

By: Representatives White, Sykes

To: Banking and Financial Services

HOUSE BILL NO. 811

1 AN ACT TO REENACT SECTIONS 75-67-601 THROUGH 75-67-637,
 2 MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI CREDIT
 3 AVAILABILITY ACT; TO REENACT SECTION 75-67-403, MISSISSIPPI CODE
 4 OF 1972, WHICH DEFINES CERTAIN TERMS USED UNDER THE MISSISSIPPI
 5 TITLE PLEDGE ACT; TO REENACT SECTION 75-67-505, MISSISSIPPI CODE
 6 OF 1972, WHICH ESTABLISHES LICENSING REQUIREMENTS FOR CHECK
 7 CASHERS UNDER THE MISSISSIPPI CHECK CASHERS ACT; TO CREATE NEW
 8 SECTION 75-67-639, MISSISSIPPI CODE OF 1972, TO CODIFY AND EXTEND
 9 THE DATE OF THE REPEALER ON THE MISSISSIPPI CREDIT AVAILABILITY
 10 ACT AND THOSE REENACTED SECTIONS UNDER THE MISSISSIPPI TITLE
 11 PLEDGE ACT AND THE MISSISSIPPI CHECK CASHERS ACT; TO REPEAL
 12 SECTION 22, CHAPTER 500, LAWS OF 2016, WHICH PROVIDES FOR THE
 13 REPEAL OF THE REENACTED SECTIONS AND IS NOT CODIFIED; AND FOR
 14 RELATED PURPOSES.

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

16 **SECTION 1.** Section 75-67-601, Mississippi Code of 1972, is
 17 reenacted as follows:

18 75-67-601. This article shall be known and may be cited as
 19 the "Mississippi Credit Availability Act."

20 **SECTION 2.** Section 75-67-603, Mississippi Code of 1972, is
 21 reenacted as follows:

22 75-67-603. The following words and phrases used in this
 23 article shall have the following meanings unless the context
 24 clearly indicates otherwise:



25 (a) "Appropriate law enforcement agency" means the
26 sheriff of each county in which the licensee maintains an office,
27 or the police chief of the municipality in which the licensee
28 maintains an office, or law enforcement officers of the Department
29 of Public Safety.

30 (b) "Attorney General" means the Attorney General of
31 the State of Mississippi.

32 (c) "Commissioner" means the Mississippi Commissioner
33 of Banking and Consumer Finance, or his designee, as the
34 designated official for the purpose of enforcing this article.

35 (d) "Credit availability account" means all credit
36 availability transactions held in the name of a single person
37 through a single licensee or, if a secured transaction and the
38 property is jointly owned, the names of the persons who jointly
39 own the property that is being used as security for the
40 transaction. That person or those persons shall be the "account
41 holder" or "account holders."

42 (e) "Credit availability transaction" means a
43 transaction whereby a credit availability licensee provides a
44 consumer with a fully amortized loan, secured or unsecured,
45 payable in substantially equal payments due monthly, or on any
46 other schedule mutually agreed upon by the licensee and the
47 consumer, over an overall term of four (4) to twelve (12) months,
48 calculated on the amount initially disbursed to the account holder



49 or holders plus any fees that may be charged in an amount and
50 manner provided for under this article.

51 (f) "Department" means the Department of Banking and
52 Consumer Finance.

53 (g) "Licensee" means any individual, partnership,
54 association or corporation duly licensed by the Department of
55 Banking and Consumer Finance to engage in the business of
56 providing credit availability transactions under this article.

57 (h) "Month" means the calendar month beginning on and
58 including the date of the credit availability transaction.

59 (i) "Person" means an individual, partnership,
60 corporation, joint venture, trust, association or any legal
61 entity, however organized.

62 (j) "Written" and "writing" includes communication of
63 information in an electronic record consistent with the federal
64 Electronic Signatures in Global and National Commerce (E-SIGN)
65 Act, 15 USC Section 7001 et seq.

66 **SECTION 3.** Section 75-67-605, Mississippi Code of 1972, is
67 reenacted as follows:

68 75-67-605. (1) A person may not engage in business as a
69 credit availability licensee or otherwise portray himself as a
70 credit availability licensee unless the person has a valid license
71 authorizing him to engage in the business. Any transaction that
72 would be subject to this article that is made by a person who does



73 not have a valid license under this article shall be null and
74 void.

75 (2) A credit availability licensee shall (a) have a
76 definitive United States postal address and E911 address; and (b)
77 comply with applicable local zoning requirements, except as
78 otherwise provided in this article; and (c) maintain separate
79 books and records for credit availability transactions.

