

By: Representative Mayo

To: Banking and Financial Services

HOUSE BILL NO. 16

1 AN ACT TO CREATE THE "MISSISSIPPI ALTERNATIVE LOAN ACT"; TO  
 2 DEFINE CERTAIN TERMS; TO PROHIBIT ANY PERSON FROM ENGAGING IN THE  
 3 BUSINESS OF LENDING MONEY, EXCEPT AS AUTHORIZED BY THIS ACT; TO  
 4 PROVIDE FOR APPLICATIONS FOR A LICENSE FOR THOSE LOANS; TO  
 5 AUTHORIZE LICENSING FEES; TO PROVIDE FOR THE REVOCATION OR  
 6 SUSPENSION OF LICENSES BY THE COMMISSIONER OF BANKING AND CONSUMER  
 7 FINANCE; TO AUTHORIZE AN EXAMINATION FEE; TO PROVIDE RECORD  
 8 KEEPING REQUIREMENTS; TO AUTHORIZE THE COMMISSIONER TO PROMULGATE  
 9 RULES AND REGULATIONS FOR ADMINISTRATION OF THIS ACT; TO AUTHORIZE  
 10 CERTAIN LOAN CHARGES BY THE LICENSEE; TO PRESCRIBE CERTAIN TERMS  
 11 OF THE LOAN CONTRACT; TO REQUIRE ALL BORROWER CONTRACTS AND  
 12 RECORDS OF THE LICENSEE TO BE OPEN TO THE INSPECTION OF THE  
 13 COMMISSIONER OR HIS DULY AUTHORIZED REPRESENTATIVES; TO PROVIDE  
 14 THAT CERTAIN FINANCE CHARGES CONTRACTED FOR OR RECEIVED IN EXCESS  
 15 OF THAT AUTHORIZED BY THIS ACT SHALL BE FORFEITED AND MAY BE  
 16 RECOVERED; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** This act shall be known and may be cited as the  
 19 "Mississippi Alternative Loan Act."

20 **SECTION 2.** (1) The Legislature finds and declares as  
 21 follows:

22 (a) There exists among citizens of this state a demand  
 23 for loans in amounts less than One Thousand Dollars (\$1,000.00).  
 24 The scope and intensity of this demand have been increased  
 25 progressively by many social and economic forces;

26 (b) The expense of making and collecting loans in those  
 27 certain amounts, which are usually made on comparatively  
 28 unsubstantial security to wage earners, salaried employees and  
 29 other persons, is necessarily high in relation to the amounts  
 30 lent;

31 (c) Those loans cannot be made profitably under the  
 32 limitations imposed by existing laws relating to interest and



33 usury. These limitations have tended to exclude lawful  
34 enterprises from the small loan field;

35 (2) It is the intent of the Legislature in enacting this law  
36 to provide for an act to permit and govern an alternative loan  
37 offering to the citizens of this state in order to meet the  
38 demands described in this section.

39 **SECTION 3.** The following words and phrases, when used in  
40 this act, shall have the following meanings, except where the  
41 context clearly describes and indicates otherwise:

42 (a) "Person" means and includes every natural person,  
43 firm, corporation, partnership, joint-stock or other association  
44 or organization, and any other legal entity whatsoever.

45 (b) "License" means a license issued under the  
46 authority of this act to make loans in accordance with the  
47 provisions of this act at a single place of business.

48 (c) "Licensee" means a person or entity duly licensed  
49 by the commissioner under this chapter.

50 (d) "Commissioner" means the Commissioner of Banking  
51 and Consumer Finance of the State of Mississippi.

52 (e) "Department" means the Department of Banking and  
53 Consumer Finance of the State of Mississippi.

54 (f) "Cash advance" means the amount of cash or its  
55 equivalent that the borrower actually receives or is paid at his  
56 direction or on his behalf.

57 (g) "Finance charges" mean the total of all acquisition  
58 charges and installment account handling charges.

