SENATE BILL NO. 2721


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

SECTION 1. Section 81-1-54, Mississippi Code of 1972, which repeals the provisions of law that create the Department of Banking and Consumer Finance and prescribe its duties and powers, is hereby repealed.

SECTION 2. Section 81-1-57, Mississippi Code of 1972, is reenacted as follows:

81-1-57. (1) For the purposes of this chapter, the following words shall have the following meanings, unless the context otherwise requires:

(a) "Department" shall mean the Department of Banking and Consumer Finance established in Section 81-1-59.

(b) "Commissioner" shall mean the Commissioner of Banking and Consumer Finance as provided for in Section 81-1-61.

(c) "Board" shall mean the State Board of Banking Review established in Section 81-3-12.

(2) Wherever the following words appear in Title 81 of the Mississippi Code of 1972, or in any other laws of the State of Mississippi, they shall be construed to have the following meanings:
(a) "Department of Bank Supervision" or "department,"
when referring to the Department of Bank Supervision, shall be
construed to mean the Department of Banking and Consumer Finance.

(b) "State Comptroller" or "comptroller," when
referring to the office of State Comptroller of Banks, shall be
construed to mean the Commissioner of Banking and Consumer
Finance.

(c) "State Banking Board," "banking board" or "board,"
when referring to the State Board of Banking Review or the State
Banking Board, shall be construed to mean the State Board of
Banking Review.

SECTION 3. Section 81-1-59, Mississippi Code of 1972, is
reenacted as follows:

81-1-59. The Department of Banking and Consumer Finance is
hereby created, and it is solely charged with the execution of all
laws relating to corporations, carrying on a banking business in
the State of Mississippi. The office of the Department of Banking
and Consumer Finance shall be in the City of Jackson, Mississippi,
and the Secretary of State shall provide suitable quarters
therefor.

SECTION 4. Section 81-1-61, Mississippi Code of 1972, is
reenacted as follows:

81-1-61. The management, control and direction of the
department shall be vested in the Commissioner of Banking and
Consumer Finance, who shall be directly responsible for the proper
functioning of the department. The commissioner shall be a banker
who possesses not less than ten (10) consecutive years of active
banking experience of which five (5) years' experience were
performed in a major policy-making function as an executive
officer, or shall be a person who possesses fifteen (15) years of
active experience as a state or federal financial institutions
examiner. The commissioner shall have been active in such major
policy-making function or actively employed by the state or
federal financial institutions regulatory authority within the previous five (5) years of his appointment. The commissioner shall be appointed by the Governor, with the advice and consent of the Senate, for a term of office of four (4) years, commencing on the day of appointment or on July 1 of the year in which the Governor is inaugurated, whichever comes first. The commissioner shall serve until his successor is appointed and qualified, but in no event shall he serve past the July 1 occurring after the end of the term of the Governor who appointed him, unless he shall be reappointed by the new Governor. If, for any cause, a vacancy occurs in the office of the commissioner, the Governor shall make the appointment for the unexpired term.

The commissioner shall be of good moral character, thoroughly understanding the theory and practice of banking, and must be a qualified elector of the State of Mississippi. The commissioner shall not be an officer, director or employee of any banking corporation during his entire term as commissioner, effective from the time of his appointment.

The commissioner may be removed by the Governor for good cause, but only after notice and a hearing.

SECTION 5. Section 81-1-63, Mississippi Code of 1972, is reenacted as follows:

81-1-63. The commissioner shall appoint a deputy commissioner, with the approval of the board, who shall perform such duties as may be required of him by the commissioner. If the office of the commissioner is vacant or if the commissioner is absent or unable to act, the deputy commissioner shall be the acting commissioner. The deputy commissioner shall have five (5) years' experience as a bank officer or employee, or three (3) years' experience as a bank president or managing officer of a bank, or five (5) years' experience as a state or federal bank examiner.
Copies of papers in the office of the department may be certified by the deputy commissioner, with the seal of the department affixed thereto, with like effect as though certified by the commissioner. The commissioner shall be responsible for all acts of the deputy commissioner, and may dismiss him at his pleasure, with the reasons therefor to be reported to the board within ten (10) days of the dismissal.

SECTION 6. Section 81-1-65, Mississippi Code of 1972, is reenacted as follows:

81-1-65. The commissioner shall employ such assistants, to be known as state banking examiners, as may be necessary for the efficient operation of the department, to aid him in the discharge of the duties and responsibilities imposed upon him by law. The minimum qualifications for such employment shall be possession of a bachelor's degree from a recognized college or university, or three (3) years' experience as a bank examiner, bank officer or employee, small loan company officer or employee, or other consumer finance officer or employee and such other qualifications set out for banking examiners in the plan for the state personnel system. However, notwithstanding any provisions to the contrary, any person who is serving as a state banking examiner in the former Department of Bank Supervision on March 21, 1980, shall be qualified to serve as a state banking examiner in the department.

