

By: Guice

To: Banks and Banking

## HOUSE BILL NO. 723

1 AN ACT TO AMEND SECTION 63-19-3, MISSISSIPPI CODE OF 1972, TO  
2 DEFINE THE TERM "RECORDS/DOCUMENTS" FOR THE PURPOSES OF THE MOTOR  
3 VEHICLE SALES FINANCE LAW; TO AMEND SECTION 63-19-11, MISSISSIPPI  
4 CODE OF 1972, TO REVISE THE LICENSE FEE UNDER THE MOTOR VEHICLE  
5 SALES FINANCE LAW; TO AMEND SECTION 63-19-15, MISSISSIPPI CODE OF  
6 1972, TO DELETE THE PROVISION WHICH PROVIDES THAT THE COMMISSIONER  
7 OF BANKING SHALL ENDORSE THE CHANGE OF LOCATION OF A MOTOR VEHICLE  
8 SALES FINANCE COMPANY ON THE LICENSE WITHOUT CHARGE; TO AMEND  
9 SECTION 63-19-27, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE  
10 COMMISSIONER OF BANKING TO CHARGE MOTOR VEHICLE SALES FINANCE  
11 LICENSEES AN EXAMINATION FEE; TO AMEND SECTION 63-19-31,  
12 MISSISSIPPI CODE OF 1972, TO CORRECT SEVERAL INTERNAL REFERENCES;  
13 TO AMEND SECTION 63-19-55, MISSISSIPPI CODE OF 1972, TO AUTHORIZE  
14 THE COMMISSIONER OF BANKING TO IMPOSE CIVIL PENALTIES FOR  
15 VIOLATIONS OF THE MOTOR VEHICLE SALES FINANCE LAW; TO CREATE A NEW  
16 CODE SECTION TO BE CODIFIED WITHIN CHAPTER 19 OF TITLE 63,  
17 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING  
18 TO EXAMINE PERSONS REASONABLY SUSPECTED OF CONDUCTING BUSINESS  
19 THAT REQUIRES A LICENSE UNDER THE MOTOR VEHICLE SALES FINANCE LAW;  
20 TO AMEND SECTION 75-15-3, MISSISSIPPI CODE OF 1972, TO DEFINE THE  
21 TERM "RECORDS/DOCUMENTS" FOR THE PURPOSES OF THE SALE OF CHECKS  
22 LAW; TO AMEND SECTION 75-15-15, MISSISSIPPI CODE OF 1972, TO  
23 REVISE THE LICENSE FEE UNDER THE SALE OF CHECKS LAW; TO AMEND  
24 SECTION 75-15-19, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE  
25 COMMISSIONER OF BANKING TO CHARGE LICENSEES UNDER THE SALE OF  
26 CHECKS LAW AN EXAMINATION FEE; TO AMEND SECTION 75-15-31,  
27 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING  
28 TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF THE SALE OF CHECKS  
29 LAW; TO CREATE A NEW CODE SECTION TO BE CODIFIED WITHIN CHAPTER 15  
30 OF TITLE 75, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE  
31 COMMISSIONER OF BANKING TO EXAMINE PERSONS REASONABLY SUSPECTED OF  
32 CONDUCTING BUSINESS THAT REQUIRES A LICENSE UNDER THE SALE OF  
33 CHECKS LAW; TO AMEND SECTION 75-67-103, MISSISSIPPI CODE OF 1972,  
34 TO DEFINE THE TERM "RECORDS/DOCUMENTS" FOR THE PURPOSES OF THE  
35 SMALL LOAN REGULATORY LAW; TO AMEND SECTION 75-67-115, MISSISSIPPI  
36 CODE OF 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING TO CHARGE  
37 LICENSEES UNDER THE SMALL LOAN REGULATORY LAW AN EXAMINATION FEE;  
38 TO AMEND SECTION 75-67-203, MISSISSIPPI CODE OF 1972, TO DEFINE  
39 THE TERM "RECORDS/DOCUMENTS" FOR THE PURPOSES OF THE SMALL LOAN  
40 PRIVILEGE TAX LAW; TO AMEND SECTION 75-67-213, MISSISSIPPI CODE OF  
41 1972, TO REVISE THE LICENSE FEE UNDER THE SMALL LOAN PRIVILEGE TAX  
42 LAW; TO AMEND SECTION 75-67-215, TO AUTHORIZE THE COMMISSIONER OF  
43 BANKING TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF THE SMALL LOAN  
44 PRIVILEGE TAX LAW; TO CREATE A NEW CODE SECTION TO BE CODIFIED  
45 WITHIN ARTICLE 5 OF CHAPTER 67 OF TITLE 75, MISSISSIPPI CODE OF  
46 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING TO EXAMINE PERSONS  
47 REASONABLY SUSPECTED OF CONDUCTING BUSINESS WHICH REQUIRES A  
48 LICENSE UNDER THE SMALL LOAN PRIVILEGE TAX LAW; TO AMEND SECTION  
49 75-67-229, MISSISSIPPI CODE OF 1972, TO ALLOW THE COMMISSIONER OF  
50 BANKING TO CHARGE A FEE WHEN ISSUING A NEW LICENSE FOR THE

