

By: Representative Guice

To: Banks and Banking

HOUSE BILL NO. 1508

1 AN ACT TO AMEND SECTION 75-67-303, MISSISSIPPI CODE OF 1972,
 2 TO DEFINE THE TERMS "RECORDS/DOCUMENTS" FOR THE PURPOSES OF THE
 3 PAWNSHOP LICENSURE ACT; TO AMEND SECTION 75-67-321, MISSISSIPPI
 4 CODE OF 1972, TO REVISE THE FEE FOR A PAWNSHOP LICENSE; TO AMEND
 5 SECTION 75-67-323, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
 6 INITIAL APPLICATION AND BOND FOR A PAWNSHOP LICENSE SHALL BE FILED
 7 WITH THE COMMISSIONER OF BANKING, INSTEAD OF THE LOCAL
 8 AUTHORITIES; TO REQUIRE A CERTAIN SIGN TO BE DISPLAYED AT THE
 9 PAWNSHOP'S PLACE OF BUSINESS; TO AMEND SECTION 75-67-333,
 10 MISSISSIPPI CODE OF 1972, TO PROVIDE THE COMMISSIONER OF BANKING
 11 SHALL PROVIDE NOTICE AND HEARING BEFORE IMPOSING A CIVIL PENALTY
 12 FOR VIOLATIONS OF THE PAWNSHOP LICENSURE ACT; TO AMEND SECTION
 13 75-67-341, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER
 14 OF BANKING TO CHARGE PAWNSHOP LICENSEES AN EXAMINATION FEE; TO
 15 CREATE A NEW CODE SECTION TO BE CODIFIED WITHIN ARTICLE 7 OF
 16 CHAPTER 67 OF TITLE 75, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
 17 COMMISSIONER OF BANKING TO EXAMINE PERSONS REASONABLY SUSPECTED OF
 18 CONDUCTING BUSINESS WHICH REQUIRES A PAWNSHOP LICENSE; TO AMEND
 19 SECTION 75-67-305, MISSISSIPPI CODE OF 1972, TO REVISE THE
 20 RECORD-KEEPING REQUIREMENTS FOR PAWNSHOP TRANSACTIONS; AND FOR
 21 RELATED PURPOSES.

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

23 SECTION 1. Section 75-67-303, Mississippi Code of 1972, is
 24 amended as follows:

25 75-67-303. The following words and phrases used in this
 26 Article shall have the following meanings unless the context
 27 clearly indicates otherwise:

28 (a) "Pawnbroker" means any person engaged in whole or
 29 in part in the business of lending money on the security of
 30 pledged goods left in pawn, or in the business of purchasing
 31 tangible personal property to be left in pawn on the condition
 32 that it may be redeemed or repurchased by the seller for a fixed
 33 price within a fixed period of time; provided, however, that the
 34 following are exempt from the definition of "pawnbroker" and from
 35 the provisions of this Article: any bank which is regulated by

36 the State Department of Banking and Consumer Finance, the
37 Comptroller of the Currency of the United States, the Federal
38 Deposit Insurance Corporation, the Board of Governors of the
39 Federal Reserve System or any other federal or state authority and
40 all affiliates of such bank, and additionally any bank or savings
41 and loan association whose deposits or accounts are eligible for
42 insurance by the Bank Insurance Fund or the Savings Association
43 Insurance Fund or other fund administered by Federal Deposit
44 Insurance Corporation or any successor thereto, and all affiliates
45 of such banks and savings and loan associations, any state or
46 federally chartered credit union and any finance company subject
47 to licensing and regulation by the State Department of Banking and
48 Consumer Finance.

49 (b) "Pawnshop" means the location at which or premises
50 in which a pawnbroker regularly conducts business.

51 (c) "Pawn transaction" means any loan on the security
52 of pledged goods or any purchase of pledged goods on the condition
53 that the pledged goods are left with the pawnbroker and may be
54 redeemed or repurchased by the seller for a fixed price within a
55 fixed period of time. A "pawn transaction" does not include the
56 pledge to or the purchase by a pawnbroker of real or personal
57 property from a customer followed by the sale of the leasing of
58 that same property back to the customer in the same or a related
59 transaction and such is not permitted by this article.

