

By: Senator(s) Chism

To: Business and Financial
Institutions; Government
Structure

SENATE BILL NO. 2082

1 AN ACT TO ESTABLISH THE MISSISSIPPI BULLION DEPOSITORY IN THE
2 OFFICE OF THE STATE TREASURER; TO PROVIDE FOR THE APPOINTMENT AND
3 DUTIES OF THE ADMINISTRATOR AND DEPUTY ADMINISTRATOR; TO PROVIDE
4 THAT DEPOSITS MAY NOT BE CONSIDERED PART OF THE STATE GENERAL FUND
5 OR CERTIFIED AS AVAILABLE FOR APPROPRIATION; TO PROVIDE FOR THE
6 DEPOSIT OF CERTAIN MONIES TO THE STATE GENERAL FUND; TO PROVIDE
7 FOR THE RECEIPT OF DEPOSITS; TO SPECIFY PROCEDURES; TO SPECIFY
8 CERTAIN DUTIES OF THE STATE TREASURER; TO REQUIRE THE PROMULGATION
9 OF RULES; TO ESTABLISH STANDARDS FOR TESTING AND AUTHENTICITY; TO
10 PROVIDE FOR THE DELIVERY AND SHIPPING OF DEPOSITS HELD BY OR ON
11 BEHALF OF THE DEPOSITORY; TO PROVIDE FOR THE ISSUANCE OF A DEBIT
12 CARD TO THE DEPOSITORY ACCOUNT HOLDER; TO PROVIDE PROCEDURES FOR
13 THE TRANSFER OF ACCOUNTS; TO PROVIDE FOR ACCOUNTING OF DEPOSITORY
14 ACCOUNT BALANCES; TO SPECIFY PROCEDURES FOR THE ESTABLISHMENT OF
15 DEPOSITORY ACCOUNTS; TO REQUIRE CONTRACTS AND SPECIFY TERMS; TO
16 PROVIDE FOR CONTRACT AMENDMENTS; TO SPECIFY WHEN A CAUSE OF ACTION
17 FOR DENIAL OF DEPOSIT LIABILITY MAY ACCRUE; TO AUTHORIZE THE STATE
18 TREASURER TO ESTABLISH FEES AND PENALTIES; TO PROVIDE FOR PLEDGES
19 AND TRANSFERS OF DEPOSITORY ACCOUNTS; TO PROHIBIT CERTAIN
20 PAYMENTS; TO PROVIDE FOR LIENS ON DEPOSITORY ACCOUNTS AND PAYMENTS
21 OF CERTAIN OBLIGATIONS; TO PROVIDE FOR INVESTMENTS BY CERTAIN
22 PERSONS AND ENTITIES; TO PROVIDE FOR CREDIT AGAINST CERTAIN TAX;
23 TO PROVIDE FOR GOVERNANCE OF CERTAIN LAWS; TO ALLOW THE PLEDGE OR
24 TRANSFER OF JOINTLY HELD ACCOUNTS; TO PROVIDE THAT OWNERSHIP NOT
25 BE SEVERED THEREBY; TO ALLOW THE DEPOSITORY OR DEPOSITORY AGENT TO
26 ACCEPT ACCOUNTS IN THE NAME OF A FIDUCIARY; TO PROVIDE PROCEDURES
27 IN CASES OF PERSONS CLAIMING TO BE TRUSTEES; TO PROVIDE THAT THE
28 DEPOSITORY NOT HAVE FURTHER LIABILITY; TO REQUIRE THE DEPOSITORY
29 TO RECOGNIZE CERTAIN AUTHORITY UPON NOTICE; TO REQUIRE THE
30 DEPOSITORY TO ENTER INTO CERTAIN TRANSACTIONS AND RELATIONSHIPS;
31 TO PROHIBIT CERTAIN ACTS; TO VOID CERTAIN ACTIONS TO CONTROL
32 ACCOUNTS; TO PROVIDE PROCEDURES FOR THE DEPOSITORY IN SUCH
33 INSTANCES; TO REQUIRE THE STATE TREASURER TO ESTABLISH EXCHANGE
34 RATE REFERENCES AND ACCOUNTING AND REPORTING REQUIREMENTS; TO



