

By: Representatives Stribling, Brown,
Coleman (65th)

To: Banks and Banking

HOUSE BILL NO. 1305

1 AN ACT TO AMEND SECTION 75-67-413, MISSISSIPPI CODE OF 1972,
2 TO PRESCRIBE THE MAXIMUM ANNUAL PERCENTAGE RATE THAT MAY BE
3 CHARGED BY A TITLE PLEDGE LENDER IN ANY TITLE PLEDGE TRANSACTION;
4 TO AMEND SECTION 75-67-415, MISSISSIPPI CODE OF 1972, TO PRESCRIBE
5 THE MAXIMUM AMOUNT OF MONEY THAT MAY BE LOANED UNDER ANY TITLE
6 PLEDGE TRANSACTION; TO BRING FORWARD SECTIONS 75-67-401 THROUGH
7 75-67-411 AND 75-67-417 THROUGH 75-67-443, MISSISSIPPI CODE OF
8 1972, WHICH ARE THE REMAINING SECTIONS OF THE MISSISSIPPI TITLE
9 PLEDGE ACT; AND FOR RELATED PURPOSES.

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

11 SECTION 1. Section 75-67-401, Mississippi Code of 1972, is
12 brought forward as follows:

13 75-67-401. This article shall be known and may be cited as
14 the "Mississippi Title Pledge Act."

15 SECTION 2. Section 75-67-403, Mississippi Code of 1972, is
16 brought forward as follows:

17 75-67-403. The following words and phrases shall have the
18 following meanings:

19 (a) "Appropriate law enforcement agency" means the
20 sheriff of each county in which the title pledge lender maintains
21 an office, or the police chief of the municipality or law
22 enforcement officers of the Department of Public Safety in which
23 the title pledge lender maintains an office.

24 (b) "Attorney General" means the Attorney General of
25 the State of Mississippi.

26 (c) "Commissioner" means the Commissioner of Banking
27 and Consumer Finance of the State of Mississippi, or his designee,
28 as the designated official for the purpose of enforcing this
29 article.

30 (d) "Identification" means a government issued
31 photographic identification.

32 (e) "Person" means an individual, partnership,
33 corporation, joint venture, trust, association or other legal
34 entity.

35 (f) "Pledged property" means any personal property
36 certificate of title that is deposited with a title pledge lender
37 in the course of the title pledge lender's business and is the
38 subject of a title pledge agreement.

39 (g) "Pledgor" means the person to whom the property is
40 titled.

41 (h) "Title pledge agreement" means a thirty-day written
42 agreement whereby a title pledge lender agrees to make a loan of
43 money to a pledgor, and the pledgor agrees to give the title
44 pledge lender a security interest in unencumbered titled personal
45 property owned by the pledgor. The pledgor shall agree that the
46 title pledge lender keep possession of the certificate of title.
47 The pledgor shall have the exclusive right to redeem the
48 certificate of title by repaying the loan of money in full and by
49 complying with the title pledge agreement. When the certificate
50 of title is redeemed, the title pledge lender shall release the
51 security interest in the titled personal property and return the
52 personal property certificate of title to the pledgor. The title
53 pledge agreement shall provide that upon failure by the pledgor to
54 redeem the certificate of title at the end of the original
55 thirty-day agreement period, or at the end of any extension(s)
56 thereof, the title pledge lender shall be allowed to take
57 possession of the titled personal property. The title pledge
58 agreement shall contain a power of attorney which authorizes the
59 title pledge lender to transfer title to the pledged property from
60 the pledgor to the title pledge lender upon failure to redeem the
61 pledged property on or before the maturity date of the title
62 pledge agreement, or any extension thereof. The title pledge

63 lender shall take physical possession of the certificate of title
64 for the entire length of the title pledge agreement, but shall not
65 be required to take physical possession of the titled personal
66 property at any time. A title pledge lender may only hold
67 unencumbered certificates of title for pledge.

