

By: Representative Flaggs

To: Banking and Financial
Services

HOUSE BILL NO. 457

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 SHALL BE FOR 28 DAYS
9 INSTEAD OF UP TO 30 DAYS; TO INCREASE THE MAXIMUM FACE AMOUNT OF
10 A DELAYED DEPOSIT CHECK AND INCREASE THE MAXIMUM AMOUNT THAT A
11 CUSTOMER MAY HAVE OUTSTANDING AT ANY TIME; TO DIRECT THE
12 COMMISSIONER OF BANKING TO PROVIDE FOR THE DEVELOPMENT OF A
13 DATABASE IN WHICH LICENSEES MUST RECORD EACH DELAYED DEPOSIT
14 TRANSACTION IN ORDER TO PREVENT VIOLATIONS OF THE MAXIMUM AMOUNT
15 THAT MAY BE OUTSTANDING; TO AUTHORIZE THE COMMISSIONER TO CHARGE A
16 FEE TO LICENSEES AS NECESSARY TO MAINTAIN THE DATABASE SYSTEM; TO
17 REVISE THE FEE THAT LICENSEES MAY CHARGE FOR CASHING A DELAYED
18 DEPOSIT CHECK FROM A PERCENTAGE OF THE FACE VALUE OF THE CHECK TO
19 A STATED DOLLAR AMOUNT PER ONE HUNDRED DOLLARS ADVANCED; TO
20 REQUIRE LICENSEES TO PROVIDE THE BORROWER A PAMPHLET PREPARED BY
21 THE COMMISSIONER THAT DESCRIBES GENERAL INFORMATION ABOUT THE
22 TRANSACTION AND ABOUT THE BORROWER'S RIGHTS AND RESPONSIBILITIES
23 IN THE TRANSACTION, BEFORE ENTERING INTO A DELAYED DEPOSIT
24 TRANSACTION UNDER THIS SECTION OR AN ALTERNATIVE LOAN TRANSACTION
25 UNDER SECTION 75-67-520; TO CREATE NEW SECTION 75-67-520,
26 MISSISSIPPI CODE OF 1972, TO AUTHORIZE LICENSEES TO MAKE UNSECURED
27 LOANS IN AMOUNTS LESS THAN \$1,500.00 AS AN ALTERNATIVE TO, AND NOT
28 IN ADDITION TO, ANY DELAYED DEPOSIT TRANSACTION AUTHORIZED UNDER
29 THE CHECK CASHERS ACT; TO AUTHORIZE LICENSEES TO CHARGE AN
30 ACQUISITION CHARGE FOR MAKING THE LOAN AND AN INSTALLMENT ACCOUNT
31 HANDLING CHARGE; TO PROVIDE FOR THE FULL OR PARTIAL REFUND OF
32 THOSE CHARGES IF THE BORROWER REPAYS THE LOAN EARLY; TO AUTHORIZE
33 THE LICENSEES TO CHARGE AN ADDITIONAL LATE CHARGE WHEN A SCHEDULED
34 PAYMENT IS IN DEFAULT OR DELINQUENT; TO PROVIDE FOR THE MINIMUM
35 AND MAXIMUM TERM OF ANY LOAN MADE UNDER THIS SECTION; TO PROVIDE
36 THAT THE PRINCIPAL LOAN AMOUNT AND CHARGES SHALL BE REPAID IN
37 INSTALLMENTS, WHICH SHALL BE PAYABLE AT APPROXIMATELY EQUAL
38 PERIODIC INTERVALS OF TIME AND SHALL BE SO ARRANGED THAT NO
39 INSTALLMENT IS SUBSTANTIALLY GREATER IN AMOUNT THAN ANY PRECEDING
40 INSTALLMENT; TO AUTHORIZE LICENSEES TO CHARGE A BAD CHECK CHARGE
41 IF A CHECK OR OTHER INSTRUMENT GIVEN IN FULL OR PARTIAL PAYMENT OF
42 A LOAN IS DISHONORED BY THE DEPOSITORY INSTITUTION; TO SPECIFY THE
43 LICENSEE'S DUTIES WITH REGARD TO MAKING AND RECEIVING PAYMENTS FOR
44 A LOAN UNDER THIS SECTION; TO PROVIDE FOR FORFEITURE OF ALL
45 CHARGES BY THE LICENSEE IF ANY CHARGE IN EXCESS OF THAT EXPRESSLY
46 PERMITTED BY THIS SECTION IS CONTRACTED FOR OR RECEIVED; TO AMEND



47 SECTION 75-67-539, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF
48 THE REPEALER ON THE CHECK CASHERS ACT; AND FOR RELATED PURPOSES.