35 REQUIRE AN ANNUAL REPORT; TO PROVIDE PROCEDURES TO CONDUCT RETAIL
36 TRANSACTIONS; TO PROVIDE FOR THE LICENSING AND APPOINTMENT OF
37 DEPOSITORY AGENTS; TO SPECIFY REQUIREMENTS APPLICABLE TO
38 DEPOSITORY AGENTS; TO PROVIDE FOR DEPOSITORY AGENT SERVICES; TO
39 PROHIBIT CERTAIN ACTS BY UNLICENSED PERSONS; TO PROHIBIT LICENSURE
40 OF CERTAIN PERSONS; TO SPECIFY THE CIRCUMSTANCES UNDER WHICH A
41 PERSON MAY ENGAGE IN THE BUSINESS OF DEPOSITORY AGENT SERVICES; TO
42 PROVIDE FOR APPLICATION FOR A DEPOSITORY AGENT LICENSE; TO REQUIRE
43 CERTAIN SECURITY; TO ALLOW TEMPORARY LICENSURE; TO SPECIFY THE
44 LIABILITY, DUTIES AND PROHIBITED ACTS OF A DEPOSITORY AGENT
45 LICENSE HOLDER; TO PROVIDE FOR THE REVOCATION OF LICENSES; TO
46 PROHIBIT THE CONSIDERATION OF DEPOSITS AS ASSETS IN CERTAIN
47 PROCEEDINGS; TO REQUIRE THE FURNISHING OF CERTAIN INFORMATION IN
48 CONNECTION WITH TRANSACTIONS; AND FOR RELATED PURPOSES.

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

50 **SECTION 1.** As used in this act, the following words and
51 phrases shall have the meanings ascribed herein, unless the
52 context clearly requires otherwise:

53 (a) "Administrator" means the bullion depository
54 administrator appointed pursuant to Section 2 of this act.

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

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

63 (d) "Deposit" means the establishment of an executory
64 obligation of the depository to deliver to the order of the person
65 establishing with the depository the obligation, on demand, a
66 quantity of a specified precious metal, in bullion, specie or a



67 combination of bullion and specie, equal to the quantity of the
68 same precious metal delivered by or on behalf of the depositor
69 into the custody of the depository or a depository agent.

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

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

73 (g) "Depository account" means the rights, interests
74 and entitlements established in favor of a depositor with respect
75 to a deposit in accordance with this act and rules promulgated
76 pursuant to this act.

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

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

84 (j) "Depository agent services" means services rendered
85 to the public for or on behalf of the Mississippi Bullion
86 Depository in the nature of purchasing, selling, transferring,
87 accepting, transporting, delivering or otherwise dealing in
88 precious metal, bullion or specie in connection with the creation,
89 transfer, clearing, settlement or liquidation of the rights and
90 interests of a depository account holder and a direct or indirect



transferee of a depository account holder. The term "depository agent services" does not include:

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

(ii) The opening, transfer, settlement or liquidation of any derivative of a contract described by subparagraph (i) of this paragraph, including a forward transaction, swap transaction, currency transaction, future transaction, index transaction, an option on or other derivatives of a transaction of any of those types, 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, 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 described by subparagraph (ii) of this



paragraph 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.

(k) "Precious metal" means a metal, including gold or silver, that bears a high value-to-weight ratio relative to common industrial metals and is customarily formed into bullion or specie.

(l) "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.

(m) "Legal tender" means a specie legal tender and electronic currency whose entire and exclusive value is correlated against the market value of gold or silver.

(i) Precious metal, bullion or specie 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 shall not give rise to any tax liability.

(ii) The exchange of one (1) type or form of precious metal, bullion or specie for another type or form of legal tender shall not give rise to any tax liability.



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

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

SECTION 2. (1) The Mississippi Bullion Depository shall be established as a division in the Office of the State Treasurer.

(2) The depository shall be established to serve as the custodian, guardian and administrator of certain bullion and specie that may be transferred to or otherwise acquired by this state or an agency, a political subdivision or another instrumentality of this state.

(3) The depository shall be under the direction and supervision of a bullion depository administrator jointly appointed by the Governor and the State Treasurer with the advice and consent of the Senate.

