

By: Mettetal

To: Business and
Financial
InstitutionsSENATE BILL NO. 2653
(As Passed the Senate)

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 75-67-413,
60 MISSISSIPPI CODE OF 1972, TO REQUIRE A PLEDGOR TO REDUCE THE
61 PRINCIPAL AMOUNT FINANCED BY AT LEAST 10% BEGINNING WITH THE FIRST
62 EXTENSION OR CONTINUATION, RATHER THAN BEGINNING WITH THE THIRD;
63 TO PROVIDE THAT ANY ADDITIONAL PAYMENT OF FUNDS ON THE SAME
64 PLEDGED PROPERTY MUST BE EVIDENCED BY A SEPARATE TITLE PLEDGE
65 AGREEMENT; TO PROHIBIT A TITLE PLEDGE LENDER FROM ADVANCING FUNDS
66 TO A PLEDGOR TO PAY OFF AN EXISTING TITLE PLEDGE AGREEMENT; TO
67 AMEND SECTION 75-67-419, MISSISSIPPI CODE OF 1972, TO REVISE THE
68 FEE FOR A TITLE PLEDGE LENDER LICENSE; TO AMEND SECTION 75-67-421,
69 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE INITIAL APPLICATION
70 AND BOND FOR A TITLE PLEDGE LENDER LICENSE SHALL BE FILED WITH THE
71 COMMISSIONER OF BANKING, INSTEAD OF THE LOCAL AUTHORITIES; TO
72 AMEND SECTION 75-67-435, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
73 THE COMMISSIONER OF BANKING TO CHARGE TITLE PLEDGE LICENSEES AN
74 EXAMINATION FEE; TO CREATE A NEW CODE SECTION TO BE CODIFIED
75 WITHIN ARTICLE 9 OF CHAPTER 67 OF TITLE 75, MISSISSIPPI CODE OF
76 1972, TO PROHIBIT LICENSEES UNDER THE TITLE PLEDGE ACT FROM
77 ADVERTISING, DISPLAYING OR PUBLISHING ANY STATEMENT OR
78 REPRESENTATION THAT IS FALSE, MISLEADING OR DECEPTIVE; TO CREATE A
79 NEW CODE SECTION TO BE CODIFIED WITHIN ARTICLE 9 OF CHAPTER 67 OF
80 TITLE 75, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER
81 OF BANKING TO EXAMINE PERSONS REASONABLY SUSPECTED OF CONDUCTING
82 BUSINESS WHICH REQUIRES A LICENSE UNDER THE TITLE PLEDGE LOAN ACT;
83 TO AMEND SECTION 81-19-3, MISSISSIPPI CODE OF 1972, TO DEFINE THE
84 TERM "RECORDS/DOCUMENTS" FOR THE PURPOSES OF THE CONSUMER LOAN
85 BROKER ACT; TO AMEND SECTION 81-19-15, MISSISSIPPI CODE OF 1972,
86 TO REVISE THE PENALTY FOR FAILURE TO PAY THE FEE FOR A CONSUMER
87 LOAN BROKER LICENSE; TO AMEND SECTION 81-19-17, MISSISSIPPI CODE
88 OF 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING TO IMPOSE
89 ADMINISTRATIVE FINES FOR VIOLATIONS OF THE CONSUMER LOAN BROKER
90 ACT; TO AMEND SECTION 81-19-19, MISSISSIPPI CODE OF 1972, TO
91 PROVIDE THAT SUCH ADMINISTRATIVE FINES SHALL BE DEPOSITED INTO THE
92 CONSUMER FINANCE FUND AND NOT THE STATE GENERAL FUND; TO CREATE A
93 NEW CODE SECTION TO BE CODIFIED WITHIN CHAPTER 19 OF TITLE 81,
94 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING
95 TO EXAMINE PERSONS REASONABLY SUSPECTED OF CONDUCTING BUSINESS
96 WHICH REQUIRES A CONSUMER LOAN BROKER LICENSE; TO AMEND SECTION
97 81-21-1, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM
98 "RECORDS/DOCUMENTS" FOR THE PURPOSES OF THE INSURANCE PREMIUM
99 FINANCE COMPANY LICENSURE LAW; TO AMEND SECTION 81-21-3,
100 MISSISSIPPI CODE OF 1972, TO REVISE THE LICENSE FEE FOR INSURANCE
101 PREMIUM FINANCE COMPANIES; TO AMEND SECTION 81-21-9, MISSISSIPPI
102 CODE OF 1972, TO PROVIDE FOR A CIVIL PENALTY AGAINST ANY INSURANCE
103 PREMIUM FINANCE COMPANY WHICH FAILS TO TIMELY PAY THE REQUIRED
104 LICENSE FEE; TO CREATE A NEW CODE SECTION TO BE CODIFIED WITHIN
105 CHAPTER 21 OF TITLE 81, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
106 COMMISSIONER OF BANKING TO EXAMINE PERSONS REASONABLY SUSPECTED OF
107 CONDUCTING BUSINESS WHICH REQUIRES A PREMIUM FINANCE COMPANY
108 LICENSE; AND FOR RELATED PURPOSES.

109

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

111 SECTION 1. Section 63-19-3, Mississippi Code of 1972, is

112 amended as follows:

113 63-19-3. The following words and phrases, when used in this
114 chapter, shall have the meanings respectively ascribed to them in
115 this section, except where the context or subject matter otherwise
116 requires:

117 (a) "Motor vehicle" means any self-propelled or motored
118 device designed to be used or used primarily for the
119 transportation of passengers or property, or both, and having a
120 gross vehicular weight rating of less than fifteen thousand
121 (15,000) pounds.

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

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

134 (d) "Retail seller" or "seller" means a person who
135 sells a motor vehicle or commercial vehicle to a retail buyer
136 under or subject to a retail installment contract.

137 (e) The "holder" of a retail installment contract means
138 the retail seller of the motor vehicle or commercial vehicle under
139 or subject to the contract or if the contract is purchased by a
140 sales finance company or other assignee, the sales finance company
141 or other assignee.

142 (f) "Retail installment transaction" means any
143 transaction evidenced by a retail installment contract entered
144 into between a retail buyer and a retail seller wherein the retail

145 buyer buys a motor vehicle or commercial vehicle from the retail
146 seller at a time price payable in one or more deferred
147 installments. The cash sale price of the motor vehicle or
148 commercial vehicle, the amount included for insurance and other
149 benefits if a separate charge is made therefor, official fees and
150 the finance charge shall together constitute the time price.