60 (d) "Person" means an individual, partnership,
61 corporation, joint venture, trust, association, or any legal
62 entity however organized.

63 (e) "Pledged goods" means tangible personal property
64 other than choses in action, securities, or printed evidence of
65 indebtedness, which property is purchased by, deposited with, or
66 otherwise actually delivered into the possession of a pawnbroker
67 in connection with a pawn transaction.

68 (f) "Commissioner" means the Mississippi Commissioner
69 of Banking and Consumer Finance, or his designee, as the
70 designated official for the purpose of enforcing this article.

71 (g) "Appropriate law enforcement agency" means the
72 sheriff of each county in which the pawnbroker maintains an
73 office, or the police chief of the municipality or law enforcement
74 officers of the Department of Public Safety in which the
75 pawnbroker maintains an office.

76 (h) "Attorney General" means the Attorney General of
77 the State of Mississippi.

78 (i) "Records" or "documents" means any item in hard
79 copy or produced in a format of storage commonly described as
80 electronic, imaged, magnetic, microphotographic or otherwise, and
81 any reproduction so made shall have the same force and effect as
82 the original thereof and be admitted in evidence equally with the
83 original.

84 SECTION 2. Section 75-67-321, Mississippi Code of 1972, is
85 amended as follows:

86 75-67-321. (1) A person may not engage in business as a
87 pawnbroker or otherwise portray himself as a pawnbroker unless the
88 person has a valid license authorizing engagement in the business.
89 A separate license is required for each place of business under
90 this article. The commissioner may issue more than one (1)
91 license to a person if that person complies with this article for
92 each license. A new license or application to transfer an
93 existing license is required upon a change, directly or
94 beneficially, in the ownership of any licensed pawnshop and an
95 application shall be made to the commissioner in accordance with
96 this article.

97 (2) When a licensee wishes to move a pawnshop to another
98 location, the licensee shall give thirty (30) days prior written
99 notice to the commissioner who shall amend the license
100 accordingly.

101 (3) Each license shall remain in full force and effect until
102 relinquished, suspended, revoked or expired. With each initial
103 application for a license, the applicant shall pay the
104 commissioner a license fee, which includes premiums for
105 examinations, of Five Hundred Dollars (\$500.00), and on or before
106 December 1 of each year thereafter, an annual renewal fee, which
107 includes premiums for examinations, of Three Hundred Fifty Dollars
108 (\$350.00). However, when more than one (1) license to an
109 applicant is issued, the commissioner, for each subsequent
110 license, may only impose a fee, which includes premiums for
111 examinations, of Three Hundred Fifty Dollars (\$350.00) at the time
112 of application, and an annual renewal fee, which includes premiums
113 for examinations, of Three Hundred Fifty Dollars (\$350.00) on or
114 before December 1 of each year thereafter. If the annual fee
115 remains unpaid thirty (30) days after December 1, the license
116 shall thereupon expire, but not before December 31 of any year for
117 which the annual fee has been paid. If any person engages in
118 business as provided for in this article without paying the
119 license fee provided for in this article commencing business or
120 before the expiration of the person's current license, as the case
121 may be, then the person shall be liable for the full amount of the
122 license fee, plus a penalty in an amount not to exceed Twenty-five
123 Dollars (\$25.00) for each day that the person has engaged in such
124 business without a license or after the expiration of a license.
125 All licensing fees and penalties shall be paid into the Consumer
126 Finance Fund of the Department of Banking and Consumer Finance.

127 (4) Notwithstanding other provisions of this article, the
128 commissioner may issue a temporary license authorizing the
129 operator of a pawnshop on the receipt of an application to
130 transfer a license from one person to another or on the receipt of
131 an application for a license involving principals and owners that
132 are substantially identical to those of an existing licensed

133 pawnshop. The temporary license is effective until the permanent
134 license is issued or denied.

135 (5) Notwithstanding other provisions of this article,
136 neither a new license nor an application to transfer an existing
137 license shall be required upon any change, directly or
138 beneficially, in the ownership of any licensed pawnshop
139 incorporated under the laws of this state or any other state so
140 long as the licensee continues to operate as a corporation doing a
141 pawnshop business under the license. The commissioner may,
142 however, require the licensee to provide such information as he
143 deems reasonable and appropriate concerning the officer and
144 directors of the corporation and persons owning in excess of
145 twenty-five percent (25%) of the outstanding shares of the
146 corporation.