(4) The 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, an agency, a political subdivision or another instrumentality of this



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

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

SECTION 3. No deposits made to the depository shall be considered part of the State General Fund or shall be certified by the State Board of Equalization as available for appropriation; however, revenue the depository realizes from fees, charges or other payments received in the course of depository operations shall be deposited to the credit of the State General Fund.

SECTION 4. (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 rules promulgated 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) This state and its agencies, political subdivisions and instrumentalities; 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 promulgate rules to 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 the State Treasurer determines that to do so is in the public interest, promulgate rules to 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 State Treasurer shall promulgate rules developing standards and establishing fees for testing the authenticity of deposits.

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

SECTION 5. (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 as required 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 promulgate rules to adopt 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.

(4) The depository shall make available a debit card, issued upon a request by the depository account holder, by which the depository account holder may make transactions which are debited from the balance of the holder's account. The balance available to the depository account holder through the use of the debit card shall be equal to eighty percent (80%) of the current spot price of the deposits of the depository account holder. The State Treasurer shall promulgate rules to implement the provisions of



this subsection, including the establishment of fees and procedures for the issuance of the debit card.

(5) In accordance with rules promulgated pursuant to 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.

(6) 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.

(7) 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 6. (1) To establish a depository account, a depositor shall contract with the depository for a depository



262 account. The contract shall include, but not be limited to, with
263 specificity:

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

266 (b) The conditions in which amendments may be made to
267 the contract; and

268 (c) The conditions in which withdrawals or deliveries
269 with respect to the account may be made.

270 (2) The execution of a contract for a depository account
271 described by this section may be made, as prescribed by rules
272 promulgated pursuant to this act, by electronic or digital
273 transmission and signature.

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

277 (4) A contract for a depository account executed by a
278 depositor and the depository is considered a contract in writing
279 for all purposes and may be evidenced by one or more agreements,
280 deposit receipts, signature cards, amendment notices or other
281 executed documents as provided by law.

282 (5) The depository and the depository account holder may
283 amend a contract for a depository account by agreement, or the
284 depository may amend the deposit contract by mailing a written
285 notice of the amendment to the account holder, separately or as an
286 enclosure with or part of the account holder's statement of



account or passbook. In the case of amendment by notice from the depository, the notice shall include the language of the amendment and the date the amendment is in effect. The date the amendment is in effect shall not be earlier than the thirtieth day after the date the notice is postmarked, unless otherwise provided by rules promulgated pursuant to this act.

SECTION 7. (1) 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.

(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.

SECTION 8. The State Treasurer may promulgate rules to establish fees, service charges and penalties to be charged to 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 9. (1) 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.

(2) 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.

(3) A person to whom a depository account is to be transferred shall accept the transferred account subject to the terms of the deposit contract, this act and rules promulgated pursuant to this act.

SECTION 10. (1) 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 metal deposited to a depository account.

(2) Without the need for any further agreement or pledge, the depository shall have 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.

(3) 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 record 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.

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

(5) 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 with respect to 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 11. (1) The following persons may invest the person's money in a depository account by purchasing precious metal and depositing the precious metal with the depository or a depository agent:

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



(b) A political subdivision of this state or an instrumentality of this 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 an insurance company in a depository account is eligible to be applied as a credit against taxes payable, in accordance with rules that shall be promulgated by the State Treasurer after consultation with the Insurance Commissioner.

(3) An investment by a school district in a depository account may be made instead of an investment, and the depository may be used by a district instead of a depository bank.

(4) The applicable provisions of Chapter 105, Title 27, Mississippi Code of 1972, governing a depository account shall apply.

SECTION 12. (1) Unless a term of the depository account provides otherwise, a person on whose signature precious metal may be withdrawn from a depository account that is jointly held in the names of two (2) or more persons may, by a signed pledge, 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 tenants with rights



of survivorship of the account, to the extent applicable to the account before the pledge.

(3) 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.

(4) A fiduciary may open, add to or withdraw precious metal from an account described by subsection (3) of this section.

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

(6) 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 metal 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.

(7) The depository has no further liability for a payment made or right delivered pursuant to subsection (6) of this section.



