

1 HB358
2 135969-4
3 By Representative DeMarco (Constitutional Amendment)
4 RFD: Constitution, Campaigns and Elections
5 First Read: 16-FEB-12

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8 SYNOPSIS: Under the Constitution of Alabama of 1901,
9 Article XIII relates to banks and banking. This
10 bill would propose an amendment to the Constitution
11 which would rewrite one section of Article XIII as
12 generally described herein and would repeal certain
13 other sections.

14 This bill, effective January 1, 2014, would
15 subdivide Section 247 of the Constitution of
16 Alabama of 1901, now appearing as Section 247 of
17 the Official Recompilation of the Constitution of
18 Alabama of 1901, as amended, into four subsections
19 and amend the section by adding language
20 prohibiting any bank from being established except
21 by a general banking law as well as inserting
22 language formerly in Section 251, Section 253, and
23 Section 254 of the Constitution of Alabama of 1901,
24 now appearing as Sections 251, 253, and 254 of the
25 Official Recompilation of the Constitution of
26 Alabama of 1901, as amended, regarding unlimited
27 duration, political subdivisions may not be

1 stockholders or lend credit, and bank examination
2 requirements.

3 This bill would repeal the following
4 Sections of Article XIII of the Constitution of
5 Alabama of 1901; Section 248 of the Constitution of
6 Alabama of 1901, now appearing as Section 248 of
7 the Official Recompilation of the Constitution of
8 Alabama of 1901, as amended, relating to banking
9 laws being general, specie basis, and the authority
10 to issue bills to circulate as money; Section 249
11 of the Constitution of Alabama of 1901, now
12 appearing as Section 249 of the Official
13 Recompilation of the Constitution of Alabama of
14 1901, as amended, relating to bills or notes issued
15 as money redeemable in gold or silver and
16 specifying laws may not sanction suspension of the
17 specie payments; Section 251, as amended by
18 Amendment 51 of the Constitution of Alabama of
19 1901, now appearing as Section 251 of the Official
20 Recompilation of the Constitution of Alabama of
21 1901, as amended, relating to termination of
22 business; Section 252 of the Constitution of
23 Alabama of 1901, now appearing as Section 252 of
24 the Official Recompilation of the Constitution of
25 Alabama of 1901, as amended, relating to maximum
26 rate of interest; Section 253 of the Constitution
27 of Alabama of 1901, now appearing as Section 253 of

1 the Official Recompilation of the Constitution of
2 Alabama of 1901, as amended, relating to state and
3 political subdivisions not to be stockholders in
4 banks or lend credit thereto; and Section 254 of
5 the Constitution of Alabama of 1901, now appearing
6 as Section 254 of the Official Recompilation of the
7 Constitution of Alabama of 1901, as amended,
8 relating to examinations of banks by public
9 officers and semiannual reports by banks; Amendment
10 154 of the Constitution of Alabama of 1901, now
11 appearing as Section 255.01 of the Official
12 Recompilation of the Constitution of Alabama of
13 1901, as amended, would be repealed on the
14 contingency that a new Article XII is adopted as a
15 part of the Alabama Constitution which repeals
16 existing Section 232 of the Official Recompilation
17 of the Constitution of Alabama of 1901, as amended,
18 and that Sections 10A-2-15.01 and 10A-2-15.02, Code
19 of Alabama 1975, are repealed.

20 Section 255, relating to the applicability
21 of the article, would not be changed.

22
23 A BILL

24 TO BE ENTITLED

25 AN ACT
26

1 Proposing an amendment to the Constitution of
2 Alabama of 1901, to amend Section 247 now appearing as Section
3 247 of the Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, relating to the general power of
5 the Legislature regarding banks and banking, effective January
6 1, 2014, to include in that section existing provisions
7 concerning unlimited duration, prohibitions on political
8 subdivisions being stockholders or lending credit, and bank
9 examination requirements; and to repeal the following Sections
10 of Article XIII, relating to banks and banking: Section 248 of
11 the Constitution of Alabama of 1901, now appearing as Section
12 248 of the Official Recompilation of the Constitution of
13 Alabama of 1901, as amended; Section 249 of the Constitution
14 of Alabama of 1901, now appearing as Section 249 of the
15 Official Recompilation of the Constitution of Alabama of 1901,
16 as amended; Section 251 of the Constitution of Alabama of
17 1901, as amended by Amendment 51 of the Constitution of
18 Alabama of 1901, now appearing as Section 251 of the Official
19 Recompilation of the Constitution of Alabama of 1901, as
20 amended; Section 252 of the Constitution of Alabama of 1901,
21 now appearing as Section 252 of the Official Recompilation of
22 the Constitution of Alabama of 1901, as amended, relating to
23 maximum rate of interest; Section 253 of the Constitution of
24 Alabama of 1901, now appearing as Section 253 of the Official
25 Recompilation of the Constitution of Alabama of 1901, as
26 amended, relating to state and political subdivisions not to
27 be stockholders in banks or lend credit thereto; and Section

