

By: Representative Guice

To: Banking and Financial Services

HOUSE BILL NO. 1046

1 AN ACT TO AMEND SECTION 81-7-7, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE OUT-OF-STATE BANKS THAT DO NOT ALREADY MAINTAIN A BRANCH  
3 IN MISSISSIPPI TO ESTABLISH AND MAINTAIN A BRANCH IN MISSISSIPPI  
4 THROUGH THE ACQUISITION OF A BRANCH BANK OR BRANCH OFFICE OR THE  
5 ESTABLISHMENT OF A BRANCH BANK DE NOVO; TO AMEND SECTION 81-7-23,  
6 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; TO  
7 BRING FORWARD SECTION 81-7-8, MISSISSIPPI CODE OF 1972, WHICH  
8 PROVIDES CERTAIN RESTRICTIONS ON THE ESTABLISHMENT OF BRANCH  
9 BANKS; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 81-7-7, Mississippi Code of 1972, is  
12 amended as follows:

13 81-7-7. (1) For purposes of this section and Section  
14 81-7-8, "branch bank de novo" or "branching de novo" refers to a  
15 branch established by the opening of a new branch bank and  
16 includes a branch bank or branch office acquired from another bank  
17 without acquiring substantially all of the assets of the other  
18 bank.

19 (2) Subject to the restrictions contained in Section 81-7-8,  
20 a bank may establish:

21 (a) Branch banks de novo \* \* \*, subject to compliance  
22 with the procedures set forth in Section 81-7-1; and

23 (b) Branch banks by the merger or consolidation with,  
24 or the purchase of all or substantially all of the assets of, any  
25 other bank located in Mississippi \* \* \*.

26 \* \* \*

27 Compliance with the procedures set forth in Section 81-7-1 is  
28 not required to establish branch banks under paragraph (b) of this  
29 subsection.

30 \* \* \*

31           (3) The bank resulting from a merger, consolidation or  
32 purchase may retain and operate as branch banks any of the parent  
33 offices, branch banks or branch offices of the banks participating  
34 in the transaction.

35           \* \* \*

36           (4) An out-of-state bank that does not already maintain a  
37 branch in Mississippi and that meets the requirements of this  
38 title may establish and maintain a branch in Mississippi through  
39 the acquisition of a branch bank or branch office or the  
40 establishment of a branch bank de novo, subject to compliance with  
41 the procedures set forth in Section 81-7-1 for establishment of a  
42 branch bank de novo. However, no branch of an out-of-state bank  
43 may be established through the acquisition of a branch bank or  
44 branch office or the establishment of a branch bank de novo unless  
45 the laws of the home state of the out-of-state bank permit  
46 Mississippi banks to establish and maintain branches in that state  
47 through the acquisition of a branch bank or branch office or the  
48 establishment of a branch bank de novo under substantially the  
49 same terms and conditions as set forth in this title.

50           **SECTION 2.** Section 81-7-23, Mississippi Code of 1972, is  
51 amended as follows:

52           81-7-23. The provisions of this chapter apply to branching  
53 within the State of Mississippi by:

54           (a) Banks chartered by the State of Mississippi or  
55 national banks having their headquarters in the State of  
56 Mississippi; \* \* \*

57           (b) Out-of-state banks which maintain a branch in the  
58 State of Mississippi subsequent to an interstate branching  
59 transaction pursuant to Chapter 23, Title 81, Mississippi Code of  
60 1972, known as the "Interstate Bank Branching Act"; and

61           (c) Out-of-state banks that establish a branch in  
62 Mississippi through the acquisition of a branch bank or branch  
63 office or the establishment of a branch bank de novo.

64           **SECTION 3.** Section 81-7-8, Mississippi Code of 1972, is  
65 brought forward as follows:

66           81-7-8. (1) A bank chartered after October 16, 1985, may  
67 neither establish a branch by merger, consolidation or purchase as  
68 provided in Section 81-7-7(2)(b) nor become a branch as the result  
69 of such a transaction, unless such bank has been in continuous  
70 operation as a state or federally chartered bank, savings  
71 association or savings bank for at least its previous five (5)  
72 years of existence. For purposes of the five-year requirement, a  
73 bank which has been involved in an interim bank merger shall be  
74 deemed to have been in operation from the date it began operation  
75 under the original charter. "Interim bank merger" means the  
76 technique by which a bank holding company obtains a new bank  
77 charter solely for the purpose of merging an existing bank into  
78 the bank for which the charter is sought or solely for the purpose  
79 of merging the bank for which the charter is sought into an  
80 existing bank.

