HOUSE BILL NO. 457

To: Banking and Financial Services
By: Representative Flaggs

AN ACT TO REENACT SECTIONS 75-67-501 THROUGH 75-67-537, MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI CHECK CASHERS ACT; TO AMEND REENACTED SECTION 75-67-505, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY TRANSACTION THAT WOULD BE SUBJECT TO THE CHECK CASHERS ACT THAT IS MADE BY A PERSON WHO DOES NOT HAVE A VALID LICENSE UNDER THE ACT SHALL BE NULL AND VOID; TO AMEND REENACTED SECTION 75-67-519, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE PERIOD OF A DELAYED DEPOSIT CHECK SHALL BE FOR 28 DAYS INSTEAD OF UP TO 30 DAYS; TO INCREASE THE MAXIMUM FACE AMOUNT OF A DELAYED DEPOSIT CHECK AND INCREASE THE MAXIMUM AMOUNT THAT A CUSTOMER MAY HAVE OUTSTANDING AT ANY TIME; TO DIRECT THE COMMISSIONER OF BANKING TO PROVIDE FOR THE DEVELOPMENT OF A DATABASE IN WHICH LICENSEES MUST RECORD EACH DELAYED DEPOSIT TRANSACTION IN ORDER TO PREVENT VIOLATIONS OF THE MAXIMUM AMOUNT THAT MAY BE OUTSTANDING; TO AUTHORIZE THE COMMISSIONER TO CHARGE A FEE TO LICENSEES AS NECESSARY TO MAINTAIN THE DATABASE SYSTEM; TO REVISE THE FEE THAT LICENSEES MAY CHARGE FOR CASHING A DELAYED DEPOSIT CHECK FROM A PERCENTAGE OF THE FACE VALUE OF THE CHECK TO A STATED DOLLAR AMOUNT PER ONE HUNDRED DOLLARS ADVANCED; TO REQUIRE LICENSEES TO PROVIDE THE BORROWER A PAMPHLET PREPARED BY THE COMMISSIONER THAT DESCRIBES GENERAL INFORMATION ABOUT THE TRANSACTION AND ABOUT THE BORROWER'S RIGHTS AND RESPONSIBILITIES IN THE TRANSACTION, BEFORE ENTERING INTO A DELAYED DEPOSIT TRANSACTION UNDER THIS SECTION OR AN ALTERNATIVE LOAN TRANSACTION UNDER SECTION 75-67-520; TO CREATE NEW SECTION 75-67-520, MISSISSIPPI CODE OF 1972, TO AUTHORIZE LICENSEES TO MAKE UNSECURED LOANS IN AMOUNTS LESS THAN $1,500.00 AS AN ALTERNATIVE TO, AND NOT IN ADDITION TO, ANY DELAYED DEPOSIT TRANSACTION AUTHORIZED UNDER THE CHECK CASHERS ACT; TO AUTHORIZE LICENSEES TO CHARGE AN ACQUISITION CHARGE FOR MAKING THE LOAN AND AN INSTALLMENT ACCOUNT HANDLING CHARGE; TO PROVIDE FOR THE FULL OR PARTIAL REFUND OF THOSE CHARGES IF THE BORROWER REPAYS THE LOAN EARLY; TO AUTHORIZE THE LICENSEES TO CHARGE AN ADDITIONAL LATE CHARGE WHEN A SCHEDULED PAYMENT IS IN DEFAULT OR DELINQUENT; TO PROVIDE FOR THE MINIMUM AND MAXIMUM TERM OF ANY LOAN MADE UNDER THIS SECTION; TO PROVIDE THAT THE PRINCIPAL LOAN AMOUNT AND CHARGES SHALL BE REPAID IN INSTALLMENTS, WHICH SHALL BE PAYABLE AT APPROXIMATELY EQUAL PERIODIC INTERVALS OF TIME AND SHALL BE SO ARRANGED THAT NO INSTALLMENT IS SUBSTANTIALLY GREATER IN AMOUNT THAN ANY PRECEDING INSTALLMENT; TO AUTHORIZE LICENSEES TO CHARGE A BAD CHECK CHARGE IF A CHECK OR OTHER INSTRUMENT GIVEN IN FULL OR PARTIAL PAYMENT OF A LOAN IS DISHONORED BY THE DEPOSITORY INSTITUTION; TO SPECIFY THE LICENSEE'S DUTIES WITH REGARD TO MAKING AND RECEIVING PAYMENTS FOR A LOAN UNDER THIS SECTION; TO PROVIDE FOR FORFEITURE OF ALL CHARGES BY THE LICENSEE IF ANY CHARGE IN EXCESS OF THAT EXPRESSLY PERMITTED BY THIS SECTION IS CONTRACTED FOR OR RECEIVED; TO AMEND
SECTION 75-67-539, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF
THE REPEALER ON THE CHECK CASHERS ACT; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Each license shall remain in full force and effect until
relinquished, suspended, revoked or expired. With each initial
application for a license, the applicant shall pay the
commissioner at the time of making the application a license fee
of Seven Hundred Fifty Dollars ($750.00), and on or before
September 1 of each year thereafter, an annual renewal fee of Four
Hundred Seventy-five Dollars ($475.00). If the annual renewal fee
remains unpaid twenty-nine (29) days after September 1, the
license shall thereupon expire, but not before the thirtieth day
of September of any year for which the annual fee has been paid.
If any licensee fails to pay the annual renewal fee before the
thirtieth day of September of any year for which the renewal fee
is due, then the licensee shall be liable for the full amount of
the license fee, plus a penalty in an amount not to exceed
Twenty-five Dollars ($25.00) for each day that the licensee has
engaged in business after September 30. All licensing fees and
penalties shall be paid into the Consumer Finance Fund of the
Department of Banking and Consumer Finance.

