

By: Senator(s) Parks

To: Business and Financial
Institutions

SENATE BILL NO. 2540

1 AN ACT TO REENACT SECTIONS 75-67-601, 75-67-603, 75-67-605,
 2 75-67-607, 75-67-609, 75-67-611, 75-67-613, 75-67-615, 75-67-617,
 3 75-67-619, 75-67-621, 75-67-623, 75-67-625, 75-67-627, 75-67-629,
 4 75-67-631, 75-67-633, 75-67-635 AND 75-67-637, MISSISSIPPI CODE OF
 5 1972, WHICH CREATE THE MISSISSIPPI CREDIT AVAILABILITY ACT; TO
 6 REENACT SECTION 75-67-403, MISSISSIPPI CODE OF 1972, WHICH DEFINES
 7 CERTAIN TERMS USED IN THE MISSISSIPPI TITLE PLEDGE ACT; TO REENACT
 8 SECTION 75-67-505, MISSISSIPPI CODE OF 1972, WHICH PROVIDES
 9 LICENSING REQUIREMENTS UNDER THE MISSISSIPPI CHECK CASHERS ACT; TO
 10 REENACT AND AMEND SECTION 22, CHAPTER 500, LAWS OF 2016, TO EXTEND
 11 THE DATE OF REPEAL ON THE FOREGOING SECTIONS; AND FOR RELATED
 12 PURPOSES.

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

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

16 75-67-601. This article shall be known and may be cited as
 17 the "Mississippi Credit Availability Act."

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

20 75-67-603. The following words and phrases used in this
 21 article shall have the following meanings unless the context
 22 clearly indicates otherwise:



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

28 (b) "Attorney General" means the Attorney General of
29 the State of Mississippi.

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

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

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



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

49 (f) "Department" means the Department of Banking and
50 Consumer Finance.

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

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

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

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

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

66 75-67-605. (1) A person may not engage in business as a
67 credit availability licensee or otherwise portray himself as a
68 credit availability licensee unless the person has a valid license
69 authorizing him to engage in the business. Any transaction that
70 would be subject to this article that is made by a person who does



71 not have a valid license under this article shall be null and
72 void.

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

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

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

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



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

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

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



120 (6) Persons licensed under Sections 75-67-401 et seq. and
121 75-67-501 et seq. on July 1, 2016, shall have until September 30,
122 2016, to apply for an expedited license approval under this
123 article. The commissioner, in his discretion, may waive certain
124 documentation already on file under those licenses, including
125 fingerprints, and may promulgate an application that expedites the
126 licensing process. Upon the approval of the application, the
127 commissioner shall grant a license under this article.

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

130 75-67-607. The provisions of this article shall not apply to
131 any bank, trust company, savings association, savings and loan
132 association, savings bank or credit union that is chartered under
133 the laws of this state or under federal law and domiciled in this
134 state.

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

137 75-67-609. To be eligible for a credit availability license,
138 an applicant shall:

139 (a) Operate lawfully and fairly within the purposes of
140 this article.

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



145 responsibilities of the business of offering credit availability
146 transactions.

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

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



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

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

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

188 75-67-611. Each application for a license shall be in a form
189 prescribed by the commissioner, signed under oath or otherwise
190 authenticated in a record, and shall include the following:

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



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

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

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

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



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

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

224 75-67-613. (1) Upon filing of an application in a form
225 prescribed by the commissioner, accompanied by the documents
226 required in this article, the department shall investigate to
227 ascertain whether the qualifications prescribed in this article
228 have been satisfied. If the commissioner finds that the
229 qualifications have been satisfied and, if he approves the
230 documents so filed by the applicant, he shall issue to the
231 applicant a license to engage in the credit availability business
232 in this state.

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

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

237 75-67-615. (1) The department may adopt reasonable
238 administrative regulations, not inconsistent with law, for the
239 enforcement of this article and shall develop and provide any
240 necessary forms or other documentation to carry out the provisions
241 of this article.

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



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

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

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

262 75-67-617. A licensee shall not advertise, display or
263 publish, or permit to be advertised, displayed or published, in
264 any manner whatsoever, any statement or representation that is
265 false, misleading or deceptive.

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



268 75-67-619. (1) Notwithstanding any other statutory
269 limitation, a licensee authorized to provide credit availability
270 transactions under this article may charge and collect fees and
271 charges in a manner consistent with this section, and may take as
272 security therefor any personal property that is not exempt or
273 prohibited by state or federal law or regulations.

