

By: Senator(s) Jackson (11th)

To: Business and Financial Institutions

SENATE BILL NO. 2584

1 AN ACT TO CREATE THE "MISSISSIPPI SHORT-TERM LENDER LAW"; TO  
 2 REQUIRE LICENSURE OF SHORT-TERM LENDERS; TO PROVIDE APPLICATION  
 3 PROCEDURE AND BOND REQUIREMENTS; TO PROVIDE CERTAIN RESTRICTIONS  
 4 ON SHORT-TERM LOANS; TO LIMIT THE INTEREST RATE AND FEES ON  
 5 SHORT-TERM LOANS; TO PROHIBIT CERTAIN ACTS BY SHORT-TERM LOAN  
 6 LICENSEES; TO PROVIDE FOR THE REFUSAL, SUSPENSION OR REVOCATION OF  
 7 LICENSE; TO REQUIRE LICENSEE RECORDS AND REPORTS; TO AUTHORIZE THE  
 8 COMMISSIONER OF BANKING AND CONSUMER FINANCE TO ADOPT RULES AND  
 9 ISSUE SPECIFIC ORDERS TO ENFORCE AND CARRY OUT THE PROVISIONS OF  
 10 THE ACT; TO PROVIDE CRIMINAL PENALTIES FOR CERTAIN VIOLATIONS; TO  
 11 PROHIBIT DEBT COLLECTOR COMMUNICATIONS AND CONDUCT BY SHORT-TERM  
 12 LENDERS; TO REQUIRE THE COMMISSIONER OF BANKING TO DEVELOP AND  
 13 MAINTAIN A STATEWIDE DATABASE OF SHORT-TERM LOANS; TO PROVIDE  
 14 REPORTING REQUIREMENTS BY THE COMMISSIONER OF BANKING; TO CREATE A  
 15 CONSUMER FINANCE EDUCATION BOARD AND PROVIDE FOR ITS MEMBERSHIP;  
 16 TO PRESCRIBE THE DUTIES OF THE BOARD; TO REPEAL SECTIONS 75-67-501  
 17 THROUGH 75-67-539, MISSISSIPPI CODE OF 1972, WHICH CREATE THE  
 18 MISSISSIPPI CHECK CASHERS ACT; AND FOR RELATED PURPOSES.

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

20 **SECTION 1. Title.** Sections 1 through 20 of this act shall  
 21 be known and may be cited as the "Mississippi Short-Term Lender  
 22 Law."

23 **SECTION 2. Short-term lenders definitions.** As used in  
 24 Sections 1 through 20 of this act:

25 (a) "Short-term loan" means a loan made pursuant to  
 26 Sections 1 through 20 of this act.

27 (b) "Commissioner" means the Commissioner of Banking  
 28 and Consumer Finance of the State of Mississippi.

29 (c) "Interest" means all charges payable directly or  
 30 indirectly by a borrower to a licensee as a condition to a loan,  
 31 including fees, loan origination charges, service charges, renewal  
 32 charges, credit insurance premiums, and any ancillary product sold  
 33 in connection with a loan made pursuant to Sections 1 through 20  
 34 of this act.



35 (d) "Annual percentage rate" has the same meaning as in  
36 the "Truth in Lending Act," 82 Stat. 149 (1980), 15 USC 1606, as  
37 implemented by regulations of the Board of Governors of the  
38 Federal Reserve System. All fees and charges shall be included in  
39 the computation of the annual percentage rate. Fees and charges  
40 for single premium credit insurance and other ancillary products  
41 sold in connection with the credit transaction shall be included  
42 in the calculation of the annual percentage rate.

43 **SECTION 3. Short-term lender license required; out-of-state**  
44 **transactions.** (1) No person shall engage in the business of  
45 making short-term loans to a borrower in Mississippi, or, in whole  
46 or in part, make, offer, or broker a loan, or assist a borrower in  
47 Mississippi to obtain such a loan, without first having obtained a  
48 license from the Commissioner of Banking and Consumer Finance  
49 under Sections 1 through 20 of this act. No licensee shall make,  
50 offer, or broker a loan, or assist a borrower to obtain such a  
51 loan, when the borrower is not physically present in the  
52 licensee's business location.

53 (2) No person not located in Mississippi shall make a  
54 short-term loan to a borrower in Mississippi from an office not  
55 located in Mississippi. Nothing in this section prohibits a  
56 business not located or licensed in Mississippi from lending funds  
57 to Mississippi borrowers who physically visit the out-of-state  
58 office of the business and obtain the disbursement of loan funds  
59 at that location. No person shall make, offer, or broker a loan,  
60 or assist a borrower to obtain a loan, via the telephone, mail or  
61 Internet.

62 **SECTION 4. Application for license, investigation, bond.**  
63 (1) Application for an original or renewal license to make  
64 short-term loans shall be in writing, under oath, and in the form  
65 prescribed by the Commissioner of Banking and Consumer Finance,  
66 and shall contain the name and address of the applicant, the  
67 location where the business of making loans is to be conducted,



68 and any further information as the commissioner requires. At the  
69 time of making an application for an original license, the  
70 applicant shall pay to the commissioner a nonrefundable  
71 investigation fee of Two Hundred Dollars (\$200.00). No  
72 investigation fee or any portion thereof shall be refunded after  
73 an original license has been issued. The application for an  
74 original or renewal license shall be accompanied by an original or  
75 renewal license fee, for each business location of One Thousand  
76 Dollars (\$1,000.00), except that applications for original  
77 licenses issued on or after the first day of July for any year  
78 shall be accompanied by an original license fee of Five Hundred  
79 Dollars (\$500.00), and except that an application for an original  
80 or renewal license, for a nonprofit corporation that is  
81 incorporated under the Mississippi Nonprofit Corporation Act,  
82 Section 79-11-101 et seq., shall be accompanied by an original or  
83 renewal license fee, for each business location, that is one-half  
84 (1/2) of the fee otherwise required. All fees paid to the  
85 commissioner pursuant to this subsection shall be deposited into  
86 the State Treasury to the credit of the Consumer Finance Fund.

87 (2) Upon the filing of an application for an original  
88 license and, with respect to an application filed for a renewal  
89 license, on a schedule determined by the commissioner by rule  
90 adopted pursuant to Section 12 of this act, and the payment of  
91 fees in accordance with subsection (1) of this section, the  
92 commissioner shall investigate the facts concerning the applicant  
93 and the requirements provided by this subsection. The  
94 commissioner shall request the Department of Public Safety, or a  
95 vendor approved by the department, to conduct a criminal records  
96 check based on the applicant's fingerprints. The Commissioner of  
97 Banking and Consumer Finance shall request that criminal record  
98 information from the Federal Bureau of Investigation be obtained  
99 as part of the criminal records check. The Commissioner of  
100 Banking and Consumer Finance shall conduct a civil records check.



