

By: Representative Currie

To: Banking and Financial Services

HOUSE BILL NO. 1294

1 AN ACT TO AMEND SECTION 75-1-201, MISSISSIPPI CODE OF 1972,
 2 TO DEFINE THE TERM "CENTRAL BANK DIGITAL CURRENCY"; TO PROVIDE
 3 THAT THE TERM "MONEY" DOES NOT INCLUDE A CENTRAL BANK DIGITAL
 4 CURRENCY; TO AMEND SECTION 75-15-3, MISSISSIPPI CODE OF 1972, TO
 5 EXCLUDE CENTRAL BANK DIGITAL CURRENCY FROM THE TERMS "CHECK",
 6 "MONETARY VALUE" AND "PERSONAL MONEY ORDER"; TO BRING FORWARD
 7 SECTION 75-15-7, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE
 8 MISSISSIPPI MONEY TRANSMITTERS ACT, FOR PURPOSES OF POSSIBLE
 9 AMENDMENT; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 75-1-201, Mississippi Code of 1972, is
 12 amended as follows:

13 75-1-201. (a) Unless the context otherwise requires, words
 14 or phrases defined in this section, or in the additional
 15 definitions contained in other articles of the Uniform Commercial
 16 Code contained in other chapters of this title that apply to
 17 particular chapters or parts thereof, have the meanings stated.

18 (b) Subject to definitions contained in other articles of
 19 the Uniform Commercial Code that apply to particular articles or
 20 parts thereof:



21 (1) "Action," in the sense of a judicial proceeding,
22 includes recoupment, counterclaim, setoff, suit in equity, and any
23 other proceeding in which rights are determined.

24 (2) "Aggrieved party" means a party entitled to pursue
25 a remedy.

26 (3) "Agreement," as distinguished from "contract,"
27 means the bargain of the parties in fact, as found in their
28 language or inferred from other circumstances, including course of
29 performance, course of dealing, or usage of trade as provided in
30 Section 75-1-303.

31 (4) "Bank" means a person engaged in the business of
32 banking and includes a savings bank, savings and loan association,
33 credit union, and trust company.

34 (5) "Bearer" means a person in possession of a
35 negotiable instrument, document of title, or certificated security
36 that is payable to bearer or indorsed in blank.

37 (6) "Bill of lading" means a document evidencing the
38 receipt of goods for shipment issued by a person engaged in the
39 business of transporting or forwarding goods.

40 (7) "Branch" includes a separately incorporated foreign
41 branch of a bank.

42 (8) "Burden of establishing a fact" means the burden of
43 persuading the trier of fact that the existence of the fact is
44 more probable than its nonexistence.



45 (9) "Buyer in ordinary course of business" means a
46 person that buys goods in good faith, without knowledge that the
47 sale violates the rights of another person in the goods, and in
48 the ordinary course from a person, other than a pawnbroker, in the
49 business of selling goods of that kind. A person buys goods in
50 the ordinary course if the sale to the person comports with the
51 usual or customary practices in the kind of business in which the
52 seller is engaged or with the seller's own usual or customary
53 practices. A person that sells oil, gas, or other minerals at the
54 wellhead or minehead is a person in the business of selling goods
55 of that kind. A buyer in ordinary course of business may buy for
56 cash, by exchange of other property, or on secured or unsecured
57 credit, and may acquire goods or documents of title under a
58 preexisting contract for sale. Only a buyer that takes possession
59 of the goods or has a right to recover the goods from the seller
60 under Article 2 may be a buyer in ordinary course of business.
61 'Buyer in ordinary course of business' does not include a person
62 that acquires goods in a transfer in bulk or as security for or in
63 total or partial satisfaction of a money debt.

64 (10) "Central bank digital currency" means a digital
65 currency, a digital medium of exchange, or a digital monetary unit
66 of account issued by the United States Federal Reserve System, a
67 federal agency, a foreign government, a foreign central bank, or a
68 foreign reserve system, that is made directly available to a
69 consumer by such entities. The term includes a digital currency,



70 a digital medium of exchange, or a digital monetary unit of
71 account issued by the United States Federal Reserve System, a
72 federal agency, a foreign government, a foreign central bank, or a
73 foreign reserve system, that is processed or validated directly by
74 such entities.