147 SECTION 3. Section 75-67-323, Mississippi Code of 1972, is
148 amended as follows:

149 75-67-323. To be eligible for a pawnbroker license, an
150 applicant shall:

151 (a) Operate lawfully and fairly within the purposes of
152 this article;

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

156 (c) File with the commissioner a bond with good
157 security in the penal sum of Ten Thousand Dollars (\$10,000.00),
158 payable to the State of Mississippi for the faithful performance
159 by the licensee of the duties and obligations pertaining to the
160 business so licensed and the prompt payment of any judgment which
161 may be recovered against such licensee on account of damages or
162 other claim arising directly or collaterally from any violation of
163 the provisions of this article; such bond shall not be valid until
164 it is approved by the commissioner; such applicant may file, in
165 lieu thereof, cash, a certificate of deposit, or government bonds

166 in the amount of Ten Thousand Dollars (\$10,000.00); such deposit
167 shall be filed with the commissioner and is subject to the same
168 terms and conditions as are provided for in the surety bond
169 required herein; any interest or earnings on such deposits are
170 payable to the depositor.

171 (d) File with the commissioner an application
172 accompanied by the initial license fee required in this article.

173 (e) Submit a set of fingerprints from any local law
174 enforcement agency. In order to determine the applicant's
175 suitability for license, the commissioner shall forward the
176 fingerprints to the Department of Public Safety; and if no
177 disqualifying record is identified at the state level, the
178 fingerprints shall be forwarded by the Department of Public Safety
179 to the FBI for a national criminal history record check.

180 (f) Submit, as a part of the application (initial or
181 renewal), certification from a local law enforcement agency with
182 jurisdiction that applicant is in compliance with all local rules,
183 regulations and ordinances concerning pawnshop activity. Such
184 certification shall also include a recommendation to issue the
185 pawnshop license.

186 (2) Every licensee shall post his license in a conspicuous
187 place at each place of business.

188 (3) Every licensee shall post and display a sign which
189 measures at least twenty (20) inches by twenty (20) inches in a
190 conspicuous place and in easy view of all persons who enter the
191 place of business. The sign shall display bold, blocked letters,
192 easily readable, with the following information: "This pawnshop
193 is licensed and regulated by the Mississippi Department of Banking
194 and Consumer Finance. If you encounter any unresolved problem
195 with a transaction at this location, you are entitled to
196 assistance. Please call or write: Mississippi Department of
197 Banking and Consumer Finance, Post Office Drawer 23729, Jackson,
198 MS 39225-3729; Phone 1-800-844-2499."

199 SECTION 4. Section 75-67-333, Mississippi Code of 1972, is
200 amended as follows:

201 75-67-333. (1) In addition to any other penalty which may
202 be applicable, any licensee or employee who willfully violates any
203 provision of this article, or who willfully makes a false entry in
204 any record specifically required by this article, shall be guilty
205 of a misdemeanor and upon conviction thereof, shall be punishable
206 by a fine not in excess of One Thousand Dollars (\$1,000.00) per
207 violation or false entry.

208 (2) (a) In addition to any other penalty which may be
209 applicable, any licensee or employee who fails to make a record of
210 a pawnshop transaction and subsequently sells or disposes of the
211 pledged goods from such transaction shall be punished as follows:

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

217 (ii) For a second offense, the licensee or
218 employee shall be guilty of a felony and upon conviction thereof,
219 shall be punishable by a fine not in excess of Five Thousand
220 Dollars (\$5,000.00) or by imprisonment in the custody of the State
221 Department of Corrections for a term not less than one (1) year
222 nor more than five (5) years, or by both fine and imprisonment.

223 (b) Any licensee convicted in the manner provided in
224 this subsection (2) shall forfeit the surety bond or deposit
225 required in Section 75-67-323 and the amount of such bond or
226 deposit shall be credited to the budget of the state or local
227 agency, which directly participated in the prosecution of such
228 licensee, for the specific purpose of increasing law enforcement
229 resources for that specific state or local agency. Such bond or
230 deposit shall be used to augment existing state and local law
231 enforcement budgets and not to supplant them.