68 (i) "Title pledge lender" means any person engaged in
69 the business of making title pledge agreements with pledgors;
70 provided, however, that the following are exempt from the
71 definition of "title pledge lender" and from the provisions of
72 this article: any bank which is regulated by the Department of
73 Banking and Consumer Finance, the Comptroller of the Currency of
74 the United States, the Federal Deposit Insurance Corporation, the
75 Board of Governors of the Federal Reserve System or any other
76 federal or state authority and all affiliates of such bank, and
77 additionally any bank or savings and loan association whose
78 deposits or accounts are eligible for insurance by the Bank
79 Insurance Fund or the Savings Association Insurance Fund or other
80 fund administered by the Federal Deposit Insurance Corporation or
81 any successor thereto, and all affiliates of such banks and
82 savings and loan associations, any state or federally chartered
83 credit union and finance company subject to licensing and
84 regulation by the Department of Banking and Consumer Finance.

85 (j) "Title pledge office" means the location at which,
86 or premises in which, a title pledge lender regularly conducts
87 business. No business other than title pledge business shall be
88 conducted at a title pledge office.

89 (k) "Title pledge service charge" means a charge for
90 investigating the title, appraising the titled personal property
91 to which the pledged property relates, documenting and closing the
92 title pledge agreement transaction, making required reports to
93 appropriate law enforcement officials, and for all of the services
94 provided by the title pledge lender.

95 (l) "Title pledge transaction form" means the

96 instrument on which a title pledge lender records title pledge
97 agreements pursuant to this article.

98 (m) "Titled personal property" means any personal
99 property the ownership of which is evidenced and delineated by a
100 state-issued certificate of title.

101 SECTION 3. Section 75-67-405, Mississippi Code of 1972, is
102 brought forward as follows:

103 75-67-405. At the time the title pledge lender enters into
104 each title pledge agreement, the title pledge lender shall
105 complete a consecutively numbered title pledge transaction form
106 for such transaction, and the pledgor shall sign the completed
107 form. The commissioner shall approve the design and format of the
108 title pledge transaction form, which shall elicit the information
109 required under this section. In completing the title pledge
110 transaction form, the title pledge lender shall record the
111 following information, which shall be typed or written indelibly
112 and legibly in English:

113 (a) The make, model and year of the titled personal
114 property to which the pledged property relates.

115 (b) The vehicle identification number, or other
116 comparable identification number, along with the license plate
117 number, if applicable, of the titled personal property to which
118 the pledged property relates.

119 (c) The name, address, date of birth, physical
120 description, Social Security number of the pledgor and one (1)
121 photo identification.

122 (d) The date of the transaction.

123 (e) The identification number and the type of
124 identification (including the issuing agency) accepted from the
125 pledgor.

126 (f) The amount of money advanced, which shall be
127 designated as the "amount financed."

128 (g) The maturity date of the title pledge agreement,

129 which shall be thirty (30) days after the date of the transaction.

130 (h) The total title pledge service charge payable on
131 the maturity date, designated as the "finance charge."

132 (i) The total amount (amount financed plus finance
133 charge) which must be paid to redeem the pledged property on the
134 maturity date, designated as the "total of payments."

135 (j) The annual percentage rate, computed in accordance
136 with the regulations adopted by the Federal Reserve Board pursuant
137 to the Federal Truth-in-Lending Act.

138 SECTION 4. Section 75-67-407, Mississippi Code of 1972, is
139 brought forward as follows:

140 75-67-407. (1) The following information shall also be
141 printed on all title pledge transaction forms:

142 (a) The name and address of the title pledge office.

143 (b) The statement that:

144 (i) The pledgor is not obligated to redeem the
145 pledged certificate of title;

146 (ii) If the pledgor does not redeem the pledged
147 certificate of title on or before the maturity date of the title
148 pledge agreement, the title pledge lender may take possession of
149 the titled personal property to which the certificate of title
150 relates;

151 (iii) If the pledgor does not redeem the pledged
152 property within thirty (30) days of the maturity date by paying
153 all outstanding principal, interest and other fees, then the
154 pledgor forfeits all right, title and interest in and to the
155 titled personal property and the pledged property to the title
156 pledge lender, who shall thereby acquire an absolute right of
157 title and ownership to the titled personal property; and

158 (iv) If this title pledge transaction form is
159 lost, destroyed or stolen, the pledgor shall immediately advise
160 the issuing title pledge lender.

