

By: Representative Young

To: Banking and Financial Services

HOUSE BILL NO. 582

1 AN ACT TO EXEMPT ACTIVE AND RETIRED PUBLIC EMPLOYEES WHO  
 2 RECEIVE DIRECT DEPOSITS OF THEIR COMPENSATION OR RETIREMENT  
 3 ALLOWANCE FROM BAD CHECK FEES IF THE SOLE REASON THEIR ACCOUNT WAS  
 4 OVERDRAWN WAS AN ERROR IN FUNDS BEING DEPOSITED IN THEIR ACCOUNT  
 5 CAUSED BY THEIR EMPLOYER OR THE RETIREMENT SYSTEM; TO AMEND  
 6 SECTIONS 81-14-365, 97-19-57, 73-9-43, 73-34-45, 73-35-17,  
 7 73-60-29 AND 75-67-122, MISSISSIPPI CODE OF 1972, IN CONFORMITY  
 8 WITH THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** (1) Any active or retired public employee who  
 11 is a member of the Mississippi Public Employees' Retirement System  
 12 (PERS) or the Mississippi Highway Safety Patrol Retirement System  
 13 (MHSPRS) shall not be charged a processing fee or penalty, by any  
 14 financial institution or any other entity, for checks or other  
 15 funds withdrawal transactions made by the member and drawn on an  
 16 account that has insufficient funds, provided that:

17 (a) The member receives his or her compensation from  
 18 his or her public employer or his or her retirement allowance from  
 19 PERS or MHSPRS through direct deposit;

20 (b) The sole cause of the member's account being  
 21 overdrawn was an error made by the member's public employer or by



22 PERS or MHSPRS that resulted in the member's compensation being  
23 deposited into his or her account on a date other than what is  
24 usually expected based on the customary practice of the employer,  
25 PERS or MHSPRS; and

26 (c) The member had no notice of the error made with his  
27 or her deposit before making a check or other funds withdrawal  
28 transaction that is to be drawn on the institution that holds his  
29 or her account.

30 **SECTION 2.** Section 81-14-365, Mississippi Code of 1972, is  
31 amended as follows:

32 81-14-365. \* \* \* A processing fee may be charged and  
33 collected by any savings bank for checks on which payment has been  
34 refused by the payor depository institution. Except as otherwise  
35 provided in Section 1 of this act, a savings bank may also collect  
36 such fee for checks drawn on that savings bank with respect to an  
37 account with insufficient funds.

38 **SECTION 3.** Section 97-19-57, Mississippi Code of 1972, is  
39 amended as follows:

40 97-19-57. (1) As against the maker, drawer or payor  
41 thereof, the making, drawing, issuing, uttering, delivering, or  
42 initiation of a check, draft, order, electronically converted  
43 check, or electronic commercial debit payment of which is refused  
44 by the drawee, shall be prima facie evidence and create a  
45 presumption of intent to defraud and of knowledge of insufficient  
46 funds in, or on deposit with, such bank, corporation, firm or



47 person, provided such maker, drawer or payor shall not have paid  
48 the holder or payee thereof the amount due thereon, together with  
49 a service charge of Forty Dollars (\$40.00), within fifteen (15)  
50 days after receiving notice that such check, draft, order,  
51 electronically converted check, or electronic commercial debit has  
52 not been paid by the drawee or payor's bank, unless the maker,  
53 drawer or payor is exempted from an overdrawn account processing  
54 fee or penalty as provided in Section 1 of this act.

55 (2) For purposes of Section 11-7-12, the form of the notice  
56 provided for in subsection (1) of this section for a check, draft,  
57 order, or electronically converted check shall be sent by regular  
58 mail and shall be substantially as follows: "This statutory  
59 notice is provided pursuant to Section 97-19-57, Mississippi Code  
60 of 1972. You are hereby notified that a check, draft, order, or  
61 electronically converted check numbered \_\_\_\_\_, apparently issued  
62 by you on \_\_\_\_\_ (date), drawn upon \_\_\_\_\_ (name of bank), and  
63 payable to \_\_\_\_\_, has been dishonored. Pursuant to Mississippi  
64 law, you have fifteen (15) days from receipt of this notice to  
65 tender payment of the full amount of such check, draft or order,  
66 or electronically converted check plus a service charge of Forty  
67 Dollars (\$40.00), the total amount due being \$\_\_\_\_\_. Failure to  
68 pay this amount in full within the time specified above shall be  
69 prima facie evidence of and create a presumption of both the  
70 intent to defraud and the knowledge of insufficient funds in, or  
71 on deposit with, such bank in violation of Section 97-19-55."



