HOUSE BILL NO. 1115

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

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

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

75-67-421. (1) To be eligible for a title pledge lender 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 Fifty Thousand Dollars ($50,000.00), 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 the 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 Fifty Thousand Dollars ($50,000.00), the deposit...
of which 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 a set of fingerprints from any local law
enforcement agency, and the initial license fee required in this
article. 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.

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

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

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

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

75-67-435. (1) The Commissioner of Banking and Consumer
Finance shall develop and provide any necessary forms to carry out
the provisions of this article.
(2) The department may adopt reasonable administrative regulations, not inconsistent with law, for the enforcement of this article.

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

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

75-67-429. Any person who engages in the business of operating a title pledge office without first securing a license prescribed 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) or by confinement in the county jail for not more than one (1) year, or both.

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

75-67-431. (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 title pledge transaction and subsequently sells or disposes of the pledged property 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 12 of this act and the amount of the bond or deposit shall be credited to the budget of the state or local agency, which directly participated in the prosecution of the licensee, for the specific purpose of increasing law enforcement resources for that specific state or local agency. Any proceeds of a forfeited 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 that purpose any authority conferred upon the 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 hearing, impose a
civil penalty against any licensee if the licensee or employee is
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
Department of Banking Special Fund.

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