81           (2) A bank is prohibited from establishing a branch by  
82 merger, consolidation or purchase, as provided for in Section  
83 81-7-7(2)(b), if upon such merger, consolidation or purchase the  
84 surviving bank and all of its branch banks and branch offices  
85 located in Mississippi would have combined deposits which exceed  
86 twenty-five percent (25%) of the total deposits of all offices  
87 located in Mississippi of commercial banks, savings banks, savings  
88 and loan associations and credit unions. Determination of the  
89 percentage of total deposit concentration limited by this  
90 subsection shall be made based on data contained in the most  
91 recent call reports or reports of condition furnished immediately  
92 prior to the merger, consolidation or purchase to the appropriate  
93 regulatory officials by the banks involved in the merger,  
94 consolidation or purchase. "Appropriate regulatory officials"  
95 means, for any national bank in Mississippi, the Comptroller of  
96 the Currency of the United States or the Board of Governors of the

97 Federal Reserve System of the United States; "appropriate  
98 regulatory officials" means, for any state-chartered bank in  
99 Mississippi, the Commissioner of Banking and Consumer Finance. In  
100 determining total deposits of all offices located in Mississippi  
101 of commercial banks, savings banks, savings and loan associations  
102 and credit unions, data shall be used as furnished by the  
103 Department of Banking and Consumer Finance as of the most recent  
104 calendar quarter for which complete data are available. For the  
105 purpose of furnishing such data, the department shall obtain from  
106 appropriate federal regulatory agencies the most recent data  
107 available regarding the deposits of federally chartered  
108 institutions. For purposes of this subsection and subsection (4)  
109 of this section, "deposits" mean all individual, partnership,  
110 corporate and government deposits (including, without limitation,  
111 all demand, savings, time, certificates of deposit and other  
112 similar depository accounts of individuals, partnerships,  
113 corporations and governmental bodies).

114 (3) In the sale of any insolvent bank made pursuant to the  
115 provisions of Chapter 9, Title 81, Mississippi Code of 1972, or  
116 pursuant to federal banking laws, the restrictions contained in  
117 subsections (1) and (2) of this section shall not apply to prevent  
118 the acquisition of such insolvent bank by another bank; and,  
119 additionally, neither restriction shall apply to prohibit any  
120 purchasing bank from retaining any established branches of the  
121 insolvent bank which the purchasing bank would otherwise be  
122 prohibited from establishing.

123 (4) For branching purposes, a parent bank is considered to  
124 be located where it was domiciled on June 30, 1986. For any bank  
125 opening for business after that date, a parent bank shall be  
126 considered for branching purposes to be located where it is first  
127 domiciled. Upon a merger, consolidation or purchase as provided  
128 for in Section 81-7-7(2)(b), the parent bank for branching  
129 purposes of the surviving bank shall be considered to be at the

130 location of the parent bank for branching purposes of the bank  
131 involved in such transaction which had the greater amount of  
132 deposits based on data contained in the most recent call reports  
133 or reports of condition furnished immediately prior to the merger,  
134 consolidation or purchase to the appropriate regulatory officials  
135 referred to in subsection (2) of this section.

136 (5) In order for a parent bank to establish a branch bank  
137 through de novo branching, merger, consolidation or purchase after  
138 June 30, 1986, the parent bank shall have prior to the approval of  
139 any such branch application, and shall be expected to maintain,  
140 primary capital and total capital ratios equal to or above the  
141 minimum acceptable ratios established by the federal bank  
142 regulatory agency which primarily regulates and examines such  
143 bank. The components of capital and the method of computing the  
144 capital ratios shall be those defined by the applicable federal  
145 bank regulatory agency.

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