HOUSE BILL NO. 825

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

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

SECTION 1. (1) When a customer of a financial institution has a loan from the financial institution that is not fully repaid at the time of the customer's death, the financial institution may not use any funds from the customer's checking or savings accounts with the financial institution to repay any part of the loan after the person's death, unless the customer had specifically authorized the financial institution in writing to use the funds in those accounts for that purpose. In the absence of that written authorization from the customer, the financial institution shall not be allowed to access the funds in the customer's accounts until the financial institution's claim against the estate of the deceased has been probated, registered and allowed, as provided in Sections 91-7-149 through 91-7-155. The financial institution shall have no higher priority to the funds in the customer's accounts than other creditors of the customer because those funds are in accounts of the financial institution.
(2) As used in this section, the following terms shall have the following meanings:

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

(b) "Financial institution" means:

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

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

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

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