59 **SECTION 4.** (1) Except as otherwise provided in subsection  
60 (3) of this section, no person may engage in the business of  
61 lending money except as authorized in this act in the amounts  
62 provided in this act without being the holder of a valid, current  
63 license to engage in that business and furnishing the requisite  
64 bond.



65 (2) Every person engaged in the business of lending money as  
66 authorized by this act shall have a physical office located in the  
67 State of Mississippi. A separate license is required for each  
68 office doing business in the State of Mississippi.

69 (3) This act shall not apply to the following:

70 (a) Any person doing business under the authority of,  
71 and as permitted by, any law of this state or of the United States  
72 relating to banks, trust companies, savings or building and loan  
73 associations, savings associates, savings banks or credit unions;

74 (b) Any Mississippi licensed small loan, pawnbroker,  
75 title pledge lending or check-cashing business;

76 (c) Any person making loans to their tenants engaged in  
77 agriculture;

78 (d) Loans by agricultural suppliers to persons whose  
79 principal business is farming;

80 (e) Agricultural credit corporations or associations  
81 organized under an act of the Congress of the United States;

82 (f) The business of financing the purchase of motor  
83 vehicles, refrigerators or other personal property; or

84 (g) Loans insured or guaranteed by the United States or  
85 any of its agencies.

86 (4) The provisions of subsection (1) shall apply to any  
87 person who seeks to evade its application by any device,  
88 subterfuge or pretense whatsoever, including, but not limited to  
89 the generality of the foregoing: (a) the loan, forbearance, use  
90 or sale of credit (as guarantor, surety, endorser, comaker or  
91 otherwise), money, goods or things in action; (b) the use of  
92 collateral or related sales or purchases of goods or services or  
93 agreements to sell or purchase, whether real or pretended; (c)  
94 receiving or charging compensation for goods or services, whether  
95 or not sold, delivered or provided; and (d) the real or pretended  
96 negotiation, arrangement or procurement of a loan through any use  
97 of activity of a third person, whether real or fictitious.



98 (5) Whoever violates, or participates in the violation of,  
99 any provision of this section shall be guilty of a misdemeanor  
100 and, upon conviction thereof, shall be punishable by a fine of not  
101 more than One Thousand Dollars (\$1,000.00), or by imprisonment in  
102 the county jail for not more than six (6) months, or by both such  
103 fine and imprisonment. Any contract of loan, in the making or  
104 collection of which any act has been done that violates this  
105 section, shall be void, and the lender shall have no right to  
106 collect, receive or retain any principal or charges whatsoever.

107 (6) The commissioner may impose a civil penalty against any  
108 license adjudged by the commissioner to be in violation of the  
109 provisions of this act. The civil penalty against any licensee  
110 shall not exceed Five Hundred Dollars (\$500.00) per violation and  
111 shall be deposited into the Consumer Finance Fund of the  
112 Department of Banking and Consumer Finance.

113 **SECTION 5.** (1) Application for a license shall be in  
114 writing, under oath and in the form prescribed by the  
115 commissioner. The application shall give the location where the  
116 business will be conducted and shall contain any other relevant  
117 information as the commissioner may require, including the names  
118 and addresses of the partners, officers, directors or trustees and  
119 of the principal owners or members as will provide the basis for  
120 the investigations and findings contemplated by Section 6 of this  
121 act. No license shall be given to any who has applicant who has  
122 been convicted of a felony in the last ten (10) years or who is  
123 active as a beneficial owner for someone who has been convicted of  
124 a felony in the last ten (10) years.

125 (2) With each initial application for a license, the  
126 applicant shall pay to the commissioner at the time of making the  
127 application a license fee of Seven Hundred Fifty Dollars  
128 (\$750.00), and on or before September 1 of each year thereafter,  
129 an annual renewal fee of Four Hundred Seventy-five Dollars  
130 (\$475.00). If the annual renewal fee remains unpaid after



131 September 30, the license shall expire on that date. If any  
132 licensee fails to pay the annual renewal fee before the thirtieth  
133 day of September of any year for which the renewal fee is due,  
134 then the licensee shall be liable for the full amount of the  
135 license fee, plus a penalty in an amount not to exceed Twenty-five  
136 Dollars (\$25.00) for each day that the licensee has engaged in  
137 business after September 30. All licensing fees and penalties  
138 shall be paid into the Consumer Finance Fund of the Department of  
139 Banking and Consumer Finance.

