

By: Senator(s) Jackson (15th)

To: Business and Financial  
Institutions

## SENATE BILL NO. 2558

1 AN ACT TO AMEND SECTION 81-1-81, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE THE COMMISSIONER OF BANKING AND CONSUMER FINANCE TO  
3 EXAMINE A BANK HOLDING COMPANY IN THE SAME MANNER AS A BANK; TO  
4 AMEND SECTION 81-3-1, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
5 THE TERM "BANK," WHEN USED IN TITLE 81 OF THE MISSISSIPPI CODE,  
6 INCLUDES A BANK HOLDING COMPANY FOR THE PURPOSES OF SUPERVISION  
7 AND REGULATION BY THE COMMISSIONER; TO AMEND SECTION 81-5-28,  
8 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE COMMISSIONER SHALL  
9 HAVE GENERAL SUPERVISION OVER BANK HOLDING COMPANIES AND THE  
10 OPERATION AND BUSINESS OF BANK HOLDING COMPANIES TO THE SAME  
11 EXTENT AS THE COMMISSIONER IS AUTHORIZED TO SUPERVISE AND REGULATE  
12 STATE BANKS; TO AMEND SECTION 81-14-401, MISSISSIPPI CODE OF 1972,  
13 TO REMOVE THE PROHIBITION ON THE DEPARTMENT SUPERVISING CERTAIN  
14 BANK HOLDING COMPANIES OF SAVINGS BANKS; TO AMEND SECTION  
15 81-1-127, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A BANK OFFICER  
16 OR EMPLOYEE WHO HAS BEEN PERMANENTLY REMOVED BY THE COMMISSIONER  
17 SHALL NOT BE ELIGIBLE TO HOLD A POSITION AT A BANK SUBSIDIARY,  
18 BANK HOLDING COMPANY OR ANY OTHER ENTITY REGULATED BY THE  
19 DEPARTMENT; TO AMEND SECTION 81-5-29, MISSISSIPPI CODE OF 1972, TO  
20 PROVIDE THAT FROM AND AFTER JULY 1, 2014, ANY PROPOSED TRANSFER OF  
21 BANK ASSETS TO BE PURCHASED, HELD OR OWNED BY A BANK SECURITIES  
22 CORPORATION SHALL BE SUBJECT TO THE PRIOR CONSENT AND APPROVAL OF  
23 THE COMMISSIONER; TO CREATE NEW SECTION 81-1-137, MISSISSIPPI CODE  
24 OF 1972, TO AUTHORIZE THE DEPARTMENT OF BANKING AND CONSUMER  
25 FINANCE TO ESTABLISH PROGRAMS FOR THE EDUCATION OF THE PUBLIC WITH  
26 RESPECT TO FINANCIAL LITERACY, ANY PROVISION OF THIS TITLE 81 OF  
27 THE MISSISSIPPI CODE, OR ANY INDUSTRY REGULATED BY THE DEPARTMENT;  
28 TO AUTHORIZE THE DEPARTMENT AND THE OFFICE OF CONSUMER PROTECTION  
29 TO COORDINATE THEIR EFFORTS FOR THE EDUCATION PROGRAMS AUTHORIZED  
30 FOR THE DEPARTMENT; AND FOR RELATED PURPOSES.

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



32           **SECTION 1.** Section 81-1-81, Mississippi Code of 1972, is  
33 amended as follows:

34           81-1-81. It shall be the duty of the commissioner to  
35 apportion the work of examining banks among the examiners in such  
36 a way that each bank, under the provisions of law, shall be  
37 examined at least once during an eighteen-month period and more  
38 often, if necessary, in the discretion of the commissioner, at  
39 irregular intervals and without prior notice. However, neither  
40 the commissioner nor any examiner shall examine one (1) bank twice  
41 in succession unless the commissioner, for cause, so  
42 determines. \* \* \* If the commissioner's office, because of work  
43 load or other good sufficient cause, is unable to conduct an  
44 examination of a bank as provided for in this section, the  
45 commissioner is \* \* \* authorized to accept the examination of any  
46 state bank performed by the Federal Deposit Insurance Corporation  
47 or the Federal Reserve Bank in lieu of the examination provided  
48 for in this section. However, in no case shall the commissioner  
49 be authorized to accept any such examination of any state bank  
50 performed by either the Federal Deposit Insurance Corporation or  
51 the Federal Reserve Bank for any two (2) consecutive  
52 eighteen-month periods. The commissioner may, but shall not be  
53 required to, examine a bank holding company in the same manner as  
54 a bank.

