

By: Guice

To: Banks and Banking;  
Ways and Means

HOUSE BILL NO. 164

1 AN ACT TO AMEND SECTION 27-21-3, MISSISSIPPI CODE OF 1972, TO  
2 EXEMPT CERTAIN LOANS FROM THE FINANCE COMPANY PRIVILEGE TAX; TO  
3 AMEND SECTION 75-67-121, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
4 THE LICENSEE SHALL NOT CHARGE THE BORROWER FOR BOTH CREDIT LIFE  
5 INSURANCE AND NONCREDIT TERM LIFE INSURANCE AS PART OF THE SAME  
6 UNDERLYING LOAN; TO AMEND SECTION 75-67-135, MISSISSIPPI CODE OF  
7 1972, TO EXEMPT CERTAIN LOANS FROM THE SMALL LOAN REGULATORY LAW  
8 AND TO PROVIDE THAT THE SMALL LOAN REGULATORY LAW SHALL NOT LIMIT  
9 THE AMOUNT OR TYPE OF ANY NONCREDIT TERM LIFE INSURANCE POLICIES  
10 THAT A LICENSEE UNDER SUCH LAW MAY SELL TO A BORROWER UNDER  
11 CERTAIN CONDITIONS; TO AMEND SECTION 75-67-241, MISSISSIPPI CODE  
12 OF 1972, TO EXEMPT CERTAIN LOANS FROM THE SMALL LOAN PRIVILEGE TAX  
13 LAW; AND FOR RELATED PURPOSES.

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

15 SECTION 1. Section 27-21-3, Mississippi Code of 1972, is  
16 amended as follows:

17 27-21-3. There is hereby levied a statewide privilege tax  
18 upon every person, firm, corporation, or association, other than  
19 banks, state or national, doing business of lending money secured  
20 by mortgages, trust receipts, retained-title or purchase  
21 contracts, on motor vehicles, furniture, refrigerators containing  
22 mechanical freezing units operated by gas or electricity, or  
23 radios or any other tangible personal property, located in the  
24 State of Mississippi, or doing a business of purchasing,  
25 discounting, or otherwise acquiring notes, trust receipts, or  
26 other forms of indebtedness secured by liens, in the form of

27 mortgages, retained-title or purchase contracts, or other liens,  
28 upon motor vehicles, furniture, refrigerators containing  
29 mechanical units operated by gas or electricity or other fuels, or  
30 radios or any other tangible personal property, located in this  
31 state (not including, however, cotton, cotton seed or agricultural  
32 products); the amount of said tax to bear a direct relationship to  
33 the value of the securities held, owned, or acquired by such  
34 person, firm, corporation or association, and exacted in return  
35 for the protection afforded by the government and laws of this  
36 state in the enjoyment of such ownership and rights acquired  
37 thereby; the tax to be computed by application of the rate  
38 hereinafter set out to the total value of such securities, other  
39 than those securities representing loans for the payment of the  
40 wholesale sales price and those securities representing  
41 transactions known as "floor plan," upon which no tax is to be  
42 imposed. Provided, however, that the tax imposed in this chapter  
43 shall not apply to (a) persons, firms or corporations engaged in  
44 the general mercantile business, who make advancements of money,  
45 merchandise and supplies to their customers and who take  
46 mortgages, deeds of trust or other liens upon personal property to  
47 secure the payment of the indebtedness thus incurred; \* \* \* (b) a  
48 member of an affiliated group as defined by Section 1504 of the  
49 Internal Revenue Code of 1986, as amended, on July 1, 1995, with  
50 respect to loans made by one (1) member of the affiliated group to  
51 another and who is not otherwise engaged in the business of  
52 loaning money secured by tangible personal property; or (c) loans  
53 which are secured by mortgages, security interests, trust  
54 receipts, retained-title, contracts, purchase contracts or other  
55 liens on real property.

56 SECTION 2. Section 75-67-121, Mississippi Code of 1972, is  
57 amended as follows:

58           75-67-121. Any licensee hereunder may charge any borrower on  
59 loans of One Hundred Dollars (\$100.00) or more the actual cost of  
60 recording any instrument executed as security for a loan; any  
61 reasonable fee paid to an attorney for investigating the title to  
62 any property given as security for a loan; the actual cost of any  
63 premium paid for insurance upon any property given as security for  
64 a loan, such insurance to be placed with an insurance company  
65 agent of the borrower's selection so long as it is licensed to do  
66 business in the State of Mississippi; the actual cost of any  
67 premium paid for life, health and/or accident insurance on any  
68 borrower where the amount of insurance required is not in excess  
69 of the amount of the loan and the premium therefor is in keeping  
70 with that usually and customarily paid for like insurance.  
71 However, the licensee shall not charge the borrower for both  
72 credit life insurance premiums and noncredit term life insurance  
73 premiums as part of the same underlying loan as provided in  
74 Section 75-67-135, as amended by House Bill No.           , 2000 Regular  
75 Session.

