

By: Guice

To: Banks and Banking

HOUSE BILL NO. 723
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 63-19-3, MISSISSIPPI CODE OF 1972, TO
2 DEFINE THE TERM "RECORDS/DOCUMENTS" FOR THE PURPOSES OF THE MOTOR
3 VEHICLE SALES FINANCE LAW; TO AMEND SECTION 63-19-11, MISSISSIPPI
4 CODE OF 1972, TO REVISE THE LICENSE FEE UNDER THE MOTOR VEHICLE
5 SALES FINANCE LAW; TO AMEND SECTION 63-19-15, MISSISSIPPI CODE OF
6 1972, TO DELETE THE PROVISION WHICH PROVIDES THAT THE COMMISSIONER
7 OF BANKING SHALL ENDORSE THE CHANGE OF LOCATION OF A MOTOR VEHICLE
8 SALES FINANCE COMPANY ON THE LICENSE WITHOUT CHARGE; TO AMEND
9 SECTION 63-19-27, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
10 COMMISSIONER OF BANKING TO CHARGE MOTOR VEHICLE SALES FINANCE
11 LICENSEES AN EXAMINATION FEE; TO AMEND SECTION 63-19-31,
12 MISSISSIPPI CODE OF 1972, TO CORRECT SEVERAL INTERNAL REFERENCES;
13 TO AMEND SECTION 63-19-55, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
14 THE COMMISSIONER OF BANKING TO IMPOSE CIVIL PENALTIES FOR
15 VIOLATIONS OF THE MOTOR VEHICLE SALES FINANCE LAW; TO CREATE A NEW
16 CODE SECTION TO BE CODIFIED WITHIN CHAPTER 19 OF TITLE 63,
17 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING
18 TO EXAMINE PERSONS REASONABLY SUSPECTED OF CONDUCTING BUSINESS
19 THAT REQUIRES A LICENSE UNDER THE MOTOR VEHICLE SALES FINANCE LAW;
20 TO AMEND SECTION 75-15-3, MISSISSIPPI CODE OF 1972, TO DEFINE THE
21 TERM "RECORDS/DOCUMENTS" FOR THE PURPOSES OF THE SALE OF CHECKS
22 LAW; TO AMEND SECTION 75-15-15, MISSISSIPPI CODE OF 1972, TO
23 REVISE THE LICENSE FEE UNDER THE SALE OF CHECKS LAW; TO AMEND
24 SECTION 75-15-19, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
25 COMMISSIONER OF BANKING TO CHARGE LICENSEES UNDER THE SALE OF
26 CHECKS LAW AN EXAMINATION FEE; TO AMEND SECTION 75-15-31,
27 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING
28 TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF THE SALE OF CHECKS
29 LAW; TO CREATE A NEW CODE SECTION TO BE CODIFIED WITHIN CHAPTER 15
30 OF TITLE 75, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
31 COMMISSIONER OF BANKING TO EXAMINE PERSONS REASONABLY SUSPECTED OF
32 CONDUCTING BUSINESS THAT REQUIRES A LICENSE UNDER THE SALE OF
33 CHECKS LAW; TO AMEND SECTION 75-67-103, MISSISSIPPI CODE OF 1972,
34 TO DEFINE THE TERM "RECORDS/DOCUMENTS" FOR THE PURPOSES OF THE
35 SMALL LOAN REGULATORY LAW; TO AMEND SECTION 75-67-115, MISSISSIPPI
36 CODE OF 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING TO CHARGE
37 LICENSEES UNDER THE SMALL LOAN REGULATORY LAW AN EXAMINATION FEE;
38 TO AMEND SECTION 75-67-203, MISSISSIPPI CODE OF 1972, TO DEFINE
39 THE TERM "RECORDS/DOCUMENTS" FOR THE PURPOSES OF THE SMALL LOAN
40 PRIVILEGE TAX LAW; TO AMEND SECTION 75-67-213, MISSISSIPPI CODE OF
41 1972, TO REVISE THE LICENSE FEE UNDER THE SMALL LOAN PRIVILEGE TAX
42 LAW; TO AMEND SECTION 75-67-215, TO AUTHORIZE THE COMMISSIONER OF
43 BANKING TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF THE SMALL LOAN
44 PRIVILEGE TAX LAW; TO CREATE A NEW CODE SECTION TO BE CODIFIED
45 WITHIN ARTICLE 5 OF CHAPTER 67 OF TITLE 75, MISSISSIPPI CODE OF
46 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING TO EXAMINE PERSONS
47 REASONABLY SUSPECTED OF CONDUCTING BUSINESS WHICH REQUIRES A
48 LICENSE UNDER THE SMALL LOAN PRIVILEGE TAX LAW; TO AMEND SECTION
49 75-67-229, MISSISSIPPI CODE OF 1972, TO ALLOW THE COMMISSIONER OF
50 BANKING TO CHARGE A FEE WHEN ISSUING A NEW LICENSE FOR THE

51 UNEXPIRED PORTION OF THE YEAR SHOWING A NEW LOCATION OF THE SMALL
52 LOAN BUSINESS; TO AMEND SECTION 75-67-403, MISSISSIPPI CODE OF
53 1972, TO AUTHORIZE A TITLE PLEDGE LENDER TO ENCUMBER THE TITLE AS
54 PART OF THE TITLE PLEDGE TRANSACTION BY PERFECTING ITS SECURITY
55 INTEREST IN THE TITLED PROPERTY; TO DEFINE THE TERM
56 "RECORDS/DOCUMENTS" FOR THE PURPOSES OF THE TITLE PLEDGE ACT; TO
57 AMEND SECTION 75-67-409, MISSISSIPPI CODE OF 1972, TO REQUIRE
58 TITLE PLEDGE LENDERS TO MAINTAIN RECORDS CONTAINING A COMPLETE
59 PAYMENT HISTORY OF EACH CUSTOMER; TO AMEND SECTION 75-67-411,
60 MISSISSIPPI CODE OF 1972, TO AUTHORIZE A PLEDGOR IN A TITLE PLEDGE
61 AGREEMENT TO REDEEM THE PLEDGED PROPERTY WITHIN THREE BUSINESS
62 DAYS AFTER THE TITLE PLEDGE LENDER HAS TAKEN POSSESSION OF THE
63 PROPERTY; TO PROVIDE THAT IF THE PROPERTY IS SOLD AFTER THE
64 THREE-DAY PERIOD, THE LENDER SHALL RETURN TO THE PLEDGOR 85% OF
65 THE AMOUNT RECEIVED FROM THE SALE ABOVE THE AMOUNT NEEDED TO
66 REDEEM THE PROPERTY PLUS A SALES FEE; TO PROVIDE THAT ANY TITLED
67 PERSONAL PROPERTY DEEMED TO BE SALVAGE BY THE LENDER MAY BE
68 DISPOSED OF IMMEDIATELY UPON REPOSSESSION; TO PROVIDE THAT THE
69 TITLE PLEDGE TRANSACTION FORM MUST CONTAIN A BOLDFACE PROVISION
70 THAT NOTIFIES THE PLEDGOR THAT THE TITLED PERSONAL PROPERTY IS
71 SUBJECT TO SALE AT ANY TIME AFTER THE THREE-DAY PERIOD HAS
72 EXPIRED; TO AMEND SECTION 75-67-413, MISSISSIPPI CODE OF 1972, TO
73 REQUIRE A PLEDGOR TO REDUCE THE PRINCIPAL AMOUNT FINANCED BY AT
74 LEAST 10% BEGINNING WITH THE FIRST EXTENSION OR CONTINUATION,
75 RATHER THAN BEGINNING WITH THE THIRD; TO PROVIDE THAT ANY
76 ADDITIONAL PAYMENT OF FUNDS ON THE SAME PLEDGED PROPERTY MUST BE
77 EVIDENCED BY A SEPARATE TITLE PLEDGE AGREEMENT; TO PROHIBIT A
78 TITLE PLEDGE LENDER FROM ADVANCING FUNDS TO A PLEDGOR TO PAY OFF
79 AN EXISTING TITLE PLEDGE AGREEMENT; TO AMEND SECTION 75-67-419,
80 MISSISSIPPI CODE OF 1972, TO REVISE THE FEE FOR A TITLE PLEDGE
81 LENDER LICENSE; TO AMEND SECTION 75-67-421, MISSISSIPPI CODE OF
82 1972, TO PROVIDE THAT THE INITIAL APPLICATION AND BOND FOR A TITLE
83 PLEDGE LENDER LICENSE SHALL BE FILED WITH THE COMMISSIONER OF
84 BANKING, INSTEAD OF THE LOCAL AUTHORITIES; TO AMEND SECTION
85 75-67-435, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER
86 OF BANKING TO CHARGE TITLE PLEDGE LICENSEES AN EXAMINATION FEE; TO
87 CREATE A NEW CODE SECTION TO BE CODIFIED WITHIN ARTICLE 9 OF
88 CHAPTER 67 OF TITLE 75, MISSISSIPPI CODE OF 1972, TO PROHIBIT
89 LICENSEES UNDER THE TITLE PLEDGE ACT FROM ADVERTISING, DISPLAYING
90 OR PUBLISHING ANY STATEMENT OR REPRESENTATION THAT IS FALSE,
91 MISLEADING OR DECEPTIVE; TO CREATE A NEW CODE SECTION TO BE
92 CODIFIED WITHIN ARTICLE 9 OF CHAPTER 67 OF TITLE 75, MISSISSIPPI
93 CODE OF 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING TO EXAMINE
94 PERSONS REASONABLY SUSPECTED OF CONDUCTING BUSINESS WHICH REQUIRES
95 A LICENSE UNDER THE TITLE PLEDGE LOAN ACT; TO CREATE A NEW CODE
96 SECTION TO BE CODIFIED WITHIN ARTICLE 9 OF CHAPTER 67 OF TITLE 75,
97 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT LICENSEES UNDER THE
98 TITLE PLEDGE ACT SHALL NOT BE LIABLE FOR ANY ACT OR OMISSION IN
99 CONFORMITY WITH ANY RULE OR REGULATION OF THE COMMISSIONER OF
100 BANKING OR ANY OTHER STATE OR FEDERAL AGENCY OR ANY OPINION OF THE
101 ATTORNEY GENERAL; TO PROVIDE THAT THOSE LICENSEES, ACTING IN
102 CONFORMITY WITH A WRITTEN INTERPRETATION OF A STATE OR FEDERAL
103 AGENCY OR DEPARTMENT, SHALL BE PRESUMED TO HAVE ACTED IN
104 ACCORDANCE WITH APPLICABLE LAW; TO AMEND SECTION 81-19-3,
105 MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM "RECORDS/DOCUMENTS"
106 FOR THE PURPOSES OF THE CONSUMER LOAN BROKER ACT; TO AMEND SECTION
107 81-19-15, MISSISSIPPI CODE OF 1972, TO REVISE THE PENALTY FOR
108 FAILURE TO PAY THE FEE FOR A CONSUMER LOAN BROKER LICENSE; TO
109 AMEND SECTION 81-19-17, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
110 COMMISSIONER OF BANKING TO IMPOSE ADMINISTRATIVE FINES FOR
111 VIOLATIONS OF THE CONSUMER LOAN BROKER ACT; TO AMEND SECTION
112 81-19-19, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT SUCH
113 ADMINISTRATIVE FINES SHALL BE DEPOSITED INTO THE CONSUMER FINANCE
114 FUND AND NOT THE STATE GENERAL FUND; TO CREATE A NEW CODE SECTION
115 TO BE CODIFIED WITHIN CHAPTER 19 OF TITLE 81, MISSISSIPPI CODE OF

