

By: Guice

To: Banks and Banking

HOUSE BILL NO. 520
(As Passed the House)

1 AN ACT TO AMEND SECTIONS 81-8-1, 81-8-3 AND 81-23-9,
2 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A DEFINITION OF BANKER'S
3 BANK; TO ALLOW OUT-OF-STATE BANK HOLDING COMPANIES TO ACQUIRE
4 BANKER'S BANKS THAT HAVE BEEN IN EXISTENCE LESS THAN FIVE YEARS;
5 TO ALLOW INTERSTATE BRANCHING TRANSACTIONS INVOLVING BANKER'S
6 BANKS; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 81-8-1, Mississippi Code of 1972, is
9 amended as follows:

10 81-8-1. For the purposes of this chapter, the following
11 words shall have the following meanings:

12 (a) The term "acquire" means:

13 (i) The merger or consolidation of one bank
14 holding company with another;

15 (ii) The acquisition by a bank holding company of
16 the direct or indirect ownership or control of voting shares of a
17 bank or of another bank holding company if, after such
18 acquisition, such bank holding company will directly or indirectly
19 own or control more than five percent (5%) of any class of voting
20 shares of such bank holding company or bank;

21 (iii) The direct or indirect acquisition by a bank
22 holding company of all or substantially all of the assets of a
23 bank or of another bank holding company; or

24 (iv) Any other action that would result in the
25 direct or indirect control by a bank holding company of a bank or
26 of another bank holding company.

27 (b) "Bank" means any "insured bank" as such term is
28 defined in Section 3(h) of the Federal Deposit Insurance Act, 12

29 USCS Section 1813(h), or any institution eligible to become an
30 insured bank as such term is defined therein, which, in either
31 event:

32 (i) Accepts deposits that the depositor has a
33 legal right to withdraw on demand; and

34 (ii) Engages in the business of making commercial
35 loans.

36 (c) "Banker's bank" has the same meaning as the term is
37 defined in 12 USCS Section 24.

38 (d) "Banking office" means any bank, branch of a bank,
39 or any other office at which a bank accepts deposits; however, the
40 term "banking office" shall not include:

41 (i) Unmanned automatic teller machines, point of
42 sale terminals, or other similar unmanned electronic banking
43 facilities at which deposits may be accepted;

44 (ii) Offices located outside the United States; or

45 (iii) Loan production offices, representative
46 offices or other offices at which deposits are not accepted.

47 (e) "Bank holding company" means any company which is a
48 bank holding company under the federal Bank Holding Company Act of
49 1956, as amended, 12 USCS Section 1841(a)(1).

50 (f) "Commissioner" means the Commissioner of Banking
51 and Consumer Finance as provided for in Section 81-1-61.

52 (g) "Control" has the meaning set forth in Section
53 2(a)(2) of the federal Bank Holding Company Act of 1956, as
54 amended, 12 USCS Section 1841(a)(2).

55 (h) "Department" means the Mississippi Department of
56 Banking and Consumer Finance established in Section 81-1-59.

57 (i) "Deposits" means all demand, time and savings
58 deposits, without regard to the location of the depositor;
59 provided, however, that "deposits" shall not include any deposits
60 by banks. For purposes of this chapter, determinations of
61 deposits shall be made by reference to regulatory reports of
62 condition or similar reports made by or to state and federal
63 regulatory agencies.

64 (j) "Mississippi bank" means a bank organized under the
65 laws of this state, or a bank organized under the laws of the

66 United States which has its main office in Mississippi.

67 (k) "Mississippi bank holding company" means a bank
68 holding company in which the total Mississippi deposits of all
69 bank subsidiaries of such company exceed the total deposits of
70 such bank subsidiaries in any other state.

71 (l) The "principal place of business" of a bank holding
72 company is the state in which the total deposits of the bank
73 subsidiaries of the bank holding company are the largest or the
74 state designated by the bank holding company.

75 (m) "Out-of-state bank holding company" means a bank
76 holding company other than a Mississippi bank holding company.

