To: Banking and Financial Services

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2011

By: Representative Evans (91st)

HOUSE BILL NO. 216

AN ACT TO AMEND SECTIONS 75-67-313, 75-67-413 AND 75-67-519, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE MAXIMUM AMOUNT THAT PAWN BROKERS, TITLE PLEDGE LENDERS AND CHECK CASHERS MAY CHARGE FOR THEIR SERVICES SHALL NOT EXCEED AN ANNUAL PERCENTAGE RATE OF 25% PER ANNUM ON THE AMOUNT OF THE PRINCIPAL AMOUNT THAT REMAINS UNPAID; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 75-67-313, Mississippi Code of 1972, is amended as follows:

75-67-313. (1) A pawnbroker may contract for and receive a pawnshop charge ** for all services, expenses, cost and losses of every nature not to exceed an annual percentage rate of twenty-five percent (25%) per annum on the amount of the principal amount that remains unpaid.

(2) Any interest, charge, or fees contracted for or received, directly or indirectly, in excess of the amount permitted under subsection (1) of this section shall be uncollectible and the pawn transaction shall be void. **

SECTION 2. Section 75-67-413, Mississippi Code of 1972, is amended as follows:

75-67-413. (1) A title pledge lender may contract for and receive a title pledge service charge ** for all services, expenses, cost and losses of every nature not to exceed an annual percentage rate of twenty-five percent (25%) per annum on the amount of the principal amount that remains unpaid.

(2) Any interest, charge or fees contracted for or received, directly or indirectly, in excess of the amount permitted under...
subsection (1) of this section shall be uncollectible and the

title pledge transaction shall be void. *

(3) By agreement of the parties, the maturity date of the
title pledge transaction may be extended or continued for
thirty-day periods, provided that the service charges as specified
in subsection (1) are not exceeded for any extensions. All
extensions or continuations of the title pledge transaction shall
be evidenced in writing. No accrued interest or service charge
shall be capitalized or added to the original principal of the
title pledge transaction during any extension or continuation.
Beginning with the first extension or continuation and at each
successive extension or continuation thereafter, the pledgor shall
be required to reduce the principal amount financed by at least
ten percent (10%) of the original principal amount of the title
pledge transaction. Notwithstanding any provision in this article
to the contrary, if the pledgor fails to pay at least ten percent
(10%) of the original principal amount at any such extension or
continuation, the title pledge lender may, at its option, either
(a) declare the outstanding principal and any service charges to
be immediately due and payable, or (b) allow the transaction to be
extended or continued, provided that the title pledge lender shall
reduce the principal amount of the loan by ten percent (10%) of
the original principal amount solely for the purposes of
calculating its service charge. This reduction in principal shall
continue to be owing by the pledgor in accordance with the title
pledge transaction, but that amount shall not be entitled to
accrue interest or service charges thereafter.

(4) Any additional payment of funds on the same pledged
property must be evidenced by a separate title pledge agreement.
A title pledge lender shall not advance funds to a pledgor to pay
off an existing title pledge agreement.

SECTION 3. Section 75-67-519, Mississippi Code of 1972, is
amended as follows:

H. B. No. 216
11/HR12/R98
PAGE 2 (RF\DO)
75-67-519. (1) A licensee may defer the deposit of a personal check cashed for a customer for up to thirty (30) days under the provisions of this section.

(2) The face amount of any delayed deposit check cashed under the provisions of this section shall not exceed Four Hundred Dollars ($400.00). Each customer is limited to a maximum amount of Four Hundred Dollars ($400.00) at any time.

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

(4) A licensee shall not directly or indirectly charge any fee or other consideration for cashing a delayed deposit check in excess of an annual percentage rate of twenty-five percent (25%) per annum on the amount of the face amount of the check that remains unpaid.

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

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

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

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

SECTION 4. This act shall take effect and be in force from and after July 1, 2011.