101 The commissioner shall approve an application and issue an  
102 original or renewal license to the applicant if the commissioner  
103 finds all of the following:

104 (a) The financial responsibility, experience,  
105 reputation and general fitness of the applicant are such as to  
106 warrant the belief that the business of making loans will be  
107 operated lawfully, honestly, and fairly under Sections 1 through  
108 20 of this act and within the purposes of those sections; that the  
109 applicant has fully complied with those sections and any rule or  
110 order adopted or issued pursuant to Section 12 of this act; and  
111 that the applicant is qualified to engage in the business of  
112 making loans under Sections 1 through 20 of this act.

113 (b) The applicant is financially sound and has a net  
114 worth of not less than One Hundred Thousand Dollars (\$100,000.00),  
115 or in the case of a nonprofit corporation that is incorporated  
116 under Section 79-11-101 et seq., a net worth of not less than  
117 Fifty Thousand Dollars (\$50,000.00). The applicant's net worth  
118 shall be computed according to generally accepted accounting  
119 principles.

120 (c) The applicant has never had revoked a license to  
121 make loans under Sections 1 through 20 of this act, or under  
122 former Sections 75-67-505 through 75-67-539, Mississippi Code of  
123 1972.

124 (d) Neither the applicant nor any senior officer, or  
125 partner of the applicant, has pleaded guilty to or been convicted  
126 of any criminal offense involving theft, receiving stolen  
127 property, embezzlement, forgery, fraud, passing bad checks, money  
128 laundering, or drug trafficking, or any criminal offense involving  
129 money or securities or any violation of an existing or former law  
130 of this state, any other state, or the United States that  
131 substantially is equivalent to a criminal offense described in  
132 that division. However, if the applicant or any of those other  
133 persons has pleaded guilty to or been convicted of any such



134 offense other than theft, the commissioner shall not consider the  
135 offense if the applicant has proven to the commissioner, by a  
136 preponderance of the evidence, that the applicant's or other  
137 person's activities and employment record since the conviction  
138 show that the applicant or other person is honest, truthful, and  
139 of good reputation, and there is no basis in fact for believing  
140 that the applicant or other person will commit such an offense  
141 again.

142 (e) Neither the applicant nor any senior officer, or  
143 partner of the applicant, has been subject to any adverse judgment  
144 for conversion, embezzlement, misappropriation of funds, fraud,  
145 misfeasance or malfeasance, or breach of fiduciary duty, or if the  
146 applicant or any of those other persons has been subject to such a  
147 judgment, the applicant has proven to the commissioner, by a  
148 preponderance of the evidence, that the applicant's or other  
149 person's activities and employment record since the judgment show  
150 that the applicant or other person is honest, truthful, and of  
151 good reputation, and there is no basis in fact for believing that  
152 the applicant or other person will be subject to such a judgment  
153 again.

154 (3) If the commissioner finds that the applicant does not  
155 meet the requirements of subsection (2) of this section, or the  
156 commissioner finds that the applicant knowingly or repeatedly  
157 contracts with or employs persons to directly engage in lending  
158 activities who have been convicted of a felony crime listed in  
159 subsection (2)(e) of this section, the commissioner shall issue an  
160 order denying the application for an original or renewal license  
161 and giving the applicant an opportunity for a hearing on the  
162 denial. The commissioner shall notify the applicant of the  
163 denial, the grounds for the denial, and the applicant's  
164 opportunity for a hearing. If the application is denied, the  
165 commissioner shall return the annual license fee but shall retain  
166 the investigation fee.



167 (4) No person licensed under Sections 1 through 20 of this  
168 act shall conduct business in this state unless the licensee has  
169 obtained and maintains in effect at all times a corporate surety  
170 bond issued by a bonding company or insurance company authorized  
171 to do business in this state. The bond shall be in favor of the  
172 superintendent and in the penal sum of at least One Hundred  
173 Thousand Dollars (\$100,000.00), or in the case of a nonprofit  
174 corporation that is incorporated under Section 79-11-101 et seq.,  
175 in the amount of Fifty Thousand Dollars (\$50,000.00). The term of  
176 the bond shall coincide with the term of the license. The  
177 licensee shall file a copy of the bond with the commissioner. The  
178 bond shall be for the exclusive benefit of any borrower injured by  
179 a violation by a licensee or any employee of a licensee, of any  
180 provision of Sections 1 through 20 of this act.

181 **SECTION 5. License contents - place of business.** (1) A  
182 license issued by the Commissioner of Banking and Consumer Finance  
183 pursuant to Sections 1 through 20 of this act shall state the  
184 address at which the business of making loans is to be conducted  
185 and shall state the full name of the business. Each license  
186 issued shall be conspicuously posted in the place of business and  
187 is not transferable or assignable.

188 (2) (a) Not more than one (1) place of business shall be  
189 maintained under the same license issued under Sections 1 through  
190 20 of this act, but the commissioner may issue additional licenses  
191 to the same applicant upon compliance with those sections.

192 (b) No change in the place of business of a licensee to  
193 a location outside the original municipal corporation shall be  
194 permitted under the same license. When a licensee wishes to  
195 change its place of business within the same municipal  
196 corporation, written notice thereof shall be given in advance to  
197 the commissioner who shall provide without cost a license pursuant  
198 to Sections 1 through 20 of this act for the new address.



199           **SECTION 6. Short-term loan requirements and restrictions.** A

200 licensee under Sections 1 through 20 of this act may engage in the  
201 business of making loans provided that each loan meets all of the  
202 following conditions:

203           (a) The total amount of the loan does not exceed Five  
204 Hundred Dollars (\$500.00).

205           (b) The duration of the loan, as specified in the loan  
206 contract required under paragraph (c) of this section, is not less  
207 than thirty-one (31) days.

208           (c) The loan is made pursuant to a written loan  
209 contract that sets forth the terms and conditions of the loan. A  
210 copy of the loan contract shall be provided to the borrower. The  
211 loan contract shall disclose in a clear and concise manner all of  
212 the following:

213           (i) The total amount of fees and charges the  
214 borrower will be required to pay in connection with the loan  
215 pursuant to the loan contract;

216           (ii) The total amount of each payment, when each  
217 payment is due, and the total number of payments that the borrower  
218 will be required to make under the loan contract;

219           (iii) A statement, printed in boldface type of the  
220 minimum font size of ten (10) points, as follows: "WARNING: The  
221 cost of this loan is higher than the average cost charged by  
222 financial institutions on substantially similar loans."