161 (c) The statement that "The pledgor represents and

162 warrants that the titled personal property to which the pledged
163 property relates is not stolen, it has no liens or encumbrances
164 against it, and the pledgor has the right to enter into this
165 transaction."

166 (d) Immediately above the signature of the pledgor or
167 seller, the statement that "I, the pledgor declare under penalty
168 of perjury that I have read the foregoing document and that, to
169 the best of my knowledge and belief, the facts contained in it are
170 true and correct."

171 (e) A blank line for the signature of the pledgor.

172 (2) At the time of the transaction, the title pledge lender
173 shall deliver to the pledgor a copy of the completed title pledge
174 transaction form.

175 SECTION 5. Section 75-67-409, Mississippi Code of 1972, is
176 brought forward as follows:

177 75-67-409. (1) The pledgor shall sign a statement verifying
178 that the pledgor is the rightful owner of the pledged property and
179 is entitled to pledge it. The pledgor shall receive an exact copy
180 of the title pledge agreement which shall be signed by the title
181 pledge lender or any employee of the title pledge lender.

182 (2) The title pledge lender shall maintain a record of all
183 transactions of pledged property on the premises for a period of
184 two (2) years. A title pledge lender upon request shall provide
185 to the appropriate law enforcement agency a complete record of all
186 transactions. These records shall be a correct copy of the
187 entries made of the title pledge transaction, except as to the
188 amount of cash advanced for the pledged property and the monthly
189 title pledge charge.

190 SECTION 6. Section 75-67-411, Mississippi Code of 1972, is
191 brought forward as follows:

192 75-67-411. (1) A pledgor shall have no obligation to redeem
193 pledged property or make any payment on a title pledge
194 transaction. Upon the pledgor's failure to redeem the pledged

195 property on or before the maturity date of the title pledge
196 agreement or any extension or continuation thereof, the title
197 pledge lender has the right to take possession of the titled
198 personal property and to exercise a power of attorney to transfer
199 title to the pledged property. In taking possession, the title
200 pledge lender or his agent may proceed without judicial process if
201 this can be done without breach of the peace; or, if necessary,
202 may proceed by action to obtain judicial process.

203 (2) If, within thirty (30) days after the maturity date, the
204 pledgor redeems the pledged property by paying all outstanding
205 principal, interest and other customary fees, the pledgor shall be
206 given possession of the titled personal property and the pledged
207 property without further charge.

208 (3) If the pledgor fails to redeem the pledged property
209 during the thirty-day period provided in subsection (2) of this
210 section, then the pledgor shall thereby forfeit all right, title
211 and interest in and to the titled personal property and the
212 pledged property to the title pledge lender who shall thereby
213 acquire an absolute right of title and ownership to the titled
214 personal property. The title pledge lender shall then have the
215 sole right and authority to sell or dispose of the titled personal
216 property.

217 SECTION 7. Section 75-67-413, Mississippi Code of 1972, is
218 amended as follows:

219 75-67-413. (1) A title pledge lender may contract for and
220 receive a title pledge service charge in lieu of interest or other
221 charges for all services, expenses, cost and losses of every
222 nature not to exceed an annual percentage rate of thirty-eight and
223 nine-tenths percent (38.9%) of the principal amount for a
224 thirty-day period, advanced in the title pledge transaction.

225 (2) Any interest, charge or fees contracted for or received,
226 directly or indirectly, in excess of the amount permitted under
227 subsection (1) of this section shall be uncollectible and the

228 title pledge transaction shall be void. The title pledge service
229 charge allowed under subsection (1) of this section shall be
230 deemed earned, due and owing as of the date of the title pledge
231 transaction and a like sum shall be deemed earned, due and owing
232 on the thirty-first day from the date of the transaction and on
233 every thirtieth day thereafter.

