

By: Representative Carpenter

To: Banking and Financial Services

HOUSE BILL NO. 1661

1 AN ACT TO ESTABLISH THE MISSISSIPPI BULLION DEPOSITORY; TO
2 DEFINE THE TERM "LEGAL TENDER" AS SPECIE LEGAL TENDER AND
3 ELECTRONIC AND/OR DIGITAL CURRENCY WHOSE ENTIRE AND EXCLUSIVE
4 VALUE IS CORRELATED AGAINST THE MARKET VALUE OF GOLD OR SILVER; TO
5 DEFINE OTHER TERMS RELATING TO THE DEPOSITORY; TO PROVIDE THAT
6 SUCH DEPOSITORY IS ESTABLISHED TO SERVE AS THE CUSTODIAN,
7 GUARDIAN, AND ADMINISTRATOR OF CERTAIN BULLION AND SPECIE THAT MAY
8 BE TRANSFERRED TO OR OTHERWISE ACQUIRED BY THE STATE OF
9 MISSISSIPPI OR AN AGENCY, DEPARTMENT, INSTITUTION,
10 INSTRUMENTALITY, OR POLITICAL SUBDIVISION OF THE STATE OF
11 MISSISSIPPI; TO REQUIRE THAT THE DEPOSITORY BE ADMINISTERED AS A
12 DIVISION OF THE OFFICE OF THE STATE TREASURER AND UNDER THE
13 DIRECTION AND SUPERVISION OF A BULLION DEPOSITORY ADMINISTRATOR;
14 TO PROVIDE THE DUTIES OF THE BULLION DEPOSITORY ADMINISTRATOR; TO
15 AUTHORIZE THE DEPOSITORY TO RECEIVE A DEPOSIT OF BULLION OR SPECIE
16 FROM OR ON BEHALF OF A PERSON ACTING IN THE PERSON'S OWN RIGHT, AS
17 TRUSTEE, OR IN ANOTHER FIDUCIARY CAPACITY, IN ACCORDANCE WITH ANY
18 RULES OR REGULATIONS ADOPTED BY THE STATE TREASURER; TO REQUIRE
19 THAT THE DEPOSITORY RECORD THE AMOUNT OF PRECIOUS METALS A PERSON
20 DEPOSITS, REGARDLESS OF FORM, IN UNITS OF TROY OUNCES PURE, AND
21 THE RECORD MUST ALSO SPECIFY THE TYPE AND QUANTITY OF EACH
22 PRECIOUS METAL DEPOSITED; TO AUTHORIZE THE STATE TREASURER TO
23 RESTRICT THE FORMS IN WHICH DEPOSITS OF PRECIOUS METALS MAY BE
24 MADE TO THOSE FORMS THAT CONVENIENTLY LEND THEMSELVES TO
25 MEASUREMENT AND ACCOUNTING IN UNITS OF TROY OUNCES AND
26 STANDARDIZED FRACTIONS OF TROY OUNCES; TO REQUIRE THE DEPOSITORY
27 TO DELIVER ANY PRECIOUS METAL HELD BY OR ON BEHALF OF THE
28 DEPOSITORY IN BULLION, SPECIE, OR A COMBINATION THEREOF, ON THE
29 ORDER OF A DEPOSITORY ACCOUNT HOLDER IN A QUANTITY OF THAT
30 PRECIOUS METAL AS IS AVAILABLE IN SUCH ACCOUNT HOLDER'S ACCOUNT;
31 TO AUTHORIZE A DEPOSITORY ACCOUNT HOLDER TO TRANSFER ANY PORTION
32 OF THE BALANCE OF THE HOLDER'S DEPOSITORY ACCOUNT BY CHECK, DRAFT,
33 OR DIGITAL ELECTRONIC INSTRUCTION TO ANOTHER DEPOSITORY ACCOUNT
34 HOLDER OR TO A PERSON WHO AT THE TIME THE TRANSFER IS INITIATED IS



35 NOT A DEPOSITORY ACCOUNT HOLDER; TO REQUIRE A DEPOSITOR TO
36 CONTRACT WITH THE DEPOSITORY TO BE ABLE TO ESTABLISH A DEPOSITORY
37 ACCOUNT; TO PROVIDE CERTAIN REQUIREMENTS FOR SUCH CONTRACT BETWEEN
38 A DEPOSITORY AND DEPOSITOR; TO PROVIDE THAT A CAUSE OF ACTION FOR
39 DENIAL OF DEPOSIT LIABILITY ON A DEPOSITORY ACCOUNT CONTRACT
40 WITHOUT A MATURITY DATE DOES NOT ACCRUE UNTIL THE DEPOSITORY HAS
41 DENIED LIABILITY AND GIVEN NOTICE OF THE DENIAL TO THE DEPOSITORY
42 ACCOUNT HOLDER; TO PROVIDE THAT A DEPOSITORY ACCOUNT MAY BE
43 TRANSFERRED ON THE BOOKS OF THE DEPOSITORY ONLY ON PRESENTATION TO
44 THE DEPOSITORY OF EVIDENCE OF TRANSFER SATISFACTORY TO THE
45 DEPOSITORY AND AN APPLICATION FOR THE TRANSFER SUBMITTED BY THE
46 PERSON TO WHOM THE DEPOSITORY ACCOUNT IS TO BE TRANSFERRED; TO
47 PROHIBIT THE DEPOSITORY FROM PAYING ON A DEPOSITORY ACCOUNT ANY
48 INTEREST, AN AMOUNT IN THE NATURE OF INTEREST, OR A FEE OR OTHER
49 PAYMENT FOR THE USE OR FORBEARANCE OF USE OF MONEY, BULLION,
50 SPECIE, OR PRECIOUS METALS DEPOSITED TO A DEPOSITORY ACCOUNT; TO
51 PROVIDE THAT THE DEPOSITORY HAS A LIEN ON EACH DEPOSITORY ACCOUNT
52 OWNED BY A DEPOSITORY ACCOUNT HOLDER TO SECURE ANY FEES, CHARGES,
53 OR OTHER OBLIGATIONS OWED OR THAT MAY BECOME OWED TO THE
54 DEPOSITORY IN CONNECTION WITH ANY OF SUCH ACCOUNT HOLDER'S
55 DEPOSITORY ACCOUNTS AS PROVIDED BY THE TERMS OF THE ACCOUNT
56 HOLDER'S APPLICABLE DEPOSITORY ACCOUNT CONTRACT; TO AUTHORIZE THE
57 DEPOSITORY, WITHOUT NOTICE TO OR CONSENT OF THE DEPOSITORY ACCOUNT
58 HOLDER, TO TRANSFER ON THE DEPOSITORY'S BOOKS THE BALANCE OF SUCH
59 ACCOUNT HOLDER'S DEPOSITORY ACCOUNT TO PAY OR SATISFY THE
60 OBLIGATION UPON DEFAULT IN THE PAYMENT OR IN THE SATISFACTION OF
61 SUCH ACCOUNT HOLDER'S OBLIGATION, AS DETERMINED BY REFERENCE TO
62 THE EXCHANGE RATES APPLICABLE AT THE TIME OF THE TRANSFER; TO
63 AUTHORIZE CERTAIN INDIVIDUALS AND ENTITIES TO INVEST MONEY IN A
64 DEPOSITORY ACCOUNT BY PURCHASING PRECIOUS METALS AND DEPOSITING
65 SUCH PRECIOUS METALS WITH THE DEPOSITORY OR A DEPOSITORY AGENT; TO
66 PROVIDE THAT UNLESS A TERM OF THE DEPOSITORY ACCOUNT PROVIDES
67 OTHERWISE, A PERSON ON WHOSE SIGNATURE PRECIOUS METALS MAY BE
68 WITHDRAWN FROM A DEPOSITORY ACCOUNT THAT IS JOINTLY HELD IN THE
69 NAMES OF TWO OR MORE PERSONS MAY, BY A SIGNED PLEDGE, PLEDGE AND
70 TRANSFER TO THE DEPOSITORY OR TO A THIRD PARTY ALL OR PART OF THE
71 ACCOUNT; TO AUTHORIZE THE DEPOSITORY OR A DEPOSITORY AGENT TO
72 ACCEPT A DEPOSITORY ACCOUNT IN THE NAME OF A FIDUCIARY, INCLUDING
73 AN ADMINISTRATOR, EXECUTOR, CUSTODIAN, GUARDIAN, OR TRUSTEE, FOR A
74 NAMED BENEFICIARY; TO REQUIRE THE DEPOSITORY TO RECOGNIZE THE
75 AUTHORITY OF A POWER OF ATTORNEY AUTHORIZED IN WRITING BY A
76 DEPOSITORY ACCOUNT HOLDER TO MANAGE OR WITHDRAW PRECIOUS METALS
77 FROM THE DEPOSITORY ACCOUNT HOLDER'S DEPOSITORY ACCOUNT UNTIL THE
78 DEPOSITORY RECEIVES WRITTEN OR ACTUAL NOTICE OF THE REVOCATION OF
79 THAT AUTHORITY; TO REQUIRE THE DEPOSITORY TO ENTER INTO
80 TRANSACTIONS AND RELATIONSHIPS WITH BULLION BANKS, DEPOSITORIES,
81 DEALERS, CENTRAL BANKS, SOVEREIGN WEALTH FUNDS, FINANCIAL
82 INSTITUTIONS, INTERNATIONAL NONGOVERNMENTAL ORGANIZATIONS, AND
83 OTHER PERSONS, LOCATED INSIDE OR OUTSIDE OF MISSISSIPPI OR INSIDE
84 OR OUTSIDE OF THE UNITED STATES, AS THE STATE TREASURER DETERMINES
85 TO BE PRUDENT AND SUITABLE TO FACILITATE THE OPERATIONS OF THE