76           Whenever he shall find it necessary, the Commissioner of  
77 Banking and Consumer Finance shall have the power to adopt and  
78 enforce reasonable rules and regulations to prevent the abuse of  
79 this section and the making of excessive charges hereunder.

80           SECTION 3. Section 75-67-135, Mississippi Code of 1972, is  
81 amended as follows:

82           75-67-135. (1) This article shall not apply to any person,  
83 firm, partnership, corporation or association doing business under  
84 any of the laws of this state relating to banks, savings banks,  
85 trust companies, building and loan associations, insurance

86 companies, pawnbrokers or credit unions; nor shall this article  
87 apply to any person, firm, partnership, corporation or association  
88 concerning loans made to the employees or farm tenants of such  
89 person, firm, partnership or corporation or association; nor to  
90 loans or advances made to be used in or in the furtherance of  
91 farming or agricultural operations; nor to loans insured or  
92 guaranteed by the United States or any of its agencies; nor to  
93 persons, firms, partnerships, associations or corporations making  
94 loans only secured by real estate; nor to dealers and sellers or  
95 purchasers of conditional sales or retained title contracts on  
96 real or personal property; nor an occasional lender not regularly  
97 engaged in the business of lending money, but such lender shall be  
98 governed by the usury statutes of this state; nor in the case of  
99 any loan that is exempt from the federal Truth in Lending Act and  
100 Regulation Z.

101 (2) Nothing in this article shall limit the amount or type  
102 of any noncredit term life insurance policies which a licensee may  
103 sell to a borrower, nor the premium for any such insurance, if the  
104 following conditions are met:

105 (a) The licensee is qualified to do business in  
106 Mississippi as provided by Section 83-17-105 et seq.;

107 (b) The licensee does not require the purchase of the  
108 noncredit term life insurance product as a condition of receiving  
109 the loan or any extension of credit from the licensee;

110 (c) The licensee does not make the borrower's ability  
111 to obtain any current or future loan or other extension of credit  
112 from the licensee contingent upon the borrower's agreement to  
113 purchase the noncredit term life insurance product or otherwise

114 transact business with the licensee;

115 (d) The licensee allows the borrower the option of  
116 paying the cost of the noncredit term life insurance product using  
117 funds other than the proceeds of a loan obtained from the licensee  
118 or having the cost of the noncredit term life insurance product  
119 deducted from the proceeds of any loan obtained from the licensee;  
120 and

121 (e) The licensee does not allow a noncredit term life  
122 insurance policy to be sold to a borrower if such borrower has  
123 purchased a credit life insurance policy as part of the same  
124 underlying loan.

125 This subsection shall not apply to sales of credit insurance,  
126 nor the limits on credit life insurance, as provided by Section  
127 75-67-121.

128 SECTION 4. Section 75-67-241, Mississippi Code of 1972, is  
129 amended as follows:

130 75-67-241. This article shall not apply to any person, firm,  
131 partnership, corporation or association doing business under any  
132 of the laws of this state relating to banks, savings banks, trust  
133 companies, building and loan associations, insurance companies,  
134 credit unions or pawnbrokers; nor shall this article apply to any  
135 person, firm, partnership, corporation or association concerning  
136 loans made to the employees or farm tenants of such person, firm,  
137 partnership or corporation or association; nor to loans or  
138 advances made to be used in or in the furtherance of farming or  
139 agricultural operations; nor to loans insured or guaranteed by the  
140 United States or any of its agencies; nor to persons, firms,  
141 partnerships, associations or corporations making loans only

142 secured by real estate; nor to dealers and sellers or purchasers  
143 of conditional sales or retained title contracts on real or  
144 personal property; nor a member of an affiliated group as defined  
145 by Section 1504 of the Internal Revenue Code of 1986, as amended,  
146 on May 24, 1995, with respect to loans made by one (1) member of  
147 the affiliated group to another and who is not otherwise engaged  
148 in the business of loaning money secured by tangible personal  
149 property; nor an occasional lender not regularly engaged in the  
150 business of lending money, but such lender shall be governed by  
151 the usury statutes of this state; nor in the case of any loan that  
152 is exempt from the federal Truth in Lending Act and Regulation Z.

153 SECTION 5. This act shall take effect and be in force from  
154 and after July 1, 2000.