

By: Senator(s) Minor

To: Business and Financial
Institutions

SENATE BILL NO. 2172

1 AN ACT TO AMEND SECTION 75-17-1, MISSISSIPPI CODE OF 1972, TO
2 REMOVE THE REPEALER ON THE PROVISION OF LAW WHICH ALLOWS ANY
3 BORROWER OR DEBTOR AND ANY LENDER TO CONTRACT FOR ANY FINANCE
4 CHARGE AGREED TO IN WRITING IN EXCESS OF THAT OTHERWISE ALLOWED ON
5 CERTAIN CONTRACTS OR OBLIGATIONS; AND FOR RELATED PURPOSES.

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

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

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

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

24 (3) Notwithstanding the foregoing and any other provision of
25 law to the contrary, any partnership, joint venture, religious
26 society, unincorporated association, or domestic or foreign
27 corporation, whether organized for profit or nonprofit, may
28 contract for and agree to pay a finance charge which will result

29 in a yield not to exceed the greater of fifteen percent (15%) per
30 annum or five percent (5%) per annum above the discount rate,
31 excluding any surcharge thereon, on ninety-day commercial paper in
32 effect at the Federal Reserve bank in the Federal Reserve district
33 where the lender is located, each calculated according to the
34 actuarial method, on any contract, loan, extension of credit or
35 other obligation under which the principal balance to be repaid
36 shall originally exceed Two Thousand Five Hundred Dollars
37 (\$2,500.00), or on any series of advances of money pursuant to a
38 contract if the aggregate of sums advanced or originally proposed
39 to be advanced shall exceed Two Thousand Five Hundred Dollars
40 (\$2,500.00); and as to any such agreement, the claim or defense of
41 usury by such partnership, joint venture, religious society,
42 unincorporated association, or corporation, or their successors,
43 guarantors, assigns or anyone on their behalf is prohibited.

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

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

78 * * *

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

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