151 (g) "Retail installment contract" or "contract" means
152 an agreement entered into in this state pursuant to which the
153 title to or a lien upon the motor vehicle or commercial vehicle
154 which is the subject matter of a retail installment transaction is
155 retained or taken by a retail seller from a retail buyer as
156 security for the buyer's obligation. The term includes a chattel
157 mortgage, a conditional sales contract and a contract for the
158 bailment or leasing of a motor vehicle or commercial vehicle by
159 which the bailee or lessee contracts to pay as compensation for
160 its use a sum substantially equivalent to or in excess of its
161 value and by which it is agreed that the bailee or lessee is bound
162 to become, or has the option of becoming, the owner of the motor
163 vehicle upon full compliance with the provisions of the contract.

164 (h) "Cash sale price" means the price stated in a
165 retail installment contract for which the seller would have sold
166 to the buyer, and the buyer would have bought from the seller, the
167 motor vehicle or commercial vehicle which is the subject matter of
168 the retail installment contract, if such sale had been a sale for
169 cash instead of a retail installment transaction. The cash sale
170 price may include any taxes, registration, certificate of title,
171 if any, license and other fees and charges for accessories and
172 their installation and for delivery, servicing, repairing or
173 improving the motor vehicle or commercial vehicle.

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

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

183 (k) "Sales finance company" means a person engaged, in
184 whole or in part, in the business of purchasing retail installment
185 contracts from one or more retail sellers. The term includes but
186 is not limited to a bank, trust company, private banker,
187 industrial bank or investment company, if so engaged. The term
188 also includes a retail seller engaged, in whole or in part, in the
189 business of creating and holding retail installment contracts
190 which exceed a total aggregate outstanding indebtedness of Five
191 Hundred Thousand Dollars (\$500,000.00). The term does not include
192 the pledgee to whom is pledged one or more of such contracts to
193 secure a bona fide loan thereon.

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

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

198 (n) "Commissioner" means the Commissioner of Banking
199 and Consumer Finance.

200 (o) "Records" or "documents" means any item in hard
201 copy or produced in a format of storage commonly described as
202 electronic, imaged, magnetic, microphotographic or otherwise, and
203 any reproduction so made shall have the same force and effect as
204 the original thereof and be admitted in evidence equally with the
205 original.

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

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

209 63-19-11. With each initial application for a license, the
210 applicant shall pay to the commissioner at the time of making the

211 application a license fee of Seven Hundred Fifty Dollars
212 (\$750.00), and for renewal applications, an annual renewal fee of
213 Four Hundred Seventy-five Dollars (\$475.00) for each calendar year
214 for each place of business so operated.

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

217 63-19-15. Each license shall specify the location of the
218 office and must be conspicuously displayed there. * * *

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

221 63-19-27. The commissioner may charge the licensee an
222 examination fee in an amount not less than Two Hundred Dollars
223 (\$200.00) nor more than Three Hundred Dollars (\$300.00) per
224 examination of each office or location within the State of
225 Mississippi, plus any actual expenses incurred while examining the
226 licensee's records or books that are located outside the State of
227 Mississippi. However, in no event shall a licensee be examined
228 more than once in a two-year period unless for cause shown based
229 upon consumer complaint and/or other exigent reasons as determined
230 by the commissioner.

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

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

236 63-19-31. (1) (a) A retail installment contract shall be
237 in writing, shall be signed by both the buyer and the seller, and
238 shall be completed as to all essential provisions prior to the
239 signing of the contract by the buyer.

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

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

247 (ii) The following notice: "Notice to the Buyer:

248 1. Do not sign this contract before you read it or if it
249 contains any blank spaces. 2. You are entitled to an exact copy
250 of the contract you sign."

251 (c) The seller shall deliver to the buyer, or mail to
252 him at his address shown on the contract, a copy of the contract
253 signed by the seller. Until the seller does so, a buyer who has
254 not received delivery of the motor vehicle shall have the right to
255 rescind his agreement and to receive a refund of all payments made
256 and return of all goods traded in to the seller on account of or
257 in contemplation of the contract, or if such goods cannot be
258 returned, the value thereof. Any acknowledgment by the buyer of
259 the delivery of a copy of the contract shall be in a size equal to
260 at least ten point bold type and, if contained in the contract,
261 shall appear directly above the buyer's signature.

262 (d) The contract shall contain the names of the seller
263 and the buyer, the place of business of the seller, the residence
264 or place of business of the buyer as specified by the buyer and a
265 description of the motor vehicle including its make, year model,
266 model and identification numbers or marks.

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

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

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

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

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

274 (e) The amount of official fees;

275 (f) The amount, if any, actually paid or to be paid by
276 the seller pursuant to an agreement with the buyer to discharge a

277 security interest, lien or lease interest on property traded in;

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

280 (h) The amount of the finance charge;

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

285 The above items need not be stated in the sequence or order
286 set forth. Additional items may be included to explain the
287 calculations involved in determining the stated time balance to be
288 paid by the buyer. Notwithstanding any provision of this chapter
289 to the contrary, in any contract evidencing the sale of a
290 commercial vehicle, the statement of the amount of the finance
291 charge (item (h) hereof) and the amount of each installment (item
292 (i) hereof) may be calculated using the finance charge rate
293 applicable to the transaction as of the date of execution of the
294 contract, notwithstanding the fact that such finance charge rate
295 may increase or decrease over the term of the contract according
296 to any formula or index set forth in the contract; provided,
297 however, that under no circumstances may the variable rate under
298 such contract at any time exceed the finance charge limitations
299 found in Section 63-19-43, of this chapter.

300 (3) No retail installment contract shall be signed by any
301 party thereto when it contains blank spaces to be filled in after
302 it has been signed except that, if delivery of the motor vehicle
303 is not made at the time of the execution of the contract, the
304 identifying numbers or marks of the motor vehicle or similar
305 information and the due date of the first installment may be
306 inserted in the contract after its execution. The buyer's written
307 acknowledgment, conforming to the requirements of subdivision (c)
308 of subsection (1) of this section, of delivery of a copy of a
309 contract shall be conclusive proof of such delivery, that the

310 contract when signed did not contain any blank spaces except as
311 herein provided, and of compliance with Sections 63-19-31 to
312 63-19-41 in any action or proceeding by or against the holder of
313 the contract.

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

316 63-19-55. (1) Any person who shall willfully and
317 intentionally violate any provision of this chapter or engage in
318 the business of a sales finance company in this state without a
319 license therefor as provided in this chapter shall be guilty of a
320 misdemeanor and upon conviction shall be punished by a fine not
321 exceeding Five Hundred Dollars (\$500.00). However, any licensee
322 who is exempt from liability for an act or omission under Section
323 63-19-57 shall not be guilty of a misdemeanor under this section
324 for the same act or omission.

