

By: Representative Clark

To: Ways and Means

HOUSE BILL NO. 728

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

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

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

13 75-76-3. (1) The provisions of this act shall not be
 14 construed to legalize any form of gaming which is prohibited under
 15 the Mississippi Constitution or the laws of this state. All legal
 16 gaming which is conducted in this state and which is otherwise
 17 authorized by law shall be regulated and licensed pursuant to the
 18 provisions of this chapter, unless the Legislature specifically
 19 provides otherwise. Nothing in this chapter shall be construed as
 20 encouraging the legalization of gambling in this state.

21 (2) The Legislature hereby finds and declares that lotteries
 22 and gaming both consist of the material element of chance. The
 23 Legislature is prohibited from legislating upon lotteries and
 24 permitted by virtue of its inherent powers to legislate upon
 25 gaming as the occasion arises. The Legislature derives its power
 26 to legislate upon gaming or gambling devices from its inherent
 27 authority over the morals and policy of the people and such power
 28 shall not be considered to conflict with the constitutional
 29 prohibition of lotteries.



30 (3) The Legislature hereby finds, and declares it to be the
31 public policy of this state, that:

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

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

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

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

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

56 (5) No applicant for a license or other affirmative
57 commission approval has any right to a license or the granting of
58 the approval sought. Any license issued or other commission
59 approval granted pursuant to the provisions of this chapter is a
60 revocable privilege, and no holder acquires any vested right
61 therein or thereunder.



62 (6) The Legislature recognizes that Section 98 of the
63 Mississippi Constitution of 1890 prohibits the conducting of any
64 lottery in this state and that, while not defining the term
65 "lottery," Section 98 clearly contemplates, as indicated by
66 specific language contained therein, that a lottery involves the
67 sale of tickets and a drawing in order to determine the winner.
68 The Legislature also recognizes that Section 98 of the Mississippi
69 Constitution of 1890 directs the Legislature to provide by law for
70 the enforcement of its provisions. Therefore, in carrying out its
71 duties under the Constitution and effectuating the intent of
72 Section 98, the Legislature hereby finds that a lottery, as
73 prohibited by the Constitution, does not include all forms of
74 gambling but means any activity in which:

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

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

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

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

92 **SECTION 2.** Section 75-76-35, Mississippi Code of 1972, is
93 amended as follows:



94 75-76-35. (1) The Legislature hereby declares that the
95 exclusion or ejection of certain persons from licensed gaming
96 establishments is necessary to effectuate the policies of this
97 chapter and to maintain effectively the strict regulation of
98 licensed gaming.

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

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

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

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

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

117 (ii) Willful evasion of fees or taxes;

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

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

124 (4) Race, color, creed, national origin or ancestry, or sex
125 shall not be grounds for placing the name of a person upon the
126 list.



127 (5) Persons should be discouraged from incurring gambling
128 debts in such amounts that may cause them to lose their homes or
129 other valuable assets or that could lead to other serious
130 financial harm.

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

133 81-5-1. (1) All banking corporations are prohibited, either
134 through their officers or as a banking agency, from participating,
135 directly or indirectly, in the operation of any underwriting
136 syndicate which handles securities for resale. However, this
137 inhibition shall not apply to bonds issued by federal, state,
138 county or other governmental agencies.

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

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

151 (4) All state banking corporations are prohibited from
152 making loans to state, county, municipal and district governmental
153 agencies, unless such loans are made in strict compliance with
154 legal enactments and regulations which govern, and such banking
155 corporations are further prohibited from transferring funds from
156 one state, county, municipal or district account to another unless
157 authorized by warrant issued by proper authority, and such banking
158 corporations are prohibited from discounting state, county,
159 municipal, district or other public certificates and warrants, but



160 such certificates and warrants may be used as collateral to
161 guarantee the payment of notes or other obligations.

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

167 (6) Any bank may, at its option, pay all checks drawn on it
168 with currency or valid exchange drawn on a bank in a reserve city
169 not more than five hundred (500) miles distant from such bank; but
170 each depositor is entitled to have his checks paid each day in
171 currency to the total extent of ten percent (10%) of his deposit
172 if it exceeds One Thousand Dollars (\$1,000.00) and at least One
173 Hundred Dollars (\$100.00) each day if his balance is over One
174 Hundred Dollars (\$100.00) and less than One Thousand Dollars
175 (\$1,000.00), and may demand his entire balance in currency at any
176 time if One Hundred Dollars (\$100.00) or less.

177 (7) No loan in excess of Twenty-five Thousand Dollars
178 (\$25,000.00) shall be made by any state banking corporation except
179 on approval of a loan committee selected by a majority of the
180 board of directors. Such committee shall require of all such
181 prospective borrowers a financial statement in connection with all
182 unsecured loans in excess of Twenty-five Thousand Dollars
183 (\$25,000.00).

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

190 (9) Any state bank may purchase, lease or otherwise acquire
191 automatic data processing computers and related machinery and
192 equipment, and such bank may utilize and operate such computers,



193 machinery and equipment in performing for itself, its customers or
194 any other bank such services as may be desired including, but not
195 limited to, check and deposit sorting and posting, computation and
196 posting of interest and other credits and charges, preparation and
197 mailing of checks, statements, notices and similar items, or any
198 other clerical, bookkeeping, accounting, statistical or similar
199 functions performed by and for a bank. Corporations may be
200 organized under the laws of the State of Mississippi for the
201 purpose of owning and operating, by purchase, lease or otherwise,
202 such computers, related machinery and equipment as aforesaid, and
203 such corporations may perform for any bank those services as above
204 mentioned; and stock of such corporations shall be legal
205 investments for state banks to the same extent that stock of bank
206 service corporations is eligible for acquisition by national banks
207 under the provisions of the Bank Service Corporation Act, Public
208 Law 87-856, 76 Stat. 1132.

209 (10) In addition to other powers, a state-chartered bank
210 shall have and possess such of the rights, powers, privileges,
211 immunities, duties and obligations of a national bank having its
212 principal place of business in this state as may be prescribed by
213 the State Board of Banking Review by general regulation under the
214 circumstances and conditions set out therein. In the event of a
215 conflict between the provisions of this subsection (10) and the
216 provisions of any other act or acts, directly or indirectly,
217 governing or regulating the activities of state chartered banks,
218 the provisions of this subsection (10) shall control, and
219 insurance activities of all banks, their subsidiaries, affiliates,
220 branches, officers and employees doing business in this state
221 shall be governed by the provisions of Title 83, Mississippi Code
222 of 1972, only to the extent that Title 83, Mississippi Code of
223 1972, applies to national banks in Mississippi.

224 (11) Banking corporations should discourage persons from
225 obtaining loans for gambling purposes especially when such loans



226 could cause such persons to lose their homes or other valuable
227 assets or that could lead to other serious financial harm.

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

