

By: Representative Carpenter

To: Banking and Financial  
Services

## HOUSE BILL NO. 1043

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



NOT A DEPOSITORY ACCOUNT HOLDER; TO REQUIRE A DEPOSITOR TO  
CONTRACT WITH THE DEPOSITORY TO BE ABLE TO ESTABLISH A DEPOSITORY  
ACCOUNT; TO PROVIDE CERTAIN REQUIREMENTS FOR SUCH CONTRACT BETWEEN  
A DEPOSITORY AND DEPOSITOR; TO PROVIDE THAT A CAUSE OF ACTION FOR  
DENIAL OF DEPOSIT 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; TO PROVIDE THAT A DEPOSITORY ACCOUNT MAY BE  
TRANSFERRED ON THE BOOKS OF THE DEPOSITORY ONLY ON PRESENTATION TO  
THE DEPOSITORY OF EVIDENCE OF TRANSFER SATISFACTORY TO THE  
DEPOSITORY AND AN APPLICATION FOR THE TRANSFER SUBMITTED BY THE  
PERSON TO WHOM THE DEPOSITORY ACCOUNT IS TO BE TRANSFERRED; TO  
PROHIBIT THE DEPOSITORY FROM PAYING ON A DEPOSITORY ACCOUNT ANY  
INTEREST, AN AMOUNT IN THE NATURE OF INTEREST, OR A FEE OR OTHER  
PAYMENT FOR THE USE OR FORBEARANCE OF USE OF MONEY, BULLION,  
SPECIE, OR PRECIOUS METALS DEPOSITED TO A DEPOSITORY ACCOUNT; TO  
PROVIDE THAT 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 SUCH ACCOUNT HOLDER'S  
DEPOSITORY ACCOUNTS AS PROVIDED BY THE TERMS OF THE ACCOUNT  
HOLDER'S APPLICABLE DEPOSITORY ACCOUNT CONTRACT; TO AUTHORIZE THE  
DEPOSITORY, WITHOUT NOTICE TO OR CONSENT OF THE DEPOSITORY ACCOUNT  
HOLDER, TO TRANSFER ON THE DEPOSITORY'S BOOKS THE BALANCE OF SUCH  
ACCOUNT HOLDER'S DEPOSITORY ACCOUNT TO PAY OR SATISFY THE  
OBLIGATION UPON DEFAULT IN THE PAYMENT OR IN THE SATISFACTION OF  
SUCH ACCOUNT HOLDER'S OBLIGATION, AS DETERMINED BY REFERENCE TO  
THE EXCHANGE RATES APPLICABLE AT THE TIME OF THE TRANSFER; TO  
AUTHORIZE CERTAIN INDIVIDUALS AND ENTITIES TO INVEST MONEY IN A  
DEPOSITORY ACCOUNT BY PURCHASING PRECIOUS METALS AND DEPOSITING  
SUCH PRECIOUS METALS WITH THE DEPOSITORY OR A DEPOSITORY AGENT; TO  
PROVIDE THAT 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; TO AUTHORIZE THE DEPOSITORY OR A DEPOSITORY AGENT TO  
ACCEPT A DEPOSITORY ACCOUNT IN THE NAME OF A FIDUCIARY, INCLUDING  
AN ADMINISTRATOR, EXECUTOR, CUSTODIAN, GUARDIAN, OR TRUSTEE, FOR A  
NAMED BENEFICIARY; TO REQUIRE THE DEPOSITORY TO 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; TO REQUIRE THE DEPOSITORY TO 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 MISSISSIPPI OR INSIDE  
OR OUTSIDE OF THE UNITED STATES, AS THE STATE TREASURER DETERMINES  
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 AND 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.



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

181                   (i) The depository; or

182                   (ii) A depository agent.

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

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

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

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

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

197           (j) "Depository agent license" means a license issued  
198 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) "Legal tender" means specie legal tender and electronic and/or digital currency whose entire and exclusive value is correlated against the market value of gold or silver.

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

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

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



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

(m) "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.

(n) "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



324 (iv) The public at large.

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

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

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

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

344 **SECTION 6.** (1) The depository shall deliver any precious  
345 metal held by or on behalf of the depository in bullion, specie,  
346 or a combination of bullion and specie, on the order of a  
347 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.

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

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



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

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

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

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



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

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

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

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

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

440 **SECTION 12.** (1) A depository account may be transferred on  
441 the books of the depository only on presentation to the depository  
442 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 holder's depository accounts as provided by the terms of the depository account holder's applicable depository account contract.