325 (2) If any person engages in business as provided for in
326 this chapter without paying the license fee provided for in this
327 chapter before commencing business or before the expiration of the
328 person's current license, as the case may be, then the person
329 shall be liable for the full amount of the license fee, plus a
330 penalty in an amount not to exceed Twenty-five Dollars (\$25.00)
331 for each day that the person has engaged in the business without a
332 license or after the expiration of a license.

333 (3) The commissioner may, after notice and hearing, impose a
334 civil penalty against any licensee if the licensee or employee is
335 adjudged by the commissioner to be in violation of the provisions
336 of this chapter. The civil penalty shall not exceed Five Hundred
337 Dollars (\$500.00) per violation and shall be deposited into the
338 Consumer Finance Fund of the Department of Banking and Consumer
339 Finance.

340 (4) Any person willfully violating Sections 63-19-31 through
341 63-19-45, shall be barred from recovery of any finance charge,
342 delinquency or collection charge on the contract.

343 (5) However, any such contract purchased in good faith for
344 value by any bank, trust company, private bank, industrial bank or
345 investment company authorized to do business in this state shall
346 be held and construed to be valid and enforceable in the hands of
347 the purchaser for value, except that such purchaser shall not be
348 permitted to recover on such contract from the buyer anything in
349 excess of the principal balance due thereon, plus the amount of
350 the finance and collection charges permitted under the terms and
351 provisions of this chapter.

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

355 63-19-___. The commissioner, or his duly authorized
356 representative, after receiving a written complaint, for the
357 purpose of discovering violations of this chapter and for the
358 purpose of determining whether persons are subject to the
359 provisions of this chapter, may examine persons licensed under
360 this chapter and persons reasonably suspected by the commissioner
361 of conducting business that requires a license under this chapter,
362 including all relevant books, records and papers employed by those
363 persons in the transaction of their business, and may summon
364 witnesses and examine them under oath concerning matters relating
365 to the business of those persons, or such other matters as may be
366 relevant to the discovery of violations of this chapter, including
367 without limitation the conduct of business without a license as
368 required by this chapter.

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

371 75-15-3. For the purposes of this chapter:

372 (a) "Person" means any individual, partnership,
373 association, joint stock association, trust, or corporation, but
374 does not include the United States government or the government of
375 this state.

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

378 (c) "Check" means any check, draft, money order,
379 personal money order, or other instrument for the transmission or
380 payment of money.

381 (d) "Personal money order" means any instrument for the
382 transmission or payment of money in relation to which the
383 purchaser or remitter appoints or purports to appoint the seller
384 thereof as his agent for the receipt, transmission, or handling of
385 money, whether such instrument be signed by the seller or by the
386 purchaser or remitter or some other person.

387 (e) "Sell" means to sell, to issue or to deliver a
388 check.

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

394 (g) "Commissioner" or "comptroller" means the
395 Commissioner of Banking and Consumer Finance of the State of
396 Mississippi.

397 (h) "Records" or "documents" means any item in hard
398 copy or produced in a format of storage commonly described as
399 electronic, imaged, magnetic, microphotographic or otherwise, and
400 any reproduction so made shall have the same force and effect as
401 the original thereof and be admitted in evidence equally with the
402 original.

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

405 75-15-15. Each licensee shall pay to the commissioner with
406 his initial application a license fee of Seven Hundred Fifty
407 Dollars (\$750.00), and annually thereafter on or before April 1 of
408 each year, a renewal fee of Four Hundred Dollars (\$400.00), plus

409 Fifty Dollars (\$50.00) for each location in excess of one (1) in
410 Mississippi through which the licensee plans to sell during the
411 license year for which the fee is paid, provided that in no event
412 shall the annual renewal fee exceed One Thousand Dollars
413 (\$1,000.00).

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

416 75-15-19. Each licensee shall file with the commissioner
417 annually on or before April 15 of each year a statement listing:

418 (a) The locations, offices and agencies authorized by
419 the licensee to act for and on behalf of the licensee in selling
420 or issuing or dispensing checks. A supplemental statement setting
421 forth any changes in the list of locations, offices and agencies
422 shall be filed with the commissioner on or before the first day of
423 July, October and January of each year and the principal sum of
424 the corporate surety bond or deposit required under Section
425 75-15-11 shall be adjusted, if appropriate, to reflect any
426 increase or decrease in the number of locations, offices and
427 agencies. Such annual and supplemental statement shall not be
428 required of any licensee who continues to maintain a corporate
429 surety bond, as required by subsection (b) of Section 75-15-11 of
430 this chapter, in the principal sum of Two Hundred Fifty Thousand
431 Dollars (\$250,000.00), or a securities deposit having an aggregate
432 market value at least equal to Two Hundred Fifty Thousand Dollars
433 (\$250,000.00).

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

439 (c) The commissioner may conduct or cause to be
440 conducted an examination or audit of the books and records of any
441 licensee at any time or times he shall deem proper, the cost of

442 such examination or audit to be borne by the licensee. The
443 refusal of access to such books and records shall be cause for the
444 revocation of its license. The commissioner may charge the
445 licensee an examination fee in an amount not less than Two Hundred
446 Dollars (\$200.00) nor more than Three Hundred Dollars (\$300.00)
447 per examination of each office or location within the State of
448 Mississippi, plus any actual expenses incurred while examining the
449 licensee's records or books that are located outside the State of
450 Mississippi. However, in no event shall a licensee be examined
451 more than once in a two-year period unless for cause shown based
452 upon consumer complaint and/or other exigent reasons as determined
453 by the commissioner.

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

456 75-15-31. (1) If any person to whom or which this chapter
457 applies or any agent, subagent or representative of such person
458 violates any of the provisions of this chapter or attempts to
459 transact the business of selling or issuing or delivering checks
460 as a service or for a fee or other consideration, without having
461 first obtained license from the commissioner pursuant to the
462 provisions of this chapter, such person and each such agent,
463 subagent or representative shall be deemed guilty of a
464 misdemeanor, and upon conviction shall be fined not less than One
465 Hundred Dollars (\$100.00) nor more than Five Hundred Dollars
466 (\$500.00) and he may also be confined to the county jail or
467 sentenced to hard labor for the county, for not more than twelve
468 (12) months. Each violation shall constitute a separate offense.

469 (2) If any person engages in business as provided for in
470 this chapter without paying the license fee provided for in this
471 chapter before commencing business or before the expiration of the
472 person's current license, as the case may be, then the person
473 shall be liable for the full amount of the license fee plus a
474 penalty in an amount not to exceed Twenty-five Dollars (\$25.00)

475 for each day that the person has engaged in the business without a
476 license or after the expiration of a license.