140 (3) There shall be presented and filed with the application  
141 a good and sufficient bond in the principal amount of Ten Thousand  
142 Dollars (\$10,000.00), payable to the State of Mississippi for the  
143 faithful performance by the licensee of the duties and obligations  
144 pertaining to the business so licensed and the prompt payment of  
145 any judgment that may be recovered against the licensee on account  
146 of charges or other claims arising directly or collectively from  
147 any violation of the provisions of this act. The bond shall not  
148 be valid until it is approved by the commissioner. The applicant  
149 may file, in lieu of the bond, cash, a certificate of deposit or  
150 government bonds in the amount of Ten Thousand Dollars  
151 (\$10,000.00). Those deposits shall be filed with the commissioner  
152 and are subject to the same terms and conditions as are provided  
153 for in the surety bond required in this subsection. Any interest  
154 or earnings on those deposits are payable to the depositor.

155 (4) The application shall be accompanied by a set of  
156 fingerprints of the applicant from any law enforcement agency. In  
157 order to determine the applicant's suitability for license, the  
158 commissioner shall forward the fingerprints to the Department of  
159 Public Safety; and if no disqualifying record is identified at the  
160 state level, the fingerprints shall be forwarded by the Department  
161 of Public Safety to the FBI for a national criminal history record  
162 check.



163 (5) Each application shall be accompanied by sworn financial  
164 statements of the applicant showing a net worth of at least Twenty  
165 Thousand Dollars (\$20,000.00) for the first license. The  
166 applicant shall possess and maintain a net worth of at least  
167 Twenty Thousand Dollars (\$20,000.00) for the first license and at  
168 least Five Thousand Dollars (\$5,000.00) for each additional  
169 license.

170 **SECTION 6.** (1) Upon the filing of the application and the  
171 payment of the prescribed fees, the commissioner shall investigate  
172 the facts concerning the application and the requirements provided  
173 in subsection (2) of this section.

174 (2) If the commissioner finds that the liquid assets,  
175 financial responsibility, experience, character and the general  
176 fitness of the applicant are such as to warrant the belief that  
177 the business will be operated lawfully, honestly, fairly and  
178 efficiently, within the purposes of this act, and that allowing  
179 the applicant to engage in the business would promote the  
180 convenience and advantage of the community in which the business  
181 of the applicant is to be conducted, he shall approve the  
182 application, file his findings with the department and forthwith  
183 issue and deliver a license to the applicant.

184 (3) If the commissioner does not so find, he shall notify  
185 the applicant in writing who may request a hearing on the  
186 application. The request for a hearing shall be within thirty  
187 (30) days of the rejection. After the hearing or if no hearing is  
188 demanded, the commissioner may deny the application by written  
189 order accompanied by his findings of fact and shall deliver a copy  
190 of such to the applicant. The initial license fee shall be  
191 retained by the commissioner.

192 **SECTION 7.** (1) Each license shall state the address at  
193 which the business is to be conducted and shall state the full  
194 name of the licensee. Each license shall be kept conspicuously



195 posted in the licensed place of business and shall not be  
196 transferable or assignable.

197 (2) Each license shall remain in full force and effect for  
198 one (1) year or until surrendered, revoked or suspended as  
199 provided in this act.

200 **SECTION 8.** (1) Not more than one (1) place of business may  
201 be maintained under the same license, but the commissioner may  
202 issue additional licenses to the same licensee upon his compliance  
203 with all the provisions of this act governing the issuance of the  
204 first or original license.