51 UNEXPIRED PORTION OF THE YEAR SHOWING A NEW LOCATION OF THE SMALL  
52 LOAN BUSINESS; TO AMEND SECTION 75-67-403, MISSISSIPPI CODE OF  
53 1972, TO AUTHORIZE A TITLE PLEDGE LENDER TO ENCUMBER THE TITLE AS  
54 PART OF THE TITLE PLEDGE TRANSACTION BY PERFECTING ITS SECURITY  
55 INTEREST IN THE TITLED PROPERTY; TO DEFINE THE TERM  
56 "RECORDS/DOCUMENTS" FOR THE PURPOSES OF THE TITLE PLEDGE ACT; TO  
57 AMEND SECTION 75-67-409, MISSISSIPPI CODE OF 1972, TO REQUIRE  
58 TITLE PLEDGE LENDERS TO MAINTAIN RECORDS CONTAINING A COMPLETE  
59 PAYMENT HISTORY OF EACH CUSTOMER; TO AMEND SECTION 75-67-411,  
60 MISSISSIPPI CODE OF 1972, TO AUTHORIZE A PLEDGOR IN A TITLE PLEDGE  
61 AGREEMENT TO REDEEM THE PLEDGED PROPERTY WITHIN 72 HOURS AFTER THE  
62 TITLE PLEDGE LENDER HAS TAKEN POSSESSION OF THE PROPERTY; TO  
63 PROVIDE THAT IF THE LENDER SELLS THE PROPERTY AFTER THE 72-HOUR  
64 PERIOD, THE LENDER SHALL RETURN TO THE PLEDGOR ANY AMOUNT RECEIVED  
65 FROM THE SALE ABOVE THE AMOUNT NEEDED TO REDEEM THE PROPERTY; TO  
66 AMEND SECTION 75-67-413, MISSISSIPPI CODE OF 1972, TO REQUIRE A  
67 PLEDGOR TO REDUCE THE PRINCIPAL AMOUNT FINANCED BY AT LEAST 10%  
68 BEGINNING WITH THE FIRST EXTENSION OR CONTINUATION, RATHER THAN  
69 BEGINNING WITH THE THIRD; TO PROVIDE THAT ANY ADDITIONAL PAYMENT  
70 OF FUNDS ON THE SAME PLEDGED PROPERTY MUST BE EVIDENCED BY A  
71 SEPARATE TITLE PLEDGE AGREEMENT; TO PROHIBIT A TITLE PLEDGE LENDER  
72 FROM ADVANCING FUNDS TO A PLEDGOR TO PAY OFF AN EXISTING TITLE  
73 PLEDGE AGREEMENT; TO AMEND SECTION 75-67-419, MISSISSIPPI CODE OF  
74 1972, TO REVISE THE FEE FOR A TITLE PLEDGE LENDER LICENSE; TO  
75 AMEND SECTION 75-67-421, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
76 THE INITIAL APPLICATION AND BOND FOR A TITLE PLEDGE LENDER LICENSE  
77 SHALL BE FILED WITH THE COMMISSIONER OF BANKING, INSTEAD OF THE  
78 LOCAL AUTHORITIES; TO AMEND SECTION 75-67-435, MISSISSIPPI CODE OF  
79 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING TO CHARGE TITLE  
80 PLEDGE LICENSEES AN EXAMINATION FEE; TO CREATE A NEW CODE SECTION  
81 TO BE CODIFIED WITHIN ARTICLE 9 OF CHAPTER 67 OF TITLE 75,  
82 MISSISSIPPI CODE OF 1972, TO PROHIBIT LICENSEES UNDER THE TITLE  
83 PLEDGE ACT FROM ADVERTISING, DISPLAYING OR PUBLISHING ANY  
84 STATEMENT OR REPRESENTATION THAT IS FALSE, MISLEADING OR  
85 DECEPTIVE; TO CREATE A NEW CODE SECTION TO BE CODIFIED WITHIN  
86 ARTICLE 9 OF CHAPTER 67 OF TITLE 75, MISSISSIPPI CODE OF 1972, TO  
87 AUTHORIZE THE COMMISSIONER OF BANKING TO EXAMINE PERSONS  
88 REASONABLY SUSPECTED OF CONDUCTING BUSINESS WHICH REQUIRES A  
89 LICENSE UNDER THE TITLE PLEDGE LOAN ACT; TO AMEND SECTION 81-19-3,  
90 MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM "RECORDS/DOCUMENTS"  
91 FOR THE PURPOSES OF THE CONSUMER LOAN BROKER ACT; TO AMEND SECTION  
92 81-19-15, MISSISSIPPI CODE OF 1972, TO REVISE THE PENALTY FOR  
93 FAILURE TO PAY THE FEE FOR A CONSUMER LOAN BROKER LICENSE; TO  
94 AMEND SECTION 81-19-17, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE  
95 COMMISSIONER OF BANKING TO IMPOSE ADMINISTRATIVE FINES FOR  
96 VIOLATIONS OF THE CONSUMER LOAN BROKER ACT; TO AMEND SECTION  
97 81-19-19, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT SUCH  
98 ADMINISTRATIVE FINES SHALL BE DEPOSITED INTO THE CONSUMER FINANCE  
99 FUND AND NOT THE STATE GENERAL FUND; TO CREATE A NEW CODE SECTION  
100 TO BE CODIFIED WITHIN CHAPTER 19 OF TITLE 81, MISSISSIPPI CODE OF  
101 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING TO EXAMINE PERSONS  
102 REASONABLY SUSPECTED OF CONDUCTING BUSINESS WHICH REQUIRES A  
103 CONSUMER LOAN BROKER LICENSE; TO AMEND SECTION 81-21-1,  
104 MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM "RECORDS/DOCUMENTS"  
105 FOR THE PURPOSES OF THE INSURANCE PREMIUM FINANCE COMPANY  
106 LICENSURE LAW; TO AMEND SECTION 81-21-3, MISSISSIPPI CODE OF 1972,  
107 TO REVISE THE LICENSE FEE FOR INSURANCE PREMIUM FINANCE COMPANIES;  
108 TO AMEND SECTION 81-21-9, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR  
109 A CIVIL PENALTY AGAINST ANY INSURANCE PREMIUM FINANCE COMPANY  
110 WHICH FAILS TO TIMELY PAY THE REQUIRED LICENSE FEE; TO CREATE A  
111 NEW CODE SECTION TO BE CODIFIED WITHIN CHAPTER 21 OF TITLE 81,  
112 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING  
113 TO EXAMINE PERSONS REASONABLY SUSPECTED OF CONDUCTING BUSINESS  
114 WHICH REQUIRES A PREMIUM FINANCE COMPANY LICENSE; AND FOR RELATED  
115 PURPOSES.