477 (3) The commissioner may, after notice and hearing, impose a
478 civil penalty against any licensee if the licensee or employee is
479 adjudged by the commissioner to be in violation of the provisions
480 of this chapter. The civil penalty shall not exceed Five Hundred
481 Dollars (\$500.00) per violation and shall be deposited into the
482 Consumer Finance Fund of the Department of Banking and Consumer
483 Finance.

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

487 75-15-___. The commissioner, or his duly authorized
488 representative, for the purpose of discovering violations of this
489 chapter and for the purpose of determining whether persons are
490 subject to the provisions of this chapter, may examine persons
491 licensed under this chapter and persons reasonably suspected by
492 the commissioner of conducting business that requires a license
493 under this chapter, including all relevant books, records and
494 papers employed by those persons in the transaction of their
495 business, and may summon witnesses and examine them under oath
496 concerning matters relating to the business of those persons, or
497 such other matters as may be relevant to the discovery of
498 violations of this chapter, including without limitation the
499 conduct of business without a license as required under this
500 chapter.

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

503 75-67-103. The following words and phrases, when used in
504 this article, shall, for the purposes of this article, have the
505 meanings respectively ascribed to them in this section, except
506 where the context clearly describes and indicates a different
507 meaning:

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

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

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

525 (d) "Commissioner" means the Commissioner of Banking
526 and Consumer Finance of the State of Mississippi.

527 (e) "Department" means the Department of Banking and
528 Consumer Finance of the State of Mississippi.

529 (f) "Records" or "documents" means any item in hard
530 copy or produced in a format of storage commonly described as
531 electronic, imaged, magnetic, microphotographic or otherwise, and
532 any reproduction so made shall have the same force and effect as
533 the original thereof and be admitted in evidence equally with the
534 original.

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

537 75-67-115. The commissioner may charge the licensee an
538 examination fee in an amount not less than Two Hundred Dollars
539 (\$200.00) nor more than Three Hundred Dollars (\$300.00) per
540 examination of each office or location within the State of

541 Mississippi, plus any actual expenses incurred while examining the
542 licensee's records or books that are located outside the State of
543 Mississippi. However, in no event shall a licensee be examined
544 more than once in a two-year period unless for cause shown based
545 upon consumer complaint and/or other exigent reasons as determined
546 by the commissioner.

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

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

552 75-67-203. The following words and phrases, when used in
553 this article, shall, for the purposes of this article have the
554 meanings respectively ascribed to them in this section, except
555 where the context clearly describes and indicates a different
556 meaning:

557 (a) The word "person" shall mean and include every
558 natural person, firm, corporation, copartnership, joint stock or
559 other association or organization, and any other legal entity
560 whatsoever;

561 (b) The term "licensee" shall mean and include every
562 person, except those specifically exempt by the provisions of this
563 article, who, in addition to any other right and powers he or it
564 might otherwise possess, shall engage in the business of lending
565 money, either directly or indirectly, to be paid back in monthly
566 installments, or other regular installments for periods of more or
567 less than one (1) month, and whether or not the lender requires
568 security from the borrower as indemnity for the repayment of the
569 loan;

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

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

574 (e) "Records" or "documents" means any item in hard
575 copy or produced in a format of storage commonly described as
576 electronic, imaged, magnetic, microphotographic or otherwise, and
577 any reproduction so made shall have the same force and effect as
578 the original thereof and be admitted in evidence equally with the
579 original.

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

582 75-67-213. With each initial application for a license under
583 the provisions of this article, the applicant shall pay to the
584 commissioner at the time of making such application a license fee
585 of Seven Hundred Fifty Dollars (\$750.00), and for renewal
586 applications, an annual renewal fee of Four Hundred Seventy-five
587 Dollars (\$475.00). The licenses issued under the provisions
588 hereof shall be valid for a period of one (1) year from the date
589 of the issuance thereof. Such fee is in addition to any other
590 privilege tax or fee required by law. Within thirty (30) days
591 prior to the expiration of any valid and subsisting license issued
592 hereunder, the holder thereof, if he desires to continue to engage
593 in business in the State of Mississippi, shall file application
594 for a new license in the same manner and under the same conditions
595 herein provided * * *.

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

598 75-67-215. (1) If any person shall engage in business as
599 provided for in this article without paying the license fee
600 provided for herein prior to commencing business or prior to the
601 expiration of such person's current license, as the case may be,
602 then such person shall be liable for the full amount of such
603 license fee plus a penalty in an amount not to exceed Twenty-five
604 Dollars (\$25.00) for each day that the person has engaged in the
605 business without a license or after the expiration of a license.

606 (2) The commissioner may, after notice and hearing as

607 defined in Section 75-67-237 in cases of revocation of license,
608 impose a civil penalty against any licensee if the licensee is
609 adjudged by the commissioner to be in willful violation of the
610 provisions of this article. The civil penalty shall not exceed
611 Five Hundred Dollars (\$500.00) per violation and shall be
612 deposited into the Consumer Finance Fund of the Department of
613 Banking and Consumer Finance. Any licensee who has been imposed a
614 civil penalty by the commissioner may, within twenty (20) days
615 after such fine is imposed, appeal to the circuit court of the
616 county where the business is being conducted, as in cases from an
617 order of a lesser tribunal. The trial on appeal shall be de novo.

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

620 75-67-229. Not more than one (1) place of business shall be
621 operated or maintained under the same license, but the
622 commissioner may issue separate licenses to the same licensee for
623 different and separate places of business upon compliance with all
624 of the provisions of this article governing the issuance of
625 licenses with respect to each separate license. If any licensee
626 shall desire to change his place of business within the same
627 municipality during the period for which the license is valid, he
628 shall make written application therefor to the commissioner who
629 shall issue a new license * * * for the unexpired portion of the
630 year showing the new location of the business. However, nothing
631 herein shall authorize or permit a change in the place of business
632 of a licensee to a location outside of the original municipality.

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

636 75-67-___. The commissioner, or his duly authorized
637 representative, for the purpose of discovering violations of this
638 article and for the purpose of determining whether persons are
639 subject to the provisions of this article, may examine persons

640 licensed under this article and persons reasonably suspected by
641 the commissioner of conducting business that requires a license
642 under this article, including all relevant books, records and
643 papers employed by those persons in the transaction of their
644 business, and may summon witnesses and examine them under oath
645 concerning matters relating to the business of those persons, or
646 such other matters as may be relevant to the discovery of
647 violations of this article, including without limitation the
648 conduct of business without a license as required under this
649 article.

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

652 75-67-403. The following words and phrases shall have the
653 following meanings:

654 (a) "Appropriate law enforcement agency" means the
655 sheriff of each county in which the title pledge lender maintains
656 an office, or the police chief of the municipality or law
657 enforcement officers of the Department of Public Safety in which
658 the title pledge lender maintains an office.