75 (* * *11) "Conspicuous," with reference to a term,
76 means so written, displayed, or presented that a reasonable person
77 against which it is to operate ought to have noticed it. Whether
78 a term is "conspicuous" or not is a decision for the court.

79 Conspicuous terms include the following:

80 (A) A heading in capitals equal to or greater in
81 size than the surrounding text, or in contrasting type, font, or
82 color to the surrounding text of the same or lesser size; and

83 (B) Language in the body of a record or display in
84 larger type than the surrounding text, or in contrasting type,
85 font, or color to the surrounding text of the same size, or set
86 off from surrounding text of the same size by symbols or other
87 marks that call attention to the language.

88 (* * *12) "Consumer" means an individual who enters
89 into a transaction primarily for personal, family, or household
90 purposes.

91 (* * *13) "Contract," as distinguished from
92 "agreement," means the total legal obligation that results from
93 the parties' agreement as determined by the Uniform Commercial
94 Code as supplemented by any other applicable laws.



95 (* * *14) "Creditor" includes a general creditor, a
96 secured creditor, a lien creditor, and any representative of
97 creditors, including an assignee for the benefit of creditors, a
98 trustee in bankruptcy, a receiver in equity, and an executor or
99 administrator of an insolvent debtor's or assignor's estate.

100 (* * *15) "Defendant" includes a person in the
101 position of defendant in a counterclaim, cross-claim, or
102 third-party claim.

103 (* * *16) "Delivery," with respect to an instrument,
104 document of title, or chattel paper, means voluntary transfer of
105 possession.

106 (* * *17) "Document of title" includes bill of lading,
107 dock warrant, dock receipt, warehouse receipt or order for the
108 delivery of goods, and also any other document which in the
109 regular course of business or financing is treated as adequately
110 evidencing that the person in possession of it is entitled to
111 receive, hold, and dispose of the document and the goods it
112 covers. To be a document of title, a document must purport to be
113 issued by or addressed to a bailee and purport to cover goods in
114 the bailee's possession which are either identified or are
115 fungible portions of an identified mass.

116 (* * *18) "Fault" means a default, breach, or wrongful
117 act or omission.

118 (* * *19) "Fungible goods" means:



119 (A) Goods of which any unit, by nature or usage of
120 trade, is the equivalent of any other like unit; or

121 (B) Goods that by agreement are treated as
122 equivalent.

123 (* * *20) "Genuine" means free of forgery or
124 counterfeiting.

125 (* * *21) "Good faith," except as otherwise provided
126 in Article 5, means honesty in fact and the observance of
127 reasonable commercial standards of fair dealing.

128 (* * *22) "Holder" means:

129 (A) The person in possession of a negotiable
130 instrument that is payable either to bearer or to an identified
131 person that is the person in possession; or

132 (B) The person in possession of a document of
133 title if the goods are deliverable either to bearer or to the
134 order of the person in possession.

135 (* * *23) "Insolvency proceeding" includes an
136 assignment for the benefit of creditors or other proceeding
137 intended to liquidate or rehabilitate the estate of the person
138 involved.

139 (* * *24) "Insolvent" means:

140 (A) Having generally ceased to pay debts in the
141 ordinary course of business other than as a result of bona fide
142 dispute;



143 (B) Being unable to pay debts as they become due;
144 or

145 (C) Being insolvent within the meaning of federal
146 bankruptcy law.

147 (* * * 25) "Money" means a medium of exchange currently
148 authorized or adopted by a domestic or foreign government. The
149 term includes a monetary unit of account established by an
150 intergovernmental organization or by agreement between two (2) or
151 more countries. The term "money" does not include a central bank
152 digital currency.

153 (* * * 26) "Organization" means a person other than an
154 individual.

