

By: Senator(s) Caughman, McMahan

To: Business and Financial
Institutions

SENATE BILL NO. 2628

1 AN ACT TO REENACT SECTION 75-67-403, MISSISSIPPI CODE OF
 2 1972, WHICH DEFINES CERTAIN TERMS USED UNDER THE MISSISSIPPI TITLE
 3 PLEDGE ACT; TO REENACT SECTION 75-67-505, MISSISSIPPI CODE OF
 4 1972, WHICH ESTABLISHES LICENSING REQUIREMENTS FOR CHECK CASHERS
 5 UNDER THE MISSISSIPPI CHECK CASHERS ACT; TO REENACT SECTIONS
 6 75-67-601 THROUGH 75-67-639, MISSISSIPPI CODE OF 1971, WHICH CREATE
 7 THE MISSISSIPPI CREDIT AVAILABILITY ACT; TO AMEND REENACTED
 8 SECTION 75-67-639, MISSISSIPPI CODE OF 1972, TO REMOVE THE
 9 REPEALER ON THE PREVIOUSLY MENTIONED SECTIONS IN THE MISSISSIPPI
 10 TITLE PLEDGE ACT AND THE MISSISSIPPI CHECK CASHERS ACT, AND TO
 11 EXTEND THE REPEALER ON THE MISSISSIPPI CREDIT AVAILABILITY ACT;
 12 AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 75-67-403, Mississippi Code of 1972, is
 15 reenacted as follows:

16 75-67-403. The following words and phrases shall have the
 17 following meanings:

18 (a) "Appropriate law enforcement agency" means the
 19 sheriff of each county in which the title pledge lender maintains
 20 an office, or the police chief of the municipality or law
 21 enforcement officers of the Department of Public Safety in which
 22 the title pledge lender maintains an office.



23 (b) "Attorney General" means the Attorney General of
24 the State of Mississippi.

25 (c) "Commissioner" means the Commissioner of Banking
26 and Consumer Finance of the State of Mississippi, or his designee,
27 as the designated official for the purpose of enforcing this
28 article.

29 (d) "Identification" means a government issued
30 photographic identification.

31 (e) "Person" means an individual, partnership,
32 corporation, joint venture, trust, association or other legal
33 entity.

34 (f) "Pledged property" means any personal property
35 certificate of title that is deposited with a title pledge lender
36 in the course of the title pledge lender's business and is the
37 subject of a title pledge agreement.

38 (g) "Pledgor" means the person to whom the property is
39 titled.

40 (h) "Title pledge agreement" means a thirty-day written
41 agreement whereby a title pledge lender agrees to make a loan of
42 money to a pledgor, and the pledgor agrees to give the title
43 pledge lender a security interest in unencumbered titled personal
44 property owned by the pledgor. The pledgor shall agree that the
45 title pledge lender keep possession of the certificate of title.
46 The pledgor shall have the exclusive right to redeem the
47 certificate of title by repaying the loan of money in full and by



48 complying with the title pledge agreement. When the certificate
49 of title is redeemed, the title pledge lender shall release the
50 security interest in the titled personal property and return the
51 personal property certificate of title to the pledgor. The title
52 pledge agreement shall provide that upon failure by the pledgor to
53 redeem the certificate of title at the end of the original
54 thirty-day agreement period, or at the end of any extension(s)
55 thereof, the title pledge lender shall be allowed to take
56 possession of the titled personal property. The title pledge
57 agreement shall contain a power of attorney which authorizes the
58 title pledge lender to transfer title to the pledged property from
59 the pledgor to the title pledge lender upon failure to redeem the
60 pledged property on or before the maturity date of the title
61 pledge agreement, or any extension thereof. The title pledge
62 lender shall take physical possession of the certificate of title
63 for the entire length of the title pledge agreement, but shall not
64 be required to take physical possession of the titled personal
65 property at any time. A title pledge lender may only take
66 unencumbered certificates of title for pledge, but may encumber
67 the title as part of the title pledge transaction by perfecting
68 its security interest in the titled property.

