

By: Senator(s) Horhn

To: Business and Financial
Institutions

SENATE BILL NO. 2421

1 AN ACT TO AMEND SECTIONS 27-105-5, 27-105-303, 27-105-305,
2 27-105-315 AND 27-105-353, MISSISSIPPI CODE OF 1972, TO ALLOW
3 UNITED STATES TREASURY-CERTIFIED COMMUNITY DEVELOPMENT FINANCIAL
4 INSTITUTIONS FUND CREDIT UNIONS WHOSE ACCOUNTS ARE INSURED BY THE
5 NATIONAL CREDIT UNION ADMINISTRATION TO QUALIFY AS PUBLIC FUNDS
6 DEPOSITORIES AND ACCEPT PUBLIC FUNDS FROM COUNTIES, MUNICIPALITIES
7 AND OTHER LOCAL GOVERNMENTAL UNITS; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 27-105-5, Mississippi Code of 1972, is
10 amended as follows:

11 27-105-5. (1) Any financial institution maintaining a
12 deposit-taking facility in this state whose accounts are insured
13 by the Federal Deposit Insurance Corporation or any successors to
14 that insurance corporation, and any United States
15 Treasury-certified Community Development Financial Institutions
16 Fund Credit Union whose accounts are insured by the National
17 Credit Union Administration or any successors to that insurance
18 administration, may qualify as a public funds depository by
19 submitting an application to the State Treasurer as provided by
20 Section 27-105-9, if the institution has a regulatory capital to



21 total assets ratio of five and one-half percent (5-1/2%) or more.
22 That ratio shall be determined not later than December 1 in each
23 calendar year by the State Treasurer on the basis of balance
24 sheets of applying institutions at June 30 of the same calendar
25 year, and an institution shall not be a qualified depository and
26 shall not receive any public funds unless its ratio has been
27 certified annually by the Treasurer as meeting the prescribed
28 requirement. Each applicant shall furnish to the State Treasurer
29 such financial statements, balance sheets or other documentation,
30 sworn to by a duly elected officer, on such date or dates and on
31 such forms as the State Treasurer may require. Any knowing or
32 willful misstatement of fact on those forms shall subject the
33 officer swearing to them to the penalty of perjury, and the
34 financial institution of which he or she is an officer shall not
35 be eligible to serve as a depository for a period of one (1) year
36 beginning with the date on which the State Treasurer certifies
37 that such a misstatement has been made. When so approved by the
38 State Treasurer, the institution shall place on deposit with the
39 State Treasurer qualified bonds, notes and liquid securities in an
40 aggregate amount at least equal to one hundred five percent (105%)
41 of the average daily balance of funds on deposit in the aggregate
42 by the State of Mississippi or any agency or department of the
43 state or by any county, municipality or other governmental unit in
44 excess of that portion of accounts insured by the Federal Deposit



Insurance Corporation or the National Credit Union Administration,
as the case may be, or any successor thereto.

(2) Any financial institution maintaining a deposit-taking facility in this state whose accounts are insured by the Federal Deposit Insurance Corporation or any successors to that insurance corporation and which has been in existence for three (3) or more years may qualify as a public funds depository and public funds guaranty pool member under Section 27-105-6 by submitting an application to the State Treasurer as provided by Section 27-105-9, if the institution has a regulatory capital to total assets ratio of six and one-half percent (6-1/2%) or more and otherwise meets the requirements of Section 27-105-6. That ratio shall be determined not later than December 1 in each calendar year by the State Treasurer on the basis of balance sheets of applying institutions at June 30 of the same calendar year, and an institution shall not be a member of the public funds guaranty pool unless its ratio has been certified annually by the Treasurer as meeting the prescribed requirement. Each applicant shall furnish to the State Treasurer such financial statements, balance sheets or other documentation, sworn to by a duly elected officer, on such date or dates and on such forms as the State Treasurer may require. Any knowing or willful misstatement of fact on those forms shall subject the officer swearing to them to the penalty of perjury and the financial institution of which he or she is an officer shall not be eligible to serve as a depository for a



