SENATE BILL NO. 2141

AN ACT TO AMEND SECTION 81-7-19, MISSISSIPPI CODE OF 1972, TO INCREASE TO 25% THE AMOUNT OF STOCK IN A MISSISSIPPI BANK THAT A BANK HOLDING COMPANY MAY ACQUIRE BEFORE BEING SUBJECT TO THE REQUIREMENT OF ACQUIRING AN ADDITIONAL AMOUNT OF SUCH STOCK OR DIVESTING ITSELF OF SUCH STOCK; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 81-7-19, Mississippi Code of 1972, is amended as follows:

81-7-19. (1) As used in this section, unless the context otherwise requires:

(a) "Appropriate regulatory officials" means, for any national bank in Mississippi, the Comptroller of the Currency of the United States; "appropriate regulatory officials" means, for any state bank in Mississippi, the Commissioner of Banking and Consumer Finance or the Federal Deposit Insurance Corporation or the Board of Governors of the Federal Reserve System of the United States.

(b) "Bank" means any person chartered to do a banking business subject to the laws of this or any other jurisdiction.

(c) "Bank holding company" means any person which is required to register as a bank holding company with the Board of Governors of the Federal Reserve System under the federal Bank Holding Company Act of 1956, as amended.

(d) "Person" means an individual, corporation, firm, trust, estate, partnership, joint venture or association.

(e) "Interim bank merger" means the technique by which a bank holding company obtains a new bank charter solely for the purpose of merging an existing bank into the bank for which the...
charter is sought or solely for the purpose of merging the bank for which the charter is sought into an existing bank.

(f) "Control" means the direct or indirect ownership of five percent (5%) or more of any class of voting securities of a bank.

(2) A bank holding company acting directly or indirectly may not acquire any of the shares of any bank in Mississippi unless such bank has been in operation for at least five (5) years, except in the following instances:

(a) The acquisition of shares of a bank by a bank holding company which before the acquisition owned more than fifty percent (50%) of the shares of the bank;

(b) An interim bank merger for the purpose of acquiring a bank which has been in operation for at least five (5) years;

(c) The acquisition by a bank affiliated with a bank holding company of stock which has been given as collateral security to the bank upon a loan contracted in good faith where the acquisition is necessary to prevent loss upon such loan and the making of the loan and the acquisition of such stock are in the ordinary course of business and not as a means of circumventing this section; however, the stock so purchased or acquired shall be sold or disposed of by the bank at public or private sale within a period of one (1) year from the acquisition thereof, unless the Commissioner of Banking and Consumer Finance extends such period because he deems that an additional period or periods are required to permit the disposition of such stock without undue risk or loss;

(d) The acquisition of an insolvent bank where the sale is made pursuant to the provisions of Chapter 9, Title 81, Mississippi Code of 1972, or pursuant to federal banking laws, or the acquisition of a bridge bank pursuant to federal banking laws;

(e) The acquisition of shares in any bank by another bank acting solely in a fiduciary capacity in the ordinary course
of its trust business and not for the purpose of circumventing this section; and

(f) The acquisition of shares of a bank by a person which will become a bank holding company solely by reason of such acquisition.

(3) A bank holding company must divest itself of stock in a bank in Mississippi if, upon acquiring directly or indirectly twenty-five percent (25%) or more of any class of voting securities of such bank, the bank holding company fails within six months after such acquisition to acquire stock sufficient to lawfully vote a merger of the banks or bank holding companies involved in the transaction, even though such merger is not required; however, such acquiring bank holding company may retain ownership of less than twenty-five percent (25%) of any class of voting securities of such bank. The six-month time period provided herein may be extended, upon a showing of reasonable cause therefor, by the Commissioner of Banking and Consumer Finance. This subsection (3) shall not apply to a bank holding company which has lawfully acquired, or has an application pending to acquire, five percent (5%) or more of any class of voting securities of a bank prior to October 1, 1989, with respect to the stock of that particular bank.

(4) A bank holding company is prohibited from acquiring, directly or indirectly, ownership of stock of a bank in Mississippi if the effect of such acquisition of stock is that the acquiring bank holding company would control, directly or indirectly, banks in Mississippi having in the aggregate more than twenty-five percent (25%) of the total deposits of all offices located in Mississippi of commercial banks, savings banks, savings and loan associations, and credit unions. Determination of the percentage of total deposit concentration limited by this subsection shall be made based on data contained in the most recent call reports furnished immediately before the acquisition.
of stock of such bank to the appropriate regulatory officials by
the banks involved in the transaction. In determining total
deposits of all offices located in Mississippi of commercial
banks, savings banks, savings and loan associations and credit
unions, data shall be used as furnished by the Department of
Banking and Consumer Finance as of the most recent calendar
quarter for which complete data are available. For the purpose of
furnishing such data, the department shall obtain from appropriate
federal regulatory agencies the most recent data available
regarding the deposits of federally chartered institutions. For
purposes of this subsection, "deposits" means all individual,
partnership, corporate and government deposits (including, without
limitation, all demand, savings, time, certificates of deposit and
other similar depository accounts of individuals, partnerships,
corporations and governmental bodies). The restriction contained
in this subsection shall not apply to prohibit transactions
described in subsection (2)(c), (d), (e) and (f).

(5) The Commissioner of Banking and Consumer Finance shall
have the power to enforce the prohibitions of this section by
seeking to enjoin any violation, by issuing cease and desist
orders, by imposing administrative fines or penalties, and by any
other remedies that are provided by law.

(6) An out-of-state bank holding company, as defined in
Section 81-8-1, shall comply with Chapter 8, Title 81, Mississippi
Code of 1972, and this section.

(7) For purposes of this section, the acquisition of shares
of a bank holding company shall be considered the indirect
acquisition of shares of the bank or banks controlled by such bank
holding company.

SECTION 2. This act shall take effect and be in force from
and after July 1, 2001.