55           **SECTION 2.** Section 81-3-1, Mississippi Code of 1972, is  
56 amended as follows:



57           81-3-1. Whenever the word "bank" is used in any statute,  
58 unless the context clearly shows that it is intended to be limited  
59 in its application to a particular character of bank, it shall  
60 include trust companies, savings banks, branches of banks and  
61 trust companies, and all other institutions subject to the  
62 provisions of this title. In addition, the term "bank," when used  
63 in this title, includes a bank holding company for the purposes of  
64 supervision and regulation by the commissioner. The term  
65 "corporation," when used in this title, or "trust company" when  
66 used in this title, shall be construed and held to embrace every  
67 character of bank, branch bank, trust company or any branch  
68 thereof, which is subject to the jurisdiction of the Department of  
69 Banking and Consumer Finance. The term "eligible banks," when  
70 used in this title, means an institution which is well capitalized  
71 as defined by regulations of the Federal Deposit Insurance  
72 Corporation, has examination ratings of two (2) or higher, has  
73 Community Reinvestment Act (CRA) ratings of satisfactory or  
74 higher, and has no supervisory enforcement actions pending.

75           **SECTION 3.** Section 81-5-28, Mississippi Code of 1972, is  
76 amended as follows:

77           81-5-28. (1) As used in this section, unless the context  
78 clearly requires otherwise:

79                   (a) "Bank" means any company that accepts deposits in  
80 Mississippi that are insured under the provisions of the Federal  
81 Deposit Insurance Act, 12 USCS 1811 et seq., as amended; provided,



82 however, that the term "bank" shall not include a company engaged  
83 solely in the trust business, all or substantially all of the  
84 deposits of which are in trust funds and are received in a bona  
85 fide fiduciary capacity.

86 (b) "Bank holding company" means any company which is a  
87 bank holding company under the provisions of the Federal Bank  
88 Holding Company Act of 1956, 12 USCS 1841 et seq., as amended.

89 (c) "Company" has the meaning assigned in Section 2(b)  
90 of the Federal Bank Holding Company Act of 1956, 12 USCS 1841(b),  
91 as amended.

92 (d) "Control" has the meaning assigned in Sections  
93 2(a)(2) and (3) of the Federal Bank Holding Company Act of 1956,  
94 12 USCS 1841(a)(2) and (3), as amended, except that the reference  
95 therein to "the board" shall be deemed to refer to the Mississippi  
96 Commissioner of Banking and Consumer Finance.

97 (2) No bank holding company shall control a bank unless the  
98 bank is a bank as defined in Section 2(c) of the Federal Bank  
99 Holding Company Act of 1956, 12 USCS 1841(c), as amended.

100 (3) No company that is not a bank holding company shall  
101 control a bank.

102 (4) The Mississippi Commissioner of Banking and Consumer  
103 Finance shall have general supervision over bank holding companies  
104 and the operation and business of bank holding companies to the  
105 same extent as the commissioner is authorized to supervise and  
106 regulate state banks. In addition, the commissioner shall have



107 the power to enforce the prohibitions of this section by seeking  
108 to enjoin any violation, by issuing cease and desist orders, by  
109 imposing administrative fines or penalties, and by any other  
110 remedies that are provided by law.