1 254 of the Constitution of Alabama of 1901, now appearing as
2 Section 254 of the Official Recompilation of the Constitution
3 of Alabama of 1901, as amended, relating to examinations of
4 banks by public officers and semiannual reports by banks; to
5 repeal Amendment 154 of the Constitution of Alabama of 1901,
6 now appearing as Section 255.01 of the Official Recompilation
7 of the Constitution of Alabama of 1901, as amended, on the
8 contingency that a new Article XII is adopted as a part of the
9 Alabama Constitution which repeals existing Section 232 of the
10 Official Recompilation of the Constitution of Alabama of 1901,
11 as amended, and on the contingency that Sections 10A-2-15.01
12 and 10A-2-15.02, Code of Alabama 1975, are repealed.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. The following amendment to the
15 Constitution of Alabama of 1901, as amended, is proposed and
16 shall become valid as a part thereof, effective on January 1,
17 2014, following approval by a majority of the qualified
18 electors voting thereon and in accordance with Sections 284,
19 285, and 287 of the Constitution of Alabama of 1901, now
20 appearing as Sections 284, 285, and 287 of the Official
21 Recompilation of the Constitution of Alabama of 1901, as
22 amended:

23 PROPOSED AMENDMENT

24 1. Section 247 of the Constitution of Alabama of
25 1901, is amended to read as follows:

26 "Section 247. Authority of Legislature ~~Restricted~~.

1 "(a) The Legislature shall not have the power to
2 establish or incorporate any bank or banking company or
3 moneyed institution for the purpose of issuing bills of credit
4 or bills payable to order or bearer, except under the
5 conditions prescribed in this Constitution. No bank shall be
6 established otherwise than under a general banking law.

7 "(b) There shall be no limit of time for the
8 duration of a corporation organized as a bank or banking
9 company, and it shall not be necessary to renew or extend the
10 life or charter of any such corporation now existing. All
11 extensions of the life or charter of any such corporations are
12 ratified and confirmed.

13 "(c) Neither the state, nor any political
14 subdivision thereof, shall be a stockholder in any bank, nor
15 shall the credit of the state or any political subdivision
16 thereof be given or lent to any banking company, banking
17 association, or banking corporation.

18 "(d) The Legislature, by appropriate laws, shall
19 provide for the examination, by some public officer, of all
20 banks and banking institutions and trust companies engaged in
21 banking business in this state; and each of such banks and
22 banking companies or institutions, through its president, or
23 such other officer as the Legislature may designate, shall
24 make a report under oath of its resources and liabilities at
25 least twice a year."

26 2. The following sections of Article XIII of the
27 Constitution of Alabama of 1901, relating to banks and

1 banking, are repealed: Section 248, relating to banking laws
2 being general, specie basis, and the authority to issue bills
3 to circulate as money; Section 249, relating to bills or notes
4 issued as money redeemable in gold or silver and specifying
5 laws may not sanction suspension of the specie payments;
6 Section 251, as amended by Constitutional Amendment 51,
7 relating to termination of business; Section 252, relating to
8 maximum rate of interest; Section 253, relating to state and
9 political subdivisions not to be stockholders in banks or lend
10 credit thereto; and Section 254, relating to examinations of
11 banks by public officers and semiannual reports by banks.

12 3. Section 255.01, relating to nonresidents making
13 mortgage loans, is repealed on the contingency that a new
14 Article XII is adopted as a part of the Alabama Constitution
15 which repeals existing Section 232 of the Official
16 Recompilation of the Constitution of Alabama of 1901, as
17 amended, and on the contingency that a bill is enacted that
18 repeals Sections 10A-2-15.01 and 10A-2-15.02, Code of Alabama
19 1975, relating to the consequences of a foreign corporation
20 transacting business without registration, and which provides
21 that Sections 10A-1-7.21 through and including Section
22 10A-1-7.24, Code of Alabama 1975, shall instead apply to a
23 foreign corporation transacting business without registering
24 with the Secretary of State.

25 END OF PROPOSED AMENDMENT

26 Section 2. An election upon the proposed amendment
27 shall be held in accordance with Sections 284 and 285 of the

1 Constitution of Alabama of 1901, now appearing as Sections 284
2 and 285 of the Official ReCompilation of the Constitution of
3 Alabama of 1901, as amended, and the election laws of this
4 state.

5 Section 3. The appropriate election official shall
6 assign a ballot number for the proposed constitutional
7 amendment on the election ballot and shall set forth the
8 following description of the substance or subject matter of
9 the proposed constitutional amendment:

10 "Proposing an amendment to the Constitution of
11 Alabama of 1901, effective January 1, 2014, to amend Section
12 247 relating to the authority of the Legislature concerning
13 banks and banking, to repeal various other provisions of
14 Article XIII concerning banks and banking; and to repeal
15 Amendment 154 to the Constitution of Alabama of 1901, now
16 appearing as Section 255.01 of the Official ReCompilation of
17 the Constitution of Alabama of 1901, as amended, subject to
18 the contingency that a new Article XII of the state
19 constitution is adopted that repeals existing Section 232 of
20 the state constitution, and subject to the contingency that
21 Sections 10A-2-15.01 and 10A-2-15.02, Code of Alabama 1975,
22 are repealed.

23 "Proposed by Act _____."

24 This description shall be followed by the following
25 language:

26 "Yes () No ()."