(8) 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 metal from the account; and

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

(9) The depository has no further liability for a payment or delivery made as provided by subsection (8) of this section.

SECTION 13. (1) The depository shall recognize the authority of an attorney-in-fact authorized in writing by a depository account holder to manage or withdraw precious metal from the 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 shall be considered written notice of revocation of the authority of the account holder's attorney-in-fact.

SECTION 14. (1) The depository shall enter into transactions and relationships with bullion banks, depositories, dealers, central banks, sovereign wealth funds, financial



institutions, international nongovernmental organizations or 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.

(2) 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 paragraph 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) Accrediting 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 by rule establishes that:

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

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

(d) Extending credit to a person including credit secured by a depository account or other assets, except an



extension of credit incidental to the performance of the functions and responsibilities otherwise provided by this act; or

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

SECTION 15. (1) A purported confiscation, requisition, seizure or other attempt to control the ownership, disposition or proceeds of a withdrawal, transfer, liquidation or settlement of a depository account, including the precious metals represented by the balance of a depository account, if effected by a governmental or quasi-governmental authority other than an authority of this state or by a financial institution or other person acting on behalf of or pursuant to a directive or authorization issued by a governmental or quasi-governmental authority other than an authority of this state, in the course of a generalized declaration of illegality or emergency relating to the ownership, possession or disposition of one or more precious metals, contracts or other rights to the precious metals or contracts or derivatives of the ownership, possession, disposition, contract or other rights, is void ab initio and of no force or effect.

(2) The depository in the case of receiving notice of a purported confiscation, requisition, seizure or other attempt to control the ownership, disposition or proceeds of a withdrawal, transfer, liquidation or settlement of a depository account, including the precious metals represented by the balance of a



depository account, effected by a governmental or
quasi-governmental authority other than an authority of this state
or by a financial institution or other person acting on behalf of
or pursuant to a directive or authorization issued by a
governmental or quasi-governmental authority other than an
authority of this state, in the course of a generalized
declaration of illegality or emergency relating to the ownership,
possession or disposition of one or more precious metals,
contracts or other rights to the precious metals or contracts or
derivatives of the ownership, possession, disposition, contracts
or other rights, may not recognize the governmental or
quasi-governmental authority, financial institution or other
person acting as the lawful successor of the registered holder of
a depository account in question.

(3) On receipt of notice of any transaction described by
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 rules 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 rules promulgated pursuant to this act.

SECTION 16. (1) The State Treasurer shall promulgate rules to 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.

(2) The State Treasurer by rule 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.

(3) The State Treasurer shall promulgate rules to require a depository agent to maintain suitable systems and processes for electronic information sharing and communication with the State Treasurer and the depository to ensure that all transactions effected on behalf of the depository are reported to and integrated into the depository's records not later than 11:59:59 p.m. Central Standard Time on the date of each transaction.

(4) The State Treasurer shall submit to the Governor, the Lieutenant Governor and the Speaker of the House of



Representatives a report on the status, condition, operations and prospects for the depository and depository participation not later than September 30 of each year.

SECTION 17. The depository shall use private, independently managed firms and institutions licensed as depository agents as intermediaries to conduct retail transactions in bullion and specie on behalf of the depository with current and prospective depository account holders. A depository agent licensed by the depository pursuant to this section must have a minimum of five (5) years of depository operational experience or ownership, including three (3) years of direct retail transaction experience with public and private entities or individuals. The State Treasurer may promulgate rules to issue a depository agent license and to impose additional requirements as to capitalization, net worth, liquidity or other financial prerequisites to qualify as a licensed depository agent to conduct transactions or take other action on behalf of the depository.

SECTION 18. (1) A depository agent shall submit monthly, quarterly and annual reports of all depository transactions not later than the fifteenth day of the month following the expiration of the period with respect to which such report is submitted. The report must contain information and be in a form and format as required by the State Treasurer.

(2) A depository agent license holder shall prepare written reports and statements as follows:



(a) 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 pursuant to 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 forty-fifth day after the last day of the calendar quarter; and

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

SECTION 19. (1) Notwithstanding any other provision of this act, 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 constitute 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



610 service that constitutes money transmission or currency exchange
611 service only, is subject to the requirements of this act
612 applicable to each type of service rendered.

