

By: Representative Guice

To: Banks and Banking

HOUSE BILL NO. 1115

1 AN ACT TO AMEND SECTION 75-67-421, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE AMOUNT OF SURETY BOND REQUIRED TO BE ELIGIBLE FOR A
3 TITLE PLEDGE LENDER LICENSE; TO AMEND SECTION 75-67-435,
4 MISSISSIPPI CODE OF 1972, TO REVISE THE AMOUNT OF THE EXAMINATION
5 FEE THAT MAY BE CHARGED BY THE COMMISSIONER OF BANKING AND
6 CONSUMER FINANCE FOR EXAMINING THE RECORDS OF A TITLE PLEDGE
7 LENDER; TO BRING FORWARD SECTIONS 75-76-429 AND 75-67-431,
8 MISSISSIPPI CODE OF 1972, FOR PURPOSES OF AMENDMENT; AND FOR
9 RELATED PURPOSES.

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

11 **SECTION 1.** Section 75-67-421, Mississippi Code of 1972, is
12 amended as follows:

13 75-67-421. (1) To be eligible for a title pledge lender
14 license, an applicant shall:

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

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

20 (c) File with the commissioner a bond with good
21 security in the penal sum of Fifty Thousand Dollars (\$50,000.00),
22 payable to the State of Mississippi for the faithful performance
23 by the licensee of the duties and obligations pertaining to the
24 business so licensed and the prompt payment of any judgment which
25 may be recovered against the licensee on account of damages or
26 other claim arising directly or collaterally from any violation of
27 the provisions of this article; such bond shall not be valid until
28 it is approved by the commissioner; such applicant may file, in
29 lieu thereof, cash, a certificate of deposit, or government bonds
30 in the amount of Fifty Thousand Dollars (\$50,000.00), the deposit



31 of which shall be filed with the commissioner and is subject to
32 the same terms and conditions as are provided for in the surety
33 bond required herein; any interest or earnings on such deposits
34 are payable to the depositor.

35 (d) File with the commissioner an application
36 accompanied by a set of fingerprints from any local law
37 enforcement agency, and the initial license fee required in this
38 article. In order to determine the applicant's suitability for
39 license, the commissioner shall forward the fingerprints to the
40 Department of Public Safety; and if no disqualifying record is
41 identified at the state level, the fingerprints shall be forwarded
42 by the Department of Public Safety to the FBI for a national
43 criminal history record check.

44 (2) Upon the filing of an application in a form prescribed
45 by the commissioner, accompanied by the fee and documents required
46 in this article, the department shall investigate to ascertain
47 whether the qualifications prescribed by this article have been
48 satisfied. If the commissioner finds that the qualifications have
49 been satisfied and, if he approves the documents so filed by the
50 applicant, he shall issue to the applicant a license to engage in
51 the business of title pledge lending in this state.

52 (3) Complete and file with the commissioner an annual
53 renewal application accompanied by the renewal fee required in
54 this article.

55 (4) The license shall be kept conspicuously posted in the
56 place of business of the licensee.

57 **SECTION 2.** Section 75-67-435, Mississippi Code of 1972, is
58 amended as follows:

59 75-67-435. (1) The Commissioner of Banking and Consumer
60 Finance shall develop and provide any necessary forms to carry out
61 the provisions of this article.



62 (2) The department may adopt reasonable administrative
63 regulations, not inconsistent with law, for the enforcement of
64 this article.

65 (3) To assure compliance with the provision of this article,
66 the department may examine the books and records of any licensee
67 without notice during normal business hours. The commissioner may
68 charge the licensee an examination fee consisting of the actual
69 expenses per examination of each office or location within the
70 State of Mississippi, plus any actual expenses incurred while
71 examining the licensee's records or books that are located outside
72 the State of Mississippi. However, in no event shall a licensee
73 be examined more than once in a two-year period unless for cause
74 shown based upon consumer complaint and/or other exigent reasons
75 as determined by the commissioner.

76 **SECTION 3.** Section 75-67-429, Mississippi Code of 1972, is
77 brought forward as follows:

78 75-67-429. Any person who engages in the business of
79 operating a title pledge office without first securing a license
80 prescribed by this article shall be guilty of a misdemeanor and,
81 upon conviction thereof, shall be punishable by a fine not in
82 excess of One Thousand Dollars (\$1,000.00) or by confinement in
83 the county jail for not more than one (1) year, or both.

84 **SECTION 4.** Section 75-67-431, Mississippi Code of 1972, is
85 brought forward as follows:

86 75-67-431. (1) In addition to any other penalty which may
87 be applicable, any licensee or employee who willfully violates any
88 provision of this article, or who willfully makes a false entry in
89 any record specifically required by this article, shall be guilty
90 of a misdemeanor and, upon conviction thereof, shall be punishable
91 by a fine not in excess of One Thousand Dollars (\$1,000.00) per
92 violation or false entry.

93 (2) (a) In addition to any other penalty which may be
94 applicable, any licensee or employee who fails to make a record of



95 a title pledge transaction and subsequently sells or disposes of
96 the pledged property from such transaction shall be punished as
97 follows:

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

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

109 (b) Any licensee convicted in the manner provided in
110 this subsection (2) shall forfeit the surety bond or deposit
111 required in Section 12 of this act and the amount of the bond or
112 deposit shall be credited to the budget of the state or local
113 agency, which directly participated in the prosecution of the
114 licensee, for the specific purpose of increasing law enforcement
115 resources for that specific state or local agency. Any proceeds
116 of a forfeited bond or deposit shall be used to augment existing
117 state and local law enforcement budgets and not to supplant them.

118 (3) Compliance with the criminal provisions of this article
119 shall be enforced by the appropriate law enforcement agency who
120 may exercise for that purpose any authority conferred upon the
121 agency by law.

122 (4) When the commissioner has reasonable cause to believe
123 that a person is violating any provision of this article, the
124 commissioner, in addition to and without prejudice to the
125 authority provided elsewhere in this article, may enter an order
126 requiring the person to stop or to refrain from the violation.
127 The commissioner may sue in any circuit court of the state having



128 jurisdiction and venue to enjoin the person from engaging in or
129 continuing the violation or from doing any act in furtherance of
130 the violation. In such an action, the court may enter an order or
131 judgment awarding a preliminary or permanent injunction.

132 (5) The commissioner may, after notice and hearing, impose a
133 civil penalty against any licensee if the licensee or employee is
134 adjudged by the commissioner to be in violation of the provisions
135 of this article. Such civil penalty shall not exceed Five Hundred
136 Dollars (\$500.00) per violation and shall be deposited into the
137 Department of Banking Special Fund.

138 **SECTION 5.** This act shall take effect and be in force from
139 and after July 1, 2003.

