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 Section 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

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

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

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

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

(e) "Pledged goods" means tangible personal property
other than choses in action, securities, or printed evidence of
indebtedness, which property is purchased by, deposited with, or
otherwise actually delivered into the possession of a pawnbroker
in connection with a pawn transaction.
(f) "Commissioner" means the Mississippi Commissioner of Banking and Consumer Finance, or his designee, as the designated official for the purpose of enforcing this article.

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

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

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

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

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

(2) When a licensee wishes to move a pawnshop to another location, the licensee shall give thirty (30) days prior written notice to the commissioner who shall amend the license accordingly.
(3) Each license shall remain in full force and effect until relinquished, suspended, revoked or expired. With each initial application for a license, the applicant shall pay the commissioner a license fee, which includes premiums for examinations, of Five Hundred Dollars ($500.00), and on or before December 1 of each year thereafter, an annual renewal fee, which includes premiums for examinations, of Three Hundred Fifty Dollars ($350.00). However, when more than one (1) license to an applicant is issued, the commissioner, for each subsequent license, may only impose a fee, which includes premiums for examinations, of Three Hundred Fifty Dollars ($350.00) at the time of application, and an annual renewal fee, which includes premiums for examinations, of Three Hundred Fifty Dollars ($350.00) on or before December 1 of each year thereafter. If the annual fee remains unpaid thirty (30) days after December 1, the license shall thereupon expire, but not before December 31 of any year for which the annual fee has been paid. If any person engages in business as provided for in this article without paying the license fee provided for in this article commencing business or before the expiration of the person's current license, as the case may be, then the person shall be liable for the full amount of the license fee, plus a penalty in an amount not to exceed Twenty-five Dollars ($25.00) for each day that the person has engaged in such business without a license or after the expiration of a license. All licensing fees and penalties shall be paid into the Consumer Finance Fund of the Department of Banking and Consumer Finance.

(4) Notwithstanding other provisions of this article, the commissioner may issue a temporary license authorizing the operator of a pawnshop on the receipt of an application to transfer a license from one person to another or on the receipt of an application for a license involving principals and owners that are substantially identical to those of an existing licensed
pawnshop. The temporary license is effective until the permanent license is issued or denied.

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

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

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

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

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

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

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

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

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

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

(3) Every licensee shall post and display a sign which measures at least twenty (20) inches by twenty (20) inches in a conspicuous place and in easy view of all persons who enter the place of business. The sign shall display bold, blocked letters, easily readable, with the following information: "This pawnshop is licensed and regulated by the Mississippi Department of Banking and Consumer Finance. If you encounter any unresolved problem with a transaction at this location, you are entitled to assistance. Please call or write: Mississippi Department of Banking and Consumer Finance, Post Office Drawer 23729, Jackson, MS 39225-3729; Phone 1-800-844-2499."
SECTION 4. Section 75-67-333, Mississippi Code of 1972, is amended as follows:

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

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

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

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

(b) Any licensee convicted in the manner provided in this subsection (2) shall forfeit the surety bond or deposit required in Section 75-67-323 and the amount of such bond or deposit shall be credited to the budget of the state or local agency, which directly participated in the prosecution of such licensee, for the specific purpose of increasing law enforcement resources for that specific state or local agency. Such bond or deposit shall be used to augment existing state and local law enforcement budgets and not to supplant them.
(3) Compliance with the criminal provisions of this article shall be enforced by the appropriate law enforcement agency who may exercise for such purpose any authority conferred upon such agency by law.

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

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

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

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

(2) To assure compliance with the provisions of this article, the commissioner may examine the pawn books and records of any licensee without notice during normal business hours. Any expenses incurred for such examinations are included in the licensee's application fee; however, the commissioner may charge the licensee any actual expenses incurred while examining the licensee's pawn records or books which are located outside of the State of Mississippi.
SECTION 6. The following section shall be codified as a separate Code section within Article 7 of Chapter 67 of Title 75, Mississippi Code of 1972:

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

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

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

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

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

(c) Date of pawn or purchase transaction;

(d) Driver's license number or social security number or Mississippi identification card number, as defined in Section 45-35-1, of the pledgor or seller or identification information verified by at least two (2) forms of identification, one (1) of which shall be a photographic identification;
(e) Description of the pledgor including approximate height, sex and race;

(f) Amount of cash advanced;

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

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

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

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

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

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