

By: Representative Mayo

To: Banking and Financial Services

HOUSE BILL NO. 1453

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; AND FOR RELATED PURPOSES.

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

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

8 75-17-21. (1) Notwithstanding any provision of law to the
9 contrary, the maximum finance charge that may be contracted for
10 and received for any loan or extension of credit made by a
11 licensee under the Small Loan Regulatory Law (Sections 75-67-101
12 through 75-67-135) and the Small Loan Privilege Tax Law (Sections
13 75-67-201 through 75-67-243) may result in a yield not to exceed
14 the following annual percentage rates calculated according to the
15 actuarial method:

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

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

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

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

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

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

40 (a) For loans in the amount of Ten Thousand Dollars
41 (\$10,000.00) or less, four percent (4%) of the total payments due
42 on the loan or Twenty-five Dollars (\$25.00), whichever is greater;

43 (b) For loans in an amount greater than Ten Thousand
44 Dollars (\$10,000.00), a maximum charge of Five Hundred Dollars
45 (\$500.00).

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

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

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

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

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

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

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

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

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

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

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

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

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

97 (iii) Upon the prepayment of the loan in full, the
98 installment account handling charge shall be subject to Section
99 75-17-11, but the acquisition charge shall not be subject to
100 refund;

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

103 (v) No licensee shall file a claim against a
104 decendent borrower's estate for any unpaid indebtedness for a loan
105 whose charges include an acquisition charge or an installment
106 account handling charge.

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

119 **SECTION 2.** This act shall take effect and be in force from
120 and after July 1, 2007.