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

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

52 75-67-501. This article shall be known and may be cited as
53 the "Mississippi Check Cashers Act."

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

56 75-67-503. The following words and phrases used in this
57 article shall have the following meanings unless the context
58 clearly indicates otherwise:

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

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

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

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

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



81 (f) "Department" means the Department of Banking and
82 Consumer Finance.

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

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

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

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

98 75-67-505. (1) (a) A person may not engage in business as
99 a check casher or otherwise portray himself as a check casher
100 unless the person has a valid license authorizing engagement in
101 the business. Any transaction that would be subject to this
102 article that is made by a person who does not have a valid license
103 under this article shall be null and void. A separate license is
104 required for each place of business under this article and each
105 business must be independent of, and not a part of, any other
106 business operation. A check cashing business shall not be a part
107 of, or located at the same business address with, a pawnshop,
108 title pledge office and small loan company.

109 (b) A check cashing business shall (i) have a
110 definitive United States Postal address and E911 address; (ii)
111 comply with local zoning requirements; (iii) have a minimum of one
112 hundred (100) square feet with walls from floor to ceiling
113 separating the operation from any other businesses; (iv) have an



114 outside entrance, but may be located in an area that has a common
115 lobby shared by other businesses as long as the customers do not
116 enter the check cashing business through another business; (v)
117 have proper signage; and (vi) maintain separate books and records.
118 Any licensee who does not cash any delayed deposit checks as
119 authorized under Section 75-67-519 shall not be subject to the
120 requirements of subparagraphs (i), (iii) and (iv) of this
121 paragraph.

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

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

144 (2) When a licensee wishes to move a check casher business
145 to another location, the licensee shall give thirty (30) days'



146 prior written notice to the commissioner who shall amend the
147 license accordingly.

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

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

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

175 75-67-507. The provisions of this article shall not apply
176 to:

177 (a) Any bank, trust company, savings association,
178 savings and loan association, savings bank or credit union which



179 is chartered under the laws of this state or under federal law and
180 domiciled in this state.

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

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

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

192 75-67-509. To be eligible for a check casher license, an
193 applicant shall:

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

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

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



212 bond required in this paragraph. Any interest or earnings on
213 those deposits are payable to the depositor.

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

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

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

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

230 75-67-511. Each application for a license shall be in a form
231 prescribed by the commissioner, signed under oath, and shall
232 include the following:

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

236 However, the application need not state the full name and
237 address of each shareholder, if the applicant is owned directly or
238 beneficially by a person which as an issuer has a class of
239 securities registered under Section 12 of the Securities and
240 Exchange Act of 1934 or is an issuer of securities which is
241 required to file reports with the Securities and Exchange
242 Commission under Section 15(d) of the Securities and Exchange Act,
243 provided that the person files with the commissioner such
244 information, documents and reports as are required by the



245 provisions of the Securities and Exchange Act to be filed by the
246 issuer with the Securities and Exchange Commission.

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

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

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

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

260 75-67-513. (1) Upon filing of an application in a form
261 prescribed by the commissioner, accompanied by the documents
262 required in this article, the department shall investigate to
263 ascertain whether the qualifications prescribed by Sections
264 75-67-509 and 75-67-511 have been satisfied. If the commissioner
265 finds that the qualifications have been satisfied and, if he
266 approves the documents so filed by the applicant, he shall issue
267 to the applicant a license to engage in the business of check
268 cashing in this state.

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

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

273 75-67-515. (1) The department may adopt reasonable
274 administrative regulations, not inconsistent with law, for the
275 enforcement of this article.

276 (2) To assure compliance with the provisions of this
277 article, the department may examine the books and records of any



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

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

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

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

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

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

308 (8) No licensee shall indicate through advertising, signs,
309 billboards or otherwise that checks may be cashed without
310 identification of the bearer of the check; and any person seeking



311 to cash a check shall be required to submit reasonable
312 identification as prescribed by the department. The provisions of
313 this subsection shall not prohibit a licensee from cashing a check
314 simultaneously with the verification and establishment of the
315 identity of the presenter by means other than presentation of
316 identification.

