

By: Representative Young

To: Accountability,
Efficiency, Transparency;
Appropriations

HOUSE BILL NO. 275

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.** Any active or retired public employee who is a
11 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



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

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

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

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

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

97-19-57. (1) As against the maker, drawer or payor thereof, the making, drawing, issuing, uttering, delivering, or initiation of a check, draft, order, electronically converted check, or electronic commercial debit payment of which is refused by the drawee, shall be prima facie evidence and create a presumption of intent to defraud and of knowledge of insufficient



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

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



71 the intent to defraud and the knowledge of insufficient funds in,
72 or on deposit with, such bank in violation of Section 97-19-55."

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

92 (4) For purposes of Sections 11-7-12 and 97-19-67, the form
93 of notice provided for in subsection (1) of this section for an
94 electronic commercial debit shall be sent by regular mail,
95 supported by an affidavit of service by mailing, and shall be



96 substantially as follows: "This statutory notice is provided
97 pursuant to Section 97-19-57 * * *, ~~Mississippi Code of 1972~~. You
98 are hereby notified that on _____ (date) an electronic commercial
99 debit was initiated by _____ (name of payee bank) on behalf of
100 _____ (payee) to _____ (name of payor bank) through the
101 ACH Network requesting a payment in the amount of \$_____ to
102 _____ (payee) from your account pursuant to invoice number
103 _____ and our agreement dated _____, but that payment has
104 been dishonored. Pursuant to Mississippi law, because the payee
105 delivered _____ (goods or service) to you in reliance upon
106 the agreement, you have fifteen (15) days from receipt of this
107 notice to tender payment of the full amount of such electronic
108 commercial debit plus a service charge of Forty Dollars (\$40.00),
109 the total amount due being \$_____. Failure to pay this amount
110 in full within the time specified above shall be prima facie
111 evidence of and create a presumption of both the intent to defraud
112 and the knowledge of insufficient funds in, or on deposit with,
113 such bank in violation of Section 97-19-55, and the payee may
114 assume that you entered into such agreement with intent to defraud
115 and may turn over all documentation related to the dishonored
116 electronic commercial debit to the proper authorities for criminal
117 prosecution."

118 (5) If any notice is returned undelivered to the sender
119 after such notice was mailed to the address printed on the check,
120 draft or order, or to the address given by the accused at the time



121 of issuance of the instrument, such return shall be prima facie
122 evidence of the maker's or drawer's intent to defraud.

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

125 "STATE OF _____

126 COUNTY OF _____

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

132 _____
133 _____
134 _____

135 and deposited the same, postage prepaid, in the United States mail
136 at _____, _____.

137 _____
138 (signature)

139 Subscribed to and sworn before me, this the _____ day of
140 _____, 2____.

141 _____
142 (Notary Public)

143 My commission expires:

144 (SEAL) "



(7) Without in any way limiting the provisions of this section, this section shall apply to a draft for the payment of money given for a motor vehicle even if such payment is conditioned upon delivery of documents necessary for transfer of a valid title to the purchaser.

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

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

Application for dental license.....	\$ 600.00
Application for dental license through	
credentials.....	2,500.00
Application for dental specialty license.....	400.00
Application for dental institutional,	
teaching or provisional license.....	600.00
Application for dental hygiene license.....	400.00
Application for dental hygiene license through	
credentials.....	750.00
Application for dental hygiene institutional,	
teaching or provisional license.....	400.00
Application for general anesthesia permit.....	400.00
Application for I.V. sedation permit.....	400.00
Application for radiology permit.....	100.00
Dental license renewal.....	300.00



170	Dental specialty license renewal.....	200.00
171	Dental institutional, teaching or	
172	provisional license renewal.....	300.00
173	Dental hygiene license renewal.....	150.00
174	Dental hygiene institutional, teaching or	
175	provisional license renewal.....	150.00
176	General anesthesia permit renewal.....	200.00
177	I.V. sedation permit renewal.....	200.00
178	Radiology permit renewal.....	75.00
179	Penalty for delinquent renewal of dental licenses;	
180	dental specialty licenses; and dental institutional,	
181	teaching and provisional licenses:	
182	First month (plus renewal fee).....	100.00
183	Second month (plus renewal fee).....	150.00
184	Penalty for delinquent renewal of dental hygiene	
185	licenses and dental hygiene institutional,	
186	teaching and provisional licenses:	
187	First month (plus renewal fee).....	50.00
188	Second month (plus renewal fee).....	75.00
189	Penalty for delinquent renewal of radiology permits:	
190	First month (plus renewal fee).....	45.00
191	Second month (plus renewal fee).....	65.00
192	Penalty for nonnotification of change of address....	50.00
193	Penalty for duplicate renewal forms and	
194	certification cards.....	50.00