69 (i) "Title pledge lender" means any person engaged in
70 the business of making title pledge agreements with pledgors;
71 provided, however, that the following are exempt from the
72 definition of "title pledge lender" and from the provisions of



73 this article: any bank which is regulated by the Department of
74 Banking and Consumer Finance, the Comptroller of the Currency of
75 the United States, the Federal Deposit Insurance Corporation, the
76 Board of Governors of the Federal Reserve System or any other
77 federal or state authority and all affiliates of such bank, and
78 additionally any bank or savings and loan association whose
79 deposits or accounts are eligible for insurance by the Bank
80 Insurance Fund or the Savings Association Insurance Fund or other
81 fund administered by the Federal Deposit Insurance Corporation or
82 any successor thereto, and all affiliates of such banks and
83 savings and loan associations, any state or federally chartered
84 credit union and finance company subject to licensing and
85 regulation by the Department of Banking and Consumer Finance.

86 (j) "Title pledge office" means the location at which,
87 or premises in which, a title pledge lender regularly conducts
88 business.

89 (k) "Title pledge service charge" means a charge for
90 investigating the title, appraising the titled personal property
91 to which the pledged property relates, documenting and closing the
92 title pledge agreement transaction, making required reports to
93 appropriate law enforcement officials, and for all of the services
94 provided by the title pledge lender.

95 (l) "Title pledge transaction form" means the
96 instrument on which a title pledge lender records title pledge
97 agreements pursuant to this article.



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

101 (n) "Records" or "documents" means any item in hard
102 copy or produced in a format of storage commonly described as
103 electronic, imaged, magnetic, microphotographic or otherwise, and
104 any reproduction so made shall have the same force and effect as
105 the original thereof and be admitted in evidence equally with the
106 original.

107 **SECTION 2.** Section 75-67-505, Mississippi Code of 1972, is
108 reenacted as follows:

109 75-67-505. (1) (a) A person may not engage in business as
110 a check casher or otherwise portray himself as a check casher
111 unless the person has a valid license authorizing engagement in
112 the business. Any transaction that would be subject to this
113 article that is made by a person who does not have a valid license
114 under this article shall be null and void. A separate license is
115 required for each place of business under this article and each
116 business must be independent of, and not a part of, any other
117 business operation. A check cashing business shall not be a part
118 of, or located at the same business address with, a pawnshop,
119 title pledge office and small loan company.

120 (b) A check cashing business shall (i) have a
121 definitive United States postal address and E911 address; (ii)
122 comply with local zoning requirements; (iii) have a minimum of one



123 hundred (100) square feet with walls from floor to ceiling
124 separating the operation from any other businesses; (iv) have an
125 outside entrance, but may be located in an area that has a common
126 lobby shared by other businesses as long as the customers do not
127 enter the check cashing business through another business; (v)
128 have proper signage; and (vi) maintain separate books and records.
129 Any licensee who does not cash any delayed deposit checks as
130 authorized under Section 75-67-519 shall not be subject to the
131 requirements of subparagraphs (i), (iii) and (iv) of this
132 paragraph.

133 (c) A licensed check casher may sell, at the same
134 location as his check cashing business, the following items and
135 services: money orders; income tax preparation service; copy
136 service; wire transfer service; notary service; pagers; pager
137 service; prepaid cellular service; debit card; prepaid telephone
138 cards; prepaid telephone service; and operate a processing center
139 where utility bills, credit card payments and other payments are
140 collected from the general public and governmental and private
141 payments are distributed. In the event a licensee accepts wire
142 transfers in the form of a direct deposit of a payroll check or
143 other similar types of deposit, the licensee shall not encumber
144 any transferred funds against a deferred deposit agreement or any
145 delinquent deferred deposit agreement with such customer. The
146 commissioner may authorize additional functions in addition to
147 those provided in this subsection that may be performed as part of



148 a check cashing business, but shall authorize the offering of
149 credit availability transactions as provided in Sections 75-67-601
150 through 75-67-637.