116 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING TO EXAMINE PERSONS
117 REASONABLY SUSPECTED OF CONDUCTING BUSINESS WHICH REQUIRES A
118 CONSUMER LOAN BROKER LICENSE; TO AMEND SECTION 81-21-1,
119 MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM "RECORDS/DOCUMENTS"
120 FOR THE PURPOSES OF THE INSURANCE PREMIUM FINANCE COMPANY
121 LICENSURE LAW; TO AMEND SECTION 81-21-3, MISSISSIPPI CODE OF 1972,
122 TO REVISE THE LICENSE FEE FOR INSURANCE PREMIUM FINANCE COMPANIES;
123 TO AMEND SECTION 81-21-9, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
124 A CIVIL PENALTY AGAINST ANY INSURANCE PREMIUM FINANCE COMPANY
125 WHICH FAILS TO TIMELY PAY THE REQUIRED LICENSE FEE; TO CREATE A
126 NEW CODE SECTION TO BE CODIFIED WITHIN CHAPTER 21 OF TITLE 81,
127 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING
128 TO EXAMINE PERSONS REASONABLY SUSPECTED OF CONDUCTING BUSINESS
129 WHICH REQUIRES A PREMIUM FINANCE COMPANY LICENSE; AND FOR RELATED
130 PURPOSES.

131
132 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

133 SECTION 1. Section 63-19-3, Mississippi Code of 1972, is
134 amended as follows:

135 63-19-3. The following words and phrases, when used in this
136 chapter, shall have the meanings respectively ascribed to them in
137 this section, except where the context or subject matter otherwise
138 requires:

139 (a) "Motor vehicle" means any self-propelled or motored
140 device designed to be used or used primarily for the
141 transportation of passengers or property, or both, and having a
142 gross vehicular weight rating of less than fifteen thousand
143 (15,000) pounds.

144 (b) "Commercial vehicle" means any self-propelled or
145 motored device designed to be used or used primarily for the
146 transportation of passengers or property, or both, and having a
147 gross vehicular weight rating of fifteen thousand (15,000) pounds
148 or more; however, wherever "motor vehicle" appears in this
149 chapter, except in Section 63-19-43, the same shall be construed
150 to include commercial vehicles where such construction is
151 necessary in order to give effect to this chapter.

152 (c) "Retail buyer" or "buyer" means a person who buys a
153 motor vehicle or commercial vehicle from a retail seller, not for
154 the purpose of resale, and who executes a retail installment
155 contract in connection therewith.

156 (d) "Retail seller" or "seller" means a person who
157 sells a motor vehicle or commercial vehicle to a retail buyer
158 under or subject to a retail installment contract.

159 (e) The "holder" of a retail installment contract means
160 the retail seller of the motor vehicle or commercial vehicle under
161 or subject to the contract or if the contract is purchased by a
162 sales finance company or other assignee, the sales finance company
163 or other assignee.

164 (f) "Retail installment transaction" means any
165 transaction evidenced by a retail installment contract entered
166 into between a retail buyer and a retail seller wherein the retail
167 buyer buys a motor vehicle or commercial vehicle from the retail
168 seller at a time price payable in one or more deferred
169 installments. The cash sale price of the motor vehicle or
170 commercial vehicle, the amount included for insurance and other
171 benefits if a separate charge is made therefor, official fees and
172 the finance charge shall together constitute the time price.

173 (g) "Retail installment contract" or "contract" means
174 an agreement entered into in this state pursuant to which the
175 title to or a lien upon the motor vehicle or commercial vehicle
176 which is the subject matter of a retail installment transaction is
177 retained or taken by a retail seller from a retail buyer as
178 security for the buyer's obligation. The term includes a chattel
179 mortgage, a conditional sales contract and a contract for the
180 bailment or leasing of a motor vehicle or commercial vehicle by
181 which the bailee or lessee contracts to pay as compensation for
182 its use a sum substantially equivalent to or in excess of its
183 value and by which it is agreed that the bailee or lessee is bound
184 to become, or has the option of becoming, the owner of the motor
185 vehicle upon full compliance with the provisions of the contract.

186 (h) "Cash sale price" means the price stated in a
187 retail installment contract for which the seller would have sold
188 to the buyer, and the buyer would have bought from the seller, the

189 motor vehicle or commercial vehicle which is the subject matter of
190 the retail installment contract, if such sale had been a sale for
191 cash instead of a retail installment transaction. The cash sale
192 price may include any taxes, registration, certificate of title,
193 if any, license and other fees and charges for accessories and
194 their installation and for delivery, servicing, repairing or
195 improving the motor vehicle or commercial vehicle.

196 (i) "Official fees" means the fees prescribed by law
197 for filing, recording or otherwise perfecting and releasing or
198 satisfying a retained title or a lien created by a retail
199 installment contract, if recorded.

200 (j) "Finance charge" means the amount agreed upon
201 between the buyer and the seller, as limited in this chapter, to
202 be added to the aggregate of the cash sale price, the amount, if
203 any, included for insurance and other benefits and official fees,
204 in determining the time price.

205 (k) "Sales finance company" means a person engaged, in
206 whole or in part, in the business of purchasing retail installment
207 contracts from one or more retail sellers. The term includes but
208 is not limited to a bank, trust company, private banker,
209 industrial bank or investment company, if so engaged. The term
210 also includes a retail seller engaged, in whole or in part, in the
211 business of creating and holding retail installment contracts
212 which exceed a total aggregate outstanding indebtedness of Five
213 Hundred Thousand Dollars (\$500,000.00). The term does not include
214 the pledgee to whom is pledged one or more of such contracts to
215 secure a bona fide loan thereon.

216 (l) "Person" means an individual, partnership,
217 corporation, association and any other group however organized.

218 (m) "Administrator" means the Commissioner of Banking
219 and Consumer Finance or his duly authorized representative.

220 (n) "Commissioner" means the Commissioner of Banking
221 and Consumer Finance.

222 (o) "Records" or "documents" means any item in hard
223 copy or produced in a format of storage commonly described as
224 electronic, imaged, magnetic, microphotographic or otherwise, and
225 any reproduction so made shall have the same force and effect as
226 the original thereof and be admitted in evidence equally with the
227 original.