223           (iv) A statement, printed in a minimum font size  
224 of ten (10) points, which informs the borrower that complaints  
225 regarding the loan or lender may be submitted to the Department of  
226 Banking and Consumer Finance and includes the correct telephone  
227 number and mailing address for the department;

228           (v) Any disclosures required under the "Truth in  
229 Lending Act," 82 Stat. 146 (1974), 15 USC 1601 et seq.;

230           (vi) The rate of interest contracted for under the  
231 loan contract as an annual percentage rate based on the sum of the



232 principal of the loan and the loan origination fee, check  
233 collection charge, and all other fees or charges contracted for  
234 under the loan contract.

235 (d) The loan contract includes a provision that offers  
236 the borrower an optional extended payment plan that may be invoked  
237 by the borrower at any time before the maturity date of the loan.  
238 To invoke the extended payment plan, the borrower shall return to  
239 the office where the loan was made and sign an amendment to the  
240 original loan agreement reflecting the extended terms of the loan.  
241 The extended payment plan shall allow the borrower to repay the  
242 balance by not less than sixty (60) days from the original  
243 maturity date. No additional fees or charges may be applied to  
244 the loan upon the borrower entering the extended payment plan.  
245 The person originating the loan for the licensee shall identify  
246 verbally to the borrower the contract provision regarding the  
247 extended payment plan, and the borrower shall verify that the  
248 provision has been identified by initialing the contract adjacent  
249 to the provision.

250 **SECTION 7. Permissible short-term loan fees.** A person  
251 licensed pursuant to Sections 1 through 20 of this act may charge,  
252 collect, and receive the following fees and charges in connection  
253 with a short-term loan:

254 (a) Interest calculated in compliance with 15 USC 1606,  
255 and not exceeding an annual percentage rate greater than  
256 twenty-eight percent (28%);

257 (b) One (1) check collection charge per loan not  
258 exceeding an amount equal to Twenty Dollars (\$20.00) plus any  
259 amount passed on from other financial institutions for each check,  
260 negotiable order of withdrawal, share draft, or other negotiable  
261 instrument returned or dishonored for any reason, provided that  
262 the terms and conditions upon which check collection charges will  
263 be charged to the borrower are set forth in the written loan  
264 contract described in paragraph (c) of Section 5 of this act;





265 (c) Damages, costs, and disbursements to which the  
266 licensee may become entitled to by law in connection with any  
267 civil action to collect a loan after default.

268 **SECTION 8. Short-term loan prohibitions.** No person licensed  
269 pursuant to Sections 1 through 20 of this act shall do any of the  
270 following:

271 (a) Violate Section 3 of this act;

272 (b) Make a loan that does not comply with Section 6 of  
273 this act;

274 (c) Charge, collect, or receive, directly or  
275 indirectly, any additional fees, interest, or charges in  
276 connection with a loan, other than fees and charges permitted by  
277 Section 7 of this act and costs or disbursements to which the  
278 licensee may become entitled to by law in connection with any  
279 civil action to collect a loan after default;

280 (d) Collect treble damages in connection with any civil  
281 action to collect a loan after a default due to a check,  
282 negotiable order of withdrawal, share draft, or other negotiable  
283 instrument that was returned or dishonored for insufficient funds;

284 (e) Make a short-term loan to a borrower if there  
285 exists an outstanding loan between the licensee and that borrower,  
286 if a loan between any licensee and that borrower was terminated on  
287 the same business day, if the borrower has more than one (1)  
288 outstanding loan, if the loan would obligate the borrower to repay  
289 a total amount of more than Five Hundred Dollars (\$500.00) to  
290 licensees, or indebt the borrower, to licensees, for an amount  
291 that is more than twenty-five percent (25%) of the borrowers gross  
292 monthly salary not including bonus, overtime, or other such  
293 compensation, based on a payroll verification statement presented  
294 by the borrower;

295 (f) Bring or threaten to bring an action or complaint  
296 against the borrower for the borrower's failure to comply with the  
297 terms of the loan contract solely due to the check, negotiable



298 order of withdrawal, share draft, or negotiable instrument being  
299 returned or dishonored for insufficient funds. Nothing herein  
300 prohibits such conduct, action, or complaint if the borrower has  
301 intentionally engaged in fraud by, including, but not limited to,  
302 closing or using any closed or false account to evade payment;

303 (g) Make a short-term loan to a borrower for purposes  
304 of retiring an existing short-term loan between any licensee and  
305 that borrower;

306 (h) Require the borrower to waive the borrower's right  
307 to legal recourse under any otherwise applicable provision of  
308 state or federal law;

309 (i) Accept the title of a vehicle, real property,  
310 physical assets, or other collateral as security for the  
311 obligation;

312 (j) Engage in any device or subterfuge to evade the  
313 requirements of Sections 1 through 20 of this act including  
314 assisting a borrower to obtain a loan on terms that would be  
315 prohibited by Sections 1 through 20 of this act, making loans  
316 disguised as personal property sales and leaseback transactions,  
317 or disguising loan proceeds as cash rebates for the pretextual  
318 installment sale of goods or services;

319 (k) Assess or charge a borrower a fee for prepaying the  
320 loan in full prior to the maturity date;

321 (l) Fail to comply with Section 14 of this act;

322 (m) Recommend to a borrower that the borrower obtain a  
323 loan for a dollar amount that is higher than the borrower has  
324 requested;

325 (n) Make a loan to a borrower that has received two (2)  
326 loans within the previous ninety (90) days from licensees, unless  
327 the borrower has completed during that period a financial literacy  
328 program approved by the superintendent;

329 (o) Draft funds electronically from any depository  
330 financial institution in this state, or bill any credit card



331 issued by such an institution. Nothing in this paragraph shall  
332 prohibit the conversion of a negotiable instrument into an  
333 electronic form for processing through the automated clearinghouse  
334 system;

335 (p) Make, publish, or otherwise disseminate, directly  
336 or indirectly, any misleading or false advertisement, or engage in  
337 any other deceptive trade practice;

338 (q) Offer any incentive to a borrower in exchange for  
339 the borrower taking out multiple loans over any period of time, or  
340 provide a short-term loan at no charge or at a discounted charge  
341 as compensation for any previous or future business;

342 (r) Make a loan to a borrower if the borrower has  
343 received a total of four (4) or more loans, from licensees, in the  
344 calendar year;

345 (s) Present a check, negotiable order of withdrawal,  
346 share draft, or other negotiable instrument, that has been  
347 previously presented by the licensee and subsequently returned or  
348 dishonored for any reason, without prior written approval from the  
349 borrower;

350 (t) Change the check number, or in any other way alter  
351 a check, negotiable order of withdrawal, or share draft, prior to  
352 submitting such check, negotiable order of withdrawal, or share  
353 draft for processing through the automated clearinghouse system,  
354 or submit false information about any check, negotiable order of  
355 withdrawal, or share draft to the automated clearinghouse system.