116  
117           BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:  
118           SECTION 1. Section 63-19-3, Mississippi Code of 1972, is  
119 amended as follows:

120           63-19-3. The following words and phrases, when used in this  
121 chapter, shall have the meanings respectively ascribed to them in  
122 this section, except where the context or subject matter otherwise  
123 requires:

124           (a) "Motor vehicle" means any self-propelled or motored  
125 device designed to be used or used primarily for the  
126 transportation of passengers or property, or both, and having a  
127 gross vehicular weight rating of less than fifteen thousand  
128 (15,000) pounds.

129           (b) "Commercial vehicle" means any self-propelled or  
130 motored device designed to be used or used primarily for the  
131 transportation of passengers or property, or both, and having a  
132 gross vehicular weight rating of fifteen thousand (15,000) pounds  
133 or more; however, wherever "motor vehicle" appears in this  
134 chapter, except in Section 63-19-43, the same shall be construed  
135 to include commercial vehicles where such construction is  
136 necessary in order to give effect to this chapter.

137           (c) "Retail buyer" or "buyer" means a person who buys a  
138 motor vehicle or commercial vehicle from a retail seller, not for  
139 the purpose of resale, and who executes a retail installment  
140 contract in connection therewith.

141           (d) "Retail seller" or "seller" means a person who  
142 sells a motor vehicle or commercial vehicle to a retail buyer  
143 under or subject to a retail installment contract.

144           (e) The "holder" of a retail installment contract means  
145 the retail seller of the motor vehicle or commercial vehicle under  
146 or subject to the contract or if the contract is purchased by a  
147 sales finance company or other assignee, the sales finance company  
148 or other assignee.

149           (f) "Retail installment transaction" means any  
150 transaction evidenced by a retail installment contract entered  
151 into between a retail buyer and a retail seller wherein the retail  
152 buyer buys a motor vehicle or commercial vehicle from the retail  
153 seller at a time price payable in one or more deferred  
154 installments. The cash sale price of the motor vehicle or  
155 commercial vehicle, the amount included for insurance and other  
156 benefits if a separate charge is made therefor, official fees and  
157 the finance charge shall together constitute the time price.

158           (g) "Retail installment contract" or "contract" means  
159 an agreement entered into in this state pursuant to which the  
160 title to or a lien upon the motor vehicle or commercial vehicle  
161 which is the subject matter of a retail installment transaction is  
162 retained or taken by a retail seller from a retail buyer as  
163 security for the buyer's obligation. The term includes a chattel  
164 mortgage, a conditional sales contract and a contract for the  
165 bailment or leasing of a motor vehicle or commercial vehicle by  
166 which the bailee or lessee contracts to pay as compensation for  
167 its use a sum substantially equivalent to or in excess of its  
168 value and by which it is agreed that the bailee or lessee is bound  
169 to become, or has the option of becoming, the owner of the motor  
170 vehicle upon full compliance with the provisions of the contract.

171           (h) "Cash sale price" means the price stated in a  
172 retail installment contract for which the seller would have sold  
173 to the buyer, and the buyer would have bought from the seller, the  
174 motor vehicle or commercial vehicle which is the subject matter of  
175 the retail installment contract, if such sale had been a sale for  
176 cash instead of a retail installment transaction. The cash sale  
177 price may include any taxes, registration, certificate of title,  
178 if any, license and other fees and charges for accessories and  
179 their installation and for delivery, servicing, repairing or  
180 improving the motor vehicle or commercial vehicle.

181           (i) "Official fees" means the fees prescribed by law

for filing, recording or otherwise perfecting and releasing or satisfying a retained title or a lien created by a retail installment contract, if recorded.

(j) "Finance charge" means the amount agreed upon between the buyer and the seller, as limited in this chapter, to be added to the aggregate of the cash sale price, the amount, if any, included for insurance and other benefits and official fees, in determining the time price.

(k) "Sales finance company" means a person engaged, in whole or in part, in the business of purchasing retail installment contracts from one or more retail sellers. The term includes but is not limited to a bank, trust company, private banker, industrial bank or investment company, if so engaged. The term also includes a retail seller engaged, in whole or in part, in the business of creating and holding retail installment contracts which exceed a total aggregate outstanding indebtedness of Five Hundred Thousand Dollars (\$500,000.00). The term does not include the pledgee to whom is pledged one or more of such contracts to secure a bona fide loan thereon.

(l) "Person" means an individual, partnership, corporation, association and any other group however organized.

(m) "Administrator" means the Commissioner of Banking and Consumer Finance or his duly authorized representative.

(n) "Commissioner" means the Commissioner of Banking and Consumer Finance.

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

Words in the singular include the plural and vice versa.

SECTION 2. Section 63-19-11, Mississippi Code of 1972, is

215 amended as follows:

216       63-19-11. With each initial application for a license, the  
217 applicant shall pay to the commissioner at the time of making the  
218 application a license fee of Seven Hundred Fifty Dollars  
219 (\$750.00), and for renewal applications, an annual renewal fee of  
220 Four Hundred Seventy-five Dollars (\$475.00) for each calendar year  
221 for each place of business so operated.