228 Words in the singular include the plural and vice versa.

229 SECTION 2. Section 63-19-11, Mississippi Code of 1972, is
230 amended as follows:

231 63-19-11. With each initial application for a license, the
232 applicant shall pay to the commissioner at the time of making the
233 application a license fee of Seven Hundred Fifty Dollars
234 (\$750.00), and for renewal applications, an annual renewal fee of
235 Four Hundred Seventy-five Dollars (\$475.00) for each calendar year
236 for each place of business so operated.

237 SECTION 3. Section 63-19-15, Mississippi Code of 1972, is
238 amended as follows:

239 63-19-15. Each license shall specify the location of the
240 office and must be conspicuously displayed there. * * *

241 SECTION 4. Section 63-19-27, Mississippi Code of 1972, is
242 amended as follows:

243 63-19-27. The commissioner may charge the licensee an
244 examination fee in an amount not less than Two Hundred Dollars
245 (\$200.00) nor more than Three Hundred Dollars (\$300.00) per
246 examination of each office or location within the State of
247 Mississippi, plus any actual expenses incurred while examining the
248 licensee's records or books that are located outside the State of
249 Mississippi. However, in no event shall a licensee be examined
250 more than once in a two-year period unless for cause shown based
251 upon consumer complaint and/or other exigent reasons as determined
252 by the commissioner.

253 All * * * expense fees paid to the commissioner shall be
254 deposited by the commissioner in the State Treasury in a special

255 and separate fund to be known as the "Consumer Finance Fund."

256 SECTION 5. Section 63-19-31, Mississippi Code of 1972, is
257 amended as follows:

258 63-19-31. (1) (a) A retail installment contract shall be
259 in writing, shall be signed by both the buyer and the seller, and
260 shall be completed as to all essential provisions prior to the
261 signing of the contract by the buyer.

262 (b) The printed portion of the contract, other than
263 instructions for completion, shall be in at least eight point
264 type. The contract shall contain in a size equal to at least ten
265 point bold type:

266 (i) A specific statement that liability insurance
267 coverage for bodily injury and property damage caused to others is
268 not included, if that is the case; and

269 (ii) The following notice: "Notice to the Buyer:
270 1. Do not sign this contract before you read it or if it
271 contains any blank spaces. 2. You are entitled to an exact copy
272 of the contract you sign."

273 (c) The seller shall deliver to the buyer, or mail to
274 him at his address shown on the contract, a copy of the contract
275 signed by the seller. Until the seller does so, a buyer who has
276 not received delivery of the motor vehicle shall have the right to
277 rescind his agreement and to receive a refund of all payments made
278 and return of all goods traded in to the seller on account of or
279 in contemplation of the contract, or if such goods cannot be
280 returned, the value thereof. Any acknowledgment by the buyer of
281 the delivery of a copy of the contract shall be in a size equal to
282 at least ten point bold type and, if contained in the contract,
283 shall appear directly above the buyer's signature.

284 (d) The contract shall contain the names of the seller
285 and the buyer, the place of business of the seller, the residence
286 or place of business of the buyer as specified by the buyer and a
287 description of the motor vehicle including its make, year model,

288 model and identification numbers or marks.

289 (2) The contract shall contain the following items:

290 (a) The cash sale price of the motor vehicle;

291 (b) The amount of the buyer's down payment, and whether
292 made in money or goods, or partly in money and partly in goods;

293 (c) The difference between items (a) and (b);

294 (d) The amount, if any, included for insurance and
295 other benefits specifying the types of coverage and benefits;

296 (e) The amount of official fees;

297 (f) The amount, if any, actually paid or to be paid by
298 the seller pursuant to an agreement with the buyer to discharge a
299 security interest, lien or lease interest on property traded in;

300 (g) The principal balance, which is the sum of items
301 (c), (d), * * * (e) and (f);

302 (h) The amount of the finance charge;

303 (i) The time balance, which is the sum of items (g) and
304 (h), payable in installments by the buyer to the seller, the
305 number of installments, the amount of each installment and the due
306 date or period thereof.

307 The above items need not be stated in the sequence or order
308 set forth. Additional items may be included to explain the
309 calculations involved in determining the stated time balance to be
310 paid by the buyer. Notwithstanding any provision of this chapter
311 to the contrary, in any contract evidencing the sale of a
312 commercial vehicle, the statement of the amount of the finance
313 charge (item (h) hereof) and the amount of each installment (item
314 (i) hereof) may be calculated using the finance charge rate
315 applicable to the transaction as of the date of execution of the
316 contract, notwithstanding the fact that such finance charge rate
317 may increase or decrease over the term of the contract according
318 to any formula or index set forth in the contract; provided,
319 however, that under no circumstances may the variable rate under
320 such contract at any time exceed the finance charge limitations

321 found in Section 63-19-43, of this chapter.

322 (3) No retail installment contract shall be signed by any
323 party thereto when it contains blank spaces to be filled in after
324 it has been signed except that, if delivery of the motor vehicle
325 is not made at the time of the execution of the contract, the
326 identifying numbers or marks of the motor vehicle or similar
327 information and the due date of the first installment may be
328 inserted in the contract after its execution. The buyer's written
329 acknowledgment, conforming to the requirements of subdivision (c)
330 of subsection (1) of this section, of delivery of a copy of a
331 contract shall be conclusive proof of such delivery, that the
332 contract when signed did not contain any blank spaces except as
333 herein provided, and of compliance with Sections 63-19-31 to
334 63-19-41 in any action or proceeding by or against the holder of
335 the contract.

336 SECTION 6. Section 63-19-55, Mississippi Code of 1972, is
337 amended as follows:

338 63-19-55. (1) Any person who shall willfully and
339 intentionally violate any provision of this chapter or engage in
340 the business of a sales finance company in this state without a
341 license therefor as provided in this chapter shall be guilty of a
342 misdemeanor and upon conviction shall be punished by a fine not
343 exceeding Five Hundred Dollars (\$500.00). However, any licensee
344 who is exempt from liability for an act or omission under Section
345 63-19-57 shall not be guilty of a misdemeanor under this section
346 for the same act or omission.

347 (2) If any person engages in business as provided for in
348 this chapter without paying the license fee provided for in this
349 chapter before commencing business or before the expiration of the
350 person's current license, as the case may be, then the person
351 shall be liable for the full amount of the license fee, plus a
352 penalty in an amount not to exceed Twenty-five Dollars (\$25.00)
353 for each day that the person has engaged in the business without a

354 license or after the expiration of a license.

355 (3) The commissioner may, after notice and hearing, impose a
356 civil penalty against any licensee if the licensee or employee is
357 adjudged by the commissioner to be in violation of the provisions
358 of this chapter. The civil penalty shall not exceed Five Hundred
359 Dollars (\$500.00) per violation and shall be deposited into the
360 Consumer Finance Fund of the Department of Banking and Consumer
361 Finance.

362 (4) Any person willfully violating Sections 63-19-31 through
363 63-19-45, shall be barred from recovery of any finance charge,
364 delinquency or collection charge on the contract.

365 (5) However, any such contract purchased in good faith for
366 value by any bank, trust company, private bank, industrial bank or
367 investment company authorized to do business in this state shall
368 be held and construed to be valid and enforceable in the hands of
369 the purchaser for value, except that such purchaser shall not be
370 permitted to recover on such contract from the buyer anything in
371 excess of the principal balance due thereon, plus the amount of
372 the finance and collection charges permitted under the terms and
373 provisions of this chapter.

374 SECTION 7. The following section shall be codified as a
375 separate code section within Chapter 19 of Title 63, Mississippi
376 Code of 1972:

377 63-19-___. The commissioner, or his duly authorized
378 representative, after receiving a written complaint, for the
379 purpose of discovering violations of this chapter and for the
380 purpose of determining whether persons are subject to the
381 provisions of this chapter, may examine persons licensed under
382 this chapter and persons reasonably suspected by the commissioner
383 of conducting business that requires a license under this chapter,
384 including all relevant books, records and papers employed by those
385 persons in the transaction of their business, and may summon
386 witnesses and examine them under oath concerning matters relating

387 to the business of those persons, or such other matters as may be
388 relevant to the discovery of violations of this chapter, including
389 without limitation the conduct of business without a license as
390 required by this chapter.

391 SECTION 8. Section 75-15-3, Mississippi Code of 1972, is
392 amended as follows:[RF1]

393 75-15-3. For the purposes of this chapter:

394 (a) "Person" means any individual, partnership,
395 association, joint stock association, trust, or corporation, but
396 does not include the United States government or the government of
397 this state.

398 (b) "Licensee" means a person duly licensed by the
399 commissioner pursuant to this chapter.

400 (c) "Check" means any check, draft, money order,
401 personal money order, or other instrument for the transmission or
402 payment of money.

403 (d) "Personal money order" means any instrument for the
404 transmission or payment of money in relation to which the
405 purchaser or remitter appoints or purports to appoint the seller
406 thereof as his agent for the receipt, transmission, or handling of
407 money, whether such instrument be signed by the seller or by the
408 purchaser or remitter or some other person.

409 (e) "Sell" means to sell, to issue or to deliver a
410 check.

