

By: Representative Ford

To: Banks and Banking

HOUSE BILL NO. 468

1 AN ACT TO AMEND SECTION 75-17-1, MISSISSIPPI CODE OF 1972,  
2 WHICH REGULATES FINANCE CHARGE AGREEMENTS ENTERED INTO BY  
3 BORROWERS OR DEBTORS AND LENDERS, TO EXTEND THE DATE OF REPEAL  
4 FROM JULY 1, 2001, TO JULY 1, 2002; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 75-17-1, Mississippi Code of 1972, is  
7 amended as follows:

8 75-17-1. (1) The legal rate of interest on all notes,  
9 accounts and contracts shall be eight percent (8%) per annum,  
10 calculated according to the actuarial method, but contracts may be  
11 made, in writing, for payment of a finance charge as otherwise  
12 provided by this section or as otherwise authorized by law.

13 (2) Any borrower or debtor may contract for and agree to pay  
14 a finance charge for any loan or other extension of credit made  
15 directly or indirectly to a borrower or debtor which will result  
16 in a yield not to exceed the greater of ten percent (10%) per  
17 annum or five percent (5%) per annum above the discount rate,  
18 excluding any surcharge thereon, on ninety-day commercial paper in  
19 effect at the Federal Reserve bank in the Federal Reserve district  
20 where the lender is located, each calculated according to the  
21 actuarial method. The rate of finance charge authorized under  
22 this subsection (2) shall be known as the "contract rate."

23 (3) Notwithstanding the foregoing and any other provision of  
24 law to the contrary, any partnership, joint venture, religious  
25 society, unincorporated association, or domestic or foreign  
26 corporation, whether organized for profit or nonprofit, may  
27 contract for and agree to pay a finance charge which will result  
28 in a yield not to exceed the greater of fifteen percent (15%) per



29 annum or five percent (5%) per annum above the discount rate,  
30 excluding any surcharge thereon, on ninety-day commercial paper in  
31 effect at the Federal Reserve bank in the Federal Reserve district  
32 where the lender is located, each calculated according to the  
33 actuarial method, on any contract, loan, extension of credit or  
34 other obligation under which the principal balance to be repaid  
35 shall originally exceed Two Thousand Five Hundred Dollars  
36 (\$2,500.00), or on any series of advances of money pursuant to a  
37 contract if the aggregate of sums advanced or originally proposed  
38 to be advanced shall exceed Two Thousand Five Hundred Dollars  
39 (\$2,500.00); and as to any such agreement, the claim or defense of  
40 usury by such partnership, joint venture, religious society,  
41 unincorporated association, or corporation, or their successors,  
42 guarantors, assigns or anyone on their behalf is prohibited.

43 (4) Notwithstanding the foregoing and any other provision of  
44 law to the contrary, any borrower or debtor may contract for and  
45 agree to pay a finance charge which will result in a yield not to  
46 exceed the greater of ten percent (10%) per annum or five percent  
47 (5%) per annum above the index of market yields of the Monthly  
48 Twenty-Year Constant Maturity Index of Long-Term United States  
49 Government Bond Yields, as compiled by the United States Treasury  
50 Department, each calculated according to the actuarial method, on  
51 any loan, mortgage or advance which is secured by a lien on  
52 residential real property or by a lien on stock in a residential  
53 cooperative housing corporation where the loan, mortgage or  
54 advance is used to finance the acquisition of such stock. The  
55 term "residential real property," as used in this subsection,  
56 means real estate upon which there is located or to be located a  
57 structure or structures designed in whole or in part for  
58 residential use, or which comprises or includes one or more  
59 apartments, condominium units or other dwelling units.

60 (5) Notwithstanding the foregoing and any other provision of  
61 law to the contrary, any borrower or debtor may contract for and



62 agree to pay and any lender or extender of credit may contract for  
63 and receive any finance charge agreed to in writing by the  
64 parties, notwithstanding that such charge is in excess of that  
65 otherwise allowed on any contract, credit sale, obligation or  
66 other extension of credit, regardless of the security taken or the  
67 purpose of the extension of credit, under which the principal  
68 balance to be repaid originally exceeds Two Thousand Dollars  
69 (\$2,000.00), or on any series of advances of money pursuant to a  
70 contract if the aggregate of sums advanced or originally proposed  
71 to be advanced exceeds Two Thousand Dollars (\$2,000.00), or on any  
72 extension or renewal thereof; and as to any such agreement, the  
73 claim or defense of usury or violation of any law prescribing,  
74 limiting or regulating the rate of finance charge by any borrower  
75 or debtor, or his successors, guarantors, assigns or anyone on his  
76 behalf is prohibited.

77 This subsection (5) shall stand repealed on July 1, 2002.

78 (6) Notwithstanding the foregoing and any other provisions  
79 of law to the contrary, the outstanding balance of a prior loan or  
80 lease of a motor vehicle used as a trade-in, as well as other  
81 items that are capitalized or amortized during the lease term, may  
82 be included in a lease for a motor vehicle, provided that the rate  
83 of finance charge associated with the lease contract does not at  
84 any time exceed the finance charge limitations specified in  
85 Section 63-19-43.

86 SECTION 2. This act shall take effect and be in force from  
87 and after July 1, 2001.

