

By: Representative Flaggs

To: Banking and Financial
ServicesHOUSE BILL NO. 455
(As Sent to Governor)

1 AN ACT TO REENACT SECTIONS 75-67-501 THROUGH 75-67-537,
2 MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI CHECK CASHERS
3 ACT; TO AMEND REENACTED SECTION 75-67-505, MISSISSIPPI CODE OF
4 1972, TO PROVIDE THAT ANY TRANSACTION THAT WOULD BE SUBJECT TO THE
5 CHECK CASHERS ACT THAT IS MADE BY A PERSON WHO DOES NOT HAVE A
6 VALID LICENSE UNDER THE ACT SHALL BE NULL AND VOID; TO AMEND
7 REENACTED SECTION 75-67-519, MISSISSIPPI CODE OF 1972, TO PROVIDE
8 THAT THE PERIOD OF A DELAYED DEPOSIT CHECK OF NOT MORE THAN
9 \$250.00 MAY BE FOR UP TO 30 DAYS, AND THE PERIOD OF A DELAYED
10 DEPOSIT CHECK OF MORE THAN \$250.00 BUT NOT MORE THAN \$500.00 SHALL
11 BE FOR 28 TO 30 DAYS, AS SELECTED BY THE CUSTOMER, WITH THE
12 LICENSEE HAVING THE OPTION TO DEPOSIT OR COLLECT THE CHECK; TO
13 INCREASE THE MAXIMUM FACE AMOUNT OF A DELAYED DEPOSIT CHECK TO
14 \$500.00 AND INCREASE THE MAXIMUM AMOUNT THAT A CUSTOMER MAY HAVE
15 OUTSTANDING AT ANY TIME TO \$500.00; TO REVISE THE MAXIMUM FEE FOR
16 CASHING A DELAYED DEPOSIT CHECK FROM A PERCENTAGE OF THE FACE
17 VALUE OF THE CHECK TO A STATED DOLLAR AMOUNT PER \$100.00 ADVANCED;
18 TO PROVIDE THAT THE MAXIMUM FEE FOR CASHING A DELAYED DEPOSIT
19 CHECK OF NOT MORE THAN \$250.00 SHALL BE \$20.00 PER \$100.00
20 ADVANCED, AND THE MAXIMUM FEE FOR CASHING A DELAYED DEPOSIT CHECK
21 OF MORE THAN \$250.00 BUT NOT MORE THAN \$500.00 SHALL BE \$21.95 PER
22 \$100.00 ADVANCED; TO REQUIRE LICENSEES TO PROVIDE THE CUSTOMER A
23 PAMPHLET PREPARED BY THE COMMISSIONER OF BANKING THAT DESCRIBES
24 GENERAL INFORMATION ABOUT THE TRANSACTION AND ABOUT THE CUSTOMER'S
25 RIGHTS AND RESPONSIBILITIES IN THE TRANSACTION AND INCLUDES THE
26 CONSUMER HOTLINE PHONE NUMBER TO THE MISSISSIPPI DEPARTMENT OF
27 BANKING AND CONSUMER FINANCE AND TO THE MISSISSIPPI ATTORNEY
28 GENERAL'S OFFICE, BEFORE ENTERING INTO A DELAYED DEPOSIT
29 TRANSACTION; TO AMEND SECTION 75-67-539, MISSISSIPPI CODE OF 1972,
30 TO EXTEND THE DATE OF THE REPEALER ON THE CHECK CASHERS ACT; AND
31 FOR RELATED PURPOSES.

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

33 **SECTION 1.** Section 75-67-501, Mississippi Code of 1972, is
34 reenacted as follows:

35 75-67-501. This article shall be known and may be cited as
36 the "Mississippi Check Cashers Act."