205 (2) No change in the place of business of a licensee to a  
206 location outside of the original licensed location shall be  
207 permitted under the same license. When a licensee wishes to  
208 change his place of business, he shall give written notice thereof  
209 to the commissioner who shall investigate the facts and, if he  
210 finds that the proposed location is reasonably accessible to  
211 borrowers under existing loan contracts, shall permit the change  
212 and shall amend the license accordingly. If the commissioner does  
213 not so find, he shall deny the licensee that permission in the  
214 manner specified in and subject to the provisions of Section 6 of  
215 this act.

216 (3) Nothing in this act shall be construed to restrict the  
217 loans of any licensee to residents of the community in which the  
218 licensed place of business is situated.

219 **SECTION 9.** (1) The commissioner may revoke any license  
220 issued under this act if he finds that:

221 (a) The licensee has failed to pay the annual renewal  
222 fee;

223 (b) The licensee, either knowingly or without the  
224 exercise of due care to prevent the same, has violated any  
225 provisions of this act or any regulation or order lawfully made by  
226 the commissioner under and within the authority of this act;



227           (c) Any fact or condition exists that, if it had  
228 existed or had been known to exist at the time of the original  
229 application for the license, clearly would have justified the  
230 commissioner in refusing originally to issue the license; however,  
231 the license shall not be revoked because of convenience and  
232 advantage; or

233           (d) The licensee is guilty of using unreasonable  
234 collection tactics.

235           (2) If the commissioner finds that probable cause for  
236 revocation of any license exists and that enforcement of this act  
237 requires immediate suspension of the license pending  
238 investigation, he may, upon three (3) days' written notice and a  
239 hearing, enter an order suspending the license for a period not  
240 exceeding thirty (30) days.

241           (3) Whenever the commissioner revokes or suspends a license,  
242 he shall enter an order to that effect and forthwith notify the  
243 licensee of the revocation or suspension. Within five (5) days  
244 after the entry of such an order, he shall file with the  
245 department his findings and a summary of the evidence supporting  
246 them, and he shall forthwith deliver a copy thereof to the  
247 licensee.

248           (4) Any licensee may surrender any license by delivering it  
249 to the commissioner with written notice of its surrender, but the  
250 surrender shall not affect the licensee's civil or criminal  
251 liability for acts committed before the surrender.

252           (5) No revocation, suspension or surrender of any license  
253 shall impair or affect the obligation of any preexisting contract  
254 between the licensee and any borrower.

255           (6) The commissioner may reinstate suspended licenses or  
256 issue new licenses to a person whose license or licenses have been  
257 revoked if no fact or condition then exists that clearly would  
258 have justified the commissioner in refusing originally to issue  
259 the license under this act.





260 (7) The commissioner, upon sworn complaint of any borrower,  
261 shall investigate or cause to be investigated any alleged  
262 violation of this act.

263 **SECTION 10.** (1) The commissioner may charge the licensee an  
264 examination fee in an amount not less than Three Hundred Dollars  
265 (\$300.00) nor more than Six Hundred Dollars (\$600.00) for each  
266 office or location within the State of Mississippi, plus any  
267 actual expenses incurred while examining the licensee's records or  
268 books that are located outside the State of Mississippi. However,  
269 in no event shall the licensee be examined more than once in a  
270 two-year period unless for cause shown based upon consumer  
271 complaint and/or other exigent reasons as determined by the  
272 commissioner.

273 (2) All fees paid to the commissioner shall be deposited  
274 into the Consumer Finance Fund of the Department of Banking and  
275 Consumer Finance.

276 (3) For the purpose of discovering violations of this act or  
277 of securing information lawfully required under this act, the  
278 commissioner or his duly authorized representatives may at any  
279 time investigate the business and examine the books, accounts,  
280 papers and records used in the business of: (a) any licensee; (b)  
281 any other person engaged in the business described in Section 4(1)  
282 of this act or participating in the business as principal, agent,  
283 broker or otherwise; and (c) any person who the commissioner has  
284 reasonable cause to believe is violating or is about to violate  
285 any provisions of this act, whether or not the person claims to be  
286 within the authority or beyond the scope of this act. For  
287 purposes of this section, any person who advertises for, solicits  
288 or holds himself out as willing to make loan transactions in the  
289 amount of less than One Thousand Dollars (\$1,000.00) under this  
290 act shall be presumed to be engaged in the business described in  
291 Section 4(1) of this act, unless exempted by Section 4(3) of this  
292 act.