86 DEPOSITORY; TO PROVIDE CERTAIN PROHIBITIONS FOR THE BULLION
87 DEPOSITORY; TO REQUIRE THE STATE TREASURER TO ESTABLISH THE
88 REFERENCES BY WHICH THE OFFICIAL EXCHANGE RATE FOR PRICING
89 PRECIOUS METALS TRANSACTIONS IN TERMS OF UNITED STATES DOLLARS OR
90 OTHER CURRENCY MUST BE ESTABLISHED AT THE TIME OF A DEPOSITORY
91 TRANSACTION; TO REQUIRE THE STATE TREASURER TO ESTABLISH
92 PROCEDURES AND FACILITIES THROUGH WHICH THE RATES ARE MADE
93 DISCOVERABLE AT ALL REASONABLE TIMES BY SYSTEM PARTICIPANTS, BOTH
94 ON A REAL-TIME BASIS AND RETROSPECTIVELY; TO REQUIRE THE STATE
95 TREASURER TO ESTABLISH PROCEDURES AND REQUIREMENTS FOR THE
96 DEPOSITORY AND DEPOSITORY AGENTS DESIGNED TO MINIMIZE THE BURDEN
97 TO SYSTEM PARTICIPANTS OF ACCOUNTING FOR AND REPORTING TAXABLE
98 GAINS AND LOSSES ARISING OUT OF DEPOSITORY TRANSACTIONS AS
99 DENOMINATED IN UNITED STATES DOLLARS OR ANOTHER CURRENCY; TO
100 REQUIRE THE STATE TREASURER TO SUBMIT TO THE GOVERNOR AND TO THE
101 LEGISLATURE A REPORT ON THE STATUS, CONDITION, OPERATIONS, AND
102 PROSPECTS FOR THE DEPOSITORY AND DEPOSITORY PARTICIPATION NOT
103 LATER THAN SEPTEMBER 30 OF EACH YEAR; TO REQUIRE THAT THE
104 DEPOSITORY USE PRIVATE, INDEPENDENTLY MANAGED FIRMS AND
105 INSTITUTIONS LICENSED AS DEPOSITORY AGENTS AS INTERMEDIARIES TO
106 CONDUCT RETAIL TRANSACTIONS IN BULLION AND SPECIE ON BEHALF OF THE
107 DEPOSITORY WITH CURRENT AND PROSPECTIVE DEPOSITORY ACCOUNT
108 HOLDERS; TO PROVIDE THAT THE STATE TREASURER SHALL REQUIRE A
109 DEPOSITORY AGENT TO MAINTAIN SUITABLE SYSTEMS AND PROCESSES FOR
110 ELECTRONIC INFORMATION SHARING AND COMMUNICATION WITH THE STATE
111 TREASURER AND THE DEPOSITORY TO ENSURE THAT ALL TRANSACTIONS
112 EFFECTED ON BEHALF OF THE DEPOSITORY ARE REPORTED TO AND
113 INTEGRATED INTO THE DEPOSITORY'S RECORDS NOT LATER THAN 11:59:59
114 P.M. ON THE DATE OF EACH TRANSACTION; TO REQUIRE A DEPOSITORY
115 AGENT TO SUBMIT MONTHLY, QUARTERLY, AND ANNUAL REPORTS OF ALL
116 DEPOSITORY TRANSACTIONS NO LATER THAN THE 15TH DAY OF THE MONTH
117 FOLLOWING THE EXPIRATION OF THE PERIOD WITH RESPECT TO WHICH
118 REPORT IS SUBMITTED; TO PROVIDE THAT A PERSON MAY NOT ENGAGE IN
119 THE BUSINESS OF RENDERING DEPOSITORY AGENT SERVICES OR ADVERTISE,
120 SOLICIT, OR HOLD ITSELF OUT AS A PERSON THAT ENGAGES IN THE
121 BUSINESS OF SUCH SERVICES UNLESS THE PERSON IS LICENSED, AND HAS
122 RECEIVED THE REQUISITE CERTIFICATIONS; TO PROVIDE THAT A PERSON
123 ENGAGES IN THE BUSINESS OF DEPOSITORY AGENT SERVICES IF THE PERSON
124 RENDERS A DEPOSITORY AGENT SERVICE, REGARDLESS OF WHETHER
125 COMPENSATION IS SOUGHT OR RECEIVED FOR THE SERVICE, DIRECTLY OR
126 INDIRECTLY OR IF THE SERVICE IS INCIDENTAL TO ANY OTHER BUSINESS
127 IN WHICH THE PERSON IS PRIMARILY ENGAGED; TO PROVIDE THAT A PERSON
128 SOLICITS, ADVERTISES, OR HOLDS THE PERSON OUT AS A PERSON THAT
129 ENGAGES IN THE BUSINESS OF DEPOSITORY AGENT SERVICES IF THE PERSON
130 REPRESENTS THAT THE PERSON WILL CONDUCT DEPOSITORY AGENT SERVICES;
131 TO AUTHORIZE A DEPOSITORY AGENT LICENSE HOLDER TO ENGAGE IN
132 DEPOSITORY AGENT SERVICES BUSINESS AT ONE OR MORE LOCATIONS IN
133 MISSISSIPPI OWNED DIRECTLY OR INDIRECTLY BY THE LICENSE HOLDER
134 UNDER A SINGLE LICENSE; TO REQUIRE AN APPLICANT FOR A DEPOSITORY
135 AGENT LICENSE TO SUBMIT AN APPLICATION TO THE STATE TREASURER AND
136 TO PROVIDE CERTAIN REQUIREMENTS FOR SUCH APPLICATION; TO REQUIRE



137 THE STATE TREASURER TO INVESTIGATE SUCH APPLICANT AND ACCEPT OR
138 DENY SUCH APPLICATIONS; TO AUTHORIZE THE STATE TREASURER TO ISSUE
139 A TEMPORARY DEPOSITORY AGENT LICENSE TO A PERSON THAT IS ENGAGING
140 IN DEPOSITORY AGENT SERVICES, BUT HAS NOT OBTAINED A LICENSE UNDER
141 THIS ACT UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE THAT A DEPOSITORY
142 AGENT LICENSE HOLDER IS LIABLE FOR THE DELIVERY TO OR FOR THE
143 ACCOUNT OF THE DEPOSITORY OR EACH DEPOSITOR, AS APPLICABLE, OF ALL
144 BULLION, SPECIE, AND MONEY PAYABLE OR DELIVERABLE IN CONNECTION
145 WITH THE TRANSACTIONS IN WHICH THE LICENSE HOLDER ENGAGES ON
146 BEHALF OF THE DEPOSITORY; TO REQUIRE A DEPOSITORY AGENT LICENSE
147 HOLDER TO HOLD IN TRUST ALL CASH, BULLION, SPECIE, AND OTHER
148 ASSETS RECEIVED IN THE ORDINARY COURSE OF ITS BUSINESS UNTIL THE
149 TIME THE DELIVERY OBLIGATION IS DISCHARGED; TO REQUIRE THAT A
150 DEPOSITORY AGENT LICENSE HOLDER'S NAME AND MAILING ADDRESS OR
151 TELEPHONE NUMBER MUST BE PROVIDED TO THE PURCHASER IN CONNECTION
152 WITH EACH DEPOSITORY AGENT SERVICES TRANSACTION CONDUCTED BY THE
153 DEPOSITORY AGENT LICENSE HOLDER; TO BRING FORWARD SECTIONS
154 75-15-3, 75-15-5, 75-15-7, 75-15-9, 75-15-11, 75-15-12, 75-15-19,
155 75-15-23, 75-15-25, 75-15-29, MISSISSIPPI CODE OF 1972, WHICH
156 RELATE TO THE MISSISSIPPI MONEY TRANSMITTERS ACT, FOR PURPOSES OF
157 POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 7-9-9, MISSISSIPPI
158 CODE OF 1972, WHICH RELATES TO POWERS AND DUTIES OF THE STATE
159 TREASURER FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED
160 PURPOSES.