411 (f) "Deliver" means to deliver a check to the first
412 person who in payment for same makes or purports to make a
413 remittance of or against the face amount thereof, whether or not
414 the deliverer also charges a fee in addition to the face amount,
415 and whether or not the deliverer signs the checks.

416 (g) "Commissioner" or "comptroller" means the
417 Commissioner of Banking and Consumer Finance of the State of
418 Mississippi.

419 (h) "Records" or "documents" means any item in hard

420 copy or produced in a format of storage commonly described as
421 electronic, imaged, magnetic, microphotographic or otherwise, and
422 any reproduction so made shall have the same force and effect as
423 the original thereof and be admitted in evidence equally with the
424 original.

425 SECTION 9. Section 75-15-15, Mississippi Code of 1972, is
426 amended as follows:

427 75-15-15. Each licensee shall pay to the commissioner with
428 his initial application a license fee of Seven Hundred Fifty
429 Dollars (\$750.00), and annually thereafter on or before April 1 of
430 each year, a renewal fee of Four Hundred Dollars (\$400.00), plus
431 Fifty Dollars (\$50.00) for each location in excess of one (1) in
432 Mississippi through which the licensee plans to sell during the
433 license year for which the fee is paid, provided that in no event
434 shall the annual renewal fee exceed One Thousand Dollars
435 (\$1,000.00).

436 SECTION 10. Section 75-15-19, Mississippi Code of 1972, is
437 amended as follows:

438 75-15-19. Each licensee shall file with the commissioner
439 annually on or before April 15 of each year a statement listing:

440 (a) The locations, offices and agencies authorized by
441 the licensee to act for and on behalf of the licensee in selling
442 or issuing or dispensing checks. A supplemental statement setting
443 forth any changes in the list of locations, offices and agencies
444 shall be filed with the commissioner on or before the first day of
445 July, October and January of each year and the principal sum of
446 the corporate surety bond or deposit required under Section
447 75-15-11 shall be adjusted, if appropriate, to reflect any
448 increase or decrease in the number of locations, offices and
449 agencies. Such annual and supplemental statement shall not be
450 required of any licensee who continues to maintain a corporate
451 surety bond, as required by subsection (b) of Section 75-15-11 of
452 this chapter, in the principal sum of Two Hundred Fifty Thousand

453 Dollars (\$250,000.00), or a securities deposit having an aggregate
454 market value at least equal to Two Hundred Fifty Thousand Dollars
455 (\$250,000.00).

456 (b) Each licensee shall file with the commissioner
457 annually on or before April 15 of each year, statements correctly
458 reflecting its net worth as of the close of its most recent fiscal
459 year, such statement to be certified to by a certified public
460 accountant satisfactory to the commissioner.

461 (c) The commissioner may conduct or cause to be
462 conducted an examination or audit of the books and records of any
463 licensee at any time or times he shall deem proper, the cost of
464 such examination or audit to be borne by the licensee. The
465 refusal of access to such books and records shall be cause for the
466 revocation of its license. The commissioner may charge the
467 licensee an examination fee in an amount not less than Two Hundred
468 Dollars (\$200.00) nor more than Three Hundred Dollars (\$300.00)
469 per examination of each office or location within the State of
470 Mississippi, plus any actual expenses incurred while examining the
471 licensee's records or books that are located outside the State of
472 Mississippi. However, in no event shall a licensee be examined
473 more than once in a two-year period unless for cause shown based
474 upon consumer complaint and/or other exigent reasons as determined
475 by the commissioner.

476 SECTION 11. Section 75-15-31, Mississippi Code of 1972, is
477 amended as follows:

478 75-15-31. (1) If any person to whom or which this chapter
479 applies or any agent, subagent or representative of such person
480 violates any of the provisions of this chapter or attempts to
481 transact the business of selling or issuing or delivering checks
482 as a service or for a fee or other consideration, without having
483 first obtained license from the commissioner pursuant to the
484 provisions of this chapter, such person and each such agent,
485 subagent or representative shall be deemed guilty of a

486 misdemeanor, and upon conviction shall be fined not less than One
487 Hundred Dollars (\$100.00) nor more than Five Hundred Dollars
488 (\$500.00) and he may also be confined to the county jail or
489 sentenced to hard labor for the county, for not more than twelve
490 (12) months. Each violation shall constitute a separate offense.

491 (2) If any person engages in business as provided for in
492 this chapter without paying the license fee provided for in this
493 chapter before commencing business or before the expiration of the
494 person's current license, as the case may be, then the person
495 shall be liable for the full amount of the license fee plus a
496 penalty in an amount not to exceed Twenty-five Dollars (\$25.00)
497 for each day that the person has engaged in the business without a
498 license or after the expiration of a license.

499 (3) The commissioner may, after notice and hearing, impose a
500 civil penalty against any licensee if the licensee or employee is
501 adjudged by the commissioner to be in violation of the provisions
502 of this chapter. The civil penalty shall not exceed Five Hundred
503 Dollars (\$500.00) per violation and shall be deposited into the
504 Consumer Finance Fund of the Department of Banking and Consumer
505 Finance.

506 SECTION 12. The following section shall be codified as a
507 separate code section within Chapter 15 of Title 75, Mississippi
508 Code of 1972:

509 75-15-___. The commissioner, or his duly authorized
510 representative, for the purpose of discovering violations of this
511 chapter and for the purpose of determining whether persons are
512 subject to the provisions of this chapter, may examine persons
513 licensed under this chapter and persons reasonably suspected by
514 the commissioner of conducting business that requires a license
515 under this chapter, including all relevant books, records and
516 papers employed by those persons in the transaction of their
517 business, and may summon witnesses and examine them under oath
518 concerning matters relating to the business of those persons, or

519 such other matters as may be relevant to the discovery of
520 violations of this chapter, including without limitation the
521 conduct of business without a license as required under this
522 chapter.

523 SECTION 13. Section 75-67-103, Mississippi Code of 1972, is
524 amended as follows:

525 75-67-103. The following words and phrases, when used in
526 this article, shall, for the purposes of this article, have the
527 meanings respectively ascribed to them in this section, except
528 where the context clearly describes and indicates a different
529 meaning:

530 (a) "Person" means and includes every natural person,
531 firm, corporation, copartnership, joint-stock or other association
532 or organization, and any other legal entity whatsoever.

533 (b) "Licensee" means and includes every person holding
534 a valid license issued under the provisions of the Small Loan
535 Privilege Tax Law [Sections 75-67-201 through 75-67-243] of this
536 state, except those specifically exempt by the provisions of this
537 article, who, in addition to any other rights and powers he or it
538 might otherwise possess, shall engage in the business of lending
539 money either directly or indirectly, to be paid back in monthly
540 installments or other regular installments for periods of more or
541 less than one (1) month, and whether or not the lender requires
542 security from the borrower as indemnity for the repayment of the
543 loan.

544 (c) "Occasional lender" means a person making not more
545 than one (1) loan in any month or not more than twelve (12) loans
546 in any twelve-month period.

547 (d) "Commissioner" means the Commissioner of Banking
548 and Consumer Finance of the State of Mississippi.

549 (e) "Department" means the Department of Banking and
550 Consumer Finance of the State of Mississippi.

551 (f) "Records" or "documents" means any item in hard

552 copy or produced in a format of storage commonly described as
553 electronic, imaged, magnetic, microphotographic or otherwise, and
554 any reproduction so made shall have the same force and effect as
555 the original thereof and be admitted in evidence equally with the
556 original.

557 SECTION 14. Section 75-67-115, Mississippi Code of 1972, is
558 amended as follows:

559 75-67-115. The commissioner may charge the licensee an
560 examination fee in an amount not less than Two Hundred Dollars
561 (\$200.00) nor more than Three Hundred Dollars (\$300.00) per
562 examination of each office or location within the State of
563 Mississippi, plus any actual expenses incurred while examining the
564 licensee's records or books that are located outside the State of
565 Mississippi. However, in no event shall a licensee be examined
566 more than once in a two-year period unless for cause shown based
567 upon consumer complaint and/or other exigent reasons as determined
568 by the commissioner.

569 All * * * expense fees paid to the commissioner shall be
570 deposited by the commissioner in the State Treasury in a special
571 and separate fund to be known as the "Consumer Finance Fund."

572 SECTION 15. Section 75-67-203, Mississippi Code of 1972, is
573 amended as follows:

574 75-67-203. The following words and phrases, when used in
575 this article, shall, for the purposes of this article have the
576 meanings respectively ascribed to them in this section, except
577 where the context clearly describes and indicates a different
578 meaning:

579 (a) The word "person" shall mean and include every
580 natural person, firm, corporation, copartnership, joint stock or
581 other association or organization, and any other legal entity
582 whatsoever;

583 (b) The term "licensee" shall mean and include every
584 person, except those specifically exempt by the provisions of this

585 article, who, in addition to any other right and powers he or it
586 might otherwise possess, shall engage in the business of lending
587 money, either directly or indirectly, to be paid back in monthly
588 installments, or other regular installments for periods of more or
589 less than one (1) month, and whether or not the lender requires
590 security from the borrower as indemnity for the repayment of the
591 loan;

592 (c) The word "commissioner" shall mean the Commissioner
593 of Banking and Consumer Finance of the State of Mississippi;

594 (d) The word "department" shall mean the Department of
595 Banking and Consumer Finance of the State of Mississippi;

596 (e) "Records" or "documents" means any item in hard
597 copy or produced in a format of storage commonly described as
598 electronic, imaged, magnetic, microphotographic or otherwise, and
599 any reproduction so made shall have the same force and effect as
600 the original thereof and be admitted in evidence equally with the
601 original.