(2) On default in the payment or in the satisfaction of a depository account holder's obligation, the depository, without





notice to or consent of the depository account holder, may transfer on the depository's books all or part of the balance of a depository account holder's depository account to the extent necessary to pay or satisfy the obligation, as determined by reference to the exchange rates applicable at the time of the transfer.

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

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



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

497           (c) A business or nonprofit corporation;

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

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

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

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

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

515           (2) A pledge made as described by subsection (1) of this  
516 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



592 policies of insurance purchased to insure against ordinary  
593 casualty risks such as theft, damage or destruction, loss during  
594 shipment, or similar risks;

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

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

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

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



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

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

623 **SECTION 23.** (1) A purported confiscation, requisition,  
624 seizure, or other attempt to control the ownership, disposition,  
625 or proceeds of a withdrawal, transfer, liquidation, or settlement  
626 of a depository account, including the precious metals represented  
627 by the balance of a depository account, if effected by a  
628 governmental or quasi-governmental authority other than an  
629 authority of this state or by a financial institution or other  
630 person acting on behalf of or pursuant to a directive or  
631 authorization issued by a governmental or quasi-governmental  
632 authority other than an authority of this state, in the course of  
633 a generalized declaration of illegality or emergency relating to  
634 the ownership, possession, or disposition of one or more precious  
635 metals, contracts, or other rights to the precious metals or  
636 contracts or derivatives of the ownership, possession,  
637 disposition, contracts, or other rights, is void ab initio and of  
638 no force or effect.

639 (2) The depository in the case of receiving notice of a  
640 purported confiscation, requisition, seizure, or other attempt to



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

658       (3) On receipt of notice of any transaction described by  
659 subsection (1) of this section, with respect to all or any portion  
660 of the balance of a depository account, the depository shall  
661 suspend withdrawal privileges associated with the balances of the  
662 depository account until suitable substitute arrangements may be  
663 effected in accordance with any rules or regulations of the State  
664 Treasurer to enable the registered account holder to take delivery  
665 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.

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

**SECTION 27.** The depository shall use private, independently managed firms and institutions licensed as depository agents as



691 intermediaries to conduct retail transactions in bullion and  
692 specie on behalf of the depository with current and prospective  
693 depository account holders.

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

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

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

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

713               (b) A quarterly interim financial statement and report  
714 regarding the permissible investments required to be maintained  
715 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 service that constitutes money transmission or currency exchange service only, is subject to the requirements of this act applicable to each type of service rendered.

**SECTION 32.** (1) A person may not engage in the business of rendering depository agent services or advertise, solicit, or hold itself out as a person that engages in the business of depository agent services unless the person is licensed under this act, and



has received the requisite certifications from the comptroller of its facilities, systems, processes, and procedures as required by this act, or any applicable rules or regulations adopted.

(2) For purposes of this act:

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

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

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

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

(4) Notwithstanding subsection (3) of this section, a person does not engage in the business of depository agent services by 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.

(5) 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 State Treasurer;

(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.



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

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

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

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

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

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

(a) "Check" means any check, draft, money order, personal money order or other instrument, including but not limited to stored value cards, for the transmission or payment of





864 money. The format of a check may be either paper, electronic,  
865 plastic or any combination thereof.

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

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

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

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

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

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

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



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

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

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

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

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

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

911       75-15-5. No person, except those specified in Section  
912 75-15-7, shall engage in the business of money transmission, as a



913 service or for a fee or other consideration, without having first  
914 obtained a license under this chapter.

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

917       75-15-7. Nothing in this chapter shall apply to the sale or  
918 issuance or delivering of checks by:

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

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

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

926           (d) Agents of a licensee, as provided for in Section  
927 75-15-17, provided that this exemption shall apply only to the  
928 agent's acts on behalf of the licensee and this exemption shall  
929 not exempt the agent from the provisions of this chapter where he  
930 conducts money transmissions for his own account;

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

933           (f) Persons not carrying on the trade or business of  
934 money transmission, this exemption is intended to include persons  
935 who conduct money transmissions only as an incidental act to  
936 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;

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

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



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

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

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

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

979 75-15-11. Each application for a license shall be  
980 accompanied by:

981 (a) Certified financial statements, reasonably  
982 satisfactory to the commissioner, showing that the applicant has a  
983 net worth of at least Twenty-five Thousand Dollars (\$25,000.00)  
984 plus Fifteen Thousand Dollars (\$15,000.00) for each location in  
985 excess of one (1) at which the applicant proposes to conduct money  
986 transmissions in this state, computed according to generally



accepted accounting principles, but in no event shall the net worth be required to be in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00).

