

By: Guice

To: Banks and Banking

HOUSE BILL NO. 854
(As Passed the House)

1 AN ACT TO AMEND SECTIONS 81-5-7, 81-12-95, 81-13-73 AND
2 81-14-153, MISSISSIPPI CODE OF 1972, TO REVISE THE RECORD-KEEPING
3 REQUIREMENTS FOR STATE BANKS, SAVINGS ASSOCIATIONS, CREDIT UNIONS
4 AND SAVINGS BANKS; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 81-5-7, Mississippi Code of 1972, is
7 amended as follows:[JMR1]

8 81-5-7. (1) (a) Each bank shall retain permanently the
9 minute books of meetings of its stockholders and directors, its
10 capital stock ledger and capital stock certificate ledger or
11 stubs, its general ledger, its daily statements of condition, its
12 general journal, its investment ledger, its copies of bank
13 examination reports, and all ledger sheets showing unpaid balances
14 in favor of depositors.

15 (b) The Commissioner of Banking and Consumer Finance
16 shall from time to time prescribe by order and so notify each
17 bank, a classified list of such other records which shall be
18 preserved and the length of time therefor.

19 Prior to issuing any such regulation, the commissioner shall
20 consider:

21 (i) Actions at law and administrative proceedings
22 in which the production of bank records might be necessary or
23 desirable.

24 (ii) State and federal statutes of limitation
25 applicable to such actions or proceedings.

26 (iii) The availability of information contained in
27 bank records from other sources.

(iv) Such other matters as the commissioner shall deem pertinent in order that his regulations will require banks to retain their records for as short a period as is commensurate with the interests of bank customers and shareholders and of the people of this state in having bank records available.

(c) Any state bank may dispose of any record which has been retained for the period prescribed by or in accordance with the terms of this section for retention of records of its class, and shall thereafter be under no duty to produce such record in any action or proceeding.

(d) Any state bank may cause any or all records at any time in its custody to be reproduced in a format of storage commonly used, whether electronic, imaged, magnetic, microphotographic, or otherwise, and any reproduction so made shall have the same force and effect as the original thereof and be admitted in evidence equally with the original.

(e) To the extent that they are not in contravention of any law of the United States, the provisions of this section shall apply to all banks doing business in this state.

(2) No liability shall accrue against any bank destroying any records held for the period of time as provided in subsection (1) of this section, and in any cause or proceeding in which any such records or files may be called in question or be demanded of the bank or any officer or employee thereof, a showing that such records or files have been destroyed in accordance with the terms of this section shall be sufficient reason for the failure to produce them.

SECTION 2. Section 81-12-95, Mississippi Code of 1972, is amended as follows:[JMR2]

81-12-95. Every association shall keep at the home office correct and complete minutes of the proceedings and meetings of members, stockholders, directors and the executive committee. Complete records of all business transacted at the home office

61 shall be maintained at the home office, and control records of all
62 business transacted at each branch office or agency shall be
63 maintained at the home office, except as permitted below._
64 However, any state savings association may cause any or all
65 records at any time in its custody to be reproduced in a format of
66 storage commonly used, whether electronic, imaged, magnetic,
67 microphotographic, or otherwise, and any reproduction so made
68 shall have the same force and effect as the original thereof and
69 be admitted in evidence equally with the original.

70 SECTION 3. Section 81-13-73, Mississippi Code of 1972, is
71 amended as follows:[JMR3]

72 81-13-73. Each credit union shall keep sufficient books and
73 accounts in such form as shall be approved by the Commissioner of
74 Banking and Consumer Finance in accordance with the NCUA
75 guidelines. However, any state credit union may cause any or all
76 records, books and accounts at any time in its custody to be
77 reproduced in a format of storage commonly used, whether
78 electronic, imaged, magnetic, microphotographic, or otherwise, and
79 any reproduction so made shall have the same force and effect as
80 the original thereof and be admitted in evidence equally with the
81 original.

82 SECTION 4. Section 81-14-153, Mississippi Code of 1972, is
83 amended as follows:[JMR4]

84 81-14-153. (1) The commissioner shall have the authority to
85 promulgate rules, instructions and regulations necessary to the
86 discharge of his duties and powers for the supervision and
87 regulation of savings banks and for the protection of the public
88 investment in savings banks.

89 (2) Without limiting the generality of subsection (1),
90 rules, instructions and regulations may be promulgated with
91 respect to:

- 92 (a) Reserve requirements;
93 (b) Stock ownership and dividends;

(c) Stock transfers;

(d) Incorporators, stockholders, directors, officers and employees of a savings bank;

(e) Bylaws;

(f) The operation of savings banks;

(g) Deposit accounts, bonus plans and contracts for savings programs;

(h) Loans and loan expenses;

(i) Investments;

(j) Forms and definitions;

(k) Types of financial records to be maintained by savings banks;

(l) Retention periods of various financial records;

(m) Internal control procedures of savings banks;

(n) Conduct and management of savings banks;

(o) Chartering and branching;

(p) Liquidations;

(q) Mergers;

(r) Conversions;

(s) Reports which may be required by the commissioner;

(t) Conflicts of interest;

(u) Service corporations; and

(v) Holding companies.

(3) Any state savings bank may cause any or all of its records in its custody to be reproduced in a format of storage commonly used, whether electronic, imaged, magnetic, microphotographic, or otherwise, and any reproduction so made shall have the same force and effect as the original thereof and be admitted in evidence equally with the original.

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SECTION 2. This act shall take effect and be in force from and after its passage.