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

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

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

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

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

(c) Any person principally engaged in the retail sale of goods or services who, either as an incident to or independently of a retail sale, may from time to time cash checks for a fee, not exceeding three percent (3%) of the face amount of the check or Ten Dollars ($10.00), whichever is greater. However, the fee shall be conspicuously posted for public view.

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

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

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

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

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

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

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

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

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

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

(a) The legal name, residence and business address of the applicant and, if the applicant is a partnership, association or corporation, of every member, officer and director thereof. However, the application need not state the full name and address of each shareholder, if the applicant is owned directly or beneficially by a person which as an issuer has a class of securities registered under Section 12 of the Securities and Exchange Act of 1934 or is an issuer of securities which is required to file reports with the Securities and Exchange Commission under Section 15(d) of the Securities and Exchange Act, provided that the person files with the commissioner such information, documents and reports as are required by the
provisions of the Securities and Exchange Act to be filed by the
issuer with the Securities and Exchange Commission.

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

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

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

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

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

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

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

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

(2) To assure compliance with the provisions of this
article, the department may examine the books and records of any
licensee without notice during normal business hours. The commissioner may charge the licensee an examination fee in an amount not less than Three Hundred Dollars ($300.00) nor more than Six Hundred Dollars ($600.00) for each office or location within the State of Mississippi plus any actual expenses incurred while examining the licensee's records or books that are located outside the State of Mississippi. However, in no event shall a licensee be examined more than once in a two-year period unless for cause shown based upon consumer complaint and/or other exigent reasons as determined by the commissioner.

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

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

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

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

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

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

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

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

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

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

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

SECTION 10. Section 75-67-517, Mississippi Code of 1972, is reenacted as follows:
75-67-517. Notwithstanding any other provision of law, no check cashing business licensed under this article shall directly or indirectly charge or collect fees for check cashing services in excess of the following:

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

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

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

A licensee may not advance monies on the security of any personal check unless the presenter attests that the check being presented is drawn on a legitimate, open and active account.

Except as provided by Section 75-67-519, any licensee who cashes a check for a fee shall deposit the check not later than three (3) business days from the date the check is cashed.