151 (d) The commissioner may issue more than one (1)
152 license to a person if that person complies with this article for
153 each license. A new license is required upon a change, directly
154 or beneficially, in the ownership of any licensed check casher
155 business and an application shall be made to the commissioner in
156 accordance with this article.

157 (2) When a licensee wishes to move a check casher business
158 to another location, the licensee shall give thirty (30) days'
159 prior written notice to the commissioner who shall amend the
160 license accordingly.

161 (3) Each license shall remain in full force and effect until
162 relinquished, suspended, revoked or expired. With each initial
163 application for a license, the applicant shall pay the
164 commissioner at the time of making the application a license fee
165 of Seven Hundred Fifty Dollars (\$750.00), and on or before
166 September 1 of each year thereafter, an annual renewal fee of Four
167 Hundred Seventy-five Dollars (\$475.00). If the annual renewal fee
168 remains unpaid twenty-nine (29) days after September 1, the
169 license shall thereupon expire, but not before the thirtieth day
170 of September of any year for which the annual fee has been paid.
171 If any licensee fails to pay the annual renewal fee before the
172 thirtieth day of September of any year for which the renewal fee



173 is due, then the licensee shall be liable for the full amount of
174 the license fee, plus a penalty in an amount not to exceed
175 Twenty-five Dollars (\$25.00) for each day that the licensee has
176 engaged in business after September 30. All licensing fees and
177 penalties shall be paid into the Consumer Finance Fund of the
178 Department of Banking and Consumer Finance.

179 (4) Notwithstanding other provisions of this article, the
180 commissioner may issue a temporary license authorizing the
181 operator of a check casher business on the receipt of an
182 application for a license involving principals and owners that are
183 substantially identical to those of an existing licensed check
184 casher. The temporary license is effective until the permanent
185 license is issued or denied.

186 **SECTION 3.** Section 75-67-601, Mississippi Code of 1972, is
187 reenacted as follows:

188 75-67-601. This article shall be known and may be cited as
189 the "Mississippi Credit Availability Act."

190 **SECTION 4.** Section 75-67-603, Mississippi Code of 1972, is
191 reenacted as follows:

192 75-67-603. The following words and phrases used in this
193 article shall have the following meanings unless the context
194 clearly indicates otherwise:

195 (a) "Appropriate law enforcement agency" means the
196 sheriff of each county in which the licensee maintains an office,
197 or the police chief of the municipality in which the licensee



198 maintains an office, or law enforcement officers of the Department
199 of Public Safety.

200 (b) "Attorney General" means the Attorney General of
201 the State of Mississippi.

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

205 (d) "Credit availability account" means all credit
206 availability transactions held in the name of a single person
207 through a single licensee or, if a secured transaction and the
208 property is jointly owned, the names of the persons who jointly
209 own the property that is being used as security for the
210 transaction. That person or those persons shall be the "account
211 holder" or "account holders."

212 (e) "Credit availability transaction" means a
213 transaction whereby a credit availability licensee provides a
214 consumer with a fully amortized loan, secured or unsecured,
215 payable in substantially equal payments due monthly, or on any
216 other schedule mutually agreed upon by the licensee and the
217 consumer, over an overall term of four (4) to twelve (12) months,
218 calculated on the amount initially disbursed to the account holder
219 or holders plus any fees that may be charged in an amount and
220 manner provided for under this article.

221 (f) "Department" means the Department of Banking and
222 Consumer Finance.



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

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

229 (i) "Person" means an individual, partnership,
230 corporation, joint venture, trust, association or any legal
231 entity, however organized.

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

236 **SECTION 5.** Section 75-67-605, Mississippi Code of 1972, is
237 reenacted as follows:

238 75-67-605. (1) A person may not engage in business as a
239 credit availability licensee or otherwise portray himself as a
240 credit availability licensee unless the person has a valid license
241 authorizing him to engage in the business. Any transaction that
242 would be subject to this article that is made by a person who does
243 not have a valid license under this article shall be null and
244 void.