80 (3) (a) The commissioner may issue more than one (1)
81 license to a person if that person complies with this article for
82 each license. A new license is required upon a change, directly
83 or beneficially, in the ownership of any licensed credit
84 availability business and an application shall be made to the
85 commissioner in accordance with this article.

86 (b) When a licensee wishes to move a credit
87 availability business to another physical location, the licensee
88 shall give thirty (30) days' prior written notice to the
89 commissioner who shall amend the license accordingly.

90 (c) Each license shall remain in full force and effect
91 until relinquished, suspended, revoked or expired. With each
92 initial application for a license, the applicant shall pay the
93 commissioner at the time of making the application a license fee
94 of Seven Hundred Fifty Dollars (\$750.00), and on or before
95 September 1 of each year thereafter, an annual renewal fee of Four
96 Hundred Seventy-five Dollars (\$475.00). If the annual renewal fee
97 remains unpaid twenty-nine (29) days after September 1, the



98 license shall thereupon expire, but not before the thirtieth day
99 of September of any year for which the annual fee has been paid.
100 If any licensee fails to pay the annual renewal fee before the
101 thirtieth day of September of any year for which the renewal fee
102 is due, then the licensee shall be liable for the full amount of
103 the license fee, plus a penalty in an amount not to exceed
104 Twenty-five Dollars (\$25.00) for each day that the licensee has
105 engaged in business after September 30. All licensing fees and
106 penalties shall be paid into the Consumer Finance Fund of the
107 Department of Banking and Consumer Finance.

108 (4) Notwithstanding any other provisions of this article,
109 the commissioner may issue a temporary license authorizing the
110 operation of a credit availability business on the receipt of an
111 application for a license involving principals and owners that are
112 substantially identical to those of an existing licensed credit
113 availability licensee. The temporary license is effective until
114 the permanent license is issued or denied.

115 (5) Notwithstanding other provisions of this article,
116 neither a new license nor an application to transfer an existing
117 license shall be required upon any change, directly or
118 beneficially, in the ownership of any licensed business
119 incorporated under the laws of this state or any other state so
120 long as the licensee continues to operate as a corporation doing a
121 credit availability business under the license.



122 (6) Persons licensed under Sections 75-67-401 et seq. and
123 75-67-501 et seq. on July 1, 2016, shall have until September 30,
124 2016, to apply for an expedited license approval under this
125 article. The commissioner, in his discretion, may waive certain
126 documentation already on file under those licenses, including
127 fingerprints, and may promulgate an application that expedites the
128 licensing process. Upon the approval of the application, the
129 commissioner shall grant a license under this article.

130 **SECTION 4.** Section 75-67-607, Mississippi Code of 1972, is
131 reenacted as follows:

132 75-67-607. The provisions of this article shall not apply to
133 any bank, trust company, savings association, savings and loan
134 association, savings bank or credit union that is chartered under
135 the laws of this state or under federal law and domiciled in this
136 state.

137 **SECTION 5.** Section 75-67-609, Mississippi Code of 1972, is
138 reenacted as follows:

139 75-67-609. To be eligible for a credit availability license,
140 an applicant shall:

141 (a) Operate lawfully and fairly within the purposes of
142 this article.

143 (b) Not have been convicted in the last ten (10) years
144 or be active as a beneficial owner for someone who has been
145 convicted in the last ten (10) years of a crime that the
146 commissioner finds directly relates to the duties and



147 responsibilities of the business of offering credit availability
148 transactions.

149 (c) File with the commissioner a bond with good
150 security in the penal sum of Ten Thousand Dollars (\$10,000.00),
151 payable to the State of Mississippi, for the faithful performance
152 by the licensee of the duties and obligations pertaining to the
153 business so licensed and the prompt payment of any judgment which
154 may be recovered against the licensee on account of charges or
155 other claims arising directly or collectively from any violation
156 of the provisions of this article. The bond shall not be valid
157 until the commissioner approves it. The applicant may file, in
158 lieu of the bond, cash, a certificate of deposit or government
159 bonds in the amount of Ten Thousand Dollars (\$10,000.00). Those
160 deposits shall be filed with the commissioner and are subject to
161 the same terms and conditions as are provided for in the surety
162 bond required in this paragraph. Any interest or earnings on
163 those deposits are payable to the depositor. Applicants applying
164 for multiple licenses may submit a single bond for all licenses,
165 provided that the total value of the bond is equal to Ten Thousand
166 Dollars (\$10,000.00) per license applied for.

167 (d) File with the commissioner an application for a
168 license and the initial license fee required in this article. If
169 applicant's application is approved, a credit availability license
170 will be issued within thirty (30) days.