The state bank examiners shall not, directly or indirectly, be connected with any banking business in Mississippi or elsewhere during their respective terms of office, after four (4) months from the time of qualifying as an examiner.

The commissioner may employ such additional employees as may be necessary to carry out those duties and responsibilities imposed upon him by law, who shall possess such qualifications set out for their particular position in the plan for the state personnel system.
No examiner or other employee related by consanguinity or affinity to the commissioner within the third degree computed according to the civil law shall be employed by him.

The examiners and all other persons employed by the commissioner under the provisions of this section shall be compensated as provided in the compensation plan for the state personnel system, unless otherwise provided by law. The compensation for such employees shall be payable monthly out of the funds of the department.

The commissioner shall be responsible for all acts of the examiners and the other employees. Any examiner or other employee may be dismissed only in accordance with the laws, rules and regulations applicable to the state personnel system.

SECTION 7. Section 81-1-67, Mississippi Code of 1972, is reenacted as follows:

81-1-67. The commissioner and the deputy commissioner each shall, before entering upon the discharge of their respective duties, take and subscribe the constitutional oath of office and shall execute to the State of Mississippi a bond in the sum of Fifty Thousand Dollars ($50,000.00) with a surety company authorized to do business in this state, to be delivered to and approved by the Treasurer of the State of Mississippi.

The state bank examiners shall, before entering upon the discharge of their duties, take and subscribe the constitutional oath of office and shall execute to the State of Mississippi a bond in the sum of Twenty Thousand Dollars ($20,000.00) with a surety company authorized to do business in this state, to be delivered to and approved by the Treasurer of the State of Mississippi.

These bonds shall, by the terms thereof, be payable to the state, and shall be liable to the state in actions brought by the Attorney General on behalf of the state, and shall also be liable in actions brought by anyone aggrieved by breach thereof. The
bonds shall be conditioned for the faithful and impartial
performance of the duties of the particular office for which the
bond was given, for the faithful and proper handling and
accounting for all funds, and for the payment of all damages and
costs which may accrue under provisions of law.

SECTION 8. Section 81-1-69, Mississippi Code of 1972, is
reenacted as follows:

81-1-69. The salaries of the commissioner and the deputy
commissioner shall be fixed by the Legislature, and shall be
payable monthly out of the funds of the department.

SECTION 9. Section 81-1-71, Mississippi Code of 1972, is
reenacted as follows:

81-1-71. The commissioner, all examiners and any employee
required to travel shall be allowed expenses incident to the
discharge of their official duties while away from their places of
residence, and mileage for each mile necessarily traveled in the
discharge of their official duties, as provided in Section
25-3-41. Such expenses shall be paid out of the department funds
upon vouchers approved by the commissioner, and each voucher for
expenses shall be accompanied by an itemized statement of the
same.

The State Department of Audit shall make an annual audit of
the books and records having to do with receipts and expenditures
of funds of the department. The chief inspector shall file a copy
of his report with the commissioner and the Governor, and insofar
as is practicable, the commissioner shall incorporate the exhibits
and schedules of receipts and disbursements for each year in his
annual report to the Legislature.

SECTION 10. Section 81-1-73, Mississippi Code of 1972, is
reenacted as follows:

81-1-73. The department shall have a seal which shall be in
the form of a circle with the image of an eagle, with thirteen
(13) stars over the head, in the center, and about the margin at
the bottom shall appear the words "State of Mississippi"; and about the margin at the top shall appear the words "Department of Banking and Consumer Finance."

Every certificate and other official paper executed by the department under authority of law and sealed with the seal of office shall be used as evidence in all courts, investigations and proceedings authorized by law, and may be recorded in the same manner and with like effect as a deed. All copies of papers in the office of the department, certified by the commissioner, or certified by an examiner of the department, and bearing the seal shall be accepted in all matters equally and with like effect as the original. No original papers, except with the consent of the commissioner, shall at any time be removed from the files of the department, and for every purpose, a copy of such original, certified as above set out, is hereby made the equivalent of such original.

SECTION 11. Section 81-1-75, Mississippi Code of 1972, is reenacted as follows:

81-1-75. The department shall be supplied with all necessary office furniture, fixtures and equipment, which shall be purchased by the commissioner and paid for out of the department maintenance fund on voucher signed by the commissioner. All necessary postage, stationery, expressage, books, telephone and telegraph messages, printing expenses and all premiums on bonds and all other office expenses of the department shall be allowed and paid for in the same manner as the office equipment and fixtures.

SECTION 12. Section 81-1-77, Mississippi Code of 1972, is reenacted as follows:

81-1-77. No officer or employee of the department shall be permitted to borrow money from any state bank directly or indirectly or to indorse any note to any state bank. Any such officer or employee who borrows any money from any state bank or endorses any note to any state bank and any officer or employee of
any state bank who makes any such loan to any officer or employee
of the department or accepts the indorsement of any officer or
employee of the department on any note to any state bank shall be
guilty of a misdemeanor and, upon conviction of such offense,
shall be imprisoned for not more than six (6) months in the county
jail, or fined not more than One Thousand Dollars ($1,000.00), or
both. Each renewal of any loan or indorsement forbidden by this
section shall constitute a separate offense.