234 (3) By agreement of the parties, the maturity date of the
235 title pledge transaction may be extended or continued for
236 thirty-day periods, provided that the service charges as specified
237 in subsection (1) are not exceeded for any extensions. All
238 extensions or continuations of the title pledge transaction shall
239 be evidenced in writing. No accrued interest or service charge
240 shall be capitalized or added to the original principal of the
241 title pledge transaction during any extension or continuation.
242 Beginning with the third extension or continuation, the principal
243 amount financed shall be reduced by at least ten percent (10%) of
244 the original principal amount for each successive extension or
245 continuation. Failure by the pledgor to pay at least ten percent
246 (10%) of the original principal amount of the title pledge
247 transaction at the maturity date of each such successive extension
248 or continuation shall cause the remaining principal and any
249 service charges or fees to become immediately due and payable.

250 SECTION 8. Section 75-67-415, Mississippi Code of 1972, is
251 amended as follows:

252 75-67-415. A title pledge lender, or any agent or employee
253 of such title pledge lender, shall not:

254 (a) Falsify or intentionally fail to make an entry of
255 any material matter in a title pledge lender transaction form.

256 (b) Refuse to allow the commissioner, the appropriate
257 law enforcement official, state attorney, or any of their
258 designated representatives having appropriate jurisdiction, to
259 inspect completed title pledge transaction forms or pledged
260 property during the ordinary hours of the title pledge lender's

261 business or other times acceptable to both parties.

262 (c) Enter into a title pledge agreement with a person
263 under the age of eighteen (18) years.

264 (d) Make any agreement requiring or allowing the
265 personal liability of a pledgor or the waiver of any of the
266 provisions of this article.

267 (e) Knowingly enter into a title pledge agreement with
268 any person who is under the influence of drugs or alcohol when
269 such condition is visible or apparent, or with any person using a
270 name other than his own name or the registered name of his
271 business.

272 (f) Enter into a title pledge agreement in which the
273 amount of money loaned in consideration of the pledge of any
274 single certificate of title exceeds Five Hundred Dollars
275 (\$500.00).

276 (g) Fail to exercise reasonable care in the safekeeping
277 of pledged property or of titled personal property repossessed
278 pursuant to this article.

279 (h) Fail to return pledged property or repossessed
280 titled personal property to a pledgor, with any and all of the
281 title pledge lender's liens on the property properly released,
282 upon payment of the full amount due the title pledge lender,
283 unless the property has been seized or impounded by an authorized
284 law enforcement agency, taken into custody by a court, or
285 otherwise disposed of by court order.

286 (i) Sell or otherwise charge for insurance in
287 connection with a title pledge agreement.

288 SECTION 9. Section 75-67-417, Mississippi Code of 1972, is
289 brought forward as follows:

290 75-67-417. (1) Any person presenting identification of
291 himself and presenting the pledgor's copy of the title pledge
292 transaction form to the title pledge lender is presumed to be
293 entitled to redeem the pledged property described in the title

294 pledge lender transaction form; provided, however, that if the
295 title pledge lender determines that the person is not the original
296 pledgor, the title pledge lender is not required to allow the
297 redemption of the pledged property by such person. The person
298 redeeming the pledged property must sign the pledgor's copy of the
299 title pledge transaction form, which the title pledge lender may
300 retain to evidence such person's receipt of the pledged property.

301 If the person redeeming the pledged property is not the original
302 pledgor, that person must show identification to the title pledge
303 lender, and the title pledge lender shall record the person's name
304 and address on the title pledge transaction form retained by the
305 title pledge lender. The title pledge lender shall not be liable
306 to the original pledgor for having allowed the redemption of the
307 pledged property by another person pursuant to this subsection
308 (1).

309 (2) If the pledgor's copy of the title pledge transaction
310 form is lost, destroyed or stolen, the pledgor must notify the
311 title pledge lender in writing by certified or registered mail,
312 return receipt requested, or in person evidenced by a signed
313 receipt, and receipt of this notice shall invalidate such title
314 pledge transaction form if the pledged property has not previously
315 been redeemed. Before delivering the pledged property or issuing
316 a new title pledge transaction form, the title pledge lender shall
317 require the pledgor to make a written statement of the loss,
318 destruction or theft of the pledgor's copy of the title pledge
319 transaction form. The title pledge lender shall record on the
320 written statement the type of identification and the
321 identification number accepted from the pledgor, the date the
322 statement is given and the number of the title pledge transaction
323 form lost, destroyed or stolen. The statement shall be signed by
324 the title pledge lender or the title pledge office employee who
325 accepts the statement from the pledgor. A title pledge lender is
326 entitled to a fee not to exceed Five Dollars (\$5.00) in connection

327 with each such lost, destroyed or stolen title pledge transaction
328 form and the taking of a properly prepared written statement.