37 **SECTION 2.** Section 75-67-503, Mississippi Code of 1972, is
38 reenacted as follows:



39 75-67-503. The following words and phrases used in this
40 article shall have the following meanings unless the context
41 clearly indicates otherwise:

42 (a) "Appropriate law enforcement agency" means the
43 sheriff of each county in which the licensee maintains an office,
44 or the police chief of the municipality in which the licensee
45 maintains an office, or law enforcement officers of the Department
46 of Public Safety.

47 (b) "Attorney General" means the Attorney General of
48 the State of Mississippi.

49 (c) "Check" means any check, draft, money order,
50 personal money order, pre-authorized customer draft, or other
51 instrument for the transmission or payment of money as determined
52 by the Commissioner of Banking and Consumer Finance, but shall not
53 include travelers checks or foreign drawn payment instruments.

54 (d) A "check casher" means any individual, partnership,
55 association, joint-stock association, trust or corporation,
56 excluding the United States government and the government of this
57 state, who exchanges cash or other value for any check, draft,
58 money order, personal money order, or other instrument for the
59 transmission or payment of money, except travelers checks and
60 foreign drawn payment instruments, and who charges a fee therefor.

61 (e) "Commissioner" means the Mississippi Commissioner
62 of Banking and Consumer Finance, or his designee, as the
63 designated official for the purpose of enforcing this article.

64 (f) "Department" means the Department of Banking and
65 Consumer Finance.

66 (g) "Licensee" means any individual, partnership,
67 association or corporation duly licensed by the Department of
68 Banking and Consumer Finance to engage in the business of cashing
69 checks under this article.



70 (h) "Person" means an individual, partnership,
71 corporation, joint venture, trust, association or any legal entity
72 however organized.

73 (i) "Personal money order" means any instrument for the
74 transmission or payment of money in relation to which the
75 purchaser or remitter appoints or purports to appoint the seller
76 thereof as his agent for the receipt, transmission or handling of
77 money, whether such instrument is signed by the seller or by the
78 purchaser or remitter or some other person.

79 **SECTION 3.** Section 75-67-505, Mississippi Code of 1972, is
80 reenacted and amended as follows:

81 75-67-505. (1) (a) A person may not engage in business as
82 a check casher or otherwise portray himself as a check casher
83 unless the person has a valid license authorizing engagement in
84 the business. Any transaction that would be subject to this
85 article that is made by a person who does not have a valid license
86 under this article shall be null and void. A separate license is
87 required for each place of business under this article and each
88 business must be independent of, and not a part of, any other
89 business operation. A check cashing business shall not be a part
90 of, or located at the same business address with, a pawnshop,
91 title pledge office and small loan company.

92 (b) A check cashing business shall (i) have a
93 definitive United States Postal address and E911 address; (ii)
94 comply with local zoning requirements; (iii) have a minimum of one
95 hundred (100) square feet with walls from floor to ceiling
96 separating the operation from any other businesses; (iv) have an
97 outside entrance, but may be located in an area that has a common
98 lobby shared by other businesses as long as the customers do not
99 enter the check cashing business through another business; (v)
100 have proper signage; and (vi) maintain separate books and records.
101 Any licensee who does not cash any delayed deposit checks as
102 authorized under Section 75-67-519 shall not be subject to the



103 requirements of subparagraphs (i), (iii) and (iv) of this
104 paragraph.

105 (c) A licensed check casher may sell, at the same
106 location as his check cashing business, the following items and
107 services: money orders; income tax preparation service; copy
108 service; wire transfer service; notary service; pagers; pager
109 service; prepaid cellular service; debit card; prepaid telephone
110 cards; prepaid telephone service; and operate a processing center
111 where utility bills, credit card payments and other payments are
112 collected from the general public and governmental and private
113 payments are distributed. In the event a licensee accepts wire
114 transfers in the form of a direct deposit of a payroll check or
115 other similar types of deposit, the licensee shall not encumber
116 any transferred funds against a deferred deposit agreement or any
117 delinquent deferred deposit agreement with such customer. The
118 commissioner may authorize additional functions in addition to
119 those provided in this subsection that may be performed as part of
120 a check cashing business.

