

By: Representative Young

To: Banking and Financial
Services

HOUSE BILL NO. 153

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. * * * 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 funds in, or on deposit with, such bank, corporation, firm or



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

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



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

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



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

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



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

123 "STATE OF _____

124 COUNTY OF _____

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

130 _____

131 _____

132 _____

133 and deposited the same, postage prepaid, in the United States mail
134 at _____, _____.

135 _____

136 (signature)

137 Subscribed to and sworn before me, this the _____ day of
138 _____, 2____.

139 _____

140 (Notary Public)

141 My commission expires:

142 (SEAL) "

143 (7) Without in any way limiting the provisions of this
144 section, this section shall apply to a draft for the payment of
145 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
Dental specialty license renewal.....	200.00
Dental institutional, teaching or	
provisional license renewal.....	300.00



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



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

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



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

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

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

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

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

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

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

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

316 (4) The board may charge additional fees for its services
317 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



343 passes the examination, no additional fee shall be required for
344 the issuance of a license for a one-year period; provided, that if
345 an applicant fails to pass the examination, he or she may be
346 eligible to take the next or succeeding examination without the
347 payment of an additional fee. In the event a contract testing
348 service is * * * used, the fee associated with administering the
349 test shall be collected by the testing provider and the
350 application fee for any real estate license shall be collected by
351 the commission.

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

357 (3) A fee not to exceed One Hundred Twenty Dollars (\$120.00)
358 shall accompany an application for a real estate salesperson's
359 license, and in the event that the applicant successfully passes
360 the examination, no additional fee shall be required for the
361 issuance of a license for a one-year period; provided, that if an
362 applicant fails to pass the examination, he or she may be eligible
363 to take the next or succeeding examination without the payment of
364 an additional fee. In the event a contract testing service
365 is * * * used, the fee associated with administering the test
366 shall be collected by the testing provider and the application fee
367 for any real estate license shall be collected by the commission.



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



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

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

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

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

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

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

411 (13) A fee not to exceed One Hundred Dollars (\$100.00) shall
412 be charged to review and process the application and instructional
413 materials for each curriculum seeking acceptance as a real estate
414 continuing education course developed to satisfy the mandatory
415 continuing education requirements for this chapter, with the
416 period of approval expiring after one (1) year. A fee not to



417 exceed Fifty Dollars (\$50.00) shall be charged for each renewal of
418 a previously approved course, with the period of renewal expiring
419 after one (1) year.

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

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

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

426 73-60-29. The commission shall charge and collect
427 appropriate fees for its services under this chapter. The fees
428 charged shall not exceed the amounts indicated below and shall be
429 set by the commission.

430 **LICENSURE FEES:**

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

434 **SERVICES:**

435 For each change of address.....\$ 25.00
436 For each duplicate license.....\$ 25.00
437 To change status as a licensee from active to inactive.....\$ 25.00
438 For each bad check received by the commission.....\$ 25.00

439 All fees charged and collected under this chapter shall be
440 paid by the commission at least once a week, accompanied by a
441 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



467 the licensee to the borrower or person to whom credit was
468 extended. This charge shall not be deemed to be interest, finance
469 charge or other charge made as an incident to or as a condition to
470 the grant of the loan or other extension of credit and shall not
471 be included in determining the limit on charges which may be made
472 in connection with the loan or extension of credit as provided in
473 this chapter or in any other law of this state. However, no fee
474 for the handling of a bad check shall be charged to persons
475 exempted from those fees under Section 1 of this act.

476 **SECTION 9.** This act shall take effect and be in force from
477 and after July 1, 2023.

