

By: Representative Carpenter

To: Banking and Financial Services

HOUSE BILL NO. 1684

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) "Legal tender" means specie legal tender and
237 electronic and/or digital currency whose entire and exclusive
238 value is correlated against the market value of gold or silver.

239 Precious metal, bullion, or species may not be characterized
240 as personal property for taxation or regulatory purposes, and the
241 purchase or sale of any type or form of precious metal, bullion or
242 specie does not give rise to any tax liability.

243 The exchange of one type or form of precious metal, bullion
244 or specie for another type or form of legal tender does not give
245 rise to any tax liability.



246 Unless specifically provided by the Mississippi Constitution,
247 general law, or by contract, a person may not compel another
248 person to tender or accept precious metal, bullion, or specie as
249 legal tender.

250 Specie legal tender may be recognized to pay private debts,
251 taxes, and fees levied by the state or local government or any
252 subdivision thereof.

253 (m) "Precious metal" means a metal, including gold and
254 silver that:

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

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

258 (n) "Specie" means a precious metal stamped into coins
259 of uniform shape, size, design, content, and purity, suitable for
260 or customarily used as currency, as a medium of exchange, or as
261 the medium for purchase, sale, storage, transfer, or delivery of
262 precious metals in retail or wholesale transactions.

263 **SECTION 2.** (1) The Mississippi Bullion Depository is
264 established as an agency of this state in the Office of the State
265 Treasurer.

266 (2) The depository is established to serve as the custodian,
267 guardian, and administrator of certain bullion and specie that may
268 be transferred to or otherwise acquired by the State of
269 Mississippi, or an agency, department, institution,
270 instrumentality, or political subdivision of the State of



271 Mississippi, or any agency, department, or institution of a
272 political subdivision of the state.

273 **SECTION 3.** (1) The depository is administered as a division
274 of the Office of the State Treasurer and under the direction and
275 supervision of a bullion depository administrator appointed by the
276 State Treasurer with the advice and consent of the Governor,
277 Lieutenant Governor, and Senate.

278 (2) The bullion depository administrator shall:

279 (a) Administer, supervise, and direct the operations
280 and affairs of the depository and depository agents; and

281 (b) Liaise with the State Treasurer and other divisions
282 of the Office of the State Treasurer to ensure that each
283 transaction with the depository that involves state money, that
284 involves an agency, department, institution, instrumentality, or
285 political subdivision of the State of Mississippi, or any agency,
286 department, or institution of a political subdivision of the
287 state, or that involves a private person is planned, administered,
288 and executed in a manner to achieve the purposes of this act.

289 (3) The administrator may appoint, subject to the approval
290 of the State Treasurer, a deputy administrator or other
291 subordinate officer as necessary and appropriate to the efficient
292 administration of the depository.

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

295 (a) A deposit to the depository;



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

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

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

302 (2) Bullion, specie, and other assets described by
303 subsection (1) of this section are subject to redemption,
304 liquidation, or transfer exclusively to discharge an obligation of
305 the depository to depository account holders, depository agents,
306 bullion banks, financial institutions, or other intermediaries in
307 accordance with this act, and any rules or regulations adopted
308 under this act.

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

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

317 (a) Ensure compliance with law; and

318 (b) Protect the interests of:

319 (i) The depository;

320 (ii) Depository account holders;



321 (iii) The State of Mississippi, and any agency,
322 department, institution, instrumentality, or political subdivision
323 of the State of Mississippi, or any agency, department, or
324 institution of a political subdivision of the state; and

325 (iv) The public at large.

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

330 (3) The State Treasurer shall adopt standards by which the
331 quantities of precious metals deposited are credited to a
332 depositor's depository account by reference to the particular form
333 in which the metals were deposited, classified by mint,
334 denomination, weight, assay mark, or other indicator, as
335 applicable. The standards must conform to applicable national and
336 international standards of weights and measures.

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

342 (5) The depository shall adjust each depository account
343 balance to reflect additions to or withdrawals or deliveries from
344 the account.



345 **SECTION 6.** (1) The depository shall deliver any precious
346 metal held by or on behalf of the depository in bullion, specie,
347 or a combination of bullion and specie, on the order of a
348 depository account holder in a quantity of that precious metal as
349 is available in the depository account holder's depository
350 account.

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

357 (3) The depository shall make a delivery at the depository's
358 settlement facility designated by the State Treasurer, shipping to
359 an address specified by the account holder or, at the depository's
360 discretion, at a facility of a depository agent at which
361 presentment is made, not later than five (5) business days after
362 the date of presentment.

363 **SECTION 7.** (1) In accordance with any rules or regulations
364 adopted under this act, a depository account holder may transfer
365 any portion of the balance of the holder's depository account by
366 check, draft, or digital electronic instruction to another
367 depository account holder or to a person who at the time the
368 transfer is initiated is not a depository account holder.



369 (2) The depository shall adjust the depository account
370 balances of the depository accounts to reflect a transfer
371 transaction between depository account holders on presentment of
372 the check, draft, or other instruction by reducing the payor's
373 depository account balance and increasing the depository account
374 balance of the payee accordingly.

