

By: Representative Guice

To: Banking and Financial Services

HOUSE BILL NO. 1046

1 AN ACT TO AMEND SECTION 81-7-7, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE OUT-OF-STATE BANKS THAT DO NOT ALREADY MAINTAIN A BRANCH
3 IN MISSISSIPPI TO ESTABLISH AND MAINTAIN A BRANCH IN MISSISSIPPI
4 THROUGH THE ACQUISITION OF A BRANCH BANK OR BRANCH OFFICE OR THE
5 ESTABLISHMENT OF A BRANCH BANK DE NOVO; TO AMEND SECTION 81-7-23,
6 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; TO
7 BRING FORWARD SECTION 81-7-8, MISSISSIPPI CODE OF 1972, WHICH
8 PROVIDES CERTAIN RESTRICTIONS ON THE ESTABLISHMENT OF BRANCH
9 BANKS; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 81-7-7, Mississippi Code of 1972, is
12 amended as follows:

13 81-7-7. (1) For purposes of this section and Section
14 81-7-8, "branch bank de novo" or "branching de novo" refers to a
15 branch established by the opening of a new branch bank and
16 includes a branch bank or branch office acquired from another bank
17 without acquiring substantially all of the assets of the other
18 bank.

19 (2) Subject to the restrictions contained in Section 81-7-8,
20 a bank may establish:

21 (a) Branch banks de novo * * *, subject to compliance
22 with the procedures set forth in Section 81-7-1; and

23 (b) Branch banks by the merger or consolidation with,
24 or the purchase of all or substantially all of the assets of, any
25 other bank located in Mississippi * * *.

26 * * *

27 Compliance with the procedures set forth in Section 81-7-1 is
28 not required to establish branch banks under paragraph (b) of this
29 subsection.

30 * * *

31 (3) The bank resulting from a merger, consolidation or
32 purchase may retain and operate as branch banks any of the parent
33 offices, branch banks or branch offices of the banks participating
34 in the transaction.

35 * * *

36 (4) An out-of-state bank that does not already maintain a
37 branch in Mississippi and that meets the requirements of this
38 title may establish and maintain a branch in Mississippi through
39 the acquisition of a branch bank or branch office or the
40 establishment of a branch bank de novo, subject to compliance with
41 the procedures set forth in Section 81-7-1 for establishment of a
42 branch bank de novo. However, no branch of an out-of-state bank
43 may be established through the acquisition of a branch bank or
44 branch office or the establishment of a branch bank de novo unless
45 the laws of the home state of the out-of-state bank permit
46 Mississippi banks to establish and maintain branches in that state
47 through the acquisition of a branch bank or branch office or the
48 establishment of a branch bank de novo under substantially the
49 same terms and conditions as set forth in this title.

50 **SECTION 2.** Section 81-7-23, Mississippi Code of 1972, is
51 amended as follows:

52 81-7-23. The provisions of this chapter apply to branching
53 within the State of Mississippi by:

54 (a) Banks chartered by the State of Mississippi or
55 national banks having their headquarters in the State of
56 Mississippi; * * *

57 (b) Out-of-state banks which maintain a branch in the
58 State of Mississippi subsequent to an interstate branching
59 transaction pursuant to Chapter 23, Title 81, Mississippi Code of
60 1972, known as the "Interstate Bank Branching Act"; and

61 (c) Out-of-state banks that establish a branch in
62 Mississippi through the acquisition of a branch bank or branch
63 office or the establishment of a branch bank de novo.

64 **SECTION 3.** Section 81-7-8, Mississippi Code of 1972, is
65 brought forward as follows:

66 81-7-8. (1) A bank chartered after October 16, 1985, may
67 neither establish a branch by merger, consolidation or purchase as
68 provided in Section 81-7-7(2)(b) nor become a branch as the result
69 of such a transaction, unless such bank has been in continuous
70 operation as a state or federally chartered bank, savings
71 association or savings bank for at least its previous five (5)
72 years of existence. For purposes of the five-year requirement, a
73 bank which has been involved in an interim bank merger shall be
74 deemed to have been in operation from the date it began operation
75 under the original charter. "Interim bank merger" means the
76 technique by which a bank holding company obtains a new bank
77 charter solely for the purpose of merging an existing bank into
78 the bank for which the charter is sought or solely for the purpose
79 of merging the bank for which the charter is sought into an
80 existing bank.

