

By: Representative Ellis

To: Banks and Banking

HOUSE BILL NO. 160

1 AN ACT TO AMEND SECTIONS 75-67-127, 81-5-79 AND 81-14-311,
2 MISSISSIPPI CODE OF 1972, TO REQUIRE LENDERS TO RELEASE ANY LIEN
3 OR SECURITY AGREEMENT PLEDGED FOR A LOAN WITHIN SIXTY DAYS; AND
4 FOR RELATED PURPOSES.

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

6 SECTION 1. Section 75-67-127, Mississippi Code of 1972, is
7 amended as follows:

8 75-67-127. (1) Every licensee shall:

9 (a) At the time any loan is made, deliver to the
10 borrower, or if there are two (2) or more borrowers to one (1) of
11 them, a statement in the English language, disclosing, (i) the
12 date of the loan, (ii) the amount of the loan, (iii) the schedule
13 of payments or a description thereof, (iv) the type of the
14 security, which may be by mortgage or deed of trust upon real
15 estate or personal property, or both, (v) the name and address of
16 the licensed office and of each person primarily obligated on the
17 note, and (vi) the total amount of finance charges expressed as a
18 dollar amount and as an annual percentage rate.

19 (b) For each payment made on account of any such loan,
20 give to the person making it at the time the payment is made a
21 receipt specifying in plain, clear and simple terms the amount of
22 the payment and the balance owing on the combined principal and
23 finance charges after credit for each payment. When payment is
24 made by check or money order, the licensee shall not be required
25 to furnish a receipt. Compliance with the Federal Truth in
26 Lending Act shall constitute compliance with this section.

27 (c) When loans made or handled by a licensee under the

28 provisions of the Small Loan Privilege Tax Law are paid in full
29 prior to maturity, after July 1, 1974, whether by cash, renewal or
30 otherwise, refund to the borrower the finance charge exceeding one
31 dollar (\$1.00) calculated on the rule of the sum of the digits,
32 commonly known as the "Rule of 78ths." The refund shall be based
33 and calculated on the number of days by which the loan is paid in
34 advance, less twenty (20) days.

35 (d) Upon repayment of the loan in full, release any
36 mortgage or security agreement and restore any pledge within sixty
37 (60) days of such repayment unless such mortgage, security
38 agreement or pledge continues to secure an obligation to the
39 licensee, and cancel and return any note and any assignment given
40 to the licensee for the loan which is repaid.

41 (2) No licensee shall:

42 (a) Take any confession of judgment or any power of
43 attorney running to himself or to any third person to confess
44 judgment or to appear for the borrower in a judicial proceeding;
45 nor

46 (b) Take any note, promise to pay, or instrument of
47 security that does not disclose the amount of the loan before the
48 addition of precomputed charges, a schedule of payments or a
49 description thereof, the agreed rate of charge, nor any instrument
50 in which blanks are left to be filled in after the loan is made.

51 (3) Any contract of loan in the making or collection of
52 which any provision of this section shall have been violated,
53 either knowingly or without the exercise of due care to prevent
54 the same, shall be void and the licensee shall have no right to
55 collect or receive any principal, charges or recompense
56 whatsoever.

57 SECTION 2. Section 81-5-79, Mississippi Code of 1972, is
58 amended as follows:

59 81-5-79. Any bank or trust company heretofore or hereafter
60 organized under any general or special law of this state and doing

a banking business in this state and any national bank doing business in this state shall have power, in addition to such other powers as it may have, to make loans to any borrower or debtor in an amount not exceeding Five Thousand Dollars (\$5,000.00) to be repaid in monthly installments and may charge interest thereon at not exceeding twelve percent (12%) per annum for the entire period of the loan, and aggregate the principal and interest for the entire period of the loan and divide same into monthly installments, and may take security therefor as for other loans.

Any lien or security agreement pledged for a loan shall be released within sixty (60) days of repayment of the loan in full.

A charge of Ten Dollars (\$10.00) in lieu of interest may be made on any loan payable in a single payment, and a charge of Fifteen Dollars (\$15.00) in lieu of interest may be made on any loan payable in monthly installments.

No further interest or discount or service charge, or other charge by way of compensation for the use of such money, shall be made directly or indirectly on any such loan or discount by any such bank, trust company or national bank, made under the provisions of this section, in addition to the charges herein expressly provided for.

However, this section shall in no way repeal any of the other present usury statutes.

SECTION 3. Section 81-14-311, Mississippi Code of 1972, is amended as follows:

81-14-311. Subject to such rules and regulations as the commissioner may prescribe, a savings bank shall agree in writing with borrowers as to the method or plan by which an indebtedness shall be repaid. Any rules and regulations or agreement shall provide that any lien or security agreement for a loan shall be released within sixty (60) days of repayment of the loan in full.

SECTION 4. This act shall take effect and be in force from and after July 1, 1999.