155 (* * * 27) "Party," as distinguished from "third
156 party," means a person that has engaged in a transaction or made
157 an agreement subject to the Uniform Commercial Code.

158 (* * * 28) "Person" means an individual, corporation,
159 business trust, estate, trust, partnership, limited liability
160 company, association, joint venture, government, governmental
161 subdivision, agency, or instrumentality, public corporation, or
162 any other legal or commercial entity.

163 (* * * 29) "Present value" means the amount as of a
164 date certain of one or more sums payable in the future, discounted
165 to the date certain by use of either an interest rate specified by
166 the parties if that rate is not manifestly unreasonable at the
167 time the transaction is entered into or, if an interest rate is



168 not so specified, a commercially reasonable rate that takes into
169 account the facts and circumstances at the time the transaction is
170 entered into.

171 (* * *30) "Purchase" means taking by sale, lease,
172 discount, negotiation, mortgage, pledge, lien, security interest,
173 issue or reissue, gift, or any other voluntary transaction
174 creating an interest in property.

175 (* * *31) "Purchaser" means a person that takes by
176 purchase.

177 (* * *32) "Record" means information that is inscribed
178 on a tangible medium or that is stored in an electronic or other
179 medium and is retrievable in perceivable form.

180 (* * *33) "Remedy" means any remedial right to which
181 an aggrieved party is entitled with or without resort to a
182 tribunal.

183 (* * *34) "Representative" means a person empowered to
184 act for another, including an agent, an officer of a corporation
185 or association, and a trustee, executor, or administrator of an
186 estate.

187 (* * *35) "Right" includes remedy.

188 (* * *36) "Security interest" means an interest in
189 personal property or fixtures which secures payment or performance
190 of an obligation. "Security interest" includes any interest of a
191 consignor and a buyer of accounts, chattel paper, a payment
192 intangible, or a promissory note in a transaction that is subject



193 to Article 9. "Security interest" does not include the special
194 property interest of a buyer of goods on identification of those
195 goods to a contract for sale under Section 75-2-401, but a buyer
196 may also acquire a "security interest" by complying with Article
197 9. Except as otherwise provided in Section 75-2-505, the right of
198 a seller or lessor of goods under Article 2 or 2A to retain or
199 acquire possession of the goods is not a "security interest," but
200 a seller or lessor may also acquire a "security interest" by
201 complying with Article 9. The retention or reservation of title
202 by a seller of goods notwithstanding shipment or delivery to the
203 buyer under Section 75-2-401 is limited in effect to a reservation
204 of a "security interest." Whether a transaction in the form of a
205 lease creates a "security interest" is determined pursuant to
206 Section 75-1-203.

207 (* * *37) "Send" in connection with a writing, record,
208 or notice means:

209 (A) To deposit in the mail or deliver for
210 transmission by any other usual means of communication with
211 postage or cost of transmission provided for and properly
212 addressed and, in the case of an instrument, to an address
213 specified thereon or otherwise agreed, or if there be none to any
214 address reasonable under the circumstances; or

215 (B) In any other way to cause to be received any
216 record or notice within the time it would have arrived if properly
217 sent.



218 (* * *38) "Signed" includes using any symbol executed
219 or adopted with present intention to adopt or accept a writing.

220 (* * *39) "State" means a state of the United States,
221 the District of Columbia, Puerto Rico, the United States Virgin
222 Islands, or any territory or insular possession subject to the
223 jurisdiction of the United States.

224 (* * *40) "Surety" includes a guarantor or other
225 secondary obligor.

226 (* * *41) "Term" means a portion of an agreement that
227 relates to a particular matter.

228 (* * *42) "Unauthorized signature" means a signature
229 made without actual, implied, or apparent authority. The term
230 includes a forgery.

231 (* * *43) "Warehouse receipt" means a receipt issued
232 by a person engaged in the business of storing goods for hire.

233 (* * *44) "Writing" includes printing, typewriting,
234 or any other intentional reduction to tangible form. "Written"
235 has a corresponding meaning.

