

By: Representative Guice

To: Banking and Financial  
Services

## HOUSE BILL NO. 680

1 AN ACT TO AMEND SECTION 75-17-21, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE FOR ALTERNATE CHARGES THAT MAY BE MADE BY LICENSEES  
3 UNDER THE SMALL LOAN REGULATORY LAW AND SMALL LOAN PRIVILEGE TAX  
4 LAW ON LOANS OF \$200.00 TO \$1,000.00; TO AMEND SECTION 75-67-519,  
5 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR ALTERNATE FEES THAT MAY  
6 BE CHARGED BY LICENSEES UNDER THE CHECK CASHERS ACT FOR CASHING  
7 DELAYED DEPOSIT CHECKS OF \$200.00 TO \$1,000.00; AND FOR RELATED  
8 PURPOSES.

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

10 **SECTION 1.** Section 75-17-21, Mississippi Code of 1972, is  
11 amended as follows:

12 75-17-21. (1) Notwithstanding any provision of law to the  
13 contrary, the maximum finance charge that may be contracted for  
14 and received for any loan or extension of credit made by a  
15 licensee under the Small Loan Regulatory Law (Sections 75-67-101  
16 through 75-67-135) and the Small Loan Privilege Tax Law (Sections  
17 75-67-201 through 75-67-243) may result in a yield not to exceed  
18 the following annual percentage rates calculated according to the  
19 actuarial method:

20 (a) Thirty-six percent (36%) per annum for the portion  
21 of the unpaid balance of the amount financed that is not greater  
22 than One Thousand Dollars (\$1,000.00);

23 (b) Thirty-three percent (33%) per annum for the  
24 portion of the unpaid balance of the amount financed in excess of  
25 One Thousand Dollars (\$1,000.00) but not greater than Two Thousand  
26 Five Hundred Dollars (\$2,500.00);

27 (c) Twenty-four percent (24%) per annum for the portion  
28 of the unpaid balance of the amount financed in excess of Two  
29 Thousand Five Hundred Dollars (\$2,500.00) but not greater than  
30 Five Thousand Dollars (\$5,000.00);

(d) Fourteen percent (14%) per annum for the portion of the unpaid balance of the amount financed in excess of Five Thousand Dollars (\$5,000.00).

(2) As an alternative and in lieu of the rates established in paragraphs (a), (b), (c) and (d) of subsection (1), on loans in an amount of Twenty-five Thousand Dollars (\$25,000.00) or more, a licensee may contract for and receive a maximum finance charge which will result in a yield not to exceed an annual percentage rate, calculated according to the actuarial method, of eighteen percent (18%) per annum on the unpaid balance of the amount financed.

(3) A licensee may contract for and charge a closing fee as follows:

(a) For loans in the amount of Ten Thousand Dollars (\$10,000.00) or less, four percent (4%) of the total payments due on the loan or Twenty-five Dollars (\$25.00), whichever is greater;

(b) For loans in an amount greater than Ten Thousand Dollars (\$10,000.00), a maximum charge of Five Hundred Dollars (\$500.00).

The closing fee shall not be part of the finance charge.

(4) The rates set forth in paragraph (a) of subsection (1) may be increased by the number of percentage points by which the discount rate, excluding any surcharge thereon, on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the lender is located exceeds eight percent (8%), and the rates set forth in paragraphs (b), (c) and (d) of subsection (1) may be increased by the number of percentage points by which the discount rate, excluding any surcharge thereon, on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the lender is located exceeds ten percent (10%).