245 (2) A credit availability licensee shall (a) have a
246 definitive United States postal address and E911 address; and (b)
247 comply with applicable local zoning requirements, except as



248 otherwise provided in this article; and (c) maintain separate
249 books and records for credit availability transactions.

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

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

260 (c) Each license shall remain in full force and effect
261 until relinquished, suspended, revoked or expired. With each
262 initial application for a license, the applicant shall pay the
263 commissioner at the time of making the application a license fee
264 of Seven Hundred Fifty Dollars (\$750.00), and on or before
265 September 1 of each year thereafter, an annual renewal fee of Four
266 Hundred Seventy-five Dollars (\$475.00). If the annual renewal fee
267 remains unpaid twenty-nine (29) days after September 1, the
268 license shall thereupon expire, but not before the thirtieth day
269 of September of any year for which the annual fee has been paid.
270 If any licensee fails to pay the annual renewal fee before the
271 thirtieth day of September of any year for which the renewal fee
272 is due, then the licensee shall be liable for the full amount of



273 the license fee, plus a penalty in an amount not to exceed
274 Twenty-five Dollars (\$25.00) for each day that the licensee has
275 engaged in business after September 30. All licensing fees and
276 penalties shall be paid into the Consumer Finance Fund of the
277 Department of Banking and Consumer Finance.

278 (4) Notwithstanding any other provisions of this article,
279 the commissioner may issue a temporary license authorizing the
280 operation of a credit availability business on the receipt of an
281 application for a license involving principals and owners that are
282 substantially identical to those of an existing licensed credit
283 availability licensee. The temporary license is effective until
284 the permanent license is issued or denied.

285 (5) Notwithstanding other provisions of this article,
286 neither a new license nor an application to transfer an existing
287 license shall be required upon any change, directly or
288 beneficially, in the ownership of any licensed business
289 incorporated under the laws of this state or any other state so
290 long as the licensee continues to operate as a corporation doing a
291 credit availability business under the license.

292 (6) Persons licensed under Sections 75-67-401 et seq. and
293 75-67-501 et seq. on July 1, 2016, shall have until September 30,
294 2016, to apply for an expedited license approval under this
295 article. The commissioner, in his discretion, may waive certain
296 documentation already on file under those licenses, including
297 fingerprints, and may promulgate an application that expedites the



298 licensing process. Upon the approval of the application, the
299 commissioner shall grant a license under this article.

300 **SECTION 6.** Section 75-67-607, Mississippi Code of 1972, is
301 reenacted as follows:

302 75-67-607. The provisions of this article shall not apply to
303 any bank, trust company, savings association, savings and loan
304 association, savings bank or credit union that is chartered under
305 the laws of this state or under federal law and domiciled in this
306 state.

307 **SECTION 7.** Section 75-67-609, Mississippi Code of 1972, is
308 reenacted as follows:

309 75-67-609. To be eligible for a credit availability license,
310 an applicant shall:

311 (a) Operate lawfully and fairly within the purposes of
312 this article.

313 (b) Not have been convicted in the last ten (10) years
314 or be active as a beneficial owner for someone who has been
315 convicted in the last ten (10) years of a crime that the
316 commissioner finds directly relates to the duties and
317 responsibilities of the business of offering credit availability
318 transactions.

319 (c) File with the commissioner a bond with good
320 security in the penal sum of Ten Thousand Dollars (\$10,000.00),
321 payable to the State of Mississippi, for the faithful performance
322 by the licensee of the duties and obligations pertaining to the



323 business so licensed and the prompt payment of any judgment which
324 may be recovered against the licensee on account of charges or
325 other claims arising directly or collectively from any violation
326 of the provisions of this article. The bond shall not be valid
327 until the commissioner approves it. The applicant may file, in
328 lieu of the bond, cash, a certificate of deposit or government
329 bonds in the amount of Ten Thousand Dollars (\$10,000.00). Those
330 deposits shall be filed with the commissioner and are subject to
331 the same terms and conditions as are provided for in the surety
332 bond required in this paragraph. Any interest or earnings on
333 those deposits are payable to the depositor. Applicants applying
334 for multiple licenses may submit a single bond for all licenses,
335 provided that the total value of the bond is equal to Ten Thousand
336 Dollars (\$10,000.00) per license applied for.