329 (3) No sales tax shall be deemed due or collectible in
330 connection with the redemption of pledged property under this
331 article.

332 SECTION 10. Section 75-67-419, Mississippi Code of 1972, is
333 brought forward as follows:

334 75-67-419. (1) A person may not engage in business as a
335 title pledge lender or otherwise portray himself as a title pledge
336 lender unless the person has a valid license authorizing
337 engagement in the business. A separate license is required for
338 each place of business under this article. The commissioner may
339 issue more than one (1) license to a person if that person
340 complies with this article for each license. A new license or
341 application to transfer an existing license is required upon a
342 change, directly or beneficially, in the ownership of any licensed
343 title pledge office and an application shall be made to the
344 commissioner in accordance with this article.

345 (2) When a licensee wishes to move a title pledge office to
346 another location, the licensee shall give thirty (30) days prior
347 written notice to the commissioner who shall amend the license
348 accordingly.

349 (3) Each license shall remain in full force and effect until
350 relinquished, suspended, revoked or expired. Every licensee, on
351 or before each June 1, shall pay the commissioner One Hundred
352 Fifty Dollars (\$150.00) for each license held by him as an annual
353 fee for the succeeding calendar year. If the annual fee remains
354 unpaid thirty (30) days after written notice of delinquency has
355 been given to the licensee by the commissioner, the license shall
356 thereupon expire, but not before June 30 of any year for which the
357 annual fee has been paid. All licensing fees shall be paid into a
358 special fund within the State Treasury designated for the
359 Department of Banking and Consumer Finance.

360 (4) Notwithstanding other provisions of this article, the
361 commissioner may issue a temporary license authorizing the
362 operation of a title pledge office on the receipt of an
363 application to transfer a license from one person to another or on
364 the receipt of an application for a license involving principals
365 and owners that are substantially identical to those of an
366 existing licensed title pledge office. The temporary license is
367 effective until the permanent license is issued or denied.

368 (5) Notwithstanding other provisions of this article,
369 neither a new license nor an application to transfer an existing
370 license shall be required upon any change, directly or
371 beneficially, in the ownership of any licensed title pledge office
372 incorporated under the laws of this state or any other state so
373 long as the licensee continues to operate as a corporation doing a
374 title pledge business under the license. The commissioner may,
375 however, require the licensee to provide such information as he
376 deems reasonable and appropriate concerning the officer and
377 directors of the corporation and persons owning in excess of
378 twenty-five percent (25%) of the outstanding shares of the
379 corporation.

380 SECTION 11. Section 75-67-421, Mississippi Code of 1972, is
381 brought forward as follows:

382 75-67-421. (1) To be eligible for a title pledge lender
383 license, an applicant shall:

384 (a) Operate lawfully and fairly within the purposes of
385 this article;

386 (b) Not have been convicted of a felony in the last ten
387 (10) years or be active as a beneficial owner for someone who has
388 been convicted of a felony in the last ten (10) years;

389 (c) File with the sheriff of the county or the mayor of
390 the municipality, wherein such title pledge office is to be
391 located, a bond with good security in the penal sum of One Hundred
392 Thousand Dollars (\$100,000.00), payable to the mayor of the

393 municipality or the sheriff of the county, in which such title
394 pledge office is to be located, and their successors in office,
395 for the faithful performance by the licensee of the duties and
396 obligations pertaining to the business so licensed and the prompt
397 payment of any judgment which may be recovered against the
398 licensee on account of damages or other claim arising directly or
399 collaterally from any violation of the provisions of this article;
400 such bond shall not be valid until it is approved by the mayor of
401 such town or by the sheriff of such county; such applicant may
402 file, in lieu thereof, cash, a certificate of deposit, or
403 government bonds in the amount of Ten Thousand Dollars (\$10,000),
404 the deposit of which shall be filed with the mayor of the
405 municipality or the sheriff of the county wherein such title
406 pledge office is located, and is subject to the same terms and
407 conditions as are provided for in the surety bond required herein;
408 any interest or earnings on such deposits are payable to the
409 depositor.