121 (d) The commissioner may issue more than one (1)
122 license to a person if that person complies with this article for
123 each license. A new license is required upon a change, directly
124 or beneficially, in the ownership of any licensed check casher
125 business and an application shall be made to the commissioner in
126 accordance with this article.

127 (2) When a licensee wishes to move a check casher business
128 to another location, the licensee shall give thirty (30) days'
129 prior written notice to the commissioner who shall amend the
130 license accordingly.

131 (3) Each license shall remain in full force and effect until
132 relinquished, suspended, revoked or expired. With each initial
133 application for a license, the applicant shall pay the
134 commissioner at the time of making the application a license fee
135 of Seven Hundred Fifty Dollars (\$750.00), and on or before



136 September 1 of each year thereafter, an annual renewal fee of Four
137 Hundred Seventy-five Dollars (\$475.00). If the annual renewal fee
138 remains unpaid twenty-nine (29) days after September 1, the
139 license shall thereupon expire, but not before the thirtieth day
140 of September of any year for which the annual fee has been paid.
141 If any licensee fails to pay the annual renewal fee before the
142 thirtieth day of September of any year for which the renewal fee
143 is due, then the licensee shall be liable for the full amount of
144 the license fee, plus a penalty in an amount not to exceed
145 Twenty-five Dollars (\$25.00) for each day that the licensee has
146 engaged in business after September 30. All licensing fees and
147 penalties shall be paid into the Consumer Finance Fund of the
148 Department of Banking and Consumer Finance.

149 (4) Notwithstanding other provisions of this article, the
150 commissioner may issue a temporary license authorizing the
151 operator of a check casher business on the receipt of an
152 application for a license involving principals and owners that are
153 substantially identical to those of an existing licensed check
154 casher. The temporary license is effective until the permanent
155 license is issued or denied.

156 **SECTION 4.** Section 75-67-507, Mississippi Code of 1972, is
157 reenacted as follows:

158 75-67-507. The provisions of this article shall not apply
159 to:

160 (a) Any bank, trust company, savings association,
161 savings and loan association, savings bank or credit union which
162 is chartered under the laws of this state or under federal law and
163 domiciled in this state.

164 (b) Any person who cashes checks at their face value
165 and does not charge the consumer a fee or otherwise receive any
166 consideration from the consumer.

167 (c) Any person principally engaged in the retail sale
168 of goods or services who, either as an incident to or



169 independently of a retail sale, may from time to time cash checks
170 for a fee, not exceeding three percent (3%) of the face amount of
171 the check or Ten Dollars (\$10.00), whichever is greater. However,
172 the fee shall be conspicuously posted for public view.

173 **SECTION 5.** Section 75-67-509, Mississippi Code of 1972, is
174 reenacted as follows:

175 75-67-509. To be eligible for a check casher license, an
176 applicant shall:

177 (a) Operate lawfully and fairly within the purposes of
178 this article.

179 (b) Not have been convicted of a felony in the last ten
180 (10) years or be active as a beneficial owner for someone who has
181 been convicted of a felony in the last ten (10) years.

182 (c) File with the commissioner a bond with good
183 security in the penal sum of Ten Thousand Dollars (\$10,000.00),
184 payable to the State of Mississippi for the faithful performance
185 by the licensee of the duties and obligations pertaining to the
186 business so licensed and the prompt payment of any judgment which
187 may be recovered against the licensee on account of charges or
188 other claims arising directly or collectively from any violation
189 of the provisions of this article. The bond shall not be valid
190 until it is approved by the commissioner. The applicant may file,
191 in lieu of the bond, cash, a certificate of deposit or government
192 bonds in the amount of Ten Thousand Dollars (\$10,000.00). Those
193 deposits shall be filed with the commissioner and are subject to
194 the same terms and conditions as are provided for in the surety
195 bond required in this paragraph. Any interest or earnings on
196 those deposits are payable to the depositor.