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

341 (e) File with the commissioner a set of fingerprints
342 from any local law enforcement agency for each owner of a sole
343 proprietorship, partners in a partnership or principal owners of a
344 limited liability company that own at least ten percent (10%) of
345 the voting shares of the company, shareholders owning ten percent
346 (10%) or more of the outstanding shares of the corporation, except
347 publically traded corporations and their subsidiaries, and any



348 other executive officer with significant oversight duties of the
349 business. In order to determine the applicant's suitability for
350 license, the commissioner shall forward the fingerprints to the
351 Department of Public Safety; and if no disqualifying record is
352 identified at the state level, the Department of Public Safety
353 shall forward the fingerprints to the FBI for a national criminal
354 history record check.

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

358 **SECTION 8.** Section 75-67-611, Mississippi Code of 1972, is
359 reenacted as follows:

360 75-67-611. Each application for a license shall be in a form
361 prescribed by the commissioner, signed under oath or otherwise
362 authenticated in a record, and shall include the following:

363 (a) The legal name, residence and business address of
364 the applicant and, if the applicant is a partnership, association
365 or corporation, of every member, officer and director thereof.
366 However, the application need not state the full name and address
367 of each shareholder, if the applicant is owned directly or
368 beneficially by a person which as an issuer has a class of
369 securities registered under Section 12 of the Securities and
370 Exchange Act of 1934 or is an issuer of securities which is
371 required to file reports with the Securities and Exchange
372 Commission under Section 15(d) of the Securities and Exchange Act,



373 provided that the person files with the commissioner such
374 information, documents and reports as are required by the
375 provisions of the Securities and Exchange Act to be filed by the
376 issuer with the Securities and Exchange Commission. The
377 commissioner may, however, require the licensee to provide such
378 information as he deems reasonable and appropriate concerning the
379 officers and directors of the corporation and persons owning in
380 excess of twenty-five percent (25%) of the outstanding shares of
381 the corporation.

382 (b) The complete address of the location at which the
383 applicant proposes to engage in the business of offering credit
384 availability transactions.

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

388 (d) Sworn financial statements of the applicant showing
389 a net worth of at least Twenty Thousand Dollars (\$20,000.00) for
390 the first license. The applicant shall possess and maintain a net
391 worth of at least Twenty Thousand Dollars (\$20,000.00) for the
392 first license and at least Five Thousand Dollars (\$5,000.00) for
393 each additional license.

394 **SECTION 9.** Section 75-67-613, Mississippi Code of 1972, is
395 reenacted as follows:

396 75-67-613. (1) Upon filing of an application in a form
397 prescribed by the commissioner, accompanied by the documents



398 required in this article, the department shall investigate to
399 ascertain whether the qualifications prescribed in this article
400 have been satisfied. If the commissioner finds that the
401 qualifications have been satisfied and, if he approves the
402 documents so filed by the applicant, he shall issue to the
403 applicant a license to engage in the credit availability business
404 in this state.

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

407 **SECTION 10.** Section 75-67-615, Mississippi Code of 1972, is
408 reenacted as follows:

409 75-67-615. (1) The department may adopt reasonable
410 administrative regulations, not inconsistent with law, for the
411 enforcement of this article and shall develop and provide any
412 necessary forms or other documentation to carry out the provisions
413 of this article.

414 (2) To assure compliance with the provisions of this
415 article, the department may examine the books and records of any
416 licensee without notice during normal business hours. The
417 commissioner may charge the licensee an examination fee in an
418 amount not less than Three Hundred Dollars (\$300.00) nor more than
419 Six Hundred Dollars (\$600.00) for each office or location within
420 the State of Mississippi plus any actual expenses incurred while
421 examining the licensee's records or books that are located outside
422 the State of Mississippi. However, in no event shall a licensee



423 be examined more than once in a two-year period unless for cause
424 shown based upon a consumer complaint and/or other exigent reasons
425 as determined by the commissioner.