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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



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

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

345 75-67-621. (1) A licensee shall provide each prospective
346 account holder, before consummation of a credit availability
347 transaction, a written explanation of the fees, and charges to be
348 charged by the licensee and the due dates for all payments. The
349 style, content, and method of executing the required written
350 explanation shall comply with federal truth-in-lending laws and
351 shall contain a statement that the account holder may prepay the
352 unpaid balance in whole or in part at any time. The commissioner
353 may promulgate rules in accordance with this article in order to
354 assure complete and accurate disclosure of the fees and charges to
355 be charged by a licensee under a credit availability agreement.

356 At a minimum, the written explanation must include:

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



366 (h) All other disclosures required pursuant to state
367 and federal law.

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

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

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



390 75-67-623. (1) The commissioner may, after notice and
391 hearing, suspend or revoke a license if he finds that:

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

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

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

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

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

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



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

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

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

426 (7) The commissioner shall enforce the provisions of this
427 section.

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

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

433 75-67-625. The commissioner, or his duly authorized
434 representative, for the purpose of discovering violations of this
435 article and for the purpose of determining whether persons are
436 subject to the provisions of this article, may examine persons
437 licensed under this article and persons reasonably suspected by
438 the commissioner of conducting business which requires a license



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

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

449 75-67-627. (1) Any person who engages in the business of
450 offering credit availability transactions without first securing a
451 license prescribed by this article shall be guilty of a
452 misdemeanor and upon conviction thereof, shall be punishable by a
453 fine not to exceed One Thousand Dollars (\$1,000.00) or by
454 confinement in the county jail for not more than one (1) year, or
455 both.

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



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

466 75-67-629. (1) In addition to any other penalty which may
467 be applicable, any licensee or employee who willfully violates any
468 provision of this article, or who willfully makes a false entry in
469 any record specifically required by this article, shall be guilty
470 of a misdemeanor and upon conviction thereof, shall be punishable
471 by a fine not to exceed One Thousand Dollars (\$1,000.00) per
472 violation or false entry.

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

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

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



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

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

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

504 75-67-631. The provisions of this article are severable. If
505 any part of this article is declared invalid or unconstitutional,
506 that declaration shall not affect the parts that remain.

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

509 75-67-633. (1) Municipalities of this state may enact
510 ordinances that are in compliance with, but not more restrictive
511 than, the provisions of this article. Any existing or future
512 order, ordinance or regulation that conflicts with this provision
513 shall be null and void.



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

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

524 75-67-635. The commissioner may employ the necessary
525 full-time employees above the number of permanent full-time
526 employees authorized for the department for fiscal year 2016 to
527 carry out and enforce the provisions of this article. The
528 commissioner may also expend the necessary funds to equip and
529 provide necessary travel expenses for those employees.

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

532 75-67-637. (1) A licensee under this article shall have no
533 liability for any act or practice done or omitted in conformity
534 with (a) any rule or regulation of the commissioner, or (b) any
535 rule, regulation, interpretation or approval of any other state or
536 federal agency or any opinion of the Attorney General,
537 notwithstanding that after such act or omission has occurred the
538 rule, regulation, interpretation, approval or opinion is amended,



539 rescinded, or determined by judicial or other authority to be
540 invalid for any reason.

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

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

550 75-67-403. The following words and phrases shall have the
551 following meanings:

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

557 (b) "Attorney General" means the Attorney General of
558 the State of Mississippi.

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



563 (d) "Identification" means a government issued
564 photographic identification.

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

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

572 (g) "Pledgor" means the person to whom the property is
573 titled.

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



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

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



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

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

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

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

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

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



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

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

643 75-67-505. (1) (a) A person may not engage in business as
644 a check casher or otherwise portray himself as a check casher
645 unless the person has a valid license authorizing engagement in
646 the business. Any transaction that would be subject to this
647 article that is made by a person who does not have a valid license
648 under this article shall be null and void. A separate license is
649 required for each place of business under this article and each
650 business must be independent of, and not a part of, any other
651 business operation. A check cashing business shall not be a part
652 of, or located at the same business address with, a pawnshop,
653 title pledge office and small loan company.

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



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

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

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



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

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

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



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

720 **SECTION 22.** Section 22, Chapter 500, Laws of 2016, is
721 reenacted and amended as follows:

722 Section 22. This act shall stand repealed on July 1, * * *
723 2022.

724 **SECTION 23.** This act shall take effect and be in force from
725 and after July 1, 2018.