659 (b) "Attorney General" means the Attorney General of
660 the State of Mississippi.

661 (c) "Commissioner" means the Commissioner of Banking
662 and Consumer Finance of the State of Mississippi, or his designee,
663 as the designated official for the purpose of enforcing this
664 article.

665 (d) "Identification" means a government issued
666 photographic identification.

667 (e) "Person" means an individual, partnership,
668 corporation, joint venture, trust, association or other legal
669 entity.

670 (f) "Pledged property" means any personal property
671 certificate of title that is deposited with a title pledge lender
672 in the course of the title pledge lender's business and is the

673 subject of a title pledge agreement.

674 (g) "Pledgor" means the person to whom the property is
675 titled.

676 (h) "Title pledge agreement" means a thirty-day written
677 agreement whereby a title pledge lender agrees to make a loan of
678 money to a pledgor, and the pledgor agrees to give the title
679 pledge lender a security interest in unencumbered titled personal
680 property owned by the pledgor. The pledgor shall agree that the
681 title pledge lender keep possession of the certificate of title.
682 The pledgor shall have the exclusive right to redeem the
683 certificate of title by repaying the loan of money in full and by
684 complying with the title pledge agreement. When the certificate
685 of title is redeemed, the title pledge lender shall release the
686 security interest in the titled personal property and return the
687 personal property certificate of title to the pledgor. The title
688 pledge agreement shall provide that upon failure by the pledgor to
689 redeem the certificate of title at the end of the original
690 thirty-day agreement period, or at the end of any extension(s)
691 thereof, the title pledge lender shall be allowed to take
692 possession of the titled personal property. The title pledge
693 agreement shall contain a power of attorney which authorizes the
694 title pledge lender to transfer title to the pledged property from
695 the pledgor to the title pledge lender upon failure to redeem the
696 pledged property on or before the maturity date of the title
697 pledge agreement, or any extension thereof. The title pledge
698 lender shall take physical possession of the certificate of title
699 for the entire length of the title pledge agreement, but shall not
700 be required to take physical possession of the titled personal
701 property at any time. A title pledge lender may only take
702 unencumbered certificates of title for pledge, but may encumber
703 the title as part of the title pledge transaction by perfecting
704 its security interest in the titled property.

705 (i) "Title pledge lender" means any person engaged in

706 the business of making title pledge agreements with pledgors;
707 provided, however, that the following are exempt from the
708 definition of "title pledge lender" and from the provisions of
709 this article: any bank which is regulated by the Department of
710 Banking and Consumer Finance, the Comptroller of the Currency of
711 the United States, the Federal Deposit Insurance Corporation, the
712 Board of Governors of the Federal Reserve System or any other
713 federal or state authority and all affiliates of such bank, and
714 additionally any bank or savings and loan association whose
715 deposits or accounts are eligible for insurance by the Bank
716 Insurance Fund or the Savings Association Insurance Fund or other
717 fund administered by the Federal Deposit Insurance Corporation or
718 any successor thereto, and all affiliates of such banks and
719 savings and loan associations, any state or federally chartered
720 credit union and finance company subject to licensing and
721 regulation by the Department of Banking and Consumer Finance.

722 (j) "Title pledge office" means the location at which,
723 or premises in which, a title pledge lender regularly conducts
724 business. No business other than title pledge business shall be
725 conducted at a title pledge office.

726 (k) "Title pledge service charge" means a charge for
727 investigating the title, appraising the titled personal property
728 to which the pledged property relates, documenting and closing the
729 title pledge agreement transaction, making required reports to
730 appropriate law enforcement officials, and for all of the services
731 provided by the title pledge lender.

732 (l) "Title pledge transaction form" means the
733 instrument on which a title pledge lender records title pledge
734 agreements pursuant to this article.

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

738 (n) "Records" or "documents" means any item in hard

739 copy or produced in a format of storage commonly described as
740 electronic, imaged, magnetic, microphotographic or otherwise, and
741 any reproduction so made shall have the same force and effect as
742 the original thereof and be admitted in evidence equally with the
743 original.

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

746 75-67-409. (1) The pledgor shall sign a statement verifying
747 that the pledgor is the rightful owner of the pledged property and
748 is entitled to pledge it. The pledgor shall receive an exact copy
749 of the title pledge agreement which shall be signed by the title
750 pledge lender or any employee of the title pledge lender.

751 (2) The title pledge lender shall maintain a record of all
752 transactions of pledged property on the premises for a period of
753 two (2) years. A title pledge lender upon request shall provide
754 to the appropriate law enforcement agency a complete record of all
755 transactions. These records shall be a correct copy of the
756 entries made of the title pledge transaction, except as to the
757 amount of cash advanced for the pledged property and the monthly
758 title pledge charge.

759 (3) The title pledge lender shall maintain records that
760 contain a complete payment history of each customer evidencing all
761 principal payments, service charge and/or other charges. Those
762 records also shall reflect any unpaid principal balance as well as
763 a payoff balance that includes the accrued service charges.

764 SECTION 22. Section 75-67-413, Mississippi Code of 1972, is
765 amended as follows:

766 75-67-413. (1) A title pledge lender may contract for and
767 receive a title pledge service charge in lieu of interest or other
768 charges for all services, expenses, cost and losses of every
769 nature not to exceed twenty-five percent (25%) of the principal
770 amount, per month, advanced in the title pledge transaction.

771 (2) Any interest, charge or fees contracted for or received,

772 directly or indirectly, in excess of the amount permitted under
773 subsection (1) of this section shall be uncollectible and the
774 title pledge transaction shall be void. The title pledge service
775 charge allowed under subsection (1) of this section shall be
776 deemed earned, due and owing as of the date of the title pledge
777 transaction and a like sum shall be deemed earned, due and owing
778 on the thirty-first day from the date of the transaction and on
779 every thirtieth day thereafter.

780 (3) By agreement of the parties, the maturity date of the
781 title pledge transaction may be extended or continued for
782 thirty-day periods, provided that the service charges as specified
783 in subsection (1) are not exceeded for any extensions. All
784 extensions or continuations of the title pledge transaction shall
785 be evidenced in writing. No accrued interest or service charge
786 shall be capitalized or added to the original principal of the
787 title pledge transaction during any extension or continuation.
788 Beginning with the first extension or continuation, the principal
789 amount financed shall be reduced by at least ten percent (10%) of
790 the original principal amount for each successive extension or
791 continuation. Failure by the pledgor to pay at least ten percent
792 (10%) of the original principal amount of the title pledge
793 transaction at the maturity date of each such successive extension
794 or continuation shall cause the remaining principal and any
795 service charges or fees to become immediately due and payable.