SECTION 13. Section 81-1-79, Mississippi Code of 1972, is
reenacted as follows:

81-1-79. The Attorney General shall advise the department on
all legal matters. However, in case of litigation involving the
department, or in the event of necessity for legal assistance in
connection with the administration of the department, the
commissioner may, with the consent and approval of the Attorney
General, employ special counsel to assist in handling the same.

SECTION 14. Section 81-1-81, Mississippi Code of 1972, is
reenacted as follows:

81-1-81. It shall be the duty of the commissioner to
apportion the work of examining banks among the examiners in such
a way that each bank, under the provisions of law, shall be
examined at least once during an eighteen-month period and more
often, if necessary, in the discretion of the commissioner, at
irregular intervals and without prior notice. However, neither
the commissioner nor any examiner shall examine one (1) bank twice
in succession unless the commissioner, for cause, so determines.
In the event the commissioner's office, because of work load or
other good sufficient cause, is unable to conduct an examination
of a bank as provided for in this section, the commissioner is
hereby authorized to accept the examination of any state bank
performed by the Federal Deposit Insurance Corporation or the
Federal Reserve Bank in lieu of the examination provided for in
this section. However, in no case shall the commissioner be
authorized to accept any such examination of any state bank
performed by either the Federal Deposit Insurance Corporation or
the Federal Reserve Bank for any two (2) consecutive
eighteen-month periods.

SECTION 15. Section 81-1-83, Mississippi Code of 1972, is
reenacted as follows:

81-1-83. At each examination, the commissioner or an
examiner may examine the cash, bills, collaterals and securities,
books of account, the condition and affairs of the bank, the mode
of conducting and managing the affairs of the bank, the action of
its directors, and the investment of the funds of the bank. The
commissioner or an examiner shall have power to examine the
directors and all other persons under oath as to the value of all
collaterals, securities and other assets of the bank. Any officer
of a bank refusing to the commissioner or examiner any of the
papers, securities, the books of account or cash of a bank shall
subject such bank to liquidation as provided by law.

The commissioner or an examiner may call for statements from
all correspondent banks and all other persons or corporations
showing a balance on the books of the bank at each examination.
The commissioner, examiners, or any other employee of the
department shall not reproduce a copy of any information in the
possession of any bank pertaining to the names of the stockholders
of such bank or the amount of shares owned by such stockholders,
nor shall the commissioner, examiners or any other employee of the
department remove such stockholder information from the confines
of the bank, any provision contained herein to the contrary
notwithstanding.

SECTION 16. Section 81-1-85, Mississippi Code of 1972, is
reenacted as follows:

81-1-85. The commissioner or an examiner shall have the
authority to issue subpoenas for witnesses and compel their
attendance before him in any and all matters connected with the
duties of his office, and for failure to attend or testify, witnesses may be fined by him for contempt. He may invoke the process of the appropriate chancery court to compel such testimony and the production of all necessary papers, and orders therefor may be had either in termtime or vacation upon two (2) days' notice to the opposite party.

Sheriffs, constables and marshals holding commissions in this state shall serve, and be entitled to regular fees for serving such subpoenas. For failing to execute or return such process they shall be liable for the same penalties prescribed by law for failure to execute any like process issued by the courts of this state.

The commissioner or an examiner shall have the authority to administer oaths and to examine under oath the officers, agents, clerks, employees and stockholders of any bank, or any other person touching the matters into which he is directed to examine by law. Any person who willfully makes any false statement under oath in such examination shall be deemed guilty of perjury, and upon conviction thereof shall be punished as provided by law. If any officer, agent, clerk or stockholder of any bank, when under oath, willfully misrepresents in any manner to the commissioner, an examiner, or his assistant, the condition of the bank, or any of its property, or purposely misleads the commissioner or any examiner, or makes false statements regarding the condition of the bank, or any part of its business, such person shall be deemed guilty of a misdemeanor and upon conviction thereof in any court of competent jurisdiction, shall be fined not less than One Thousand Dollars ($1,000.00) nor more than Two Thousand Five Hundred Dollars ($2,500.00) or imprisoned in the county jail not less than six (6) months nor more than one (1) year, or by both such fine and imprisonment.

SECTION 17. Section 81-1-87, Mississippi Code of 1972, is reenacted as follows:
81-1-87. The commissioner or an examiner, in all cases where
the testimony of witnesses is to be preserved, shall have the
right to have the case taken down and transcribed by a
stenographer, and the stenographer so employed shall be duly
sworn. The stenographer's certificate that the transcript of such
evidence is correct, together with the official certificate of the
commissioner or examiner that he has read the same and that it is,
in his opinion, correct, shall entitle such transcript, or a
certified copy thereof, to be received in evidence as relevant,
material and competent. Such stenographer shall be paid at the
same rates as that then currently in effect for similar duties
performed by the chancery court reporter for the county in which
the testimony of the witnesses is to be taken and preserved. The
stenographer shall be paid out of the department maintenance fund
on voucher approved by the commissioner or examiner employing such
stenographer, accompanied with an itemized statement of services
rendered.