410 (d) File with the tax assessor of the county or the
411 city clerk of the municipality wherein the title pledge office is
412 to be located an application accompanied by a set of fingerprints
413 from any local law enforcement agency, the One Hundred Fifty
414 Dollar (\$150.00) annual fee payable to the department, and an
415 initial investigation fee of One Hundred Dollars (\$100.00) to be
416 paid to the tax assessor or city clerk if the applicant is
417 unlicensed at the time of applying for the title pledge lender
418 license, or if the application involves a second license to an
419 applicant for a separate location or involves substantially
420 identical principals and owners of a licensed title pledge office
421 at a separate location; upon completion of an investigation of the
422 applicant, such tax assessor or city clerk shall mail a copy of
423 the filed application together with the fee of One Hundred Fifty
424 Dollars (\$150.00) payable to the department to the commissioner
425 along with his recommendation for the commissioner's approval or

426 disapproval of the application. If applicant's application is
427 approved, a title pledge lender license will be issued within
428 thirty (30) days. If, however, applicant's application is not
429 approved, the application fee of One Hundred Fifty Dollars
430 (\$150.00) payable to the department shall be returned to the
431 applicant.

432 (2) Upon the filing of an application in a form prescribed
433 by the commissioner, accompanied by the fee and documents required
434 in this article, the department shall investigate to ascertain
435 whether the qualifications prescribed by this article have been
436 satisfied. If the commissioner finds that the qualifications have
437 been satisfied and, if he approves the documents so filed by the
438 applicant, he shall issue to the applicant a license to engage in
439 the business of title pledge lending in this state.

440 (3) Complete and file with the tax assessor of the county or
441 city clerk of the municipality in which the title pledge office is
442 to be located, an annual renewal application accompanied by a
443 renewal fee of Fifty Dollars (\$50.00).

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

446 SECTION 12. Section 75-67-423, Mississippi Code of 1972, is
447 brought forward as follows:

448 75-67-423. (1) The commissioner may, after notice and
449 hearing, suspend or revoke any license if it finds that:

450 (a) The licensee, either knowingly, or without the
451 exercise of due care to prevent the same, has violated any
452 provision of this article;

453 (b) Any fact or condition exists which, if it had
454 existed or had been known to exist at the time of the original
455 application for the license, clearly would have justified the
456 commissioner in refusing the license;

457 (c) The licensee has aided, abetted or conspired with
458 an individual or person to circumvent or violate the requirements

459 of this article;

460 (d) The licensee, or a legal or beneficial owner of the
461 license, has been convicted of a crime that the commissioner finds
462 directly relates to the duties and responsibilities of the
463 occupation of title pledge lender.

464 (2) The commissioner may conditionally license or place on
465 probation a person whose license has been suspended or may
466 reprimand a licensee for a violation of this article.

467 (3) The manner of giving notice and conducting a hearing as
468 required by subsection (1) of this section shall be performed in
469 accordance with Mississippi Administrative Procedures Law, Section
470 25-43-1 et seq., Mississippi Code of 1972.

471 (4) Any licensee may surrender any license by delivering it
472 to the commissioner with written notice of its surrender, but such
473 surrender shall not affect the licensee's civil or criminal
474 liability for acts committed prior thereto.

475 (5) No revocation, suspension or surrender of any license
476 shall impair or affect the obligation of any pre-existing lawful
477 contract between the licensee and any pledgor. Any title pledge
478 transaction made without benefit of license is void.

479 (6) The commissioner may reinstate suspended licenses or
480 issue new licenses to a person whose license or licenses have been
481 revoked if no fact or condition then exists that clearly would
482 have justified the commissioner in refusing originally to issue a
483 license under this article.

484 (7) The appropriate local law enforcement agency shall be
485 notified of any licensee who has his license suspended or revoked
486 as provided by this article.