(b) A surety bond issued by a bonding company or insurance company authorized to do business in this state, in the principal sum of Twenty-five Thousand Dollars (\$25,000.00) or in an amount equal to outstanding money transmissions in Mississippi, whichever is greater, but in no event shall the bond be required to be in excess of Five Hundred Thousand Dollars (\$500,000.00). However, the commissioner may increase the required amount of the bond upon the basis of the impaired financial condition of a licensee as evidenced by a reduction in net worth, financial losses or other relevant criteria. The bond shall be in form satisfactory to the commissioner and shall run to the state for the use and benefit of the Department of Banking and Consumer Finance and any claimants against the applicant or his agents to secure the faithful performance of the obligations of the applicant and his agents with respect to the receipt, handling, transmission and payment of money in connection with money transmissions in Mississippi. The aggregate liability of the surety in no event shall exceed the principal sum of the bond. The surety on the bond shall have the right to cancel the bond upon giving sixty (60) days' notice in writing to the commissioner and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation.



1012 Any claimants against the applicant or his agents may themselves  
1013 bring suit directly on the bond, or the Attorney General may bring  
1014 suit thereon in behalf of those claimants, either in one (1)  
1015 action or successive actions.

1016 (c) In lieu of the corporate surety bond, the applicant  
1017 may deposit with the State Treasurer bonds or other obligations of  
1018 the United States or guaranteed by the United States or bonds or  
1019 other obligations of this state or of any municipal corporation,  
1020 county, or other political subdivision or agency of this state, or  
1021 certificates of deposit of national or state banks doing business  
1022 in Mississippi, having an aggregate market value at least equal to  
1023 that of the corporate surety bond otherwise required. Those bonds  
1024 or obligations or certificates of deposit shall be deposited with  
1025 the State Treasurer to secure the same obligations as would a  
1026 corporate surety bond, but the depositor shall be entitled to  
1027 receive all interest and dividends thereon and shall have the  
1028 right to substitute other bonds or obligations or certificates of  
1029 deposit for those deposited, with the approval of the  
1030 commissioner, and shall be required so to do on order of the  
1031 commissioner made for good cause shown. The State Treasurer shall  
1032 provide for custody of the bonds or obligations or certificates of  
1033 deposits by a qualified trust company or bank located in the State  
1034 of Mississippi or by any Federal Reserve Bank. The compensation,  
1035 if any, of the custodian for acting as such under this section  
1036 shall be paid by the depositing licensee.



1037                   (d) Proof of registration as a money service business  
1038 per 31 CFR Section 103.41, if applicable.

1039                   (e) A set of fingerprints from any local law  
1040 enforcement agency for each owner of a sole proprietorship,  
1041 partners in a partnership or principal owners of a limited  
1042 liability company that own at least ten percent (10%) of the  
1043 voting shares of the company, shareholders owning ten percent  
1044 (10%) or more of the outstanding shares of the corporation, except  
1045 publically traded corporations and their subsidiaries, and any  
1046 other executive officer with significant oversight duties of the  
1047 business. In order to determine the applicant's suitability for  
1048 license, the commissioner shall forward the fingerprints to the  
1049 Department of Public Safety for a state criminal history records  
1050 check, and the fingerprints shall be forwarded by the Department  
1051 of Public Safety to the FBI for a national criminal history  
1052 records check. The department shall not issue a license if it  
1053 finds that the applicant, or any person who is an owner, partner,  
1054 director or executive officer of the applicant, has been convicted  
1055 of: (i) a felony in any jurisdiction; or (ii) a crime that, if  
1056 committed within the state, would constitute a felony under the  
1057 laws of this state; or (iii) a misdemeanor of fraud, theft,  
1058 forgery, bribery, embezzlement or making a fraudulent or false  
1059 statement in any jurisdiction. For the purposes of this chapter,  
1060 a person shall be deemed to have been convicted of a crime if the  
1061 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 requirement may be waived by the commissioner if the dollar volume of a licensee's outstanding checks does not exceed the bond or other security devices posted by the licensee in accordance with Section 75-15-11.

(2) Permissible investments, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding checks and money received for transmission and may not be considered an asset or property of the licensee in the event of bankruptcy, receivership or a claim against the



1087 licensee unrelated to any of the licensee's obligations under this  
1088 chapter.