232 (3) Compliance with the criminal provisions of this article
233 shall be enforced by the appropriate law enforcement agency who
234 may exercise for such purpose any authority conferred upon such
235 agency by law.

236 (4) When the commissioner has reasonable cause to believe
237 that a person is violating any provision of this article, the
238 commissioner, in addition to and without prejudice to the
239 authority provided elsewhere in this article, may enter an order
240 requiring the person to stop or to refrain from the violation.
241 The commissioner may sue in any circuit court of the state having
242 jurisdiction and venue to enjoin the person from engaging in or
243 continuing the violation or from doing any act in furtherance of
244 the violation. In such an action, the court may enter an order or
245 judgment awarding a preliminary or permanent injunction.

246 (5) The commissioner may, after notice and a hearing, impose
247 a civil penalty against any licensee adjudged by the commissioner
248 to be in violation of the provisions of this article. Such civil
249 penalty shall not exceed Five Hundred Dollars (\$500.00) per
250 violation and shall be deposited into the State General Fund.

251 SECTION 5. Section 75-67-341, Mississippi Code of 1972, is
252 amended as follows:

253 75-67-341. (1) The Commissioner of Banking shall develop
254 and provide any necessary forms to carry out the provisions of
255 this article.

256 (2) To assure compliance with the provisions of this
257 article, the commissioner may examine the pawn books and records
258 of any licensee without notice during normal business hours.

259 Any expenses incurred for such examinations are included in
260 the licensee's application fee; however, the commissioner may
261 charge the licensee any actual expenses incurred while examining
262 the licensee's pawn records or books which are located outside of
263 the State of Mississippi.

264 SECTION 6. The following section shall be codified as a
265 separate Code section within Article 7 of Chapter 67 of Title 75,
266 Mississippi Code of 1972:

267 75-67-___. The commissioner, or his duly authorized
268 representative, for the purpose of discovering violations of this
269 article and for the purpose of determining whether persons are
270 subject to the provisions of this article, may examine persons
271 licensed under this article and persons reasonably suspected by
272 the commissioner of conducting business that requires a license
273 under this article, including all relevant books, records and
274 papers employed by those persons in the transaction of their
275 business, and may summon witnesses and examine them under oath
276 concerning matters relating to the business of those persons, or
277 such other matters as may be relevant to the discovery of
278 violations of this article, including without limitation the
279 conduct of business without a license as required under this
280 article.

281 SECTION 7. Section 75-67-305, Mississippi Code of 1972, is
282 amended as follows:

283 75-67-305. (1) At the time of making the pawn or purchase
284 transaction, the pawnbroker shall enter upon the pawn ticket a
285 record of the following information which shall be typed or
286 written in ink and in the English language:

287 (a) A clear and accurate description of the property,
288 including model and serial number if indicated on the property;

289 (b) The name, residence address and date of birth of
290 pledgor or seller;

291 (c) Date of pawn or purchase transaction;

292 (d) Driver's license number or social security number
293 or Mississippi identification card number, as defined in Section
294 45-35-1, of the pledgor or seller or identification information
295 verified by at least two (2) forms of identification, one (1) of
296 which shall be a photographic identification;

297 (e) Description of the pledgor including approximate
298 height, sex and race;

299 (f) Amount of cash advanced;

300 (g) The maturity date of the pawn transaction and the
301 amount due; and

302 (h) The monthly rate and pawn charge. Such rates and
303 charges shall be disclosed using the requirements prescribed in
304 Regulation Z (Truth in Lending) of the rules and regulations of
305 the Board of Governors of the Federal Reserve.

306 (2) Each pawn or purchase transaction document shall be
307 consecutively numbered and entered in a corresponding log or
308 record book. Separate logs or record books for pawn and purchase
309 transactions shall be kept.

310 (3) Records may be in the form of traditional hard copies,
311 computer printouts or magnetic media if readily accessible for
312 viewing on a screen with the capability of being promptly printed
313 upon request.

314 (4) Every licensee shall maintain a record which indicates
315 the total number of accounts and the total dollar value of all
316 pawn transactions outstanding as of December 31 of each year.

317 SECTION 8. This act shall take effect and be in force from
318 and after its passage.