222       SECTION 3. Section 63-19-15, Mississippi Code of 1972, is  
223 amended as follows:

224       63-19-15. Each license shall specify the location of the  
225 office and must be conspicuously displayed there. \* \* \*

226       SECTION 4. Section 63-19-27, Mississippi Code of 1972, is  
227 amended as follows:

228       63-19-27. The commissioner may charge the licensee an  
229 examination fee in an amount not less than Two Hundred Dollars  
230 (\$200.00) nor more than Three Hundred Dollars (\$300.00) per  
231 examination of each office or location within the State of  
232 Mississippi, plus any actual expenses incurred while examining the  
233 licensee's records or books that are located outside the State of  
234 Mississippi. However, in no event shall a licensee be examined  
235 more than once in a two-year period unless for cause shown based  
236 upon consumer complaint and/or other exigent reasons as determined  
237 by the commissioner.

238       All \* \* \* expense fees paid to the commissioner shall be  
239 deposited by the commissioner in the State Treasury in a special  
240 and separate fund to be known as the "Consumer Finance Fund."

241       SECTION 5. Section 63-19-31, Mississippi Code of 1972, is  
242 amended as follows:

243       63-19-31. (1) (a) A retail installment contract shall be  
244 in writing, shall be signed by both the buyer and the seller, and  
245 shall be completed as to all essential provisions prior to the  
246 signing of the contract by the buyer.

247       (b) The printed portion of the contract, other than

instructions for completion, shall be in at least eight point type. The contract shall contain in a size equal to at least ten point bold type:

(i) A specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included, if that is the case; and

(ii) The following notice: "Notice to the Buyer:  
1. Do not sign this contract before you read it or if it contains any blank spaces. 2. You are entitled to an exact copy of the contract you sign."

(c) The seller shall deliver to the buyer, or mail to him at his address shown on the contract, a copy of the contract signed by the seller. Until the seller does so, a buyer who has not received delivery of the motor vehicle shall have the right to rescind his agreement and to receive a refund of all payments made and return of all goods traded in to the seller on account of or in contemplation of the contract, or if such goods cannot be returned, the value thereof. Any acknowledgment by the buyer of the delivery of a copy of the contract shall be in a size equal to at least ten point bold type and, if contained in the contract, shall appear directly above the buyer's signature.

(d) The contract shall contain the names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer and a description of the motor vehicle including its make, year model, model and identification numbers or marks.

(2) The contract shall contain the following items:

- (a) The cash sale price of the motor vehicle;
- (b) The amount of the buyer's down payment, and whether made in money or goods, or partly in money and partly in goods;
- (c) The difference between items (a) and (b);
- (d) The amount, if any, included for insurance and other benefits specifying the types of coverage and benefits;

281                   (e) The amount of official fees;  
282                   (f) The amount, if any, actually paid or to be paid by  
283 the seller pursuant to an agreement with the buyer to discharge a  
284 security interest, lien or lease interest on property traded in;  
285                   (g) The principal balance, which is the sum of items  
286 (c), (d), \* \* \* (e) and (f);  
287                   (h) The amount of the finance charge;  
288                   (i) The time balance, which is the sum of items (g) and  
289 (h), payable in installments by the buyer to the seller, the  
290 number of installments, the amount of each installment and the due  
291 date or period thereof.

292           The above items need not be stated in the sequence or order  
293 set forth. Additional items may be included to explain the  
294 calculations involved in determining the stated time balance to be  
295 paid by the buyer. Notwithstanding any provision of this chapter  
296 to the contrary, in any contract evidencing the sale of a  
297 commercial vehicle, the statement of the amount of the finance  
298 charge (item (h) hereof) and the amount of each installment (item  
299 (i) hereof) may be calculated using the finance charge rate  
300 applicable to the transaction as of the date of execution of the  
301 contract, notwithstanding the fact that such finance charge rate  
302 may increase or decrease over the term of the contract according  
303 to any formula or index set forth in the contract; provided,  
304 however, that under no circumstances may the variable rate under  
305 such contract at any time exceed the finance charge limitations  
306 found in Section 63-19-43, of this chapter.

307           (3) No retail installment contract shall be signed by any  
308 party thereto when it contains blank spaces to be filled in after  
309 it has been signed except that, if delivery of the motor vehicle  
310 is not made at the time of the execution of the contract, the  
311 identifying numbers or marks of the motor vehicle or similar  
312 information and the due date of the first installment may be  
313 inserted in the contract after its execution. The buyer's written



acknowledgment, conforming to the requirements of subdivision (c) of subsection (1) of this section, of delivery of a copy of a contract shall be conclusive proof of such delivery, that the contract when signed did not contain any blank spaces except as herein provided, and of compliance with Sections 63-19-31 to 63-19-41 in any action or proceeding by or against the holder of the contract.

SECTION 6. Section 63-19-55, Mississippi Code of 1972, is amended as follows:

63-19-55. (1) Any person who shall willfully and intentionally violate any provision of this chapter or engage in the business of a sales finance company in this state without a license therefor as provided in this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00). However, any licensee who is exempt from liability for an act or omission under Section 63-19-57 shall not be guilty of a misdemeanor under this section for the same act or omission.

(2) If any person engages in business as provided for in this chapter without paying the license fee provided for in this chapter before commencing business or before the expiration of the person's current license, as the case may be, then the person shall be liable for the full amount of the license fee, plus a penalty in an amount not to exceed Twenty-five Dollars (\$25.00) for each day that the person has engaged in the business without a license or after the expiration of a license.

(3) The commissioner may, after notice and hearing, impose a civil penalty against any licensee if the licensee or employee is adjudged by the commissioner to be in violation of the provisions of this chapter. The civil penalty shall not exceed Five Hundred Dollars (\$500.00) per violation and shall be deposited into the Consumer Finance Fund of the Department of Banking and Consumer Finance.

(4) Any person willfully violating Sections 63-19-31 through 63-19-45, shall be barred from recovery of any finance charge, delinquency or collection charge on the contract.

