

By: Representative Ladner

To: Banking and Financial Services

HOUSE BILL NO. 394

1 AN ACT TO DEFINE THE TERMS LEGAL TENDER AND SPECIE; TO
 2 AUTHORIZE GOLD AND SILVER COIN AS LEGAL TENDER; TO PROHIBIT SPECIE
 3 OR LEGAL TENDER FROM BEING CHARACTERIZED AS PERSONAL PROPERTY FOR
 4 TAXATION OR REGULATORY PURPOSES; TO PROVIDE THAT THE EXCHANGE OF
 5 ONE TYPE OR FORM OF LEGAL TENDER FOR ANOTHER TYPE OR FORM OF LEGAL
 6 TENDER SHALL NOT GIVE RISE TO ANY TAX LIABILITY; TO PROVIDE THAT
 7 THE PURCHASE, SALE, OR EXCHANGE OF ANY TYPE OR FORM OF SPECIE
 8 SHALL NOT GIVE RISE TO ANY TAX LIABILITY; TO PROHIBIT A PERSON
 9 FROM COMPELLING ANOTHER PERSON TO TENDER SPECIE OR TO ACCEPT
 10 SPECIE AS LEGAL TENDER; TO REQUIRE THE ATTORNEY GENERAL'S OFFICE
 11 TO ENFORCE THIS ACT WITHOUT PREJUDICE TO A PRIVATE RIGHT OF
 12 ACTION; TO PROVIDE THAT SPECIE MAY BE RECOGNIZED TO PAY DEBTS; TO
 13 BRING FORWARD SECTION 75-1-201, MISSISSIPPI CODE OF 1972, WHICH
 14 RELATES TO GENERAL DEFINITIONS OF THE UNIFORM COMMERCIAL CODE, FOR
 15 PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 75-15-3,
 16 MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE MISSISSIPPI MONEY
 17 TRANSMITTERS ACT, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING
 18 FORWARD SECTION 89-12-3, MISSISSIPPI CODE OF 1972, WHICH RELATES
 19 TO THE UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT, FOR PURPOSES
 20 OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

22 **SECTION 1.** (1) "Legal tender" means a recognized medium of
 23 exchange for the payment of debts and taxes; and

24 (2) "Specie" means:

25 (a) Coin having gold or silver content; or

26 (b) Refined gold or silver bullion that is:

27 (i) Coined, stamped, or imprinted with its weight



28 and purity; and

29 (ii) Valued primarily based on its metal content
30 and not its form.

31 (3) Specie or legal tender shall consist of:

32 (a) Specie coin issued by the United States government;
33 or

34 (b) Other specie that a Mississippi court rules to be
35 within state authority to make or designate as legal tender.

36 (4) Specie or legal tender shall not be characterized as
37 personal property for taxation or regulatory purposes.

38 (5) (a) The exchange of one (1) type or form of legal
39 tender for another type or form of legal tender shall not give
40 rise to any tax liability.

41 (b) The purchase, sale, or exchange of any type or form
42 of specie shall not give rise to any tax liability.

43 (6) Unless specifically provided by law or by contract, a
44 person shall not compel another person to tender specie or to
45 accept specie as legal tender.

46 (7) The Attorney General's office shall enforce this section
47 without prejudice to a private right of action.

48 (8) If a valid contract expressly designates a type or form
49 of specie as tender, then a Mississippi court asked to adjudicate
50 the breach of such a contract shall require, as a remedy for the
51 breach, the specific performance of tendering the type or form of
52 specie specified in the contract.



53 (9) Specie may be recognized to pay debts.

54 **SECTION 2.** Section 75-1-201, Mississippi Code of 1972, is
55 brought forward as follows:

56 75-1-201. (a) Unless the context otherwise requires, words
57 or phrases defined in this section, or in the additional
58 definitions contained in other articles of the Uniform Commercial
59 Code contained in other chapters of this title that apply to
60 particular chapters or parts thereof, have the meanings stated.

61 (b) Subject to definitions contained in other articles of
62 the Uniform Commercial Code that apply to particular articles or
63 parts thereof:

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

67 (2) "Aggrieved party" means a party entitled to pursue
68 a remedy.

69 (3) "Agreement," as distinguished from "contract,"
70 means the bargain of the parties in fact, as found in their
71 language or inferred from other circumstances, including course of
72 performance, course of dealing, or usage of trade as provided in
73 Section 75-1-303.

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



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

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

83 (7) "Branch" includes a separately incorporated foreign
84 branch of a bank.

85 (8) "Burden of establishing a fact" means the burden of
86 persuading the trier of fact that the existence of the fact is
87 more probable than its nonexistence.