(5) (a) As an alternative to, and in lieu of, the finance charge established in paragraph (a) of subsection (1) and the fee

64 established in paragraph (a) of subsection (3), on loans of an  
65 amount not less than Two Hundred Dollars (\$200.00) but not more  
66 than One Thousand Dollars (\$1,000.00), a licensee may charge for  
67 making the loan an acquisition charge not to exceed ten percent  
68 (10%) of the amount of the principal and an installment account  
69 handling charge not to exceed the following:

70 (i) Twelve Dollars (\$12.00) per month on a loan of  
71 an amount not less than Two Hundred Dollars (\$200.00) but not more  
72 than Three Hundred Dollars (\$300.00);

73 (ii) Fourteen Dollars (\$14.00) per month on a loan  
74 of an amount greater than Three Hundred Dollars (\$300.00) but not  
75 more than Four Hundred Dollars (\$400.00);

76 (iii) Sixteen Dollars (\$16.00) per month on a loan  
77 of an amount greater than Four Hundred Dollars (\$400.00) but not  
78 more than Five Hundred Dollars (\$500.00);

79 (iv) Seventeen Dollars (\$17.00) per month on a  
80 loan of an amount greater than Five Hundred Dollars (\$500.00) but  
81 not more than Eight Hundred Dollars (\$800.00);

82 (v) Twenty Dollars (\$20.00) per month on a loan of  
83 an amount greater than Eight Hundred Dollars (\$800.00) on the loan  
84 but not more than One Thousand Dollars (\$1,000.00).

85 However, the scheduled payments must be in amounts that are  
86 equal to or greater than Forty Dollars (\$40.00) per month,  
87 inclusive of the installment account handling charge. The  
88 acquisition charge and the installment account handling charge may  
89 be calculated for the term of the contract and added to the amount  
90 of the principal. The acceptance or payment of charges on loans  
91 made under this subsection shall not be deemed to constitute  
92 payment, deduction or receipt thereof in advance nor compounding  
93 under this subsection.

94 (b) On any loan on which the charges authorized under  
95 this subsection are made:

96                   (i) The minimum term shall be three (3) months and  
97 the maximum term shall be twelve (12) months;

98                   (ii) The loan charges may not be imposed on a loan  
99 to a borrower who has more than one (1) loan outstanding with the  
100 licensee and upon which loan charges were imposed;

101                   (iii) Upon the prepayment of the loan in full, the  
102 installment account handling charge shall be subject to Section  
103 75-17-11, but the acquisition charge shall not be subject to  
104 refund;

105                   (iv) No insurance charge, service contract fee or  
106 club membership fee shall be permitted; and

107                   (v) No licensee shall file a claim against a  
108 decedent borrower's estate for any unpaid indebtedness for a loan  
109 whose charges include an acquisition charge or an installment  
110 account handling charge.

111       (6) The finance charges authorized in this section are the  
112 maximum rates that may be contracted for or received for any loan  
113 or extension of credit made by a licensee under the Small Loan  
114 Regulatory Law (Sections 75-67-101 through 75-67-135), and the  
115 Small Loan Privilege Tax Law (Sections 75-67-201 through  
116 75-67-243). Nothing in this section shall prohibit lending money  
117 or handling, negotiating or arranging loans for a finance charge  
118 that is less than that specified in this section. This section  
119 does not limit or restrict the manner of contracting for the  
120 finance charge, whether by way of add-on, discount or otherwise,  
121 so long as \* \* \* the finance charge does not exceed that permitted  
122 by this section.

123       **SECTION 2.** Section 75-67-519, Mississippi Code of 1972, is  
124 amended as follows:

125       75-67-519. (1) A licensee may defer the deposit of a  
126 personal check cashed for a customer for up to thirty (30) days  
127 under the provisions of this section.

128           (2) The face amount of any delayed deposit check cashed  
129 under the provisions of this section shall not exceed Four Hundred  
130 Dollars (\$400.00), and each customer is limited to a maximum  
131 amount of Four Hundred Dollars (\$400.00) at any time. However,  
132 the face amount of any delayed deposit check cashed under the  
133 provisions of subsection (4)(b) of this section shall not exceed  
134 One Thousand Dollars (\$1,000.00), and each customer is limited to  
135 a maximum amount of One Thousand Dollars (\$1,000.00) at any time  
136 for delayed deposit checks cashed under the provisions of  
137 subsection (4)(b) of this section.

138           (3) Each delayed deposit check cashed by a licensee shall be  
139 documented by a written agreement that has been signed by the  
140 customer and the licensee. The written agreement shall contain a  
141 statement of the total amount of any fees charged, expressed as a  
142 dollar amount and as an annual percentage rate. The written  
143 agreement shall authorize the licensee to defer deposit of the  
144 personal check until a specific date not later than thirty (30)  
145 days from the date the check is cashed.