426 (3) Each licensee shall keep and use in its business any
427 books, accounts and records the department may require to carry
428 into effect the provisions of this article and the administrative
429 regulations issued under this article. Every licensee shall
430 preserve the books, accounts and records of its business for at
431 least two (2) years.

432 **SECTION 11.** Section 75-67-617, Mississippi Code of 1972, is
433 reenacted as follows:

434 75-67-617. A licensee shall not advertise, display or
435 publish, or permit to be advertised, displayed or published, in
436 any manner whatsoever, any statement or representation that is
437 false, misleading or deceptive.

438 **SECTION 12.** Section 75-67-619, Mississippi Code of 1972, is
439 reenacted as follows:

440 75-67-619. (1) Notwithstanding any other statutory
441 limitation, a licensee authorized to provide credit availability
442 transactions under this article may charge and collect fees and
443 charges in a manner consistent with this section, and may take as
444 security therefor any personal property that is not exempt or
445 prohibited by state or federal law or regulations.

446 (2) (a) A licensee may charge and collect a monthly
447 handling fee for services, expenses, and costs not to exceed



448 twenty-five percent (25%) of the outstanding principal balance of
449 any credit availability account per month, or any portion thereof,
450 for transactions of Five Hundred Dollars (\$500.00) or less. The
451 handling fee shall not be deemed interest for any purpose of law.

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

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

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

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

470 (b) No credit availability account created under
471 subsection (2) (b) of this section shall have an outstanding



472 principal balance in excess of Two Thousand Five Hundred Dollars
473 (\$2,500.00) at any time.

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

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

486 (5) In the event an account holder is delinquent in payment
487 of a monthly payment under the terms of a credit availability
488 agreement, the licensee may charge and collect from the account
489 holder a late fee of ten percent (10%) of the past-due amount;
490 provided, however, that no such late fee may be charged unless an
491 account holder has failed to pay the past-due amount within ten
492 (10) business days after the due date and provided that such fees
493 are clearly disclosed in the credit availability agreement.

494 (6) In the event an account holder is in default under the
495 terms of a credit availability agreement for more than sixty (60)
496 days, the licensee may charge and collect from the account holder



497 the following fees in connection with any such default, provided
498 that such fees are clearly disclosed in the credit availability
499 agreement:

500 (a) If the licensee is required to employ a third
501 party, including an attorney, to collect on the account the
502 licensee may:

503 (i) If the credit availability agreement so
504 provides, charge and collect a reasonable collection fee and
505 attorney's fee; and

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

510 (b) If applicable, the licensee may charge and collect
511 from the account holder any fees and costs relating to the
512 repossession and sale of collateral, including, but not limited
513 to, fees and costs associated with the repossession, storage,
514 preparation for sale and sale of collateral.

515 **SECTION 13.** Section 75-67-621, Mississippi Code of 1972, is
516 reenacted as follows:

517 75-67-621. (1) A licensee shall provide each prospective
518 account holder, before consummation of a credit availability
519 transaction, a written explanation of the fees, and charges to be
520 charged by the licensee and the due dates for all payments. The
521 style, content, and method of executing the required written



522 explanation shall comply with federal truth-in-lending laws and
523 shall contain a statement that the account holder may prepay the
524 unpaid balance, in whole or in part, at any time. The
525 commissioner may promulgate rules in accordance with this article
526 in order to assure complete and accurate disclosure of the fees
527 and charges to be charged by a licensee under a credit
528 availability agreement. At a minimum, the written explanation
529 must include:

- 530 (a) The amount of the transaction;
- 531 (b) The date the agreement was entered into;
- 532 (c) A schedule or description of the payments;
- 533 (d) The name and address of the licensed office;
- 534 (e) The name of the person primarily obligated on the
535 agreement;
- 536 (f) The amount of the principal;
- 537 (g) The agreed rate of charge stated on a percent per
538 year basis and the amount in dollars and cents;
- 539 (h) All other disclosures required pursuant to state
540 and federal law.