293 (4) For the purposes of this act, the commissioner or his  
294 duly authorized representatives shall have and be given free  
295 access to the offices and places of business, files, safes and  
296 vaults of all those persons and may require the attendance of any  
297 person and to examine him under oath relative to the loans or the  
298 business or to the subject matter of any examination,  
299 investigation, or hearing.

300 (5) Whenever the commissioner has reasonable cause to  
301 believe that any person is violating or is threatening to or  
302 intends to violate any provision of this act, he may, in addition  
303 to all actions provided for in this act and in addition to all  
304 other remedies that he may have at law and without prejudice  
305 thereto, enter an order requiring that person to desist or to  
306 refrain from that violation, and an action may be brought on  
307 behalf of the Attorney General or commissioner to enjoin the  
308 person from engaging in or continuing the violation or from doing  
309 any act or acts in furtherance of the violation. In any action,  
310 an order or judgment may be entered awarding the preliminary or  
311 final injunction as may be deemed proper. In addition to all  
312 other means provided by law for the enforcement of a restraining  
313 order or injunction, the court in which the action is brought  
314 shall have the power and jurisdiction to impound and to appoint a  
315 receiver for the property and business of the defendant, including  
316 books, papers, documents and records pertaining to the property or  
317 business or so much thereof as the court may deem reasonably  
318 necessary to prevent violations of this act through or by means of  
319 the use of the property and business. The receiver, when  
320 appointed and qualified, shall have any powers and duties as to  
321 custody, collection, administration, winding up and liquidation of  
322 the property and business as may from time to time be conferred  
323 upon him by the court.

324 (6) Reports of examinations and investigations of the  
325 commissioner, and the books and records of licensees are to be



326 held strictly confidential, and may not be produced, reproduced,  
327 or otherwise made available by the department to any persons.  
328 This subsection does not apply to disclosures in proceedings  
329 brought by the commissioner under this act.

330       **SECTION 11.** Each licensee shall keep and use in his business  
331 any books, accounts and records as will enable the commissioner to  
332 determine whether the licensee is complying with the provisions of  
333 this act and with the orders and regulations lawfully made by the  
334 commissioner under this act. Each licensee shall preserve those  
335 books, accounts and records for at least two (2) years after  
336 making the final entry on any loan recorded therein.

337       **SECTION 12.** The commissioner shall have the power and  
338 authority to adopt, promulgate and issue any rules and  
339 regulations, not inconsistent with this act or some other statute,  
340 as he deems necessary for the purpose of the administration of the  
341 act. All rules and regulations promulgated by the commissioner  
342 shall be filed and adopted in accordance with the Mississippi  
343 Administrative Procedures Law, Section 25-43-1.101 et seq. Any  
344 licensee whose practices are consistent with any regulation or  
345 written interpretation shall not be liable for any violation of  
346 this act, even though the rule, or interpretation thereof, is  
347 ruled invalid for any reason by a court of competent jurisdiction.

348       **SECTION 13.** (1) No licensee or other person subject to this  
349 act shall advertise, display, distribute or broadcast or cause to  
350 permit to be advertised, displayed, distributed or broadcast in  
351 any manner whatsoever any false, misleading or deceptive statement  
352 or representation with regard to the rates, terms or conditions  
353 for loans in the amount of less than One Thousand Dollars  
354 (\$1,000.00) under this act. The commissioner may require that  
355 charges or rates of charge, if stated by a licensee, be stated  
356 fully and clearly in any manner as he may deem necessary to  
357 prevent misunderstanding thereof by prospective borrowers. The  
358 commissioner may require the posting of those rates with a



359 statement that the location is supervised by the Department of  
360 Banking and Consumer Finance followed by a toll free contact  
361 telephone number. The commissioner may permit or require  
362 licensees to refer in their advertising to the fact that their  
363 business is under state supervision, subject to conditions imposed  
364 by him to prevent an erroneous impression as to the scope or  
365 degree of protections provided by this act.