796 (4) Any additional payment of funds on the same pledged
797 property must be evidenced by a separate title pledge agreement.
798 A title pledge lender shall not advance funds to a pledgor to pay
799 off an existing title pledge agreement.

800 SECTION 23. Section 75-67-419, Mississippi Code of 1972, is
801 amended as follows:

802 75-67-419. (1) A person may not engage in business as a
803 title pledge lender or otherwise portray himself as a title pledge
804 lender unless the person has a valid license authorizing

805 engagement in the business. A separate license is required for
806 each place of business under this article. The commissioner may
807 issue more than one (1) license to a person if that person
808 complies with this article for each license. A new license or
809 application to transfer an existing license is required upon a
810 change, directly or beneficially, in the ownership of any licensed
811 title pledge office and an application shall be made to the
812 commissioner in accordance with this article.

813 (2) When a licensee wishes to move a title pledge office to
814 another location, the licensee shall give thirty (30) days prior
815 written notice to the commissioner who shall amend the license
816 accordingly.

817 (3) Each license shall remain in full force and effect until
818 relinquished, suspended, revoked or expired. With each initial
819 application for a license, the applicant shall pay the
820 commissioner at the time of making the application a license fee
821 of Seven Hundred Fifty Dollars (\$750.00), and on or before June 1
822 of each year thereafter, an annual renewal fee of Four Hundred
823 Seventy-five Dollars (\$475.00). If the annual fee remains unpaid
824 thirty (30) days after June 1, the license shall thereupon expire,
825 but not before June 30 of any year for which the annual fee has
826 been paid. If any person engages in business as provided for in
827 this article without paying the license fee provided for in this
828 article before commencing business or before the expiration of
829 such person's current license, as the case may be, then the person
830 shall be liable for the full amount of the license fee, plus a
831 penalty in an amount not to exceed Twenty-five Dollars (\$25.00)
832 for each day that the person has engaged in the business without a
833 license or after the expiration of a license. All licensing fees
834 and penalties shall be paid into the Consumer Finance Fund of the
835 Department of Banking and Consumer Finance.

836 (4) Notwithstanding other provisions of this article, the
837 commissioner may issue a temporary license authorizing the

838 operation of a title pledge office on the receipt of an
839 application to transfer a license from one person to another or on
840 the receipt of an application for a license involving principals
841 and owners that are substantially identical to those of an
842 existing licensed title pledge office. The temporary license is
843 effective until the permanent license is issued or denied.

844 (5) Notwithstanding other provisions of this article,
845 neither a new license nor an application to transfer an existing
846 license shall be required upon any change, directly or
847 beneficially, in the ownership of any licensed title pledge office
848 incorporated under the laws of this state or any other state so
849 long as the licensee continues to operate as a corporation doing a
850 title pledge business under the license. The commissioner may,
851 however, require the licensee to provide such information as he
852 deems reasonable and appropriate concerning the officer and
853 directors of the corporation and persons owning in excess of
854 twenty-five percent (25%) of the outstanding shares of the
855 corporation.

856 SECTION 24. Section 75-67-421, Mississippi Code of 1972, is
857 amended as follows:

858 75-67-421. (1) To be eligible for a title pledge lender
859 license, an applicant shall:

860 (a) Operate lawfully and fairly within the purposes of
861 this article;

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

865 (c) File with the commissioner a bond with good
866 security in the penal sum of One Hundred Thousand Dollars
867 (\$100,000.00), payable to the State of Mississippi for the
868 faithful performance by the licensee of the duties and obligations
869 pertaining to the business so licensed and the prompt payment of
870 any judgment which may be recovered against the licensee on

871 account of damages or other claim arising directly or collaterally
872 from any violation of the provisions of this article; such bond
873 shall not be valid until it is approved by the commissioner; such
874 applicant may file, in lieu thereof, cash, a certificate of
875 deposit, or government bonds in the amount of Ten Thousand Dollars
876 (\$10,000.00), the deposit of which shall be filed with the
877 commissioner and is subject to the same terms and conditions as
878 are provided for in the surety bond required herein; any interest
879 or earnings on such deposits are payable to the depositor.

880 (d) File with the commissioner an application
881 accompanied by a set of fingerprints from any local law
882 enforcement agency, * * * and the initial license fee required in
883 this article. In order to determine the applicant's suitability
884 for license, the commissioner shall forward the fingerprints to
885 the Department of Public Safety; and if no disqualifying record is
886 identified at the state level, the fingerprints shall be forwarded
887 by the Department of Public Safety to the FBI for a national
888 criminal history record check.

889 (2) Upon the filing of an application in a form prescribed
890 by the commissioner, accompanied by the fee and documents required
891 in this article, the department shall investigate to ascertain
892 whether the qualifications prescribed by this article have been
893 satisfied. If the commissioner finds that the qualifications have
894 been satisfied and, if he approves the documents so filed by the
895 applicant, he shall issue to the applicant a license to engage in
896 the business of title pledge lending in this state.

897 (3) Complete and file with the commissioner an annual
898 renewal application accompanied by the renewal fee required in
899 this article.

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

902 SECTION 25. Section 75-67-435, Mississippi Code of 1972, is
903 amended as follows:

904 75-67-435. (1) The Commissioner of Banking and Consumer
905 Finance shall develop and provide any necessary forms to carry out
906 the provisions of this article.

907 (2) The department may adopt reasonable administrative
908 regulations, not inconsistent with law, for the enforcement of
909 this article.

910 (3) To assure compliance with the provision of this article,
911 the department may examine the books and records of any licensee
912 without notice during normal business hours. The commissioner may
913 charge the licensee an examination fee in an amount not less than
914 Two Hundred Dollars (\$200.00) nor more than Three Hundred Dollars
915 (\$300.00) per examination of each office or location within the
916 State of Mississippi, plus any actual expenses incurred while
917 examining the licensee's records or books that are located outside
918 the State of Mississippi. However, in no event shall a licensee
919 be examined more than once in a two-year period unless for cause
920 shown based upon consumer complaint and/or other exigent reasons
921 as determined by the commissioner.

922 SECTION 26. The following section shall be codified as a
923 separate code section within Article 9 of Chapter 67 of Title 75,
924 Mississippi Code of 1972:

925 75-67-_____. A licensee shall not advertise, display or
926 publish, or permit to be advertised, displayed or published, in
927 any manner whatsoever, any statement or representation that is
928 false, misleading or deceptive.