SECTION 18. Section 81-1-89, Mississippi Code of 1972, is
reenacted as follows:

81-1-89. The commissioner, examiners and all employees of
the department shall keep as records of their office proper books
showing all acts, matters and things done by them. None of them
shall disclose to any person, official or otherwise, except when
required in legal proceedings, any fact or information obtained in
the course of the performance of their duties, except so far as it
may be incumbent upon them under the law, to report to the
commissioner, or to make public records and publish the same. The
commissioner may provide to members of the public the information
authorized under Section 81-1-100 without being in violation of
this section.

SECTION 19. Section 81-1-91, Mississippi Code of 1972, is
reenacted as follows:
In all bank examinations no bank shall be allowed credit in excess of its sound value for a note or security of which the principal and interest is over twelve (12) months past due; nor for any bond in excess of the real value thereof; nor for any stock of its own held more than twelve (12) months; nor for any unsecured overdrafts that may have existed for a greater period than thirty (30) days next preceding it, except that the period shall be ninety (90) days for unsecured overdrafts upon which interest is being charged if the bank has a written policy authorizing such overdrafts for not more than ninety (90) days. Only such overdrafts shall be considered as secure as are advanced against products or actual existing values evidenced by warehouse receipts or bills of lading, against bills of exchange drawn in good faith against actual existing values, or against funds on deposit by the depositor whose account is overdrawn, and who has pledged those funds as security for such overdraft, and in making up the statement of the condition of such bank any such item shall be charged off (but if desired a note shall be appended giving details thereof). But the discretion of the commissioner or examiner may be exercised in cases of estates in litigation or administration, and in pending suits, if the security affected thereby is ample, in the opinion of the commissioner or examiner making such examination.

SECTION 20. Section 81-1-93, Mississippi Code of 1972, is reenacted as follows:

81-1-93. The commissioner may make special examinations or render special services to banks, either at the request of banks desiring same, or at his own instance. The commissioner shall have discretion to decide whether any examinations or services are sufficiently urgent, out of routine, or extraordinary to be denominated special examinations or services. When any special examination or services are rendered and so denominated by the commissioner he shall charge the bank so examined or served the
cost based on the average daily cost of all examiners of the
department plus actual and necessary expenses. The bank so
receiving such special examination or services shall pay the per
diem and expenses of each appointed examiner performing the work
to the commissioner, who in turn will pay the amount into the
department maintenance fund and disburse to the examiner directly
the amount of his services. An examiner who is on the state
payroll may perform such services but the funds so derived from
his services shall be paid into the department maintenance fund,
and no examiner shall be allowed to draw from a salary and
expenses from both the bank and the state.

SECTION 21. Section 81-1-95, Mississippi Code of 1972, is
reenacted as follows:

81-1-95. If, upon the completion of any examination, the
commissioner or an examiner finds that the last public statement
of the bank is materially wrong, or that the condition of the bank
has materially changed since the last public statement, he may
order the bank to publish a new statement based upon the findings
of his examination. For failure to promptly publish such
statement, the bank shall be liable for a penalty of Five Hundred
Dollars ($500.00) for which suit shall be brought by the
commissioner for the use of the department if not paid within ten
(10) days.

SECTION 22. Section 81-1-97, Mississippi Code of 1972, is
reenacted as follows:

81-1-97. The commissioner shall call upon each state bank
for the reports required in this section. Such calls shall be
made by the commissioner in writing by letter or other similar
means of written communications for the same dates and as often as
calls are issued by the Comptroller of the Currency for the United
States for reports from national banks. The commissioner shall
prescribe the forms for such reports. The reports shall be sworn
to by either the president, vice president or cashier of the bank
making them, attested by not less than two (2) of the board of directors, and shall exhibit in detail, under appropriate heads, the total resources and total liabilities of the bank on the day specified by the commissioner. Banks shall transmit to the department such call reports within a time limitation established by regulation by the commissioner; however, such time limitation cannot exceed that set by the Federal Deposit Insurance Corporation for state insured banks. For any failure or delay in furnishing this report, the president, vice president or cashier of any such bank, so in default, and the members of the board of directors of the bank refusing to attest the report, shall be subject to an administrative fine, which may be imposed by the commissioner, of Fifty Dollars ($50.00) a day for each day while in such default.