375 (3) If a depository account holder transfers to a payee who
376 is not a depository account holder any portion of the balance of
377 the holder's depository account, the depository shall allow the
378 payee to establish a depository account by presentment of the
379 payor's check, draft, or instruction to the depository or to a
380 depository agent. The depository shall credit a newly established
381 account on behalf of the payee and shall debit the payor's account
382 accordingly.

383 **SECTION 8.** (1) To establish a depository account, a
384 depositor must contract with the depository for a depository
385 account. The contract must specify:

386 (a) The terms applicable to the account, including any
387 special terms; and

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

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



394 (3) The depository or a depository agent shall hold the
395 contract for a depository account in the records pertaining to the
396 account.

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

402 (5) The depository and the depository account holder may
403 amend a contract for a depository account by agreement, or the
404 depository may amend the deposit contract by mailing a written
405 notice of the amendment to the account holder, separately or as an
406 enclosure with or part of the account holder's statement of
407 account or passbook. In the case of amendment by notice from the
408 depository, the notice must include the text and effective date of
409 the amendment. The effective date may not be earlier than the
410 30th day after the date the notice is mailed, except as otherwise
411 provided under this act.

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

416 (2) The depository's act of furnishing an account statement
417 or passbook, whether in physical, digital, or electronic form,



418 constitutes a denial of liability and the giving of such notice as
419 to any amount not shown on the statement or passbook.

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

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

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

432 **SECTION 10.** The State Treasurer may establish fees, service
433 charges, and penalties to be charged a depository account holder
434 for a service or activity regarding a depository account,
435 including a fee for an overdraft, an insufficient fund check or
436 draft, or a stop payment order.

437 **SECTION 11.** Unless the depository acknowledges in writing a
438 pledge of a depository account, the depository may treat the
439 holder of record of the account as the owner of the account for
440 all purposes and without regard to a notice to the contrary.



441 **SECTION 12.** (1) A depository account may be transferred on
442 the books of the depository only on presentation to the depository
443 of:

444 (a) Evidence of transfer satisfactory to the
445 depository; and

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

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

452 **SECTION 13.** The depository shall not pay on a depository
453 account:

454 (a) Interest;

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

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

459 **SECTION 14.** (1) Without the need of any further agreement
460 or pledge, the depository has a lien on each depository account
461 owned by a depository account holder to secure any fees, charges,
462 or other obligations owed or that may become owed to the
463 depository in connection with any of the depository account
464 holder's depository accounts as provided by the terms of the



465 depository account holder's applicable depository account
466 contract.

467 (2) On default in the payment or in the satisfaction of a
468 depository account holder's obligation, the depository, without
469 notice to or consent of the depository account holder, may
470 transfer on the depository's books all or part of the balance of a
471 depository account holder's depository account to the extent
472 necessary to pay or satisfy the obligation, as determined by
473 reference to the exchange rates applicable at the time of the
474 transfer.

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

477 (4) Subject to a lien created as provided by this section,
478 the depository shall recognize the lawful pledge to a third party
479 by a depository account holder of the depository account holder's
480 rights, interests, and entitlements in and to a depository account
481 as an intangible asset. On the satisfaction of other requirements
482 of law in respect of the perfection and enforcement of a pledge of
483 that type, the depository shall take all steps reasonably
484 necessary and appropriate to effectuate on the depository's books
485 any transfer of a depository account or of all or part of a
486 depository account balance to the account of the secured party on
487 the successful enforcement of the pledge.

488 **SECTION 15.** (1) The following persons may invest the
489 person's money in a depository account by purchasing precious



490 metals and depositing the precious metals with the depository or a
491 depository agent:

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

494 (b) An agency, department, institution,
495 instrumentality, or political subdivision of the State of
496 Mississippi, or any agency, department, or institution of a
497 political subdivision of the state;

498 (c) A business or nonprofit corporation;

499 (d) A charitable or educational corporation or
500 association; or

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

503 (2) An investment by a school district in a depository
504 account may be made instead of an investment as provided in Title
505 37, Mississippi Code of 1972, and the depository may be used by a
506 district instead of a depository bank for the purposes of Title
507 37, Mississippi Code of 1972.

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

510 **SECTION 17.** (1) Unless a term of the depository account
511 provides otherwise, a person on whose signature precious metals
512 may be withdrawn from a depository account that is jointly held in
513 the names of two or more persons may, by a signed pledge, pledge



514 and transfer to the depository or to a third party all or part of
515 the account.

516 (2) A pledge made as described by subsection (1) of this
517 section does not sever or terminate the joint and survivorship
518 ownership of the account, to the extent applicable to the account
519 before the pledge.

520 **SECTION 18.** (1) The depository or a depository agent may
521 accept a depository account in the name of a fiduciary, including
522 an administrator, executor, custodian, guardian, or trustee, for a
523 named beneficiary.

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

527 (3) Except as otherwise provided by law, a payment or
528 delivery to a fiduciary or an acquittance signed by the fiduciary
529 to whom a payment or delivery is made is a discharge of the
530 depository for the payment or delivery.