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

162 **SECTION 1.** (1) As used in this act, the following terms have
163 the meanings as defined in this section, unless the context
164 clearly indicates otherwise:

165 (a) "Administrator" means the bullion depository
166 administrator appointed under Section 3 of this act.

167 (b) "Bullion" means precious metals that are formed
168 into uniform shapes and quantities such as ingots, bars, or
169 plates, with uniform content and purity, as are suitable for or
170 customarily used in the purchase, sale, storage, transfer, and
171 delivery of bulk or wholesale transactions in precious metals.



172 (c) "Business day" means a day other than a Saturday,
173 Sunday, or banking holiday for a bank chartered under the laws of
174 this state.

175 (d) "Deposit" means the establishment of an executory
176 obligation of the depository to deliver to the order of the person
177 establishing with the depository the obligation, on demand, a
178 quantity of a specified precious metal, in bullion, specie, or a
179 combination of bullion and specie, equal to the quantity of the
180 same precious metal delivered by or on behalf of the depositor
181 into the custody of:

182 (i) The depository; or

183 (ii) A depository agent.

184 (e) "Depositor" means a person who makes a deposit.

185 (f) "Depository" means the Mississippi Bullion
186 Depository created by this act.

187 (g) "Depository account" means the rights, interests,
188 and entitlements established in favor of a depositor with respect
189 to a deposit in accordance with this act, and rules or regulations
190 adopted under this act.

191 (h) "Depository account holder," regarding a depository
192 account, means the original depositor or a successor or assignee
193 of the depositor respecting the depository account.

194 (i) "Depository agent" means a person licensed in
195 accordance with this act to serve as an intermediary between the



196 depository and a retail customer in making a transaction in
197 precious metals bullion or specie.

198 (j) "Depository agent license" means a license issued
199 under this act.

200 (k) "Depository agent services" means services rendered
201 to the general public for or on behalf of the Mississippi Bullion
202 Depository in the nature of purchasing, selling, transferring,
203 accepting, transporting, delivering, or otherwise dealing in
204 precious metals bullion or specie in connection with the creation,
205 transfer, clearing, settlement, or liquidation of the rights and
206 interests of a depository account holder and a direct or indirect
207 transferee of a depository account holder. The term "depository
208 agent services" does not include:

209 (i) Participation as a party or counterparty to a
210 transaction, including an agreement with respect to a transaction,
211 in or in connection with a contract for the purchase or sale of a
212 person's rights and interests as a depository account holder, as a
213 cash contract for present delivery, a cash contract for deferred
214 shipment or delivery, or a contract for future delivery, where the
215 underlying deliverable consists of the depository account holder's
216 interest in the depository account, rather than the underlying
217 precious metal represented by the depository account balance;

218 (ii) The opening, transfer, settlement, or
219 liquidation of any derivative of a contract, including a forward
220 transaction, swap transaction, currency transaction, future



221 transaction, index transaction, or option on or other derivative
222 of a transaction of any of those types, in the nature of a cap
223 transaction, floor transaction, collar transaction, repurchase
224 transaction, reverse repurchase transaction, buy-and-sell-back
225 transaction, securities lending transaction, or other financial
226 instrument or interest, including an option with respect to a
227 transaction, or any combination of these transactions; or

228 (iii) The rendition of services exclusively in
229 support of the opening, transfer, settlement, or liquidation of
230 transaction derivatives through a central counterparty, such as
231 those customarily rendered by a clearinghouse, clearing
232 association, or clearing corporation, or through an interbank
233 payment system, physical or electronic trading facility, broker or
234 brokerage firm, or similar entity, facility, system, or
235 organization.

236 (1) "Precious metal" means a metal, including gold and
237 silver that:

238 (i) Bears a high value-to-weight ratio relative to
239 common industrial metals; and

240 (ii) Customarily is formed into bullion or specie.

241 (m) "Specie" means a precious metal stamped into coins
242 of uniform shape, size, design, content, and purity, suitable for
243 or customarily used as currency, as a medium of exchange, or as
244 the medium for purchase, sale, storage, transfer, or delivery of
245 precious metals in retail or wholesale transactions.



246 SECTION 2. (1) The Mississippi Bullion Depository is
247 established as an agency of this state in the Office of the State
248 Treasurer.

249 (2) The depository is established to serve as the custodian,
250 guardian, and administrator of certain bullion and specie that may
251 be transferred to or otherwise acquired by the State of
252 Mississippi, or an agency, department, institution,
253 instrumentality, or political subdivision of the State of
254 Mississippi, or any agency, department, or institution of a
255 political subdivision of the state.

256 SECTION 3. (1) The depository is administered as a division
257 of the Office of the State Treasurer and under the direction and
258 supervision of a bullion depository administrator appointed by the
259 State Treasurer with the advice and consent of the Governor,
260 Lieutenant Governor, and Senate.

261 (2) The bullion depository administrator shall:

262 (a) Administer, supervise, and direct the operations
263 and affairs of the depository and depository agents; and

264 (b) Liaise with the State Treasurer and other divisions
265 of the Office of the State Treasurer to ensure that each
266 transaction with the depository that involves state money, that
267 involves an agency, department, institution, instrumentality, or
268 political subdivision of the State of Mississippi, or any agency,
269 department, or institution of a political subdivision of the



270 state, or that involves a private person is planned, administered,
271 and executed in a manner to achieve the purposes of this act.

272 (3) The administrator may appoint, subject to the approval
273 of the State Treasurer, a deputy administrator or other
274 subordinate officer as necessary and appropriate to the efficient
275 administration of the depository.

276 **SECTION 4.** (1) The following are not available for
277 legislative appropriation:

278 (a) A deposit to the depository;

279 (b) Bullion or specie held by or on behalf of the
280 depository or a depository agent;

281 (c) Bullion or specie in transit to or from the
282 depository or a depository agent; and

283 (d) A receivable or other amount owed to the depository
284 in settlement of a transaction in bullion or specie.

285 (2) Bullion, specie, and other assets described by
286 subsection (1) of this section are subject to redemption,
287 liquidation, or transfer exclusively to discharge an obligation of
288 the depository to depository account holders, depository agents,
289 bullion banks, financial institutions, or other intermediaries in
290 accordance with this act, and any rules or regulations adopted
291 under this act.

292 (3) Revenue that the depository earns from fees, charges, or
293 other payments received in the course of depository operations
294 shall be transferred to the State General Fund.



295 **SECTION 5.** (1) The depository may receive a deposit of
296 bullion or specie from or on behalf of a person acting in the
297 person's own right, as trustee, or in another fiduciary capacity,
298 in accordance with any rules or regulations adopted by the State
299 Treasurer, as appropriate, to:

300 (a) Ensure compliance with law; and

301 (b) Protect the interests of:

302 (i) The depository;

303 (ii) Depository account holders;

304 (iii) The State of Mississippi, and any agency,
305 department, institution, instrumentality, or political subdivision
306 of the State of Mississippi, or any agency, department, or
307 institution of a political subdivision of the state; and

308 (iv) The public at large.

309 (2) The depository shall record the amount of precious
310 metals a person deposits, regardless of form, in units of troy
311 ounces pure, and the records must also specify the type and
312 quantity of each precious metal deposited.

313 (3) The State Treasurer shall adopt standards by which the
314 quantities of precious metals deposited are credited to a
315 depositor's depository account by reference to the particular form
316 in which the metals were deposited, classified by mint,
317 denomination, weight, assay mark, or other indicator, as
318 applicable. The standards must conform to applicable national and
319 international standards of weights and measures.



320 (4) The State Treasurer may, if he or she determines that to
321 do so is in the public interest, restrict the forms in which
322 deposits of precious metals may be made to those forms that
323 conveniently lend themselves to measurement and accounting in
324 units of troy ounces and standardized fractions of troy ounces.

325 (5) The depository shall adjust each depository account
326 balance to reflect additions to or withdrawals or deliveries from
327 the account.

328 **SECTION 6.** (1) The depository shall deliver any precious
329 metal held by or on behalf of the depository in bullion, specie,
330 or a combination of bullion and specie, on the order of a
331 depository account holder in a quantity of that precious metal as
332 is available in the depository account holder's depository
333 account.

334 (2) The depository shall make a delivery described by
335 subsection (1) of this section on demand by the presentment of a
336 suitable check, draft, or digital electronic instruction to the
337 depository or a depository agent. The State Treasurer shall
338 prescribe the forms, standards, and processes through which an
339 order for delivery on demand may be made, presented, and honored.

340 (3) The depository shall make a delivery at the depository's
341 settlement facility designated by the State Treasurer, shipping to
342 an address specified by the account holder or, at the depository's
343 discretion, at a facility of a depository agent at which



344 presentment is made, not later than five (5) business days after
345 the date of presentment.