366 (2) Each licensee shall conspicuously display in each  
367 licensed place of business a full and accurate schedule of the  
368 rates of charge upon all classes of loans currently to be made by  
369 him.

370 **SECTION 14.** (1) Every licensee under this act may contract  
371 for and receive charges on any loan of money less than One  
372 Thousand Dollars (\$1,000.00) in an amount at a rate not exceeding  
373 the following:

374 (a) A licensee may charge an acquisition charge for  
375 making the loan in an amount not exceeding ten percent (10%) of  
376 the amount of the principal.

377 (b) A licensee may charge an installment account  
378 handling charge in an amount not exceeding the following:

379 (i) Twelve Dollars (\$12.00) per month on any loan  
380 of an amount of not less than One Hundred Dollars (\$100.00), but  
381 not more than Three Hundred Dollars (\$300.00).

382 (ii) Fourteen Dollars (\$14.00) per month on any  
383 loan of an amount of more than Three Hundred Dollars (\$300.00),  
384 but not more than Four Hundred Dollars (\$400.00).

385 (iii) Sixteen Dollars (\$16.00) per month on any  
386 loan of an amount of more than Four Hundred Dollars (\$400.00), but  
387 not more than Five Hundred Dollars (\$500.00).

388 (iv) Seventeen Dollars (\$17.00) per month on any  
389 loan of an amount of more than Five Hundred Dollars (\$500.00), but  
390 not more than Eight Hundred Dollars (\$800.00).



391 (v) Twenty Dollars (\$20.00) per month on any loan  
392 of an amount of more than Eight Hundred Dollars (\$800.00), but  
393 less than One Thousand Dollars (\$1,000.00).

394 (2) (a) When any loan contract is paid in full by cash, a  
395 new loan, renewal or otherwise, one (1) month or more before the  
396 final installment date, the licensee shall refund or credit the  
397 borrower with that portion of the installment account handling  
398 charge, which shall be due to the borrower as determined by  
399 schedules prepared under the rule of seventy-eighths or sum of the  
400 digits principle as follows: The amount of the refund or credit  
401 shall be as great a proportion of the total charges originally  
402 contracted for as the sum of the periodic time balances of the  
403 contract scheduled to follow the date of prepayment bears to the  
404 sum of all the periodic time balances of the contract, both sums  
405 to be determined according to the payment schedule originally  
406 contracted for. No refund of less than One Dollar (\$1.00) need be  
407 made. The acquisition charge shall not be subject to refund.

408 (b) If the borrower repays the loan in full within  
409 three (3) business days following the date of the loan, then all  
410 charges of every kind shall be refunded including the acquisition  
411 charge.

412 (3) If the contract so provides, when a scheduled payment is  
413 in default or delinquent for ten (10) or more days, the licensee  
414 shall charge and collect an additional late charge not to exceed  
415 the greater of Ten Dollars (\$10.00) or five percent (5%) of the  
416 amount of the scheduled payment in default. Each of the late  
417 charges permitted under this subsection may be collected only once  
418 on any scheduled payment, regardless of the period during which  
419 the payment remains in default or is delinquent.

420 (4) In addition to the general authority granted to him by  
421 Section 12 of this act, the commissioner may make any rules and  
422 regulations as he may deem necessary or advisable to insure that  
423 rebates and default charges are so computed, paid to or collected



424 from borrowers that the total charges collected by licensees under  
425 this section are substantially equivalent to charges authorized to  
426 be collected by licensees under this section.

427 (5) The licensee may collect from the borrower the actual  
428 fees paid to a public official or agency of the state for filing,  
429 recording or releasing any instrument securing the loan.

