

By: Senator(s) Parks

To: Business and Financial
Institutions

SENATE BILL NO. 2817
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 81-5-1, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THE GENERAL PARITY AND OPEN-END CREDIT PARITY PROVISIONS
3 BY RENUMBERING AN EXISTING SUBSECTION; AND FOR RELATED PURPOSES.

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

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

7 81-5-1. (1) All banking corporations are prohibited, either
8 through their officers or as a banking agency, from participating,
9 directly or indirectly, in the operation of any underwriting
10 syndicate which handles securities for resale. However, this
11 inhibition shall not apply to bonds issued by federal, state,
12 county or other governmental agencies.

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



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

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

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

41 (6) Any bank may, at its option, pay all checks drawn on it
42 with currency or valid exchange drawn on a bank in a reserve city



43 not more than five hundred (500) miles distant from such bank; but
44 each depositor is entitled to have his checks paid each day in
45 currency to the total extent of ten percent (10%) of his deposit
46 if it exceeds One Thousand Dollars (\$1,000.00) and at least One
47 Hundred Dollars (\$100.00) each day if his balance is over One
48 Hundred Dollars (\$100.00) and less than One Thousand Dollars
49 (\$1,000.00), and may demand his entire balance in currency at any
50 time if One Hundred Dollars (\$100.00) or less.

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

57 (8) Any state bank may purchase, lease or otherwise acquire
58 automatic data processing computers and related machinery and
59 equipment, and such bank may utilize and operate such computers,
60 machinery and equipment in performing for itself, its customers or
61 any other bank such services as may be desired, including, but not
62 limited to, check and deposit sorting and posting, computation and
63 posting of interest and other credits and charges, preparation and
64 mailing of checks, statements, notices and similar items, or any
65 other clerical, bookkeeping, accounting, statistical or similar
66 functions performed by and for a bank. Corporations may be
67 organized under the laws of the State of Mississippi for the



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

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

91 (10) (a) The purpose of this subsection (* * *10) is to
92 provide for parity among Mississippi chartered or domiciled banks



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

102 (b) For the purpose of this subsection, "open-end
103 credit account" means an arrangement between a creditor and a
104 customer in which:

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

107 (ii) The creditor reasonably contemplates repeated
108 transactions;

109 (iii) The creditor assesses interest on the
110 outstanding unpaid balance of the customer's account; or

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

114 (c) A Mississippi chartered or domiciled bank that
115 seeks to use the provisions of this subsection shall set forth in
116 the records of the bank the rates and fees to be charged, the



117 state where the rates and fees are permissible and the identity of
118 one or more of the financial institutions.

119 (d) Notwithstanding any other provision of law to the
120 contrary, Mississippi chartered or domiciled banks offering
121 open-end credit may assess finance charges, credit service charges
122 and fees and charges that are material to the determination of the
123 interest rate in connection with open-end accounts at rates and
124 amounts that are equal to or are less than the amounts that
125 financial institutions domiciled in other states are permitted to
126 impose and collect when extending credit to Mississippi customers
127 as a result of the most favored lender doctrine of federal law.

128 (e) Notwithstanding any other provision of law to the
129 contrary, for purposes of this subsection and Title 12, Sections
130 85, 1831d and 1730g of the United States Code, as applicable to
131 the exportation of interest rates and any fees and charges that
132 are material to their determination, any interest rates, finance
133 charges, credit service charges and other fees and charges, in
134 amount, as well as manner and method of computation, imposed by
135 Mississippi chartered or domiciled banks under this subsection
136 shall be authorized by Mississippi law.

137 (f) Notwithstanding any other provision of law to the
138 contrary, any interest, finance charges, credit service charges or
139 other fees or charges that are adopted from another state by a
140 Mississippi chartered or domiciled bank, including those that are
141 otherwise permissible in an amount under Mississippi law, may be



142 assessed, accrued, earned or changed in the same manner or method
143 as permitted under the law of the state from which they have been
144 adopted, regardless of whether such manner or method is material
145 to the determination of the interest rate under the law of that
146 state.

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

152 **SECTION 2.** This act shall take effect and be in force from
153 and after its passage.