SECTION 11. Section 75-67-519, Mississippi Code of 1972, is reenacted and amended as follows:
75-67-519. (1) A licensee shall delay the deposit of a personal check cashed for a customer for twenty-eight (28) 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 Five Hundred Dollars ($500.00). Each customer is limited to a maximum amount

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of Five Hundred Dollars ($500.00) at any time. The commissioner shall provide for the development of a database in which licensees shall record each delayed deposit transaction in order to prevent violations of this subsection. The commissioner shall adopt rules governing the creation, structure and use of the database, which includes charging a fee to licensees as necessary to maintain the database system.

(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 delay deposit of the personal check for twenty-eight (28) days from the date of the transaction.

(4) A licensee shall not directly or indirectly charge any fee or other consideration for cashing a delayed deposit check in excess of Eighteen Dollars ($18.00) per One Hundred Dollars ($100.00) advanced; however, in no event shall the amount of the check cashed exceed Five Hundred Dollars ($500.00), including the amount of the fee.

(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 delayed 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 such 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.

(9) Before entering into a delayed deposit transaction under this section or an alternative loan transaction under Section 75-67-520, a licensee shall provide to the borrower a pamphlet prepared by the commissioner that describes general information about the transaction and about the borrower's rights and responsibilities in the transaction. Each agreement executed by a licensee shall include the following statement, which shall be located just above the signature line for the borrower:

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

SECTION 12. The following shall be codified as Section 75-67-520, Mississippi Code of 1972:

75-67-520. (1) As an alternative to, and not in addition to, any delayed deposit transaction authorized under this article, a licensee may contract for and receive charges on any unsecured loan of an amount less than One Thousand Five Hundred Dollars ($1,500.00) at a rate not exceeding the following:
(a) A licensee may charge an acquisition charge for making the loan in an amount not exceeding ten percent (10%) of the amount of the principal.

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

(i) Sixteen Dollars ($16.00) per month on any loan of an amount exceeding Five Hundred Dollars ($500.00), but not more than Six Hundred Dollars ($600.00).

(ii) Seventeen Dollars ($17.00) per month on any loan of an amount exceeding Six Hundred Dollars ($600.00), but not more than Eight Hundred Dollars ($800.00).

(iii) Twenty Dollars ($20.00) per month on any loan of an amount exceeding Eight Hundred Dollars ($800.00), but less than One Thousand Five Hundred Dollars ($1,500.00).

(2) (a) When any loan is paid in full by cash, a new loan, renewal or otherwise, one (1) month or more before the final installment date, the licensee shall refund or credit the borrower with that portion of the installment account handling charge that is due to the borrower as calculated on a pro rata basis. No refund of less than One Dollar ($1.00) need be made. The acquisition charge shall not be subject to refund.

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

(3) If the contract so provides, when a scheduled payment is in default or delinquent for ten (10) or more days, the licensee shall charge and collect an additional late charge not to exceed the greater of Ten Dollars ($10.00) or five percent (5%) of the amount of the scheduled payment in default. Any late charges permitted under this subsection may be collected only once on any scheduled payment, regardless of the period during which the payment remains in default or is delinquent.
The minimum term of any loan made under this section is three (3) months and the maximum term of any loan made under this section is twelve (12) months. Every loan contract shall provide for repayment of the principal loan amount and charges in installments, which shall be payable at approximately equal periodic intervals of time and shall be so arranged that no installment is substantially greater in amount than any preceding installment. The scheduled payments shall be in amounts equal to or greater than Forty Dollars ($40.00) per month, inclusive of the installment account handling charge. The acquisition charge and the installment account handling charge may be calculated for the term of the contract and added to the amount of the principal.

(5) The licensee may require, within the contract, payment by the borrower of any actual court costs in any civil action brought by licensee to enforce the contract.

(6) Any licensee who receives a check, draft, negotiable order of withdrawal or like instrument drawn on a bank or other depository institution given by any person in full or partial payment of a loan may, if that instrument is not paid or is dishonored by the institution, charge and collect from the borrower a bad check charge in an amount not to exceed Fifteen Dollars ($15.00). This charge may be made only once with respect to the same instrument, and after the nonpayment or dishonor of the instrument, it shall be returned by the licensee to the borrower. This charge shall not be deemed to be a finance charge or other charge made as an incident to or as a condition to the grant of the loan and shall not be included in determining the limit on charges that may be made in connection with the loan as provided in this section or in any other law of this state.

