

By: Representative Guice

To: Banks and Banking

HOUSE BILL NO. 674

1 AN ACT TO AMEND SECTION 75-15-3, MISSISSIPPI CODE OF 1972, TO
 2 REVISE THE DEFINITION OF THE TERM "CHECK" UNDER THE SALE OF CHECKS
 3 LAW; TO AMEND SECTION 75-15-7, MISSISSIPPI CODE OF 1972, TO DELETE
 4 THE EXEMPTION FROM THE SALE OF CHECKS LAW FOR THE RECEIPT OF MONEY
 5 BY A TELEGRAPH COMPANY FOR IMMEDIATE TRANSMISSION BY TELEGRAPH; TO
 6 AMEND SECTION 75-15-19, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
 7 THE EXAMINATION FEE THAT THE COMMISSIONER OF BANKING MAY CHARGE
 8 LICENSEES UNDER THE SALE OF CHECKS LAW FOR EXAMINATION OF THEIR
 9 OFFICES SHALL CONSIST OF ACTUAL EXPENSES; AND FOR RELATED
 10 PURPOSES.

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

12 **SECTION 1.** Section 75-15-3, Mississippi Code of 1972, is
 13 amended as follows:

14 75-15-3. For the purposes of this chapter:

15 (a) "Person" means any individual, partnership,
 16 association, joint stock association, trust, or corporation, but
 17 does not include the United States government or the government of
 18 this state.

19 (b) "Licensee" means a person duly licensed by the
 20 commissioner under this chapter.

21 (c) "Check" means any check, draft, money order,
 22 personal money order, or other instrument, including, but not
 23 limited to, stored value cards, for the transmission or payment of
 24 money. The format of a check may be either paper, electronic,
 25 plastic or any combination thereof.

26 (d) "Personal money order" means any instrument for the
 27 transmission or payment of money in relation to which the
 28 purchaser or remitter appoints or purports to appoint the seller
 29 thereof as his agent for the receipt, transmission, or handling of
 30 money, whether such instrument be signed by the seller or by the
 31 purchaser or remitter or some other person.



32 (e) "Sell" means to sell, to issue or to deliver a
33 check.

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

39 (g) "Commissioner" or "comptroller" means the
40 Commissioner of Banking and Consumer Finance of the State of
41 Mississippi.

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

48 **SECTION 2.** Section 75-15-7, Mississippi Code of 1972, is
49 amended as follows:

50 75-15-7. Nothing in this chapter shall apply to the sale or
51 issuance or delivering of checks by:

52 (a) Banks, trust companies, and savings and loan
53 associations, authorized to do business in this state; * * *

54 (b) The government of the United States or any
55 department or agent thereof; * * *

56 (c) The State of Mississippi or any municipal
57 corporation, county or other political subdivision of this state;

58 (d) Agents of a licensee, as provided for in Section
59 75-15-17, provided that this exemption shall apply only to the
60 agent's acts on behalf of the licensee and this exemption shall
61 not exempt the agent from the provisions of this chapter where he
62 issues his own checks for his own account;

63 (e) Attorneys at law, as to checks issued in the
64 regular course of the practice of law; or



65 (f) Persons not carrying on the trade or business of
66 selling, issuing or delivering checks, this exemption being
67 intended to include persons who sell, issue, or deliver checks
68 only as an incidental act to another trade or business regularly
69 carried on by them, and persons who only occasionally and
70 infrequently sell, issue, or deliver checks for another person.

71 **SECTION 3.** Section 75-15-19, Mississippi Code of 1972, is
72 amended as follows:

73 75-15-19. Each licensee shall file with the commissioner
74 annually on or before April 15 of each year a statement listing:

75 (a) The locations, offices and agencies authorized by
76 the licensee to act for and on behalf of the licensee in selling
77 or issuing or dispensing checks. A supplemental statement setting
78 forth any changes in the list of locations, offices and agencies
79 shall be filed with the commissioner on or before the first day of
80 July, October and January of each year and the principal sum of
81 the corporate surety bond or deposit required under Section
82 75-15-11 shall be adjusted, if appropriate, to reflect any
83 increase or decrease in the number of locations, offices and
84 agencies. The annual and supplemental statement shall not be
85 required of any licensee who continues to maintain a corporate
86 surety bond, as required by subsection (b) of Section
87 75-15-11, * * * in the principal sum of Two Hundred Fifty Thousand
88 Dollars (\$250,000.00), or a securities deposit having an aggregate
89 market value at least equal to Two Hundred Fifty Thousand Dollars
90 (\$250,000.00).

91 (b) Each licensee shall file with the commissioner
92 annually on or before April 15 of each year, statements correctly
93 reflecting its net worth as of the close of its most recent fiscal
94 year, the statement to be certified to by a certified public
95 accountant satisfactory to the commissioner.

96 (c) The commissioner may conduct or cause to be
97 conducted an examination or audit of the books and records of any



98 licensee at any time or times he * * * deems proper, the cost of
99 the examination or audit to be borne by the licensee. The refusal
100 of access to the books and records shall be cause for the
101 revocation of its license. The commissioner may charge the
102 licensee an examination fee consisting of actual expenses per
103 examination of each office or location within the State of
104 Mississippi, plus any actual expenses incurred while examining the
105 licensee's records or books that are located outside the State of
106 Mississippi. However, in no event shall a licensee be examined
107 more than once in a two-year period unless for cause shown based
108 upon consumer complaint and/or other exigent reasons as determined
109 by the commissioner.

110 **SECTION 4.** This act shall take effect and be in force from
111 and after its passage.

