HOUSE BILL NO. 728

AN ACT TO AMEND SECTIONS 75-76-3 AND 75-76-35, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT GAMING ESTABLISHMENTS SHOULD DISCOURAGE PERSONS FROM INCURRING GAMBLING DEBTS IN SUCH AMOUNTS THAT MAY CAUSE THEM TO LOSE THEIR HOMES OR OTHER VALUABLE ASSETS OR THAT COULD LEAD TO OTHER SERIOUS FINANCIAL HARM; TO AMEND SECTION 81-5-1, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT BANKING CORPORATIONS SHOULD DISCOURAGE PERSONS FROM OBTAINING LOANS FOR GAMBLING PURPOSES WHEN SUCH LOANS COULD LEAD TO SERIOUS FINANCIAL HARM; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 75-76-3, Mississippi Code of 1972, is amended as follows:

75-76-3. (1) The provisions of this act shall not be construed to legalize any form of gaming which is prohibited under the Mississippi Constitution or the laws of this state. All legal gaming which is conducted in this state and which is otherwise authorized by law shall be regulated and licensed pursuant to the provisions of this chapter, unless the Legislature specifically provides otherwise. Nothing in this chapter shall be construed as encouraging the legalization of gambling in this state.

(2) The Legislature hereby finds and declares that lotteries and gaming both consist of the material element of chance. The Legislature is prohibited from legislating upon lotteries and permitted by virtue of its inherent powers to legislate upon gaming as the occasion arises. The Legislature derives its power to legislate upon gaming or gambling devices from its inherent authority over the morals and policy of the people and such power shall not be considered to conflict with the constitutional prohibition of lotteries.
(3) The Legislature hereby finds, and declares it to be the public policy of this state, that:

(a) Regulation of licensed gaming is important in order that licensed gaming is conducted honestly and competitively, that the rights of the creditors of licensees are protected and that gaming is free from criminal and corruptive elements.

(b) Public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, associations and activities related to the operation of licensed gaming establishments and the manufacture or distribution of gambling devices and equipment.

(c) All establishments where gaming is conducted and where gambling devices are operated, and manufacturers, sellers and distributors of certain gambling devices and equipment must therefore be licensed, controlled and assisted to protect the public health, safety, morals, good order and general welfare of the inhabitants of the state.

(d) All establishments where gaming is conducted and where gambling devices are operated should discourage persons from incurring gambling debts in such amounts that may cause them to lose their homes or other valuable assets or that could lead to other serious financial harm.

(4) It is the intent of the Legislature that gaming licensees, to the extent practicable, employ residents of Mississippi as gaming employees and other employees in the operation of their gaming establishments located in this state.

(5) No applicant for a license or other affirmative commission approval has any right to a license or the granting of the approval sought. Any license issued or other commission approval granted pursuant to the provisions of this chapter is a revocable privilege, and no holder acquires any vested right therein or thereunder.
(6) The Legislature recognizes that Section 98 of the Mississippi Constitution of 1890 prohibits the conducting of any lottery in this state and that, while not defining the term "lottery," Section 98 clearly contemplates, as indicated by specific language contained therein, that a lottery involves the sale of tickets and a drawing in order to determine the winner.

The Legislature also recognizes that Section 98 of the Mississippi Constitution of 1890 directs the Legislature to provide by law for the enforcement of its provisions. Therefore, in carrying out its duties under the Constitution and effectuating the intent of Section 98, the Legislature hereby finds that a lottery, as prohibited by the Constitution, does not include all forms of gambling but means any activity in which:

(a) The player or players pay or agree to pay something of value for chances, represented and differentiated by tickets, slips of paper or other physical and tangible documentation upon which appear numbers, symbols, characters or other distinctive marks used to identify and designate the winner or winners; and

(b) The winning chance or chances are to be determined by a drawing or similar selection method based predominately upon the element of chance or random selection rather than upon the skill or judgment of the player or players; and

(c) The holder or holders of the winning chance or chances are to receive a prize or something of valuable consideration; and

(d) The activity is conducted and participated in without regard to geographical location, with the player or players not being required to be present upon any particular premises or at any particular location in order to participate or to win.

SECTION 2. Section 75-76-35, Mississippi Code of 1972, is amended as follows:
75-76-35. (1) The Legislature hereby declares that the exclusion or ejection of certain persons from licensed gaming establishments is necessary to effectuate the policies of this chapter and to maintain effectively the strict regulation of licensed gaming.

(2) The commission may by regulation provide for the establishment of a list of persons who are to be excluded or ejected from any licensed gaming establishment. The list may include any person whose presence in the establishment is determined by the commission or the executive director to pose a threat to the interests of this state or to licensed gaming, or both.