1089 (3) Permissible investments mean:

1090 (a) Cash;

1091 (b) Certificates of deposit or other debt obligations  
1092 of a financial institution, either domestic or foreign;

1093 (c) Bills of exchange or time drafts drawn on and  
1094 accepted by federally insured financial depository institutions;

1095 (d) Any investment bearing a rating of one (1) of the  
1096 three (3) highest grades as defined by a nationally recognized  
1097 organization that rates such securities;

1098 (e) Investment securities that are obligations of the  
1099 United States, its agencies or instrumentalities, or obligations  
1100 that are guaranteed fully as to principal and interest of the  
1101 United States, or any obligations of any state, municipality or  
1102 any political subdivision thereof;

1103 (f) Shares in a money market mutual fund,  
1104 interest-bearing bills or notes or bonds, debentures or stock  
1105 traded on any national securities exchange or on a national  
1106 over-the-counter market, or mutual funds primarily composed of  
1107 those securities or a fund composed of one or more permissible  
1108 investments as set forth in this section;

1109 (g) Any demand borrowing agreement or agreements made  
1110 to a corporation or a subsidiary of a corporation whose capital  
1111 stock is listed on a national exchange;



1112           (h) Receivables that are due to a licensee from its  
1113 agents, which are not past due or doubtful of collection; or  
1114           (i) Any other investments approved by the commissioner.

1115           (4) The commissioner may limit or disallow for purposes of  
1116 determining compliance with this section an investment, surety  
1117 bond, letter of credit or other security otherwise permitted by  
1118 this section if the commissioner determines it to be  
1119 unsatisfactory for investment purposes or to pose a significant  
1120 supervisory concern.

1121           **SECTION 46.** Section 75-15-19, Mississippi Code of 1972, is  
1122 brought forward as follows:

1123           75-15-19. (1) (a) Each licensee shall file with the  
1124 commissioner within fifteen (15) days of the last business day of  
1125 each month a report of the total amount of outstanding money  
1126 transmissions in Mississippi. The principal sum of the surety  
1127 bond or deposit required in Section 75-15-11 shall be adjusted, if  
1128 appropriate, to reflect any changes in outstanding money  
1129 transmissions. Licensees who maintain a surety bond in the  
1130 principal sum of at least Five Hundred Thousand Dollars  
1131 (\$500,000.00) or a securities deposit having an aggregate market  
1132 value of at least equal to Five Hundred Thousand Dollars  
1133 (\$500,000.00) shall be required to report the total amount of  
1134 outstanding money transmissions in Mississippi on a quarterly  
1135 basis.



1136           (b) Each licensee shall file an annual financial  
1137 statement with the commissioner, audited by an independent  
1138 certified public accountant or an independent registered  
1139 accountant, within five (5) months after the close of the  
1140 licensee's fiscal year. The financial statement shall include a  
1141 balance sheet, a profit and loss statement, and a statement of  
1142 retained earnings of the licensee and the licensee's agents  
1143 resulting from the business of money transmission.

1144           (2) The commissioner may conduct or cause to be conducted an  
1145 annual examination or audit of the books and records of any  
1146 licensee at any time or times he deems proper, the cost of the  
1147 examination or audit to be borne by the licensee. The refusal of  
1148 access to the books and records shall be cause for the revocation  
1149 of its license. The commissioner may charge the licensee an  
1150 examination fee in an amount not less than Three Hundred Dollars  
1151 (\$300.00) nor more than Six Hundred Dollars (\$600.00) for each  
1152 licensed office, plus any actual expenses incurred while examining  
1153 the licensee's records or books that are located outside the State  
1154 of Mississippi.

1155           (3) Each licensee shall maintain the following books and  
1156 records for a period of five (5) years and the books and records  
1157 shall be available to the commissioner for inspection:

1158           (a) A record of each money transmission sold;



1159           (b) A general ledger, posted at least monthly,  
1160 containing all assets, liabilities, capital, income and expense  
1161 accounts;  
1162           (c) Bank statements and bank reconciliation records;  
1163           (d) Records of outstanding money transmissions;  
1164           (e) Records of each money transmission paid within the  
1165 five-year period;  
1166           (f) A list of the names and addresses of all authorized  
1167 agents; and  
1168           (g) Any other records the commissioner may reasonably  
1169 require by rule or regulation.

1170           The records required under this section may be maintained in  
1171 photographic, electronic or other similar form.

1172           (4) Each licensee must maintain a written Bank Secrecy  
1173 Act/Anti-Money Laundering Program that complies with 31 CFR  
1174 Section 103.125, if applicable.

1175           (5) The commissioner may conduct a joint examination with  
1176 representatives of other departments or agencies of another state  
1177 or with the federal government. The commissioner may accept an  
1178 examination report of another state or of the federal government  
1179 or a report prepared by a certified public accountant instead of  
1180 conducting an examination. A joint examination or an acceptance  
1181 of an examination report does not preclude the commissioner from  
1182 conducting his own examination. The report of a joint examination  
1183 or an examination report accepted by the commissioner under this



1184 section is an official report of the commissioner for all  
1185 purposes.