72 (3) For purposes of Section 97-19-67, the form of the notice  
73 provided for in subsection (1) of this section for a check, draft,  
74 order, or electronically converted check shall be sent by regular  
75 mail, supported by an affidavit of service by mailing, and shall  
76 be substantially as follows: "This statutory notice is provided  
77 pursuant to Section 97-19-57, Mississippi Code of 1972. You are  
78 hereby notified that a check, draft, order, or electronically  
79 converted check numbered \_\_\_\_\_, apparently issued by you on \_\_\_\_\_  
80 (date), drawn upon \_\_\_\_\_ (name of bank), and payable to \_\_\_\_\_, has  
81 been dishonored. Pursuant to Mississippi law, you have fifteen  
82 (15) days from receipt of this notice to tender payment of the  
83 full amount of such check, draft or order, or electronically  
84 converted check plus a service charge of Forty Dollars (\$40.00),  
85 the total amount due being \$\_\_\_\_\_. Unless this amount is paid in  
86 full within the time specified above, the holder may assume that  
87 you delivered the instrument with intent to defraud and may turn  
88 over the dishonored instrument and all other available information  
89 relating to this incident to the proper authorities for criminal  
90 prosecution."

91 (4) For purposes of Sections 11-7-12 and 97-19-67, the form  
92 of notice provided for in subsection (1) of this section for an  
93 electronic commercial debit shall be sent by regular mail,  
94 supported by an affidavit of service by mailing, and shall be  
95 substantially as follows: "This statutory notice is provided  
96 pursuant to Section 97-19-57, Mississippi Code of 1972. You are



97 hereby notified that on \_\_\_\_\_ (date) an electronic commercial  
98 debit was initiated by \_\_\_\_\_ (name of payee bank) on behalf of  
99 \_\_\_\_\_ (payee) to \_\_\_\_\_ (name of payor bank) through the  
100 ACH Network requesting a payment in the amount of \$ \_\_\_\_\_ to  
101 \_\_\_\_\_ (payee) from your account pursuant to invoice number  
102 \_\_\_\_\_ and our agreement dated \_\_\_\_\_, but that payment has  
103 been dishonored. Pursuant to Mississippi law, because the payee  
104 delivered \_\_\_\_\_ (goods or service) to you in reliance upon  
105 the agreement, you have fifteen (15) days from receipt of this  
106 notice to tender payment of the full amount of such electronic  
107 commercial debit plus a service charge of Forty Dollars (\$40.00),  
108 the total amount due being \$ \_\_\_\_\_. Failure to pay this amount  
109 in full within the time specified above shall be prima facie  
110 evidence of and create a presumption of both the intent to defraud  
111 and the knowledge of insufficient funds in, or on deposit with,  
112 such bank in violation of Section 97-19-55, and the payee may  
113 assume that you entered into such agreement with intent to defraud  
114 and may turn over all documentation related to the dishonored  
115 electronic commercial debit to the proper authorities for criminal  
116 prosecution."

117 (5) If any notice is returned undelivered to the sender  
118 after such notice was mailed to the address printed on the check,  
119 draft or order, or to the address given by the accused at the time  
120 of issuance of the instrument, such return shall be prima facie  
121 evidence of the maker's or drawer's intent to defraud.



122 (6) Affidavit of service by mail shall be adequate if made  
123 in substantially the following form:

124 "STATE OF \_\_\_\_\_

125 COUNTY OF \_\_\_\_\_

126 \_\_\_\_\_, being first duly sworn on oath, deposes and  
127 states that he/she is at least eighteen (18) years of age and that  
128 on (date) \_\_\_\_\_, 2\_\_\_, he/she served the attached Notice  
129 of Dishonor by placing a true and correct copy thereof securely  
130 enclosed in an envelope addressed as follows:

131 \_\_\_\_\_

132 \_\_\_\_\_

133 \_\_\_\_\_

134 and deposited the same, postage prepaid, in the United States mail  
135 at \_\_\_\_\_, \_\_\_\_\_.