531 (4) After a person who holds a depository account in a
532 fiduciary capacity dies, the depository may pay or deliver to the
533 beneficiary of the account the quantity of precious metals
534 represented by the balance in the depository account, plus other
535 rights relating to the depository account, wholly or partly, if
536 the depository has no written notice or order of the probate court
537 of:



538 (a) A revocation or termination of the fiduciary
539 relationship; or

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

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

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

547 (a) The person claiming to be the trustee, on the
548 person's signature, may withdraw precious metals from the account;
549 and

550 (b) If the person claiming to be the trustee dies, the
551 depository may pay or deliver the quantity of precious metals
552 represented by the balance in the account to the person for whom
553 the account was opened.

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

556 **SECTION 20.** (1) The depository shall recognize the
557 authority of a power of attorney authorized in writing by a
558 depository account holder to manage or withdraw precious metals
559 from the depository account holder's depository account until the
560 depository receives written or actual notice of the revocation of
561 that authority.



562 (2) For purposes of this section, written notice of the
563 death or adjudication of incompetency of a depository account
564 holder is considered to be written notice of revocation of the
565 authority of the account holder's power of attorney.

566 **SECTION 21.** The depository shall enter into transactions and
567 relationships with bullion banks, depositories, dealers, central
568 banks, sovereign wealth funds, financial institutions,
569 international nongovernmental organizations, and other persons,
570 located inside or outside of this state or inside or outside of
571 the United States, as the State Treasurer determines to be prudent
572 and suitable to facilitate the operations of the depository and to
573 further the purposes of this act.

574 **SECTION 22.** (1) The depository shall not take any of the
575 following actions, and any attempt by the depository to take any
576 of the following actions is void ab initio and of no force or
577 effect:

578 (a) Entering into a precious metals leasing,
579 sale-leaseback, forward transaction, swap transaction, future
580 transaction, index transaction, or option on or other derivative
581 of any of those, whether in the nature of a cap transaction, floor
582 transaction, collar transaction, repurchase transaction, reverse
583 repurchase transaction, buy-and-sell-back transaction, securities
584 lending transaction, or other financial instrument or interest
585 intended to or having the effect of hedging or leveraging the
586 depository's holdings of precious metals, including any option



587 with respect to any of these transactions, or any combination of
588 these transactions, except that the limitation provided by this
589 subdivision does not apply to a transaction entered into to limit
590 the depository's exposure to post-signature price risks associated
591 with executory agreements to purchase or sell precious metals in
592 the ordinary course of depository operations and does not apply to
593 policies of insurance purchased to insure against ordinary
594 casualty risks such as theft, damage or destruction, loss during
595 shipment, or similar risks;

596 (b) Crediting the depository account balances of a
597 depository account holder, or disposing of any precious metals, if
598 to do so would cause the aggregate depository account balances
599 with respect to any precious metal represented by all depository
600 accounts to exceed the aggregate quantities of such precious metal
601 held by or for the benefit of the depository and the depository's
602 depository agents;

603 (c) Entering into or maintaining a deposit, trust, or
604 similar relationship for the custody of precious metals by a third
605 party outside this state, directly or indirectly, for the account
606 or benefit of the depository if the State Treasurer establishes
607 that:

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



611 (ii) Except in those cases where such relationship
612 may be incidental to the performance of or preparation for
613 purchase and sale transactions with counterparties located outside
614 of this state, suitable alternate arrangements for physical
615 custody of the precious metals inside this state have been
616 established and are available;

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

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

624 **SECTION 23.** (1) A purported confiscation, requisition,
625 seizure, or other attempt to control the ownership, disposition,
626 or proceeds of a withdrawal, transfer, liquidation, or settlement
627 of a depository account, including the precious metals represented
628 by the balance of a depository account, if effected by a
629 governmental or quasi-governmental authority other than an
630 authority of this state or by a financial institution or other
631 person acting on behalf of or pursuant to a directive or
632 authorization issued by a governmental or quasi-governmental
633 authority other than an authority of this state, in the course of
634 a generalized declaration of illegality or emergency relating to
635 the ownership, possession, or disposition of one or more precious



636 metals, contracts, or other rights to the precious metals or
637 contracts or derivatives of the ownership, possession,
638 disposition, contracts, or other rights, is void ab initio and of
639 no force or effect.

640 (2) The depository in the case of receiving notice of a
641 purported confiscation, requisition, seizure, or other attempt to
642 control the ownership, disposition, or proceeds of a withdrawal,
643 transfer, liquidation, or settlement of a depository account,
644 including the precious metals represented by the balance of a
645 depository account, effected by a governmental or
646 quasi-governmental authority other than an authority of this state
647 or by a financial institution or other person acting on behalf of
648 or pursuant to a directive or authorization issued by a
649 governmental or quasi-governmental authority other than an
650 authority of this state, in the course of a generalized
651 declaration of illegality or emergency relating to the ownership,
652 possession, or disposition of one or more precious metals,
653 contracts, or other rights to the precious metals or contracts or
654 derivatives of the ownership, possession, disposition, contracts,
655 or other rights, may not recognize the governmental or
656 quasi-governmental authority, financial institution, or other
657 person acting as the lawful successor of the registered holder of
658 a depository account in question.

659 (3) On receipt of notice of any transaction described by
660 subsection (1) of this section, with respect to all or any portion



661 of the balance of a depository account, the depository shall
662 suspend withdrawal privileges associated with the balances of the
663 depository account until suitable substitute arrangements may be
664 effected in accordance with any rules or regulations of the State
665 Treasurer to enable the registered account holder to take delivery
666 of the precious metals represented by the account balances in
667 question. A voluntary transfer of a depository account balance or
668 of a depository account among depository account holders may
669 continue to take place unaffected by the suspension, and the
670 depository shall recognize to the full extent authorized by this
671 act, and any rules or regulations adopted under this act.