236 **SECTION 2.** Section 75-15-3, Mississippi Code of 1972, is
237 amended as follows:

238 75-15-3. For the purposes of this chapter:

239 (a) "Check" means any check, draft, money order,
240 personal money order or other instrument, including, but not
241 limited to, stored value cards, for the transmission or payment of
242 money. The format of a check may be either paper, electronic,



243 plastic or any combination thereof. The term "check" does not
244 include a central bank digital currency.

245 (b) "Commissioner" means the Commissioner of Banking
246 and Consumer Finance of the State of Mississippi.

247 (c) "Deliver" means to deliver a check to the first
248 person who in payment for same makes or purports to make a
249 remittance of or against the face amount thereof, whether or not
250 the deliverer also charges a fee in addition to the face amount,
251 and whether or not the deliverer signs the check.

252 (d) "Executive officer" means the licensee's president,
253 chairman of the executive committee, senior officer responsible
254 for the licensee's business, chief financial officer and any other
255 person who performs similar functions.

256 (e) "Licensee" means a person duly licensed by the
257 commissioner under this chapter.

258 (f) "Monetary value" means a medium of exchange,
259 whether or not redeemable in money. The term "monetary value"
260 does not include a central bank digital currency.

261 (g) "Money transmission" means to engage in the
262 business of the sale or issuance of checks or of receiving money
263 or monetary value for transmission to a location within or outside
264 the United States by any and all means, including, but not limited
265 to, wire, facsimile or electronic transfer. The term "money
266 transmission" does not include engaging in the business of the
267 sale or issuance of a central bank digital currency.



268 (h) "Outstanding check" means any check issued or sold
269 in Mississippi by or for the licensee that has been reported as
270 sold but not yet paid by or for the licensee.

271 (i) "Person" means any individual, partnership,
272 association, joint-stock association, trust or corporation, but
273 does not include the United States government or the government of
274 this state.

275 (j) "Personal money order" means any instrument for the
276 transmission or payment of money in relation to which the
277 purchaser or remitter appoints or purports to appoint the seller
278 thereof as his agent for the receipt, transmission or handling of
279 money, whether the instrument is signed by the seller or by the
280 purchaser or remitter or some other person. The term "personal
281 money order" does not include engaging in the business of the sale
282 or issuance of a central bank digital currency.

283 (k) "Records" or "documents" means any item in hard
284 copy or produced in a format of storage commonly described as
285 electronic, imaged, magnetic, microphotographic or otherwise, and
286 any reproduction so made shall have the same force and effect as
287 the original thereof and be admitted in evidence equally with the
288 original.

289 (l) "Sell" means to sell, to issue or to deliver a
290 check.

291 (m) "Stored value" means monetary value that is
292 evidenced by an electronic record.



293 **SECTION 3.** Section 75-15-7, Mississippi Code of 1972, is
294 brought forward as follows:

295 75-15-7. Nothing in this chapter shall apply to the sale or
296 issuance or delivering of checks by:

297 (a) Any financial institution whose deposits are
298 insured by any agency of the United States government or any trust
299 company authorized to do business in this state;

300 (b) The government of the United States or any
301 department or agent thereof;

302 (c) The State of Mississippi or any municipal
303 corporation, county or other political subdivision of this state;

304 (d) Agents of a licensee, as provided for in Section
305 75-15-17, provided that this exemption shall apply only to the
306 agent's acts on behalf of the licensee and this exemption shall
307 not exempt the agent from the provisions of this chapter where he
308 conducts money transmissions for his own account;

309 (e) Attorneys-at-law, as to checks issued in the
310 regular course of the practice of law;

311 (f) Persons not carrying on the trade or business of
312 money transmission, this exemption is intended to include persons
313 who conduct money transmissions only as an incidental act to
314 another trade or business regularly carried on by them and persons
315 who only occasionally and infrequently conduct money transmissions
316 for another person; or



317 (g) The Nationwide Mortgage Licensing System and
318 Registry for mortgage brokers, mortgage lenders and mortgage loan
319 originators.

320 **SECTION 4.** This act shall take effect and be in force from
321 and after July 1, 2024.