602 SECTION 16. Section 75-67-213, Mississippi Code of 1972, is
603 amended as follows:

604 75-67-213. With each initial application for a license under
605 the provisions of this article, the applicant shall pay to the
606 commissioner at the time of making such application a license fee
607 of Seven Hundred Fifty Dollars (\$750.00), and for renewal
608 applications, an annual renewal fee of Four Hundred Seventy-five
609 Dollars (\$475.00). The licenses issued under the provisions
610 hereof shall be valid for a period of one (1) year from the date
611 of the issuance thereof. Such fee is in addition to any other
612 privilege tax or fee required by law. Within thirty (30) days
613 prior to the expiration of any valid and subsisting license issued
614 hereunder, the holder thereof, if he desires to continue to engage
615 in business in the State of Mississippi, shall file application
616 for a new license in the same manner and under the same conditions
617 herein provided * * *.

618 SECTION 17. Section 75-67-215, Mississippi Code of 1972, is
619 amended as follows:

620 75-67-215. (1) If any person shall engage in business as
621 provided for in this article without paying the license fee
622 provided for herein prior to commencing business or prior to the
623 expiration of such person's current license, as the case may be,
624 then such person shall be liable for the full amount of such
625 license fee plus a penalty in an amount not to exceed Twenty-five
626 Dollars (\$25.00) for each day that the person has engaged in the
627 business without a license or after the expiration of a license.

628 (2) The commissioner may, after notice and hearing as
629 defined in Section 75-67-237 in cases of revocation of license,
630 impose a civil penalty against any licensee if the licensee is
631 adjudged by the commissioner to be in willful violation of the
632 provisions of this article. The civil penalty shall not exceed
633 Five Hundred Dollars (\$500.00) per violation and shall be
634 deposited into the Consumer Finance Fund of the Department of
635 Banking and Consumer Finance. Any licensee who has been imposed a
636 civil penalty by the commissioner may, within twenty (20) days
637 after such fine is imposed, appeal to the circuit court of the
638 county where the business is being conducted, as in cases from an
639 order of a lesser tribunal. The trial on appeal shall be de novo.

640 SECTION 18. Section 75-67-229, Mississippi Code of 1972, is
641 amended as follows:

642 75-67-229. Not more than one (1) place of business shall be
643 operated or maintained under the same license, but the
644 commissioner may issue separate licenses to the same licensee for
645 different and separate places of business upon compliance with all
646 of the provisions of this article governing the issuance of
647 licenses with respect to each separate license. If any licensee
648 shall desire to change his place of business within the same
649 municipality during the period for which the license is valid, he
650 shall make written application therefor to the commissioner who

651 shall issue a new license * * * for the unexpired portion of the
652 year showing the new location of the business. However, nothing
653 herein shall authorize or permit a change in the place of business
654 of a licensee to a location outside of the original municipality.

655 SECTION 19. The following section shall be codified as a
656 separate code section within Article 5 of Chapter 67 of Title 75,
657 Mississippi Code of 1972:

658 75-67-_____. The commissioner, or his duly authorized
659 representative, for the purpose of discovering violations of this
660 article and for the purpose of determining whether persons are
661 subject to the provisions of this article, may examine persons
662 licensed under this article and persons reasonably suspected by
663 the commissioner of conducting business that requires a license
664 under this article, including all relevant books, records and
665 papers employed by those persons in the transaction of their
666 business, and may summon witnesses and examine them under oath
667 concerning matters relating to the business of those persons, or
668 such other matters as may be relevant to the discovery of
669 violations of this article, including without limitation the
670 conduct of business without a license as required under this
671 article.

672 SECTION 20. Section 75-67-403, Mississippi Code of 1972, is
673 amended as follows:

674 75-67-403. The following words and phrases shall have the
675 following meanings:

676 (a) "Appropriate law enforcement agency" means the
677 sheriff of each county in which the title pledge lender maintains
678 an office, or the police chief of the municipality or law
679 enforcement officers of the Department of Public Safety in which
680 the title pledge lender maintains an office.

681 (b) "Attorney General" means the Attorney General of
682 the State of Mississippi.

683 (c) "Commissioner" means the Commissioner of Banking

684 and Consumer Finance of the State of Mississippi, or his designee,
685 as the designated official for the purpose of enforcing this
686 article.

687 (d) "Identification" means a government issued
688 photographic identification.

689 (e) "Person" means an individual, partnership,
690 corporation, joint venture, trust, association or other legal
691 entity.

692 (f) "Pledged property" means any personal property
693 certificate of title that is deposited with a title pledge lender
694 in the course of the title pledge lender's business and is the
695 subject of a title pledge agreement.

696 (g) "Pledgor" means the person to whom the property is
697 titled.

698 (h) "Title pledge agreement" means a thirty-day written
699 agreement whereby a title pledge lender agrees to make a loan of
700 money to a pledgor, and the pledgor agrees to give the title
701 pledge lender a security interest in unencumbered titled personal
702 property owned by the pledgor. The pledgor shall agree that the
703 title pledge lender keep possession of the certificate of title.
704 The pledgor shall have the exclusive right to redeem the
705 certificate of title by repaying the loan of money in full and by
706 complying with the title pledge agreement. When the certificate
707 of title is redeemed, the title pledge lender shall release the
708 security interest in the titled personal property and return the
709 personal property certificate of title to the pledgor. The title
710 pledge agreement shall provide that upon failure by the pledgor to
711 redeem the certificate of title at the end of the original
712 thirty-day agreement period, or at the end of any extension(s)
713 thereof, the title pledge lender shall be allowed to take
714 possession of the titled personal property. The title pledge
715 agreement shall contain a power of attorney which authorizes the
716 title pledge lender to transfer title to the pledged property from

717 the pledgor to the title pledge lender upon failure to redeem the
718 pledged property on or before the maturity date of the title
719 pledge agreement, or any extension thereof. The title pledge
720 lender shall take physical possession of the certificate of title
721 for the entire length of the title pledge agreement, but shall not
722 be required to take physical possession of the titled personal
723 property at any time. A title pledge lender may only take
724 unencumbered certificates of title for pledge, but may encumber
725 the title as part of the title pledge transaction by perfecting
726 its security interest in the titled property.

727 (i) "Title pledge lender" means any person engaged in
728 the business of making title pledge agreements with pledgors;
729 provided, however, that the following are exempt from the
730 definition of "title pledge lender" and from the provisions of
731 this article: any bank which is regulated by the Department of
732 Banking and Consumer Finance, the Comptroller of the Currency of
733 the United States, the Federal Deposit Insurance Corporation, the
734 Board of Governors of the Federal Reserve System or any other
735 federal or state authority and all affiliates of such bank, and
736 additionally any bank or savings and loan association whose
737 deposits or accounts are eligible for insurance by the Bank
738 Insurance Fund or the Savings Association Insurance Fund or other
739 fund administered by the Federal Deposit Insurance Corporation or
740 any successor thereto, and all affiliates of such banks and
741 savings and loan associations, any state or federally chartered
742 credit union and finance company subject to licensing and
743 regulation by the Department of Banking and Consumer Finance.

744 (j) "Title pledge office" means the location at which,
745 or premises in which, a title pledge lender regularly conducts
746 business. No business other than title pledge business shall be
747 conducted at a title pledge office.

748 (k) "Title pledge service charge" means a charge for
749 investigating the title, appraising the titled personal property

750 to which the pledged property relates, documenting and closing the
751 title pledge agreement transaction, making required reports to
752 appropriate law enforcement officials, and for all of the services
753 provided by the title pledge lender.

754 (l) "Title pledge transaction form" means the
755 instrument on which a title pledge lender records title pledge
756 agreements pursuant to this article.

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

760 (n) "Records" or "documents" means any item in hard
761 copy or produced in a format of storage commonly described as
762 electronic, imaged, magnetic, microphotographic or otherwise, and
763 any reproduction so made shall have the same force and effect as
764 the original thereof and be admitted in evidence equally with the
765 original.

766 SECTION 21. Section 75-67-409, Mississippi Code of 1972, is
767 amended as follows:

768 75-67-409. (1) The pledgor shall sign a statement verifying
769 that the pledgor is the rightful owner of the pledged property and
770 is entitled to pledge it. The pledgor shall receive an exact copy
771 of the title pledge agreement which shall be signed by the title
772 pledge lender or any employee of the title pledge lender.

