

**Article XIII of the Alabama Constitution  
Sections 247-255.01 (Banks and Banking)**

November 7, 2011

<b>Sec. 247. Authority of legislature restricted.</b>	
<b>Current</b>	<b>Proposed</b>
<p>The legislature shall not have the power to establish or incorporate any bank or banking company or moneyed institution for the purpose of issuing bills of credit or bills payable to order or bearer, except under the conditions prescribed in this Constitution.</p>	<p><u>"(a) The Legislature shall not have the power to establish or incorporate any bank or banking company or moneyed institution for the purpose of issuing bills of credit or bills payable to order or bearer, except under the conditions prescribed in this Constitution. No bank shall be established otherwise than under a general banking law.</u></p> <p><u>"(b) There shall be no limit of time for the duration of a corporation organized as a bank or banking company, and it shall not be necessary to renew or extend the life or charter of any such corporation now existing. All extensions of the life or charter of any such corporations are ratified and confirmed.</u></p> <p><u>"(c) Neither the state, nor any political subdivision thereof, shall be a stockholder in any bank, nor shall the credit of the state or any political subdivision thereof be given or lent to any banking company, banking association, or banking corporation.</u></p> <p><u>"(d) The Legislature, by appropriate laws, shall provide for the examination, by some public officer, of all banks and banking institutions and trust companies engaged in banking business in this state; and each of such banks and banking companies or institutions, through its president, or such other officer as the Legislature may designate, shall make a report under oath of its resources and liabilities at least twice a year."</u></p>
<p><b>Comments:</b> 247(a) is the current 247 plus the last sentence which has been moved from 248. 247(b) has been moved from 251. 247(c) has been moved from 253. 247(d) has been moved from 254.</p>	

<b>Sec. 248. Banking laws to be general; specie basis; authority of banks to issue bills to circulate as money.</b>	
<b>Current</b>	<b>Proposed</b>
No bank shall be established otherwise than under a general banking law, nor other than upon a specie basis; provided, that any bank may be established with authority to issue bills to circulate as money in an amount equal to the face value of bonds of the United States, or of this state, convertible into specie at their face value, which shall, before such bank is authorized to issue its bills for circulation, be deposited with the state treasurer or other depository prescribed by law, in an amount equal to the aggregate of such proposed issue, with power in such treasurer or depository to dispose of any or all of such bonds for a sufficient amount of specie to redeem the circulating notes of such bank at any time and without delay, should such bank suspend specie payment or fail to redeem its notes on demand.	Repealed
<b>Comments:</b> The first phrase of this section has been moved to the last sentence of 247(a). The remainder of the section <b><u>is obsolete and</u></b> reflects a time when circulating notes of banks actually constituted “money”.	

<b>Sec. 249. Bills or notes issued as money redeemable in gold or silver; laws not to sanction suspension of specie payments.</b>	
<b>Current</b>	<b>Proposed</b>
All bills or notes issued as money shall be at all times redeemable in gold or silver, and no law shall be passed sanctioning directly or indirectly the suspension by any bank or banking company of specie payment.	Repealed
<b>Comments:</b> This section <b>is obsolete and</b> reflects a time when bank notes functioned as the principal medium of exchange, i.e., as money.	

<b>Sec. 250. Preference of certain creditors in case of insolvency of bank.</b>	
<b>Current</b>	<b>Proposed</b>
Repealed by Amendment 5.	
<b>Comments:</b>	

<b>Sec. 251. Duration of corporations not limited; renewal of existing charters not required.</b>	
<b>Current</b>	<b>Proposed</b>
There shall be no limit of time for the duration of a corporation hereafter organized as a bank or banking company, and it shall not be necessary hereafter to renew or extend the life or charter of any such corporation now existing. And all extensions of the life or charter of any such corporations are hereby ratified and confirmed.	Repealed
<b>Comments:</b> Section has been moved to 247(b), <u>without change.</u>	

<b>Sec. 252. Maximum rate of interest.</b>	
<b>Current</b>	<b>Proposed</b>
No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals for lending money.	Repealed
<b>Comments:</b> Banking is now heavily regulated by state and federal general laws and regulations, so that this section <b><u>is obsolete and</u></b> is no longer needed. See Ala. Code Tit. 5 and Tit. 8.	

<b>Sec. 253. State and political subdivisions thereof not to be stockholders in banks or lend credit thereto.</b>	
<b>Current</b>	<b>Proposed</b>
Neither the state nor any political subdivision thereof, shall be a stockholder in any bank, nor shall the credit of the state or any political subdivision thereof be given or lent to any banking company, association, or corporation.	Repealed
<b>Comments:</b> This section has been moved to Section 247(c), <u><b>without change.</b></u>	

<b>Sec. 254. Examination of banks by public officers; semiannual reports by banks.</b>	
<b>Current</b>	<b>Proposed</b>
The legislature shall by appropriate laws provide for the examination, by some public officer, of all banks and banking institutions and trust companies engaged in banking business in this state; and each of such banks and banking companies or institutions shall, through its president, or such other officer as the legislature may designate, make a report under oath of its resources and liabilities at least twice a year.	Repealed
<b>Comments:</b> This section has been moved to Section 247(d), <u>without change.</u>	

<b>Sec. 255. Applicability of article.</b>	
<b>Current</b>	<b>Proposed</b>
The provisions of this article shall apply to all banks except national banks, and to all trust companies and individuals doing a banking business, whether incorporated or not.	No change
<b>Comments:</b>	

**Sec. 255.01. Nonresidents making mortgage loans through licensed mortgage loan brokers.**

<b>Current</b>	<b>Proposed</b>
<p>Section 1. Any corporation which is not organized under the laws of this state and has no place of business in this state may take and hold mortgages on real property located within this state, deposit the proceeds thereof in a bank account, or bank accounts, in this state, collect the debts secured thereby and may appoint a custodian or collection agent, who must be duly licensed under the laws of this state, to engage in the business of mortgage loan broker, to hold for such non-resident such securities, collect such debts, manage any property acquired by foreclosure thereof, sell and dispose of any property acquired by foreclosure thereof and enforce the provisions of such mortgages and no such foreign corporation shall be deemed to be doing business in this state solely by reason of doing any or all of the acts designated herein; provided, however, that any custodian or agent appointed under the provisions of this amendment by any such foreign corporation shall pay all applicable municipal license taxes and shall pay an occupational license tax as mortgage loan broker to the state of Alabama of one hundred dollars (\$100.00) for the first year that such broker represents each such foreign corporation and five dollars (\$5.00) annually for representing each such foreign corporation thereafter. Any foreign corporation which engages in any of the acts prescribed in this section may sue or be sued in this state in relation to any such mortgages held by it, or real property, securities or debts acquired by it and service of process may be perfected upon such foreign corporation by service upon any resident licensed mortgage loan broker appointed as custodian or agent by such corporation in this state.</p> <p>Section 2. No foreign corporation, which does no other acts in this state than those provided in section 1 hereof, shall be required to pay any franchise tax, qualification fee, permit fee, nor shall it be required in any other way to qualify to do business in this state.</p> <p>Section 3. This amendment shall be self-executing, but the legislature may, by general act, make provision for enforcement thereof and provide penalties for the violation thereof.</p>	<p>Repeal</p>

**Comments:** Repeal conditioned on repeal Section 232 in the Private Corporations Article XII. The repeal of this section has been recommended in the Article XII .