487 (8) The Commissioner of Banking and Consumer Finance shall
488 enforce the provisions of this section.

489 SECTION 13. Section 75-67-425, Mississippi Code of 1972, is
490 brought forward as follows:

491 75-67-425. (1) An application for a new title pledge office

492 license, the transfer of an existing title pledge office license
493 or the approval of a change in the ownership of a licensed title
494 pledge office shall be under oath and shall state the full name
495 and place of residence of the applicant, the place where the
496 business is to be conducted and other relevant information
497 required by the commissioner. If the applicant is a partnership,
498 the application shall state the full name of each partner. If the
499 applicant is a corporation, the application shall state the full
500 name and address of each officer, shareholder and director.

501 (2) Notwithstanding the provisions of this section, the
502 application need not state the full name and address of each
503 shareholder, if the applicant is owned directly or beneficially by
504 a person which as an issuer has a class of securities registered
505 pursuant to Section 12 of the Securities Exchange Act of 1934 or
506 is an issuer of securities which is required to file reports with
507 the Securities and Exchange Commission pursuant to Section 15(d)
508 of the Securities Exchange Act, provided that such person files
509 with the commissioner such information, documents and reports as
510 are required by the provision of the Securities Exchange Act to be
511 filed by such issuer with the Securities and Exchange Commission.

512 SECTION 14. Section 75-67-427, Mississippi Code of 1972, is
513 brought forward as follows:

514 75-67-427. (1) No pledged property can be confiscated
515 without the following actions having been accomplished:

516 (a) A police report being made in a timely manner;

517 (b) A warrant sworn out for the person who pledged the
518 property to the title pledge lender; and

519 (c) A theft report or a National Crime Information
520 Center (NCIC) report identifying the pledged property to be
521 confiscated along with a request for restitution, pursuant to law.

522 (2) Pledged property can be put on a one-time seven-day hold
523 by the authorized law enforcement authorities.

524 (3) Confiscated pledged property shall be returned to the

525 title pledge lender by the law enforcement authorities as soon as
526 possible when determined that the pledged property has no rightful
527 owner.

528 SECTION 15. Section 75-67-429, Mississippi Code of 1972, is
529 brought forward as follows:

530 75-67-429. Any person who engages in the business of
531 operating a title pledge office without first securing a license
532 prescribed by this article shall be guilty of a misdemeanor and,
533 upon conviction thereof, shall be punishable by a fine not in
534 excess of One Thousand Dollars (\$1,000.00) or by confinement in
535 the county jail for not more than one (1) year, or both.

536 SECTION 16. Section 75-67-431, Mississippi Code of 1972, is
537 brought forward as follows:

538 75-67-431. (1) In addition to any other penalty which may
539 be applicable, any licensee or employee who willfully violates any
540 provision of this article, or who willfully makes a false entry in
541 any record specifically required by this article, shall be guilty
542 of a misdemeanor and, upon conviction thereof, shall be punishable
543 by a fine not in excess of One Thousand Dollars (\$1,000.00) per
544 violation or false entry.

545 (2) (a) In addition to any other penalty which may be
546 applicable, any licensee or employee who fails to make a record of
547 a title pledge transaction and subsequently sells or disposes of
548 the pledged property from such transaction shall be punished as
549 follows:

550 (i) For a first offense, the licensee or employee
551 shall be guilty of a misdemeanor and upon conviction thereof,
552 shall be punishable by a fine not in excess of One Thousand
553 Dollars (\$1,000.00) or by imprisonment in the county jail for not
554 more than one (1) year, or both fine and imprisonment;

555 (ii) For a second offense, the licensee or
556 employee shall be guilty of a felony and, upon conviction thereof,
557 shall be punishable by a fine not in excess of Five Thousand

558 Dollars (\$5,000.00) or by imprisonment in the custody of the State
559 Department of Corrections for a term not less than one (1) year
560 nor more than five (5) years, or by both fine and imprisonment.