88 (9) "Buyer in ordinary course of business" means a
89 person that buys goods in good faith, without knowledge that the
90 sale violates the rights of another person in the goods, and in
91 the ordinary course from a person, other than a pawnbroker, in the
92 business of selling goods of that kind. A person buys goods in
93 the ordinary course if the sale to the person comports with the
94 usual or customary practices in the kind of business in which the
95 seller is engaged or with the seller's own usual or customary
96 practices. A person that sells oil, gas, or other minerals at the
97 wellhead or minehead is a person in the business of selling goods
98 of that kind. A buyer in ordinary course of business may buy for
99 cash, by exchange of other property, or on secured or unsecured
100 credit, and may acquire goods or documents of title under a
101 preexisting contract for sale. Only a buyer that takes possession



102 of the goods or has a right to recover the goods from the seller
103 under Article 2 may be a buyer in ordinary course of business.
104 'Buyer in ordinary course of business' does not include a person
105 that acquires goods in a transfer in bulk or as security for or in
106 total or partial satisfaction of a money debt.

107 (10) "Conspicuous," with reference to a term, means so
108 written, displayed, or presented that a reasonable person against
109 which it is to operate ought to have noticed it. Whether a term
110 is "conspicuous" or not is a decision for the court. Conspicuous
111 terms include the following:

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

115 (B) Language in the body of a record or display in
116 larger type than the surrounding text, or in contrasting type,
117 font, or color to the surrounding text of the same size, or set
118 off from surrounding text of the same size by symbols or other
119 marks that call attention to the language.

120 (11) "Consumer" means an individual who enters into a
121 transaction primarily for personal, family, or household purposes.

122 (12) "Contract," as distinguished from "agreement,"
123 means the total legal obligation that results from the parties'
124 agreement as determined by the Uniform Commercial Code as
125 supplemented by any other applicable laws.



126 (13) "Creditor" includes a general creditor, a secured
127 creditor, a lien creditor, and any representative of creditors,
128 including an assignee for the benefit of creditors, a trustee in
129 bankruptcy, a receiver in equity, and an executor or administrator
130 of an insolvent debtor's or assignor's estate.

131 (14) "Defendant" includes a person in the position of
132 defendant in a counterclaim, cross-claim, or third-party claim.

133 (15) "Delivery," with respect to an instrument,
134 document of title, or chattel paper, means voluntary transfer of
135 possession.

136 (16) "Document of title" includes bill of lading, dock
137 warrant, dock receipt, warehouse receipt or order for the delivery
138 of goods, and also any other document which in the regular course
139 of business or financing is treated as adequately evidencing that
140 the person in possession of it is entitled to receive, hold, and
141 dispose of the document and the goods it covers. To be a document
142 of title, a document must purport to be issued by or addressed to
143 a bailee and purport to cover goods in the bailee's possession
144 which are either identified or are fungible portions of an
145 identified mass.

146 (17) "Fault" means a default, breach, or wrongful act
147 or omission.

148 (18) "Fungible goods" means:

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



151 (B) Goods that by agreement are treated as
152 equivalent.

153 (19) "Genuine" means free of forgery or counterfeiting.

154 (20) "Good faith," except as otherwise provided in
155 Article 5, means honesty in fact and the observance of reasonable
156 commercial standards of fair dealing.

157 (21) "Holder" means:

158 (A) The person in possession of a negotiable
159 instrument that is payable either to bearer or to an identified
160 person that is the person in possession; or

161 (B) The person in possession of a document of
162 title if the goods are deliverable either to bearer or to the
163 order of the person in possession.

164 (22) "Insolvency proceeding" includes an assignment for
165 the benefit of creditors or other proceeding intended to liquidate
166 or rehabilitate the estate of the person involved.

167 (23) "Insolvent" means:

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

171 (B) Being unable to pay debts as they become due;
172 or

173 (C) Being insolvent within the meaning of federal
174 bankruptcy law.



175 (24) "Money" means a medium of exchange currently
176 authorized or adopted by a domestic or foreign government. The
177 term includes a monetary unit of account established by an
178 intergovernmental organization or by agreement between two (2) or
179 more countries.

180 (25) "Organization" means a person other than an
181 individual.

182 (26) "Party," as distinguished from "third party,"
183 means a person that has engaged in a transaction or made an
184 agreement subject to the Uniform Commercial Code.

185 (27) "Person" means an individual, corporation,
186 business trust, estate, trust, partnership, limited liability
187 company, association, joint venture, government, governmental
188 subdivision, agency, or instrumentality, public corporation, or
189 any other legal or commercial entity.

190 (28) "Present value" means the amount as of a date
191 certain of one or more sums payable in the future, discounted to
192 the date certain by use of either an interest rate specified by
193 the parties if that rate is not manifestly unreasonable at the
194 time the transaction is entered into or, if an interest rate is
195 not so specified, a commercially reasonable rate that takes into
196 account the facts and circumstances at the time the transaction is
197 entered into.