346 **SECTION 7.** (1) In accordance with any rules or regulations
347 adopted under this act, a depository account holder may transfer
348 any portion of the balance of the holder's depository account by
349 check, draft, or digital electronic instruction to another
350 depository account holder or to a person who at the time the
351 transfer is initiated is not a depository account holder.

352 (2) The depository shall adjust the depository account
353 balances of the depository accounts to reflect a transfer
354 transaction between depository account holders on presentment of
355 the check, draft, or other instruction by reducing the payor's
356 depository account balance and increasing the depository account
357 balance of the payee accordingly.

358 (3) If a depository account holder transfers to a payee who
359 is not a depository account holder any portion of the balance of
360 the holder's depository account, the depository shall allow the
361 payee to establish a depository account by presentment of the
362 payor's check, draft, or instruction to the depository or to a
363 depository agent. The depository shall credit a newly established
364 account on behalf of the payee and shall debit the payor's account
365 accordingly.

366 **SECTION 8.** (1) To establish a depository account, a
367 depositor must contract with the depository for a depository
368 account. The contract must specify:



369 (a) The terms applicable to the account, including any
370 special terms; and

371 (b) The conditions on which withdrawals or deliveries
372 with respect to the account may be made.

373 (2) The execution of a contract for a depository account
374 described by this section may be made, as provided by any rules or
375 regulations prescribed under this act, by electronic or digital
376 transmission.

377 (3) The depository or a depository agent shall hold the
378 contract for a depository account in the records pertaining to the
379 account.

380 (4) A contract for a depository account executed by a
381 depositor and the depository is considered a contract in writing
382 for all purposes, and may be evidenced by one or more agreements,
383 deposit receipts, signature cards, amendment notices, or other
384 documentation as provided by law.

385 (5) The depository and the depository account holder may
386 amend a contract for a depository account by agreement, or the
387 depository may amend the deposit contract by mailing a written
388 notice of the amendment to the account holder, separately or as an
389 enclosure with or part of the account holder's statement of
390 account or passbook. In the case of amendment by notice from the
391 depository, the notice must include the text and effective date of
392 the amendment. The effective date may not be earlier than the



393 30th day after the date the notice is mailed, except as otherwise
394 provided under this act.

395 **SECTION 9.** (1) A cause of action for denial of deposit
396 liability on a depository account contract without a maturity date
397 does not accrue until the depository has denied liability and
398 given notice of the denial to the depository account holder.

399 (2) The depository's act of furnishing an account statement
400 or passbook, whether in physical, digital, or electronic form,
401 constitutes a denial of liability and the giving of such notice as
402 to any amount not shown on the statement or passbook.

403 (3) The depository's sovereign immunity from suit is waived
404 for an action brought by a depositor for the denial of deposit
405 liability.

406 (4) The depository's liability for a denial of deposit
407 liability is limited to the amount on deposit for which liability
408 was denied. A depositor may not recover consequential damages,
409 exemplary damages, pre- or post-judgment interest, costs, or
410 attorney's fees.

411 (5) A cause of action authorized by this section must be
412 brought in a court of competent jurisdiction before the expiration
413 of one (1) year after the date it accrues, or such cause of action
414 is barred.

415 **SECTION 10.** The State Treasurer may establish fees, service
416 charges, and penalties to be charged a depository account holder
417 for a service or activity regarding a depository account,



418 including a fee for an overdraft, an insufficient fund check or
419 draft, or a stop payment order.

420 **SECTION 11.** Unless the depository acknowledges in writing a
421 pledge of a depository account, the depository may treat the
422 holder of record of the account as the owner of the account for
423 all purposes and without regard to a notice to the contrary.

424 **SECTION 12.** (1) A depository account may be transferred on
425 the books of the depository only on presentation to the depository
426 of:

427 (a) Evidence of transfer satisfactory to the
428 depository; and

429 (b) An application for the transfer submitted by the
430 person to whom the depository account is to be transferred.

431 (2) A person to whom a depository account is to be
432 transferred must accept the transferred account subject to the
433 terms of the deposit contract, this act, and any rules or
434 regulations adopted under this act.

435 **SECTION 13.** The depository shall not pay on a depository
436 account:

437 (a) Interest;

438 (b) An amount in the nature of interest; or

439 (c) A fee or other payment for the use or forbearance
440 of use of money, bullion, specie, or precious metals deposited to
441 a depository account.



442 SECTION 14. (1) Without the need of any further agreement
443 or pledge, the depository has a lien on each depository account
444 owned by a depository account holder to secure any fees, charges,
445 or other obligations owed or that may become owed to the
446 depository in connection with any of the depository account
447 holder's depository accounts as provided by the terms of the
448 depository account holder's applicable depository account
449 contract.

450 (2) On default in the payment or in the satisfaction of a
451 depository account holder's obligation, the depository, without
452 notice to or consent of the depository account holder, may
453 transfer on the depository's books all or part of the balance of a
454 depository account holder's depository account to the extent
455 necessary to pay or satisfy the obligation, as determined by
456 reference to the exchange rates applicable at the time of the
457 transfer.

458 (3) The depository by written instrument may waive wholly or
459 partly the depository's lien on a depository account.

460 (4) Subject to a lien created as provided by this section,
461 the depository shall recognize the lawful pledge to a third party
462 by a depository account holder of the depository account holder's
463 rights, interests, and entitlements in and to a depository account
464 as an intangible asset. On the satisfaction of other requirements
465 of law in respect of the perfection and enforcement of a pledge of
466 that type, the depository shall take all steps reasonably



467 necessary and appropriate to effectuate on the depository's books
468 any transfer of a depository account or of all or part of a
469 depository account balance to the account of the secured party on
470 the successful enforcement of the pledge.

471 **SECTION 15.** (1) The following persons may invest the
472 person's money in a depository account by purchasing precious
473 metals and depositing the precious metals with the depository or a
474 depository agent:

475 (a) An individual or fiduciary, including an
476 administrator, executor, custodian, guardian, or trustee;

477 (b) An agency, department, institution,
478 instrumentality, or political subdivision of the State of
479 Mississippi, or any agency, department, or institution of a
480 political subdivision of the state;

481 (c) A business or nonprofit corporation;

482 (d) A charitable or educational corporation or
483 association; or

484 (e) A financial institution, including a bank, savings
485 and loan association, or credit union.

486 (2) An investment by a school district in a depository
487 account may be made instead of an investment as provided in Title
488 37, Mississippi Code of 1972, and the depository may be used by a
489 district instead of a depository bank for the purposes of Title
490 37, Mississippi Code of 1972.



491 **SECTION 16.** The applicable provisions of Title 91,
492 Mississippi Code of 1972, shall govern a depository account.

493 **SECTION 17.** (1) Unless a term of the depository account
494 provides otherwise, a person on whose signature precious metals
495 may be withdrawn from a depository account that is jointly held in
496 the names of two or more persons may, by a signed pledge, pledge
497 and transfer to the depository or to a third party all or part of
498 the account.

499 (2) A pledge made as described by subsection (1) of this
500 section does not sever or terminate the joint and survivorship
501 ownership of the account, to the extent applicable to the account
502 before the pledge.

503 **SECTION 18.** (1) The depository or a depository agent may
504 accept a depository account in the name of a fiduciary, including
505 an administrator, executor, custodian, guardian, or trustee, for a
506 named beneficiary.

507 (2) A fiduciary may open, add to, or withdraw precious
508 metals from an account described by subsection (1) of this
509 section.

510 (3) Except as otherwise provided by law, a payment or
511 delivery to a fiduciary or an acquittance signed by the fiduciary
512 to whom a payment or delivery is made is a discharge of the
513 depository for the payment or delivery.

514 (4) After a person who holds a depository account in a
515 fiduciary capacity dies, the depository may pay or deliver to the



516 beneficiary of the account the quantity of precious metals
517 represented by the balance in the depository account, plus other
518 rights relating to the depository account, wholly or partly, if
519 the depository has no written notice or order of the probate court
520 of:

521 (a) A revocation or termination of the fiduciary
522 relationship; or

523 (b) Any other disposition of the beneficial estate.

524 (5) The depository has no further liability for a payment
525 made or right delivered under subsection (4) of this section.

526 **SECTION 19.** (1) If the depository opens a depository
527 account for a person claiming to be the trustee for another
528 person, and the depository has no other notice of the existence or
529 terms of the trust other than a written claim against the account:

530 (a) The person claiming to be the trustee, on the
531 person's signature, may withdraw precious metals from the account;
532 and

533 (b) If the person claiming to be the trustee dies, the
534 depository may pay or deliver the quantity of precious metals
535 represented by the balance in the account to the person for whom
536 the account was opened.

537 (2) The depository has no further liability for a payment or
538 delivery made as provided by subsection (1) of this section.

539 **SECTION 20.** (1) The depository shall recognize the
540 authority of a power of attorney authorized in writing by a



541 depository account holder to manage or withdraw precious metals
542 from the depository account holder's depository account until the
543 depository receives written or actual notice of the revocation of
544 that authority.