136 \_\_\_\_\_

137 (signature)

138 Subscribed to and sworn before me, this the \_\_\_\_\_ day of  
139 \_\_\_\_\_, 2\_\_\_.

140 \_\_\_\_\_

141 (Notary Public)

142 My commission expires:

143 (SEAL) "

144 (7) Without in any way limiting the provisions of this  
145 section, this section shall apply to a draft for the payment of  
146 money given for a motor vehicle even if such payment is



147 conditioned upon delivery of documents necessary for transfer of a  
148 valid title to the purchaser.

149 **SECTION 4.** Section 73-9-43, Mississippi Code of 1972, is  
150 amended as follows:

151 73-9-43. (1) The secretary or executive director shall  
152 collect in advance all fees provided for in this chapter as  
153 established by the board, not to exceed:

154	Application for dental license.....	\$ 600.00
155	Application for dental license through	
156	credentials.....	2,500.00
157	Application for dental specialty license.....	400.00
158	Application for dental institutional,	
159	teaching or provisional license.....	600.00
160	Application for dental hygiene license.....	400.00
161	Application for dental hygiene license through	
162	credentials.....	750.00
163	Application for dental hygiene institutional,	
164	teaching or provisional license.....	400.00
165	Application for general anesthesia permit.....	400.00
166	Application for I.V. sedation permit.....	400.00
167	Application for radiology permit.....	100.00
168	Dental license renewal.....	300.00
169	Dental specialty license renewal.....	200.00
170	Dental institutional, teaching or	
171	provisional license renewal.....	300.00



172	Dental hygiene license renewal.....	150.00
173	Dental hygiene institutional, teaching or	
174	provisional license renewal.....	150.00
175	General anesthesia permit renewal.....	200.00
176	I.V. sedation permit renewal.....	200.00
177	Radiology permit renewal.....	75.00
178	Penalty for delinquent renewal of dental licenses;	
179	dental specialty licenses; and dental institutional,	
180	teaching and provisional licenses:	
181	First month (plus renewal fee).....	100.00
182	Second month (plus renewal fee).....	150.00
183	Penalty for delinquent renewal of dental hygiene	
184	licenses and dental hygiene institutional,	
185	teaching and provisional licenses:	
186	First month (plus renewal fee).....	50.00
187	Second month (plus renewal fee).....	75.00
188	Penalty for delinquent renewal of radiology permits:	
189	First month (plus renewal fee).....	45.00
190	Second month (plus renewal fee).....	65.00
191	Penalty for nonnotification of change of address....	50.00
192	Penalty for duplicate renewal forms and	
193	certification cards.....	50.00
194	Duplicate or replacement license or permit.....	40.00
195	Certification of licensure status.....	40.00
196	Certified copy of license or permit.....	40.00





197	Handling fee for nonsufficient funds check.....	50.00
198	Requests for database information.....	300.00
199	Radiology examinations administered in board's	
200	office.....	100.00
201	Dental and dental hygiene licensure examination	
202	manuals.....	50.00
203	Dental and dental hygiene licensure by	
204	credentials packets.....	50.00
205	Laws and/or regulations.....	50.00
206	Disciplinary action orders.....	25.00
207	Newsletters.....	20.00

208       (2) The board may enact and enforce for delinquency in  
 209 payment for any fees set out in this section a penalty in addition  
 210 to the fee of an amount up to but not in excess of the fee. An  
 211 additional fee of an amount equal to the first penalty may be  
 212 assessed for each thirty (30) days, or part thereof, of  
 213 delinquency. If any license or permit holder is delinquent in  
 214 payment of renewal fees exceeding sixty (60) days from the initial  
 215 renewal deadline as set by the board, the person shall be presumed  
 216 to be no longer practicing, shall be stricken from the rolls and  
 217 shall be deemed an illegal practitioner, subject to the penalties  
 218 as enumerated in Section 73-9-41. In order to practice his or her  
 219 profession in this state thereafter, the person may, at the  
 220 discretion of the board, be considered as a new applicant and



221 subject to examination and other licensing requirements as an  
222 original applicant.

