HOUSE BILL NO. 780

AN ACT TO AMEND SECTION 75-67-519, MISSISSIPPI CODE OF 1972, TO PROHIBIT CHECK CASHERS FROM CASHING A DELAYED DEPOSIT CHECK FOR ANY PERSON WHO HAS AN OUTSTANDING DELAYED DEPOSIT CHECK WITH ANOTHER CHECK CASHER THAT HAS NOT BEEN REPAYED IN FULL; TO DIRECT THE COMMISSIONER OF BANKING TO PROVIDE FOR THE DEVELOPMENT OF A DATABASE IN WHICH CHECK CASHERS 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 CHECK CASHERS AS NECESSARY TO MAINTAIN THE DATABASE SYSTEM; TO PROVIDE THAT THE MAXIMUM AMOUNT THAT CHECK CASHERS MAY CHARGE FOR CASHING A DELAYED DEPOSIT CHECK SHALL NOT EXCEED AN ANNUAL PERCENTAGE RATE OF 36% PER ANNUM ON THE AMOUNT OF THE PRINCIPAL AMOUNT THAT REMAINS UNPAID; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 75-67-519, Mississippi Code of 1972, is amended as follows:

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

(2) The face amount of any delayed deposit check cashed under the provisions of this section shall not exceed Four Hundred Dollars ($400.00). Each customer is limited to a maximum amount of Four Hundred Dollars ($400.00) at any time. A licensee shall not cash a delayed deposit check for any person who has an outstanding delayed deposit check with another licensee that has not been repaid in full. 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 defer deposit of the personal check until a specific date not later than thirty (30) days from the date the check is cashed.

(4) A licensee shall not directly or indirectly charge any fee or other consideration for cashing a delayed deposit check in excess of an annual percentage rate of thirty-six percent (36%) per annum on the amount of the face amount of the check that remains unpaid.

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

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

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

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

SECTION 2. This act shall take effect and be in force from and after July 1, 2011.