672 **SECTION 24.** The State Treasurer shall establish the
673 references by which the official exchange rate for pricing
674 precious metals transactions in terms of United States dollars or
675 other currency must be established at the time of a depository
676 transaction. The State Treasurer shall establish procedures and
677 facilities through which the rates are made discoverable at all
678 reasonable times by system participants, both on a real-time basis
679 and retrospectively.

680 **SECTION 25.** The State Treasurer shall establish procedures
681 and requirements for the depository and depository agents designed
682 to minimize the burden to system participants of accounting for
683 and reporting taxable gains and losses arising out of depository
684 transactions as denominated in United States dollars or another
685 currency.



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

690 **SECTION 27.** The depository shall use private, independently
691 managed firms and institutions licensed as depository agents as
692 intermediaries to conduct retail transactions in bullion and
693 specie on behalf of the depository with current and prospective
694 depository account holders.

695 **SECTION 28.** The State Treasurer shall require a depository
696 agent to maintain suitable systems and processes for electronic
697 information sharing and communication with the State Treasurer and
698 the depository to ensure that all transactions effected on behalf
699 of the depository are reported to and integrated into the
700 depository's records not later than 11:59:59 p.m. on the date of
701 each transaction.

702 **SECTION 29.** A depository agent shall submit to the State
703 Treasurer, monthly, quarterly, and annual reports of all
704 depository transactions not later than the 15th day of the month
705 following the expiration of the period with respect to which such
706 report is submitted. The report must contain information and be
707 in the manner and form as required by the State Treasurer.

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



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

714 (b) A quarterly interim financial statement and report
715 regarding the permissible investments required to be maintained
716 under applicable rules that reflect the license holder's financial
717 condition and permissible investments as of the last day of the
718 calendar quarter to which the statement and report relate and that
719 are prepared not later than the 45th day after the last day of the
720 calendar quarter; and

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

723 **SECTION 31.** (1) Notwithstanding any other provision of this
724 chapter, a money service that constitutes both a depository agent
725 service and a money transmission service, or both a depository
726 agent service and a currency exchange service, for purposes of
727 this act constitutes a depository agent service only.

728 (2) A depository agent service described by subsection (1)
729 of this section is not subject to a provision of this act
730 applicable uniquely to money transmission services or currency
731 exchange services.

732 (3) A person who renders a service that constitutes a
733 depository agent service, including a depository agent service
734 described by subsection (1) of this section, and renders another



735 service that constitutes money transmission or currency exchange
736 service only, is subject to the requirements of this act
737 applicable to each type of service rendered.

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

745 (2) For purposes of this act:

746 (a) A person engages in the business of depository
747 agent services if the person renders a depository agent service,
748 regardless of whether:

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

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

753 (b) A person solicits, advertises, or holds the person
754 out as a person that engages in the business of depository agent
755 services if the person represents that the person will conduct
756 depository agent services.

757 (4) Notwithstanding subsection (3) of this section, a person
758 does not engage in the business of depository agent services by
759 engaging in a transaction for the person's own depository account



760 or for the account of another person acting as a fiduciary that
761 would constitute depository agent services if conducted for
762 another person.

763 (5) A depository agent license holder may engage in
764 depository agent services business at one or more locations in
765 this state owned directly or indirectly by the license holder
766 under a single license.

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

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

772 (b) Applicant does not engage in any activity or
773 practice that adversely affects the applicant's safety and
774 soundness.

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

778 (2) At the time an application for a depository agent
779 license is submitted, an applicant must file with the State
780 Treasurer:

781 (a) An application fee in the amount established by the
782 State Treasurer;

783 (b) Audited financial statements that are satisfactory
784 to the State Treasurer for purposes of determining whether the



785 applicant has the minimum net worth required under applicable
786 rules and is likely to maintain the required minimum net worth if
787 a license is issued; and

788 (c) Security in the amount of Five Hundred Thousand
789 Dollars (\$500,000.00) that meets the requirements of any
790 applicable rules or regulations, and an undertaking or agreement
791 that the applicant will increase or supplement the security to
792 equal the aggregate security required by the State Treasurer
793 before the issuance of the license and the start of operations.

794 **SECTION 35.** The State Treasurer shall investigate the
795 applicant and either accept or deny his or her application for
796 license.

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

801 (a) Certifies in writing that the person qualifies for
802 the license and will submit a completed license application not
803 later than the sixtieth day after the date the temporary license
804 is issued;

805 (b) Submits a recent financial statement acceptable to
806 the State Treasurer that reflects the minimum net worth required
807 under applicable regulations;



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

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

814 (e) Pays the application fee and a nonrefundable
815 temporary license fee in the amount established by the State
816 Treasurer.

817 (2) The effective period for a temporary depository agent
818 license may not exceed ninety (90) days after the date the license
819 is issued. The State Treasurer may extend the effective period
820 for not more than thirty (30) days if necessary to complete the
821 processing of a timely filed application for which approval is
822 likely.

