

By: Representative Carpenter

To: Banking and Financial
Services

HOUSE BILL NO. 1042

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



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

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

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

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

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

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



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

(i) The depository; or

(ii) A depository agent.

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

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

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

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

(i) "Depository agent" means a person licensed in accordance with this act to serve as an intermediary between the depository and a retail customer in making a transaction in precious metals bullion or specie.

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



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

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

217 (ii) The opening, transfer, settlement, or
218 liquidation of any derivative of a contract, including a forward
219 transaction, swap transaction, currency transaction, future
220 transaction, index transaction, or option on or other derivative
221 of a transaction of any of those types, in the nature of a cap
222 transaction, floor transaction, collar transaction, repurchase
223 transaction, reverse repurchase transaction, buy-and-sell-back



transaction, securities lending transaction, or other financial instrument or interest, including an option with respect to a transaction, or any combination of these transactions; or

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

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

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

(ii) Customarily is formed into bullion or specie.

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

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



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

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

(2) The bullion depository administrator shall:

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

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

(3) The administrator may appoint, subject to the approval of the State Treasurer, a deputy administrator or other



subordinate officer as necessary and appropriate to the efficient administration of the depository.

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

- (a) A deposit to the depository;
- (b) Bullion or specie held by or on behalf of the depository or a depository agent;
- (c) Bullion or specie in transit to or from the depository or a depository agent; and
- (d) A receivable or other amount owed to the depository in settlement of a transaction in bullion or specie.

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

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

SECTION 5. (1) The depository may receive a deposit of bullion or specie from or on behalf of a person acting in the person's own right, as trustee, or in another fiduciary capacity,



in accordance with any rules or regulations adopted by the State
Treasurer, as appropriate, to:

(a) Ensure compliance with law; and

(b) Protect the interests of:

(i) The depository;

(ii) Depository account holders;

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

(iv) The public at large.

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

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

(4) The State Treasurer may, if he or she determines that to
do so is in the public interest, restrict the forms in which
deposits of precious metals may be made to those forms that



conveniently lend themselves to measurement and accounting in units of troy ounces and standardized fractions of troy ounces.

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

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

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

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

SECTION 7. (1) In accordance with any rules or regulations adopted under this act, a depository account holder may transfer



any portion of the balance of the holder's depository account by check, draft, or digital electronic instruction to another depository account holder or to a person who at the time the transfer is initiated is not a depository account holder.

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

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

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

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

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



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

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

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

384 (5) The depository and the depository account holder may
385 amend a contract for a depository account by agreement, or the
386 depository may amend the deposit contract by mailing a written
387 notice of the amendment to the account holder, separately or as an
388 enclosure with or part of the account holder's statement of
389 account or passbook. In the case of amendment by notice from the
390 depository, the notice must include the text and effective date of
391 the amendment. The effective date may not be earlier than the
392 30th day after the date the notice is mailed, except as otherwise
393 provided under this act.

394 **SECTION 9.** (1) A cause of action for denial of deposit
395 liability on a depository account contract without a maturity date



does not accrue until the depository has denied liability and given notice of the denial to the depository account holder.

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

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

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

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

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

SECTION 11. Unless the depository acknowledges in writing a pledge of a depository account, the depository may treat the



holder of record of the account as the owner of the account for all purposes and without regard to a notice to the contrary.

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

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

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

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

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

(a) Interest;

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

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

SECTION 14. (1) Without the need of any further agreement or pledge, the depository has a lien on each depository account owned by a depository account holder to secure any fees, charges, or other obligations owed or that may become owed to the depository in connection with any of the depository account



446 holder's depository accounts as provided by the terms of the
447 depository account holder's applicable depository account
448 contract.

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

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

459 (4) Subject to a lien created as provided by this section,
460 the depository shall recognize the lawful pledge to a third party
461 by a depository account holder of the depository account holder's
462 rights, interests, and entitlements in and to a depository account
463 as an intangible asset. On the satisfaction of other requirements
464 of law in respect of the perfection and enforcement of a pledge of
465 that type, the depository shall take all steps reasonably
466 necessary and appropriate to effectuate on the depository's books
467 any transfer of a depository account or of all or part of a
468 depository account balance to the account of the secured party on
469 the successful enforcement of the pledge.



SECTION 15.