SECTION 23. Section 81-1-99, Mississippi Code of 1972, is reenacted as follows:

81-1-99. A copy of the call reports of any bank shall be furnished to any person or corporation requesting the same for a reasonable fee prescribed by the commissioner, which shall be collected by the commissioner and shall be paid into the department maintenance fund. If the commissioner fails or refuses to furnish copies of the report when so requested and tendered the proper fee; or if he fails to account for any such fees received by him; or if any person other than the commissioner, deputy commissioner, an examiner, or assistant furnishes any copy of such bank report to anyone, whether for a consideration or without consideration, such person shall be guilty of a misdemeanor and shall be fined not less than Fifty Dollars ($50.00) or be imprisoned not more than one (1) month in the county jail, or both. However, this section shall not be construed to prevent any officer of the bank from furnishing to anyone a statement of such bank.
SECTION 24. Section 81-1-100, Mississippi Code of 1972, is reenacted as follows:

81-1-100. (1) The commissioner shall obtain each year from the appropriate federal financial supervisory agency or agencies the public sections of the written evaluations prepared pursuant to 12 USCS Section 2906 of the Community Reinvestment Act, as amended (12 USCS Section 2901 et seq.), of each state bank and national bank located in Mississippi and each bank holding company that controls any bank located in Mississippi. Once each year the commissioner shall publish in some newspaper having a general circulation in the state a statement that the public section of the written evaluation prepared pursuant to 12 USCS Section 2906 of the Community Reinvestment Act, as amended (12 USCS Section 2901 et seq.), of each such bank and bank holding company is maintained in the office of the commissioner and will be made available for inspection to any person upon request during business hours, and that copies of all or part of any evaluation will be furnished to any person upon request for a reasonable copying fee prescribed by the commissioner.

(2) For the purposes of this section, the term "appropriate federal financial supervisory agency" shall have the same meaning as the definition in 12 USCS Section 2902.

SECTION 25. Section 81-1-101, Mississippi Code of 1972, is reenacted as follows:

81-1-101. Any officer, director, cashier, agent, clerk or stockholder of any bank, other than a national bank, doing business in the State of Mississippi, who willfully and knowingly subscribes to or makes any false report or any false statement or entry in the books of such bank, or who knowingly subscribes or exhibits any false writing or paper with the intent to deceive any person as to the condition of such bank shall be fined not more than One Thousand Dollars ($1,000.00) or imprisoned in the Penitentiary not more than three (3) years, or both.
SECTION 26. Section 81-1-103, Mississippi Code of 1972, is reenacted as follows:

81-1-103. If the commissioner receives notice from the United States or any agency or instrumentality thereof having authority to issue cease and desist, removal or suspension orders to state-chartered banks supervised by the department, of its intention to issue any such cease and desist, removal or suspension order to any state-chartered bank, then the commissioner is hereby authorized and empowered to investigate the act, cause or basis asserted for the issuance of such proposed order.

If such investigation shall disclose, in the opinion and judgment of the commissioner, that the act, cause or basis complained of has occurred, and that it is detrimental to the safety and welfare of the depositors or stockholders of the bank and contrary to the public interest, and if the act, cause or basis complained of shall not be remedied immediately, then the commissioner may give notice to the board of directors of the bank of the charges together with his concurrence or exceptions thereto and the remedies for the same. Failure of the board of directors to comply with the requirements of the commissioner within thirty (30) days from the date of notice shall render the board of directors in default thereupon. Thereafter the commissioner may remove any officer, director or other person responsible for the noncompliance, or he may notify the appropriate federal agency or instrumentality to proceed under the federal statute or regulation.

SECTION 27. Section 81-1-105, Mississippi Code of 1972, is reenacted as follows:

81-1-105. The commissioner may be enjoined in chancery court by any bank for abuse or misuse of any discretion or duty imposed upon him by the provisions of Title 81 of the Mississippi Code of 1972, or any other laws of the state.
SECTION 28. Section 81-1-107, Mississippi Code of 1972, is reenacted as follows:

81-1-107. Every bank organized under the laws of this state engaging in the business of a commercial bank, trust company or any combination thereof, is assessed for each year the sum of Seventy-five Dollars ($75.00) and every such corporation whose total assets exceed One Hundred Thousand Dollars ($100,000.00) shall further pay in addition to the minimum assessment of Seventy-five Dollars ($75.00), Fifty Cents (50¢) for each One Thousand Dollars ($1,000.00) or fraction thereof of assets in excess of One Hundred Thousand Dollars ($100,000.00). All money accruing from such assessment shall be used for the maintenance of the department.