541 (2) The contract for any credit availability agreement shall
542 include, along with other state or federal law requirements, the
543 right for an account holder to rescind the transaction within one
544 (1) business day; provided, however, that if the account holder
545 accepts funds from the credit availability licensee prior to the



546 expiration of the one-day rescission period, any origination fee
547 charged shall be nonrefundable.

548 (3) A licensee with a physical location in this state shall
549 display in its consumer waiting area, and shall provide a copy to
550 any account holder that requests it, a pamphlet prepared by the
551 department that describes general information about the
552 transaction and about the account holder's rights and
553 responsibilities in the transaction, including the rates and fees
554 charged by the licensee, the licensee's rights in event of default
555 by the consumer, the maximum allowable account balance, and the
556 consumer hotline telephone number to the Mississippi Department of
557 Banking and Consumer Finance. The licensee shall add the account
558 information and/or complaint hotline telephone number of the
559 licensee to the pamphlet. A licensee without a physical location
560 in this state shall make the information available on its website.

561 **SECTION 14.** Section 75-67-623, Mississippi Code of 1972, is
562 reenacted as follows:

563 75-67-623. (1) The commissioner may, after notice and
564 hearing, suspend or revoke a license if he finds that:

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

568 (b) Any fact or condition exists which, if it had
569 existed or had been known to exist at the time of the original



570 application for the license, clearly would have justified the
571 commissioner in refusing the license;

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

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

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

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

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

591 (5) The commissioner may reinstate suspended licenses or
592 issue new licenses to a person whose licenses have been revoked if
593 no fact or condition then exists which clearly would have



594 justified the commissioner in refusing originally to issue a
595 license under this article.

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

599 (7) The commissioner shall enforce the provisions of this
600 section.

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

604 **SECTION 15.** Section 75-67-625, Mississippi Code of 1972, is
605 reenacted as follows:

606 75-67-625. The commissioner, or his duly authorized
607 representative, for the purpose of discovering violations of this
608 article and for the purpose of determining whether persons are
609 subject to the provisions of this article, may examine persons
610 licensed under this article and persons reasonably suspected by
611 the commissioner of conducting business which requires a license
612 under this article, including all relevant books, records and
613 papers employed by those persons in the transaction of their
614 business, and may summon witnesses and examine them under oath
615 concerning matters relating to the business of those persons, or
616 such other matters as may be relevant to the discovery of
617 violations of this article, including without limitation the



618 conduct of business without a license as required under this
619 article.

620 **SECTION 16.** Section 75-67-627, Mississippi Code of 1972, is
621 reenacted as follows:

622 75-67-627. (1) Any person who engages in the business of
623 offering credit availability transactions without first securing a
624 license prescribed by this article shall be guilty of a
625 misdemeanor and upon conviction thereof, shall be punishable by a
626 fine not to exceed One Thousand Dollars (\$1,000.00) or by
627 confinement in the county jail for not more than one (1) year, or
628 both.

629 (2) Any person who engages in the business of offering
630 credit availability transactions without first securing a license
631 prescribed by this article shall be liable for the full amount of
632 the license fee, plus a penalty in an amount not to exceed
633 Twenty-five Dollars (\$25.00) for each day that the person engaged
634 in the business without a license. All licensing fees and
635 penalties shall be paid into the Consumer Finance Fund of the
636 Department of Banking and Consumer Finance.

637 **SECTION 17.** Section 75-67-629, Mississippi Code of 1972, is
638 reenacted as follows:

639 75-67-629. (1) In addition to any other penalty which may
640 be applicable, any licensee or employee who willfully violates any
641 provision of this article, or who willfully makes a false entry in
642 any record specifically required by this article, shall be guilty



643 of a misdemeanor and upon conviction thereof, shall be punishable
644 by a fine not to exceed One Thousand Dollars (\$1,000.00) per
645 violation or false entry.

646 (2) Compliance with criminal provisions of this article
647 shall be enforced by the appropriate law enforcement agency, which
648 may exercise for that purpose any authority conferred upon the
649 agency by law.