(5) However, any such contract purchased in good faith for value by any bank, trust company, private bank, industrial bank or investment company authorized to do business in this state shall be held and construed to be valid and enforceable in the hands of the purchaser for value, except that such purchaser shall not be permitted to recover on such contract from the buyer anything in excess of the principal balance due thereon, plus the amount of the finance and collection charges permitted under the terms and provisions of this chapter.

SECTION 7. The following section shall be codified as a separate code section within Chapter 19 of Title 63, Mississippi Code of 1972:

63-19-\_\_\_. The commissioner, or his duly authorized representative, after receiving a written complaint, for the purpose of discovering violations of this chapter and for the purpose of determining whether persons are subject to the provisions of this chapter, may examine persons licensed under this chapter and persons reasonably suspected by the commissioner of conducting business that requires a license under this chapter, including all relevant books, records and papers employed by those persons in the transaction of their business, and may summon witnesses and examine them under oath concerning matters relating to the business of those persons, or such other matters as may be relevant to the discovery of violations of this chapter, including without limitation the conduct of business without a license as required by this chapter.

SECTION 8. Section 75-15-3, Mississippi Code of 1972, is amended as follows:[RF1]

75-15-3. For the purposes of this chapter:

(a) "Person" means any individual, partnership,

association, joint stock association, trust, or corporation, but does not include the United States government or the government of this state.

(b) "Licensee" means a person duly licensed by the commissioner pursuant to this chapter.

(c) "Check" means any check, draft, money order, personal money order, or other instrument for the transmission or payment of money.

(d) "Personal money order" means any instrument for the transmission or payment of money in relation to which the purchaser or remitter appoints or purports to appoint the seller thereof as his agent for the receipt, transmission, or handling of money, whether such instrument be signed by the seller or by the purchaser or remitter or some other person.

(e) "Sell" means to sell, to issue or to deliver a check.

(f) "Deliver" means to deliver a check to the first person who in payment for same makes or purports to make a remittance of or against the face amount thereof, whether or not the deliverer also charges a fee in addition to the face amount, and whether or not the deliverer signs the checks.

(g) "Commissioner" or "comptroller" means the Commissioner of Banking and Consumer Finance of the State of Mississippi.

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

SECTION 9. Section 75-15-15, Mississippi Code of 1972, is amended as follows:

75-15-15. Each licensee shall pay to the commissioner with

413 his initial application a license fee of Seven Hundred Fifty  
414 Dollars (\$750.00), and annually thereafter on or before April 1 of  
415 each year, a renewal fee of Four Hundred Dollars (\$400.00), plus  
416 Fifty Dollars (\$50.00) for each location in excess of one (1) in  
417 Mississippi through which the licensee plans to sell during the  
418 license year for which the fee is paid, provided that in no event  
419 shall the annual renewal fee exceed One Thousand Dollars  
420 (\$1,000.00).

421 SECTION 10. Section 75-15-19, Mississippi Code of 1972, is  
422 amended as follows:

423 75-15-19. Each licensee shall file with the commissioner  
424 annually on or before April 15 of each year a statement listing:

425 (a) The locations, offices and agencies authorized by  
426 the licensee to act for and on behalf of the licensee in selling  
427 or issuing or dispensing checks. A supplemental statement setting  
428 forth any changes in the list of locations, offices and agencies  
429 shall be filed with the commissioner on or before the first day of  
430 July, October and January of each year and the principal sum of  
431 the corporate surety bond or deposit required under Section  
432 75-15-11 shall be adjusted, if appropriate, to reflect any  
433 increase or decrease in the number of locations, offices and  
434 agencies. Such annual and supplemental statement shall not be  
435 required of any licensee who continues to maintain a corporate  
436 surety bond, as required by subsection (b) of Section 75-15-11 of  
437 this chapter, in the principal sum of Two Hundred Fifty Thousand  
438 Dollars (\$250,000.00), or a securities deposit having an aggregate  
439 market value at least equal to Two Hundred Fifty Thousand Dollars  
440 (\$250,000.00).

441 (b) Each licensee shall file with the commissioner  
442 annually on or before April 15 of each year, statements correctly  
443 reflecting its net worth as of the close of its most recent fiscal  
444 year, such statement to be certified to by a certified public  
445 accountant satisfactory to the commissioner.

(c) The commissioner may conduct or cause to be conducted an examination or audit of the books and records of any licensee at any time or times he shall deem proper, the cost of such examination or audit to be borne by the licensee. The refusal of access to such books and records shall be cause for the revocation of its license. The commissioner may charge the licensee an examination fee in an amount not less than Two Hundred Dollars (\$200.00) nor more than Three Hundred Dollars (\$300.00) per examination of each office or location within the State of Mississippi, plus any actual expenses incurred while examining the licensee's records or books that are located outside the State of Mississippi. However, in no event shall a licensee be examined more than once in a two-year period unless for cause shown based upon consumer complaint and/or other exigent reasons as determined by the commissioner.

SECTION 11. Section 75-15-31, Mississippi Code of 1972, is amended as follows:

75-15-31. (1) If any person to whom or which this chapter applies or any agent, subagent or representative of such person violates any of the provisions of this chapter or attempts to transact the business of selling or issuing or delivering checks as a service or for a fee or other consideration, without having first obtained license from the commissioner pursuant to the provisions of this chapter, such person and each such agent, subagent or representative shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) and he may also be confined to the county jail or sentenced to hard labor for the county, for not more than twelve (12) months. Each violation shall constitute a separate offense.

(2) If any person engages in business as provided for in this chapter without paying the license fee provided for in this chapter before commencing business or before the expiration of the

person's current license, as the case may be, then the person shall be liable for the full amount of the license fee plus a penalty in an amount not to exceed Twenty-five Dollars (\$25.00) for each day that the person has engaged in the business without a license or after the expiration of a license.