197 (d) File with the commissioner an application for a
198 license and the initial license fee required in this article. If
199 applicant's application is approved, a check casher license will
200 be issued within thirty (30) days.



201 (e) Submit a set of fingerprints from any local law
202 enforcement agency. In order to determine the applicant's
203 suitability for license, the commissioner shall forward the
204 fingerprints to the Department of Public Safety; and if no
205 disqualifying record is identified at the state level, the
206 fingerprints shall be forwarded by the Department of Public Safety
207 to the FBI for a national criminal history record check.

208 (f) Complete and file with the commissioner an annual
209 renewal application for a license accompanied by the renewal fee
210 required in this article.

211 **SECTION 6.** Section 75-67-511, Mississippi Code of 1972, is
212 reenacted as follows:

213 75-67-511. Each application for a license shall be in a form
214 prescribed by the commissioner, signed under oath, and shall
215 include the following:

216 (a) The legal name, residence and business address of
217 the applicant and, if the applicant is a partnership, association
218 or corporation, of every member, officer and director thereof.

219 However, the application need not state the full name and
220 address of each shareholder, if the applicant is owned directly or
221 beneficially by a person which as an issuer has a class of
222 securities registered under Section 12 of the Securities and
223 Exchange Act of 1934 or is an issuer of securities which is
224 required to file reports with the Securities and Exchange
225 Commission under Section 15(d) of the Securities and Exchange Act,
226 provided that the person files with the commissioner such
227 information, documents and reports as are required by the
228 provisions of the Securities and Exchange Act to be filed by the
229 issuer with the Securities and Exchange Commission.

230 (b) The complete address of the location at which the
231 applicant proposes to engage in the business of cashing checks.



232 (c) Other data and information the department may
233 require with respect to the applicant, its directors, trustees,
234 officers, members or agents.

235 (d) Sworn financial statements of the applicant showing
236 a net worth of at least Twenty Thousand Dollars (\$20,000.00) for
237 the first license. The applicant shall possess and maintain a net
238 worth of at least Twenty Thousand Dollars (\$20,000.00) for the
239 first license and at least Five Thousand Dollars (\$5,000.00) for
240 each additional license.

241 **SECTION 7.** Section 75-67-513, Mississippi Code of 1972, is
242 reenacted as follows:

243 75-67-513. (1) Upon filing of an application in a form
244 prescribed by the commissioner, accompanied by the documents
245 required in this article, the department shall investigate to
246 ascertain whether the qualifications prescribed by Sections
247 75-67-509 and 75-67-511 have been satisfied. If the commissioner
248 finds that the qualifications have been satisfied and, if he
249 approves the documents so filed by the applicant, he shall issue
250 to the applicant a license to engage in the business of check
251 cashing in this state.

252 (2) The license shall be kept conspicuously posted in the
253 place of business of the licensee.

254 **SECTION 8.** Section 75-67-515, Mississippi Code of 1972, is
255 reenacted as follows:

256 75-67-515. (1) The department may adopt reasonable
257 administrative regulations, not inconsistent with law, for the
258 enforcement of this article.

259 (2) To assure compliance with the provisions of this
260 article, the department may examine the books and records of any
261 licensee without notice during normal business hours. The
262 commissioner may charge the licensee an examination fee in an
263 amount not less than Three Hundred Dollars (\$300.00) nor more than
264 Six Hundred Dollars (\$600.00) for each office or location within



265 the State of Mississippi plus any actual expenses incurred while
266 examining the licensee's records or books that are located outside
267 the State of Mississippi. However, in no event shall a licensee
268 be examined more than once in a two-year period unless for cause
269 shown based upon consumer complaint and/or other exigent reasons
270 as determined by the commissioner.

271 (3) Each licensee shall keep and use in its business any
272 books, accounts and records the department may require to carry
273 into effect the provisions of this article and the administrative
274 regulations issued under this article. Every licensee shall
275 preserve the books, accounts and records of its business for at
276 least two (2) years.

