

By: Representative Endt

To: Banks and Banking

HOUSE BILL NO. 165

1 AN ACT TO AMEND SECTION 75-17-19, MISSISSIPPI CODE OF 1972,
2 TO REDUCE THE MAXIMUM AMOUNT OF THE LATE PAYMENT CHARGE THAT MAY
3 BE CHARGED ON DELINQUENT CREDIT CARD PAYMENTS; AND FOR RELATED
4 PURPOSES.

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

6 SECTION 1. Section 75-17-19, Mississippi Code of 1972, is
7 amended as follows:

8 75-17-19. (1) Notwithstanding any provision of law to the
9 contrary, any retail seller and any lender or issuer of credit
10 cards may contract for and receive a finance charge for credit
11 sales of goods, services or merchandise certificates or for cash
12 advanced or other credit extended pursuant to a revolving charge
13 agreement by applying a periodic rate no greater than one and
14 three-fourths percent (1-3/4%) per month to:

15 (a) The average daily balance of the account, exclusive
16 of finance charge, in each billing period;

17 (b) An amount that shall not exceed the balance of the
18 account, exclusive of finance charge, on the first day of each
19 billing period without adding purchases or miscellaneous debits to
20 the account during the billing period; or

21 (c) Any balance of the account during each billing
22 period which does not produce an amount of finance charge in
23 excess of that permitted by (a) or (b).

24 (2) Notwithstanding the foregoing and any other provision of
25 law to the contrary, any bank which is an issuer of credit cards
26 may contract for and receive, in addition to any finance charges
27 authorized by law, an annual fee for membership in a credit card

plan pursuant to a revolving charge agreement and such fee shall not be considered a finance charge. Such fee shall not exceed Twelve Dollars (\$12.00) per year for an account where the cardholder is a natural person. However, any credit card issuer which does so contract for an annual membership fee may, notwithstanding the provisions of subsection (1) of this section, contract for and receive a finance charge for credit sales of goods, services or merchandise certificates or for cash advanced or other credit extended pursuant to a revolving charge agreement by applying a periodic rate no greater than one and one-half percent (1-1/2%) per month to:

(a) The average daily balance of the account, exclusive of finance charge, in each billing period;

(b) An amount that shall not exceed the balance of the account, exclusive of finance charge, on the first day of each billing period without adding purchases or miscellaneous debits to the account during the billing period; or

(c) Any balance of the account during each billing period which does not produce an amount of finance charge in excess of that permitted by (a) or (b).

(3) Notwithstanding the foregoing and any other provision of law to the contrary, any bank, retail seller, lender or other issuer of credit cards may contract for and receive, in addition to any finance charges authorized by law, late payment charges in connection with the credit sales of goods, services or merchandise certificates or for cash advanced pursuant to a revolving charge agreement in such amounts and upon such terms and conditions as may be agreed to in writing by the bank, retail seller, lender or other issuer of credit cards and the borrower or debtor, but not exceeding five percent (5%) of the amount of the delinquent payment or Three Dollars (\$3.00), whichever is less, on any delinquent payment, and such charges and fees shall not be considered a finance charge.

(4) No finance charge may be charged or collected for purchases made by the use of credit cards or credit sales of goods or services or merchandise certificates if the outstanding balance of the account existing on the first day of the billing statement

65 where such purchases initially appear is paid in full within one
66 (1) month after such billing statement date. If a finance charge
67 is otherwise due and the amount of the finance charge so computed
68 shall be less than Fifty Cents (50¢) for any such month, a finance
69 charge of Fifty Cents (50¢) for any such month may be charged,
70 received and collected. Any payment made pursuant to a revolving
71 charge agreement shall be applied first to any finance charge
72 shown to be due on the billing statement, next to repayment of
73 cash advanced or other credit extended, and finally to the
74 chronological repayment of purchases of goods, services or
75 merchandise certificates. The billing statement shall not state
76 that Mississippi law requires the imposition of a finance charge.
77 The term "month" as used in this subsection and in subsections (1)
78 and (2) of this section means either (a) a calendar month or (b) a
79 minimum of thirty (30) consecutive calendar days, or (c) the
80 number of days elapsing between the same numerical calendar day of
81 successive calendar months, or (d) a number of days which does not
82 vary by more than four (4) days from such period nor result in
83 more than twelve (12) billing periods per year. "Revolving charge
84 agreement" means an agreement by the terms of which retail sellers
85 may sell goods, services, merchandise certificates, or by which a
86 lender or issuer finances the purchase of goods or services or by
87 which a lender makes cash advances, by the use of credit cards or
88 otherwise, pursuant to which the amount financed is payable either
89 within a stated period or in installments over a period of time,
90 and the terms of which may provide for finance charges to be
91 assessed on the unpaid balance as it exists from time to time; the
92 term "revolving charge agreement" does not include the lending of
93 money evidenced by a promissory note. The term "cash advances"
94 includes credit extended by a lender to a borrower, or to any
95 other person for the account of a borrower, pursuant to a written
96 agreement, by the use of checks, drafts or other similar

97 instruments.

98 (5) Notwithstanding the foregoing and any other provision of
99 law to the contrary, any retail seller may contract for and
100 receive a finance charge for closed end credit sales of goods,
101 tangible property or services, other than pursuant to a revolving
102 charge agreement, which will result in a yield not to exceed the
103 following annual percentage rates calculated according to the
104 actuarial method:

105 (a) Twenty-four percent (24%) per annum on that part of
106 the unpaid balance of the amount financed which is Two Thousand
107 Five Hundred Dollars (\$2,500.00) or less; and

108 (b) Twenty-one percent (21%) per annum on that part of
109 the unpaid balance of the amount financed which is more than Two
110 Thousand Five Hundred Dollars (\$2,500.00).

111 SECTION 2. This act shall take effect and be in force from
112 and after July 1, 1999.