(1) The following persons may invest the person's money in a depository account by purchasing precious metals and depositing the precious metals with the depository or a depository agent:

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

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

(c) A business or nonprofit corporation;

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

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

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

SECTION 16.

The applicable provisions of Title 91, Mississippi Code of 1972, shall govern a depository account.

SECTION 17.

(1) Unless a term of the depository account provides otherwise, a person on whose signature precious metals may be withdrawn from a depository account that is jointly held in



the names of two or more persons may, by a signed pledge, pledge and transfer to the depository or to a third party all or part of the account.

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

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

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

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

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



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

(b) Any other disposition of the beneficial estate.

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

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

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

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

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

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



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

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

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

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



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

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

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

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



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

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

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

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



618 metals, contracts, or other rights to the precious metals or
619 contracts or derivatives of the ownership, possession,
620 disposition, contracts, or other rights, is void ab initio and of
621 no force or effect.

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

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



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

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

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



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

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

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

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

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



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

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

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

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

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

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



717 service that constitutes money transmission or currency exchange
718 service only, is subject to the requirements of this act
719 applicable to each type of service rendered.

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

727 (2) For purposes of this act:

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

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

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

735 (b) A person solicits, advertises, or holds the person
736 out as a person that engages in the business of depository agent
737 services if the person represents that the person will conduct
738 depository agent services.

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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



839 with all requirements for such purpose as prescribed by the State
840 Treasurer.

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

843 75-15-3. For the purposes of this chapter:

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

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

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

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

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

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



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

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

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

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

882 (k) "Records" or "documents" means any item in hard
883 copy or produced in a format of storage commonly described as
884 electronic, imaged, magnetic, microphotographic or otherwise, and
885 any reproduction so made shall have the same force and effect as
886 the original thereof and be admitted in evidence equally with the
887 original.



888 (1) "Sell" means to sell, to issue or to deliver a
889 check.

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

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

894 75-15-5. No person, except those specified in Section
895 75-15-7, shall engage in the business of money transmission, as a
896 service or for a fee or other consideration, without having first
897 obtained a license under this chapter.

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

900 75-15-7. Nothing in this chapter shall apply to the sale or
901 issuance or delivering of checks by:

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

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

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

909 (d) Agents of a licensee, as provided for in Section
910 75-15-17, provided that this exemption shall apply only to the
911 agent's acts on behalf of the licensee and this exemption shall



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

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

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

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

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

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

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

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

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



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

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

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

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

956 (h) An applicant shall not have been convicted of a
957 felony in any jurisdiction or a misdemeanor of fraud, theft,
958 forgery, bribery, embezzlement, or making a fraudulent or false
959 statement in any jurisdiction.



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

962 75-15-11. Each application for a license shall be
963 accompanied by:

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

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



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

999 (c) In lieu of the corporate surety bond, the applicant
1000 may deposit with the State Treasurer bonds or other obligations of
1001 the United States or guaranteed by the United States or bonds or
1002 other obligations of this state or of any municipal corporation,
1003 county, or other political subdivision or agency of this state, or
1004 certificates of deposit of national or state banks doing business
1005 in Mississippi, having an aggregate market value at least equal to
1006 that of the corporate surety bond otherwise required. Those bonds
1007 or obligations or certificates of deposit shall be deposited with
1008 the State Treasurer to secure the same obligations as would a
1009 corporate surety bond, but the depositor shall be entitled to



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

1020 (d) Proof of registration as a money service business
1021 per 31 CFR Section 103.41, if applicable.

1022 (e) A set of fingerprints from any local law
1023 enforcement agency for each owner of a sole proprietorship,
1024 partners in a partnership or principal owners of a limited
1025 liability company that own at least ten percent (10%) of the
1026 voting shares of the company, shareholders owning ten percent
1027 (10%) or more of the outstanding shares of the corporation, except
1028 publically traded corporations and their subsidiaries, and any
1029 other executive officer with significant oversight duties of the
1030 business. In order to determine the applicant's suitability for
1031 license, the commissioner shall forward the fingerprints to the
1032 Department of Public Safety for a state criminal history records
1033 check, and the fingerprints shall be forwarded by the Department
1034 of Public Safety to the FBI for a national criminal history



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

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

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



1060 requirement may be waived by the commissioner if the dollar volume
1061 of a licensee's outstanding checks does not exceed the bond or
1062 other security devices posted by the licensee in accordance with
1063 Section 75-15-11.

