

By: Representative Wooten

To: Banking and Financial Services

HOUSE BILL NO. 311

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
59 percent (36%) per annum on the face amount of the check.

60 * * *

61 * * * In no event shall the amount of the checks
62 cashed exceed Five Hundred Dollars (\$500.00), including the amount
63 of the fee.

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

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

71 (7) A licensee shall not charge a late fee or collection fee
72 on any deferred deposit transaction as a result of a returned
73 check or the default by the customer in timely payment to the



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

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

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



99 statement, which shall be located just above the signature line
100 for the customer:

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

104 **SECTION 2.** This act shall take effect and be in force from
105 and after July 1, 2014.