The commissioner shall, during the month of January in each year, or as soon thereafter as practicable, prepare a statement of the assessments due under this section based upon the total assets of each such corporation, as shown by its last report, which shall be paid as called for by the commissioner. He shall send to each such corporation a statement of the amount due by it, which shall specify how the same shall be payable. The assessment shall be due and payable in accordance with the statement so furnished and the installments thereof shall be paid within ten (10) days after the date fixed for their payment. Such assessment shall constitute a lien on the assets of each bank until paid. Any such corporation failing to make payment within ten (10) days as herein provided shall be liable to a penalty of ten percent (10%) of the amount in default for each day thereafter. All assessments and penalties provided in this section shall be payable to the commissioner and when collected by him shall be delivered to the State Treasurer to be placed to the credit of the maintenance fund of the department. The commissioner shall give a receipt for all money received by him and shall take a receipt from the State Treasurer for all money delivered to him. In making any call for
the assessment levied by this section the commissioner shall estimate the cost of maintaining the department for the current year, and if the assessments hereby levied shall appear to produce more than such estimate, he shall reduce accordingly the Fifty Cents (50¢) per One Thousand Dollars ($1,000.00) of assets assessment provided in this section. The cash balance remaining in the maintenance fund of the department at the end of any one (1) fiscal year shall be credited to and reduce the assessments of the following fiscal year on a pro rata basis.

SECTION 29. Section 81-1-109, Mississippi Code of 1972, is reenacted as follows:

81-1-109. All moneys paid out of the department maintenance fund shall be paid by the Treasurer upon warrants issued by the State Fiscal Officer, which warrants shall be issued by the State Fiscal Officer upon a voucher approved by the commissioner except in the payment of salaries and expenses, and warrants shall be issued by the State Fiscal Officer therefor upon a voucher approved by the Governor.

SECTION 30. Section 81-1-111, Mississippi Code of 1972, is reenacted as follows:

81-1-111. For the purpose of carrying into effect the provisions of Title 81 of the Mississippi Code of 1972, the commissioner shall provide the necessary forms. All reports received by the commissioner shall be preserved by him in the department. The State Treasurer is authorized to provide forms and record books for the office of the commissioner, and such forms and record books shall be paid for upon order of the commissioner out of the department maintenance fund.

SECTION 31. Section 81-1-113, Mississippi Code of 1972, is reenacted as follows:

81-1-113. The commissioner shall make a full report as required by law of other state officers, to the Legislature at each regular session thereof, of the proceedings in and work of
the department and of all charters issued and all banks closed for
insolvency or voluntarily liquidated. He shall submit with each
report such recommendations with reference to the department as he
may consider appropriate. The report shall show fully,
separately, and in detail the work done and the expenses incurred
by the commissioner and each examiner.

SECTION 32. Section 81-1-115, Mississippi Code of 1972, is
reenacted as follows:

81-1-115. (1) The department shall charge and collect for:

(a) Filing articles of incorporation of banking
corporations and credit unions, and issuing a certificate of
incorporation, a minimum fee of Five Hundred Dollars ($500.00) up
to a maximum fee of Two Thousand Five Hundred Dollars ($2,500.00),
as fixed by the commissioner.

(b) Filing articles of merger when the resulting bank
or credit union is a state bank or credit union, a minimum fee of
Five Hundred Dollars ($500.00) up to a maximum fee of Two Thousand
Five Hundred Dollars ($2,500.00), as fixed by the commissioner.

(c) Filing an application for conversion from a
national bank, state or federal thrift, or credit union to a state
bank or credit union, a minimum fee of Five Hundred Dollars
($500.00) up to a maximum fee of Two Thousand Five Hundred Dollars
($2,500.00), as fixed by the commissioner.

(d) Filing an application for a branch bank or credit
union, a minimum fee of Two Hundred Fifty Dollars ($250.00) up to
a maximum fee of One Thousand Five Hundred Dollars ($1,500.00), as
fixed by the commissioner.

(e) Filing an application for a Loan Production Office
(LPO), a minimum fee of Fifty Dollars ($50.00) up to a maximum fee
of Five Hundred Dollars ($500.00), as fixed by the commissioner.

(f) Filing an application for an electronic terminal, a
minimum fee of Two Hundred Fifty Dollars ($250.00) up to a maximum
fee of One Thousand Five Hundred Dollars ($1,500.00), as fixed by
the commissioner.

(g) Filing an application to establish out-of-state
branch offices by in-state banks and credit unions, a minimum fee
of Five Hundred Dollars ($500.00) up to a maximum fee of One
Thousand Five Hundred Dollars ($1,500.00), as fixed by the
commissioner.

(h) Filing an application to establish in-state branch
offices by an out-of-state bank or credit union, a minimum fee of
Five Hundred Dollars ($500.00) up to a maximum fee of One Thousand
Five Hundred Dollars ($1,500.00), as fixed by the commissioner.

(i) Filing an application to establish a branch of a
foreign bank, a minimum fee of Five Hundred Dollars ($500.00) up
to a maximum fee of Two Thousand Five Hundred Dollars ($2,500.00),
as fixed by the commissioner.

(2) The commissioner shall publish a schedule of fees
applicable to all banks within his jurisdiction.