356 **SECTION 9. Refusal, suspension or revocation of license -**

357 **fines.** (1) The Commissioner of Banking and Consumer Finance may  
358 suspend or revoke a license issued pursuant to Sections 1 through  
359 20 of this act, if the commissioner determines that either of the  
360 following applies:

361 (a) The licensee has failed to comply with any order  
362 issued by the commissioner pursuant to Section 10 of this act.



363           (b) Any fact or condition exists that if it had existed  
364 or had been known to exist at the time of original or renewal  
365 licensure pursuant to Sections 1 through 20 of this act, the fact  
366 or condition clearly would have warranted the commissioner to  
367 refuse to issue a license pursuant to those sections.

368           (2) The commissioner may make any investigation and conduct  
369 any hearing the commissioner considers necessary to determine  
370 whether any person has violated Sections 1 through 20 of this act,  
371 or any rule or order adopted or issued under Section 10 of this  
372 act, or has otherwise engaged in conduct that would justify the  
373 suspension, revocation, or refusal of an original or renewal  
374 license or the imposition of a fine.

375           The commissioner may impose a monetary fine of not more than  
376 One Thousand Dollars (\$1,000.00) for each such violation.

377           (3) In making any investigation or conducting any hearing  
378 pursuant to this section, the commissioner, or any person  
379 designated by the commissioner, at any time may compel by subpoena  
380 witnesses, may take depositions of witnesses residing outside the  
381 state in the manner provided for in civil actions, pay any  
382 witnesses the fees and mileage for their attendance provided for  
383 witnesses in civil actions, and administer oaths. The  
384 commissioner also may compel by order or subpoena duces tecum the  
385 production of, and examine, all relevant books, records, accounts,  
386 and other documents. If a person does not comply with a subpoena  
387 or subpoena duces tecum, the commissioner may apply to the circuit  
388 court of Hinds County for an order compelling the person to comply  
389 with the subpoena or subpoena duces tecum or, for failure to do  
390 so, an order to be held in contempt of court.

391           (4) In connection with any investigation under this section,  
392 the commissioner may file an action in the circuit court of Hinds  
393 County or the circuit court of the county in which the person who  
394 is the subject of the investigation resides, or is engaging in or  
395 proposing to engage in actions in violation of Sections 1 through



396 20 of this act, to obtain an injunction, temporary restraining  
397 order, or other appropriate relief.

398 **SECTION 10. Examination of licensee's records.** As often as  
399 the commissioner considers it necessary, the commissioner may  
400 examine the records of a licensee, but in any case, the  
401 commissioner shall examine the records of a licensee at least  
402 annually.

403 **SECTION 11. Required licensee records and reports.** (1)  
404 Every licensee shall keep and use in the licensee's business such  
405 books, accounts, records, and loan documents as will enable the  
406 Department of Banking and Consumer Finance to determine whether  
407 the licensee is complying with Sections 1 through 20 of this act  
408 and with the orders and rules made by the department under those  
409 sections. Such books, accounts, records, and loan documents shall  
410 be segregated from those pertaining to transactions that are not  
411 subject to Sections 1 through 20 of this act. Every licensee  
412 shall preserve the books, accounts, records, and loan documents  
413 pertaining to loans made under Sections 1 through 20 of this act  
414 for at least two (2) years after making the final entry on, or  
415 final revision of any loan document relative to, any loan recorded  
416 therein. Accounting systems maintained in whole or in part by  
417 mechanical or electronic data processing methods that provide  
418 information equivalent to that otherwise required are acceptable  
419 for this purpose.

420 (2) (a) As required by the Commissioner of Banking and  
421 Consumer Finance, each licensee shall file with the department  
422 each year a report under oath or affirmation, on forms supplied by  
423 the department, concerning the business and operation for the  
424 preceding calendar year. If a licensee has more than one (1)  
425 place of business in this state, the licensee shall furnish a  
426 report for each location.

427 (b) The department shall publish annually an analysis  
428 of the information required under subsection (2) (a) of this



429 section, but the individual reports shall not be public records  
430 and shall not be open to public inspection.

431 **SECTION 12. Implementing rules and enforcement orders.** The  
432 Commissioner of Banking and Consumer Finance may adopt rules and  
433 regulations to enforce and carry out the purposes of Sections 1  
434 through 20 of this act. The commissioner shall issue a rule  
435 defining "senior officer" for the purpose of Section 4 of this  
436 act. The commissioner may adopt, amend, and repeal substantive  
437 rules defining with reasonable specificity acts or practices that  
438 violate Section 14 of this act.

439 **SECTION 13. Violations as unfair or deceptive acts -**  
440 **criminal proceedings.** (1) A violation of Section 10 of this act  
441 is deemed an unfair or deceptive act or practice in violation of  
442 Section 75-24-5. A borrower injured by a violation of Section 10  
443 of this act shall have a cause of action and be entitled to the  
444 same relief available to a consumer under Sections 75-24-1 through  
445 75-24-27, and all powers and remedies available to the Attorney  
446 General to enforce Sections 75-24-1 through 75-24-27 are available  
447 to the Attorney General to enforce Section 10 of this act.

448 (2) The Commissioner of Banking and Consumer Finance or a  
449 borrower may bring directly an action to enjoin a violation of  
450 Sections 1 through 20 of this act. The prosecuting attorney of  
451 the county in which the action may be brought may bring an action  
452 to enjoin a violation of Sections 1 through 20 of this act only if  
453 the prosecuting attorney first presents any evidence of the  
454 violation to the Attorney General and, within a reasonable period  
455 of time, the Attorney General has not agreed to bring the action.

456 (3) The commissioner may initiate criminal proceedings under  
457 Sections 1 through 20 of this act by presenting any evidence of  
458 criminal violation to the prosecuting attorney of the county in  
459 which the offense may be prosecuted. If the prosecuting attorney  
460 does not prosecute the violations, or at the request of the  
461 prosecuting attorney, the superintendent shall present any



462 evidence of criminal violations to the Attorney General, who may  
463 proceed in the prosecution with all the rights, privileges, and  
464 powers conferred by law on prosecuting attorneys, including the  
465 power to appear before grand juries and to interrogate witnesses  
466 before such grand juries. These powers of the Attorney General  
467 are in addition to any other applicable powers of the Attorney  
468 General.