223 (3) The secretary or executive director shall faithfully  
224 account for all monies received by the board. All fees and any  
225 other monies received by the board, except monetary penalties  
226 collected under Section 73-9-61, shall be deposited in a special  
227 fund that is created in the State Treasury and shall be used for  
228 the implementation and administration of this chapter when  
229 appropriated by the Legislature for that purpose. Any interest  
230 earned on this special fund shall be credited by the State  
231 Treasurer to the fund and shall not be paid into the State General  
232 Fund. Any unexpended monies remaining in the special fund at the  
233 end of a fiscal year shall not lapse into the State General Fund.

234 (4) For conducting the initial and retake examinations of  
235 applicants for licensure the secretary shall receive no more than  
236 Nine Hundred Dollars (\$900.00) per day for each examination, and  
237 no other member shall receive more than Seven Hundred Dollars  
238 (\$700.00) per day for each examination. The receipt of that  
239 compensation shall not entitle members of the board to receive or  
240 be eligible for any state employee group insurance, retirement or  
241 other fringe benefits. Any fees or income other than the maximum  
242 allowable for examining applicants for licensure as set out above  
243 shall be accounted for and may be used as needed in carrying out  
244 the provisions of this chapter.



245 (5) A portion of the fee charged for license renewal of  
246 dentists and dental hygienists may be used to support a program to  
247 aid impaired dentists and/or dental hygienists. The payment of  
248 per diem and expense for attending board meetings shall be in  
249 addition to the compensation permitted above for examining  
250 applicants for licensure, and the per diem shall not exceed the  
251 amount provided in Section 25-3-69.

252 (6) No fee for the handling of a nonsufficient funds check  
253 shall be charged to persons exempted from those fees under Section  
254 1 of this act.

255 **SECTION 5.** Section 73-34-45, Mississippi Code of 1972, is  
256 amended as follows:

257 73-34-45. (1) The commission shall charge and collect  
258 appropriate fees for its services under this chapter. The fees  
259 charged shall not exceed the amounts indicated below and shall be  
260 set by the board.

261	Application and examination.....	\$225.00
262	Application only.....	\$175.00
263	Initial and renewal license.....	\$325.00
264	Delinquent renewal penalty.....	100% of renewal fee
265	For each change of address.....	\$ 25.00
266	For each duplicate license.....	\$ 25.00
267	To change status as a licensee from active to	
268	inactive.....	\$ 25.00
269	For each bad check received by the commission.....	\$ 25.00



270           (2)   (a)   The board shall establish the fee to be paid by  
271 each appraisal management company making application for  
272 registration under this chapter that is sufficient for the  
273 administration regulation and enforcement of the provisions of the  
274 Mississippi Appraisal Management Company Registration Act (Section  
275 73-34-101 et seq.), but in no case shall the fee for initial  
276 registration be more than One Thousand Dollars (\$1,000.00).  
277 However, beginning July 1, 2015, the board may increase the  
278 registration fee to an amount not to exceed One Thousand Five  
279 Hundred Dollars (\$1,500.00) if the board finds the increase  
280 necessary for the regulation and enforcement of this chapter.

281           (b)   The board may establish a similar fee, not to  
282 exceed One Thousand Dollars (\$1,000.00), for the renewal of any  
283 registration, and a delinquent renewal penalty not to exceed one  
284 hundred percent (100%) of the renewal fee. However, beginning  
285 July 1, 2015, the board may increase the renewal fee to an amount  
286 not to exceed One Thousand Five Hundred Dollars (\$1,500.00) if the  
287 board finds the increase necessary for the regulation and  
288 enforcement of this chapter, and a delinquent renewal penalty not  
289 to exceed one hundred percent (100%) of the renewal fee.

290           (3)   The board may charge additional fees for its services  
291 which the board deems appropriate to carry out its intent and  
292 purpose. These additional fees shall not exceed the cost of  
293 rendering the service.