277 (4) Any fee charged by a licensee for cashing a check shall
278 be posted conspicuously to the bearer of the check before cashing
279 the check, and the fee shall be a service fee and not interest.

280 (5) Before a licensee deposits with any bank or other
281 depository institution a check cashed by the licensee, the check
282 shall be endorsed with the actual name under which the licensee is
283 doing business.

284 (6) All personal checks cashed for a customer by a licensee
285 shall be dated on the actual date the cash is tendered to the
286 customer.

287 (7) No licensee shall cash a check payable to a payee unless
288 the licensee has previously obtained appropriate identification of
289 the payee clearly indicating the authority of the person cashing
290 the check, draft or money order on behalf of the payee.

291 (8) No licensee shall indicate through advertising, signs,
292 billboards or otherwise that checks may be cashed without
293 identification of the bearer of the check; and any person seeking
294 to cash a check shall be required to submit reasonable
295 identification as prescribed by the department. The provisions of
296 this subsection shall not prohibit a licensee from cashing a check
297 simultaneously with the verification and establishment of the



298 identity of the presenter by means other than presentation of
299 identification.

300 (9) Within five (5) business days after being advised by the
301 payor financial institution that a check has been altered, forged,
302 stolen, obtained through fraudulent or illegal means, negotiated
303 without proper legal authority or represents the proceeds of
304 illegal activity, the licensee shall notify the department and the
305 district attorney for the judicial district in which the check was
306 received. If a check is returned to the licensee by the payor
307 financial institution for any of these reasons, the licensee may
308 not release the check without consent of the district attorney or
309 other investigating law enforcement authority.

310 (10) If a check is returned to a licensee from a payor
311 financial institution because there are insufficient funds in or
312 on deposit with the financial institution to pay the check, the
313 licensee or any other person on behalf of the licensee shall not
314 institute or initiate any criminal prosecution against the maker
315 or drawer of the personal check with the intent and purpose of
316 aiding in the collection of or enforcing the payment of the amount
317 owed to the check casher by the maker or drawer of the check.

318 (11) Nothing in this article shall prohibit a licensee from
319 issuing coupons to customers or potential customers which are
320 redeemable against a deferred deposit transaction provided the
321 redemption results in a financial benefit to the customer on
322 current or future transactions.

323 **SECTION 9.** Section 75-67-516, Mississippi Code of 1972, is
324 reenacted as follows:

325 75-67-516. A licensee shall not advertise, display or
326 publish, or permit to be advertised, displayed or published, in
327 any manner whatsoever, any statement or representation that is
328 false, misleading or deceptive.

329 **SECTION 10.** Section 75-67-517, Mississippi Code of 1972, is
330 reenacted as follows:



331 75-67-517. Notwithstanding any other provision of law, no
332 check cashing business licensed under this article shall directly
333 or indirectly charge or collect fees for check cashing services in
334 excess of the following:

335 (a) Three percent (3%) of the face amount of the check
336 or Five Dollars (\$5.00), whichever is greater, for checks issued
337 by the federal government, state government, or any agency of the
338 state or agency of the state or federal government, or any county
339 or municipality of this state.

340 (b) Ten percent (10%) of the face amount of the check
341 or Five Dollars (\$5.00), whichever is greater, for personal
342 checks.

343 (c) Five percent (5%) of the face amount of the check
344 or Five Dollars (\$5.00), whichever is greater, for all other
345 checks, or for money orders.

346 A licensee may not advance monies on the security of any
347 personal check unless the presenter attests that the check being
348 presented is drawn on a legitimate, open and active account.
349 Except as provided by Section 75-67-519, any licensee who cashes a
350 check for a fee shall deposit the check not later than three (3)
351 business days from the date the check is cashed.