198 (29) "Purchase" means taking by sale, lease, discount,
199 negotiation, mortgage, pledge, lien, security interest, issue or



200 reissue, gift, or any other voluntary transaction creating an
201 interest in property.

202 (30) "Purchaser" means a person that takes by purchase.

203 (31) "Record" means information that is inscribed on a
204 tangible medium or that is stored in an electronic or other medium
205 and is retrievable in perceivable form.

206 (32) "Remedy" means any remedial right to which an
207 aggrieved party is entitled with or without resort to a tribunal.

208 (33) "Representative" means a person empowered to act
209 for another, including an agent, an officer of a corporation or
210 association, and a trustee, executor, or administrator of an
211 estate.

212 (34) "Right" includes remedy.

213 (35) "Security interest" means an interest in personal
214 property or fixtures which secures payment or performance of an
215 obligation. "Security interest" includes any interest of a
216 consignor and a buyer of accounts, chattel paper, a payment
217 intangible, or a promissory note in a transaction that is subject
218 to Article 9. "Security interest" does not include the special
219 property interest of a buyer of goods on identification of those
220 goods to a contract for sale under Section 75-2-401, but a buyer
221 may also acquire a "security interest" by complying with Article
222 9. Except as otherwise provided in Section 75-2-505, the right of
223 a seller or lessor of goods under Article 2 or 2A to retain or
224 acquire possession of the goods is not a "security interest," but



225 a seller or lessor may also acquire a "security interest" by
226 complying with Article 9. The retention or reservation of title
227 by a seller of goods notwithstanding shipment or delivery to the
228 buyer under Section 75-2-401 is limited in effect to a reservation
229 of a "security interest." Whether a transaction in the form of a
230 lease creates a "security interest" is determined pursuant to
231 Section 75-1-203.

232 (36) "Send" in connection with a writing, record, or
233 notice means:

234 (A) To deposit in the mail or deliver for
235 transmission by any other usual means of communication with
236 postage or cost of transmission provided for and properly
237 addressed and, in the case of an instrument, to an address
238 specified thereon or otherwise agreed, or if there be none to any
239 address reasonable under the circumstances; or

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

243 (37) "Signed" includes using any symbol executed or
244 adopted with present intention to adopt or accept a writing.

245 (38) "State" means a state of the United States, the
246 District of Columbia, Puerto Rico, the United States Virgin
247 Islands, or any territory or insular possession subject to the
248 jurisdiction of the United States.



249 (39) "Surety" includes a guarantor or other secondary
250 obligor.

251 (40) "Term" means a portion of an agreement that
252 relates to a particular matter.

253 (41) "Unauthorized signature" means a signature made
254 without actual, implied, or apparent authority. The term includes
255 a forgery.

256 (42) "Warehouse receipt" means a receipt issued by a
257 person engaged in the business of storing goods for hire.

258 (43) "Writing" includes printing, typewriting, or any
259 other intentional reduction to tangible form. "Written" has a
260 corresponding meaning.

261 **SECTION 3.** Section 75-15-3, Mississippi Code of 1972, is
262 brought forward as follows:

263 75-15-3. For the purposes of this chapter:

264 (a) "Check" means any check, draft, money order,
265 personal money order or other instrument, including but not
266 limited to stored value cards, for the transmission or payment of
267 money. The format of a check may be either paper, electronic,
268 plastic or any combination thereof.

269 (b) "Commissioner" means the Commissioner of Banking
270 and Consumer Finance of the State of Mississippi.

271 (c) "Deliver" means to deliver a check to the first
272 person who in payment for same makes or purports to make a
273 remittance of or against the face amount thereof, whether or not



274 the deliverer also charges a fee in addition to the face amount,
275 and whether or not the deliverer signs the check.

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

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

282 (f) "Monetary value" means a medium of exchange,
283 whether or not redeemable in money.

284 (g) "Money transmission" means to engage in the
285 business of the sale or issuance of checks or of receiving money
286 or monetary value for transmission to a location within or outside
287 the United States by any and all means, including but not limited
288 to wire, facsimile or electronic transfer.

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

292 (i) "Person" means any individual, partnership,
293 association, joint-stock association, trust or corporation, but
294 does not include the United States government or the government of
295 this state.

296 (j) "Personal money order" means any instrument for the
297 transmission or payment of money in relation to which the
298 purchaser or remitter appoints or purports to appoint the seller



299 thereof as his agent for the receipt, transmission or handling of
300 money, whether the instrument is signed by the seller or by the
301 purchaser or remitter or some other person.

302 (k) "Records" or "documents" means any item in hard
303 copy or produced in a format of storage commonly described as
304 electronic, imaged, magnetic, microphotographic or otherwise, and
305 any reproduction so made shall have the same force and effect as
306 the original thereof and be admitted in evidence equally with the
307 original.