469 (4) The prosecuting attorney of the county in which an  
470 alleged offense may be prosecuted may initiate criminal  
471 proceedings under Sections 1 through 20 of this act.

472 (5) In order to initiate criminal proceedings under Sections  
473 1 through 20 of this act, the Attorney General first shall present  
474 any evidence of criminal violations to the prosecuting attorney of  
475 the county in which the alleged offense may be prosecuted. If,  
476 within a reasonable period of time, the prosecuting attorney has  
477 not agreed to prosecute the violations, the Attorney General may  
478 proceed in the prosecution with all the rights, privileges, and  
479 powers described in subsection (2) of this section.

480 (6) When a judgment under this section becomes final, the  
481 clerk of court shall mail a copy of the judgment, including  
482 supporting opinions, to the commissioner.

483 **SECTION 14. Prohibited debt collector communications and**

484 **conduct.** (1) As used in this section, unless the context  
485 requires otherwise:

486 (a) "Debt collector" means a licensee, officer,  
487 employee, or agent of a licensee, or any person acting as a debt  
488 collector for a licensee, or any person while serving or  
489 attempting to serve legal process on any other person in  
490 connection with the judicial enforcement of any debt resulting  
491 from a short-term loan made by a licensee.

492 (b) "Borrower" means a person who has an outstanding or  
493 delinquent short-term loan. For the purpose of this section, the



494 term "borrower" includes the borrower's spouse, parent, if the  
495 borrower is a minor, guardian, executor or administrator.

496 (c) "Communication" means the conveying of information  
497 regarding a debt directly or indirectly to any person through any  
498 medium.

499 (d) "Consumer reporting agency" means any person that,  
500 for monetary fees, dues or on a cooperative nonprofit basis,  
501 regularly engages in whole or in part in the practice of  
502 assembling or evaluating consumer credit information or other  
503 information on consumers for the purpose of furnishing consumer  
504 reports to third parties and that uses any means or facility for  
505 the purpose of preparing or furnishing consumer reports.

506 (e) "Location information" means a consumer's  
507 residence, telephone number or place of employment.

508 (2) When communicating with any person other than the  
509 borrower for the purpose of acquiring location information about  
510 the borrower, the debt collector shall identify self, state that  
511 the purpose for the communication is to confirm or correct  
512 location information concerning a person, and, only if expressly  
513 requested, identify the debt collector's employer. The debt  
514 collector shall not do any of the following:

515 (a) State that the person for whom location information  
516 is being sought is a borrower or owes any debt;

517 (b) Communicate with any person more than once unless  
518 requested to do so by such person or unless the debt collector  
519 reasonably believes that the earlier response of such person is  
520 erroneous or incomplete and that such person now has correct or  
521 complete location information;

522 (c) Communicate by postcard;

523 (d) Use any language or symbol on any envelope or in  
524 the contents of any communication effected by the mails or  
525 telegram that indicates that the communication relates to the  
526 collection of a debt;





527           (e) After the debt collector knows the borrower is  
528 represented by an attorney with regard to the subject debt and has  
529 knowledge of, or can readily ascertain, such attorney's name and  
530 address, not communicate with any person other than that attorney,  
531 unless the attorney fails to respond within a reasonable period of  
532 time to communication from the debt collector.

533           (3) A debt collector, without the prior consent of the  
534 borrower given directly to the debt collector or without the  
535 express permission of a court of competent jurisdiction, may not  
536 communicate with a borrower in connection with the collection of  
537 any debt:

538           (a) At any unusual time or place or a time or place  
539 known or which should be known to be inconvenient to the borrower.  
540 In the absence of knowledge of circumstances to the contrary, a  
541 debt collector shall assume that the convenient time for  
542 communicating with a borrower is after 8:00 a.m. central standard  
543 time and before 9:00 p.m. central standard time at the borrower's  
544 location.

545           (b) If the debt collector knows the borrower is  
546 represented by an attorney with respect to such debt and has  
547 knowledge of, or can readily ascertain, such attorney's name and  
548 address, unless the attorney fails to respond within a reasonable  
549 period of time to a communication from the debt collector or  
550 unless the attorney consents to direct communication with the  
551 borrower;

552           (c) At the borrower's place of employment if the debt  
553 collector knows or has reason to know that the borrower's employer  
554 prohibits the borrower from receiving such communication.

555           (4) A debt collector, when communicating with a third party  
556 without the prior consent of the borrower given directly to the  
557 debt collector, or without the express permission of a court of  
558 competent jurisdiction, or as reasonably necessary to effectuate a  
559 postjudgment judicial remedy, may not communicate, in connection



560 with the collection of any debt, with any person other than the  
561 borrower, the borrower's attorney, a consumer reporting agency if  
562 otherwise permitted by law, or the attorney of the debt collector.

563 (5) If a borrower provides written notification to a person  
564 licensed under Sections 1 through 20 of this act or a debt  
565 collector that the borrower refuses to pay a debt or that the  
566 borrower wishes the debt collector to cease further communication  
567 with the borrower, the debt collector shall not communicate  
568 further with the borrower with respect to such debt, except:

569 (a) To advise the borrower that the debt collector's  
570 further efforts are being terminated;

571 (b) To notify the borrower that the debt collector or  
572 licensee may invoke specified remedies that are ordinarily invoked  
573 by such debt collector or licensee;

574 (c) Where applicable, to notify the borrower that the  
575 debt collector or licensee intends to invoke a specified remedy.  
576 If such notice from the borrower is made by mail, notification  
577 shall be complete upon receipt.

578 (6) A debt collector may not engage in any conduct the  
579 natural consequence of which is to harass, oppress, or abuse any  
580 person in connection with the collection of a debt, including, but  
581 not limited to, any of the following:

582 (a) Using or threatening to use violence or other  
583 criminal means to harm the physical person, reputation, or  
584 property of any person;

585 (b) Using obscene or profane language or language the  
586 natural consequence of which is to abuse the hearer or reader;

587 (c) Publication of a list of borrowers who allegedly  
588 refuse to pay debts, except to a consumer-reporting agency;

589 (d) Causing a telephone to ring or engaging any person  
590 in telephone conversation repeatedly or continuously with intent  
591 to annoy, abuse, or harass any person at the called number.