352 **SECTION 11.** Section 75-67-519, Mississippi Code of 1972, is
353 amended as follows:

354 **[Through December 31, 2011, this section shall read as**
355 **follows:]**

356 75-67-519. (1) A licensee may defer the deposit of a
357 personal check cashed for a customer for up to thirty (30) days
358 under the provisions of this section.

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



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

371 (4) A licensee shall not directly or indirectly charge any
372 fee or other consideration for cashing a delayed deposit check in
373 excess of eighteen percent (18%) of the face amount of the check.

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

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

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



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

401 (9) Before entering any transactions under this section, a
402 licensee shall provide to the customer a pamphlet prepared by the
403 commissioner that describes general information about the
404 transaction and about the customer's rights and responsibilities
405 in the transaction, and that includes the consumer hotline phone
406 number to the Mississippi Department of Banking and Consumer
407 Finance and to the Mississippi Attorney General's office. Each
408 agreement executed by a licensee shall include the following
409 statement, which shall be located just above the signature line
410 for the customer:

411 "In addition to agreeing to the terms of this agreement, I
412 acknowledge, by my signature below, the receipt of a consumer
413 education pamphlet regarding this transaction."

414 **[From and after January 1, 2012, this section shall read as**
415 **follows:]**

416 75-67-519. (1) (a) A licensee may delay the deposit of a
417 personal check cashed for a customer with a face amount of not
418 more than Two Hundred Fifty Dollars (\$250.00) for up to thirty
419 (30) days under the provisions of this section.

420 (b) A licensee shall enter into a written agreement for
421 a delayed deposit transaction of a personal check cashed for a
422 customer with a face amount of more than Two Hundred Fifty Dollars
423 (\$250.00) but not more than Five Hundred Dollars (\$500.00) for a
424 period of at least twenty-eight (28) days but not more than thirty
425 (30) days, as selected by the customer, under the provisions of
426 this section, with the licensee having the option to deposit or
427 collect the check.



428 (2) The face amount of * * * delayed deposit checks cashed
429 under the provisions of this section shall not exceed Five Hundred
430 Dollars (\$500.00), including the amount of the fees. Each
431 customer is limited to a maximum amount of Five Hundred Dollars
432 (\$500.00), including the amount of the fees, at any time.

433 (3) Each delayed deposit check cashed by a licensee shall be
434 documented by a written agreement that has been signed by the
435 customer and the licensee. The written agreement shall contain a
436 statement of the total amount of any fees charged, expressed as a
437 dollar amount and as an annual percentage rate. The written
438 agreement shall authorize the licensee to delay deposit of the
439 personal check with a face amount of not more than Two Hundred
440 Fifty Dollars (\$250.00) until a specific date not later than
441 thirty (30) days from the date of the transaction, and shall
442 authorize the licensee to delay deposit or collection of the
443 personal check with a face amount of more than Two Hundred Fifty
444 Dollars (\$250.00) but not more than Five Hundred Dollars (\$500.00)
445 in accordance with the written agreement.

446 (4) (a) A licensee shall not directly or indirectly charge
447 any fee or other consideration in excess of Twenty Dollars
448 (\$20.00) per One Hundred Dollars (\$100.00) advanced for cashing a
449 delayed deposit check with a face amount of not more than Two
450 Hundred Fifty Dollars (\$250.00).

451 (b) A licensee shall not directly or indirectly charge
452 any fee or other consideration in excess of Twenty-one Dollars and
453 Ninety-five Cents (\$21.95) per One Hundred Dollars (\$100.00)
454 advanced for cashing a delayed deposit check with a face amount of
455 more than Two Hundred Fifty Dollars (\$250.00) but not more than
456 Five Hundred Dollars (\$500.00).

457 (c) In no event shall the amount of the checks cashed
458 exceed Five Hundred Dollars (\$500.00), including the amount of the
459 fee.