(3) The commissioner may, after notice and hearing, impose a civil penalty against any licensee if the licensee or employee is adjudged by the commissioner to be in violation of the provisions of this chapter. The civil penalty shall not exceed Five Hundred Dollars (\$500.00) per violation and shall be deposited into the Consumer Finance Fund of the Department of Banking and Consumer Finance.

SECTION 12. The following section shall be codified as a separate code section within Chapter 15 of Title 75, Mississippi Code of 1972:

75-15-\_\_\_. The commissioner, or his duly authorized representative, for the purpose of discovering violations of this chapter and for the purpose of determining whether persons are subject to the provisions of this chapter, may examine persons licensed under this chapter and persons reasonably suspected by the commissioner of conducting business that requires a license under this chapter, including all relevant books, records and papers employed by those persons in the transaction of their business, and may summon witnesses and examine them under oath concerning matters relating to the business of those persons, or such other matters as may be relevant to the discovery of violations of this chapter, including without limitation the conduct of business without a license as required under this chapter.

SECTION 13. Section 75-67-103, Mississippi Code of 1972, is amended as follows:

75-67-103. The following words and phrases, when used in this article, shall, for the purposes of this article, have the

meanings respectively ascribed to them in this section, except where the context clearly describes and indicates a different meaning:

(a) "Person" means and includes every natural person, firm, corporation, copartnership, joint-stock or other association or organization, and any other legal entity whatsoever.

(b) "Licensee" means and includes every person holding a valid license issued under the provisions of the Small Loan Privilege Tax Law [Sections 75-67-201 through 75-67-243] of this state, except those specifically exempt by the provisions of this article, who, in addition to any other rights and powers he or it might otherwise possess, shall engage in the business of lending money either directly or indirectly, to be paid back in monthly installments or other regular installments for periods of more or less than one (1) month, and whether or not the lender requires security from the borrower as indemnity for the repayment of the loan.

(c) "Occasional lender" means a person making not more than one (1) loan in any month or not more than twelve (12) loans in any twelve-month period.

(d) "Commissioner" means the Commissioner of Banking and Consumer Finance of the State of Mississippi.

(e) "Department" means the Department of Banking and Consumer Finance of the State of Mississippi.

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

SECTION 14. Section 75-67-115, Mississippi Code of 1972, is amended as follows:

75-67-115. The commissioner may charge the licensee an

545 examination fee in an amount not less than Two Hundred Dollars  
546 (\$200.00) nor more than Three Hundred Dollars (\$300.00) per  
547 examination of each office or location within the State of  
548 Mississippi, plus any actual expenses incurred while examining the  
549 licensee's records or books that are located outside the State of  
550 Mississippi. However, in no event shall a licensee be examined  
551 more than once in a two-year period unless for cause shown based  
552 upon consumer complaint and/or other exigent reasons as determined  
553 by the commissioner.

554 All \* \* \* expense fees paid to the commissioner shall be  
555 deposited by the commissioner in the State Treasury in a special  
556 and separate fund to be known as the "Consumer Finance Fund."

557 SECTION 15. Section 75-67-203, Mississippi Code of 1972, is  
558 amended as follows:

559 75-67-203. The following words and phrases, when used in  
560 this article, shall, for the purposes of this article have the  
561 meanings respectively ascribed to them in this section, except  
562 where the context clearly describes and indicates a different  
563 meaning:

564 (a) The word "person" shall mean and include every  
565 natural person, firm, corporation, copartnership, joint stock or  
566 other association or organization, and any other legal entity  
567 whatsoever;

568 (b) The term "licensee" shall mean and include every  
569 person, except those specifically exempt by the provisions of this  
570 article, who, in addition to any other right and powers he or it  
571 might otherwise possess, shall engage in the business of lending  
572 money, either directly or indirectly, to be paid back in monthly  
573 installments, or other regular installments for periods of more or  
574 less than one (1) month, and whether or not the lender requires  
575 security from the borrower as indemnity for the repayment of the  
576 loan;

577 (c) The word "commissioner" shall mean the Commissioner



of Banking and Consumer Finance of the State of Mississippi;

(d) The word "department" shall mean the Department of Banking and Consumer Finance of the State of Mississippi;

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

SECTION 16. Section 75-67-213, Mississippi Code of 1972, is amended as follows:

75-67-213. With each initial application for a license under the provisions of this article, the applicant shall pay to the commissioner at the time of making such application a license fee of Seven Hundred Fifty Dollars (\$750.00), and for renewal applications, an annual renewal fee of Four Hundred Seventy-five Dollars (\$475.00). The licenses issued under the provisions hereof shall be valid for a period of one (1) year from the date of the issuance thereof. Such fee is in addition to any other privilege tax or fee required by law. Within thirty (30) days prior to the expiration of any valid and subsisting license issued hereunder, the holder thereof, if he desires to continue to engage in business in the State of Mississippi, shall file application for a new license in the same manner and under the same conditions herein provided \* \* \*.

SECTION 17. Section 75-67-215, Mississippi Code of 1972, is amended as follows:

75-67-215. (1) If any person shall engage in business as provided for in this article without paying the license fee provided for herein prior to commencing business or prior to the expiration of such person's current license, as the case may be, then such person shall be liable for the full amount of such license fee plus a penalty in an amount not to exceed Twenty-five

Dollars (\$25.00) for each day that the person has engaged in the business without a license or after the expiration of a license.

(2) The commissioner may, after notice and hearing as defined in Section 75-67-237 in cases of revocation of license, impose a civil penalty against any licensee if the licensee is adjudged by the commissioner to be in willful violation of the provisions of this article. The civil penalty shall not exceed Five Hundred Dollars (\$500.00) per violation and shall be deposited into the Consumer Finance Fund of the Department of Banking and Consumer Finance. Any licensee who has been imposed a civil penalty by the commissioner may, within twenty (20) days after such fine is imposed, appeal to the circuit court of the county where the business is being conducted, as in cases from an order of a lesser tribunal. The trial on appeal shall be de novo.

