

By: Representative Guice

To: Banking and Financial Services

HOUSE BILL NO. 787  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 75-67-115, MISSISSIPPI CODE OF 1972,  
2 TO INCREASE THE AMOUNT THAT THE COMMISSIONER OF BANKING AND  
3 CONSUMER FINANCE MAY CHARGE LICENSEES UNDER THE SMALL LOAN  
4 REGULATORY LAW FOR EXPENSES OF EXAMINATIONS; TO AMEND SECTION  
5 75-67-215, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER  
6 TO ENTER ORDERS THAT REQUIRE PERSONS TO REFRAIN FROM VIOLATING  
7 PROVISIONS OF THE SMALL LOAN PRIVILEGE TAX LAW; TO CREATE A NEW  
8 SECTION TO BE CODIFIED AS SECTION 75-67-139, MISSISSIPPI CODE OF  
9 1972, TO AUTHORIZE MUNICIPALITIES TO ENACT ORDINANCES THAT ARE IN  
10 COMPLIANCE WITH, BUT NOT MORE RESTRICTIVE THAN, THE PROVISIONS OF  
11 THE SMALL LOAN REGULATORY LAW; TO CREATE A NEW SECTION TO BE  
12 CODIFIED AS SECTION 75-67-247, MISSISSIPPI CODE OF 1972, TO  
13 AUTHORIZE MUNICIPALITIES TO ENACT ORDINANCES THAT ARE IN  
14 COMPLIANCE WITH, BUT NOT MORE RESTRICTIVE THAN, THE PROVISIONS OF  
15 THE SMALL LOAN PRIVILEGE TAX LAW; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** Section 75-67-115, Mississippi Code of 1972, is  
18 amended as follows:

19 75-67-115. The commissioner may charge the licensee an  
20 examination fee in an amount not less than Three Hundred Dollars  
21 (\$300.00) nor more than Six Hundred Dollars (\$600.00) for each  
22 office or location within the State of Mississippi, plus any  
23 actual expenses incurred while examining the licensee's records or  
24 books that are located outside the State of Mississippi. However,  
25 in no event shall a licensee be examined more than once in a  
26 two-year period unless for cause shown based upon consumer  
27 complaint and/or other exigent reasons as determined by the  
28 commissioner.

29 All expense fees paid to the commissioner shall be deposited  
30 by the commissioner in the State Treasury in a special and  
31 separate fund to be known as the "Consumer Finance Fund."

32 **SECTION 2.** Section 75-67-215, Mississippi Code of 1972, is  
33 amended as follows:

34           75-67-215. (1) If any person \* \* \* engages in business as  
35 provided for in this article without paying the license fee  
36 provided for in this article before commencing business or before  
37 the expiration of the person's current license, as the case may  
38 be, then the person shall be liable for the full amount of the  
39 license fee plus a penalty in an amount not to exceed Twenty-five  
40 Dollars (\$25.00) for each day that the person has engaged in the  
41 business without a license or after the expiration of a license.

42           (2) The commissioner may, after notice and hearing as  
43 defined in Section 75-67-237 in cases of revocation of license,  
44 impose a civil penalty against any licensee if the licensee is  
45 adjudged by the commissioner to be in willful violation of the  
46 provisions of this article. The civil penalty shall not exceed  
47 Five Hundred Dollars (\$500.00) per violation and shall be  
48 deposited into the Consumer Finance Fund of the Department of  
49 Banking and Consumer Finance. Any licensee who has been imposed a  
50 civil penalty by the commissioner may, within twenty (20) days  
51 after the fine is imposed, appeal to the circuit court of the  
52 county where the business is being conducted, as in cases from an  
53 order of a lesser tribunal. The trial on appeal shall be de novo.

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

64           **SECTION 3.** The following shall be codified as Section  
65 75-67-139, Mississippi Code of 1972:

66           75-67-139. Municipalities and counties in this state may  
67 enact ordinances that are in compliance with, but not more  
68 restrictive than, the provisions of this article. Any order,  
69 ordinance or regulation existing on the effective date of House  
70 Bill No. 787, 2004 Regular Session, or any order, ordinance or  
71 regulation enacted after the effective date of House Bill No. 787,  
72 2004 Regular Session, that conflicts with any of the provisions of  
73 this article shall be void to the extent of the conflict.

74           **SECTION 4.** The following shall be codified as Section  
75 75-67-247, Mississippi Code of 1972:

76           75-67-247. Municipalities and counties in this state may  
77 enact ordinances that are in compliance with, but not more  
78 restrictive than, the provisions of this article. Any order,  
79 ordinance or regulation existing on the effective date of House  
80 Bill No. 787, 2004 Regular Session, or any order, ordinance or  
81 regulation enacted after the effective date of House Bill No. 787,  
82 2004 Regular Session, that conflicts with any of the provisions of  
83 this article shall be void to the extent of the conflict.

84           **SECTION 5.** This act shall take effect and be in force from  
85 and after its passage.