

By: Senator(s) Parks, Dearing

To: Business and Financial  
Institutions

SENATE BILL NO. 2563

1 AN ACT TO AMEND SECTION 81-5-1, MISSISSIPPI CODE OF 1972, TO  
2 INSURE PARITY BETWEEN MISSISSIPPI CHARTERED OR DOMICILED BANKS  
3 WITH BANKS FROM FOREIGN JURISDICTIONS THAT BRANCH INTO  
4 MISSISSIPPI; AND FOR RELATED PURPOSES.

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

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

8 81-5-1. (1) All banking corporations are prohibited, either  
9 through their officers or as a banking agency, from participating,  
10 directly or indirectly, in the operation of any underwriting  
11 syndicate which handles securities for resale. However, this  
12 inhibition shall not apply to bonds issued by federal, state,  
13 county or other governmental agencies.

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



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

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

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

42           (6) Any bank may, at its option, pay all checks drawn on it  
43 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) 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.

(8) 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



69 purpose of owning and operating, by purchase, lease or otherwise,  
70 such computers, related machinery and equipment as aforesaid, and  
71 such corporations may perform for any bank those services as above  
72 mentioned; and stock of such corporations shall be legal  
73 investments for state banks to the same extent that stock of bank  
74 service corporations is eligible for acquisition by national banks  
75 under the provisions of the Bank Service Corporation Act, Public  
76 Law 87-856, 76 Stat. 1132.

77 (9) In addition to other powers, a state-chartered bank  
78 shall have and possess such of the rights, powers, privileges,  
79 immunities, duties and obligations of a national bank having its  
80 principal place of business in this state as may be prescribed by  
81 the State Board of Banking Review by general regulation under the  
82 circumstances and conditions set out therein. In the event of a  
83 conflict between the provisions of this subsection (9) and the  
84 provisions of any other act or acts, directly or indirectly,  
85 governing or regulating the activities of state-chartered banks,  
86 the provisions of this subsection (9) shall control, and insurance  
87 activities of all banks, their subsidiaries, affiliates, branches,  
88 officers and employees doing business in this state shall be  
89 governed by the provisions of Title 83, Mississippi Code of 1972,  
90 only to the extent that Title 83, Mississippi Code of 1972,  
91 applies to national banks in Mississippi.

92 (a) It is a purpose of this subsection to provide for  
93 parity between Mississippi chartered or domiciled banks extending



94 open-end credit in this state, as well as to promote the retention  
95 of existing financial services within the state by encouraging  
96 Mississippi chartered or domiciled banks to continue their  
97 open-end credit operations in this state rather than relocating  
98 those operations to other states with interest rates, fees and  
99 credit terms which may not be available under Mississippi law and  
100 exporting such interest rates, fees and credit terms back to  
101 Mississippi under the "most favored lender" doctrine of federal  
102 law.

103       (b) Notwithstanding any other provision of law to the  
104 contrary, Mississippi chartered or domiciled banks offering  
105 open-end credit may assess finance charges, and credit service  
106 charges, as well as fees and charges that are material to the  
107 determination of the interest rate, in connection with open-end  
108 credit accounts, at such rates and in such amounts which equal or  
109 are less than the amounts that financial institutions domiciled in  
110 any other state with locations in Mississippi are permitted to  
111 impose and collect when extending credit to Mississippi customers  
112 as a result of the "most favored lender" doctrine of federal law.

113       (c) A Mississippi chartered or domiciled bank which  
114 seeks to utilize the provisions of this subsection shall maintain  
115 documentation in the file setting forth the rates and fees to be  
116 charged, the state where such rates and fees are permissible, and  
117 the identity of one or more of the financial institutions



domiciled in that state with branches in Mississippi which offer  
open-end credit accounts to Mississippi customers.

(d) "Open-end credit account" means an arrangement  
between a creditor and a customer in which:

(i) The creditor permits the customer to obtain  
credit advances on a pre-authorized basis.

(ii) The creditor reasonably contemplates repeated  
transactions.

(iii) The creditor may assess interest on the  
outstanding unpaid balance of the customer's account.

(iv) The amount of credit that may be extended to  
the customer, up to any limit set by the creditor, is generally  
made available to the extent that any unpaid balance is repaid.

(e) Notwithstanding any other provision of law to the  
contrary, for purposes of this section, and Title 12, Sections 85,  
1831d, and 1730g of the U.S. Code, all as applicable to the  
exportation of interest rates and any fees and charges which are  
material to their determination, any interest rates, finance  
charges, credit service charges and other fees and charges imposed  
by Mississippi chartered or domiciled banks pursuant to this  
section shall be authorized interest rates, finance charges,  
credit service charges and other fees and charges in amount as  
well as manner and method of computation under Mississippi law.

(f) Notwithstanding any other provision of law to the  
contrary, any interest, finance charges, credit service charges or



other fees or charges which are adopted from another state by a  
Mississippi chartered or domiciled bank, including those which are  
otherwise permissible in an amount under Mississippi law, may be  
assessed, accrued, earned or charged in the same manner or  
according to the same method as permitted under the law of the  
state from which they have been adopted, regardless of whether  
such manner or method is material to the determination of the  
interest rate under the law of that state.

(g) For purposes of this section, Mississippi chartered  
or domiciled banks may impose interest, finance charges, credit  
service charges, or other fees and charges from one or more  
open-end credit accounts offered by financial institutions in  
other states in connection with a single open-end credit account.

**SECTION 2.** This act shall take effect and be in force from  
and after July 1, 2018.