773 (2) The title pledge lender shall maintain a record of all
774 transactions of pledged property on the premises for a period of
775 two (2) years. A title pledge lender upon request shall provide
776 to the appropriate law enforcement agency a complete record of all
777 transactions. These records shall be a correct copy of the
778 entries made of the title pledge transaction, except as to the
779 amount of cash advanced for the pledged property and the monthly
780 title pledge charge.

781 (3) The title pledge lender shall maintain records that
782 contain a complete payment history of each customer evidencing all

783 principal payments, service charge and/or other charges. Those
784 records also shall reflect any unpaid principal balance as well as
785 a payoff balance that includes the accrued service charges.

786 SECTION 22. Section 75-67-411, Mississippi Code of 1972, is
787 amended as follows:

788 75-67-411. (1) A pledgor shall have no obligation to redeem
789 pledged property or make any payment on a title pledge
790 transaction. Upon the pledgor's failure to redeem the pledged
791 property on or before the maturity date of the title pledge
792 agreement or any extension or continuation thereof, the title
793 pledge lender has the right to take possession of the titled
794 personal property and to exercise a power of attorney to transfer
795 title to the pledged property. In taking possession, the title
796 pledge lender or his agent may proceed without judicial process if
797 this can be done without breach of the peace; or, if necessary,
798 may proceed by action to obtain judicial process.

799 (2) If, within thirty (30) days after the maturity date, the
800 pledgor redeems the pledged property by paying all outstanding
801 principal, interest and other customary fees, the pledgor shall be
802 given possession of the titled personal property and the pledged
803 property without further charge.

804 (3) If the pledgor fails to redeem the pledged property
805 during the thirty-day period provided in subsection (2) of this
806 section, then the pledgor shall thereby forfeit all right, title
807 and interest in and to the titled personal property and the
808 pledged property to the title pledge lender who shall thereby
809 acquire an absolute right of title and ownership to the titled
810 personal property. The title pledge lender shall then have the
811 sole right and authority to sell or dispose of the titled personal
812 property.

813 (4) Notwithstanding anything in the preceding subsections of
814 this section, the pledgor shall have three (3) business days after
815 the title pledge lender has taken possession of the titled

816 personal property to redeem the property by paying the amount of
817 the unpaid principal balance, the delinquent service charge and
818 the actual cost of the repossession. The cost of repossession
819 shall include towing charges, storage charges paid to a third
820 party and repairs made to the property to render it operable.

821 (5) If the property is sold after the three-business-day
822 period, the title pledge lender shall return to the pledgor
823 eighty-five percent (85%) of the amount received from the sale
824 above the amount of the unpaid principal balance, the delinquent
825 service charge, the actual cost of the repossession and a sales
826 fee of One Hundred Dollars (\$100.00). However, any titled
827 personal property that is deemed to be salvage by the title pledge
828 lender may be sold or otherwise disposed of immediately upon
829 repossession.

830 (6) The title pledge transaction form shall contain a
831 provision written in boldface type of at least fourteen (14) point
832 size that notifies the pledgor that the titled personal property
833 is subject to sale at any time after the three-business-day period
834 has expired, unless the property is deemed to be salvage by the
835 title pledge lender, in which case the property may be sold or
836 otherwise disposed of immediately. The transaction form shall
837 have a space located near that provision that the pledgor must
838 initial.

839 SECTION 23. Section 75-67-413, Mississippi Code of 1972, is
840 amended as follows:

841 75-67-413. (1) A title pledge lender may contract for and
842 receive a title pledge service charge in lieu of interest or other
843 charges for all services, expenses, cost and losses of every
844 nature not to exceed twenty-five percent (25%) of the principal
845 amount, per month, advanced in the title pledge transaction.

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

849 title pledge transaction shall be void. The title pledge service
850 charge allowed under subsection (1) of this section shall be
851 deemed earned, due and owing as of the date of the title pledge
852 transaction and a like sum shall be deemed earned, due and owing
853 on the thirty-first day from the date of the transaction and on
854 every thirtieth day thereafter.

855 (3) By agreement of the parties, the maturity date of the
856 title pledge transaction may be extended or continued for
857 thirty-day periods, provided that the service charges as specified
858 in subsection (1) are not exceeded for any extensions. All
859 extensions or continuations of the title pledge transaction shall
860 be evidenced in writing. No accrued interest or service charge
861 shall be capitalized or added to the original principal of the
862 title pledge transaction during any extension or continuation.
863 Beginning with the first extension or continuation and at each
864 successive extension or continuation thereafter, the pledgor shall
865 be required to reduce the principal amount financed by at least
866 ten percent (10%) of the original principal amount of the title
867 pledge transaction. Notwithstanding any provision in this article
868 to the contrary, if the pledgor fails to pay at least ten percent
869 (10%) of the original principal amount at any such extension or
870 continuation, the title pledge lender may, at its option, either
871 (a) declare the outstanding principal and any service charges to
872 be immediately due and payable, or (b) allow the transaction to be
873 extended or continued, provided that the title pledge lender shall
874 reduce the principal amount of the loan by ten percent (10%) of
875 the original principal amount solely for the purposes of
876 calculating its service charge. This reduction in principal shall
877 continue to be owing by the pledgor in accordance with the title
878 pledge transaction, but that amount shall not be entitled to
879 accrue interest or service charges thereafter.

880 (4) Any additional payment of funds on the same pledged
881 property must be evidenced by a separate title pledge agreement.

882 A title pledge lender shall not advance funds to a pledgor to pay
883 off an existing title pledge agreement.

884 SECTION 24. Section 75-67-419, Mississippi Code of 1972, is
885 amended as follows:

886 75-67-419. (1) A person may not engage in business as a
887 title pledge lender or otherwise portray himself as a title pledge
888 lender unless the person has a valid license authorizing
889 engagement in the business. A separate license is required for
890 each place of business under this article. The commissioner may
891 issue more than one (1) license to a person if that person
892 complies with this article for each license. A new license or
893 application to transfer an existing license is required upon a
894 change, directly or beneficially, in the ownership of any licensed
895 title pledge office and an application shall be made to the
896 commissioner in accordance with this article.

897 (2) When a licensee wishes to move a title pledge office to
898 another location, the licensee shall give thirty (30) days prior
899 written notice to the commissioner who shall amend the license
900 accordingly.

901 (3) Each license shall remain in full force and effect until
902 relinquished, suspended, revoked or expired. With each initial
903 application for a license, the applicant shall pay the
904 commissioner at the time of making the application a license fee
905 of Seven Hundred Fifty Dollars (\$750.00), and on or before June 1
906 of each year thereafter, an annual renewal fee of Four Hundred
907 Seventy-five Dollars (\$475.00). If the annual fee remains unpaid
908 thirty (30) days after June 1, the license shall thereupon expire,
909 but not before June 30 of any year for which the annual fee has
910 been paid. If any person engages in business as provided for in
911 this article without paying the license fee provided for in this
912 article before commencing business or before the expiration of
913 such person's current license, as the case may be, then the person
914 shall be liable for the full amount of the license fee, plus a

915 penalty in an amount not to exceed Twenty-five Dollars (\$25.00)
916 for each day that the person has engaged in the business without a
917 license or after the expiration of a license. All licensing fees
918 and penalties shall be paid into the Consumer Finance Fund of the
919 Department of Banking and Consumer Finance.

920 (4) Notwithstanding other provisions of this article, the
921 commissioner may issue a temporary license authorizing the
922 operation of a title pledge office on the receipt of an
923 application to transfer a license from one person to another or on
924 the receipt of an application for a license involving principals
925 and owners that are substantially identical to those of an
926 existing licensed title pledge office. The temporary license is
927 effective until the permanent license is issued or denied.

928 (5) Notwithstanding other provisions of this article,
929 neither a new license nor an application to transfer an existing
930 license shall be required upon any change, directly or
931 beneficially, in the ownership of any licensed title pledge office
932 incorporated under the laws of this state or any other state so
933 long as the licensee continues to operate as a corporation doing a
934 title pledge business under the license. The commissioner may,
935 however, require the licensee to provide such information as he
936 deems reasonable and appropriate concerning the officer and
937 directors of the corporation and persons owning in excess of
938 twenty-five percent (25%) of the outstanding shares of the
939 corporation.

940 SECTION 25. Section 75-67-421, Mississippi Code of 1972, is
941 amended as follows:

942 75-67-421. (1) To be eligible for a title pledge lender
943 license, an applicant shall:

944 (a) Operate lawfully and fairly within the purposes of
945 this article;

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

948 been convicted of a felony in the last ten (10) years;

949 (c) File with the commissioner a bond with good
950 security in the penal sum of One Hundred Thousand Dollars
951 (\$100,000.00), payable to the State of Mississippi for the
952 faithful performance by the licensee of the duties and obligations
953 pertaining to the business so licensed and the prompt payment of
954 any judgment which may be recovered against the licensee on
955 account of damages or other claim arising directly or collaterally
956 from any violation of the provisions of this article; such bond
957 shall not be valid until it is approved by the commissioner; such
958 applicant may file, in lieu thereof, cash, a certificate of
959 deposit, or government bonds in the amount of Ten Thousand Dollars
960 (\$10,000.00), the deposit of which shall be filed with the
961 commissioner and is subject to the same terms and conditions as
962 are provided for in the surety bond required herein; any interest
963 or earnings on such deposits are payable to the depositor.