171 (e) File with the commissioner a set of fingerprints
172 from any local law enforcement agency for each owner of a sole
173 proprietorship, partners in a partnership or principal owners of a
174 limited liability company that own at least ten percent (10%) of
175 the voting shares of the company, shareholders owning ten percent
176 (10%) or more of the outstanding shares of the corporation, except
177 publically traded corporations and their subsidiaries, and any
178 other executive officer with significant oversight duties of the
179 business. In order to determine the applicant's suitability for
180 license, the commissioner shall forward the fingerprints to the
181 Department of Public Safety; and if no disqualifying record is
182 identified at the state level, the Department of Public Safety
183 shall forward the fingerprints to the FBI for a national criminal
184 history record check.

185 (f) Complete and file with the commissioner an annual
186 renewal application for a license accompanied by the renewal fee
187 required in this article.

188 **SECTION 6.** Section 75-67-611, Mississippi Code of 1972, is
189 reenacted as follows:

190 75-67-611. Each application for a license shall be in a form
191 prescribed by the commissioner, signed under oath or otherwise
192 authenticated in a record, and shall include the following:

193 (a) The legal name, residence and business address of
194 the applicant and, if the applicant is a partnership, association
195 or corporation, of every member, officer and director thereof.



196 However, the application need not state the full name and address
197 of each shareholder, if the applicant is owned directly or
198 beneficially by a person which as an issuer has a class of
199 securities registered under Section 12 of the Securities and
200 Exchange Act of 1934 or is an issuer of securities which is
201 required to file reports with the Securities and Exchange
202 Commission under Section 15(d) of the Securities and Exchange Act,
203 provided that the person files with the commissioner such
204 information, documents and reports as are required by the
205 provisions of the Securities and Exchange Act to be filed by the
206 issuer with the Securities and Exchange Commission. The
207 commissioner may, however, require the licensee to provide such
208 information as he deems reasonable and appropriate concerning the
209 officers and directors of the corporation and persons owning in
210 excess of twenty-five percent (25%) of the outstanding shares of
211 the corporation.

212 (b) The complete address of the location at which the
213 applicant proposes to engage in the business of offering credit
214 availability transactions.

215 (c) Other data and information the department may
216 require with respect to the applicant, its directors, trustees,
217 officers, members or agents.

218 (d) Sworn financial statements of the applicant showing
219 a net worth of at least Twenty Thousand Dollars (\$20,000.00) for
220 the first license. The applicant shall possess and maintain a net



221 worth of at least Twenty Thousand Dollars (\$20,000.00) for the
222 first license and at least Five Thousand Dollars (\$5,000.00) for
223 each additional license.

224 **SECTION 7.** Section 75-67-613, Mississippi Code of 1972, is
225 reenacted as follows:

226 75-67-613. (1) Upon filing of an application in a form
227 prescribed by the commissioner, accompanied by the documents
228 required in this article, the department shall investigate to
229 ascertain whether the qualifications prescribed in this article
230 have been satisfied. If the commissioner finds that the
231 qualifications have been satisfied and, if he approves the
232 documents so filed by the applicant, he shall issue to the
233 applicant a license to engage in the credit availability business
234 in this state.

235 (2) The license shall be kept conspicuously posted in the
236 place of business of the licensee.

237 **SECTION 8.** Section 75-67-615, Mississippi Code of 1972, is
238 reenacted as follows:

239 75-67-615. (1) The department may adopt reasonable
240 administrative regulations, not inconsistent with law, for the
241 enforcement of this article and shall develop and provide any
242 necessary forms or other documentation to carry out the provisions
243 of this article.

244 (2) To assure compliance with the provisions of this
245 article, the department may examine the books and records of any



246 licensee without notice during normal business hours. The
247 commissioner may charge the licensee an examination fee in an
248 amount not less than Three Hundred Dollars (\$300.00) nor more than
249 Six Hundred Dollars (\$600.00) for each office or location within
250 the State of Mississippi plus any actual expenses incurred while
251 examining the licensee's records or books that are located outside
252 the State of Mississippi. However, in no event shall a licensee
253 be examined more than once in a two-year period unless for cause
254 shown based upon a consumer complaint and/or other exigent reasons
255 as determined by the commissioner.

256 (3) Each licensee shall keep and use in its business any
257 books, accounts and records the department may require to carry
258 into effect the provisions of this article and the administrative
259 regulations issued under this article. Every licensee shall
260 preserve the books, accounts and records of its business for at
261 least two (2) years.

262 **SECTION 9.** Section 75-67-617, Mississippi Code of 1972, is
263 reenacted as follows:

264 75-67-617. A licensee shall not advertise, display or
265 publish, or permit to be advertised, displayed or published, in
266 any manner whatsoever, any statement or representation that is
267 false, misleading or deceptive.