146           (4) (a) Except as otherwise authorized under paragraph (b)  
147 of this subsection, a licensee shall not directly or indirectly  
148 charge any fee or other consideration for cashing a delayed  
149 deposit check in excess of eighteen percent (18%) of the face  
150 amount of the check.

151                 (b) As an alternative to, and in lieu of, the fee  
152 established in paragraph (a) of this subsection, for a delayed  
153 deposit check of a face amount of not less than Two Hundred  
154 Dollars (\$200.00) but not more than One Thousand Dollars  
155 (\$1,000.00), a licensee may charge for cashing the check an  
156 acquisition fee not to exceed ten percent (10%) of the face amount  
157 of the check and an account handling charge not to exceed the  
158 following:

159                   (i) Twelve Dollars (\$12.00) on a check of a face  
160 value greater than Two Hundred Dollars (\$200.00) but not more than  
161 Three Hundred Dollars (\$300.00);

162                   (ii) Fourteen Dollars (\$14.00) on a check of a  
163 face value greater than Three Hundred Dollars (\$300.00) but not  
164 more than Four Hundred Dollars (\$400.00);

165                   (iii) Sixteen Dollars (\$16.00) on a check of a  
166 face value greater than Four Hundred Dollars (\$400.00) but not  
167 more than Five Hundred Dollars (\$500.00);

168                   (iv) Seventeen Dollars (\$17.00) on a check of a  
169 face value greater than Five Hundred Dollars (\$500.00) but not  
170 more than Eight Hundred Dollars (\$800.00);

171                   (v) Twenty Dollars (\$20.00) on a check of a face  
172 value greater than Eight Hundred Dollars (\$800.00) but not more  
173 than One Thousand Dollars (\$1,000.00).

174           However, the combined amount of the acquisition fee and  
175 account handling fee must be in an amount that is equal to or  
176 greater than Forty Dollars (\$40.00).

177           (c) On any delayed deposit check cashed under the  
178 provisions of paragraph (b) of this subsection:

179                   (i) The licensee may not charge the fees for  
180 cashing a check for a customer for whom the licensee has cashed  
181 more than one (1) delayed deposit check upon which the fees were  
182 charged; and

183                   (ii) No licensee shall file a claim against the  
184 estate of a decedent customer for any unpaid indebtedness for the  
185 amount of a delayed deposit check that includes an acquisition fee  
186 or an account handling fee.

187           (5) No check cashed under the provisions of this section  
188 shall be repaid by the proceeds of another check cashed by the  
189 same licensee or any affiliate of the licensee. A licensee shall  
190 not renew or otherwise extend any delayed deposit check.

191           (6) A licensee shall not offer discount catalog sales or  
192 other similar inducements as part of a delayed deposit  
193 transaction.

194           (7) A licensee shall not charge a late fee or collection fee  
195 on any deferred deposit transaction as a result of a returned  
196 check or the default by the customer in timely payment to the  
197 licensee. Notwithstanding anything to the contrary contained in  
198 this section, a licensee may charge a processing fee, not to  
199 exceed an amount authorized by the commissioner, for a check  
200 returned for any reason, including, without limitation,  
201 insufficient funds, closed account or stop payment, if the  
202 processing fee is authorized in the written agreement signed by  
203 the customer and licensee. In addition, if a licensee takes legal  
204 action against a customer to collect the amount of a delayed  
205 deposit check for which the licensee has not obtained payment and  
206 obtains a judgment against the customer for the amount of that  
207 check, the licensee shall also be entitled to any court-awarded  
208 fees.

209           (8) When cashing a delayed deposit check, a licensee may pay  
210 the customer in the form of the licensee's business check or a  
211 money order; however, no additional fee may then be charged by the  
212 licensee for cashing the licensee's business check or money order  
213 issued to the customer.

214           **SECTION 3.** This act shall take effect and be in force from  
215 and after July 1, 2007.