(7) No insurance charge, or any other charge of any nature whatsoever, is permitted for loans made under this section, except for those charges and fees permitted in this section.
(8) The loan charges allowed under this section may not be imposed on more than one (1) outstanding loan to a borrower with the licensee.

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

(10) Every licensee shall:

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

      (i) Name and address of the lender and the borrower.

      (ii) Date of the loan contract and the period of time for which the loan is extended.

      (iii) Schedule of installments or description thereof.

      (iv) Amount of the cash advanced.

      (v) Total amount of the note.

      (vi) All charges allowed by this section.

      (vii) Annual percentage rate (APR) of all charges as defined by the Federal Truth-in-Lending Act.

   (b) Give to the person making any cash payment on the account of any loan, a receipt at the time the payment is made.

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

   (d) Upon repayment of the loan in full, mark plainly every obligation signed by any borrower with the word "Paid" or "Cancelled."

(11) If any charge in excess of that expressly permitted by this section is contracted for or received, all charges shall be forfeited and may be recovered. If any charge is contracted for or received that exceeds the maximum charge authorized by this
section by more than one hundred percent (100%), the principal and
all charges shall be forfeited and any amount paid may be
recovered by suit.

SECTION 13. Section 75-67-521, Mississippi Code of 1972, is
reenacted as follows:

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

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

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

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

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

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

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

(4) Any licensee may surrender any license by delivering it
to the commissioner with written notice of its surrender, but that
surrender shall not affect the licensee's civil or criminal
liability for acts committed prior thereto.
(5) The commissioner may reinstate suspended licenses or issue new licenses to a person whose license or licenses have been revoked if no fact or condition then exists which clearly would have justified the commissioner in refusing originally to issue a license under this article.

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

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

SECTION 14. Section 75-67-523, Mississippi Code of 1972, is reenacted as follows:

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

SECTION 15. Section 75-67-525, Mississippi Code of 1972, is reenacted as follows:

75-67-525. (1) Any person who engages in the business of check cashing without first securing a license prescribed by this article shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine not in excess of One Thousand Dollars ($1,000.00) or by confinement in the county jail for not more than one (1) year, or both.
(2) Any person who engages in the business of check cashing without first securing a license prescribed by this article shall be liable for the full amount of the license fee, plus a penalty in an amount not to exceed Twenty-five Dollars ($25.00) for each day that the person has engaged in the business without a license. All licensing fees and penalties shall be paid into the Consumer Finance Fund of the Department of Banking and Consumer Finance.

SECTION 16. Section 75-67-527, Mississippi Code of 1972, is reenacted as follows:

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

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

(3) When the commissioner has reasonable cause to believe that a person is violating any provision of this article, the commissioner, in addition to and without prejudice to the authority provided elsewhere in this article, may enter an order requiring the person to stop or to refrain from the violation. The commissioner may sue in any circuit court of the state having jurisdiction and venue to enjoin the person from engaging in or continuing the violation or from doing any act in furtherance of the violation. In such an action, the court may enter an order or judgment awarding a preliminary or permanent injunction.

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

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

SECTION 17. Section 75-67-529, Mississippi Code of 1972, is reenacted as follows:

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

SECTION 18. Section 75-67-531, Mississippi Code of 1972, is reenacted as follows:

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

SECTION 19. Section 75-67-533, Mississippi Code of 1972, is reenacted as follows:

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

SECTION 20. Section 75-67-535, Mississippi Code of 1972, is reenacted as follows:

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

SECTION 21. Section 75-67-537, Mississippi Code of 1972, is reenacted as follows:

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

SECTION 22. Section 75-67-539, Mississippi Code of 1972, is amended as follows:


SECTION 23. This act shall take effect and be in force from and after July 1, 2011.