111 **SECTION 4.** Section 81-14-401, Mississippi Code of 1972, is  
112 amended as follows:

113 81-14-401. (1) Notwithstanding any other provision of law,  
114 any stock savings bank may simultaneously with its incorporation  
115 or conversion to a stock savings bank provide for its ownership by  
116 a holding company. In the case of a conversion, members of the  
117 converting savings bank shall have the right to purchase capital  
118 stock of the holding company in lieu of capital stock of the  
119 converted savings bank in accordance with Section 81-14-107(3)(f).

120 (2) Notwithstanding any other provision of law, any stock  
121 savings bank may reorganize its ownership to provide for ownership  
122 by a holding company, upon adoption of a plan of reorganization by  
123 a favorable vote of not less than two-thirds (2/3) of the members  
124 of the board of directors of the savings bank and approval of such  
125 plan of reorganization by the holders of not less than a majority  
126 of the issued and outstanding shares of stock of the savings bank.  
127 The plan of reorganization shall provide that (a) the resulting  
128 ownership shall be vested in a Mississippi corporation; (b) all  
129 stockholders of the stock savings bank shall have the right to  
130 exchange shares; (c) the exchange of stock shall not be subject to  
131 state or federal income taxation; (d) stockholders not wishing to



132 exchange shares shall be entitled to dissenters' rights as  
133 provided under Section 79-4-13.01 et seq., Mississippi Code of  
134 1972 \* \* \*; and (e) the plan of reorganization is fair and  
135 equitable to all stockholders.

136 (3) Notwithstanding any other provision of law, any mutual  
137 savings bank may reorganize its ownership to provide for ownership  
138 by a holding company upon adoption of a plan of reorganization by  
139 favorable vote of not less than two-thirds (2/3) of the members of  
140 the board of directors of the savings bank and approval of the  
141 plan of reorganization by a majority of the voting members of the  
142 savings bank. The plan of reorganization shall provide: (a) the  
143 resulting ownership of one \* \* \* or more subsidiary savings banks  
144 shall be evidenced by stock shares; (b) the substantial portion of  
145 the assets and all of the insured deposits and part or all of the  
146 other liabilities shall be transferred to one \* \* \* or more  
147 subsidiary savings banks; (c) the reorganization shall not be  
148 subject to state or federal income taxation; and (d) the plan of  
149 reorganization is fair and equitable to all members of the savings  
150 bank. The commissioner shall promulgate rules regarding the  
151 formation of the subsidiary savings banks and the holding company,  
152 including the rights of members, levels of investment in the  
153 holding company subsidiaries, and stock sales.

154 (4) A holding company may invest in any investment  
155 authorized by its board of directors, except as limited by



156 regulations promulgated by the commissioner pursuant to this  
157 chapter.

158 (5) Any entity which controls a stock savings bank, or  
159 acquires control of a stock savings bank, is a holding company.  
160 As used in this section, "entity" means an individual,  
161 corporation, partnership, joint venture, trust, estate or  
162 unincorporated association.

163 (6) Holding companies shall be under the supervision of the  
164 commissioner. The commissioner shall exercise all powers and  
165 responsibilities with respect to holding companies which he  
166 exercises with respect to savings banks. \* \* \*

167 **SECTION 5.** Section 81-1-127, Mississippi Code of 1972, is  
168 amended as follows:

169 81-1-127. (1) If, in the commissioner's opinion, any  
170 director, officer or employee of any bank has participated in, or  
171 consented to, any violation of any law, rule, regulation or order,  
172 or any unsafe or unsound business practice in the operation of any  
173 bank, or any insider loan not specifically authorized by law, or  
174 any repeated violation of, or failure to comply with, any bank's  
175 bylaws, the commissioner may serve a written notice of charges  
176 upon such director, officer or employee and the bank, stating his  
177 intent to remove such director, officer or employee. Such notice  
178 shall specify the alleged conduct of such director, officer or  
179 employee and shall state the place for a hearing before the  
180 commissioner. A hearing shall be held no earlier than fifteen



181 (15) days, but no later than thirty (30) days, after the notice of  
182 charges is served. If, after the hearing, the commissioner  
183 determines that the charges asserted have been proven by a  
184 preponderance of the evidence, the commissioner may issue an order  
185 removing the director, officer or employee in question. Such an  
186 order shall be effective upon issuance and may include the entire  
187 board of directors or all of the officers of the bank.