592 (7) A debt collector may not use any false, deceptive, or  
593 misleading representation or means in connection with the  
594 collection of any debt, including, but not limited to, any of the  
595 following:

596 (a) Falsely representing or implying that the debt  
597 collector is vouched for, bonded by, or affiliated with the United  
598 States or any state, including the use of any badge, uniform, or  
599 facsimile thereof;

600 (b) Falsely representing the character, amount, or  
601 legal status of any debt, or any services rendered, or  
602 compensation which may be lawfully received by any debt collector  
603 for the collection of a debt;

604 (c) Falsely representing or implying that any  
605 individual is an attorney or that any communication is from an  
606 attorney;

607 (d) Representing or implying that nonpayment of any  
608 debt will result in the arrest or imprisonment of any person or  
609 the seizure, garnishment, attachment, or sale of any property or  
610 wages of any person unless such action is lawful and the debt  
611 collector intends to take such action;

612 (e) Threatening to take any action that cannot legally  
613 be taken or that is not intended to be taken;

614 (f) Falsely representing or implying that a sale,  
615 referral, or other transfer of any interest in a debt shall cause  
616 the borrower to lose any claim or defense to payment of the debt;

617 (g) Falsely representing or implying that the borrower  
618 committed any crime or other conduct in order to disgrace the  
619 borrower;

620 (h) Communicating or threatening to communicate to any  
621 person credit information that is known or that should be known to  
622 be false, including the failure to communicate that a disputed  
623 debt is disputed;



624 (i) Using or distributing any written communication  
625 that simulates or is falsely represented to be a document  
626 authorized, issued, or approved by any court, official, or agency  
627 of the United States or any state, or that creates a false  
628 impression as to its source, authorization, or approval;

629 (j) Using any false representation or deceptive means  
630 to collect or attempt to collect any debt or to obtain information  
631 concerning a borrower;

632 (k) Failing to disclose in the initial written  
633 communication with the borrower, and in addition, if the initial  
634 communication with the borrower is oral, in that initial oral  
635 communication, that the debt collector is attempting to collect a  
636 debt and that any information obtained will be used for that  
637 purpose, and the failure to disclose in subsequent communications  
638 that the communication is from a debt collector, except that  
639 subsection (7)(k) of this section shall not apply to a formal  
640 pleading made in connection with a legal action;

641 (l) Falsely representing or implying that accounts have  
642 been turned over to innocent purchasers for value;

643 (m) Falsely representing or implying that documents are  
644 legal process;

645 (n) Using any business, company, or organization name  
646 other than the true name of the debt collector's business,  
647 company, or organization;

648 (o) Falsely representing or implying that documents are  
649 not legal process forms or do not require action by the consumer;

650 (p) Falsely representing or implying that a debt  
651 collector operates or is employed by a consumer reporting agency.

652 (8) A debt collector may not use unfair or unconscionable  
653 means to collect or attempt to collect any debt, including, but  
654 not limited to, any of the following:

655 (a) Collecting any amount, including any interest, fee,  
656 charge, or expense incidental to the principal obligation, unless



657 the amount is expressly authorized by the agreement creating the  
658 debt or permitted by law;

659 (b) Accepting from any person a check or other payment  
660 instrument postdated by more than five (5) days unless the person  
661 is notified in writing of the debt collector's intent to deposit  
662 the check or instrument not more than ten (10) nor less than three  
663 (3) business days prior to deposit;

664 (c) Soliciting any postdated check or other postdated  
665 payment instrument for the purpose of threatening or instituting  
666 criminal prosecution;

667 (d) Depositing or threatening to deposit any postdated  
668 check or other postdated payment instrument prior to the date on  
669 the check or instrument;

670 (e) Causing charges to be made to any person for  
671 communications by concealment of the true purpose of the  
672 communication. The charges include, but are not limited to,  
673 collect telephone calls and telegram fees;

674 (f) Taking or threatening to take any nonjudicial  
675 action to effect dispossession or disablement of property if there  
676 is no present right to possession of the property claimed as  
677 collateral through an enforceable security interest, there is no  
678 present intention to take possession of the property, or the  
679 property is exempt by law from dispossession or disablement;

680 (g) Communicating with a borrower regarding a debt by  
681 postcard;

682 (h) Using any language or symbol, other than the debt  
683 collector's address, on any envelope when communicating with a  
684 borrower by use of the mail or by telegram, except that a debt  
685 collector may use the collector's business name if the name does  
686 not indicate that the collector is in the debt collection  
687 business;

688 (i) Designing, compiling, and furnishing any form  
689 knowing that the form would be used to create the false belief in



690 a borrower that a person other than the licensee is participating  
691 in the collection of or in an attempt to collect a debt the  
692 borrower allegedly owes the creditor, when in fact the person is  
693 not so participating.

694 (9) In addition to the requirements of this section, a debt  
695 collector shall follow the practices set forth in the federal  
696 "Fair Debt Collection Practices Act," 91 Stat. 874 (1977),  
697 Sections 15 USC 1692b, 15 USC 1692c, 15 USC 1692d, 15 USC 1692e,  
698 and 15 USC 1692f, as those sections of federal law exist on the  
699 effective date of this section. In the event of a conflict  
700 between described practices in the federal act and described  
701 practices in this section, this section shall prevail.

702 **SECTION 15. Statewide database used to determine borrower**  
703 **eligibility.** (1) If more than four hundred (400) persons are  
704 licensed under Sections 1 through 20 of this act at any point  
705 after September 1, 2009, the superintendent of financial  
706 institutions shall develop and make a statewide common database,  
707 as implemented by the commissioner, accessible at all times to  
708 persons licensed under Sections 1 through 20 of this act and to  
709 the commissioner through an Internet connection. Licensees shall  
710 use the database to determine if a borrower is eligible for a  
711 loan. Licensees shall submit the required data in a format as the  
712 superintendent prescribes by rule, and verify eligibility before  
713 entering into each loan transaction.