294 (4) All fees charged and collected under this chapter shall  
295 be paid by the commission at least once a week, accompanied by a  
296 detailed statement thereof, to the credit of the fund known as the  
297 "Real Estate Appraisal License Fund," hereby created in the State  
298 Treasury. All monies which are collected under this chapter shall  
299 be paid into and credited to the fund for the use of the board in  
300 carrying out the provisions of this chapter including the payment  
301 of salaries and expenses, printing an annual directory of  
302 licensees, and for educational purposes. The commission shall  
303 submit a monthly statement to the board detailing any expenses  
304 which it bears as a share in the expense of administering this  
305 chapter, for which expenses it shall be reimbursed in the amount  
306 approved by the board. The commission shall prepare an annual  
307 statement of income and expenses related to its appraisal-related  
308 administrative function.

309 (5) No fee for the handling of a bad check shall be charged  
310 to persons exempted from those fees under Section 1 of this act.

311 **SECTION 6.** Section 73-35-17, Mississippi Code of 1972, is  
312 amended as follows:

313 73-35-17. (1) A fee not to exceed One Hundred Fifty Dollars  
314 (\$150.00) shall accompany an application for a real estate  
315 broker's license, and in the event that the applicant successfully  
316 passes the examination, no additional fee shall be required for  
317 the issuance of a license for a one-year period; provided, that if  
318 an applicant fails to pass the examination, he or she may be



319 eligible to take the next or succeeding examination without the  
320 payment of an additional fee. In the event a contract testing  
321 service is utilized, the fee associated with administering the  
322 test shall be collected by the testing provider and the  
323 application fee for any real estate license shall be collected by  
324 the commission.

325 (2) For each license as a real estate broker issued to a  
326 member of a partnership, association or officer of a corporation  
327 other than the member or officer named in the license issued to  
328 such partnership, association or corporation, a fee not to exceed  
329 Seventy-five Dollars (\$75.00) shall be charged.

330 (3) A fee not to exceed One Hundred Twenty Dollars (\$120.00)  
331 shall accompany an application for a real estate salesperson's  
332 license, and in the event that the applicant successfully passes  
333 the examination, no additional fee shall be required for the  
334 issuance of a license for a one-year period; provided, that if an  
335 applicant fails to pass the examination, he or she may be eligible  
336 to take the next or succeeding examination without the payment of  
337 an additional fee. In the event a contract testing service is  
338 utilized, the fee associated with administering the test shall be  
339 collected by the testing provider and the application fee for any  
340 real estate license shall be collected by the commission.

341 (4) Except as provided in Section 33-1-39, it shall be the  
342 duty of all persons, partnerships, associations, companies or  
343 corporations licensed to practice as a real estate broker or



344 salesperson to register with the commission annually or  
345 biennially, in the discretion of the commission, according to  
346 rules promulgated by it and to pay the proper registration fee.  
347 An application for renewal of license shall be made to the  
348 commission annually no later than December 31 of each year, or  
349 biennially on a date set by the commission. A licensee failing to  
350 pay his or her renewal fee after the same becomes due and after  
351 two (2) months' written notice of his or her delinquency mailed to  
352 him or her by United States certified mail addressed to his or her  
353 address of record with the commission shall thereby have his or  
354 her license automatically cancelled. Any licensee renewing in  
355 this grace period shall pay a penalty in the amount of one hundred  
356 percent (100%) of the renewal fee. The renewal fee shall not  
357 exceed Seventy-five Dollars (\$75.00) per year for real estate  
358 brokers, partnerships, associations and corporations. The renewal  
359 fee for a real estate salesperson's license shall not exceed Sixty  
360 Dollars (\$60.00) per year.

361 (5) For each additional office or place of business, an  
362 annual fee not to exceed Fifty Dollars (\$50.00) shall be charged.

363 (6) For each change of office or place of business, a fee  
364 not to exceed Fifty Dollars (\$50.00) shall be charged.

365 (7) For each duplicate or transfer of salesperson's license,  
366 a fee not to exceed Fifty Dollars (\$50.00) shall be charged.



367 (8) For each duplicate license, where the original license  
368 is lost or destroyed, and affidavit made thereof, a fee not to  
369 exceed Fifty Dollars (\$50.00) shall be charged.

370 (9) To change status as a licensee from active to inactive  
371 status, a fee not to exceed Twenty-five Dollars (\$25.00) shall be  
372 charged. To change status as a licensee from inactive to active  
373 status, a fee not to exceed Fifty Dollars (\$50.00) shall be  
374 charged.