823 **SECTION 37.** A depository agent license holder is liable for
824 the delivery to or for the account of the depository or each
825 depositor, as applicable, of all bullion, specie, and money
826 payable or deliverable in connection with the transactions in
827 which the license holder engages on behalf of the depository.

828 **SECTION 38.** (1) A depository agent license holder shall
829 hold in trust all cash, bullion, specie, and other assets received
830 in the ordinary course of its business until the time the delivery
831 obligation is discharged. A trust resulting from the depository



832 agent license holder's actions is in favor of the persons to whom
833 such delivery obligations are owed.

834 (2) If a depository agent license holder commingles any
835 money or other property received for delivery with money or other
836 property owned or controlled by the depository agent license
837 holder, all commingled money and other property are impressed with
838 a trust as provided by this section in an amount equal to the
839 amount of money or property received for delivery, less the amount
840 of fees paid for the delivery.

841 (3) If the State Treasurer revokes a depository agent
842 license, all money and other property held in trust by the
843 depository agent license holder is assigned to the State Treasurer
844 for the benefit of the persons to whom the related delivery
845 obligations are owed.

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

851 **SECTION 39.** (1) A depository agent license holder's name and
852 mailing address or telephone number must be provided to the
853 purchaser in connection with each depository agent services
854 transaction conducted by the depository agent license holder.

855 (2) A depository agent license holder receiving currency or
856 an instrument payable in currency for transmission must comply



857 with all requirements for such purpose as prescribed by the State
858 Treasurer.

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

861 75-15-3. For the purposes of this chapter:

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

867 (b) "Commissioner" means the Commissioner of Banking
868 and Consumer Finance of the State of Mississippi.

869 (c) "Deliver" means to deliver a check to the first
870 person who in payment for same makes or purports to make a
871 remittance of or against the face amount thereof, whether or not
872 the deliverer also charges a fee in addition to the face amount,
873 and whether or not the deliverer signs the check.

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

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

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



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

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

890 (i) "Person" means any individual, partnership,
891 association, joint-stock association, trust or corporation, but
892 does not include the United States government or the government of
893 this state.

894 (j) "Personal money order" means any instrument for the
895 transmission or payment of money in relation to which the
896 purchaser or remitter appoints or purports to appoint the seller
897 thereof as his agent for the receipt, transmission or handling of
898 money, whether the instrument is signed by the seller or by the
899 purchaser or remitter or some other person.

900 (k) "Records" or "documents" means any item in hard
901 copy or produced in a format of storage commonly described as
902 electronic, imaged, magnetic, microphotographic or otherwise, and
903 any reproduction so made shall have the same force and effect as
904 the original thereof and be admitted in evidence equally with the
905 original.



906 (l) "Sell" means to sell, to issue or to deliver a
907 check.

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

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

912 75-15-5. No person, except those specified in Section
913 75-15-7, shall engage in the business of money transmission, as a
914 service or for a fee or other consideration, without having first
915 obtained a license under this chapter.

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

918 75-15-7. Nothing in this chapter shall apply to the sale or
919 issuance or delivering of checks by:

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

923 (b) The government of the United States or any
924 department or agent thereof;

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

927 (d) Agents of a licensee, as provided for in Section
928 75-15-17, provided that this exemption shall apply only to the
929 agent's acts on behalf of the licensee and this exemption shall



930 not exempt the agent from the provisions of this chapter where he
931 conducts money transmissions for his own account;

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

934 (f) Persons not carrying on the trade or business of
935 money transmission, this exemption is intended to include persons
936 who conduct money transmissions only as an incidental act to
937 another trade or business regularly carried on by them and persons
938 who only occasionally and infrequently conduct money transmissions
939 for another person; or

940 (g) The Nationwide Mortgage Licensing System and
941 Registry for mortgage brokers, mortgage lenders and mortgage loan
942 originators.

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

945 75-15-9. Each application for a license to engage in the
946 business of money transmission shall be made in writing and under
947 oath to the commissioner in such form as he may prescribe. The
948 application shall state the full name and business address of:

949 (a) The proprietor, if the applicant is an individual;

950 (b) Every member, if the applicant is a partnership or
951 association;

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



954 (d) Every trustee and officer if the applicant is a
955 trust;

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

963 (f) The financial responsibility, financial condition,
964 business experience and character and general fitness of the
965 applicant shall be such as reasonably to warrant the belief that
966 applicant's business will be conducted honestly, carefully and
967 efficiently;

968 (g) Each application for a license shall be accompanied
969 by an investigation fee of Fifty Dollars (\$50.00) and license fee
970 in the amount required by Section 75-15-15. All fees collected by
971 the commissioner under the provisions of this chapter shall be
972 deposited into the Consumer Finance Fund of the Department of
973 Banking and Consumer Finance;

974 (h) An applicant shall not have been convicted of a
975 felony in any jurisdiction or a misdemeanor of fraud, theft,
976 forgery, bribery, embezzlement, or making a fraudulent or false
977 statement in any jurisdiction.