1064 (2) Permissible investments, even if commingled with other
1065 assets of the licensee, shall be deemed by operation of law to be
1066 held in trust for the benefit of the purchasers and holders of the
1067 licensee's outstanding checks and money received for transmission
1068 and may not be considered an asset or property of the licensee in
1069 the event of bankruptcy, receivership or a claim against the
1070 licensee unrelated to any of the licensee's obligations under this
1071 chapter.

1072 (3) Permissible investments mean:

1073 (a) Cash;

1074 (b) Certificates of deposit or other debt obligations
1075 of a financial institution, either domestic or foreign;

1076 (c) Bills of exchange or time drafts drawn on and
1077 accepted by federally insured financial depository institutions;

1078 (d) Any investment bearing a rating of one (1) of the
1079 three (3) highest grades as defined by a nationally recognized
1080 organization that rates such securities;

1081 (e) Investment securities that are obligations of the
1082 United States, its agencies or instrumentalities, or obligations
1083 that are guaranteed fully as to principal and interest of the



1084 United States, or any obligations of any state, municipality or
1085 any political subdivision thereof;

1086 (f) Shares in a money market mutual fund,
1087 interest-bearing bills or notes or bonds, debentures or stock
1088 traded on any national securities exchange or on a national
1089 over-the-counter market, or mutual funds primarily composed of
1090 those securities or a fund composed of one or more permissible
1091 investments as set forth in this section;

1092 (g) Any demand borrowing agreement or agreements made
1093 to a corporation or a subsidiary of a corporation whose capital
1094 stock is listed on a national exchange;

1095 (h) Receivables that are due to a licensee from its
1096 agents, which are not past due or doubtful of collection; or

1097 (i) Any other investments approved by the commissioner.

1098 (4) The commissioner may limit or disallow for purposes of
1099 determining compliance with this section an investment, surety
1100 bond, letter of credit or other security otherwise permitted by
1101 this section if the commissioner determines it to be
1102 unsatisfactory for investment purposes or to pose a significant
1103 supervisory concern.

1104 **SECTION 46.** Section 75-15-19, Mississippi Code of 1972, is
1105 brought forward as follows:

1106 75-15-19. (1) (a) Each licensee shall file with the
1107 commissioner within fifteen (15) days of the last business day of
1108 each month a report of the total amount of outstanding money



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

1119 (b) Each licensee shall file an annual financial
1120 statement with the commissioner, audited by an independent
1121 certified public accountant or an independent registered
1122 accountant, within five (5) months after the close of the
1123 licensee's fiscal year. The financial statement shall include a
1124 balance sheet, a profit and loss statement, and a statement of
1125 retained earnings of the licensee and the licensee's agents
1126 resulting from the business of money transmission.

1127 (2) The commissioner may conduct or cause to be conducted an
1128 annual examination or audit of the books and records of any
1129 licensee at any time or times he deems proper, the cost of the
1130 examination or audit to be borne by the licensee. The refusal of
1131 access to the books and records shall be cause for the revocation
1132 of its license. The commissioner may charge the licensee an
1133 examination fee in an amount not less than Three Hundred Dollars



1134 (\$300.00) nor more than Six Hundred Dollars (\$600.00) for each
1135 licensed office, plus any actual expenses incurred while examining
1136 the licensee's records or books that are located outside the State
1137 of Mississippi.

1138 (3) Each licensee shall maintain the following books and
1139 records for a period of five (5) years and the books and records
1140 shall be available to the commissioner for inspection:

1141 (a) A record of each money transmission sold;

1142 (b) A general ledger, posted at least monthly,
1143 containing all assets, liabilities, capital, income and expense
1144 accounts;

1145 (c) Bank statements and bank reconciliation records;

1146 (d) Records of outstanding money transmissions;

1147 (e) Records of each money transmission paid within the
1148 five-year period;

1149 (f) A list of the names and addresses of all authorized
1150 agents; and

1151 (g) Any other records the commissioner may reasonably
1152 require by rule or regulation.

1153 The records required under this section may be maintained in
1154 photographic, electronic or other similar form.

1155 (4) Each licensee must maintain a written Bank Secrecy
1156 Act/Anti-Money Laundering Program that complies with 31 CFR
1157 Section 103.125, if applicable.