(3) In making that determination, the commission and the executive director may consider any:

(a) Prior conviction of a crime which is a felony in this state or under the laws of the United States, a crime involving moral turpitude, or a violation of the gaming laws of any state;

(b) Violation or conspiracy to violate the provisions of this chapter relating to:

(i) The failure to disclose an interest in a gaming establishment for which the person must obtain a license; or

(ii) Willful evasion of fees or taxes;

(c) Notorious or unsavory reputation which would adversely affect public confidence and trust that the gaming industry is free from criminal or corruptive elements; or

(d) Written order of a governmental agency which authorizes the exclusion or ejection of the person from an establishment at which gaming is conducted.

(4) Race, color, creed, national origin or ancestry, or sex shall not be grounds for placing the name of a person upon the list.
(5) Persons should be discouraged from incurring gambling debts in such amounts that may cause them to lose their homes or other valuable assets or that could lead to other serious financial harm.

SECTION 3. Section 81-5-1, Mississippi Code of 1972, is amended as follows:

81-5-1. (1) All banking corporations are prohibited, either through their officers or as a banking agency, from participating, directly or indirectly, in the operation of any underwriting syndicate which handles securities for resale. However, this inhibition shall not apply to bonds issued by federal, state, county or other governmental agencies.

(2) The executive officers of banking corporations now existing or hereafter organized under the laws of the State of Mississippi, are prohibited from owning stock in private banking houses or other agencies engaged in the business of underwriting securities for resale.

(3) The Commissioner of Banking and Consumer Finance is authorized, empowered and directed to promulgate rules and regulations, relative to withdrawals of deposits from savings banks, trust companies and other banking institutions, and the commissioner may, in cases of emergency, declare bank holidays and do any and all things necessary to insure, protect and conserve the resources of such banks.

(4) All state banking corporations are prohibited from making loans to state, county, municipal and district governmental agencies, unless such loans are made in strict compliance with legal enactments and regulations which govern, and such banking corporations are further prohibited from transferring funds from one state, county, municipal or district account to another unless authorized by warrant issued by proper authority, and such banking corporations are prohibited from discounting state, county, municipal, district or other public certificates and warrants, but...
such certificates and warrants may be used as collateral to
guarantee the payment of notes or other obligations.

(5) The board of directors of any banking corporation
created under the laws of this state may, at its option, require
any or all employees of such to file with the board of directors a
sworn financial statement semiannually or more often if it so
desires.

(6) Any bank may, at its option, pay all checks drawn on it
with currency or valid exchange drawn on a bank in a reserve city
not more than five hundred (500) miles distant from such bank; but
each depositor is entitled to have his checks paid each day in
currency to the total extent of ten percent (10%) of his deposit
if it exceeds One Thousand Dollars ($1,000.00) and at least One
Hundred Dollars ($100.00) each day if his balance is over One
Hundred Dollars ($100.00) and less than One Thousand Dollars
($1,000.00), and may demand his entire balance in currency at any
time if One Hundred Dollars ($100.00) or less.

(7) No loan in excess of Twenty-five Thousand Dollars
($25,000.00) shall be made by any state banking corporation except
on approval of a loan committee selected by a majority of the
board of directors. Such committee shall require of all such
prospective borrowers a financial statement in connection with all
unsecured loans in excess of Twenty-five Thousand Dollars
($25,000.00).

(8) All state banking corporations may purchase for the
account of their customers bonds, stocks and other securities, and
such banking corporations may charge for their service in
connection with the handling of such transactions only actual
expenses plus the usual broker's fees allowed for similar service
by national banks.

(9) Any state bank may purchase, lease or otherwise acquire
automatic data processing computers and related machinery and
equipment, and such bank may utilize and operate such computers,
machinery and equipment in performing for itself, its customers or any other bank such services as may be desired including, but not limited to, check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices and similar items, or any other clerical, bookkeeping, accounting, statistical or similar functions performed by and for a bank. Corporations may be organized under the laws of the State of Mississippi for the purpose of owning and operating, by purchase, lease or otherwise, such computers, related machinery and equipment as aforesaid, and such corporations may perform for any bank those services as above mentioned; and stock of such corporations shall be legal investments for state banks to the same extent that stock of bank service corporations is eligible for acquisition by national banks under the provisions of the Bank Service Corporation Act, Public Law 87-856, 76 Stat. 1132.

(10) In addition to other powers, a state-chartered bank shall have and possess such of the rights, powers, privileges, immunities, duties and obligations of a national bank having its principal place of business in this state as may be prescribed by the State Board of Banking Review by general regulation under the circumstances and conditions set out therein. In the event of a conflict between the provisions of this subsection (10) and the provisions of any other act or acts, directly or indirectly, governing or regulating the activities of state chartered banks, the provisions of this subsection (10) shall control, and insurance activities of all banks, their subsidiaries, affiliates, branches, officers and employees doing business in this state shall be governed by the provisions of Title 83, Mississippi Code of 1972, only to the extent that Title 83, Mississippi Code of 1972, applies to national banks in Mississippi.

(11) Banking corporations should discourage persons from obtaining loans for gambling purposes especially when such loans
could cause such persons to lose their homes or other valuable assets or that could lead to other serious financial harm.

SECTION 4. This act shall take effect and be in force from and after its passage.