964 (d) File with the commissioner an application
965 accompanied by a set of fingerprints from any local law
966 enforcement agency, * * * and the initial license fee required in
967 this article. In order to determine the applicant's suitability
968 for license, the commissioner shall forward the fingerprints to
969 the Department of Public Safety; and if no disqualifying record is
970 identified at the state level, the fingerprints shall be forwarded
971 by the Department of Public Safety to the FBI for a national
972 criminal history record check.

973 (2) Upon the filing of an application in a form prescribed
974 by the commissioner, accompanied by the fee and documents required
975 in this article, the department shall investigate to ascertain
976 whether the qualifications prescribed by this article have been
977 satisfied. If the commissioner finds that the qualifications have
978 been satisfied and, if he approves the documents so filed by the
979 applicant, he shall issue to the applicant a license to engage in
980 the business of title pledge lending in this state.

981 (3) Complete and file with the commissioner an annual
982 renewal application accompanied by the renewal fee required in
983 this article.

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

986 SECTION 26. Section 75-67-435, Mississippi Code of 1972, is
987 amended as follows:

988 75-67-435. (1) The Commissioner of Banking and Consumer
989 Finance shall develop and provide any necessary forms to carry out
990 the provisions of this article.

991 (2) The department may adopt reasonable administrative
992 regulations, not inconsistent with law, for the enforcement of
993 this article.

994 (3) To assure compliance with the provision of this article,
995 the department may examine the books and records of any licensee
996 without notice during normal business hours. The commissioner may
997 charge the licensee an examination fee in an amount not less than
998 Two Hundred Dollars (\$200.00) nor more than Three Hundred Dollars
999 (\$300.00) per examination of each office or location within the
1000 State of Mississippi, plus any actual expenses incurred while
1001 examining the licensee's records or books that are located outside
1002 the State of Mississippi. However, in no event shall a licensee
1003 be examined more than once in a two-year period unless for cause
1004 shown based upon consumer complaint and/or other exigent reasons
1005 as determined by the commissioner.

1006 SECTION 27. The following section shall be codified as a
1007 separate code section within Article 9 of Chapter 67 of Title 75,
1008 Mississippi Code of 1972:

1009 75-67-_____. A licensee shall not advertise, display or
1010 publish, or permit to be advertised, displayed or published, in
1011 any manner whatsoever, any statement or representation that is
1012 false, misleading or deceptive.

1013 SECTION 28. The following section shall be codified as a

1014 separate code section within Article 9 of Chapter 67 of Title 75,
1015 Mississippi Code of 1972:

1016 75-67-___. The commissioner, or his duly authorized
1017 representative, for the purpose of discovering violations of this
1018 article and for the purpose of determining whether persons are
1019 subject to the provisions of this article, may examine persons
1020 licensed under this article and persons reasonably suspected by
1021 the commissioner of conducting business that requires a license
1022 under this article, including all relevant books, records and
1023 papers employed by those persons in the transaction of their
1024 business, and may summon witnesses and examine them under oath
1025 concerning matters relating to the business of those persons, or
1026 such other matters as may be relevant to the discovery of
1027 violations of this article, including without limitation the
1028 conduct of business without a license as required under this
1029 article.

1030 SECTION 29. The following section shall be codified as a
1031 separate code section within Article 9 of Chapter 67 of Title 75,
1032 Mississippi Code of 1972:

1033 75-67-___. (1) A licensee under this article shall have no
1034 liability for any act or practice done or omitted in conformity
1035 with (a) any rule or regulation of the commissioner, or (b) any
1036 rule, regulation, interpretation or approval of any other state or
1037 federal agency or any opinion of the Attorney General,
1038 notwithstanding that after such act or omission has occurred the
1039 rule, regulation, interpretation, approval or opinion is amended,
1040 rescinded, or determined by judicial or other authority to be
1041 invalid for any reason.

1042 (2) A licensee under this article, acting in conformity with
1043 a written interpretation or approval by an official or employee of
1044 any state or federal agency or department, shall be presumed to
1045 have acted in accordance with applicable law, notwithstanding that
1046 after such act has occurred, the interpretation or approval is

1047 amended, rescinded, or determined by judicial or other authority
1048 to be incorrect or invalid for any reason.

1049 SECTION 30. Section 81-19-3, Mississippi Code of 1972, is
1050 amended as follows:[RF2]

1051 81-19-3. As used in this chapter:

1052 (a) "Advance fee" means any consideration which is
1053 assessed or collected prior to the closing of a loan.

1054 (b) "Commissioner" means the Commissioner of Banking
1055 and Consumer Finance.

1056 (c) "Consumer loan" means a transaction by which a
1057 lender extends credit for personal, family or household purposes
1058 in the form of payment of money or of agreement to pay money, for
1059 the account of, or to a third party on behalf of, a natural person
1060 or persons and which is repayable in installments and may be
1061 unsecured or secured by real or personal property. The term
1062 "consumer loan" also includes the creation of consumer debt by a
1063 credit to an account with a lender upon which the borrower is
1064 entitled to draw immediately.

1065 (d) "Consumer loan broker" means a person not otherwise
1066 exempt from this chapter who, for compensation from borrowers,
1067 finds and obtains consumer loans or credit cards for borrowers
1068 from third party lenders.

1069 (e) "Department" means the Department of Banking and
1070 Consumer Finance.

1071 (f) "Lender" means a person who makes consumer loans.

1072 (g) "License" means a license required by this chapter.

1073 (h) "Loan charges and fees" means amounts collected
1074 from a borrower by a consumer loan broker on behalf of a lender to
1075 defray costs of such items as appraisals, surveys, title opinions
1076 and similar other expenses.

1077 (i) "Service charge" means the amount charged a
1078 borrower by a consumer loan broker for the service of finding and
1079 obtaining a consumer loan for the borrower from a third party

1080 lender.

1081 (j) "Records" or "documents" means any item in hard
1082 copy or produced in a format of storage commonly described as
1083 electronic, imaged, magnetic, microphotographic or otherwise, and
1084 any reproduction so made shall have the same force and effect as
1085 the original thereof and be admitted in evidence equally with the
1086 original.

1087 SECTION 31. Section 81-19-15, Mississippi Code of 1972, is
1088 amended as follows:

1089 81-19-15. Applications for renewal of a license shall be
1090 submitted, along with the payment of the annual fee, on an
1091 application form supplied by the commissioner upon which
1092 information relating to all of the applicant's licensed offices
1093 shall be set forth in accordance with instructions contained
1094 therein, including, in the discretion of the commissioner, such
1095 additional information as may be required by statute or regulation
1096 for the issuance of an initial license.

1097 The application for renewal of a license shall be received by
1098 the commissioner within thirty (30) days prior to the expiration
1099 of any valid and existing license issued hereunder. If any person
1100 engages in business as provided for in this chapter without paying
1101 the license fee provided for in this chapter before commencing
1102 business or before the expiration of his current license shall be
1103 liable for the full amount of the license fee, plus a penalty in
1104 an amount not to exceed Twenty-five Dollars (\$25.00) for each day
1105 that the person has engaged in the business without a license or
1106 after the expiration of a license.

1107 SECTION 32. Section 81-19-17, Mississippi Code of 1972, is
1108 amended as follows:

1109 81-19-17. (1) Each licensee shall be subject to the
1110 supervision of the commissioner.

1111 (2) The commissioner is authorized to make and enforce such
1112 reasonable regulations as are necessary and proper for the

1113 administration, enforcement and interpretation of the provisions
1114 of this chapter. In adopting such regulations, the commissioner
1115 shall follow the procedures set forth in the Mississippi
1116 Administrative Procedures Act (Section 25-43-1 et seq.,
1117 Mississippi Code of 1972).

1118 (3) In order to discover violations of this chapter and to
1119 identify persons subject to the provisions of this chapter, the
1120 commissioner is authorized to examine licensees, including all
1121 books, records, accounts and papers employed by such licensees in
1122 the transaction of their business, to summon witnesses and examine
1123 them under oath concerning matters relating to the business of
1124 such persons, and to investigate such other matters as may be
1125 relevant in the opinion of the commissioner. For this purpose and
1126 for the general purposes of administration of this chapter, the
1127 commissioner may employ such deputies and assistants as may be
1128 necessary, and such deputies and assistants, in the discretion of
1129 the commissioner, may be vested with the same authority conferred
1130 upon the commissioner by this chapter.

1131 (4) For the purpose of defraying a portion of the
1132 examination and administrative expenses incurred by the
1133 commissioner, each licensee shall pay at the time of examination
1134 the actual expenses of the examination, not to exceed Two Hundred
1135 Dollars (\$200.00) per day for the time actually devoted to
1136 examining the business of the licensee. However, for any
1137 examination other than one conducted because of suspected blatant
1138 violation of this chapter, the amount charged to any single
1139 licensee in any one (1) year shall not exceed Two Thousand Dollars
1140 (\$2,000.00).