268 **SECTION 10.** Section 75-67-619, Mississippi Code of 1972, is
269 reenacted as follows:



270 75-67-619. (1) Notwithstanding any other statutory
271 limitation, a licensee authorized to provide credit availability
272 transactions under this article may charge and collect fees and
273 charges in a manner consistent with this section, and may take as
274 security therefor any personal property that is not exempt or
275 prohibited by state or federal law or regulations.

276 (2) (a) A licensee may charge and collect a monthly
277 handling fee for services, expenses, and costs not to exceed
278 twenty-five percent (25%) of the outstanding principal balance of
279 any credit availability account per month, or any portion thereof,
280 for transactions of Five Hundred Dollars (\$500.00) or less. The
281 handling fee shall not be deemed interest for any purpose of law.

282 (b) A licensee may charge and collect a monthly
283 handling fee for services, expenses, and costs not to exceed
284 twenty-five percent (25%) of the outstanding principal balance of
285 any credit availability account per month, or portion thereof, for
286 transactions in excess of Five Hundred Dollars (\$500.00). The
287 handling fee shall not be deemed interest for any purpose of law.

288 (c) (i) In addition to the charges authorized under
289 this subsection (2), a licensee may also charge and collect an
290 origination fee in the amount of one percent (1%) of the amount
291 disbursed to the account holder or Five Dollars (\$5.00), whichever
292 is greater, for costs associated with providing a credit
293 availability transaction.



294 (ii) The origination fee shall not be deemed
295 interest for any purpose of law.

296 (3) (a) No credit availability account created under
297 subsection (2) (a) of this section shall have an outstanding
298 principal balance in excess of Five Hundred Dollars (\$500.00) at
299 any time.

300 (b) No credit availability account created under
301 subsection (2) (b) of this section shall have an outstanding
302 principal balance in excess of Two Thousand Five Hundred Dollars
303 (\$2,500.00) at any time.

304 (4) (a) Any credit availability account created under
305 subsection (2) (a) of this section shall be a fully amortized loan,
306 secured or unsecured, payable in equal payments of four (4) to six
307 (6) months calculated on the amount initially disbursed to the
308 account holder plus any fees that may be charged, in an amount and
309 manner provided for under this article.

310 (b) Any credit availability account created under
311 subsection (2) (b) of this section shall be a fully amortized loan,
312 secured or unsecured, payable in equal payments of six (6) to
313 twelve (12) months calculated on the amount initially disbursed to
314 the account holder plus any fees that may be charged, in an amount
315 and manner provided for under this article.

316 (5) In the event an account holder is delinquent in payment
317 of a monthly payment under the terms of a credit availability
318 agreement, the licensee may charge and collect from the account



319 holder a late fee of ten percent (10%) of the past-due amount;
320 provided, however, that no such late fee may be charged unless an
321 account holder has failed to pay the past-due amount within ten
322 (10) business days after the due date and provided that such fees
323 are clearly disclosed in the credit availability agreement.

324 (6) In the event an account holder is in default under the
325 terms of a credit availability agreement for more than sixty (60)
326 days, the licensee may charge and collect from the account holder
327 the following fees in connection with any such default, provided
328 that such fees are clearly disclosed in the credit availability
329 agreement:

330 (a) If the licensee is required to employ a third
331 party, including an attorney, to collect on the account the
332 licensee may:

333 (i) If the credit availability agreement so
334 provides, charge and collect a reasonable collection fee and
335 attorney's fee; and

336 (ii) If the credit availability agreement so
337 provides, shall be entitled to recover from the account holder all
338 court costs incurred and to recover any court-awarded damages,
339 including those incurred on appeal.

340 (b) If applicable, the licensee may charge and collect
341 from the account holder any fees and costs relating to the
342 repossession and sale of collateral, including, but not limited



343 to, fees and costs associated with the repossession, storage,
344 preparation for sale and sale of collateral.

345 **SECTION 11.** Section 75-67-621, Mississippi Code of 1972, is
346 reenacted as follows:

347 75-67-621. (1) A licensee shall provide each prospective
348 account holder, before consummation of a credit availability
349 transaction, a written explanation of the fees, and charges to be
350 charged by the licensee and the due dates for all payments. The
351 style, content, and method of executing the required written
352 explanation shall comply with federal truth-in-lending laws and
353 shall contain a statement that the account holder may prepay the
354 unpaid balance in whole or in part at any time. The commissioner
355 may promulgate rules in accordance with this article in order to
356 assure complete and accurate disclosure of the fees and charges to
357 be charged by a licensee under a credit availability agreement.