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

980 75-15-11. Each application for a license shall be
981 accompanied by:

982 (a) Certified financial statements, reasonably
983 satisfactory to the commissioner, showing that the applicant has a
984 net worth of at least Twenty-five Thousand Dollars (\$25,000.00)
985 plus Fifteen Thousand Dollars (\$15,000.00) for each location in
986 excess of one (1) at which the applicant proposes to conduct money
987 transmissions in this state, computed according to generally
988 accepted accounting principles, but in no event shall the net
989 worth be required to be in excess of Two Hundred Fifty Thousand
990 Dollars (\$250,000.00).

991 (b) A surety bond issued by a bonding company or
992 insurance company authorized to do business in this state, in the
993 principal sum of Twenty-five Thousand Dollars (\$25,000.00) or in
994 an amount equal to outstanding money transmissions in Mississippi,
995 whichever is greater, but in no event shall the bond be required
996 to be in excess of Five Hundred Thousand Dollars (\$500,000.00).
997 However, the commissioner may increase the required amount of the
998 bond upon the basis of the impaired financial condition of a
999 licensee as evidenced by a reduction in net worth, financial
1000 losses or other relevant criteria. The bond shall be in form
1001 satisfactory to the commissioner and shall run to the state for
1002 the use and benefit of the Department of Banking and Consumer



1003 Finance and any claimants against the applicant or his agents to
1004 secure the faithful performance of the obligations of the
1005 applicant and his agents with respect to the receipt, handling,
1006 transmission and payment of money in connection with money
1007 transmissions in Mississippi. The aggregate liability of the
1008 surety in no event shall exceed the principal sum of the bond.
1009 The surety on the bond shall have the right to cancel the bond
1010 upon giving sixty (60) days' notice in writing to the commissioner
1011 and thereafter shall be relieved of liability for any breach of
1012 condition occurring after the effective date of the cancellation.
1013 Any claimants against the applicant or his agents may themselves
1014 bring suit directly on the bond, or the Attorney General may bring
1015 suit thereon in behalf of those claimants, either in one (1)
1016 action or successive actions.

1017 (c) In lieu of the corporate surety bond, the applicant
1018 may deposit with the State Treasurer bonds or other obligations of
1019 the United States or guaranteed by the United States or bonds or
1020 other obligations of this state or of any municipal corporation,
1021 county, or other political subdivision or agency of this state, or
1022 certificates of deposit of national or state banks doing business
1023 in Mississippi, having an aggregate market value at least equal to
1024 that of the corporate surety bond otherwise required. Those bonds
1025 or obligations or certificates of deposit shall be deposited with
1026 the State Treasurer to secure the same obligations as would a
1027 corporate surety bond, but the depositor shall be entitled to



1028 receive all interest and dividends thereon and shall have the
1029 right to substitute other bonds or obligations or certificates of
1030 deposit for those deposited, with the approval of the
1031 commissioner, and shall be required so to do on order of the
1032 commissioner made for good cause shown. The State Treasurer shall
1033 provide for custody of the bonds or obligations or certificates of
1034 deposits by a qualified trust company or bank located in the State
1035 of Mississippi or by any Federal Reserve Bank. The compensation,
1036 if any, of the custodian for acting as such under this section
1037 shall be paid by the depositing licensee.

1038 (d) Proof of registration as a money service business
1039 per 31 CFR Section 103.41, if applicable.

1040 (e) A set of fingerprints from any local law
1041 enforcement agency for each owner of a sole proprietorship,
1042 partners in a partnership or principal owners of a limited
1043 liability company that own at least ten percent (10%) of the
1044 voting shares of the company, shareholders owning ten percent
1045 (10%) or more of the outstanding shares of the corporation, except
1046 publically traded corporations and their subsidiaries, and any
1047 other executive officer with significant oversight duties of the
1048 business. In order to determine the applicant's suitability for
1049 license, the commissioner shall forward the fingerprints to the
1050 Department of Public Safety for a state criminal history records
1051 check, and the fingerprints shall be forwarded by the Department
1052 of Public Safety to the FBI for a national criminal history



1053 records check. The department shall not issue a license if it
1054 finds that the applicant, or any person who is an owner, partner,
1055 director or executive officer of the applicant, has been convicted
1056 of: (i) a felony in any jurisdiction; or (ii) a crime that, if
1057 committed within the state, would constitute a felony under the
1058 laws of this state; or (iii) a misdemeanor of fraud, theft,
1059 forgery, bribery, embezzlement or making a fraudulent or false
1060 statement in any jurisdiction. For the purposes of this chapter,
1061 a person shall be deemed to have been convicted of a crime if the
1062 person has pleaded guilty to a crime before a court or federal
1063 magistrate, or plea of nolo contendere, or has been found guilty
1064 of a crime by the decision or judgment of a court or federal
1065 magistrate or by the verdict of a jury, irrespective of the
1066 pronouncement of sentence or the suspension of a sentence, unless
1067 the person convicted of the crime has received a pardon from the
1068 President of the United States or the Governor or other pardoning
1069 authority in the jurisdiction where the conviction was obtained.

1070 **SECTION 45.** Section 75-15-12, Mississippi Code of 1972, is
1071 brought forward as follows:

1072 75-15-12. (1) In addition to the bond required in Section
1073 75-15-11, a licensee must possess permissible investments having
1074 an aggregate market value, calculated in accordance with generally
1075 accepted accounting principles, of not less than the aggregate
1076 amount of all outstanding checks issued or sold or money received
1077 for transmission by the licensee in the United States. This



1078 requirement may be waived by the commissioner if the dollar volume
1079 of a licensee's outstanding checks does not exceed the bond or
1080 other security devices posted by the licensee in accordance with
1081 Section 75-15-11.

