

By: Representative Guice

To: Banks and Banking

HOUSE BILL NO. 216

1 AN ACT TO AMEND SECTIONS 75-67-505, 75-67-509, 75-67-513 AND
2 75-67-515, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR LICENSE FEES,
3 LICENSE RENEWAL FEES, APPLICATION FEES AND EXAMINATION FEES FOR
4 PERSONS APPLYING FOR OR HOLDING LICENSES TO ENGAGE IN BUSINESS AS
5 CHECK CASHERS; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 75-67-505, Mississippi Code of 1972, is
8 amended as follows:

9 75-67-505. (1) A person may not engage in business as a
10 check casher or otherwise portray himself as a check casher unless
11 the person has a valid license authorizing engagement in the
12 business. A separate license is required for each place of
13 business under Sections 75-67-501 through 75-67-539 and each
14 business must be independent of, and not a part of, any other
15 business operation. A check cashing business shall not be a part
16 of, or located at the same business address with, a pawnshop,
17 title pledge office and small loan company. However, a licensed
18 check casher may, as a part of his business, sell money orders and
19 operate a processing center where utility bills are collected from
20 the general public and governmental payments are distributed. The
21 commissioner may issue more than one (1) license to a person if
22 that person complies with Sections 75-67-501 through 75-67-539 for
23 each license. A new license or application to transfer an
24 existing license is required upon a change, directly or
25 beneficially, in the ownership of any licensed check casher
26 business and an application shall be made to the commissioner in
27 accordance with Sections 75-67-501 through 75-67-539.

28 (2) When a licensee wishes to move a check casher business
29 to another location, the licensee shall give thirty (30) days'
30 prior written notice to the commissioner who shall amend the
31 license accordingly.

32 (3) Each license shall remain in full force and effect until
33 relinquished, suspended, revoked or expired. Every licensee, on
34 or before each September 1, shall pay the commissioner One Hundred
35 Fifty Dollars (\$150.00) for each license held by him as an annual
36 fee for the succeeding twelve-month period. If the annual fee
37 remains unpaid for twenty-nine (29) days after September 1, the
38 license shall thereupon expire, but not before the thirtieth day
39 of September of any year for which the annual fee has been paid.
40 All licensing fees shall be paid into the "Consumer Finance Fund"
41 of the Department of Banking and Consumer Finance. If any person
42 engages in business as provided for in this article without paying
43 the license fee provided for in this section before beginning
44 business or before the expiration of the person's current license,
45 as the case may be, then the person shall be liable for the full
46 amount of the license fee plus a penalty in an amount not to
47 exceed Fifty Dollars (\$50.00) per day that the person has engaged
48 in business without a license or after the expiration of the
49 license.

50 (4) Notwithstanding other provisions of Sections 75-67-501
51 through 75-67-539, the commissioner may issue a temporary license
52 authorizing the operator of a check casher business on the receipt
53 of an application for a license involving principals and owners
54 that are substantially identical to those of an existing licensed
55 check casher. The temporary license is effective until the
56 permanent license is issued or denied.

57 (5) Notwithstanding other provisions of Sections 75-67-501
58 through 75-67-539, neither a new license nor an application to
59 transfer an existing license shall be required upon any change,
60 directly or beneficially, in the ownership of any licensed check

61 casher business incorporated under the laws of this state or any
62 other state as long as the licensee continues to operate as a
63 corporation doing a check casher business under the license.
64 However, the commissioner may require the licensee to provide such
65 information as he deems reasonable and appropriate concerning the
66 officers and directors of the corporation and persons owning in
67 excess of twenty-five percent (25%) of the outstanding shares of
68 the corporation.

69 SECTION 2. Section 75-67-509, Mississippi Code of 1972, is
70 amended as follows:

71 75-67-509. To be eligible for a check casher license, an
72 applicant shall:

73 (a) Operate lawfully and fairly within the purposes of
74 Sections 75-67-501 through 75-67-539.

75 (b) Not have been convicted of a felony in the last ten
76 (10) years or be active as a beneficial owner for someone who has
77 been convicted of a felony in the last ten (10) years.

78 (c) File with the sheriff of the county or the mayor of
79 the municipality in which the check casher business is to be
80 located, a bond with good security in the penal sum of Ten
81 Thousand Dollars (\$10,000.00), payable to the mayor of the
82 municipality or the sheriff of the county in which the check
83 casher business is to be located, and their successors in office,
84 for the faithful performance by the licensee of the duties and
85 obligations pertaining to the business so licensed and the prompt
86 payment of any judgment which may be recovered against the
87 licensee on account of charges or other claims arising directly or
88 collectively from any violation of the provisions of Sections
89 75-67-501 through 75-67-539. The bond shall not be valid until it
90 is approved by the mayor of the municipality or by the sheriff of
91 the county. The applicant may file, in lieu of the bond, cash, a
92 certificate of deposit or government bonds in the amount of Ten
93 Thousand Dollars (\$10,000.00). Those deposits shall be filed with

the mayor of the municipality or the sheriff of the county in which the check casher is located, and is subject to the same terms and conditions as are provided for in the surety bond required in this paragraph. Any interest or earnings on those deposits are payable to the depositor.