81 (2) A bank is prohibited from establishing a branch by
82 merger, consolidation or purchase, as provided for in Section
83 81-7-7(2)(b), if upon such merger, consolidation or purchase the
84 surviving bank and all of its branch banks and branch offices
85 located in Mississippi would have combined deposits which exceed
86 twenty-five percent (25%) of the total deposits of all offices
87 located in Mississippi of commercial banks, savings banks, savings
88 and loan associations and credit unions. Determination of the
89 percentage of total deposit concentration limited by this
90 subsection shall be made based on data contained in the most
91 recent call reports or reports of condition furnished immediately
92 prior to the merger, consolidation or purchase to the appropriate
93 regulatory officials by the banks involved in the merger,
94 consolidation or purchase. "Appropriate regulatory officials"
95 means, for any national bank in Mississippi, the Comptroller of
96 the Currency of the United States or the Board of Governors of the

97 Federal Reserve System of the United States; "appropriate
98 regulatory officials" means, for any state-chartered bank in
99 Mississippi, the Commissioner of Banking and Consumer Finance. In
100 determining total deposits of all offices located in Mississippi
101 of commercial banks, savings banks, savings and loan associations
102 and credit unions, data shall be used as furnished by the
103 Department of Banking and Consumer Finance as of the most recent
104 calendar quarter for which complete data are available. For the
105 purpose of furnishing such data, the department shall obtain from
106 appropriate federal regulatory agencies the most recent data
107 available regarding the deposits of federally chartered
108 institutions. For purposes of this subsection and subsection (4)
109 of this section, "deposits" mean all individual, partnership,
110 corporate and government deposits (including, without limitation,
111 all demand, savings, time, certificates of deposit and other
112 similar depository accounts of individuals, partnerships,
113 corporations and governmental bodies).

114 (3) In the sale of any insolvent bank made pursuant to the
115 provisions of Chapter 9, Title 81, Mississippi Code of 1972, or
116 pursuant to federal banking laws, the restrictions contained in
117 subsections (1) and (2) of this section shall not apply to prevent
118 the acquisition of such insolvent bank by another bank; and,
119 additionally, neither restriction shall apply to prohibit any
120 purchasing bank from retaining any established branches of the
121 insolvent bank which the purchasing bank would otherwise be
122 prohibited from establishing.

123 (4) For branching purposes, a parent bank is considered to
124 be located where it was domiciled on June 30, 1986. For any bank
125 opening for business after that date, a parent bank shall be
126 considered for branching purposes to be located where it is first
127 domiciled. Upon a merger, consolidation or purchase as provided
128 for in Section 81-7-7(2)(b), the parent bank for branching
129 purposes of the surviving bank shall be considered to be at the

130 location of the parent bank for branching purposes of the bank
131 involved in such transaction which had the greater amount of
132 deposits based on data contained in the most recent call reports
133 or reports of condition furnished immediately prior to the merger,
134 consolidation or purchase to the appropriate regulatory officials
135 referred to in subsection (2) of this section.

136 (5) In order for a parent bank to establish a branch bank
137 through de novo branching, merger, consolidation or purchase after
138 June 30, 1986, the parent bank shall have prior to the approval of
139 any such branch application, and shall be expected to maintain,
140 primary capital and total capital ratios equal to or above the
141 minimum acceptable ratios established by the federal bank
142 regulatory agency which primarily regulates and examines such
143 bank. The components of capital and the method of computing the
144 capital ratios shall be those defined by the applicable federal
145 bank regulatory agency.

146 **SECTION 4.** This act shall take effect and be in force from
147 and after its passage.