714 (2) If a statewide common database is developed pursuant to  
715 subsection (1) of this section, the commissioner shall adopt rules  
716 to administer and enforce this section and to ensure that the  
717 database is used by licensees in accordance with this section,  
718 including:

719 (a) A rule requiring that data are retained in the  
720 database only as required to ensure licensee compliance with this  
721 section;



722           (b) A rule requiring that identifying borrower  
723 information is deleted from the database on a regular and routine  
724 basis, twelve (12) months after the transaction is closed;

725           (c) A rule authorizing the archiving of deleted data,  
726 should the commissioner determine that archiving is necessary for  
727 the enforcement of this section;

728           (d) A rule prohibiting the database from ranking the  
729 credit worthiness of a borrower and limiting the database so that  
730 it may only be used to determine a borrower's eligibility or  
731 ineligibility for a loan based on the provisions of this chapter;

732           (e) A rule requiring that data collected pursuant to  
733 this section be used only as prescribed in this section and for no  
734 other purpose;

735           (f) A rule authorizing the database operator to impose  
736 a per transaction fee to be paid by the licensee for data required  
737 to be submitted;

738           (g) A rule prohibiting the database operator from  
739 including, in the database, the social security number of any  
740 borrower.

741           (3) The database operator, whether the commissioner or a  
742 third party selected by the commissioner, shall do all of the  
743 following:

744           (a) Establish and maintain a process for responding to  
745 transaction verification requests due to technical difficulties  
746 with the database that prevent the licensee from accessing the  
747 database through the Internet;

748           (b) Provide accurate and secure receipt, transmission,  
749 and storage of borrower data;

750           (c) Designate a transaction as closed within one (1)  
751 business day of receiving notification from a licensee;

752           (d) Take all reasonable measures to ensure the  
753 confidentiality of the database and to prevent identity theft.



754 (4) A licensee may rely on the information contained in the  
755 database as accurate and is not subject to any administrative  
756 penalty or civil liability as a result of relying on inaccurate  
757 information contained in the database.

758 (5) With respect to the database prescribed in subsection  
759 (1) of this section, any information submitted for incorporation  
760 into the database, information in the database itself, or archived  
761 information as maintained by the commissioner pursuant to this  
762 section is not a public record under the Mississippi Public  
763 Records Act, Section 25-61-1 et seq.

764 (6) If approved by the commissioner, the database operator  
765 may impose a per transaction fee for the actual costs of entering,  
766 accessing, and maintaining data in the database. The fee shall be  
767 payable to the database operator in a manner prescribed by the  
768 superintendent. A licensee may not charge a customer all or part  
769 of the fee.

770 **SECTION 16. Alternative borrower database.** (1) If a  
771 statewide common database is not developed under Section 15 of the  
772 act, each licensee shall subscribe to, report to, and use an  
773 electronic database tracking service that permits the licensee to  
774 determine whether the borrower has an outstanding unpaid check or  
775 debit authorization that is, or reasonably appears to be,  
776 connected to a short-term loan. In the absence of an electronic  
777 database tracking service, each licensee shall require a borrower  
778 to sign a written declaration confirming that, pursuant to Section  
779 8 of this act, the borrower is eligible to receive a loan.

780 (2) The records of a licensee and any electronic database  
781 tracking service shall be subject to review and examination by the  
782 Department of Banking and Consumer Finance to determine whether  
783 the licensee is complying with this section and other applicable  
784 provisions of Sections 1 through 20 of this act.

785 **SECTION 17. Additional duties of licensees - civil action by**  
786 **borrower.** (1) A person licensed, and any person required to be





787 licensed under Sections 1 through 20 of this act, in addition to  
788 duties imposed by other statutes or common law, shall do all of  
789 the following:

790 (a) Follow reasonable and lawful instructions from the  
791 borrower;

792 (b) Act with reasonable skill, care, and diligence;

793 (c) Act in good faith and fair dealing in any  
794 transaction or practice or course of business in connection with a  
795 short-term loan.

796 (2) The duties and standards of care created in this section  
797 may not be waived or modified.

798 (3) A borrower injured by a violation of this section may  
799 bring an action for recovery of damages. Damages awarded shall  
800 not be less than all compensation paid directly or indirectly to a  
801 licensee from any source, plus reasonable attorney's fees and  
802 court costs. The borrower may be awarded punitive damages.

803 **SECTION 18. Reports by superintendent - confidentiality of**

804 **information.** (1) The Commissioner of Banking and Consumer  
805 Finance shall report semiannually to the Governor and the  
806 Legislature on the operations of the Department of Banking and  
807 Consumer Finance with respect to the following:

808 (a) Enforcement actions instituted by the commissioner  
809 for a violation of or failure to comply with any provision of  
810 Sections 1 through 20 of this act, and the final dispositions of  
811 each such enforcement action;

812 (b) Suspensions, revocations, or refusals to issue or  
813 renew licenses under Sections 1 through 20 of this act.

814 (2) The information required under subsection (1)(a) and (b)  
815 of this section does not include information that, pursuant to  
816 subsection (3) of this section, is confidential.

817 (3) The following information is confidential:

818 (a) Examination information, and any information  
819 leading to or arising from an examination;



820 (b) Investigation information, and any information  
821 arising from or leading to an investigation.

822 (4) The information described in subsection (1)(a) of this  
823 section shall remain confidential for all purposes except when it  
824 is necessary for the commissioner to take official action  
825 regarding the affairs of a licensee, or in connection with  
826 criminal or civil proceedings to be initiated by a prosecuting  
827 attorney or the Attorney General.

828 (5) All application information, except social security  
829 numbers, employer identification numbers, financial account  
830 numbers, the identity of the institution where financial accounts  
831 are maintained, personal financial information, fingerprint cards  
832 and the information contained on such cards, and criminal  
833 background information, is a public record as defined in the  
834 Mississippi Public Records Act, Section 25-61-1 et seq.

835 (6) This section does not prevent the department from  
836 releasing information relating to licensees to the Attorney  
837 General for purposes of that office's administration of Sections  
838 75-24-1 through 75-24-27. Information the department releases to  
839 the Attorney General pursuant to this section remains privileged  
840 and confidential, and the Attorney General may not disclose the  
841 information except by introduction into evidence in connection  
842 with the Attorney General's administration of Sections 75-24-1  
843 through 75-24-27 or as authorized by the commissioner.

844 **SECTION 19. Consumer finance education board.** (1) There is  
845 hereby created a consumer finance education board, consisting of  
846 the following ten (10) members:

847 (a) An employee of the Mississippi Attorney General's  
848 office, appointed by the Governor;

849 (b) An employee of the Department of Banking and  
850 Consumer Finance, appointed by the Governor;

851 (c) An employee of the Mississippi Home Corporation,  
852 appointed by the Governor;



853 (d) A representative of Mississippi minority advocacy  
854 groups, appointed by the Governor;

855 (e) A member of the Mississippi Bankers Association,  
856 appointed by the Speaker of the House of Representatives;

857 (f) A member of the Mississippi Credit Union  
858 Association, appointed by the Speaker of the House of  
859 Representatives;

860 (g) A representative of the Mississippi real estate  
861 industry, appointed by the Speaker of the House of  
862 Representatives;

863 (h) A member of the Mississippi mortgage brokers  
864 association, appointed by the Lieutenant Governor;

865 (i) A representative of the financial services  
866 industry, appointed by the Lieutenant Governor;

867 (j) A representative of consumer advocacy  
868 organizations, appointed by the Lieutenant Governor.