545 (2) For purposes of this section, written notice of the
546 death or adjudication of incompetency of a depository account
547 holder is considered to be written notice of revocation of the
548 authority of the account holder's power of attorney.

549 **SECTION 21.** The depository shall enter into transactions and
550 relationships with bullion banks, depositories, dealers, central
551 banks, sovereign wealth funds, financial institutions,
552 international nongovernmental organizations, and other persons,
553 located inside or outside of this state or inside or outside of
554 the United States, as the State Treasurer determines to be prudent
555 and suitable to facilitate the operations of the depository and to
556 further the purposes of this act.

557 **SECTION 22.** (1) The depository shall not take any of the
558 following actions, and any attempt by the depository to take any
559 of the following actions is void ab initio and of no force or
560 effect:

561 (a) Entering into a precious metals leasing,
562 sale-leaseback, forward transaction, swap transaction, future
563 transaction, index transaction, or option on or other derivative
564 of any of those, whether in the nature of a cap transaction, floor
565 transaction, collar transaction, repurchase transaction, reverse



566 repurchase transaction, buy-and-sell-back transaction, securities
567 lending transaction, or other financial instrument or interest
568 intended to or having the effect of hedging or leveraging the
569 depository's holdings of precious metals, including any option
570 with respect to any of these transactions, or any combination of
571 these transactions, except that the limitation provided by this
572 subdivision does not apply to a transaction entered into to limit
573 the depository's exposure to post-signature price risks associated
574 with executory agreements to purchase or sell precious metals in
575 the ordinary course of depository operations and does not apply to
576 policies of insurance purchased to insure against ordinary
577 casualty risks such as theft, damage or destruction, loss during
578 shipment, or similar risks;

579 (b) Crediting the depository account balances of a
580 depository account holder, or disposing of any precious metals, if
581 to do so would cause the aggregate depository account balances
582 with respect to any precious metal represented by all depository
583 accounts to exceed the aggregate quantities of such precious metal
584 held by or for the benefit of the depository and the depository's
585 depository agents;

586 (c) Entering into or maintaining a deposit, trust, or
587 similar relationship for the custody of precious metals by a third
588 party outside this state, directly or indirectly, for the account
589 or benefit of the depository if the State Treasurer establishes
590 that:



591 (i) The custody or intermediary arrangements in
592 question do not meet the State Treasurer's standards of safety,
593 security, and liquidity; or

594 (ii) Except in those cases where such relationship
595 may be incidental to the performance of or preparation for
596 purchase and sale transactions with counterparties located outside
597 of this state, suitable alternate arrangements for physical
598 custody of the precious metals inside this state have been
599 established and are available;

600 (d) Extending credit to a person, including credit
601 secured by a depository account or other assets, except an
602 extension of credit incidental to the performance of the functions
603 and responsibilities otherwise provided by this act; or

604 (e) Engaging in a business or activity that, if
605 conducted by a private person, would be subject to regulation in
606 this state as a banking or savings and loan function.

607 **SECTION 23.** (1) A purported confiscation, requisition,
608 seizure, or other attempt to control the ownership, disposition,
609 or proceeds of a withdrawal, transfer, liquidation, or settlement
610 of a depository account, including the precious metals represented
611 by the balance of a depository account, if effected by a
612 governmental or quasi-governmental authority other than an
613 authority of this state or by a financial institution or other
614 person acting on behalf of or pursuant to a directive or
615 authorization issued by a governmental or quasi-governmental



616 authority other than an authority of this state, in the course of
617 a generalized declaration of illegality or emergency relating to
618 the ownership, possession, or disposition of one or more precious
619 metals, contracts, or other rights to the precious metals or
620 contracts or derivatives of the ownership, possession,
621 disposition, contracts, or other rights, is void ab initio and of
622 no force or effect.

623 (2) The depository in the case of receiving notice of a
624 purported confiscation, requisition, seizure, or other attempt to
625 control the ownership, disposition, or proceeds of a withdrawal,
626 transfer, liquidation, or settlement of a depository account,
627 including the precious metals represented by the balance of a
628 depository account, effected by a governmental or
629 quasi-governmental authority other than an authority of this state
630 or by a financial institution or other person acting on behalf of
631 or pursuant to a directive or authorization issued by a
632 governmental or quasi-governmental authority other than an
633 authority of this state, in the course of a generalized
634 declaration of illegality or emergency relating to the ownership,
635 possession, or disposition of one or more precious metals,
636 contracts, or other rights to the precious metals or contracts or
637 derivatives of the ownership, possession, disposition, contracts,
638 or other rights, may not recognize the governmental or
639 quasi-governmental authority, financial institution, or other



640 person acting as the lawful successor of the registered holder of
641 a depository account in question.

642 (3) On receipt of notice of any transaction described by
643 subsection (1) of this section, with respect to all or any portion
644 of the balance of a depository account, the depository shall
645 suspend withdrawal privileges associated with the balances of the
646 depository account until suitable substitute arrangements may be
647 effected in accordance with any rules or regulations of the State
648 Treasurer to enable the registered account holder to take delivery
649 of the precious metals represented by the account balances in
650 question. A voluntary transfer of a depository account balance or
651 of a depository account among depository account holders may
652 continue to take place unaffected by the suspension, and the
653 depository shall recognize to the full extent authorized by this
654 act, and any rules or regulations adopted under this act.

655 **SECTION 24.** The State Treasurer shall establish the
656 references by which the official exchange rate for pricing
657 precious metals transactions in terms of United States dollars or
658 other currency must be established at the time of a depository
659 transaction. The State Treasurer shall establish procedures and
660 facilities through which the rates are made discoverable at all
661 reasonable times by system participants, both on a real-time basis
662 and retrospectively.

663 **SECTION 25.** The State Treasurer shall establish procedures
664 and requirements for the depository and depository agents designed



665 to minimize the burden to system participants of accounting for
666 and reporting taxable gains and losses arising out of depository
667 transactions as denominated in United States dollars or another
668 currency.

669 **SECTION 26.** The State Treasurer shall submit to the Governor
670 and to the Legislature a report on the status, condition,
671 operations, and prospects for the depository and depository
672 participation no later than September 30 of each year.

673 **SECTION 27.** The depository shall use private, independently
674 managed firms and institutions licensed as depository agents as
675 intermediaries to conduct retail transactions in bullion and
676 specie on behalf of the depository with current and prospective
677 depository account holders.

678 **SECTION 28.** The State Treasurer shall require a depository
679 agent to maintain suitable systems and processes for electronic
680 information sharing and communication with the State Treasurer and
681 the depository to ensure that all transactions effected on behalf
682 of the depository are reported to and integrated into the
683 depository's records not later than 11:59:59 p.m. on the date of
684 each transaction.

685 **SECTION 29.** A depository agent shall submit to the State
686 Treasurer, monthly, quarterly, and annual reports of all
687 depository transactions not later than the 15th day of the month
688 following the expiration of the period with respect to which such



689 report is submitted. The report must contain information and be
690 in the manner and form as required by the State Treasurer.

691 **SECTION 30.** A depository agent license holder shall prepare
692 written reports and statements as follows:

693 (a) The renewal report, including an audited
694 unconsolidated financial statement that is dated as of the last
695 day of the license holder's fiscal year that ended in the
696 immediately preceding calendar year;

697 (b) A quarterly interim financial statement and report
698 regarding the permissible investments required to be maintained
699 under applicable rules that reflect the license holder's financial
700 condition and permissible investments as of the last day of the
701 calendar quarter to which the statement and report relate and that
702 are prepared not later than the 45th day after the last day of the
703 calendar quarter; and

704 (c) Any other report required or reasonably requested
705 by the State Treasurer to determine compliance with this act.

706 **SECTION 31.** (1) Notwithstanding any other provision of this
707 chapter, a money service that constitutes both a depository agent
708 service and a money transmission service, or both a depository
709 agent service and a currency exchange service, for purposes of
710 this act constitutes a depository agent service only.

711 (2) A depository agent service described by subsection (1)
712 of this section is not subject to a provision of this act



713 applicable uniquely to money transmission services or currency
714 exchange services.

715 (3) A person who renders a service that constitutes a
716 depository agent service, including a depository agent service
717 described by subsection (1) of this section, and renders another
718 service that constitutes money transmission or currency exchange
719 service only, is subject to the requirements of this act
720 applicable to each type of service rendered.

721 **SECTION 32.** (1) A person may not engage in the business of
722 rendering depository agent services or advertise, solicit, or hold
723 itself out as a person that engages in the business of depository
724 agent services unless the person is licensed under this act, and
725 has received the requisite certifications from the comptroller of
726 its facilities, systems, processes, and procedures as required by
727 this act, or any applicable rules or regulations adopted.