1141 (5) The commissioner may impose and collect an
1142 administrative fine against any person found to have charged or
1143 collected a service charge or advance fee from a borrower before a
1144 loan is actually found, obtained and closed for such borrower.
1145 Such fine shall not exceed Five Thousand Dollars (\$5,000.00) for

1146 each violation.

1147 (6) Whenever the commissioner has reasonable cause to
1148 believe that any person is violating any of the provisions of this
1149 chapter, in addition to all other remedies provided herein, the
1150 commissioner may, by, through and on the relation of the Attorney
1151 General, district attorney or county attorney, apply to a court of
1152 competent jurisdiction for an injunction, both temporary and
1153 permanent, to restrain such person from engaging in or continuing
1154 such violation of the provisions of this chapter or from doing any
1155 act or acts in furtherance thereof.

1156 (7) The commissioner may, after notice and hearing, impose
1157 an administrative fine against any licensee if the licensee or
1158 employee is adjudged by the commissioner to be in violation of the
1159 provisions of this chapter. The administrative fine shall not
1160 exceed Five Hundred Dollars (\$500.00) per violation and shall be
1161 deposited into the Consumer Finance Fund of the Department of
1162 Banking and Consumer Finance.

1163 SECTION 33. Section 81-19-19, Mississippi Code of 1972, is
1164 amended as follows:

1165 81-19-19. All funds coming into the possession of the
1166 commissioner as a result of this chapter, including all annual
1167 fees and examination fees * * *, shall be deposited by the
1168 commissioner into the special fund in the State Treasury known as
1169 the "Consumer Finance Fund," and shall be expended by the
1170 commissioner solely and exclusively for the administration and
1171 enforcement of this chapter. * * *

1172 SECTION 34. The following section shall be codified as a
1173 separate code section within Chapter 19 of Title 81, Mississippi
1174 Code of 1972:

1175 81-19-___. The commissioner, or his duly authorized
1176 representative, for the purpose of discovering violations of this
1177 chapter and for the purpose of determining whether persons are
1178 subject to the provisions of this chapter, may examine persons

1179 licensed under this chapter and persons reasonably suspected by
1180 the commissioner of conducting business that requires a license
1181 under this chapter, including all relevant books, records and
1182 papers employed by those persons in the transaction of their
1183 business, and may summon witnesses and examine them under oath
1184 concerning matters relating to the business of those persons, or
1185 such other matters as may be relevant to the discovery of
1186 violations of this chapter, including without limitation the
1187 conduct of business without a license as required under this
1188 chapter.

1189 SECTION 35. Section 81-21-1, Mississippi Code of 1972, is
1190 amended as follows:

1191 81-21-1. The following words and phrases shall have the
1192 meanings ascribed herein unless the context clearly indicates
1193 otherwise:

1194 (a) "Commissioner" means the Commissioner of Banking
1195 and Consumer Finance.

1196 (b) "Person" means an individual, partnership,
1197 association, business corporation, nonprofit corporation,
1198 common-law trust, joint stock company or any other entity, however
1199 organized.

1200 (c) "Premium finance agreement" means an agreement by
1201 which an insurance or prospective insured promises to pay to a
1202 premium finance company the amount advanced or to be advanced to
1203 an insurer or to an insurance agent or broker in payment of
1204 premiums of an insurance contract together with interest or
1205 discount and a service charge, as authorized and limited by
1206 Sections 81-21-13 through 81-21-23.

1207 (d) "Premium finance company" means a person engaged in
1208 the business of entering into premium finance agreements or
1209 acquiring premium finance agreements from other premium finance
1210 companies.

1211 (e) "Records" or "documents" means any item in hard

1212 copy or produced in a format of storage commonly described as
1213 electronic, imaged, magnetic, microphotographic or otherwise, and
1214 any reproduction so made shall have the same force and effect as
1215 the original thereof and be admitted in evidence equally with the
1216 original.

1217 SECTION 36. Section 81-21-3, Mississippi Code of 1972, is
1218 amended as follows:

1219 81-21-3. (1) No person shall engage in the business of a
1220 premium finance company in this state without first having
1221 obtained a license as a premium finance company from the
1222 commissioner.

1223 (2) With each initial application for a license, the
1224 applicant shall pay to the commissioner at the time of making the
1225 application a license fee of Seven Hundred Fifty Dollars
1226 (\$750.00), and for renewal applications, an annual renewal fee of
1227 Four Hundred Seventy-five Dollars (\$475.00) payable as of the
1228 first day of July of each year to the commissioner for deposit
1229 into the special fund in the State Treasury designated as the
1230 "Consumer Finance Fund." The commissioner may employ persons as
1231 necessary to administer this chapter and to examine or investigate
1232 and make reports on violations of this chapter.

1233 (3) The commissioner may charge the licensee an examination
1234 fee in an amount not less than Two Hundred Dollars (\$200.00) nor
1235 more than Three Hundred Dollars (\$300.00) per examination of each
1236 office or location within the State of Mississippi, plus any
1237 actual expenses incurred while examining the licensee's records or
1238 books that are located outside the State of Mississippi. However,
1239 in no event shall a licensee be examined more than once in a
1240 two-year period unless for cause shown based upon consumer
1241 complaint and/or other exigent reasons as determined by the
1242 commissioner. Such fees shall be payable in addition to other
1243 fees and taxes now required by law and shall be expendable
1244 receipts for the use of the commissioner in defraying the cost of

1245 the administration of this chapter.

1246 All fees, license tax and penalties provided for in this
1247 chapter which are payable to the commissioner shall, when
1248 collected by him or his designated representative, be deposited in
1249 the special fund in the State Treasury known as the "Consumer
1250 Finance Fund" and shall be expended by the commissioner solely and
1251 exclusively for the purpose of administering and enforcing the
1252 provisions of this chapter.

1253 (4) Application for licensing shall be made on forms
1254 prepared by the commissioner and shall contain the following
1255 information:

1256 (a) Name, business address and telephone number of the
1257 premium finance company;

1258 (b) Name and business address of corporate officers and
1259 directors or principals or partners; and

1260 (c) A sworn statement by an appropriate officer,
1261 principal or partner of the premium finance company that:

1262 (i) The premium finance company is financially
1263 capable to engage in the business of insurance premium financing;

1264 (ii) If a corporation, that the corporation is
1265 authorized to transact business in this state; and

1266 (iii) If any material change occurs in the
1267 information contained in the registration form, a revised
1268 statement shall be submitted to the commissioner.

1269 (5) The commissioner is authorized to promulgate rules and
1270 regulations to effectuate the purposes of this chapter. All such
1271 rules and regulations shall be promulgated in accordance with the
1272 provisions of the Mississippi Administrative Procedures Law.

1273 SECTION 37. Section 81-21-9, Mississippi Code of 1972, is
1274 amended as follows:

1275 81-21-9. (1) In lieu of revoking or suspending the license
1276 for any of the causes enumerated in this chapter, after a hearing
1277 as provided in Section 81-21-7, the commissioner may subject such

1278 company to a penalty not to exceed Five Hundred Dollars (\$500.00)
1279 for each offense when the commissioner finds that the public
1280 interest would not be harmed by the continued operation of the
1281 company. The amount of any such penalty shall be paid by such
1282 company to the commissioner for deposit into the special fund in
1283 the State Treasury designated as the "Consumer Finance Fund." At
1284 any hearing provided by this chapter, the commissioner shall have
1285 authority to administer oaths to witnesses. Anyone testifying
1286 falsely, after having been administered such oath, shall be
1287 subject to the penalty of perjury.

1288 (2) If any person engages in business as provided for in
1289 this chapter without paying the license fee provided for in this
1290 chapter before commencing business or before the expiration of the
1291 person's current license, as the case may be, then the person
1292 shall be liable for the full amount of the license fee, plus a
1293 penalty in an amount not to exceed Twenty-five Dollars (\$25.00)
1294 for each day that the person has engaged in the business without a
1295 license or after the expiration of a license.

1296 SECTION 38. The following section shall be codified as a
1297 separate code section within Chapter 21 of Title 81, Mississippi
1298 Code of 1972:

1299 81-21-___. The commissioner, or his duly authorized
1300 representative, for the purpose of discovering violations of this
1301 chapter and for the purpose of determining whether persons are
1302 subject to the provisions of this chapter, may examine persons
1303 licensed under this chapter and persons reasonably suspected by
1304 the commissioner of conducting business that requires a license
1305 under this chapter, including all relevant books, records and
1306 papers employed by those persons in the transaction of their
1307 business, and may summon witnesses and examine them under oath
1308 concerning matters relating to the business of those persons, or
1309 such other matters as may be relevant to the discovery of
1310 violations of this chapter, including without limitation the

1311 conduct of business without a license as required under this
1312 chapter.

1313 SECTION 39. This act shall take effect and be in force from
1314 and after its passage.