869 (2) Geographically diverse representation of the state shall  
870 be considered in making appointments. Of the initial appointments  
871 to the board, four (4) shall be for a term ending December 31,  
872 2011, four (4) shall be for a term ending December 31, 2012, and  
873 four (4) shall be for a term ending December 31, 2013.

874 Thereafter, terms of office are for three (3) years, commencing on  
875 the first day of January and ending on the thirty-first day of  
876 December. Each member shall hold office from the date of the  
877 member's appointment until the end of the term for which the  
878 member is appointed. Prior to assuming the duties of office, each  
879 member shall subscribe to, and file with the Secretary of State,  
880 the constitutional oath of office. Vacancies that occur on the  
881 board shall be filled in the manner prescribed for regular  
882 appointments to the board. A member appointed to fill a vacancy  
883 occurring prior to the expiration of the term for which the  
884 member's predecessor was appointed shall hold office for the  
885 remainder of that predecessor's term. A member shall continue in



886 office subsequent to the expiration date of the member's term  
887 until the member's successor takes office or until sixty (60) days  
888 have elapsed, whichever occurs first. No person shall serve as a  
889 member of the board for more than two (2) consecutive terms.

890 (3) Annually, upon the qualification of the members  
891 appointed in that year, the board shall organize by selecting from  
892 its members a chairperson. The board shall meet at least once  
893 each calendar quarter to conduct its business with the place of  
894 future meetings to be decided by a vote of its members. Each  
895 member shall be provided with written notice of the time and place  
896 of each board meeting at least ten (10) days prior to the  
897 scheduled date of the meeting. A majority of the members of the  
898 board constitutes a quorum to transact and vote on all business  
899 coming before the board.

900 (4) (a) The Governor shall call the first meeting of the  
901 Consumer Finance Education Board. At that meeting, and annually  
902 thereafter, the board shall elect a chairperson for a one-year  
903 term and may elect members to other positions on the board as the  
904 board considers necessary or appropriate.

905 (b) Each member of the board shall receive the uniform  
906 per diem for public officers pursuant to Section 25-3-69 for each  
907 day employed in the discharge of the member's official duties, and  
908 the member's actual and necessary expenses incurred in the  
909 discharge of those duties pursuant to Section 25-3-41.

910 (5) The board may obtain services from any state agency,  
911 including, but not limited to, the Department of Banking and  
912 Consumer Finance or its successor agency.

913 **SECTION 20. Additional duties of Consumer Finance Education**

914 **Board.** (1) In addition to any other duties imposed on the  
915 Consumer Finance Education Board by Section 19 of this act, the  
916 board shall:

917 (a) Analyze and investigate, on its own initiative, the  
918 policies and practices of state agencies, nonprofit entities, and



919 businesses, inasmuch as such policies and practices address  
920 financial literacy, access by state residents to financial  
921 information, education, and resources, prevention of foreclosures  
922 and bankruptcies, prepurchase and postpurchase counseling and  
923 education for homebuyers, and small loan counseling and education  
924 for borrowers;

925           (b) Provide an annual report and consultation and  
926 recommendations to the Governor, the Legislature, state agencies,  
927 nonprofit entities, and businesses based on the board's findings;

928           (c) Coordinate and provide resources and assistance to  
929 state agencies, nonprofit entities, and businesses in the  
930 furtherance of those entities' efforts to improve financial  
931 literacy, access by state residents to financial information,  
932 education, and resources, prevention of foreclosures and  
933 bankruptcies, prepurchase and postpurchase counseling and  
934 education for homebuyers, and small loan counseling and education  
935 for borrowers.

936           (d) Provide financial assistance to Mississippians  
937 through grants and utilize these same funds to provide grants to  
938 design, develop, and implement any other programs described in  
939 this section.

940           (e) Receive grants for the implementation of this  
941 section.

942           (2) The board may assign and delegate the execution of its  
943 duties to smaller groups of its own members, which shall include  
944 committees specifically chartered to address all of the following  
945 issues:

946           (a) The needs of persons, ages eighteen (18) to  
947 twenty-five (25), in the context of the objectives enumerated in  
948 subsection (1) of this section;

949           (b) The needs of persons, classified as needy, based on  
950 a household adjusted gross income equal to or less than two  
951 hundred percent (200%) of the poverty level or the earned income



952 amount described in Section 32 of the Internal Revenue Code of  
953 1986, taking into account the size of the household, in the  
954 context of the objectives enumerated in subsection (1) of this  
955 section;

956 (c) The needs of persons, previously convicted of one  
957 or more felonies, in the context of the objectives enumerated in  
958 subsection (1) of this section;

959 (d) The needs of persons, characterized as vulnerable  
960 by reason of advanced age, disability, minority, or other  
961 demographic consideration, in the context of the objectives  
962 enumerated in subsection (1) of this section;

963 (e) Any other group or issue identified by the board as  
964 worthy of particular attention.

965 (3) The board shall create a pilot financial literacy and  
966 counseling program, to be operated in the five (5) counties with  
967 the highest mortgage foreclosure rates as of the effective date of  
968 this act, and completion of which shall be recommended by mortgage  
969 brokers and loan officers for any consumer seeking a mortgage loan  
970 with origination fees greater than five percent (5%). Before a  
971 mortgage broker permits a consumer to commit to such a loan, the  
972 broker shall notify the consumer that the loan may have attributes  
973 that are predatory. No person who offers education, advice, or  
974 counseling through the financial literacy and counseling program  
975 shall be held liable for any damages incurred from actions taken  
976 based on the education, advice, or counseling given.

977 **SECTION 21.** Sections 75-67-501, 75-67-503, 75-67-505,  
978 75-67-507, 75-67-509, 75-67-511, 75-67-513, 75-67-515, 75-67-516,  
979 75-67-517, 75-67-519, 75-67-521, 75-67-523, 75-67-525, 75-67-527,  
980 75-67-529, 75-67-531, 75-67-533, 75-67-535, 75-67-537 and  
981 75-67-539, Mississippi Code of 1972, which create the Mississippi  
982 Check Cashers Act, are hereby repealed.

983 **SECTION 22.** This act shall take effect and be in force from  
984 and after July 1, 2010.