430 (6) The minimum term of any loan made under this act is  
431 three (3) months and the maximum term of any loan made under this  
432 act is twelve (12) months. Every loan contract shall require  
433 payment of the cash advance and charges in installments, which  
434 shall be payable at approximately equal periodic intervals. The  
435 scheduled payments shall be in amounts equal to or greater than  
436 Forty Dollars (\$40.00) per month, inclusive of the installment  
437 account handling charge. The acquisition charge and the  
438 installment account handling charge may be calculated for the term  
439 of the contract and added to the amount of the principal. The  
440 acceptance or payment of charges on loans made under this act  
441 shall not be deemed to constitute payment, deduction or receipt  
442 thereof in advance nor compounding under this act. No installment  
443 contracted for shall be substantially larger than any preceding  
444 installment.

445 (7) The licensee may require, within the contract, payment  
446 by the debtor of any actual assessed court costs in any civil  
447 action brought by licensee to enforce the contract.

448 (8) Any licensee who receives a check, draft, negotiable  
449 order of withdrawal or like instrument drawn on a bank or other  
450 depository institution given by any person in full or partial  
451 payment of a loan or other extension of credit may, if the  
452 instrument is not paid or is dishonored by the institution, charge  
453 and collect from the borrower or person to whom the credit was  
454 extended, a bad check charge in an amount not to exceed the sum of  
455 Fifteen Dollars (\$15.00). This charge may be made only once with  
456 respect to the same instrument, and after the nonpayment or



457 dishonor of the instrument, it shall be returned by the licensee  
458 to the borrower or person to whom credit was extended. This charge  
459 shall not be deemed to be a finance charge or other charge made as  
460 an incident to or as a condition to the grant of the loan or other  
461 extension of credit and shall not be included in determining the  
462 limit on charges that may be made in connection with the loan or  
463 extension of credit as provided in this act or in any other law of  
464 this state.

465 (9) The licensee shall be entitled to receive any assessed  
466 court costs in connection with the collection of any loan. No  
467 insurance charge, nor any other charge of any nature whatsoever,  
468 is permitted for loans made in accordance with the rate structure  
469 of this section, except for those charges and fees permitted in  
470 this section.

471 (10) The loan charges allowed under this section may not be  
472 imposed on more than one (1) outstanding loan to a borrower with  
473 the licensee and upon which loan charges were imposed under this  
474 section.

475 (11) No licensee shall file a claim against a decedent  
476 borrower's estate for any unpaid indebtedness for a loan made  
477 under this section.

478 **SECTION 15.** (1) Every licensee shall:

479 (a) At the time a loan is made, deliver to the borrower  
480 a copy of the loan contract, executed by the borrower, in language  
481 in clear and distinct terms:

482 (i) The name and address of the lender and the  
483 borrower on the loan.

484 (ii) The date of the loan contract and the period  
485 of time for which the loan is extended.

486 (iii) Schedule of installments or description  
487 thereof.

488 (iv) The cash advance.



489 (v) The total amount of the note evidencing the  
490 loan.

491 (vi) The finance charges allowed by this act.

492 (vii) The amount collected or paid for filing and  
493 other fees allowed by this act.

494 (viii) The collateral or security for the loan.

495 (ix) The federal annual percentage rate.

496 (b) Give to the person making any cash payment on the  
497 account of any loan, a receipt at the time the payment is made,  
498 which receipt need only show the total amount of the cash payment.  
499 No receipt shall be required in the case of payments made by the  
500 borrower's check or money order, and the use of a coupon book  
501 system shall be deemed in compliance with this section.

502 (c) Permit the payment to be made in advance in any  
503 amount on any contract of loan at any time during a licensee's  
504 regular business hours.

505 (d) Upon repayment of the loan in full, mark plainly  
506 every obligation and security signed by any borrower with the word  
507 "Paid" or "Cancelled," and release any lien and cancel and return  
508 any note and any assignment given to the licensee.