1186 (6) The department may adopt the necessary administrative  
1187 regulations, not inconsistent with state law, for the enforcement  
1188 of this chapter.

1189 **SECTION 47.** Section 75-15-23, Mississippi Code of 1972, is  
1190 brought forward as follows:

1191 75-15-23. Each licensee shall be liable for the payment of  
1192 all money transmissions and for all checks that the licensee  
1193 sells, in whatever form and whether directly or through an agent,  
1194 as the maker or drawer thereof according to the negotiable  
1195 instrument laws of this state, and shall be responsible only for  
1196 those acts of the agent done on behalf of the licensee. Every  
1197 check sold by a licensee directly or through an agent shall bear  
1198 the name of the licensee clearly imprinted thereon. During the  
1199 period of time that a person is an appointed agent for a licensee,  
1200 the agent shall not directly or indirectly conduct his own money  
1201 transmission business and the agent shall not be, continue to be,  
1202 or become an officer, director, stockholder, employee, or agent of  
1203 any other licensee under this chapter. When a person ceases to be  
1204 an agent of a licensee, he shall immediately cease displaying his  
1205 agent's appointment certificate, as provided under Section  
1206 75-15-17 of this chapter and shall immediately surrender same to  
1207 the licensee.



1208           **SECTION 48.** Section 75-15-25, Mississippi Code of 1972, is  
1209 brought forward as follows:

1210           75-15-25. Whenever the bond or securities deposit required  
1211 under Section 75-15-11 is less than Five Hundred Thousand Dollars  
1212 (\$500,000.00), the licensee may not at any time have a total  
1213 amount in outstanding money transmissions or checks in  
1214 Mississippi, in excess of the bond or securities deposit required  
1215 of him under Section 75-15-11, and the licensee shall, in  
1216 accordance with rules and regulations promulgated by the  
1217 commissioner under this chapter, submit a written report to the  
1218 commissioner on the last business day of each month regarding his  
1219 money transmissions outstanding in Mississippi, whether issued by  
1220 himself or through agents, provided that this limitation shall be  
1221 the principal sum of the bond or the market value of the  
1222 securities deposit required of the licensee under Section  
1223 75-15-11, and the sum of this limitation shall not be increased by  
1224 any bond or securities deposit increase required by the  
1225 commissioner under Section 75-15-29 or by deposit of any  
1226 revocation order, suspension bond or securities deposit under  
1227 Section 75-15-27.

1228           **SECTION 49.** Section 75-15-29, Mississippi Code of 1972, is  
1229 brought forward as follows:

1230           75-15-29. Any provision in this chapter to the contrary  
1231 notwithstanding, the commissioner may at any time, if in his sole  
1232 opinion the protection of the public so requires, increase the



1233 principal sum of the bond or the aggregate market value of the  
1234 deposit required of any applicant or licensee by Section 75-15-11  
1235 but in no case shall the principal sum of the bond or the  
1236 aggregate market value of the deposit required by Section 75-15-11  
1237 exceed Five Hundred Thousand Dollars (\$500,000.00) and provided  
1238 further, that in any situation, where a revocation order has been  
1239 issued and the licensee involved has posted the additional bond  
1240 required under Section 75-15-27, for suspension thereof, pending  
1241 final determination, the commissioner may for the same reasons  
1242 require the principal sum of the additional, suspension bond to be  
1243 increased but in no case shall the principal sum thereof exceed  
1244 Two Hundred Fifty Thousand Dollars (\$250,000.00), and provided  
1245 further that if the licensee originally deposited with his  
1246 application under Section 75-15-11 a corporate surety bond, the  
1247 additional increase provided in this section must be by another  
1248 corporate surety bond or an increase of the first one, written by  
1249 the same corporate surety that wrote the first one and may not be  
1250 a deposit of securities or if the licensee originally deposited  
1251 securities, the additional increase shall also be of securities  
1252 and not a corporate surety bond.

1253       **SECTION 50.** Section 7-9-9, Mississippi Code of 1972, is  
1254 amended as follows:

1255       7-9-9. It shall be the duty of the State Treasurer to  
1256 receive and keep the \* \* \* monies of the state in the manner  
1257 provided by law, to disburse the same agreeably to law, and to





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

1270       **SECTION 51.** The State Treasurer shall promulgate any rules  
1271 or regulations as he or she deems necessary or required to  
1272 effectuate the purposes of this act.

1273       **SECTION 52.** This act shall take effect and be in force from  
1274 and after July 1, 2025.