358 At a minimum, the written explanation must include:

- 359 (a) The amount of the transaction;
- 360 (b) The date the agreement was entered into;
- 361 (c) A schedule or description of the payments;
- 362 (d) The name and address of the licensed office;
- 363 (e) The name of the person primarily obligated on the
364 agreement;
- 365 (f) The amount of the principal;
- 366 (g) The agreed rate of charge stated on a percent per
367 year basis and the amount in dollars and cents;



368 (h) All other disclosures required pursuant to state
369 and federal law.

370 (2) The contract for any credit availability agreement shall
371 include, along with other state or federal law requirements, the
372 right for an account holder to rescind the transaction within one
373 (1) business day; provided, however, that if the account holder
374 accepts funds from the credit availability licensee prior to the
375 expiration of the one-day rescission period, any origination fee
376 charged shall be nonrefundable.

377 (3) A licensee with a physical location in this state shall
378 display in its consumer waiting area, and shall provide a copy to
379 any account holder that requests it, a pamphlet prepared by the
380 department that describes general information about the
381 transaction and about the account holder's rights and
382 responsibilities in the transaction, including the rates and fees
383 charged by the licensee, the licensee's rights in event of default
384 by the consumer, the maximum allowable account balance, and the
385 consumer hotline telephone number to the Mississippi Department of
386 Banking and Consumer Finance. The licensee shall add the account
387 information and/or complaint hotline telephone number of the
388 licensee to the pamphlet. A licensee without a physical location
389 in this state shall make the information available on its website.

390 **SECTION 12.** Section 75-67-623, Mississippi Code of 1972, is
391 reenacted as follows:



392 75-67-623. (1) The commissioner may, after notice and
393 hearing, suspend or revoke a license if he finds that:

394 (a) The licensee, either knowingly, or without the
395 exercise of due care to prevent the same, has violated any
396 provision of this article;

397 (b) Any fact or condition exists which, if it had
398 existed or had been known to exist at the time of the original
399 application for the license, clearly would have justified the
400 commissioner in refusing the license;

401 (c) The licensee has aided, abetted or conspired with
402 an individual or person to circumvent or violate the requirement
403 of this article;

404 (d) The licensee, or a legal or beneficial owner of the
405 license, has been convicted of a crime that the commissioner finds
406 directly relates to the duties and responsibilities of the
407 business of offering credit availability transactions.

408 (2) The commissioner may conditionally license or place on
409 probation a person whose license has been suspended or may
410 reprimand a licensee for a violation of this article.

411 (3) The manner of giving notice and conducting a hearing as
412 required by subsection (1) of this section shall be performed in
413 accordance with procedures prescribed by the commissioner in rules
414 or regulations adopted under the Mississippi Administrative
415 Procedures Law, Section 25-43-1 et seq.



416 (4) Any licensee may surrender any license by delivering it
417 to the commissioner with written notice of its surrender, but that
418 surrender shall not affect the licensee's civil or criminal
419 liability for acts committed prior thereto.

420 (5) The commissioner may reinstate suspended licenses or
421 issue new licenses to a person whose licenses have been revoked if
422 no fact or condition then exists which clearly would have
423 justified the commissioner in refusing originally to issue a
424 license under this article.

425 (6) The appropriate local law enforcement agency shall be
426 notified of any licensee who has his license suspended or revoked
427 as provided by this article.

428 (7) The commissioner shall enforce the provisions of this
429 section.

430 (8) No revocation, suspension or surrender of any license
431 shall impair or affect the obligation of any pre-existing lawful
432 contract between the licensee and any debtor.

433 **SECTION 13.** Section 75-67-625, Mississippi Code of 1972, is
434 reenacted as follows:

435 75-67-625. The commissioner, or his duly authorized
436 representative, for the purpose of discovering violations of this
437 article and for the purpose of determining whether persons are
438 subject to the provisions of this article, may examine persons
439 licensed under this article and persons reasonably suspected by
440 the commissioner of conducting business which requires a license



441 under this article, including all relevant books, records and
442 papers employed by those persons in the transaction of their
443 business, and may summon witnesses and examine them under oath
444 concerning matters relating to the business of those persons, or
445 such other matters as may be relevant to the discovery of
446 violations of this article, including without limitation the
447 conduct of business without a license as required under this
448 article.

449 **SECTION 14.** Section 75-67-627, Mississippi Code of 1972, is
450 reenacted as follows:

451 75-67-627. (1) Any person who engages in the business of
452 offering credit availability transactions without first securing a
453 license prescribed by this article shall be guilty of a
454 misdemeanor and upon conviction thereof, shall be punishable by a
455 fine not to exceed One Thousand Dollars (\$1,000.00) or by
456 confinement in the county jail for not more than one (1) year, or
457 both.