650 (3) When the commissioner has reasonable cause to believe
651 that a person is violating any provision of this article, the
652 commissioner, in addition to and without prejudice to the
653 authority provided elsewhere in this article, may enter an order
654 requiring the person to stop or to refrain from the violation.
655 The commissioner may sue in any circuit court of the state having
656 jurisdiction and venue to enjoin the person from engaging in or
657 continuing the violation or from doing any action in furtherance
658 of the violation. In such an action, the court may enter an order
659 or judgment awarding a preliminary or permanent injunction.

660 (4) The commissioner may impose a civil penalty against any
661 licensee adjudged by the commissioner to be in violation of the
662 provisions of this article. The civil penalty shall not exceed
663 Five Hundred Dollars (\$500.00) per violation and shall be
664 deposited into the Department of Banking and Consumer Finance,
665 "Consumer Finance Fund."

666 (5) Any licensee convicted in the manner provided in this
667 article shall forfeit the surety bond or deposit required in this



668 article and the amount of the bond or deposit shall be credited to
669 the budget of the state or local agency which directly
670 participated in the prosecution of the licensee, for the specific
671 purpose of increasing law enforcement resources for that specific
672 state or local agency. The bond or deposit shall be used to
673 augment existing state and local law enforcement budgets and not
674 to supplant them.

675 **SECTION 18.** Section 75-67-631, Mississippi Code of 1972, is
676 reenacted as follows:

677 75-67-631. The provisions of this article are severable. If
678 any part of this article is declared invalid or unconstitutional,
679 that declaration shall not affect the parts that remain.

680 **SECTION 19.** Section 75-67-633, Mississippi Code of 1972, is
681 reenacted as follows:

682 75-67-633. (1) Municipalities of this state may enact
683 ordinances that are in compliance with, but not more restrictive
684 than, the provisions of this article. Any existing or future
685 order, ordinance or regulation that conflicts with this provision
686 shall be null and void.

687 (2) Notwithstanding any existing zoning ordinance, any
688 person or entity conducting business under a valid license issued
689 by the department pursuant to Section 75-67-401 et seq. or Section
690 75-67-501 et seq., as of July 1, 2016, that elects to secure a
691 license under this article may not be restricted from continuing
692 operations under this article in the same location, regardless of



693 whether the licensee elects to continue, if permitted by law, or
694 to terminate its previous license.

695 **SECTION 20.** Section 75-67-635, Mississippi Code of 1972, is
696 reenacted as follows:

697 75-67-635. The commissioner may employ the necessary
698 full-time employees above the number of permanent full-time
699 employees authorized for the department for fiscal year 2016 to
700 carry out and enforce the provisions of this article. The
701 commissioner may also expend the necessary funds to equip and
702 provide necessary travel expenses for those employees.

703 **SECTION 21.** Section 75-67-637, Mississippi Code of 1972, is
704 reenacted as follows:

705 75-67-637. (1) A licensee under this article shall have no
706 liability for any act or practice done or omitted in conformity
707 with (a) any rule or regulation of the commissioner, or (b) any
708 rule, regulation, interpretation or approval of any other state or
709 federal agency or any opinion of the Attorney General,
710 notwithstanding that after such act or omission has occurred the
711 rule, regulation, interpretation, approval or opinion is amended,
712 rescinded, or determined by judicial or other authority to be
713 invalid for any reason.

714 (2) A licensee under this article, acting in conformity with
715 a written interpretation or approval by an official or employee of
716 any state or federal agency or department, shall be presumed to
717 have acted in accordance with applicable law, notwithstanding that



718 after such act has occurred, the interpretation or approval is
719 amended, rescinded, or determined by judicial or other authority
720 to be incorrect or invalid for any reason.

721 **SECTION 22.** Section 75-67-639, Mississippi Code of 1972, is
722 reenacted and amended as follows:

723 75-67-639. Sections 75-67-601 through 75-67-639 * * * shall
724 stand repealed on July 1, * * * 2026.

725 **SECTION 23.** This act shall take effect and be in force from
726 and after July 1, 2021.