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

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

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

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



1183 the agent shall not directly or indirectly conduct his own money
1184 transmission business and the agent shall not be, continue to be,
1185 or become an officer, director, stockholder, employee, or agent of
1186 any other licensee under this chapter. When a person ceases to be
1187 an agent of a licensee, he shall immediately cease displaying his
1188 agent's appointment certificate, as provided under Section
1189 75-15-17 of this chapter and shall immediately surrender same to
1190 the licensee.

1191 **SECTION 48.** Section 75-15-25, Mississippi Code of 1972, is
1192 brought forward as follows:

1193 75-15-25. Whenever the bond or securities deposit required
1194 under Section 75-15-11 is less than Five Hundred Thousand Dollars
1195 (\$500,000.00), the licensee may not at any time have a total
1196 amount in outstanding money transmissions or checks in
1197 Mississippi, in excess of the bond or securities deposit required
1198 of him under Section 75-15-11, and the licensee shall, in
1199 accordance with rules and regulations promulgated by the
1200 commissioner under this chapter, submit a written report to the
1201 commissioner on the last business day of each month regarding his
1202 money transmissions outstanding in Mississippi, whether issued by
1203 himself or through agents, provided that this limitation shall be
1204 the principal sum of the bond or the market value of the
1205 securities deposit required of the licensee under Section
1206 75-15-11, and the sum of this limitation shall not be increased by
1207 any bond or securities deposit increase required by the



1208 commissioner under Section 75-15-29 or by deposit of any
1209 revocation order, suspension bond or securities deposit under
1210 Section 75-15-27.

1211 **SECTION 49.** Section 75-15-29, Mississippi Code of 1972, is
1212 brought forward as follows:

1213 75-15-29. Any provision in this chapter to the contrary
1214 notwithstanding, the commissioner may at any time, if in his sole
1215 opinion the protection of the public so requires, increase the
1216 principal sum of the bond or the aggregate market value of the
1217 deposit required of any applicant or licensee by Section 75-15-11
1218 but in no case shall the principal sum of the bond or the
1219 aggregate market value of the deposit required by Section 75-15-11
1220 exceed Five Hundred Thousand Dollars (\$500,000.00) and provided
1221 further, that in any situation, where a revocation order has been
1222 issued and the licensee involved has posted the additional bond
1223 required under Section 75-15-27, for suspension thereof, pending
1224 final determination, the commissioner may for the same reasons
1225 require the principal sum of the additional, suspension bond to be
1226 increased but in no case shall the principal sum thereof exceed
1227 Two Hundred Fifty Thousand Dollars (\$250,000.00), and provided
1228 further that if the licensee originally deposited with his
1229 application under Section 75-15-11 a corporate surety bond, the
1230 additional increase provided in this section must be by another
1231 corporate surety bond or an increase of the first one, written by
1232 the same corporate surety that wrote the first one and may not be



1233 a deposit of securities or if the licensee originally deposited
1234 securities, the additional increase shall also be of securities
1235 and not a corporate surety bond.

1236 **SECTION 50.** Section 7-9-9, Mississippi Code of 1972, is
1237 amended as follows:

1238 7-9-9. It shall be the duty of the State Treasurer to
1239 receive and keep the * * * monies of the state in the manner
1240 provided by law, to disburse the same agreeably to law, and to
1241 take receipts or vouchers for * * * monies which he shall
1242 disburse. He shall keep regular, fair, and proper accounts of the
1243 receipts and expenditures of the public money; he shall keep
1244 accounts in his books in the name of the state, in which he shall
1245 enter the amount of all money, stock, securities, and all other
1246 property in the Treasury or which may at any time be received by
1247 him, keeping the receipts and disbursements of each fiscal year in
1248 separate accounts, and closing the same with the close of the
1249 fiscal year; and he shall open and keep accounts in his books for
1250 all appropriations of money made by law, so that the appropriation
1251 of money and the application thereof in conformity thereto may
1252 clearly and distinctly appear on the books of the Treasury.

1253 **SECTION 51.** The State Treasurer shall promulgate any rules
1254 or regulations as he or she deems necessary or required to
1255 effectuate the purposes of this act.

1256 **SECTION 52.** This act shall take effect and be in force from
1257 and after July 1, 2025.