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

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

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

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

487 (9) Before entering any transactions under this section, a
488 licensee shall provide to the customer a pamphlet prepared by the
489 commissioner that describes general information about the
490 transaction and about the customer's rights and responsibilities
491 in the transaction, and that includes the consumer hotline phone
492 number to the Mississippi Department of Banking and Consumer



493 Finance and to the Mississippi Attorney General's office. Each
494 agreement executed by a licensee shall include the following
495 statement, which shall be located just above the signature line
496 for the customer:

497 "In addition to agreeing to the terms of this agreement, I
498 acknowledge, by my signature below, the receipt of a consumer
499 education pamphlet regarding this transaction."

500 **SECTION 12.** Section 75-67-521, Mississippi Code of 1972, is
501 reenacted as follows:

502 75-67-521. (1) The commissioner may, after notice and
503 hearing, suspend or revoke a license if he finds that:

504 (a) The licensee, either knowingly, or without the
505 exercise of due care to prevent the same, has violated any
506 provision of this article;

507 (b) Any fact or condition exists which, if it had
508 existed or had been known to exist at the time of the original
509 application for the license, clearly would have justified the
510 commissioner in refusing the license;

511 (c) The licensee has aided, abetted or conspired with
512 an individual or person to circumvent or violate the requirement
513 of this article;

514 (d) The licensee, or a legal or beneficial owner of the
515 license, has been convicted of a felony, or has been convicted of
516 a misdemeanor that the commissioner finds directly relates to the
517 duties and responsibilities of the business of check cashing.

518 (2) The commissioner may conditionally license or place on
519 probation a person whose license has been suspended or may
520 reprimand a licensee for a violation of this article.

521 (3) The manner of giving notice and conducting a hearing as
522 required by subsection (1) of this section shall be performed in
523 accordance with procedures prescribed by the commissioner in rules
524 or regulations adopted under Mississippi Administrative Procedures
525 Law, Section 25-43-1 et seq.



526 (4) Any licensee may surrender any license by delivering it
527 to the commissioner with written notice of its surrender, but that
528 surrender shall not affect the licensee's civil or criminal
529 liability for acts committed prior thereto.

530 (5) The commissioner may reinstate suspended licenses or
531 issue new licenses to a person whose license or licenses have been
532 revoked if no fact or condition then exists which clearly would
533 have justified the commissioner in refusing originally to issue a
534 license under this article.

535 (6) The appropriate local law enforcement agency shall be
536 notified of any licensee who has his license suspended or revoked
537 as provided by this article.

538 (7) The commissioner shall enforce the provisions of this
539 section.

540 **SECTION 13.** Section 75-67-523, Mississippi Code of 1972, is
541 reenacted as follows:

542 75-67-523. The commissioner, or his duly authorized
543 representative, for the purpose of discovering violations of this
544 article and for the purpose of determining whether persons are
545 subject to the provisions of this article, may examine persons
546 licensed under this article and persons reasonably suspected by
547 the commissioner of conducting business which requires a license
548 under this article, including all relevant books, records and
549 papers employed by those persons in the transaction of their
550 business, and may summon witnesses and examine them under oath
551 concerning matters relating to the business of those persons, or
552 such other matters as may be relevant to the discovery of
553 violations of this article, including without limiting the conduct
554 of business without a license as required under this article.

555 **SECTION 14.** Section 75-67-525, Mississippi Code of 1972, is
556 reenacted as follows:

557 75-67-525. (1) Any person who engages in the business of
558 check cashing without first securing a license prescribed by this



559 article shall be guilty of a misdemeanor and upon conviction
560 thereof, shall be punishable by a fine not in excess of One
561 Thousand Dollars (\$1,000.00) or by confinement in the county jail
562 for not more than one (1) year, or both.

563 (2) Any person who engages in the business of check cashing
564 without first securing a license prescribed by this article shall
565 be liable for the full amount of the license fee, plus a penalty
566 in an amount not to exceed Twenty-five Dollars (\$25.00) for each
567 day that the person has engaged in the business without a license.
568 All licensing fees and penalties shall be paid into the Consumer
569 Finance Fund of the Department of Banking and Consumer Finance.