SECTION 18. Section 75-67-229, Mississippi Code of 1972, is amended as follows:

75-67-229. Not more than one (1) place of business shall be operated or maintained under the same license, but the commissioner may issue separate licenses to the same licensee for different and separate places of business upon compliance with all of the provisions of this article governing the issuance of licenses with respect to each separate license. If any licensee shall desire to change his place of business within the same municipality during the period for which the license is valid, he shall make written application therefor to the commissioner who shall issue a new license \* \* \* for the unexpired portion of the year showing the new location of the business. However, nothing herein shall authorize or permit a change in the place of business of a licensee to a location outside of the original municipality.

SECTION 19. The following section shall be codified as a separate code section within Article 5 of Chapter 67 of Title 75, Mississippi Code of 1972:

75-67-\_\_\_. The commissioner, or his duly authorized

representative, for the purpose of discovering violations of this article and for the purpose of determining whether persons are subject to the provisions of this article, may examine persons licensed under this article and persons reasonably suspected by the commissioner of conducting business that requires a license under this article, including all relevant books, records and papers employed by those persons in the transaction of their business, and may summon witnesses and examine them under oath concerning matters relating to the business of those persons, or such other matters as may be relevant to the discovery of violations of this article, including without limitation the conduct of business without a license as required under this article.

SECTION 20. Section 75-67-403, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

677           (f) "Pledged property" means any personal property  
678 certificate of title that is deposited with a title pledge lender  
679 in the course of the title pledge lender's business and is the  
680 subject of a title pledge agreement.

681           (g) "Pledgor" means the person to whom the property is  
682 titled.

683           (h) "Title pledge agreement" means a thirty-day written  
684 agreement whereby a title pledge lender agrees to make a loan of  
685 money to a pledgor, and the pledgor agrees to give the title  
686 pledge lender a security interest in unencumbered titled personal  
687 property owned by the pledgor. The pledgor shall agree that the  
688 title pledge lender keep possession of the certificate of title.  
689 The pledgor shall have the exclusive right to redeem the  
690 certificate of title by repaying the loan of money in full and by  
691 complying with the title pledge agreement. When the certificate  
692 of title is redeemed, the title pledge lender shall release the  
693 security interest in the titled personal property and return the  
694 personal property certificate of title to the pledgor. The title  
695 pledge agreement shall provide that upon failure by the pledgor to  
696 redeem the certificate of title at the end of the original  
697 thirty-day agreement period, or at the end of any extension(s)  
698 thereof, the title pledge lender shall be allowed to take  
699 possession of the titled personal property. The title pledge  
700 agreement shall contain a power of attorney which authorizes the  
701 title pledge lender to transfer title to the pledged property from  
702 the pledgor to the title pledge lender upon failure to redeem the  
703 pledged property on or before the maturity date of the title  
704 pledge agreement, or any extension thereof. The title pledge  
705 lender shall take physical possession of the certificate of title  
706 for the entire length of the title pledge agreement, but shall not  
707 be required to take physical possession of the titled personal  
708 property at any time. A title pledge lender may only take  
709 unencumbered certificates of title for pledge, but may encumber

710 the title as part of the title pledge transaction by perfecting  
711 its security interest in the titled property.

712           (i) "Title pledge lender" means any person engaged in  
713 the business of making title pledge agreements with pledgors;  
714 provided, however, that the following are exempt from the  
715 definition of "title pledge lender" and from the provisions of  
716 this article: any bank which is regulated by the Department of  
717 Banking and Consumer Finance, the Comptroller of the Currency of  
718 the United States, the Federal Deposit Insurance Corporation, the  
719 Board of Governors of the Federal Reserve System or any other  
720 federal or state authority and all affiliates of such bank, and  
721 additionally any bank or savings and loan association whose  
722 deposits or accounts are eligible for insurance by the Bank  
723 Insurance Fund or the Savings Association Insurance Fund or other  
724 fund administered by the Federal Deposit Insurance Corporation or  
725 any successor thereto, and all affiliates of such banks and  
726 savings and loan associations, any state or federally chartered  
727 credit union and finance company subject to licensing and  
728 regulation by the Department of Banking and Consumer Finance.

729           (j) "Title pledge office" means the location at which,  
730 or premises in which, a title pledge lender regularly conducts  
731 business. No business other than title pledge business shall be  
732 conducted at a title pledge office.

733           (k) "Title pledge service charge" means a charge for  
734 investigating the title, appraising the titled personal property  
735 to which the pledged property relates, documenting and closing the  
736 title pledge agreement transaction, making required reports to  
737 appropriate law enforcement officials, and for all of the services  
738 provided by the title pledge lender.

739           (l) "Title pledge transaction form" means the  
740 instrument on which a title pledge lender records title pledge  
741 agreements pursuant to this article.

742           (m) "Titled personal property" means any personal

property the ownership of which is evidenced and delineated by a state-issued certificate of title.

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

SECTION 21. Section 75-67-409, Mississippi Code of 1972, is amended as follows:

75-67-409. (1) The pledgor shall sign a statement verifying that the pledgor is the rightful owner of the pledged property and is entitled to pledge it. The pledgor shall receive an exact copy of the title pledge agreement which shall be signed by the title pledge lender or any employee of the title pledge lender.

(2) The title pledge lender shall maintain a record of all transactions of pledged property on the premises for a period of two (2) years. A title pledge lender upon request shall provide to the appropriate law enforcement agency a complete record of all transactions. These records shall be a correct copy of the entries made of the title pledge transaction, except as to the amount of cash advanced for the pledged property and the monthly title pledge charge.

(3) The title pledge lender shall maintain records that contain a complete payment history of each customer evidencing all principal payments, service charge and/or other charges. Those records also shall reflect any unpaid principal balance as well as a payoff balance that includes the accrued service charges.