SECTION 33. Section 81-1-117, Mississippi Code of 1972, is
reenacted as follows:

81-1-117. Upon March 21, 1980, the Department of Bank
Supervision and the office of State Comptroller, as created by
Section 81-1-1, and the State Banking Board, as created by Section
81-3-13, are hereby abolished. The functions, duties and
responsibilities of the Department of Bank Supervision, the office
of State Comptroller and the State Banking Board shall be assumed
by the Department of Banking and Consumer Finance, the
Commissioner of Banking and Consumer Finance, and the State Board
of Banking Review, respectively, as provided in this chapter. All
assets, funds, contractual rights and obligations, records,
equipment and property rights which are now vested in the
Department of Bank Supervision, the office of State Comptroller
and the State Banking Board are hereby vested in the Department of
Banking and Consumer Finance, the Commissioner of Banking and
Consumer Finance, and the State Board of Banking Review, respectively.

SECTION 34. Section 81-1-119, Mississippi Code of 1972, is brought forward as follows:

81-1-119. (1) If any person or state bank is engaging in, or has engaged in, or is about to engage in, any unsafe or unsound practice, or unfair and discriminatory practice, in conducting the bank's business, or violation of any other law, rule, regulation, order or condition imposed in writing by the commissioner, the commissioner may issue a notice of charges to such person or institution. A notice of charges shall specify the acts alleged to sustain a cease and desist order, and state the time and place at which a hearing shall be held. A hearing before the commissioner on the charges shall be held no earlier than seven (7) days, and no later than fifteen (15) days, after issuance of the notice. The charged institution is entitled to a further extension of seven (7) days upon filing a request with the commissioner. The commissioner may also issue a notice of charges if he has reasonable grounds to believe that any person or bank is about to engage in any unsafe or unsound business practice, or any violation of this chapter, or any other law, rule, regulation or order. If, by a preponderance of the evidence, it is shown that any person or bank is engaged in, or has been engaged in, or is about to engage in, any unsafe or unsound business practice, or unfair and discriminatory practice or any violation of this chapter, or any other law, rule, regulation or order, a cease and desist order shall be issued which shall be permanently binding upon the person or institution until terminated by the commissioner.

(2) If any person or state bank is engaging in, has engaged in, or is about to engage in any unsafe or unsound practice, or unfair and discriminatory practice, in conducting the bank's business, or any violation of any law, rules, regulation, order or
condition imposed in writing by the commissioner, and the commissioner has determined that immediate corrective action is required, the commissioner may issue a temporary cease and desist order without prior notice. A temporary cease and desist order shall be effective immediately upon issuance for a period of fifteen (15) days, and may be extended once for a period of fifteen (15) days. Such an order shall state its duration on its face and the words "Temporary Cease and Desist Order." A hearing before the commissioner shall be held within the time that the order remains effective, at which time a temporary order may be dissolved or made permanent.

SECTION 35. Section 81-1-121, Mississippi Code of 1972, is brought forward as follows:

81-1-121. (1) Except as otherwise provided, any bank which is found to have violated any provision of Chapters 1 through 9, Title 81, Mississippi Code of 1972, may be ordered to pay a civil penalty not to exceed Twenty Thousand Dollars ($20,000.00). Any bank which is found to have violated or failed to comply with any cease and desist order issued under the authority of this chapter may be ordered to pay a civil penalty not to exceed Twenty Thousand Dollars ($20,000.00) for each day that the violation or failure to comply continues.

(2) To enforce the provisions of this section, the commissioner is authorized to assess such penalty and to appear in a court of competent jurisdiction and to move the court to order payment of the penalty. Prior to the assessment of the penalty, a hearing shall be held by the commissioner.

(3) Nothing in this section shall prevent anyone damaged by a state bank from bringing a separate cause of action in a court of competent jurisdiction.

SECTION 36. Section 81-1-123, Mississippi Code of 1972, is brought forward as follows:
81-1-123. (1) Any person, whether a director, officer or employee, who is found to have violated any provision of Chapters 1 through 9, Title 81, Mississippi Code of 1972, whether willfully, or as a result of gross negligence, gross incompetency or recklessness, may be ordered to pay a civil penalty not to exceed Five Thousand Dollars ($5,000.00) per violation. Any person who is found to have violated or failed to comply with any cease and desist order issued under the authority of this chapter may be ordered to pay a civil penalty not to exceed Five Thousand Dollars ($5,000.00) per violation for each day that the violation or failure to comply continues.

(2) To enforce the provisions of this section, the commissioner is authorized to assess such penalty, to appear in a court of competent jurisdiction and to move the court to order payment of the penalty. Prior to the assessment of the penalty, a hearing shall be held by the commissioner.

(3) Nothing in this section shall prevent anyone damaged by a director, officer or employee of a state bank from bringing a separate cause of action in a court of competent jurisdiction.

SECTION 37. Section 81-1-125, Mississippi Code of 1972, is brought forward as follows:

81-1-125. (1) Whenever the commissioner determines that a solvent bank is conducting its business in an unsafe or unsound manner, or in any fashion which threatens the financial integrity or sound operation of the bank, the commissioner may serve a notice of charges on the bank, requiring it to show why it should not be placed under supervisory control. Such notice of charges shall specify the grounds for supervisory control, and set the time and place for a hearing. A hearing before the commissioner pursuant to such notice shall be held within fifteen (15) days after issuance of the notice of charges.