188 (2) If it is determined that any director, officer or  
189 employee of any bank has knowingly participated in, or consented  
190 to, any violation of any law, rule, regulation or order, or  
191 engaged in any unsafe or unsound business practice in the  
192 operation of any bank, or any repeated violation of, or failure to  
193 comply with, any bank's bylaws, and that as a result, a situation  
194 exists requiring immediate corrective action, the commissioner may  
195 issue an order temporarily removing such person or persons pending  
196 a hearing. Such an order shall state its duration on its face and  
197 the words "Temporary Order of Removal" and shall be effective upon  
198 issuance for a period of fifteen (15) days. Such order may be  
199 extended once for a period of fifteen (15) days. A hearing must  
200 be held within ten (10) days of the expiration of a temporary  
201 order, or any extension thereof, at which time a temporary order  
202 may be dissolved or converted to a permanent order.

203 (3) Any removal pursuant to subsection (1) or (2) of this  
204 section shall be effective in all respects as if such removal has





205 been made by the board of directors and the members or  
206 stockholders of the bank in question.

207 (4) Without the prior written approval of the commissioner,  
208 no director, officer or employee permanently removed pursuant to  
209 this section or otherwise removed by a federal agency of proper  
210 authority shall be eligible to be elected, reelected or appointed  
211 to any position as a director, officer or employee of that bank,  
212 nor shall such director, officer or employee be eligible to be  
213 elected to or retain a position as a director, officer or employee  
214 of any other state bank, bank subsidiary, bank holding company or  
215 any other entity regulated by the department.

216 (5) The commissioner may promulgate rules or regulations  
217 and/or cooperate with any other state or federal administrative  
218 agencies in order to enforce the prohibitions of this section.

219 **SECTION 6.** Section 81-5-29, Mississippi Code of 1972, is  
220 amended as follows:

221 81-5-29. Corporations may be formed to purchase, hold and  
222 own bank assets. By and with the consent and approval of  
223 the \* \* \* Commissioner of Banking and Consumer Finance,  
224 corporations may be formed in this state for the purpose of  
225 purchasing, holding, owning, dealing in, lending on and borrowing  
226 on assets of banks, either open or in liquidation. From and after  
227 July 1, 2014, any proposed transfer of bank assets to be  
228 purchased, held or owned by a corporation authorized by this  
229 section shall be subject to the prior consent and approval of the



230 commissioner. By and with the consent and approval of the \* \* \*  
231 commissioner, banks and receivers of banks may purchase any stock  
232 issued by such corporations, which shall have all the general  
233 corporate powers of corporations created under the general  
234 corporation laws of this state. By and with the consent and  
235 approval of the \* \* \* commissioner, banks may purchase and deal in  
236 any obligations of indebtedness issued by such corporations. In  
237 addition to general power to issue stock and borrow money, such  
238 corporation shall have specific power to issue stocks, common or  
239 preferred, to all agencies of the federal government, and to  
240 borrow money from and pledge assets to all such agencies.  
241 The \* \* \* commissioner shall have general supervision of the  
242 organization, operation and business of such corporation, and may  
243 issue and enforce regulations with reference thereto. The name of  
244 all such  
245 corporations shall include the words "bank securities  
246 corporation."

247 **SECTION 7.** The following shall be codified as Section  
248 81-1-137, Mississippi Code of 1972:

249 81-1-137. The department may establish programs for the  
250 education of the public with respect to financial literacy, any  
251 provision of this title, or any industry regulated by the  
252 department. The department and the Office of Consumer Protection  
253 under its authority to establish programs for the education of the  
254 public under Section 75-24-21 may coordinate their efforts for the



255 education programs authorized for the department under this  
256 section.

257           **SECTION 8.** This act shall take effect and be in force from  
258 and after July 1, 2014.