308 (l) "Sell" means to sell, to issue or to deliver a
309 check.

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

312 **SECTION 4.** Section 89-12-3, Mississippi Code of 1972, is
313 brought forward as follows:

314 89-12-3. As used in this chapter, unless the context
315 otherwise requires:

316 (a) "Banking organization" means any national or state
317 bank, trust company, savings bank, land bank, private banker, or
318 any similar organization which is engaged in business in this
319 state.

320 (b) "Business association" means any corporation,
321 joint-stock company, business trust, partnership, or any
322 association for business purposes of two (2) or more individuals,
323 whether organized for profit or nonprofit, including, but not



324 limited to, a banking organization, financial organization, life
325 insurance corporation and utility.

326 (c) "Financial organization" means any federal or state
327 savings and loan association, building and loan association,
328 credit union, cooperative bank or investment company, farm credit
329 system cooperative, or any similar organization which is engaged
330 in business in this state.

331 (d) "Holder" means any person in possession of property
332 subject to the provisions of this chapter belonging to another, or
333 who is trustee in case of a trust, or is indebted to another on an
334 obligation subject to the provisions of this chapter.

335 (e) "Insurance corporation" means any association or
336 corporation transacting in this state the business of insurance
337 involving in any manner a person or property; however, this term
338 does not include self-insured workers' compensation groups or
339 associations comprised of members who have joint and several
340 liability for the workers' compensation obligation of the other
341 members.

342 (f) "Intangible personal property" includes, but is not
343 limited to:

344 (i) Monies, checks, drafts, deposits, interest,
345 dividends, and income;

346 (ii) Credit balances, customer overpayments, gift
347 certificates, security deposits, refunds, credit memos, unpaid
348 wages, unused airline tickets, and unidentified remittances;



349 except future and prior dividends made by the workers'
350 compensation groups or associations described in paragraph (e);

351 (iii) Monies deposited to redeem stocks, bonds,
352 coupons, and other securities, or to make distributions;

353 (iv) Amounts due and payable under the terms of
354 insurance policies;

355 (v) Amounts distributable from a trust or
356 custodial fund established under a plan to provide health,
357 welfare, pension, vacation, severance, retirement, death, stock
358 purchase, profit sharing, employee savings, supplemental
359 unemployment insurance, or similar benefits;

360 (vi) Shares of corporate stock and other
361 intangible ownership interests in business associations; and

362 (vii) Bonds, notes and other debt obligations.

363 (g) "Owner" means a depositor in case of a deposit, a
364 beneficiary in case of a trust, a creditor, claimant or payee in
365 case of other choses in action, or any person having a legal or
366 equitable interest in property subject to the provisions of this
367 chapter, or his legal representative.

368 (h) "Apparent owner" means the person who appears from
369 the records of the holder to be entitled to property held by the
370 holder.

371 (i) "Person" means any individual, business
372 association, government or political subdivision or agency,
373 corporation, public authority, estate, trust, two (2) or more



374 persons having a joint or common interest, or any other legal or
375 commercial entity whether such person is acting in his own right
376 or in a representative capacity.

377 (j) "Treasurer" means the State Treasurer of the State
378 of Mississippi.

379 (k) "Utility" means any person who owns or operates in
380 this state for public use, any plant, equipment, property,
381 franchise, or license for the transmission of communications or
382 the production, storage, transmission, sale, delivery, or
383 furnishing of electricity, water, steam or gas.

384 (l) "Farm credit system cooperative association" means
385 a farmer-owned cooperative system established under the authority
386 of the Farm Credit Act of 1971, as amended, for the purpose of
387 making credit available to farmers and ranchers and their
388 cooperatives, for rural residences, and to associations and other
389 entities upon which farming operations are dependent, to provide
390 for an adequate and flexible flow of money into rural areas, and
391 to modernize and consolidate existing farm credit law to meet
392 current and future rural credit needs, and for other purposes, and
393 which are chartered by and subject to the regulatory control of
394 the Farm Credit Administration. For purposes of this chapter, the
395 term includes:

- 396 (i) Farm credit banks;
397 (ii) The bank for cooperatives;
398 (iii) Agricultural credit banks;



399 (iv) Federal land bank associations;
400 (v) Federal land credit associations;
401 (vi) Production credit associations;
402 (vii) Agricultural credit associations;
403 (viii) The federal Farm Credit Banks Funding
404 Corporation;
405 (ix) The Federal Agricultural Mortgage
406 Corporation;
407 (x) Service corporations established pursuant to
408 Section 12 USCS Section 2211; and
409 (xi) Such other institutions as may be made a part
410 of the Farm Credit System.

411 **SECTION 5.** This act shall take effect and be in force from
412 and after July 1, 2025.