70 period of one (1) year beginning with the date on which the State
71 Treasurer certifies that such a misstatement has been made. When
72 so approved by the State Treasurer, the institution shall meet its
73 security requirement of one hundred five percent (105%) by placing
74 on deposit with the State Treasurer qualified bonds, notes and
75 liquid securities in an aggregate amount at least equal to
76 fifty-two and one-half percent (52-1/2%) of the average daily
77 balance of funds on deposit in the aggregate by the State of
78 Mississippi or any agency or department of the state or by any
79 county, municipality or other governmental unit in excess of that
80 portion of accounts insured by the Federal Deposit Insurance
81 Corporation, or any successor thereto, and executing a guarantee
82 equal to the balance of fifty-two and one-half percent (52-1/2%)
83 of the average daily balance of funds on deposit in the aggregate
84 by the State of Mississippi or any agency or department of the
85 state or by any county, municipality or other governmental unit in
86 excess of that portion of accounts insured by the Federal Deposit
87 Insurance Corporation, or any successor thereto.

88 (3) The term "qualified bonds, notes and liquid securities"
89 as used in this section shall mean:

90 (a) All securities that are direct obligations of the
91 United States Treasury or any other obligations fully guaranteed
92 by the United States government.

93 (b) Bonds, notes and other obligations of the Federal
94 Home Loan Bank, Federal National Mortgage Association, Federal



Land Banks, Banks for Cooperatives, and Federal Intermediate Credit Banks, the Government National Mortgage Association, the Federal Housing Administration, the Farmers Home Administration, the Farm Credit System Financial Assistance Corporation, the United States Postal Service, the Federal Financing Bank, the Student Loan Marketing Association, the Small Business Administration, the General Services Administration, the Washington Metropolitan Area Transit Authority, the Maritime Administration, the Export-Import Bank, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, loan participations that carry the guarantee of the Commodity Credit Corporation, an instrumentality of the United States Department of Agriculture or other similar agencies approved by the State Treasurer.

(c) Obligations of the Tennessee Valley Authority.

(d) Legal obligation or revenue bonds of the State of Mississippi, its agencies, or any political subdivision of the state, or any municipality located in the State of Mississippi, or the Yazoo Mississippi Delta and the Mississippi Levee Districts, or the Mississippi Higher Education Assistance Corporation or its successors, or any body corporate and politic created under the laws of the State of Mississippi.

(e) General obligations issued by any other state or by a county, parish or municipality of any other state, the full faith and credit of which are pledged to the payment of principal



and interest, that are rated "A" or better by any recognized national rating agency engaged in the business of rating bonds.

(f) Surety bonds of any surety company authorized to do business in the State of Mississippi.

(g) All bonds authorized as security for state funds under paragraphs (c), (d) and (e), inclusive, shall be investment quality, and any bonds under paragraphs (c), (e) and (f), inclusive, which are rated substandard by any of the appropriate supervisory authorities having jurisdiction over the depository or by any recognized national rating agency engaged in the business of rating bonds, shall not be eligible for pledging as security to the State of Mississippi by any qualified state depository. As used in this paragraph, the term "investment quality" shall mean that, at worst, the obligor of the bonds has adequate capacity to meet its financial commitments even if adverse economic conditions or changing circumstances are likely to lead to a weakened capacity to do so.

No bonds shall be accepted as security for more than their stated par value or market value, whichever is lower, except bonds and obligations of the State of Mississippi and Mississippi State Highway bonds or notes, which may be accepted as security at par value or market value, whichever is greater.

The bonds, notes and liquid securities to be placed on deposit shall secure both deposits and the accrued interest thereon.



Money shall be drawn from the depositories so as to leave in each as near as practicable, its equitable proportion of state funds.

