

By: Senator(s) Jordan, Jackson (11th)

To: Business and Financial
Institutions

SENATE BILL NO. 2683

1 AN ACT TO AMEND SECTION 75-67-519, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE MAXIMUM FEE AND LENGTH OF DEFERRAL ON LOANS MADE BY
3 CHECK CASHER LICENSEES; TO AMEND SECTIONS 75-67-505 AND 75-67-515,
4 MISSISSIPPI CODE OF 1972, TO INCREASE THE LICENSE RENEWAL FEES AND
5 EXAMINATION FEES PAID TO THE COMMISSIONER OF BANKING BY CHECK
6 CASHER LICENSEES; AND FOR RELATED PURPOSES.

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

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

10 75-67-519. (1) A licensee may defer the deposit of a
11 personal check cashed for a customer for a period of thirty (30)
12 days under the provisions of this section.

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

17 (3) Each delayed deposit check cashed by a licensee shall be
18 documented by a written agreement that has been signed by the
19 customer and the licensee. The written agreement shall contain a
20 statement of the total amount of any fees charged, expressed as a
21 dollar amount and as an annual percentage rate. The written
22 agreement shall authorize the licensee to defer deposit of the
23 personal check until a specific date which shall be thirty (30)
24 days from the date the check is cashed.

25 (4) A licensee shall not directly or indirectly charge any
26 fee or other consideration for cashing a delayed deposit check in
27 excess of fifteen percent (15%) of the face amount of the check.



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

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

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

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

55 **SECTION 2.** Section 75-67-505, Mississippi Code of 1972, is
56 amended as follows:

57 75-67-505. (1) (a) A person may not engage in business as
58 a check casher or otherwise portray himself as a check casher
59 unless the person has a valid license authorizing engagement in
60 the business. A separate license is required for each place of



61 business under this article and each business must be independent
62 of, and not a part of, any other business operation. A check
63 cashing business shall not be a part of, or located at the same
64 business address with, a pawnshop, title pledge office and small
65 loan company.

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

79 (c) A licensed check casher may sell, at the same
80 location as his check cashing business, the following items and
81 services: money orders; income tax preparation service; copy
82 service; wire transfer service; notary service; pagers; pager
83 service; prepaid cellular service; debit card; prepaid telephone
84 cards; prepaid telephone service; and operate a processing center
85 where utility bills, credit card payments and other payments are
86 collected from the general public and governmental and private
87 payments are distributed. In the event a licensee accepts wire
88 transfers in the form of a direct deposit of a payroll check or
89 other similar types of deposit, the licensee shall not encumber
90 any transferred funds against a deferred deposit agreement or any
91 delinquent deferred deposit agreement with such customer. The
92 commissioner may authorize additional functions in addition to



93 those provided in this subsection that may be performed as part of
94 a check cashing business.

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

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

105 (3) Each license shall remain in full force and effect until
106 relinquished, suspended, revoked or expired. With each initial
107 application for a license, the applicant shall pay the
108 commissioner at the time of making the application a license fee
109 of Seven Hundred Fifty Dollars (\$750.00), and on or before
110 September 1 of each year thereafter, an annual renewal fee of Six
111 Hundred Dollars (\$600.00). If the annual renewal fee remains
112 unpaid twenty-nine (29) days after September 1, the license shall
113 thereupon expire, but not before the thirtieth day of September of
114 any year for which the annual fee has been paid. If any licensee
115 fails to pay the annual renewal fee before the thirtieth day of
116 September of any year for which the renewal fee is due, then the
117 licensee shall be liable for the full amount of the license fee,
118 plus a penalty in an amount not to exceed Twenty-five Dollars
119 (\$25.00) for each day that the licensee has engaged in business
120 after September 30. All licensing fees and penalties shall be
121 paid into the Consumer Finance Fund of the Department of Banking
122 and Consumer Finance.

123 (4) Notwithstanding other provisions of this article, the
124 commissioner may issue a temporary license authorizing the
125 operator of a check casher business on the receipt of an



126 application for a license involving principals and owners that are
127 substantially identical to those of an existing licensed check
128 cashier. The temporary license is effective until the permanent
129 license is issued or denied.

130 **SECTION 3.** Section 75-67-515, Mississippi Code of 1972, is
131 amended as follows:

132 75-67-515. (1) The department may adopt reasonable
133 administrative regulations, not inconsistent with law, for the
134 enforcement of this article.

135 (2) To assure compliance with the provisions of this
136 article, the department may examine the books and records of any
137 licensee without notice during normal business hours. The
138 commissioner may charge the licensee an examination fee in an
139 amount of * * * Six Hundred Dollars (\$600.00) for each office or
140 location within the State of Mississippi plus any actual expenses
141 incurred while examining the licensee's records or books that are
142 located outside the State of Mississippi. However, in no event
143 shall a licensee be examined more than once in a two-year period
144 unless for cause shown based upon consumer complaint and/or other
145 exigent reasons as determined by the commissioner.

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

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

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



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

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

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

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

185 (10) If a check is returned to a licensee from a payor
186 financial institution because there are insufficient funds in or
187 on deposit with the financial institution to pay the check, the
188 licensee or any other person on behalf of the licensee shall not
189 institute or initiate any criminal prosecution against the maker
190 or drawer of the personal check with the intent and purpose of



191 aiding in the collection of or enforcing the payment of the amount
192 owed to the check casher by the maker or drawer of the check.

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

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