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

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

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

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

342 75-67-516. A licensee shall not advertise, display or
343 publish, or permit to be advertised, displayed or published, in



344 any manner whatsoever, any statement or representation that is
345 false, misleading or deceptive.

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

348 75-67-517. Notwithstanding any other provision of law, no
349 check cashing business licensed under this article shall directly
350 or indirectly charge or collect fees for check cashing services in
351 excess of the following:

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

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

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

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

369 **SECTION 11.** Section 75-67-519, Mississippi Code of 1972, is
370 reenacted and amended as follows:

371 75-67-519. (1) A licensee shall delay the deposit of a
372 personal check cashed for a customer for twenty-eight (28) days
373 under the provisions of this section.

374 (2) The face amount of any delayed deposit check cashed
375 under the provisions of this section shall not exceed Five Hundred
376 Dollars (\$500.00). Each customer is limited to a maximum amount



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

384 (3) Each delayed deposit check cashed by a licensee shall be
385 documented by a written agreement that has been signed by the
386 customer and the licensee. The written agreement shall contain a
387 statement of the total amount of any fees charged, expressed as a
388 dollar amount and as an annual percentage rate. The written
389 agreement shall authorize the licensee to delay deposit of the
390 personal check for twenty-eight (28) days from the date of the
391 transaction.

392 (4) A licensee shall not directly or indirectly charge any
393 fee or other consideration for cashing a delayed deposit check in
394 excess of Eighteen Dollars (\$18.00) per One Hundred Dollars
395 (\$100.00) advanced; however, in no event shall the amount of the
396 check cashed exceed Five Hundred Dollars (\$500.00), including the
397 amount of the fee.

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

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

405 (7) A licensee shall not charge a late fee or collection fee
406 on any delayed deposit transaction as a result of a returned check
407 or the default by the customer in timely payment to the licensee.
408 Notwithstanding anything to the contrary contained in this
409 section, a licensee may charge a processing fee, not to exceed an



410 amount authorized by the commissioner, for a check returned for
411 any reason, including, without limitation, insufficient funds,
412 closed account or stop payment, if such processing fee is
413 authorized in the written agreement signed by the customer and
414 licensee. In addition, if a licensee takes legal action against a
415 customer to collect the amount of a delayed deposit check for
416 which the licensee has not obtained payment and obtains a judgment
417 against the customer for the amount of that check, the licensee
418 shall also be entitled to any court-awarded fees.

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

424 (9) Before entering into a delayed deposit transaction under
425 this section or an alternative loan transaction under Section
426 75-67-520, a licensee shall provide to the borrower a pamphlet
427 prepared by the commissioner that describes general information
428 about the transaction and about the borrower's rights and
429 responsibilities in the transaction. Each agreement executed by a
430 licensee shall include the following statement, which shall be
431 located just above the signature line for the borrower:

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

435 **SECTION 12.** The following shall be codified as Section
436 75-67-520, Mississippi Code of 1972:

437 75-67-520. (1) As an alternative to, and not in addition
438 to, any delayed deposit transaction authorized under this article,
439 a licensee may contract for and receive charges on any unsecured
440 loan of an amount less than One Thousand Five Hundred Dollars
441 (\$1,500.00) at a rate not exceeding the following:



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

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

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

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

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

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

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

467 (3) If the contract so provides, when a scheduled payment is
468 in default or delinquent for ten (10) or more days, the licensee
469 shall charge and collect an additional late charge not to exceed
470 the greater of Ten Dollars (\$10.00) or five percent (5%) of the
471 amount of the scheduled payment in default. Any late charges
472 permitted under this subsection may be collected only once on any
473 scheduled payment, regardless of the period during which the
474 payment remains in default or is delinquent.



475 (4) The minimum term of any loan made under this section is
476 three (3) months and the maximum term of any loan made under this
477 section is twelve (12) months. Every loan contract shall provide
478 for repayment of the principal loan amount and charges in
479 installments, which shall be payable at approximately equal
480 periodic intervals of time and shall be so arranged that no
481 installment is substantially greater in amount than any preceding
482 installment. The scheduled payments shall be in amounts equal to
483 or greater than Forty Dollars (\$40.00) per month, inclusive of the
484 installment account handling charge. The acquisition charge and
485 the installment account handling charge may be calculated for the
486 term of the contract and added to the amount of the principal.