The State Treasurer is authorized and empowered to:

(i) Deposit for safekeeping in the vaults of any of the state or national banks located within this state that are members of the Federal Deposit Insurance Corporation and that have appropriate safekeeping facilities approved by the State Depository Commission, any federal reserve bank, any federal reserve branch bank, or any bank that is a member of the Federal Reserve System and is located in a city where there is a federal reserve bank or a federal reserve branch bank, the securities placed with him or her by financial institutions qualifying as state depositories; or

(ii) Accept, in lieu of the securities themselves, safekeeping trust receipts issued to the State Treasurer by the authorized safekeeping banks listed in subparagraph (i) above; the safekeeping trust receipts shall describe the securities and show that the securities are held for safekeeping for the account of the State Treasurer or other governmental unit. The securities so deposited shall not be commingled in any manner with the assets of the safekeeping bank.

The safekeeping banks listed in subparagraph (i) above are authorized to issue to the State Treasurer their safekeeping trust receipts based on safekeeping trust receipts issued to them by any



of their correspondent banks that are members of the Federal Reserve System and are located in any federal reserve city and that have physical custody of the pledged securities.

In no event shall the State Treasurer deposit for safekeeping with any depository securities placed by the depository with the State Treasurer in qualifying as a public funds depository, nor shall he or she accept a safekeeping trust receipt by or from a depository covering securities it owns in order to secure state funds on deposit with it.

(4) In fulfilling the requirements of this Section 27-105-5, the State Treasurer shall:

(a) Maintain perpetual inventory of pledged collateral and perform monthly market valuations and quality ratings.

(b) Monitor and confirm, as often as deemed necessary by the Treasurer, the pledged collateral held by third-party custodians.

(c) Perfect an interest in pledged collateral by having pledged securities moved into an account established in the Treasurer's name. This action shall be taken at the discretion of the Treasurer.

(d) Review the reports of each qualified public funds depository for material changes in capital accounts or changes in name, address or type of institution, record the average daily balances of public deposits held; and monitor the



collateral-pledging levels and required collateral based on the average daily balances.

(e) Compare public deposit information reported by qualified public funds depositories and public depositors. That comparison shall be conducted for qualified public depositories based on established financial condition criteria of record on September 30.

(f) Verify the reports of any qualified public funds depository relating to public deposits it holds when necessary to protect the integrity of the public deposits program.

(g) Confirm public deposits, to the extent possible under current law, when needed.

(h) Require at his or her discretion the filing of any information or forms required under this chapter to be by electronic data transmission. Those filings of information or forms shall have the same enforceability as a signed writing.

(5) A qualified public funds depository shall:

(a) Within fifteen (15) days after the end of each calendar month or when requested by the Treasurer, submit to the Treasurer a written report, under oath, indicating the average daily balance of all public deposits held by it during the reported month, required collateral, a detailed schedule of all securities pledged as collateral, selected financial information, and any other information that the Treasurer determines necessary to administer this chapter.



219 (b) Provide to each public depositor annually, not
220 later than thirty (30) days following the public depositor's
221 fiscal year end, the following information on all open accounts
222 identified as a "public deposit" for that public depositor as of
223 its fiscal year end, to be used for confirmation purposes: the
224 federal employer identification number of the public funds
225 depository, the name on the deposit account record, the federal
226 employer identification number on the deposit account record, and
227 the account number, account type and actual account balance on
228 deposit. Any discrepancy found in the confirmation process shall
229 be reconciled within sixty (60) days of the public depositor's
230 fiscal year end.

231 (c) Submit to the Treasurer annually, not later than
232 sixty (60) days of the public depositor's fiscal year end, a
233 report of all public deposits held for the credit of all public
234 depositors at the close of business on each public depositor's
235 fiscal year end. The annual report shall consist of public
236 deposit information in a report format prescribed by the
237 Treasurer. The manner of required filing may be as a signed
238 writing or electronic data transmission, at the discretion of the
239 Treasurer.

240 (6) Public depositors shall comply with the following
241 requirements:

242 (a) A public depositor shall ensure that the name of
243 the public depositor and its tax identification number are on the



account or certificate provided to the public depositor by the qualified public depository in a manner sufficient to disclose the identity of the public depositor;

(b) Not later than thirty (30) days following its fiscal year end, a public depositor shall notify the State Treasurer of its official name, address, federal tax identification number, and provide a listing of all accounts that it had with qualified public depositories, including the deposit balance in those accounts, as of its fiscal year end. A public entity established during the year shall furnish its official name, address and federal tax identification number to the State Treasurer before making any public deposit.

