To: Banking and Financial Services

By: Representatives Wooten, Clarke, Buck (5th), Calhoun, Clark, Evans (70th), Harrison, Hines, Johnson, Thomas, Watson

HOUSE BILL NO. 39

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 REPAID 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 FACE AMOUNT OF THE CHECK; 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) A licensee may delay the deposit of a personal check cashed for a customer with a face amount of not more than Two Hundred Fifty Dollars ($250.00) for up to thirty (30) days under the provisions of this section.

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

(2) The face amount of delayed deposit checks cashed under the provisions of this section shall not exceed Five Hundred Dollars ($500.00), including the amount of the fees. Each
customer is limited to a maximum amount of Five Hundred Dollars ($500.00), including the amount of the fees, 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 delay deposit of the personal check with a face amount of not more than Two Hundred Fifty Dollars ($250.00) until a specific date not later than thirty (30) days from the date of the transaction, and shall authorize the licensee to delay deposit or collection of the personal check with a face amount of more than Two Hundred Fifty Dollars ($250.00) but not more than Five Hundred Dollars ($500.00) in accordance with the written agreement.

(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 face amount of the check. ** In no event shall the amount of the checks 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 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 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 any transactions under this section, a licensee shall provide to the customer a pamphlet prepared by the commissioner that describes general information about the transaction and about the customer's rights and responsibilities in the transaction, and that includes the consumer hotline phone number to the Mississippi Department of Banking and Consumer Finance and to the Mississippi Attorney General's office. Each agreement executed by a licensee shall include the following
statement, which shall be located just above the signature line for the customer:

"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 2. This act shall take effect and be in force from and after July 1, 2012.