

By: Representative Evans (91st)

To: Banking and Financial Services; Judiciary A

HOUSE BILL NO. 309

1 AN ACT TO AMEND SECTIONS 75-67-313 AND 75-67-413, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT THE MAXIMUM AMOUNT THAT PAWNBROKERS
3 AND TITLE PLEDGE LENDERS MAY CHARGE FOR THEIR SERVICES SHALL NOT
4 EXCEED AN ANNUAL PERCENTAGE RATE OF 25% PER ANNUM ON THE AMOUNT OF
5 THE PRINCIPAL AMOUNT ADVANCED IN THE TRANSACTION THAT REMAINS
6 UNPAID; TO AMEND SECTION 75-67-519, MISSISSIPPI CODE OF 1972, TO
7 PROVIDE THAT THE MAXIMUM AMOUNT THAT CHECK CASHERS MAY CHARGE FOR
8 CASHING A DELAYED DEPOSIT CHECK SHALL NOT EXCEED AN ANNUAL
9 PERCENTAGE RATE OF 25% PER ANNUM ON THE FACE AMOUNT OF THE CHECK;
10 AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 75-67-313, Mississippi Code of 1972, is
13 amended as follows:

14 75-67-313. (1) A pawnbroker may contract for and receive a
15 pawnshop charge * * * for all services, expenses, cost and losses
16 of every nature not to exceed an annual percentage rate of
17 twenty-five percent (25%) per annum on the amount of the principal
18 amount * * * advanced in the pawn transaction that remains unpaid.

19 (2) Any interest, charge or fees contracted for or received,
20 directly or indirectly, in excess of the amount permitted under
21 subsection (1) of this section shall be uncollectible and the pawn
22 transaction shall be void. * * *

23 **SECTION 2.** Section 75-67-413, Mississippi Code of 1972, is
24 amended as follows:

25 75-67-413. (1) A title pledge lender may contract for and
26 receive a title pledge service charge * * * for all services,
27 expenses, cost and losses of every nature not to exceed an annual
28 percentage rate of twenty-five percent (25%) per annum on the
29 amount of the principal amount * * * advanced in the title pledge
30 transaction that remains unpaid.



31 (2) Any interest, charge or fees contracted for or received,
32 directly or indirectly, in excess of the amount permitted under
33 subsection (1) of this section shall be uncollectible and the
34 title pledge transaction shall be void. * * *

35 (3) By agreement of the parties, the maturity date of the
36 title pledge transaction may be extended or continued for
37 thirty-day periods, provided that the service charges as specified
38 in subsection (1) are not exceeded for any extensions. All
39 extensions or continuations of the title pledge transaction shall
40 be evidenced in writing. No accrued interest or service charge
41 shall be capitalized or added to the original principal of the
42 title pledge transaction during any extension or continuation.
43 Beginning with the first extension or continuation and at each
44 successive extension or continuation thereafter, the pledgor shall
45 be required to reduce the principal amount financed by at least
46 ten percent (10%) of the original principal amount of the title
47 pledge transaction. Notwithstanding any provision in this article
48 to the contrary, if the pledgor fails to pay at least ten percent
49 (10%) of the original principal amount at any such extension or
50 continuation, the title pledge lender may, at its option, either
51 (a) declare the outstanding principal and any service charges to
52 be immediately due and payable, or (b) allow the transaction to be
53 extended or continued, provided that the title pledge lender shall
54 reduce the principal amount of the loan by ten percent (10%) of
55 the original principal amount solely for the purposes of
56 calculating its service charge. This reduction in principal shall
57 continue to be owing by the pledgor in accordance with the title
58 pledge transaction, but that amount shall not be entitled to
59 accrue interest or service charges thereafter.

60 (4) Any additional payment of funds on the same pledged
61 property must be evidenced by a separate title pledge agreement.
62 A title pledge lender shall not advance funds to a pledgor to pay
63 off an existing title pledge agreement.



64 **SECTION 3.** Section 75-67-519, Mississippi Code of 1972, is
65 amended as follows:

66 75-67-519. (1) (a) A licensee may delay the deposit of a
67 personal check cashed for a customer with a face amount of not
68 more than Two Hundred Fifty Dollars (\$250.00) for up to thirty
69 (30) days under the provisions of this section.

70 (b) A licensee shall enter into a written agreement for
71 a delayed deposit transaction of a personal check cashed for a
72 customer with a face amount of more than Two Hundred Fifty Dollars
73 (\$250.00) but not more than Five Hundred Dollars (\$500.00) for a
74 period of at least twenty-eight (28) days but not more than thirty
75 (30) days, as selected by the customer, under the provisions of
76 this section, with the licensee having the option to deposit or
77 collect the check.

78 (2) The face amount of delayed deposit checks cashed under
79 the provisions of this section shall not exceed Five Hundred
80 Dollars (\$500.00), including the amount of the fees. Each
81 customer is limited to a maximum amount of Five Hundred Dollars
82 (\$500.00), including the amount of the fees, at any time.

83 (3) Each delayed deposit check cashed by a licensee shall be
84 documented by a written agreement that has been signed by the
85 customer and the licensee. The written agreement shall contain a
86 statement of the total amount of any fees charged, expressed as a
87 dollar amount and as an annual percentage rate. The written
88 agreement shall authorize the licensee to delay deposit of the
89 personal check with a face amount of not more than Two Hundred
90 Fifty Dollars (\$250.00) until a specific date not later than
91 thirty (30) days from the date of the transaction, and shall
92 authorize the licensee to delay deposit or collection of the
93 personal check with a face amount of more than Two Hundred Fifty
94 Dollars (\$250.00) but not more than Five Hundred Dollars (\$500.00)
95 in accordance with the written agreement.



96 (4) * * * A licensee shall not directly or indirectly charge
97 any fee or other consideration in excess of an annual percentage
98 rate of twenty-five percent (25%) on the face amount of the
99 check. * * * In no event shall the amount of the checks cashed
100 exceed Five Hundred Dollars (\$500.00), including the amount of the
101 fee.

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

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

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

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



129 (9) Before entering any transactions under this section, a
130 licensee shall provide to the customer a pamphlet prepared by the
131 commissioner that describes general information about the
132 transaction and about the customer's rights and responsibilities
133 in the transaction, and that includes the consumer hotline phone
134 number to the Mississippi Department of Banking and Consumer
135 Finance and to the Mississippi Attorney General's office. Each
136 agreement executed by a licensee shall include the following
137 statement, which shall be located just above the signature line
138 for the customer:

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

142 **SECTION 4.** This act shall take effect and be in force from
143 and after July 1, 2012.