77 (n) "Subsidiary" means that which is set forth in
78 Section 2(d) of the federal Bank Holding Company Act of 1956, as
79 amended, 12 USCS Section 1841(d).

80 SECTION 2. Section 81-8-3, Mississippi Code of 1972, is
81 amended as follows:

82 81-8-3. (1) An out-of-state bank holding company may
83 establish a bank in Mississippi only by acquiring a Mississippi
84 bank or Mississippi bank holding company upon approval by the
85 commissioner, which approval:

86 (a) Determines that the Mississippi bank sought to be
87 acquired has been in existence and continuously operating for more
88 than five (5) years or that the Mississippi bank subsidiary of the
89 Mississippi bank holding company sought to be acquired has been in
90 existence and continuously operating for more than five (5) years;

91 (b) Determines that the acquisition will not result in
92 a violation of Sections 81-5-28, 81-7-7, 81-7-8 and 81-7-19.

93 (c) Determines that a copy of the completed application
94 or applications which are filed with the appropriate federal bank
95 regulatory authority seeking approval of the acquisition, and a
96 consent to service of process (all on such form or forms as the
97 commissioner by regulation may require) shall have been filed with
98 the commissioner for at least sixty (60) days, and notice of such

99 acquisition, specifying the name of the out-of-state bank holding
100 company, the name of the Mississippi bank or Mississippi bank
101 holding company sought to be acquired and a brief description of
102 the transaction shall have been published once in a newspaper of
103 general circulation in each county in which the Mississippi bank
104 or the subsidiary of the Mississippi bank holding company has
105 banking offices.

106 (2) Nothing in this section shall prohibit the acquisition
107 by an out-of-state bank holding company of all or substantially
108 all of the shares of (a) a bank organized solely for the purpose
109 of facilitating the acquisition of a bank which has been in
110 existence and continuously operated as a bank for more than five
111 (5) years, or (b) a banker's bank that has been in existence less
112 than five (5) years, if the acquisition has otherwise been
113 approved pursuant to this section.

114 (3) Notwithstanding the foregoing or any other provision of
115 this chapter to the contrary, a Mississippi bank may enter into an
116 interstate branching transaction as defined by and pursuant to
117 Chapter 23, Title 81, Mississippi Code of 1972, known as the
118 Interstate Bank Branching Act.

119 SECTION 3. Section 81-23-9, Mississippi Code of 1972, is
120 amended as follows:

121 81-23-9. (1) An interstate branching transaction shall not
122 be permitted under this chapter if, upon consummation of such
123 transaction, the resulting bank would control in excess of
124 twenty-five percent (25%) of the total deposits of all offices
125 located in the State of Mississippi of commercial banks, savings
126 banks, savings and loan associations and credit unions in the
127 State of Mississippi, as determined according to Section 81-7-8.

128 (2) An interstate branching transaction resulting in:

129 (a) The acquisition by an out-of-state bank of a
130 Mississippi bank,

131 (b) The acquisition of all or substantially all of the

132 assets (including all or substantially all of the branches) of a
133 Mississippi bank, or

134 (c) The merger or consolidation of a Mississippi bank
135 with or into another bank shall not be permitted unless such
136 Mississippi bank has been in continuous operation as a state or
137 federally chartered bank, savings bank or savings association for
138 at least its previous five (5) years of existence, as determined
139 according to Section 81-7-8, or is defined as a banker's bank
140 according to Section 81-8-1.

141 (3) In the sale of any insolvent bank made pursuant to the
142 provisions of Chapter 9, Title 81, Mississippi Code of 1972, or
143 pursuant to federal banking laws, the restrictions contained in
144 subsections (1) and (2) of this section shall not apply to prevent
145 the acquisition of such insolvent bank by another bank; and,
146 additionally, neither restriction shall apply to prohibit any
147 purchasing bank from retaining any established branches of the
148 insolvent bank which the purchasing bank would otherwise be
149 prohibited from establishing.

150 SECTION 4. This act shall take effect and be in force from
151 and after July 1, 2000.