

By: Representative Guice

To: Banks and Banking

HOUSE BILL NO. 825

1 AN ACT TO PROVIDE THAT WHEN A CUSTOMER OF A FINANCIAL  
 2 INSTITUTION HAS A LOAN FROM THE FINANCIAL INSTITUTION THAT IS NOT  
 3 FULLY REPAID AT THE TIME OF THE CUSTOMER'S DEATH, THE FINANCIAL  
 4 INSTITUTION MAY NOT USE ANY FUNDS FROM THE CUSTOMER'S CHECKING OR  
 5 SAVINGS ACCOUNTS WITH THE FINANCIAL INSTITUTION TO REPAY ANY PART  
 6 OF THE LOAN AFTER THE PERSON'S DEATH, UNLESS THE CUSTOMER HAD  
 7 SPECIFICALLY AUTHORIZED THE FINANCIAL INSTITUTION IN WRITING TO  
 8 USE THE FUNDS IN THOSE ACCOUNTS FOR THAT PURPOSE; TO PROVIDE THAT  
 9 THE FINANCIAL INSTITUTION SHALL NOT BE ALLOWED TO ACCESS THE FUNDS  
 10 IN THE CUSTOMER'S ACCOUNTS UNTIL THE FINANCIAL INSTITUTION'S CLAIM  
 11 AGAINST THE ESTATE OF THE DECEASED HAS BEEN PROBATED, REGISTERED  
 12 AND ALLOWED; TO PROVIDE THAT THE FINANCIAL INSTITUTION SHALL HAVE  
 13 NO HIGHER PRIORITY TO THE FUNDS IN THE CUSTOMER'S ACCOUNTS THAN  
 14 OTHER CREDITORS OF THE CUSTOMER BECAUSE THOSE FUNDS ARE IN  
 15 ACCOUNTS OF THE FINANCIAL INSTITUTION; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** (1) When a customer of a financial institution  
 18 has a loan from the financial institution that is not fully repaid  
 19 at the time of the customer's death, the financial institution may  
 20 not use any funds from the customer's checking or savings accounts  
 21 with the financial institution to repay any part of the loan after  
 22 the person's death, unless the customer had specifically  
 23 authorized the financial institution in writing to use the funds  
 24 in those accounts for that purpose. In the absence of that  
 25 written authorization from the customer, the financial institution  
 26 shall not be allowed to access the funds in the customer's  
 27 accounts until the financial institution's claim against the  
 28 estate of the deceased has been probated, registered and allowed,  
 29 as provided in Sections 91-7-149 through 91-7-155. The financial  
 30 institution shall have no higher priority to the funds in the  
 31 customer's accounts than other creditors of the customer because  
 32 those funds are in accounts of the financial institution.



33           (2) As used in this section, the following terms shall have  
34 the following meanings:

35           (a) "Customer" means an individual who has a checking  
36 or savings account at a financial institution.

37           (b) "Financial institution" means:

38           (i) Any bank, savings association, savings and  
39 loan association, savings bank or credit union incorporated under  
40 the laws of the State of Mississippi that offers checking or  
41 savings accounts to Mississippi residents;

42           (ii) Any bank, savings association, savings and  
43 loan association or credit union incorporated under the laws of  
44 the United States and having an office in Mississippi that offers  
45 checking or savings accounts to Mississippi residents; and

46           (iii) Any bank, savings association, savings and  
47 loan association, savings bank or credit union incorporated under  
48 the laws of another state and having an office in Mississippi that  
49 offers checking or savings accounts to Mississippi residents.

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