728 (2) For purposes of this act:

729 (a) A person engages in the business of depository
730 agent services if the person renders a depository agent service,
731 regardless of whether:

732 (i) Compensation is sought or received for the
733 service, directly or indirectly; and

734 (ii) The service is incidental to any other
735 business in which the person is primarily engaged; and

736 (b) A person solicits, advertises, or holds the person
737 out as a person that engages in the business of depository agent



738 services if the person represents that the person will conduct
739 depository agent services.

740 (4) Notwithstanding subsection (3) of this section, a person
741 does not engage in the business of depository agent services by
742 engaging in a transaction for the person's own depository account
743 or for the account of another person acting as a fiduciary that
744 would constitute depository agent services if conducted for
745 another person.

746 (5) A depository agent license holder may engage in
747 depository agent services business at one or more locations in
748 this state owned directly or indirectly by the license holder
749 under a single license.

750 **SECTION 33.** An applicant for a depository agent license must
751 demonstrate to the satisfaction of the State Treasurer that the:

752 (a) Applicant's financial condition will enable the
753 applicant to safely and soundly engage in the business of
754 depository agent services; and

755 (b) Applicant does not engage in any activity or
756 practice that adversely affects the applicant's safety and
757 soundness.

758 **SECTION 34.** (1) An applicant for a depository agent license
759 must submit to the State Treasurer an application in a manner and
760 form as prescribed by the State Treasurer.



761 (2) At the time an application for a depository agent
762 license is submitted, an applicant must file with the State
763 Treasurer:

764 (a) An application fee in the amount established by the
765 department;

766 (b) Audited financial statements that are satisfactory
767 to the State Treasurer for purposes of determining whether the
768 applicant has the minimum net worth required under applicable
769 rules and is likely to maintain the required minimum net worth if
770 a license is issued; and

771 (c) Security in the amount of Five Hundred Thousand
772 Dollars (\$500,000.00) that meets the requirements of any
773 applicable rules or regulations, and an undertaking or agreement
774 that the applicant will increase or supplement the security to
775 equal the aggregate security required by the State Treasurer
776 before the issuance of the license and the start of operations.

777 **SECTION 35.** The State Treasurer shall investigate the
778 applicant and either accept or deny his or her application for
779 license.

780 **SECTION 36.** (1) The State Treasurer may issue a temporary
781 depository agent license to a person that is engaging in
782 depository agent services, but has not obtained a license under
783 this act, if the person:

784 (a) Certifies in writing that the person qualifies for
785 the license and will submit a completed license application not



786 later than the sixtieth day after the date the temporary license
787 is issued;

788 (b) Submits a recent financial statement acceptable to
789 the State Treasurer that reflects the minimum net worth required
790 under applicable regulations;

791 (c) Provides security that meets the requirements
792 specified by the State Treasurer, but not less than Five Hundred
793 Thousand Dollars (\$500,000.00);

794 (d) Agrees in writing that, until a permanent license
795 is issued, the person will engage only in activities being
796 conducted at existing locations; and

797 (e) Pays the application fee and a nonrefundable
798 temporary license fee in the amount established by the State
799 Treasurer.

800 (2) The effective period for a temporary depository agent
801 license may not exceed ninety (90) days after the date the license
802 is issued. The State Treasurer may extend the effective period
803 for not more than thirty (30) days if necessary to complete the
804 processing of a timely filed application for which approval is
805 likely.

806 **SECTION 37.** A depository agent license holder is liable for
807 the delivery to or for the account of the depository or each
808 depositor, as applicable, of all bullion, specie, and money
809 payable or deliverable in connection with the transactions in
810 which the license holder engages on behalf of the depository.



811 **SECTION 38.** (1) A depository agent license holder shall
812 hold in trust all cash, bullion, specie, and other assets received
813 in the ordinary course of its business until the time the delivery
814 obligation is discharged. A trust resulting from the depository
815 agent license holder's actions is in favor of the persons to whom
816 such delivery obligations are owed.

817 (2) If a depository agent license holder commingles any
818 money or other property received for delivery with money or other
819 property owned or controlled by the depository agent license
820 holder, all commingled money and other property are impressed with
821 a trust as provided by this section in an amount equal to the
822 amount of money or property received for delivery, less the amount
823 of fees paid for the delivery.

824 (3) If the State Treasurer revokes a depository agent
825 license, all money and other property held in trust by the
826 depository agent license holder is assigned to the State Treasurer
827 for the benefit of the persons to whom the related delivery
828 obligations are owed.

829 (4) Money or other property of a depository agent license
830 holder impressed with a trust under this section may not be
831 considered an asset or property of the license holder in the event
832 of bankruptcy, receivership, or a claim against the license holder
833 unrelated to the license holder's obligations under this act.

834 **SECTION 39.** (1) A depository agent license holder's name and
835 mailing address or telephone number must be provided to the



836 purchaser in connection with each depository agent services
837 transaction conducted by the depository agent license holder.

838 (2) A depository agent license holder receiving currency or
839 an instrument payable in currency for transmission must comply
840 with all requirements for such purpose as prescribed by the State
841 Treasurer.

842 **SECTION 40.** Section 75-15-3, Mississippi Code of 1972, is
843 brought forward as follows:

844 75-15-3. For the purposes of this chapter:

845 (a) "Check" means any check, draft, money order,
846 personal money order or other instrument, including but not
847 limited to stored value cards, for the transmission or payment of
848 money. The format of a check may be either paper, electronic,
849 plastic or any combination thereof.

850 (b) "Commissioner" means the Commissioner of Banking
851 and Consumer Finance of the State of Mississippi.

852 (c) "Deliver" means to deliver a check to the first
853 person who in payment for same makes or purports to make a
854 remittance of or against the face amount thereof, whether or not
855 the deliverer also charges a fee in addition to the face amount,
856 and whether or not the deliverer signs the check.

857 (d) "Executive officer" means the licensee's president,
858 chairman of the executive committee, senior officer responsible
859 for the licensee's business, chief financial officer and any other
860 person who performs similar functions.



861 (e) "Licensee" means a person duly licensed by the
862 commissioner under this chapter.

863 (f) "Monetary value" means a medium of exchange,
864 whether or not redeemable in money.

865 (g) "Money transmission" means to engage in the
866 business of the sale or issuance of checks or of receiving money
867 or monetary value for transmission to a location within or outside
868 the United States by any and all means, including but not limited
869 to wire, facsimile or electronic transfer.

870 (h) "Outstanding check" means any check issued or sold
871 in Mississippi by or for the licensee that has been reported as
872 sold but not yet paid by or for the licensee.

873 (i) "Person" means any individual, partnership,
874 association, joint-stock association, trust or corporation, but
875 does not include the United States government or the government of
876 this state.

877 (j) "Personal money order" means any instrument for the
878 transmission or payment of money in relation to which the
879 purchaser or remitter appoints or purports to appoint the seller
880 thereof as his agent for the receipt, transmission or handling of
881 money, whether the instrument is signed by the seller or by the
882 purchaser or remitter or some other person.

883 (k) "Records" or "documents" means any item in hard
884 copy or produced in a format of storage commonly described as
885 electronic, imaged, magnetic, microphotographic or otherwise, and



886 any reproduction so made shall have the same force and effect as
887 the original thereof and be admitted in evidence equally with the
888 original.

889 (l) "Sell" means to sell, to issue or to deliver a
890 check.

891 (m) "Stored value" means monetary value that is
892 evidenced by an electronic record.

893 **SECTION 41.** Section 75-15-5, Mississippi Code of 1972, is
894 brought forward as follows:

895 75-15-5. No person, except those specified in Section
896 75-15-7, shall engage in the business of money transmission, as a
897 service or for a fee or other consideration, without having first
898 obtained a license under this chapter.

899 **SECTION 42.** Section 75-15-7, Mississippi Code of 1972, is
900 brought forward as follows:

901 75-15-7. Nothing in this chapter shall apply to the sale or
902 issuance or delivering of checks by:

903 (a) Any financial institution whose deposits are
904 insured by any agency of the United States government or any trust
905 company authorized to do business in this state;

906 (b) The government of the United States or any
907 department or agent thereof;

908 (c) The State of Mississippi or any municipal
909 corporation, county or other political subdivision of this state;



910 (d) Agents of a licensee, as provided for in Section
911 75-15-17, provided that this exemption shall apply only to the
912 agent's acts on behalf of the licensee and this exemption shall
913 not exempt the agent from the provisions of this chapter where he
914 conducts money transmissions for his own account;

915 (e) Attorneys-at-law, as to checks issued in the
916 regular course of the practice of law;

917 (f) Persons not carrying on the trade or business of
918 money transmission, this exemption is intended to include persons
919 who conduct money transmissions only as an incidental act to
920 another trade or business regularly carried on by them and persons
921 who only occasionally and infrequently conduct money transmissions
922 for another person; or

923 (g) The Nationwide Mortgage Licensing System and
924 Registry for mortgage brokers, mortgage lenders and mortgage loan
925 originators.