509 (2) No licensee shall take any note or promise to pay that  
510 does not disclose the total amount to be repaid, a schedule of  
511 payments or a description thereof and the agreed rate or aggregate  
512 amount of charge, nor any instrument in which blanks are left to  
513 be filled in after execution.

514 (3) Every loan contract shall provide for repayment of  
515 principal and charges at approximately equal periodic intervals of  
516 time, which shall be so arranged that no installment is  
517 substantially greater in amount than any preceding installment.

518 (4) Absent other factors, a loan transaction does not create  
519 a confidential relationship between the borrower and the licensee  
520 nor does it give rise to or create a fiduciary duty on the part of  
521 the licensee.





522           **SECTION 16.** All borrower contracts and records of the  
523 licensee shall be open to the inspection of the commissioner or  
524 his duly authorized representatives at all times during regular  
525 business hours. Those records shall be kept for a period of  
526 twenty-four (24) months after the final transaction on the loan.  
527 Any action brought against a licensee by any person on account of  
528 the violation or alleged violation of any of the provisions of  
529 this act with reference to any loan transaction shall be brought  
530 within twenty-four (24) months after the date of the final  
531 maturity date of the loan, and not thereafter.

532           **SECTION 17.** (1) No licensee shall conduct the business of  
533 making loans provided for by this act under any name or at any  
534 place of business within this state other than stated in the  
535 license. Nothing in this section shall prevent the making of  
536 loans by mail nor prohibit accommodations to individual borrowers  
537 when necessitated by sickness or other emergency situations.

538           (2) No licensee shall take a lien upon real estate as  
539 security for any loan made under this act, except a lien as is  
540 created by law through the entry or recording of a judgment.

541           **SECTION 18.** In addition to any other remedy he may have, any  
542 licensee and any person considering himself aggrieved by any act  
543 or order of the commissioner under this act may, within thirty  
544 (30) days from the entry of the order complained of, or within  
545 sixty (60) days of the act complained of if there is no order,  
546 petition the Chancery Court of the First Judicial District of  
547 Hinds County for review of the act or order. The petition shall  
548 be docketed, heard and tried in the same manner as other  
549 extraordinary writs issued by the court and a copy of the petition  
550 and order setting the same for hearing shall be served on the  
551 commissioner, giving him notice of the time and place of the  
552 hearing as may be directed by the court.

553           **SECTION 19.** Except where other specific remedies are  
554 provided in this act for violations, in which event those remedies



555 shall apply, any provision of a loan contract that violates this  
556 act shall be unenforceable by the licensee to the extent, but only  
557 to the extent, of the violation, and the other remaining  
558 provisions and agreements shall be enforceable and shall not be  
559 void and shall not be affected by the violation.

560 **SECTION 20.** This act or any part thereof may be modified,  
561 amended or repealed so as to effect a cancellation or alteration  
562 of any license or right of a licensee hereunder under this act;  
563 however, the cancellation or alteration shall not impair or affect  
564 the obligation of any preexisting lawful contract between any  
565 licensee and any borrower.

566 **SECTION 21.** If any finance charge in excess of that  
567 expressly permitted by Section 14 of this act is contracted for or  
568 received, all finance charges and other charges shall be forfeited  
569 and may be recovered, whether the contract is executed or  
570 executory. If any finance charge is contracted for or received  
571 that exceeds the maximum finance charge authorized by law by more  
572 than one hundred percent (100%), the principal and all finance  
573 charges and other charges shall be forfeited and any amount paid  
574 may be recovered by suit; in addition, the licensee and the  
575 several members, officers, directors, agents and employees thereof  
576 who shall have participated in the violation shall be guilty of a  
577 misdemeanor and, upon conviction thereof, shall be punished by a  
578 fine of not more than One Thousand Dollars (\$1,000.00) and not  
579 less than One Hundred Dollars (\$100.00), in the discretion of the  
580 court; and the Commissioner of Banking and Consumer Finance shall  
581 forthwith cite the licensee to show cause why its license should  
582 not be revoked.

583 **SECTION 22.** This act shall take effect and be in force from  
584 and after July 1, 2011.