458 (2) Any person who engages in the business of offering
459 credit availability transactions without first securing a license
460 prescribed by this article shall be liable for the full amount of
461 the license fee, plus a penalty in an amount not to exceed
462 Twenty-five Dollars (\$25.00) for each day that the person engaged
463 in the business without a license. All licensing fees and
464 penalties shall be paid into the Consumer Finance Fund of the
465 Department of Banking and Consumer Finance.



466 **SECTION 15.** Section 75-67-629, Mississippi Code of 1972, is
467 reenacted as follows:

468 75-67-629. (1) In addition to any other penalty which may
469 be applicable, any licensee or employee who willfully violates any
470 provision of this article, or who willfully makes a false entry in
471 any record specifically required by this article, shall be guilty
472 of a misdemeanor and upon conviction thereof, shall be punishable
473 by a fine not to exceed One Thousand Dollars (\$1,000.00) per
474 violation or false entry.

475 (2) Compliance with criminal provisions of this article
476 shall be enforced by the appropriate law enforcement agency, which
477 may exercise for that purpose any authority conferred upon the
478 agency by law.

479 (3) When the commissioner has reasonable cause to believe
480 that a person is violating any provision of this article, the
481 commissioner, in addition to and without prejudice to the
482 authority provided elsewhere in this article, may enter an order
483 requiring the person to stop or to refrain from the violation.
484 The commissioner may sue in any circuit court of the state having
485 jurisdiction and venue to enjoin the person from engaging in or
486 continuing the violation or from doing any action in furtherance
487 of the violation. In such an action, the court may enter an order
488 or judgment awarding a preliminary or permanent injunction.

489 (4) The commissioner may impose a civil penalty against any
490 licensee adjudged by the commissioner to be in violation of the



491 provisions of this article. The civil penalty shall not exceed
492 Five Hundred Dollars (\$500.00) per violation and shall be
493 deposited into the Department of Banking and Consumer Finance,
494 "Consumer Finance Fund."

495 (5) Any licensee convicted in the manner provided in this
496 article shall forfeit the surety bond or deposit required in this
497 article and the amount of the bond or deposit shall be credited to
498 the budget of the state or local agency which directly
499 participated in the prosecution of the licensee, for the specific
500 purpose of increasing law enforcement resources for that specific
501 state or local agency. The bond or deposit shall be used to
502 augment existing state and local law enforcement budgets and not
503 to supplant them.

504 **SECTION 16.** Section 75-67-631, Mississippi Code of 1972, is
505 reenacted as follows:

506 75-67-631. The provisions of this article are severable. If
507 any part of this article is declared invalid or unconstitutional,
508 that declaration shall not affect the parts that remain.

509 **SECTION 17.** Section 75-67-633, Mississippi Code of 1972, is
510 reenacted as follows:

511 75-67-633. (1) Municipalities of this state may enact
512 ordinances that are in compliance with, but not more restrictive
513 than, the provisions of this article. Any existing or future
514 order, ordinance or regulation that conflicts with this provision
515 shall be null and void.



516 (2) Notwithstanding any existing zoning ordinance, any
517 person or entity conducting business under a valid license issued
518 by the department pursuant to Section 75-67-401 et seq. or Section
519 75-67-501 et seq., as of July 1, 2016, that elects to secure a
520 license under this article may not be restricted from continuing
521 operations under this article in the same location, regardless of
522 whether the licensee elects to continue, if permitted by law, or
523 to terminate its previous license.

524 **SECTION 18.** Section 75-67-635, Mississippi Code of 1972, is
525 reenacted as follows:

526 75-67-635. The commissioner may employ the necessary
527 full-time employees above the number of permanent full-time
528 employees authorized for the department for fiscal year 2016 to
529 carry out and enforce the provisions of this article. The
530 commissioner may also expend the necessary funds to equip and
531 provide necessary travel expenses for those employees.

532 **SECTION 19.** Section 75-67-637, Mississippi Code of 1972, is
533 reenacted as follows:

534 75-67-637. (1) A licensee under this article shall have no
535 liability for any act or practice done or omitted in conformity
536 with (a) any rule or regulation of the commissioner, or (b) any
537 rule, regulation, interpretation or approval of any other state or
538 federal agency or any opinion of the Attorney General,
539 notwithstanding that after such act or omission has occurred the
540 rule, regulation, interpretation, approval or opinion is amended,



541 rescinded, or determined by judicial or other authority to be
542 invalid for any reason.

543 (2) A licensee under this article, acting in conformity with
544 a written interpretation or approval by an official or employee of
545 any state or federal agency or department, shall be presumed to
546 have acted in accordance with applicable law, notwithstanding that
547 after such act has occurred, the interpretation or approval is
548 amended, rescinded, or determined by judicial or other authority
549 to be incorrect or invalid for any reason.