(d) File with the tax assessor of the county or the city clerk of the municipality in which the check casher business is to be located, an application accompanied by an investigation fee of One Hundred Fifty Dollars (\$150.00) to be paid to the tax assessor or city clerk if the applicant is unlicensed at the time of applying for the check casher license, together with a separate fee of One Hundred Fifty Dollars (\$150.00) payable to the Department of Banking and Consumer Finance. Upon completion of an investigation of the applicant, the tax assessor or city clerk shall send a copy of the filed application, together with the fee of One Hundred Fifty Dollars (\$150.00) payable to the department along with his recommendation for the commissioner's approval or disapproval of the application. If applicant's application is approved, a check casher license will be issued within thirty (30) days. However, if the applicant's application is not approved, the application fee of One Hundred Fifty Dollars (\$150.00) payable to the department shall be returned to the applicant.

(e) Submit a set of fingerprints from any local law enforcement agency.

(f) Complete and file with the tax assessor of the county or city clerk of the municipality in which the check casher business is located, an annual renewal application accompanied by a renewal fee of One Hundred Fifty Dollars (\$150.00) payable to the department and a renewal fee of Fifty Dollars (\$50.00) payable to the tax assessor of the county or the city clerk of the municipality in which the check casher business is located.

SECTION 3. Section 75-67-513, Mississippi Code of 1972, is amended as follows:

75-67-513. (1) Upon filing of an application in a form prescribed by the commissioner, accompanied by the fee and documents required in Sections 75-67-501 through 75-67-539, the department shall investigate to ascertain whether the qualifications prescribed by Sections 75-67-509 and 75-67-511 have been satisfied. If the commissioner finds that the qualifications have been satisfied and, if he approves the documents so filed by the applicant, he shall issue to the applicant a license to engage in the business of check cashing in this state.

(2) The license shall be kept conspicuously posted in the place of business of the licensee.

SECTION 4. Section 75-67-515, Mississippi Code of 1972, is amended as follows:

75-67-515. (1) The department may adopt reasonable administrative regulations, not inconsistent with law, for the enforcement of Sections 75-67-501 through 75-67-539.

(2) To assure compliance with the provisions of Sections 75-67-501 through 75-67-539, the department may examine the books and records of any licensee without notice during normal business hours. The department may charge the licensee an examination fee not to exceed Two Hundred Fifty Dollars (\$250.00).

(3) Each licensee shall keep and use in its business any books, accounts and records the department may require to carry into effect the provisions of Sections 75-67-501 through 75-67-539 and the administrative regulations issued under Sections 75-67-501 through 75-67-539. Every licensee shall preserve the books, accounts and records of its business for at least two (2) years.

(4) Any fee charged by a licensee for cashing a check shall be posted conspicuously to the bearer of the check before cashing the check, and the fee shall be a service fee and not interest.

(5) Before a licensee deposits with any bank or other depository institution a check cashed by the licensee, the check shall be endorsed with the actual name under which the licensee is

doing business.

(6) All personal checks cashed for a customer by a licensee shall be dated on the actual date the cash is tendered to the customer.

(7) No licensee shall cash a check payable to a payee unless the licensee has previously obtained appropriate identification of the payee clearly indicating the authority of the person cashing the check, draft or money order on behalf of the payee.

(8) No licensee shall indicate through advertising, signs, billboards or otherwise that checks may be cashed without identification of the bearer of the check; and any person seeking to cash a check shall be required to submit reasonable identification as prescribed by the department. The provisions of this subsection shall not prohibit a licensee from cashing a check simultaneously with the verification and establishment of the identity of the presenter by means other than presentation of identification.

(9) Within five (5) business days after being advised by the payor financial institution that a check has been altered, forged, stolen, obtained through fraudulent or illegal means, negotiated without proper legal authority or represents the proceeds of illegal activity, the licensee shall notify the department and the district attorney for the judicial district in which the check was received. If a check is returned to the licensee by the payor financial institution for any of these reasons, the licensee may not release the check without consent of the district attorney or other investigating law enforcement authority.

(10) If a check is returned to a licensee from a payor financial institution because there are insufficient funds in or on deposit with the financial institution to pay the check, the licensee or any other person on behalf of the licensee shall not institute or initiate any criminal prosecution against the maker or drawer of the personal check with the intent and purpose of

193 aiding in the collection of or enforcing the payment of the amount
194 owed to the check casher by the maker or drawer of the check.

195 SECTION 5. This act shall take effect and be in force from
196 and after July 1, 1999.