561 (b) Any licensee convicted in the manner provided in
562 this subsection (2) shall forfeit the surety bond or deposit
563 required in Section 75-67-421 and the amount of the bond or
564 deposit shall be credited to the budget of the state or local
565 agency, which directly participated in the prosecution of the
566 licensee, for the specific purpose of increasing law enforcement
567 resources for that specific state or local agency. Any proceeds
568 of a forfeited bond or deposit shall be used to augment existing
569 state and local law enforcement budgets and not to supplant them.

570 (3) Compliance with the criminal provisions of this article
571 shall be enforced by the appropriate law enforcement agency who
572 may exercise for that purpose any authority conferred upon the
573 agency by law.

574 (4) When the commissioner has reasonable cause to believe
575 that a person is violating any provision of this article, the
576 commissioner, in addition to and without prejudice to the
577 authority provided elsewhere in this article, may enter an order
578 requiring the person to stop or to refrain from the violation.
579 The commissioner may sue in any circuit court of the state having
580 jurisdiction and venue to enjoin the person from engaging in or
581 continuing the violation or from doing any act in furtherance of
582 the violation. In such an action, the court may enter an order or
583 judgment awarding a preliminary or permanent injunction.

584 (5) The commissioner may, after notice and hearing, impose a
585 civil penalty against any licensee if the licensee or employee is
586 adjudged by the commissioner to be in violation of the provisions
587 of this article. Such civil penalty shall not exceed Five Hundred
588 Dollars (\$500.00) per violation and shall be deposited into the
589 Department of Banking Special Fund.

590 SECTION 17. Section 75-67-433, Mississippi Code of 1972, is

591 brought forward as follows:

592 75-67-433. If any pledged property from a title pledge
593 transaction is found to be stolen and is returned to the rightful
594 owner by law enforcement authorities and if the licensee who
595 accepted such pledged property has complied with all of the duties
596 and responsibilities as specified in this article during such
597 transaction, then the rightful owner of such pledged property
598 shall be liable to the licensee for the pledged amount if the
599 rightful owner fails to prosecute or cooperate in the criminal
600 prosecution related to such title loan transaction, provided that
601 the rightful owner can prove that the stolen goods are his. It
602 shall also be the responsibility of the licensee to assist or
603 cooperate in the criminal prosecution related to such title pledge
604 transaction. If the identity of a person who pawned stolen goods
605 can be determined, the district attorney may prosecute such person
606 for any applicable criminal violations.

607 SECTION 18. Section 75-67-435, Mississippi Code of 1972, is
608 brought forward as follows:

609 75-67-435. (1) The Commissioner of Banking and Consumer
610 Finance shall develop and provide any necessary forms to carry out
611 the provisions of this article.

612 (2) The department may adopt reasonable administrative
613 regulations, not inconsistent with law, for the enforcement of
614 this article.

615 (3) To assure compliance with the provision of this article,
616 the department may examine the books and records of any licensee
617 without notice during normal business hours. The department may
618 charge the licensee an examination fee not to exceed Two Hundred
619 Fifty Dollars (\$250.00).

620 SECTION 19. Section 75-67-437, Mississippi Code of 1972, is
621 brought forward as follows:

622 75-67-437. Title pledge lenders in operation as of the
623 effective date of this chapter shall have until July 1, 1997, to

624 apply for a license under this article.

625 SECTION 20. Section 75-67-439, Mississippi Code of 1972, is
626 brought forward as follows:

627 75-67-439. Municipalities in this state may enact ordinances
628 which are in compliance with, but not more restrictive than, the
629 provisions of this article. Any existing or future order,
630 ordinance or regulation which conflicts with this provision shall
631 be null and void.

632 SECTION 21. Section 75-67-441, Mississippi Code of 1972, is
633 brought forward as follows:

634 75-67-441. The provisions of this article are severable. If
635 any part of this article is declared invalid or unconstitutional,
636 such declaration shall not affect the parts which remain.

637 SECTION 22. Section 75-67-443, Mississippi Code of 1972, is
638 brought forward as follows:

639 75-67-443. The commissioner may employ additional necessary
640 permanent full-time employees above the number of permanent
641 full-time employees authorized for the department for fiscal year
642 1997 to carry out and enforce the provisions of this article.

643 SECTION 23. This act shall take effect and be in force from
644 and after July 1, 1999.