195	Duplicate or replacement license or permit.....	40.00
196	Certification of licensure status.....	40.00
197	Certified copy of license or permit.....	40.00
198	Handling fee for nonsufficient funds check.....	50.00
199	Requests for database information.....	300.00
200	Radiology examinations administered in board's	
201	office.....	100.00
202	Dental and dental hygiene licensure examination	
203	manuals.....	50.00
204	Dental and dental hygiene licensure by	
205	credentials packets.....	50.00
206	Laws and/or regulations.....	50.00
207	Disciplinary action orders.....	25.00
208	Newsletters.....	20.00

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



profession in this state thereafter, the person may, at the discretion of the board, be considered as a new applicant and subject to examination and other licensing requirements as an original applicant.

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

(4) For conducting the initial and retake examinations of applicants for licensure the secretary shall receive no more than Nine Hundred Dollars (\$900.00) per day for each examination, and no other member shall receive more than Seven Hundred Dollars (\$700.00) per day for each examination. The receipt of that compensation shall not entitle members of the board to receive or be eligible for any state employee group insurance, retirement or other fringe benefits. Any fees or income other than the maximum allowable for examining applicants for licensure as set out above



shall be accounted for and may be used as needed in carrying out the provisions of this chapter.

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

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

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

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

Application and examination.....	\$225.00
Application only.....	\$175.00
Initial and renewal license.....	\$325.00
Delinquent renewal penalty.....	100% of renewal fee
For each change of address.....	\$ 25.00
For each duplicate license.....	\$ 25.00
To change status as a licensee between active/inactive	\$ 25.00



For each bad check received by the commission.....\$ 25.00

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

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

(3) The board by rule shall establish and collect from each appraisal management company (AMC) registered under this chapter the national registry fee required by the Appraisal Subcommittee



for each person who is on the appraisal panel of the company and
licensed or certified as an appraiser in this state.

(a) Unless exempted under provisions of this chapter or
federal law/regulation, the board shall collect from each
appraisal management company operating in this state:

(i) The national registry fee required by the
Appraisal Subcommittee;

(ii) Information necessary for the board to
determine the national registry fee as required by the Appraisal
Subcommittee;

(iii) A fee in an amount that is sufficient for
the administration of this subsection as established by board
rule; and

(iv) Any other information required by state or
federal law.

(b) The board shall deposit the national registry fees
collected under this section into an account maintained only for
purposes of collecting and disbursing the national registry fees
collected pursuant to this subsection.

(c) The national registry fees collected under this
section shall be transmitted to the Appraisal Subcommittee
regularly as required by the Appraisal Subcommittee and federal
law.

(d) The board may adopt such rules and regulations
necessary to implement the requirements of this subsection.



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

(5) Except for those fees collected by the board as required for disbursement to national registries, all fees charged and collected under this chapter shall be paid by the commission at least once a week, accompanied by a detailed statement thereof, to the credit of the fund known as the "Real Estate Appraisal License Fund," hereby created in the State Treasury. All monies which are collected under this chapter shall be paid into and credited to the fund for the use of the board in carrying out the provisions of this chapter, including the payment of salaries and expenses, printing an annual directory of licensees, and for educational purposes. The commission shall submit a monthly statement to the board detailing any expenses which it bears as a share in the expense of administering this chapter, for which expenses it shall be reimbursed in the amount approved by the board. The commission shall prepare an annual statement of income and expenses related to its appraisal-related administrative function.

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

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



73-35-17. (1) A fee not to exceed One Hundred Fifty Dollars (\$150.00) shall accompany an application for a real estate broker's license, and in the event that the applicant successfully passes the examination, no additional fee shall be required for the issuance of a license for a one-year period; provided, that if an applicant fails to pass the examination, he or she may be eligible to take the next or succeeding examination without the payment of an additional fee. In the event a contract testing service is * * *~~utilized~~ used, the fee associated with administering the test shall be collected by the testing provider and the application fee for any real estate license shall be collected by the commission.

