-35-35 through 27-35-39 exceeds the corporation
55 franchise tax liability of the bank for the taxable year in which
56 the credit is claimed, the amount of such excess tax may be
57 carried forward and claimed as a credit for the succeeding ten
58 (10) years.

59 SECTION 2. Nothing in this act shall affect or defeat any
60 claim, assessment, appeal, suit, right or cause of action for
61 taxes due or accrued under the corporation franchise tax laws

62 before the date on which this act becomes effective, whether such
63 claims, assessments, appeals, suits or actions have been begun
64 before the date on which this act becomes effective or are begun
65 thereafter; and the provisions of the corporation franchise tax
66 laws are expressly continued in full force, effect and operation
67 for the purpose of the assessment, collection and enrollment of
68 liens for any taxes due or accrued and the execution of any
69 warrant under such laws before the date on which this act becomes
70 effective, and for the imposition of any penalties, forfeitures or
71 claims for failure to comply with such laws.

72 SECTION 3. This act shall take effect and be in force from
73 and after January 1, 2001.