(7) Any information contained in a report of a qualified public funds depository required under Section 27-105-5 or 27-105-6 shall be considered confidential and exempt from disclosure and not subject to dissemination to anyone other than the State Treasurer and the State Auditor under the provisions of this chapter.

(8) The State Treasurer is empowered to assume responsibility as successor pledgee as agent on behalf of any county, municipality or other governmental unit of any and all collateral pledged before July 1, 2001, to that county, municipality or governmental unit by that public funds depository. Upon assuming responsibility as successor pledgee as provided in this subsection (8), the State Treasurer is empowered to sign such



documents on behalf of any such county, municipality or governmental unit as may be required by a trustee custodian, including, but not limited to, any documentation necessary to change the pledgee from the county, municipality or governmental unit as pledgee to the State Treasurer as agent.

(9) As used in this section and Section 27-105-6, the following terms shall have the meanings set forth below:

(a) The term "regulatory capital" means the bank's regulatory (Tier 1) capital, as calculated in accordance with 12 CFR Part 3, 12 CFR Part 217 or 12 CFR 324, as now enacted, or as amended or replaced, as applicable to the applicant.

(b) The term "assets classified loss" means:

(i) When measured as of the date of examination of the financial institution, those assets that have been determined by an evaluation made by a state or federal examiner as of that date to be a loss; and

(ii) When measured as of any other date, those assets:

(A) That have been determined: 1. by an evaluation made by a state or federal examiner at the most recent examination of the financial institution to be a loss, or 2. by evaluations made by the financial institution since its most recent examination to be a loss; and

(B) That have not been charged off from the financial institution's books or collected.



294 (c) The term "intangible assets" means those assets
295 that would be required to be reported in the item for intangible
296 assets in a Federal Deposit Insurance Corporation (FDIC) banking
297 institution's "Reports of Condition and Income" (Call Reports),
298 regardless of whether the institution is insured by the FDIC.

299 (d) The term "mandatory convertible debt" means a
300 subordinated debt instrument meeting the requirements of the
301 Federal Deposit Insurance Corporation that requires the issuer to
302 convert the instrument into common or perpetual preferred stock by
303 a date at or before the maturity of the debt instrument. The
304 maturity of these instruments must be twelve (12) years or less.

305 (e) The term "mortgage servicing rights" means those
306 assets (net of any related valuation allowances) that result from
307 contracts to service loans secured by real estate (that have been
308 securitized or are owned by others) for which the benefits of
309 servicing are expected to more than adequately compensate the
310 servicer for performing the servicing.

311 (f) The term "perpetual preferred stock" means a
312 preferred stock that does not have a stated maturity date or that
313 cannot be redeemed at the option of the holder and that has no
314 other provisions that will require future redemption of the issue.
315 It includes those issues of preferred stock that automatically
316 convert into common stock at a stated date. It excludes those
317 issues, the rate on which increases, or can increase, in such a



manner that would effectively require the issuer to redeem the issue.

(g) The term "total assets" means the average of total assets of any financial institution that are or would be included in a Federal Deposit Insurance Corporation (FDIC) banking institution's "Reports of Condition and Income" (Call Reports), regardless of whether the institution is insured by the FDIC, and minus intangible assets other than mortgage servicing rights.

(h) The term "average daily balance" means the average daily balance of public deposits of each governmental unit held during the reported month. The average daily balances must be determined by totaling, by account, the daily balance held by the depositor and then dividing the total by the number of calendar days in the month. Deposit insurance is then deducted from each public depositor's balance and the resulting amounts are totaled to obtain the average daily balance.

(i) The term "public funds" means funds in which the entire beneficial interest is owned by a governmental unit or funds held in the name of a public official of a governmental unit charged with the duty to receive or administer funds and acting in such official capacity.

