

By: Representative Frierson

To: Banks and Banking

HOUSE BILL NO. 429

1 AN ACT TO AMEND SECTION 75-3-414, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT A MERCHANT THAT FOLLOWS A BANK'S POLICY FOR  
3 ACCEPTING A CHECK SHALL NOT BE LIABLE IF THE CHECK IS DISHONORED;  
4 AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 75-3-414, Mississippi Code of 1972, is  
7 amended as follows:

8 75-3-414. (a) This section does not apply to cashier's  
9 checks or other drafts drawn on the drawer.

10 (b) If an unaccepted draft is dishonored, the drawer is  
11 obliged to pay the draft (i) according to its terms at the time it  
12 was issued or, if not issued, at the time it first came into  
13 possession of a holder, or (ii) if the drawer signed an incomplete  
14 instrument, according to its terms when completed, to the extent  
15 stated in Sections 75-3-115 and 75-3-407. The obligation is owed  
16 to a person entitled to enforce the draft or to an indorser who  
17 paid the draft under Section 75-3-415.

18 (c) If a draft is accepted by a bank, the drawer is  
19 discharged, regardless of when or by whom acceptance was obtained.

20 (d) If a draft is accepted and the acceptor is not a bank,  
21 the obligation of the drawer to pay the draft if the draft is  
22 dishonored by the acceptor is the same as the obligation of an  
23 indorser under Section 75-3-415(a) and (c).

24 (e) If a draft states that it is drawn "without recourse" or  
25 otherwise disclaims liability of the drawer to pay the draft, the  
26 drawer is not liable under subsection (b) to pay the draft if the  
27 draft is not a check. A disclaimer of the liability stated in  
28 subsection (b) is not effective if the draft is a check.



29 (f) If (i) a check is not presented for payment or given to  
30 a depository bank for collection within thirty (30) days after its  
31 date, (ii) the drawee suspends payments after expiration of the  
32 thirty-day period without paying the check, and (iii) because of  
33 the suspension of payments, the drawer is deprived of funds  
34 maintained with the drawee to cover payment of the check, the  
35 drawer to the extent deprived of funds may discharge its  
36 obligation to pay the check by assigning to the person entitled to  
37 enforce the check the rights of the drawer against the drawee with  
38 respect to the funds.

39 (g) A merchant shall not be liable for a dishonored check if  
40 the merchant followed the policy of the bank in accepting the  
41 check.

42 **SECTION 2.** This act shall take effect and be in force from  
43 and after July 1, 2002.