570 **SECTION 15.** Section 75-67-527, Mississippi Code of 1972, is
571 reenacted as follows:

572 75-67-527. (1) In addition to any other penalty which may
573 be applicable, any licensee or employee who willfully violates any
574 provision of this article, or who willfully makes a false entry in
575 any record specifically required by this article, shall be guilty
576 of a misdemeanor and upon conviction thereof, shall be punishable
577 by a fine not in excess of One Thousand Dollars (\$1,000.00) per
578 violation or false entry.

579 (2) Compliance with the criminal provisions of this article
580 shall be enforced by the appropriate law enforcement agency, which
581 may exercise for that purpose any authority conferred upon the
582 agency by law.

583 (3) When the commissioner has reasonable cause to believe
584 that a person is violating any provision of this article, the
585 commissioner, in addition to and without prejudice to the
586 authority provided elsewhere in this article, may enter an order
587 requiring the person to stop or to refrain from the violation.
588 The commissioner may sue in any circuit court of the state having
589 jurisdiction and venue to enjoin the person from engaging in or
590 continuing the violation or from doing any act in furtherance of



591 the violation. In such an action, the court may enter an order or
592 judgment awarding a preliminary or permanent injunction.

593 (4) The commissioner may impose a civil penalty against any
594 licensee adjudged by the commissioner to be in violation of the
595 provisions of this article. The civil penalty shall not exceed
596 Five Hundred Dollars (\$500.00) per violation and shall be
597 deposited into the Department of Banking and Consumer Finance,
598 "Consumer Finance Fund."

599 (5) Any licensee convicted in the manner provided in this
600 article shall forfeit the surety bond or deposit required in
601 Section 75-67-509(c) and the amount of the bond or deposit shall
602 be credited to the budget of the state or local agency which
603 directly participated in the prosecution of the licensee, for the
604 specific purpose of increasing law enforcement resources for that
605 specific state or local agency. The bond or deposit shall be used
606 to augment existing state and local law enforcement budgets and
607 not to supplant them.

608 **SECTION 16.** Section 75-67-529, Mississippi Code of 1972, is
609 reenacted as follows:

610 75-67-529. The provisions of this article are severable. If
611 any part of this article is declared invalid or unconstitutional,
612 that declaration shall not affect the parts which remain.

613 **SECTION 17.** Section 75-67-531, Mississippi Code of 1972, is
614 reenacted as follows:

615 75-67-531. Check cashers operating check cashing locations
616 in business as of July 1, 1998, shall have until September 30,
617 1998, to apply for a license under this article, and upon the
618 approval of the application, the commissioner shall grant a
619 license under this article.

620 **SECTION 18.** Section 75-67-533, Mississippi Code of 1972, is
621 reenacted as follows:

622 75-67-533. The commissioner shall develop and provide any
623 necessary forms to carry out the provisions of this article.



624 **SECTION 19.** Section 75-67-535, Mississippi Code of 1972, is
625 reenacted as follows:

626 75-67-535. Municipalities in this state may enact ordinances
627 which are in compliance with, but not more restrictive than, the
628 provisions of this article. Any existing or future order,
629 ordinance or regulation which conflicts with this provision shall
630 be null and void.

631 **SECTION 20.** Section 75-67-537, Mississippi Code of 1972, is
632 reenacted as follows:

633 75-67-537. The commissioner may employ the necessary
634 full-time employees above the number of permanent full-time
635 employees authorized for the department for fiscal year 1999, to
636 carry out and enforce the provisions of this article. The
637 commissioner may also expend the necessary funds to equip and
638 provide necessary travel expenses for those employees.

639 **SECTION 21.** Section 75-67-539, Mississippi Code of 1972, is
640 amended as follows:

641 75-67-539. Sections 75-67-501 through 75-67-537 shall stand
642 repealed on July 1, 2015.

643 **SECTION 22.** This act shall take effect and be in force from
644 and after its passage.