1082 (2) Permissible investments, even if commingled with other
1083 assets of the licensee, shall be deemed by operation of law to be
1084 held in trust for the benefit of the purchasers and holders of the
1085 licensee's outstanding checks and money received for transmission
1086 and may not be considered an asset or property of the licensee in
1087 the event of bankruptcy, receivership or a claim against the
1088 licensee unrelated to any of the licensee's obligations under this
1089 chapter.

1090 (3) Permissible investments mean:

1091 (a) Cash;

1092 (b) Certificates of deposit or other debt obligations
1093 of a financial institution, either domestic or foreign;

1094 (c) Bills of exchange or time drafts drawn on and
1095 accepted by federally insured financial depository institutions;

1096 (d) Any investment bearing a rating of one (1) of the
1097 three (3) highest grades as defined by a nationally recognized
1098 organization that rates such securities;

1099 (e) Investment securities that are obligations of the
1100 United States, its agencies or instrumentalities, or obligations
1101 that are guaranteed fully as to principal and interest of the



1102 United States, or any obligations of any state, municipality or
1103 any political subdivision thereof;

1104 (f) Shares in a money market mutual fund,
1105 interest-bearing bills or notes or bonds, debentures or stock
1106 traded on any national securities exchange or on a national
1107 over-the-counter market, or mutual funds primarily composed of
1108 those securities or a fund composed of one or more permissible
1109 investments as set forth in this section;

1110 (g) Any demand borrowing agreement or agreements made
1111 to a corporation or a subsidiary of a corporation whose capital
1112 stock is listed on a national exchange;

1113 (h) Receivables that are due to a licensee from its
1114 agents, which are not past due or doubtful of collection; or

1115 (i) Any other investments approved by the commissioner.

1116 (4) The commissioner may limit or disallow for purposes of
1117 determining compliance with this section an investment, surety
1118 bond, letter of credit or other security otherwise permitted by
1119 this section if the commissioner determines it to be
1120 unsatisfactory for investment purposes or to pose a significant
1121 supervisory concern.

1122 **SECTION 46.** Section 75-15-19, Mississippi Code of 1972, is
1123 brought forward as follows:

1124 75-15-19. (1) (a) Each licensee shall file with the
1125 commissioner within fifteen (15) days of the last business day of
1126 each month a report of the total amount of outstanding money



1127 transmissions in Mississippi. The principal sum of the surety
1128 bond or deposit required in Section 75-15-11 shall be adjusted, if
1129 appropriate, to reflect any changes in outstanding money
1130 transmissions. Licensees who maintain a surety bond in the
1131 principal sum of at least Five Hundred Thousand Dollars
1132 (\$500,000.00) or a securities deposit having an aggregate market
1133 value of at least equal to Five Hundred Thousand Dollars
1134 (\$500,000.00) shall be required to report the total amount of
1135 outstanding money transmissions in Mississippi on a quarterly
1136 basis.

1137 (b) Each licensee shall file an annual financial
1138 statement with the commissioner, audited by an independent
1139 certified public accountant or an independent registered
1140 accountant, within five (5) months after the close of the
1141 licensee's fiscal year. The financial statement shall include a
1142 balance sheet, a profit and loss statement, and a statement of
1143 retained earnings of the licensee and the licensee's agents
1144 resulting from the business of money transmission.

1145 (2) The commissioner may conduct or cause to be conducted an
1146 annual examination or audit of the books and records of any
1147 licensee at any time or times he deems proper, the cost of the
1148 examination or audit to be borne by the licensee. The refusal of
1149 access to the books and records shall be cause for the revocation
1150 of its license. The commissioner may charge the licensee an
1151 examination fee in an amount not less than Three Hundred Dollars



1152 (\$300.00) nor more than Six Hundred Dollars (\$600.00) for each
1153 licensed office, plus any actual expenses incurred while examining
1154 the licensee's records or books that are located outside the State
1155 of Mississippi.

1156 (3) Each licensee shall maintain the following books and
1157 records for a period of five (5) years and the books and records
1158 shall be available to the commissioner for inspection:

1159 (a) A record of each money transmission sold;

1160 (b) A general ledger, posted at least monthly,
1161 containing all assets, liabilities, capital, income and expense
1162 accounts;

1163 (c) Bank statements and bank reconciliation records;

1164 (d) Records of outstanding money transmissions;

1165 (e) Records of each money transmission paid within the
1166 five-year period;

1167 (f) A list of the names and addresses of all authorized
1168 agents; and

1169 (g) Any other records the commissioner may reasonably
1170 require by rule or regulation.

1171 The records required under this section may be maintained in
1172 photographic, electronic or other similar form.

1173 (4) Each licensee must maintain a written Bank Secrecy
1174 Act/Anti-Money Laundering Program that complies with 31 CFR
1175 Section 103.125, if applicable.



