

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

To: Banking and Financial  
Services

HOUSE BILL NO. 39

1 AN ACT TO AMEND SECTION 75-67-519, MISSISSIPPI CODE OF 1972,  
2 TO PROHIBIT CHECK CASHERS FROM CASHING A DELAYED DEPOSIT CHECK FOR  
3 ANY PERSON WHO HAS AN OUTSTANDING DELAYED DEPOSIT CHECK WITH  
4 ANOTHER CHECK CASHER THAT HAS NOT BEEN REPAID IN FULL; TO DIRECT  
5 THE COMMISSIONER OF BANKING TO PROVIDE FOR THE DEVELOPMENT OF A  
6 DATABASE IN WHICH CHECK CASHERS MUST RECORD EACH DELAYED DEPOSIT  
7 TRANSACTION IN ORDER TO PREVENT VIOLATIONS OF THE MAXIMUM AMOUNT  
8 THAT MAY BE OUTSTANDING; TO AUTHORIZE THE COMMISSIONER TO CHARGE A  
9 FEE TO CHECK CASHERS AS NECESSARY TO MAINTAIN THE DATABASE SYSTEM;  
10 TO PROVIDE THAT THE MAXIMUM AMOUNT THAT CHECK CASHERS MAY CHARGE  
11 FOR CASHING A DELAYED DEPOSIT CHECK SHALL NOT EXCEED AN ANNUAL  
12 PERCENTAGE RATE OF 36% PER ANNUM ON THE FACE AMOUNT OF THE CHECK;  
13 AND FOR RELATED PURPOSES.

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

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

17 75-67-519. (1) (a) A licensee may delay the deposit of a  
18 personal check cashed for a customer with a face amount of not  
19 more than Two Hundred Fifty Dollars (\$250.00) for up to thirty  
20 (30) days under the provisions of this section.

21 (b) A licensee shall enter into a written agreement for  
22 a delayed deposit transaction of a personal check cashed for a  
23 customer with a face amount of more than Two Hundred Fifty Dollars  
24 (\$250.00) but not more than Five Hundred Dollars (\$500.00) for a  
25 period of at least twenty-eight (28) days but not more than thirty  
26 (30) days, as selected by the customer, under the provisions of  
27 this section, with the licensee having the option to deposit or  
28 collect the check.

29 (2) The face amount of delayed deposit checks cashed under  
30 the provisions of this section shall not exceed Five Hundred  
31 Dollars (\$500.00), including the amount of the fees. Each



32 customer is limited to a maximum amount of Five Hundred Dollars  
33 (\$500.00), including the amount of the fees, at any time. A  
34 licensee shall not cash a delayed deposit check for any person who  
35 has an outstanding delayed deposit check with another licensee  
36 that has not been repaid in full. The commissioner shall provide  
37 for the development of a database in which licensees shall record  
38 each delayed deposit transaction in order to prevent violations of  
39 this subsection. The commissioner shall adopt rules governing the  
40 creation, structure and use of the database, which includes  
41 charging a fee to licensees as necessary to maintain the database  
42 system.

43 (3) Each delayed deposit check cashed by a licensee shall be  
44 documented by a written agreement that has been signed by the  
45 customer and the licensee. The written agreement shall contain a  
46 statement of the total amount of any fees charged, expressed as a  
47 dollar amount and as an annual percentage rate. The written  
48 agreement shall authorize the licensee to delay deposit of the  
49 personal check with a face amount of not more than Two Hundred  
50 Fifty Dollars (\$250.00) until a specific date not later than  
51 thirty (30) days from the date of the transaction, and shall  
52 authorize the licensee to delay deposit or collection of the  
53 personal check with a face amount of more than Two Hundred Fifty  
54 Dollars (\$250.00) but not more than Five Hundred Dollars (\$500.00)  
55 in accordance with the written agreement.

56 (4) \* \* \* A licensee shall not directly or indirectly charge  
57 any fee or other consideration \* \* \* for cashing a delayed deposit  
58 check in excess of an annual percentage rate of thirty-six percent  
59 (36%) per annum on the face amount of the check. \* \* \* In no  
60 event shall the amount of the checks cashed exceed Five Hundred  
61 Dollars (\$500.00), including the amount of the fee.

62 (5) No check cashed under the provisions of this section  
63 shall be repaid by the proceeds of another check cashed by the



64 same licensee or any affiliate of the licensee. A licensee shall  
65 not renew or otherwise extend any delayed deposit check.

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

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

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

89 (9) Before entering any transactions under this section, a  
90 licensee shall provide to the customer a pamphlet prepared by the  
91 commissioner that describes general information about the  
92 transaction and about the customer's rights and responsibilities  
93 in the transaction, and that includes the consumer hotline phone  
94 number to the Mississippi Department of Banking and Consumer  
95 Finance and to the Mississippi Attorney General's office. Each  
96 agreement executed by a licensee shall include the following



97 statement, which shall be located just above the signature line  
98 for the customer:

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

102 **SECTION 2.** This act shall take effect and be in force from  
103 and after July 1, 2012.