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

(3) A fee not to exceed One Hundred Twenty Dollars (\$120.00) shall accompany an application for a real estate salesperson's license, and in the event that the applicant successfully passes the examination, no additional fee shall be required for the issuance of a license for a one-year period; provided, that if an applicant fails to pass the examination, he or she may be eligible to take the next or succeeding examination without the payment of an additional fee. In the event a contract testing service



367 is * * *~~utilized~~ used, the fee associated with administering the
368 test shall be collected by the testing provider and the
369 application fee for any real estate license shall be collected by
370 the commission.

371 (4) Except as provided in Section 33-1-39, it shall be the
372 duty of all persons, partnerships, associations, companies or
373 corporations licensed to practice as a real estate broker or
374 salesperson to register with the commission annually or
375 biennially, in the discretion of the commission, according to
376 rules promulgated by it and to pay the proper registration fee.
377 An application for renewal of license shall be made to the
378 commission annually no later than December 31 of each year, or
379 biennially on a date set by the commission. A licensee failing to
380 pay his or her renewal fee after the same becomes due and after
381 two (2) months' written notice of his or her delinquency mailed to
382 him or her by United States certified mail addressed to his or her
383 address of record with the commission shall thereby have his or
384 her license automatically cancelled. Any licensee renewing in
385 this grace period shall pay a penalty in the amount of one hundred
386 percent (100%) of the renewal fee. The renewal fee shall not
387 exceed Seventy-five Dollars (\$75.00) per year for real estate
388 brokers, partnerships, associations and corporations. The renewal
389 fee for a real estate salesperson's license shall not exceed Sixty
390 Dollars (\$60.00) per year.



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

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

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

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

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

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

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

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

(13) A fee not to exceed One Hundred Dollars (\$100.00) shall be charged to review and process the application and instructional



materials for each curriculum seeking acceptance as a real estate continuing education course developed to satisfy the mandatory continuing education requirements for this chapter, with the period of approval expiring after one (1) year. A fee not to exceed Fifty Dollars (\$50.00) shall be charged for each renewal of a previously approved course, with the period of renewal expiring after one (1) year.

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

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

SECTION 7. Section 73-60-29, Mississippi Code of 1972, is amended as follows:

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

LICENSURE FEES:

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

SERVICES:

For each change of address.....	\$ 25.00
For each duplicate license.....	\$ 25.00
To change status as a licensee from active to inactive.....	\$ 25.00



For each bad check received by the commission.....\$ 25.00

All fees charged and collected under this chapter shall be paid by the commission at least once a week, accompanied by a detailed statement thereof, to the credit of the fund known as the "Home Inspector License Fund," hereby created in the State Treasury. All monies which are collected under this chapter shall be paid into and credited to such fund for the use of the commission in carrying out the provisions of the chapter including the payment of salaries and expenses, printing an annual directory of licensees, and for educational purposes. All interest earned on the Home Inspector License Fund shall be retained by the commission for purposes consistent with this chapter. The commission shall prepare an annual statement of income and expenses related to its regulatory related administrative function.

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

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

75-67-122. Any licensee hereunder who receives a check, draft, negotiable order of withdrawal or like instrument drawn on a bank or other depository institution given by any person in full or partial repayment of a loan or other extension of credit may, if such instrument is not paid or is dishonored by such institution, charge and collect from the borrower or person to



whom the credit was extended, a bad check charge in an amount not to exceed the sum of Fifteen Dollars (\$15.00). This charge may be made only once with respect to the same instrument, and after the nonpayment or dishonor of the instrument, it shall be returned by the licensee to the borrower or person to whom credit was extended. This charge shall not be deemed to be interest, finance charge or other charge made as an incident to or as a condition to the grant of the loan or other extension of credit and shall not be included in determining the limit on charges which may be made in connection with the loan or extension of credit as provided in this chapter or in any other law of this state. However, no fee for the handling of a bad check shall be charged to persons exempted from those fees under Section 1 of this act.

SECTION 9. This act shall take effect and be in force from and after July 1, 2021.