(j) The term "governmental unit" means the State of Mississippi, and any office, department, agency, division, bureau, commission, board, institution, hospital, college, university, airport authority or other instrumentality thereof, whether or not



such body or instrumentality has the authority to levy taxes or to sue or be sued in its own name. Further, it shall mean any body politic or body corporate other than the state responsible for governmental activities only in geographic areas smaller than that of the state, including, but not limited to, any county, municipality, school district, community hospital as defined in Section 41-13-10, airport authority or other instrumentality thereof, whether or not such body or instrumentality has the authority to levy taxes or to sue or be sued in its own name. It is the intent to include all state and political subdivisions or instrumentalities thereof whether specifically recited herein or not.

SECTION 2. Section 27-105-303, Mississippi Code of 1972, is amended as follows:

27-105-303. The amount of money belonging to the several funds in the county treasury of each county in the state which is required to meet the current needs and demands of no more than seven (7) business days shall be kept on deposit in or through qualified financial institutions whose accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or in or through United States Treasury-certified Community Development Financial Institutions Fund Credit Union whose accounts are insured by the National Credit Union Administration, or in or through some of them doing business in the several counties, provided that where there is no



368 such financial institution in a county qualifying as a depository,
369 some such financial institution in an adjoining county may qualify
370 as a depository. All such deposits shall be subject to payment
371 when demanded on warrant issued by the clerk of the board of
372 supervisors on the order of the * * * board or on the allowance of
373 a court authorized to allow the same. Each financial institution
374 qualifying as such county depository shall not be required to pay
375 interest to the county for the privilege of holding the deposits
376 unless federal law permits the payment of interest on such
377 deposits, in which case the maximum permitted interest rate shall
378 be paid on such deposits. Where more than one (1) financial
379 institution in a county offers to qualify as a depository, the
380 board of supervisors may allocate such money to each qualified
381 financial institution as nearly as practicable in proportion to
382 their respective net worth, and may adopt the rules for receiving
383 such deposits.

384 **SECTION 3.** Section 27-105-305, Mississippi Code of 1972, is
385 amended as follows:

386 27-105-305. The board of supervisors at the regular December
387 1997 meeting, and annually thereafter or, in the discretion of the
388 board of supervisors, thereafter at such other interval of time as
389 determined by the board of supervisors, up to every four (4)
390 years, shall give notice to all financial institutions in its
391 county whose accounts are insured by the Federal Deposit Insurance
392 Corporation (or any successor thereto), and to all United States



393 Treasury-certified Community Development Financial Institutions
394 Fund Credit Union in its county whose accounts are insured by the
395 National Credit Union Administration (or any successor thereto),
396 by publication, that bids will be received from financial
397 institutions at the following January meeting, or some subsequent
398 meeting, for the privilege of keeping the county funds, or any
399 part thereof, which notice shall refer by name to this article and
400 it shall not be necessary to incorporate in the notice the
401 provisions of this article; and at the January meeting, or a
402 subsequent meeting as may be designated in the notice, as the case
403 may be, the board of supervisors shall receive such bids or
404 proposals as the financial institutions may make for the privilege
405 of keeping the county funds, or any part thereof. The bids or
406 proposals shall designate the kind of security as authorized by
407 law which the financial institutions propose to give as security
408 for funds, and the board shall cause the county funds and all
409 other funds in the hands of the county treasurer to be deposited
410 in the qualified financial institution or qualified institutions
411 proposing the best terms, taking into consideration all material
412 aspects of the proposal, including, but not limited to, net
413 earnings, account costs, costs of transfer of accounts from
414 existing depositories, banking services provided and other service
415 considerations, and meeting the requirements provided in Section
416 27-105-315, having in view the safety of such funds. However, if
417 a bank submits a bid or offer to the board of supervisors to act



as a depository for the county and the bid or offer, if accepted, would result in a contract in which a member of the board of supervisors would have a direct or indirect interest, the board of supervisors may elect to not open or consider any bids received and submit the matter to the State Treasurer. Upon receipt of the bids received from the board of supervisors, the State Treasurer shall open and consider the bids received, select a depository or depositories, make all decisions and take any action within the authority of the board of supervisors under this section relating to the selection of a depository or depositories, including:

- (a) The selecting and opening of accounts;
- (b) Approval of securities;
- (c) The transfer and deposit of funds between depositories; and
- (d) All other related functions.