550 **SECTION 20.** Section 75-67-403, Mississippi Code of 1972, is
551 reenacted as follows:

552 75-67-403. The following words and phrases shall have the
553 following meanings:

554 (a) "Appropriate law enforcement agency" means the
555 sheriff of each county in which the title pledge lender maintains
556 an office, or the police chief of the municipality or law
557 enforcement officers of the Department of Public Safety in which
558 the title pledge lender maintains an office.

559 (b) "Attorney General" means the Attorney General of
560 the State of Mississippi.

561 (c) "Commissioner" means the Commissioner of Banking
562 and Consumer Finance of the State of Mississippi, or his designee,
563 as the designated official for the purpose of enforcing this
564 article.



565 (d) "Identification" means a government issued
566 photographic identification.

567 (e) "Person" means an individual, partnership,
568 corporation, joint venture, trust, association or other legal
569 entity.

570 (f) "Pledged property" means any personal property
571 certificate of title that is deposited with a title pledge lender
572 in the course of the title pledge lender's business and is the
573 subject of a title pledge agreement.

574 (g) "Pledgor" means the person to whom the property is
575 titled.

576 (h) "Title pledge agreement" means a thirty-day written
577 agreement whereby a title pledge lender agrees to make a loan of
578 money to a pledgor, and the pledgor agrees to give the title
579 pledge lender a security interest in unencumbered titled personal
580 property owned by the pledgor. The pledgor shall agree that the
581 title pledge lender keep possession of the certificate of title.
582 The pledgor shall have the exclusive right to redeem the
583 certificate of title by repaying the loan of money in full and by
584 complying with the title pledge agreement. When the certificate
585 of title is redeemed, the title pledge lender shall release the
586 security interest in the titled personal property and return the
587 personal property certificate of title to the pledgor. The title
588 pledge agreement shall provide that upon failure by the pledgor to
589 redeem the certificate of title at the end of the original



590 thirty-day agreement period, or at the end of any extension(s)
591 thereof, the title pledge lender shall be allowed to take
592 possession of the titled personal property. The title pledge
593 agreement shall contain a power of attorney which authorizes the
594 title pledge lender to transfer title to the pledged property from
595 the pledgor to the title pledge lender upon failure to redeem the
596 pledged property on or before the maturity date of the title
597 pledge agreement, or any extension thereof. The title pledge
598 lender shall take physical possession of the certificate of title
599 for the entire length of the title pledge agreement, but shall not
600 be required to take physical possession of the titled personal
601 property at any time. A title pledge lender may only take
602 unencumbered certificates of title for pledge, but may encumber
603 the title as part of the title pledge transaction by perfecting
604 its security interest in the titled property.

605 (i) "Title pledge lender" means any person engaged in
606 the business of making title pledge agreements with pledgors;
607 provided, however, that the following are exempt from the
608 definition of "title pledge lender" and from the provisions of
609 this article: any bank which is regulated by the Department of
610 Banking and Consumer Finance, the Comptroller of the Currency of
611 the United States, the Federal Deposit Insurance Corporation, the
612 Board of Governors of the Federal Reserve System or any other
613 federal or state authority and all affiliates of such bank, and
614 additionally any bank or savings and loan association whose



615 deposits or accounts are eligible for insurance by the Bank
616 Insurance Fund or the Savings Association Insurance Fund or other
617 fund administered by the Federal Deposit Insurance Corporation or
618 any successor thereto, and all affiliates of such banks and
619 savings and loan associations, any state or federally chartered
620 credit union and finance company subject to licensing and
621 regulation by the Department of Banking and Consumer Finance.

622 (j) "Title pledge office" means the location at which,
623 or premises in which, a title pledge lender regularly conducts
624 business.

625 (k) "Title pledge service charge" means a charge for
626 investigating the title, appraising the titled personal property
627 to which the pledged property relates, documenting and closing the
628 title pledge agreement transaction, making required reports to
629 appropriate law enforcement officials, and for all of the services
630 provided by the title pledge lender.

631 (l) "Title pledge transaction form" means the
632 instrument on which a title pledge lender records title pledge
633 agreements pursuant to this article.

634 (m) "Titled personal property" means any personal
635 property the ownership of which is evidenced and delineated by a
636 state-issued certificate of title.

637 (n) "Records" or "documents" means any item in hard
638 copy or produced in a format of storage commonly described as
639 electronic, imaged, magnetic, microphotographic or otherwise, and



640 any reproduction so made shall have the same force and effect as
641 the original thereof and be admitted in evidence equally with the
642 original.