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

932 75-67-_____. The commissioner, or his duly authorized
933 representative, for the purpose of discovering violations of this
934 article and for the purpose of determining whether persons are
935 subject to the provisions of this article, may examine persons
936 licensed under this article and persons reasonably suspected by

937 the commissioner of conducting business that requires a license
938 under this article, including all relevant books, records and
939 papers employed by those persons in the transaction of their
940 business, and may summon witnesses and examine them under oath
941 concerning matters relating to the business of those persons, or
942 such other matters as may be relevant to the discovery of
943 violations of this article, including without limitation the
944 conduct of business without a license as required under this
945 article.

946 SECTION 28. Section 81-19-3, Mississippi Code of 1972, is
947 amended as follows:[RF2]

948 81-19-3. As used in this chapter:

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

951 (b) "Commissioner" means the Commissioner of Banking
952 and Consumer Finance.

953 (c) "Consumer loan" means a transaction by which a
954 lender extends credit for personal, family or household purposes
955 in the form of payment of money or of agreement to pay money, for
956 the account of, or to a third party on behalf of, a natural person
957 or persons and which is repayable in installments and may be
958 unsecured or secured by real or personal property. The term
959 "consumer loan" also includes the creation of consumer debt by a
960 credit to an account with a lender upon which the borrower is
961 entitled to draw immediately.

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

966 (e) "Department" means the Department of Banking and
967 Consumer Finance.

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

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

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

974 (i) "Service charge" means the amount charged a
975 borrower by a consumer loan broker for the service of finding and
976 obtaining a consumer loan for the borrower from a third party
977 lender.

978 (j) "Records" or "documents" means any item in hard
979 copy or produced in a format of storage commonly described as
980 electronic, imaged, magnetic, microphotographic or otherwise, and
981 any reproduction so made shall have the same force and effect as
982 the original thereof and be admitted in evidence equally with the
983 original.

984 SECTION 29. Section 81-19-15, Mississippi Code of 1972, is
985 amended as follows:

986 81-19-15. Applications for renewal of a license shall be
987 submitted, along with the payment of the annual fee, on an
988 application form supplied by the commissioner upon which
989 information relating to all of the applicant's licensed offices
990 shall be set forth in accordance with instructions contained
991 therein, including, in the discretion of the commissioner, such
992 additional information as may be required by statute or regulation
993 for the issuance of an initial license.

994 The application for renewal of a license shall be received by
995 the commissioner within thirty (30) days prior to the expiration
996 of any valid and existing license issued hereunder. If any person
997 engages in business as provided for in this chapter without paying
998 the license fee provided for in this chapter before commencing
999 business or before the expiration of his current license shall be
1000 liable for the full amount of the license fee, plus a penalty in
1001 an amount not to exceed Twenty-five Dollars (\$25.00) for each day
1002 that the person has engaged in the business without a license or

1003 after the expiration of a license.

1004 SECTION 30. Section 81-19-17, Mississippi Code of 1972, is
1005 amended as follows:

1006 81-19-17. (1) Each licensee shall be subject to the
1007 supervision of the commissioner.

1008 (2) The commissioner is authorized to make and enforce such
1009 reasonable regulations as are necessary and proper for the
1010 administration, enforcement and interpretation of the provisions
1011 of this chapter. In adopting such regulations, the commissioner
1012 shall follow the procedures set forth in the Mississippi
1013 Administrative Procedures Act (Section 25-43-1 et seq.,
1014 Mississippi Code of 1972).

1015 (3) In order to discover violations of this chapter and to
1016 identify persons subject to the provisions of this chapter, the
1017 commissioner is authorized to examine licensees, including all
1018 books, records, accounts and papers employed by such licensees in
1019 the transaction of their business, to summon witnesses and examine
1020 them under oath concerning matters relating to the business of
1021 such persons, and to investigate such other matters as may be
1022 relevant in the opinion of the commissioner. For this purpose and
1023 for the general purposes of administration of this chapter, the
1024 commissioner may employ such deputies and assistants as may be
1025 necessary, and such deputies and assistants, in the discretion of
1026 the commissioner, may be vested with the same authority conferred
1027 upon the commissioner by this chapter.

1028 (4) For the purpose of defraying a portion of the
1029 examination and administrative expenses incurred by the
1030 commissioner, each licensee shall pay at the time of examination
1031 the actual expenses of the examination, not to exceed Two Hundred
1032 Dollars (\$200.00) per day for the time actually devoted to
1033 examining the business of the licensee. However, for any
1034 examination other than one conducted because of suspected blatant
1035 violation of this chapter, the amount charged to any single

1036 licensee in any one (1) year shall not exceed Two Thousand Dollars
1037 (\$2,000.00).

1038 (5) The commissioner may impose and collect an
1039 administrative fine against any person found to have charged or
1040 collected a service charge or advance fee from a borrower before a
1041 loan is actually found, obtained and closed for such borrower.
1042 Such fine shall not exceed Five Thousand Dollars (\$5,000.00) for
1043 each violation.

1044 (6) Whenever the commissioner has reasonable cause to
1045 believe that any person is violating any of the provisions of this
1046 chapter, in addition to all other remedies provided herein, the
1047 commissioner may, by, through and on the relation of the Attorney
1048 General, district attorney or county attorney, apply to a court of
1049 competent jurisdiction for an injunction, both temporary and
1050 permanent, to restrain such person from engaging in or continuing
1051 such violation of the provisions of this chapter or from doing any
1052 act or acts in furtherance thereof.

1053 (7) The commissioner may, after notice and hearing, impose
1054 an administrative fine against any licensee if the licensee or
1055 employee is adjudged by the commissioner to be in violation of the
1056 provisions of this chapter. The administrative fine shall not
1057 exceed Five Hundred Dollars (\$500.00) per violation and shall be
1058 deposited into the Consumer Finance Fund of the Department of
1059 Banking and Consumer Finance.

1060 SECTION 31. Section 81-19-19, Mississippi Code of 1972, is
1061 amended as follows:

1062 81-19-19. All funds coming into the possession of the
1063 commissioner as a result of this chapter, including all annual
1064 fees and examination fees * * *, shall be deposited by the
1065 commissioner into the special fund in the State Treasury known as
1066 the "Consumer Finance Fund," and shall be expended by the
1067 commissioner solely and exclusively for the administration and
1068 enforcement of this chapter. * * *

1069 SECTION 32. The following section shall be codified as a
1070 separate code section within Chapter 19 of Title 81, Mississippi
1071 Code of 1972:

1072 81-19-___. The commissioner, or his duly authorized
1073 representative, for the purpose of discovering violations of this
1074 chapter and for the purpose of determining whether persons are
1075 subject to the provisions of this chapter, may examine persons
1076 licensed under this chapter and persons reasonably suspected by
1077 the commissioner of conducting business that requires a license
1078 under this chapter, including all relevant books, records and
1079 papers employed by those persons in the transaction of their
1080 business, and may summon witnesses and examine them under oath
1081 concerning matters relating to the business of those persons, or
1082 such other matters as may be relevant to the discovery of
1083 violations of this chapter, including without limitation the
1084 conduct of business without a license as required under this
1085 chapter.