If the board of supervisors elects to open and consider the bids or offers, it shall not open or consider any bid which, if accepted, would result in a contract in which a member of the board of supervisors would have a direct or indirect interest. The board is prohibited from designating a depository during the last year of a four-year term.

SECTION 4. Section 27-105-315, Mississippi Code of 1972, is amended as follows:

27-105-315. (1) Any financial institution in a county, or in an adjoining county where there is no financial institution in



the county qualifying, whose accounts are insured by the Federal Deposit Insurance Corporation or any successors to that insurance corporation, and any United States Treasury-certified Community Development Financial Institutions Fund Credit Union in a county, or in an adjoining county where there is no such credit union in the county qualifying, whose accounts are insured by the National Credit Union Administration or any successors to that insurance administration, may qualify as a county depository, if the institution qualifies as a public funds depository under Section 27-105-5 or a public funds guaranty pool member under Sections 27-105-5 and 27-105-6. The qualified financial institution shall secure those deposits by placing qualified securities on deposit with the State Treasurer as provided in Section 27-105-5.

(2) Notwithstanding the foregoing, any financial institution whether or not meeting the prescribed ratio requirement whose accounts are insured by the Federal Deposit Insurance Corporation or any successors to that insurance corporation, or any United States Treasury-certified Community Development Financial Institutions Fund Credit Union whether or not meeting the prescribed ratio requirement whose accounts are insured by the National Credit Union Administration or any successors to that insurance administration, may receive county funds in an amount not exceeding the amount that is insured by that insurance corporation or insurance administration and may qualify as a county depository to the extent of that insurance.



(3) For purposes of the foregoing subsection (2), a deposit or investment shall be within the amount that is insured by that insurance corporation or insurance administration if the deposit or investment is made on the following conditions:

(a) The financial institution arranges for the investment of the funds in interest-bearing accounts in one or more banks or savings and loan associations wherever located in the United States, for the account of the public depositor;

(b) The full amount of the principal and accrued interest of each such interest-bearing account is insured by the Federal Deposit Insurance Corporation or by the National Credit Union Administration;

(c) The financial institution acts as custodian for the public depositor with respect to the funds invested in the public depositor's account; and

(d) At the same time that such interest-bearing accounts are invested, the financial institution receives an amount of deposits from customers of other financial institutions located in the United States equal to or greater than the amount of the funds invested by the public depositor through the financial institution.

SECTION 5. Section 27-105-353, Mississippi Code of 1972, is amended as follows:

27-105-353. The board of mayor and aldermen or other municipal authorities of each and every * * * municipality in the



state are required to select a depository in the manner provided by law for the selection of county depositories, including the same intervals of time as counties for receiving bids from financial institutions for the privilege of holding public funds. Before being selected, a depository must be certified by the State Treasurer as meeting the capital ratio requirement specified in Section 27-105-5 or 27-105-6. An institution shall not be a qualified depository and shall not receive any municipal funds unless its ratio has been certified annually by the State Treasurer as meeting the prescribed requirement. Notwithstanding the foregoing, any financial institution whether or not meeting the prescribed ratio requirement whose accounts are insured by the Federal Deposit Insurance Corporation or any successors to that insurance corporation, or any United States Treasury-certified Community Development Financial Institutions Fund Credit Union whether or not meeting the prescribed ratio requirement whose accounts are insured by the National Credit Union Administration or any successors to that insurance administration, may receive municipal funds in an amount not exceeding the amount that is insured by that insurance corporation or insurance administration and may qualify as a municipal depository to the extent of that insurance as prescribed in Section 27-105-315.

SECTION 6. This act shall take effect and be in force from and after July 1, 2025.