613 (4) A person may not engage in the business of rendering
614 depository agent services or advertise, solicit or hold the person
615 out as a person that engages in the business of depository agent
616 services unless the person:

617 (a) Is licensed pursuant to this act and has received
618 the requisite certifications from the State Treasurer of its
619 facilities, systems, processes and procedures as required by this
620 act or rules promulgated pursuant to this act; or

621 (b) Is exempted from licensing requirements as provided
622 by law.

623 (5) Notwithstanding any other provision of this act, the
624 following persons and entities shall not be eligible for a
625 depository agent license issued pursuant to this act:

626 (a) The United States or an instrumentality of the
627 United States, including the United States Post Office or a
628 contractor acting on behalf of the United States Post Office;

629 (b) A person that, on behalf of the United States or a
630 department, agency or instrumentality of the United States, or a
631 state or county, city or any other governmental agency or
632 political subdivision of a state, provides electronic funds
633 transfer services of governmental benefits for a federal, state,
634 county or local governmental agency;



635 (c) A person that acts as an intermediary on behalf of
636 and at the direction of a license holder in the process by which
637 the license holder, after receiving money or monetary value from a
638 purchaser, either directly or through an authorized delegate,
639 transmits the money or monetary value to the purchaser's
640 designated recipient, provided that the license holder is liable
641 for satisfying the obligation owed to the purchaser;

642 (d) An attorney or title company that in connection
643 with a real property transaction receives and disburses domestic
644 currency or issues an escrow or trust fund check only on behalf of
645 a party to the transaction; or

646 (e) A person engaged in the business of currency
647 transportation who is both a registered motor carrier and a
648 licensed armored car company or courier company, provided that the
649 person does not engage in the money transmission or currency
650 exchange business without a license issued pursuant to this act.

651 (6) For purposes of this act:

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

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

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



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

663 (7) Notwithstanding the provisions of subsection (6) of this
664 section, a person does not engage in the business of depository
665 agent services by engaging in a transaction for the person's own
666 depository account or for the account of another person acting as
667 a fiduciary that would constitute depository agent services if
668 conducted for another person.

669 (8) A depository agent license holder may engage in
670 depository agent services at one or more locations in this state
671 owned directly or indirectly by the license holder under a single
672 license.

673 **SECTION 20.** (1) In addition to the general qualifications
674 for licensure set forth in Section 19 of this act, an applicant
675 for a depository agent license must demonstrate to the
676 satisfaction of the State Treasurer that:

677 (a) The applicant has and will maintain the
678 capitalization, minimum net worth and other applicable financial
679 requirements established by rules of the State Treasurer;

680 (b) The applicant's financial condition will enable the
681 applicant to engage in the business of depository agent services
682 safely and soundly; and



683 (c) The applicant does not engage in any activity or
684 practice that adversely affects the applicant's safety and
685 soundness.

686 (2) An applicant for a depository agent license shall submit
687 an application to the State Treasurer.

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

691 (a) An application fee established by the State
692 Treasurer;

693 (b) Audited financial statements that are satisfactory
694 to the State Treasurer for purposes of determining whether the
695 applicant has the minimum net worth required pursuant to rules and
696 is likely to maintain the required minimum net worth if a license
697 is issued; and

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

704 (4) The State Treasurer shall investigate the applicant,
705 which shall include conducting a background check with the
706 Mississippi Bureau of Investigation, and approve or deny the
707 application.



(5) 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 pursuant to 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 pursuant to rules;

(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 rules promulgated by the State Treasurer.

(6) 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 21. (1) 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.

(2) 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.

(3) 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.

(4) 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.



(5) Money or other property of a depository agent license holder impressed with a trust pursuant to 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 pursuant to this act.

SECTION 22. 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.

SECTION 23. If any one or more provisions, sections, subsections, sentences, clauses, phrases or words of this act or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable, and the balance of this act shall remain effective notwithstanding such unconstitutionality. The Legislature hereby declares that it would have passed this act, and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provisions, sections, subsections, sentences, clauses, phrases or words be declared unconstitutional.

SECTION 24. This act shall take effect and be in force from and after July 1, 2025.