(2) If, after the hearing provided above, the commissioner determines that supervisory control of the bank is necessary to
protect the bank's members, customers, stockholders or creditors, or the general public, the commissioner shall issue an order taking supervisory control of the bank.

(3) If the order taking supervisory control becomes final, the commissioner may appoint an agent to supervise and monitor the operations of the bank during the period of supervisory control. During the period of supervisory control, the bank shall act in accordance with such instructions as may be given by the commissioner, directly or through his supervisory agent, and shall not fail to act, except when to do so would violate an outstanding cease and desist order.

(4) Within one hundred eighty (180) days of the date the order taking supervisory control becomes final, the commissioner shall issue an order approving a plan for the termination of supervisory control. The plan may provide for:

(a) The issuance by the bank of capital stock;
(b) The appointment of one or more officers and/or directors;
(c) The reorganization, merger or consolidation of the bank;
(d) The dissolution and liquidation of the bank;
(e) Other such measures as determined by the commissioner.

The order approving the plan shall not take effect until thirty (30) days after issuance during which time period an appeal may be filed in a court of competent jurisdiction.

(5) All costs of this proceeding shall be paid by the bank.

(6) For the purpose of this section, an order shall be deemed final if:

(a) No appeal is filed within the specific time allowed for the appeal; or
(b) All judicial appeals are exhausted.
(7) If a bank is insolvent, the provisions of Chapter 9 of Title 81, Mississippi Code of 1972, shall apply.

SECTION 38. Section 81-1-127, Mississippi Code of 1972, is brought forward as follows:

81-1-127. (1) If, in the commissioner's opinion, any director, officer or employee of any bank has participated in, or consented to, any violation of any law, rule, regulation or order, or any unsafe or unsound business practice in the operation of any bank, or any insider loan not specifically authorized by law, or any repeated violation of, or failure to comply with, any bank's bylaws, the commissioner may serve a written notice of charges upon such director, officer or employee and the bank, stating his intent to remove such director, officer or employee. Such notice shall specify the alleged conduct of such director, officer or employee and shall state the place for a hearing before the commissioner. A hearing shall be held no earlier than fifteen (15) days, but no later than thirty (30) days, after the notice of charges is served. If, after the hearing, the commissioner determines that the charges asserted have been proven by a preponderance of the evidence, the commissioner may issue an order removing the director, officer or employee in question. Such an order shall be effective upon issuance and may include the entire board of directors or all of the officers of the bank.

(2) If it is determined that any director, officer or employee of any bank has knowingly participated in, or consented to, any violation of any law, rule, regulation or order, or engaged in any unsafe or unsound business practice in the operation of any bank, or any repeated violation of, or failure to comply with, any bank's bylaws, and that as a result, a situation exists requiring immediate corrective action, the commissioner may issue an order temporarily removing such person or persons pending a hearing. Such an order shall state its duration on its face and the words "Temporary Order of Removal" and shall be effective upon
issuance for a period of fifteen (15) days. Such order may be extended once for a period of fifteen (15) days. A hearing must be held within ten (10) days of the expiration of a temporary order, or any extension thereof, at which time a temporary order may be dissolved or converted to a permanent order.

(3) Any removal pursuant to subsection (1) or (2) of this section shall be effective in all respects as if such removal has been made by the board of directors and the members or stockholders of the bank in question.

(4) Without the prior written approval of the commissioner, no director, officer or employee permanently removed pursuant to this section shall be eligible to be elected, reelected or appointed to any position as a director, officer or employee of that bank, nor shall such director, officer or employee be eligible to be elected to or retain a position as a director, officer or employee of any other state bank.

SECTION 39. Section 81-1-129, Mississippi Code of 1972, is brought forward as follows:

81-1-129. Any person or state bank against whom a cease and desist order is issued or a fine is imposed may have such order or fine reviewed by a court of competent jurisdiction. Except as otherwise provided, an appeal may be made only within thirty (30) days of the issuance of the order or the imposition of the fine, whichever is later.

SECTION 40. Section 81-1-131, Mississippi Code of 1972, is brought forward as follows:

81-1-131. No person who is fined or penalized for a violation of any criminal provision of this chapter shall be reimbursed or indemnified in any fashion by the bank for such fine or penalty.

SECTION 41. Section 81-1-133, Mississippi Code of 1972, is brought forward as follows:
81-1-133. All penalties, fines and remedies provided by this chapter shall be cumulative.

SECTION 42. The Legislature recommends that all sections which are reenacted or brought forward but not amended in this act, and which appear in the main volume of the Mississippi Code of 1972, shall not be reprinted in the supplement, but that an editor's note shall appear in the supplement in the proper place to explain that the section reenacted or brought forward and the language as it appears in the main volume was unaffected by the legislation and consequently has not been reprinted in the supplement.

SECTION 43. This act shall take effect and be in force from and after July 1, 2001.