375 (10) For each bad check received by the commission, a fee  
376 not to exceed Twenty-five Dollars (\$25.00) shall be charged.

377 (11) A fee not to exceed Five Dollars (\$5.00) per hour of  
378 instruction may be charged to allay costs of seminars for  
379 educational purposes provided by the commission.

380 (12) A fee not to exceed Twenty-five Dollars (\$25.00) may be  
381 charged for furnishing any person a copy of a real estate license,  
382 a notarized certificate of licensure or other official record of  
383 the commission.

384 (13) A fee not to exceed One Hundred Dollars (\$100.00) shall  
385 be charged to review and process the application and instructional  
386 materials for each curriculum seeking acceptance as a real estate  
387 continuing education course developed to satisfy the mandatory  
388 continuing education requirements for this chapter, with the  
389 period of approval expiring after one (1) year. A fee not to  
390 exceed Fifty Dollars (\$50.00) shall be charged for each renewal of





391 a previously approved course, with the period of renewal expiring  
392 after one (1) year.

393 (14) Fees, up to the limits specified herein, shall be  
394 established by the Mississippi Real Estate Commission.

395 (15) No fee for the handling of a bad check shall be charged  
396 to persons exempted from those fees under Section 1 of this act.

397 **SECTION \*.** Section 73-60-29, Mississippi Code of 1972, is  
398 amended as follows:

399 73-60-29. The commission shall charge and collect  
400 appropriate fees for its services under this chapter. The fees  
401 charged shall not exceed the amounts indicated below and shall be  
402 set by the commission.

403 **LICENSURE FEES:**

404 Application and examination.....\$175.00  
405 Initial and renewal license.....\$325.00  
406 Delinquent renewal penalty.....100% of renewal fee

407 **SERVICES:**

408 For each change of address.....\$ 25.00  
409 For each duplicate license.....\$ 25.00  
410 To change status as a licensee from active to inactive.....\$ 25.00  
411 For each bad check received by the commission.....\$ 25.00

412 All fees charged and collected under this chapter shall be  
413 paid by the commission at least once a week, accompanied by a  
414 detailed statement thereof, to the credit of the fund known as the  
415 "Home Inspector License Fund," hereby created in the State



416 Treasury. All monies which are collected under this chapter shall  
417 be paid into and credited to such fund for the use of the  
418 commission in carrying out the provisions of the chapter including  
419 the payment of salaries and expenses, printing an annual directory  
420 of licensees, and for educational purposes. All interest earned  
421 on the Home Inspector License Fund shall be retained by the  
422 commission for purposes consistent with this chapter. The  
423 commission shall prepare an annual statement of income and  
424 expenses related to its regulatory related administrative  
425 function.

426 No fee for the handling of a bad check shall be charged to  
427 persons exempted from those fees under Section 1 of this act.

428 **SECTION 8.** Section 75-67-122, Mississippi Code of 1972, is  
429 amended as follows:

430 75-67-122. Any licensee hereunder who receives a check,  
431 draft, negotiable order of withdrawal or like instrument drawn on  
432 a bank or other depository institution given by any person in full  
433 or partial repayment of a loan or other extension of credit may,  
434 if such instrument is not paid or is dishonored by such  
435 institution, charge and collect from the borrower or person to  
436 whom the credit was extended, a bad check charge in an amount not  
437 to exceed the sum of Fifteen Dollars (\$15.00). This charge may be  
438 made only once with respect to the same instrument, and after the  
439 nonpayment or dishonor of the instrument, it shall be returned by  
440 the licensee to the borrower or person to whom credit was



441 extended. This charge shall not be deemed to be interest, finance  
442 charge or other charge made as an incident to or as a condition to  
443 the grant of the loan or other extension of credit and shall not  
444 be included in determining the limit on charges which may be made  
445 in connection with the loan or extension of credit as provided in  
446 this chapter or in any other law of this state. However, no fee  
447 for the handling of a bad check shall be charged to persons  
448 exempted from those fees under Section 1 of this act.

449 **SECTION 9.** This act shall take effect and be in force from  
450 and after July 1, 2018.