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

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

504 (7) No insurance charge, or any other charge of any nature
505 whatsoever, is permitted for loans made under this section, except
506 for those charges and fees permitted in this section.



507 (8) The loan charges allowed under this section may not be
508 imposed on more than one (1) outstanding loan to a borrower with
509 the licensee.

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

513 (10) Every licensee shall:

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

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

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

521 (iii) Schedule of installments or description
522 thereof.

523 (iv) Amount of the cash advanced.

524 (v) Total amount of the note.

525 (vi) All charges allowed by this section.

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

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

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

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

536 (11) If any charge in excess of that expressly permitted by
537 this section is contracted for or received, all charges shall be
538 forfeited and may be recovered. If any charge is contracted for
539 or received that exceeds the maximum charge authorized by this



540 section by more than one hundred percent (100%), the principal and
541 all charges shall be forfeited and any amount paid may be
542 recovered by suit.

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

545 75-67-521. (1) The commissioner may, after notice and
546 hearing, suspend or revoke a license if he finds that:

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

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

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

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

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

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

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



573 (5) The commissioner may reinstate suspended licenses or
574 issue new licenses to a person whose license or licenses have been
575 revoked if no fact or condition then exists which clearly would
576 have justified the commissioner in refusing originally to issue a
577 license under this article.

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

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

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

585 75-67-523. The commissioner, or his duly authorized
586 representative, for the purpose of discovering violations of this
587 article and for the purpose of determining whether persons are
588 subject to the provisions of this article, may examine persons
589 licensed under this article and persons reasonably suspected by
590 the commissioner of conducting business which requires a license
591 under this article, including all relevant books, records and
592 papers employed by those persons in the transaction of their
593 business, and may summon witnesses and examine them under oath
594 concerning matters relating to the business of those persons, or
595 such other matters as may be relevant to the discovery of
596 violations of this article, including without limiting the conduct
597 of business without a license as required under this article.

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

600 75-67-525. (1) Any person who engages in the business of
601 check cashing without first securing a license prescribed by this
602 article shall be guilty of a misdemeanor and upon conviction
603 thereof, shall be punishable by a fine not in excess of One
604 Thousand Dollars (\$1,000.00) or by confinement in the county jail
605 for not more than one (1) year, or both.



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

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

615 75-67-527. (1) In addition to any other penalty which may
616 be applicable, any licensee or employee who willfully violates any
617 provision of this article, or who willfully makes a false entry in
618 any record specifically required by this article, shall be guilty
619 of a misdemeanor and upon conviction thereof, shall be punishable
620 by a fine not in excess of One Thousand Dollars (\$1,000.00) per
621 violation or false entry.

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

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

636 (4) The commissioner may impose a civil penalty against any
637 licensee adjudged by the commissioner to be in violation of the
638 provisions of this article. The civil penalty shall not exceed



639 Five Hundred Dollars (\$500.00) per violation and shall be
640 deposited into the Department of Banking and Consumer Finance,
641 "Consumer Finance Fund."

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

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

653 75-67-529. The provisions of this article are severable. If
654 any part of this article is declared invalid or unconstitutional,
655 that declaration shall not affect the parts which remain.

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

658 75-67-531. Check cashers operating check cashing locations
659 in business as of July 1, 1998, shall have until September 30,
660 1998, to apply for a license under this article, and upon the
661 approval of the application, the commissioner shall grant a
662 license under this article.

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

665 75-67-533. The commissioner shall develop and provide any
666 necessary forms to carry out the provisions of this article.

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

669 75-67-535. Municipalities in this state may enact ordinances
670 which are in compliance with, but not more restrictive than, the
671 provisions of this article. Any existing or future order,



672 ordinance or regulation which conflicts with this provision shall
673 be null and void.

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

676 75-67-537. The commissioner may employ the necessary
677 full-time employees above the number of permanent full-time
678 employees authorized for the department for fiscal year 1999, to
679 carry out and enforce the provisions of this article. The
680 commissioner may also expend the necessary funds to equip and
681 provide necessary travel expenses for those employees.

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

684 75-67-539. Sections 75-67-501 through 75-67-537 shall stand
685 repealed on July 1, 2019.

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