926 **SECTION 43.** Section 75-15-9, Mississippi Code of 1972, is
927 brought forward as follows:

928 75-15-9. Each application for a license to engage in the
929 business of money transmission shall be made in writing and under
930 oath to the commissioner in such form as he may prescribe. The
931 application shall state the full name and business address of:

932 (a) The proprietor, if the applicant is an individual;
933 (b) Every member, if the applicant is a partnership or
934 association;



935 (c) The corporation and each executive officer and
936 director thereof, if the applicant is a corporation;

937 (d) Every trustee and officer if the applicant is a
938 trust;

939 (e) The applicant shall have a net worth of at least
940 Twenty-five Thousand Dollars (\$25,000.00) plus Fifteen Thousand
941 Dollars (\$15,000.00) for each location in excess of one (1) at
942 which the applicant proposes to conduct money transmissions in
943 this state, computed according to generally accepted accounting
944 principles, but in no event shall the net worth be required to be
945 in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00);

946 (f) The financial responsibility, financial condition,
947 business experience and character and general fitness of the
948 applicant shall be such as reasonably to warrant the belief that
949 applicant's business will be conducted honestly, carefully and
950 efficiently;

951 (g) Each application for a license shall be accompanied
952 by an investigation fee of Fifty Dollars (\$50.00) and license fee
953 in the amount required by Section 75-15-15. All fees collected by
954 the commissioner under the provisions of this chapter shall be
955 deposited into the Consumer Finance Fund of the Department of
956 Banking and Consumer Finance;

957 (h) An applicant shall not have been convicted of a
958 felony in any jurisdiction or a misdemeanor of fraud, theft,



959 forgery, bribery, embezzlement, or making a fraudulent or false
960 statement in any jurisdiction.

961 **SECTION 44.** Section 75-15-11, Mississippi Code of 1972, is
962 brought forward as follows:

963 75-15-11. Each application for a license shall be
964 accompanied by:

965 (a) Certified financial statements, reasonably
966 satisfactory to the commissioner, showing that the applicant has a
967 net worth of at least Twenty-five Thousand Dollars (\$25,000.00)
968 plus Fifteen Thousand Dollars (\$15,000.00) for each location in
969 excess of one (1) at which the applicant proposes to conduct money
970 transmissions in this state, computed according to generally
971 accepted accounting principles, but in no event shall the net
972 worth be required to be in excess of Two Hundred Fifty Thousand
973 Dollars (\$250,000.00).

974 (b) A surety bond issued by a bonding company or
975 insurance company authorized to do business in this state, in the
976 principal sum of Twenty-five Thousand Dollars (\$25,000.00) or in
977 an amount equal to outstanding money transmissions in Mississippi,
978 whichever is greater, but in no event shall the bond be required
979 to be in excess of Five Hundred Thousand Dollars (\$500,000.00).
980 However, the commissioner may increase the required amount of the
981 bond upon the basis of the impaired financial condition of a
982 licensee as evidenced by a reduction in net worth, financial
983 losses or other relevant criteria. The bond shall be in form



984 satisfactory to the commissioner and shall run to the state for
985 the use and benefit of the Department of Banking and Consumer
986 Finance and any claimants against the applicant or his agents to
987 secure the faithful performance of the obligations of the
988 applicant and his agents with respect to the receipt, handling,
989 transmission and payment of money in connection with money
990 transmissions in Mississippi. The aggregate liability of the
991 surety in no event shall exceed the principal sum of the bond.
992 The surety on the bond shall have the right to cancel the bond
993 upon giving sixty (60) days' notice in writing to the commissioner
994 and thereafter shall be relieved of liability for any breach of
995 condition occurring after the effective date of the cancellation.
996 Any claimants against the applicant or his agents may themselves
997 bring suit directly on the bond, or the Attorney General may bring
998 suit thereon in behalf of those claimants, either in one (1)
999 action or successive actions.

1000 (c) In lieu of the corporate surety bond, the applicant
1001 may deposit with the State Treasurer bonds or other obligations of
1002 the United States or guaranteed by the United States or bonds or
1003 other obligations of this state or of any municipal corporation,
1004 county, or other political subdivision or agency of this state, or
1005 certificates of deposit of national or state banks doing business
1006 in Mississippi, having an aggregate market value at least equal to
1007 that of the corporate surety bond otherwise required. Those bonds
1008 or obligations or certificates of deposit shall be deposited with



1009 the State Treasurer to secure the same obligations as would a
1010 corporate surety bond, but the depositor shall be entitled to
1011 receive all interest and dividends thereon and shall have the
1012 right to substitute other bonds or obligations or certificates of
1013 deposit for those deposited, with the approval of the
1014 commissioner, and shall be required so to do on order of the
1015 commissioner made for good cause shown. The State Treasurer shall
1016 provide for custody of the bonds or obligations or certificates of
1017 deposits by a qualified trust company or bank located in the State
1018 of Mississippi or by any Federal Reserve Bank. The compensation,
1019 if any, of the custodian for acting as such under this section
1020 shall be paid by the depositing licensee.

1021 (d) Proof of registration as a money service business
1022 per 31 CFR Section 103.41, if applicable.

1023 (e) A set of fingerprints from any local law
1024 enforcement agency for each owner of a sole proprietorship,
1025 partners in a partnership or principal owners of a limited
1026 liability company that own at least ten percent (10%) of the
1027 voting shares of the company, shareholders owning ten percent
1028 (10%) or more of the outstanding shares of the corporation, except
1029 publically traded corporations and their subsidiaries, and any
1030 other executive officer with significant oversight duties of the
1031 business. In order to determine the applicant's suitability for
1032 license, the commissioner shall forward the fingerprints to the
1033 Department of Public Safety for a state criminal history records



1034 check, and the fingerprints shall be forwarded by the Department
1035 of Public Safety to the FBI for a national criminal history
1036 records check. The department shall not issue a license if it
1037 finds that the applicant, or any person who is an owner, partner,
1038 director or executive officer of the applicant, has been convicted
1039 of: (i) a felony in any jurisdiction; or (ii) a crime that, if
1040 committed within the state, would constitute a felony under the
1041 laws of this state; or (iii) a misdemeanor of fraud, theft,
1042 forgery, bribery, embezzlement or making a fraudulent or false
1043 statement in any jurisdiction. For the purposes of this chapter,
1044 a person shall be deemed to have been convicted of a crime if the
1045 person has pleaded guilty to a crime before a court or federal
1046 magistrate, or plea of nolo contendere, or has been found guilty
1047 of a crime by the decision or judgment of a court or federal
1048 magistrate or by the verdict of a jury, irrespective of the
1049 pronouncement of sentence or the suspension of a sentence, unless
1050 the person convicted of the crime has received a pardon from the
1051 President of the United States or the Governor or other pardoning
1052 authority in the jurisdiction where the conviction was obtained.

1053 **SECTION 45.** Section 75-15-12, Mississippi Code of 1972, is
1054 brought forward as follows:

1055 75-15-12. (1) In addition to the bond required in Section
1056 75-15-11, a licensee must possess permissible investments having
1057 an aggregate market value, calculated in accordance with generally
1058 accepted accounting principles, of not less than the aggregate



1059 amount of all outstanding checks issued or sold or money received
1060 for transmission by the licensee in the United States. This
1061 requirement may be waived by the commissioner if the dollar volume
1062 of a licensee's outstanding checks does not exceed the bond or
1063 other security devices posted by the licensee in accordance with
1064 Section 75-15-11.

1065 (2) Permissible investments, even if commingled with other
1066 assets of the licensee, shall be deemed by operation of law to be
1067 held in trust for the benefit of the purchasers and holders of the
1068 licensee's outstanding checks and money received for transmission
1069 and may not be considered an asset or property of the licensee in
1070 the event of bankruptcy, receivership or a claim against the
1071 licensee unrelated to any of the licensee's obligations under this
1072 chapter.

1073 (3) Permissible investments mean:

1074 (a) Cash;

1075 (b) Certificates of deposit or other debt obligations
1076 of a financial institution, either domestic or foreign;

1077 (c) Bills of exchange or time drafts drawn on and
1078 accepted by federally insured financial depository institutions;

1079 (d) Any investment bearing a rating of one (1) of the
1080 three (3) highest grades as defined by a nationally recognized
1081 organization that rates such securities;

1082 (e) Investment securities that are obligations of the
1083 United States, its agencies or instrumentalities, or obligations



1084 that are guaranteed fully as to principal and interest of the
1085 United States, or any obligations of any state, municipality or
1086 any political subdivision thereof;

1087 (f) Shares in a money market mutual fund,
1088 interest-bearing bills or notes or bonds, debentures or stock
1089 traded on any national securities exchange or on a national
1090 over-the-counter market, or mutual funds primarily composed of
1091 those securities or a fund composed of one or more permissible
1092 investments as set forth in this section;

1093 (g) Any demand borrowing agreement or agreements made
1094 to a corporation or a subsidiary of a corporation whose capital
1095 stock is listed on a national exchange;

1096 (h) Receivables that are due to a licensee from its
1097 agents, which are not past due or doubtful of collection; or

1098 (i) Any other investments approved by the commissioner.