643 **SECTION 21.** Section 75-67-505, Mississippi Code of 1972, is
644 reenacted as follows:

645 75-67-505. (1) (a) A person may not engage in business as
646 a check casher or otherwise portray himself as a check casher
647 unless the person has a valid license authorizing engagement in
648 the business. Any transaction that would be subject to this
649 article that is made by a person who does not have a valid license
650 under this article shall be null and void. A separate license is
651 required for each place of business under this article and each
652 business must be independent of, and not a part of, any other
653 business operation. A check cashing business shall not be a part
654 of, or located at the same business address with, a pawnshop,
655 title pledge office and small loan company.

656 (b) A check cashing business shall (i) have a
657 definitive United States postal address and E911 address; (ii)
658 comply with local zoning requirements; (iii) have a minimum of one
659 hundred (100) square feet with walls from floor to ceiling
660 separating the operation from any other businesses; (iv) have an
661 outside entrance, but may be located in an area that has a common
662 lobby shared by other businesses as long as the customers do not
663 enter the check cashing business through another business; (v)
664 have proper signage; and (vi) maintain separate books and records.



665 Any licensee who does not cash any delayed deposit checks as
666 authorized under Section 75-67-519 shall not be subject to the
667 requirements of subparagraphs (i), (iii) and (iv) of this
668 paragraph.

669 (c) A licensed check casher may sell, at the same
670 location as his check cashing business, the following items and
671 services: money orders; income tax preparation service; copy
672 service; wire transfer service; notary service; pagers; pager
673 service; prepaid cellular service; debit card; prepaid telephone
674 cards; prepaid telephone service; and operate a processing center
675 where utility bills, credit card payments and other payments are
676 collected from the general public and governmental and private
677 payments are distributed. In the event a licensee accepts wire
678 transfers in the form of a direct deposit of a payroll check or
679 other similar types of deposit, the licensee shall not encumber
680 any transferred funds against a deferred deposit agreement or any
681 delinquent deferred deposit agreement with such customer. The
682 commissioner may authorize additional functions in addition to
683 those provided in this subsection that may be performed as part of
684 a check cashing business, but shall authorize the offering of
685 credit availability transactions as provided in Sections 75-67-601
686 through 75-67-637.

687 (d) The commissioner may issue more than one (1)
688 license to a person if that person complies with this article for
689 each license. A new license is required upon a change, directly



690 or beneficially, in the ownership of any licensed check casher
691 business and an application shall be made to the commissioner in
692 accordance with this article.

693 (2) When a licensee wishes to move a check casher business
694 to another location, the licensee shall give thirty (30) days'
695 prior written notice to the commissioner who shall amend the
696 license accordingly.

697 (3) Each license shall remain in full force and effect until
698 relinquished, suspended, revoked or expired. With each initial
699 application for a license, the applicant shall pay the
700 commissioner at the time of making the application a license fee
701 of Seven Hundred Fifty Dollars (\$750.00), and on or before
702 September 1 of each year thereafter, an annual renewal fee of Four
703 Hundred Seventy-five Dollars (\$475.00). If the annual renewal fee
704 remains unpaid twenty-nine (29) days after September 1, the
705 license shall thereupon expire, but not before the thirtieth day
706 of September of any year for which the annual fee has been paid.
707 If any licensee fails to pay the annual renewal fee before the
708 thirtieth day of September of any year for which the renewal fee
709 is due, then the licensee shall be liable for the full amount of
710 the license fee, plus a penalty in an amount not to exceed
711 Twenty-five Dollars (\$25.00) for each day that the licensee has
712 engaged in business after September 30. All licensing fees and
713 penalties shall be paid into the Consumer Finance Fund of the
714 Department of Banking and Consumer Finance.



715 (4) Notwithstanding other provisions of this article, the
716 commissioner may issue a temporary license authorizing the
717 operator of a check casher business on the receipt of an
718 application for a license involving principals and owners that are
719 substantially identical to those of an existing licensed check
720 casher. The temporary license is effective until the permanent
721 license is issued or denied.

722 **SECTION 22.** The following shall be codified as Section
723 75-67-639, Mississippi Code of 1972:

724 75-67-639. Sections 75-67-601 through 75-67-639, and
725 Sections 75-67-403 and 75-67-505, shall stand repealed on July 1,
726 2022.

727 **SECTION 23.** Section 22, Chapter 500, Laws of 2016, which
728 provides for the repeal of Sections 75-67-601 through 75-67-637,
729 75-67-403 and 75-67-505, Mississippi Code of 1972, is repealed.

730 **SECTION 24.** This act shall take effect and be in force from
731 and after July 1, 2018.