1086 SECTION 33. Section 81-21-1, Mississippi Code of 1972, is
1087 amended as follows:

1088 81-21-1. The following words and phrases shall have the
1089 meanings ascribed herein unless the context clearly indicates
1090 otherwise:

1091 (a) "Commissioner" means the Commissioner of Banking
1092 and Consumer Finance.

1093 (b) "Person" means an individual, partnership,
1094 association, business corporation, nonprofit corporation,
1095 common-law trust, joint stock company or any other entity, however
1096 organized.

1097 (c) "Premium finance agreement" means an agreement by
1098 which an insurance or prospective insured promises to pay to a
1099 premium finance company the amount advanced or to be advanced to
1100 an insurer or to an insurance agent or broker in payment of
1101 premiums of an insurance contract together with interest or

1102 discount and a service charge, as authorized and limited by
1103 Sections 81-21-13 through 81-21-23.

1104 (d) "Premium finance company" means a person engaged in
1105 the business of entering into premium finance agreements or
1106 acquiring premium finance agreements from other premium finance
1107 companies.

1108 (e) "Records" or "documents" means any item in hard
1109 copy or produced in a format of storage commonly described as
1110 electronic, imaged, magnetic, microphotographic or otherwise, and
1111 any reproduction so made shall have the same force and effect as
1112 the original thereof and be admitted in evidence equally with the
1113 original.

1114 SECTION 34. Section 81-21-3, Mississippi Code of 1972, is
1115 amended as follows:

1116 81-21-3. (1) No person shall engage in the business of a
1117 premium finance company in this state without first having
1118 obtained a license as a premium finance company from the
1119 commissioner.

1120 (2) With each initial application for a license, the
1121 applicant shall pay to the commissioner at the time of making the
1122 application a license fee of Seven Hundred Fifty Dollars
1123 (\$750.00), and for renewal applications, an annual renewal fee of
1124 Four Hundred Seventy-five Dollars (\$475.00) payable as of the
1125 first day of July of each year to the commissioner for deposit
1126 into the special fund in the State Treasury designated as the
1127 "Consumer Finance Fund." The commissioner may employ persons as
1128 necessary to administer this chapter and to examine or investigate
1129 and make reports on violations of this chapter.

1130 (3) The commissioner may charge the licensee an examination
1131 fee in an amount not less than Two Hundred Dollars (\$200.00) nor
1132 more than Three Hundred Dollars (\$300.00) per examination of each
1133 office or location within the State of Mississippi, plus any
1134 actual expenses incurred while examining the licensee's records or

1135 books that are located outside the State of Mississippi. However,
1136 in no event shall a licensee be examined more than once in a
1137 two-year period unless for cause shown based upon consumer
1138 complaint and/or other exigent reasons as determined by the
1139 commissioner. Such fees shall be payable in addition to other
1140 fees and taxes now required by law and shall be expendable
1141 receipts for the use of the commissioner in defraying the cost of
1142 the administration of this chapter.

1143 All fees, license tax and penalties provided for in this
1144 chapter which are payable to the commissioner shall, when
1145 collected by him or his designated representative, be deposited in
1146 the special fund in the State Treasury known as the "Consumer
1147 Finance Fund" and shall be expended by the commissioner solely and
1148 exclusively for the purpose of administering and enforcing the
1149 provisions of this chapter.

1150 (4) Application for licensing shall be made on forms
1151 prepared by the commissioner and shall contain the following
1152 information:

1153 (a) Name, business address and telephone number of the
1154 premium finance company;

1155 (b) Name and business address of corporate officers and
1156 directors or principals or partners; and

1157 (c) A sworn statement by an appropriate officer,
1158 principal or partner of the premium finance company that:

1159 (i) The premium finance company is financially
1160 capable to engage in the business of insurance premium financing;

1161 (ii) If a corporation, that the corporation is
1162 authorized to transact business in this state; and

1163 (iii) If any material change occurs in the
1164 information contained in the registration form, a revised
1165 statement shall be submitted to the commissioner.

1166 (5) The commissioner is authorized to promulgate rules and
1167 regulations to effectuate the purposes of this chapter. All such

1168 rules and regulations shall be promulgated in accordance with the
1169 provisions of the Mississippi Administrative Procedures Law.

1170 SECTION 35. Section 81-21-9, Mississippi Code of 1972, is
1171 amended as follows:

1172 81-21-9. (1) In lieu of revoking or suspending the license
1173 for any of the causes enumerated in this chapter, after a hearing
1174 as provided in Section 81-21-7, the commissioner may subject such
1175 company to a penalty not to exceed Five Hundred Dollars (\$500.00)
1176 for each offense when the commissioner finds that the public
1177 interest would not be harmed by the continued operation of the
1178 company. The amount of any such penalty shall be paid by such
1179 company to the commissioner for deposit into the special fund in
1180 the State Treasury designated as the "Consumer Finance Fund." At
1181 any hearing provided by this chapter, the commissioner shall have
1182 authority to administer oaths to witnesses. Anyone testifying
1183 falsely, after having been administered such oath, shall be
1184 subject to the penalty of perjury.

1185 (2) If any person engages in business as provided for in
1186 this chapter without paying the license fee provided for in this
1187 chapter before commencing business or before the expiration of the
1188 person's current license, as the case may be, then the person
1189 shall be liable for the full amount of the license fee, plus a
1190 penalty in an amount not to exceed Twenty-five Dollars (\$25.00)
1191 for each day that the person has engaged in the business without a
1192 license or after the expiration of a license.

1193 SECTION 36. The following section shall be codified as a
1194 separate code section within Chapter 21 of Title 81, Mississippi
1195 Code of 1972:

1196 81-21-___. The commissioner, or his duly authorized
1197 representative, for the purpose of discovering violations of this
1198 chapter and for the purpose of determining whether persons are
1199 subject to the provisions of this chapter, may examine persons
1200 licensed under this chapter and persons reasonably suspected by

1201 the commissioner of conducting business that requires a license
1202 under this chapter, including all relevant books, records and
1203 papers employed by those persons in the transaction of their
1204 business, and may summon witnesses and examine them under oath
1205 concerning matters relating to the business of those persons, or
1206 such other matters as may be relevant to the discovery of
1207 violations of this chapter, including without limitation the
1208 conduct of business without a license as required under this
1209 chapter.

1210 SECTION 37. This act shall take effect and be in force from
1211 and after its passage.