1099 (4) The commissioner may limit or disallow for purposes of
1100 determining compliance with this section an investment, surety
1101 bond, letter of credit or other security otherwise permitted by
1102 this section if the commissioner determines it to be
1103 unsatisfactory for investment purposes or to pose a significant
1104 supervisory concern.

1105 **SECTION 46.** Section 75-15-19, Mississippi Code of 1972, is
1106 brought forward as follows:

1107 75-15-19. (1) (a) Each licensee shall file with the
1108 commissioner within fifteen (15) days of the last business day of



1109 each month a report of the total amount of outstanding money
1110 transmissions in Mississippi. The principal sum of the surety
1111 bond or deposit required in Section 75-15-11 shall be adjusted, if
1112 appropriate, to reflect any changes in outstanding money
1113 transmissions. Licensees who maintain a surety bond in the
1114 principal sum of at least Five Hundred Thousand Dollars
1115 (\$500,000.00) or a securities deposit having an aggregate market
1116 value of at least equal to Five Hundred Thousand Dollars
1117 (\$500,000.00) shall be required to report the total amount of
1118 outstanding money transmissions in Mississippi on a quarterly
1119 basis.

1120 (b) Each licensee shall file an annual financial
1121 statement with the commissioner, audited by an independent
1122 certified public accountant or an independent registered
1123 accountant, within five (5) months after the close of the
1124 licensee's fiscal year. The financial statement shall include a
1125 balance sheet, a profit and loss statement, and a statement of
1126 retained earnings of the licensee and the licensee's agents
1127 resulting from the business of money transmission.

1128 (2) The commissioner may conduct or cause to be conducted an
1129 annual examination or audit of the books and records of any
1130 licensee at any time or times he deems proper, the cost of the
1131 examination or audit to be borne by the licensee. The refusal of
1132 access to the books and records shall be cause for the revocation
1133 of its license. The commissioner may charge the licensee an



1134 examination fee in an amount not less than Three Hundred Dollars
1135 (\$300.00) nor more than Six Hundred Dollars (\$600.00) for each
1136 licensed office, plus any actual expenses incurred while examining
1137 the licensee's records or books that are located outside the State
1138 of Mississippi.

1139 (3) Each licensee shall maintain the following books and
1140 records for a period of five (5) years and the books and records
1141 shall be available to the commissioner for inspection:

1142 (a) A record of each money transmission sold;

1143 (b) A general ledger, posted at least monthly,
1144 containing all assets, liabilities, capital, income and expense
1145 accounts;

1146 (c) Bank statements and bank reconciliation records;

1147 (d) Records of outstanding money transmissions;

1148 (e) Records of each money transmission paid within the
1149 five-year period;

1150 (f) A list of the names and addresses of all authorized
1151 agents; and

1152 (g) Any other records the commissioner may reasonably
1153 require by rule or regulation.

1154 The records required under this section may be maintained in
1155 photographic, electronic or other similar form.

1156 (4) Each licensee must maintain a written Bank Secrecy
1157 Act/Anti-Money Laundering Program that complies with 31 CFR
1158 Section 103.125, if applicable.



1159 (5) The commissioner may conduct a joint examination with
1160 representatives of other departments or agencies of another state
1161 or with the federal government. The commissioner may accept an
1162 examination report of another state or of the federal government
1163 or a report prepared by a certified public accountant instead of
1164 conducting an examination. A joint examination or an acceptance
1165 of an examination report does not preclude the commissioner from
1166 conducting his own examination. The report of a joint examination
1167 or an examination report accepted by the commissioner under this
1168 section is an official report of the commissioner for all
1169 purposes.

1170 (6) The department may adopt the necessary administrative
1171 regulations, not inconsistent with state law, for the enforcement
1172 of this chapter.

1173 **SECTION 47.** Section 75-15-23, Mississippi Code of 1972, is
1174 brought forward as follows:

1175 75-15-23. Each licensee shall be liable for the payment of
1176 all money transmissions and for all checks that the licensee
1177 sells, in whatever form and whether directly or through an agent,
1178 as the maker or drawer thereof according to the negotiable
1179 instrument laws of this state, and shall be responsible only for
1180 those acts of the agent done on behalf of the licensee. Every
1181 check sold by a licensee directly or through an agent shall bear
1182 the name of the licensee clearly imprinted thereon. During the
1183 period of time that a person is an appointed agent for a licensee,



1184 the agent shall not directly or indirectly conduct his own money
1185 transmission business and the agent shall not be, continue to be,
1186 or become an officer, director, stockholder, employee, or agent of
1187 any other licensee under this chapter. When a person ceases to be
1188 an agent of a licensee, he shall immediately cease displaying his
1189 agent's appointment certificate, as provided under Section
1190 75-15-17 of this chapter and shall immediately surrender same to
1191 the licensee.

1192 **SECTION 48.** Section 75-15-25, Mississippi Code of 1972, is
1193 brought forward as follows:

1194 75-15-25. Whenever the bond or securities deposit required
1195 under Section 75-15-11 is less than Five Hundred Thousand Dollars
1196 (\$500,000.00), the licensee may not at any time have a total
1197 amount in outstanding money transmissions or checks in
1198 Mississippi, in excess of the bond or securities deposit required
1199 of him under Section 75-15-11, and the licensee shall, in
1200 accordance with rules and regulations promulgated by the
1201 commissioner under this chapter, submit a written report to the
1202 commissioner on the last business day of each month regarding his
1203 money transmissions outstanding in Mississippi, whether issued by
1204 himself or through agents, provided that this limitation shall be
1205 the principal sum of the bond or the market value of the
1206 securities deposit required of the licensee under Section
1207 75-15-11, and the sum of this limitation shall not be increased by
1208 any bond or securities deposit increase required by the



1209 commissioner under Section 75-15-29 or by deposit of any
1210 revocation order, suspension bond or securities deposit under
1211 Section 75-15-27.

1212 **SECTION 49.** Section 75-15-29, Mississippi Code of 1972, is
1213 brought forward as follows:

1214 75-15-29. Any provision in this chapter to the contrary
1215 notwithstanding, the commissioner may at any time, if in his sole
1216 opinion the protection of the public so requires, increase the
1217 principal sum of the bond or the aggregate market value of the
1218 deposit required of any applicant or licensee by Section 75-15-11
1219 but in no case shall the principal sum of the bond or the
1220 aggregate market value of the deposit required by Section 75-15-11
1221 exceed Five Hundred Thousand Dollars (\$500,000.00) and provided
1222 further, that in any situation, where a revocation order has been
1223 issued and the licensee involved has posted the additional bond
1224 required under Section 75-15-27, for suspension thereof, pending
1225 final determination, the commissioner may for the same reasons
1226 require the principal sum of the additional, suspension bond to be
1227 increased but in no case shall the principal sum thereof exceed
1228 Two Hundred Fifty Thousand Dollars (\$250,000.00), and provided
1229 further that if the licensee originally deposited with his
1230 application under Section 75-15-11 a corporate surety bond, the
1231 additional increase provided in this section must be by another
1232 corporate surety bond or an increase of the first one, written by
1233 the same corporate surety that wrote the first one and may not be



1234 a deposit of securities or if the licensee originally deposited
1235 securities, the additional increase shall also be of securities
1236 and not a corporate surety bond.

1237 **SECTION 50.** Section 7-9-9, Mississippi Code of 1972, is
1238 brought forward as follows:

1239 7-9-9. It shall be the duty of the state treasurer to
1240 receive and keep the moneys of the state in the manner provided by
1241 law, to disburse the same agreeably to law, and to take receipts
1242 or vouchers for moneys which he shall disburse. He shall keep
1243 regular, fair, and proper accounts of the receipts and
1244 expenditures of the public money; he shall keep accounts in his
1245 books in the name of the state, in which he shall enter the amount
1246 of all money, stock, securities, and all other property in the
1247 treasury or which may at any time be received by him, keeping the
1248 receipts and disbursements of each fiscal year in separate
1249 accounts, and closing the same with the close of the fiscal year;
1250 and he shall open and keep accounts in his books for all
1251 appropriations of money made by law, so that the appropriation of
1252 money and the application thereof in conformity thereto may
1253 clearly and distinctly appear on the books of the treasury.

1254 **SECTION 51.** The State Treasurer shall promulgate any rules
1255 or regulations as he or she deems necessary or required to
1256 effectuate the purposes of this act.

1257 **SECTION 52.** This act shall take effect and be in force from
1258 and after July 1, 2024.