1176 (5) The commissioner may conduct a joint examination with
1177 representatives of other departments or agencies of another state
1178 or with the federal government. The commissioner may accept an
1179 examination report of another state or of the federal government
1180 or a report prepared by a certified public accountant instead of
1181 conducting an examination. A joint examination or an acceptance
1182 of an examination report does not preclude the commissioner from
1183 conducting his own examination. The report of a joint examination
1184 or an examination report accepted by the commissioner under this
1185 section is an official report of the commissioner for all
1186 purposes.

1187 (6) The department may adopt the necessary administrative
1188 regulations, not inconsistent with state law, for the enforcement
1189 of this chapter.

1190 **SECTION 47.** Section 75-15-23, Mississippi Code of 1972, is
1191 brought forward as follows:

1192 75-15-23. Each licensee shall be liable for the payment of
1193 all money transmissions and for all checks that the licensee
1194 sells, in whatever form and whether directly or through an agent,
1195 as the maker or drawer thereof according to the negotiable
1196 instrument laws of this state, and shall be responsible only for
1197 those acts of the agent done on behalf of the licensee. Every
1198 check sold by a licensee directly or through an agent shall bear
1199 the name of the licensee clearly imprinted thereon. During the
1200 period of time that a person is an appointed agent for a licensee,



1201 the agent shall not directly or indirectly conduct his own money
1202 transmission business and the agent shall not be, continue to be,
1203 or become an officer, director, stockholder, employee, or agent of
1204 any other licensee under this chapter. When a person ceases to be
1205 an agent of a licensee, he shall immediately cease displaying his
1206 agent's appointment certificate, as provided under Section
1207 75-15-17 of this chapter and shall immediately surrender same to
1208 the licensee.

1209 **SECTION 48.** Section 75-15-25, Mississippi Code of 1972, is
1210 brought forward as follows:

1211 75-15-25. Whenever the bond or securities deposit required
1212 under Section 75-15-11 is less than Five Hundred Thousand Dollars
1213 (\$500,000.00), the licensee may not at any time have a total
1214 amount in outstanding money transmissions or checks in
1215 Mississippi, in excess of the bond or securities deposit required
1216 of him under Section 75-15-11, and the licensee shall, in
1217 accordance with rules and regulations promulgated by the
1218 commissioner under this chapter, submit a written report to the
1219 commissioner on the last business day of each month regarding his
1220 money transmissions outstanding in Mississippi, whether issued by
1221 himself or through agents, provided that this limitation shall be
1222 the principal sum of the bond or the market value of the
1223 securities deposit required of the licensee under Section
1224 75-15-11, and the sum of this limitation shall not be increased by
1225 any bond or securities deposit increase required by the



1226 commissioner under Section 75-15-29 or by deposit of any
1227 revocation order, suspension bond or securities deposit under
1228 Section 75-15-27.

1229 **SECTION 49.** Section 75-15-29, Mississippi Code of 1972, is
1230 brought forward as follows:

1231 75-15-29. Any provision in this chapter to the contrary
1232 notwithstanding, the commissioner may at any time, if in his sole
1233 opinion the protection of the public so requires, increase the
1234 principal sum of the bond or the aggregate market value of the
1235 deposit required of any applicant or licensee by Section 75-15-11
1236 but in no case shall the principal sum of the bond or the
1237 aggregate market value of the deposit required by Section 75-15-11
1238 exceed Five Hundred Thousand Dollars (\$500,000.00) and provided
1239 further, that in any situation, where a revocation order has been
1240 issued and the licensee involved has posted the additional bond
1241 required under Section 75-15-27, for suspension thereof, pending
1242 final determination, the commissioner may for the same reasons
1243 require the principal sum of the additional, suspension bond to be
1244 increased but in no case shall the principal sum thereof exceed
1245 Two Hundred Fifty Thousand Dollars (\$250,000.00), and provided
1246 further that if the licensee originally deposited with his
1247 application under Section 75-15-11 a corporate surety bond, the
1248 additional increase provided in this section must be by another
1249 corporate surety bond or an increase of the first one, written by
1250 the same corporate surety that wrote the first one and may not be



1251 a deposit of securities or if the licensee originally deposited
1252 securities, the additional increase shall also be of securities
1253 and not a corporate surety bond.

1254 **SECTION 50.** Section 7-9-9, Mississippi Code of 1972, is
1255 brought forward as follows:

1256 7-9-9. It shall be the duty of the state treasurer to
1257 receive and keep the moneys of the state in the manner provided by
1258 law, to disburse the same agreeably to law, and to take receipts
1259 or vouchers for moneys which he shall disburse. He shall keep
1260 regular, fair, and proper accounts of the receipts and
1261 expenditures of the public money; he shall keep accounts in his
1262 books in the name of the state, in which he shall enter the amount
1263 of all money, stock, securities, and all other property in the
1264 treasury or which may at any time be received by him, keeping the
1265 receipts and disbursements of each fiscal year in separate
1266 accounts, and closing the same with the close of the fiscal year;
1267 and he shall open and keep accounts in his books for all
1268 appropriations of money made by law, so that the appropriation of
1269 money and the application thereof in conformity thereto may
1270 clearly and distinctly appear on the books of the treasury.

1271 **SECTION 51.** The State Treasurer shall promulgate any rules
1272 or regulations as he or she deems necessary or required to
1273 effectuate the purposes of this act.

1274 **SECTION 52.** This act shall take effect and be in force from
1275 and after July 1, 2024.