SECTION 22. Section 75-67-411, Mississippi Code of 1972, is amended as follows:

75-67-411. (1) A pledgor shall have no obligation to redeem pledged property or make any payment on a title pledge transaction. Upon the pledgor's failure to redeem the pledged

property on or before the maturity date of the title pledge agreement or any extension or continuation thereof, the title pledge lender has the right to take possession of the titled personal property and to exercise a power of attorney to transfer title to the pledged property. In taking possession, the title pledge lender or his agent may proceed without judicial process if this can be done without breach of the peace; or, if necessary, may proceed by action to obtain judicial process.

(2) If, within thirty (30) days after the maturity date, the pledgor redeems the pledged property by paying all outstanding principal, interest and other customary fees, the pledgor shall be given possession of the titled personal property and the pledged property without further charge.

(3) If the pledgor fails to redeem the pledged property during the thirty-day period provided in subsection (2) of this section, then the pledgor shall thereby forfeit all right, title and interest in and to the titled personal property and the pledged property to the title pledge lender who shall thereby acquire an absolute right of title and ownership to the titled personal property. The title pledge lender shall then have the sole right and authority to sell or dispose of the titled personal property.

(4) Notwithstanding anything in the preceding subsections of this section, the pledgor shall have seventy-two (72) hours after the title pledge lender has taken possession of the titled personal property to redeem the property by paying the amount of the unpaid principal balance, the delinquent service charge and the actual cost of the repossession. If the title pledge lender sells the titled personal property after the seventy-two-hour period, the title pledge lender shall return to the pledgor any amount received from the sale above the amount of the unpaid principal balance, the delinquent service charge and the actual cost of the repossession.

SECTION 23. Section 75-67-413, Mississippi Code of 1972, is amended as follows:

75-67-413. (1) A title pledge lender may contract for and receive a title pledge service charge in lieu of interest or other charges for all services, expenses, cost and losses of every nature not to exceed twenty-five percent (25%) of the principal amount, per month, advanced in the title pledge transaction.

(2) Any interest, charge or fees contracted for or received, directly or indirectly, in excess of the amount permitted under subsection (1) of this section shall be uncollectible and the title pledge transaction shall be void. The title pledge service charge allowed under subsection (1) of this section shall be deemed earned, due and owing as of the date of the title pledge transaction and a like sum shall be deemed earned, due and owing on the thirty-first day from the date of the transaction and on every thirtieth day thereafter.

(3) By agreement of the parties, the maturity date of the title pledge transaction may be extended or continued for thirty-day periods, provided that the service charges as specified in subsection (1) are not exceeded for any extensions. All extensions or continuations of the title pledge transaction shall be evidenced in writing. No accrued interest or service charge shall be capitalized or added to the original principal of the title pledge transaction during any extension or continuation. Beginning with the first extension or continuation, the principal amount financed shall be reduced by at least ten percent (10%) of the original principal amount for each successive extension or continuation. Failure by the pledgor to pay at least ten percent (10%) of the original principal amount of the title pledge transaction at the maturity date of each such successive extension or continuation shall cause the remaining principal and any service charges or fees to become immediately due and payable.

(4) Any additional payment of funds on the same pledged



property must be evidenced by a separate title pledge agreement.  
A title pledge lender shall not advance funds to a pledgor to pay  
off an existing title pledge agreement.

SECTION 24. Section 75-67-419, Mississippi Code of 1972, is amended as follows:

75-67-419. (1) A person may not engage in business as a title pledge lender or otherwise portray himself as a title pledge lender unless the person has a valid license authorizing engagement in the business. A separate license is required for each place of business under this article. The commissioner may issue more than one (1) license to a person if that person complies with this article for each license. A new license or application to transfer an existing license is required upon a change, directly or beneficially, in the ownership of any licensed title pledge office and an application shall be made to the commissioner in accordance with this article.

(2) When a licensee wishes to move a title pledge office to another location, the licensee shall give thirty (30) days prior written notice to the commissioner who shall amend the license accordingly.

(3) Each license shall remain in full force and effect until relinquished, suspended, revoked or expired. With each initial application for a license, the applicant shall pay the commissioner at the time of making the application a license fee of Seven Hundred Fifty Dollars (\$750.00), and on or before June 1 of each year thereafter, an annual renewal fee of Four Hundred Seventy-five Dollars (\$475.00). If the annual fee remains unpaid thirty (30) days after June 1, the license shall thereupon expire, but not before June 30 of any year for which the annual fee has been paid. If any person engages in business as provided for in this article without paying the license fee provided for in this article before commencing business or before the expiration of such person's current license, as the case may be, then the person

875 shall be liable for the full amount of the license fee, plus a  
876 penalty in an amount not to exceed Twenty-five Dollars (\$25.00)  
877 for each day that the person has engaged in the business without a  
878 license or after the expiration of a license. All licensing fees  
879 and penalties shall be paid into the Consumer Finance Fund of the  
880 Department of Banking and Consumer Finance.

881 (4) Notwithstanding other provisions of this article, the  
882 commissioner may issue a temporary license authorizing the  
883 operation of a title pledge office on the receipt of an  
884 application to transfer a license from one person to another or on  
885 the receipt of an application for a license involving principals  
886 and owners that are substantially identical to those of an  
887 existing licensed title pledge office. The temporary license is  
888 effective until the permanent license is issued or denied.

889 (5) Notwithstanding other provisions of this article,  
890 neither a new license nor an application to transfer an existing  
891 license shall be required upon any change, directly or  
892 beneficially, in the ownership of any licensed title pledge office  
893 incorporated under the laws of this state or any other state so  
894 long as the licensee continues to operate as a corporation doing a  
895 title pledge business under the license. The commissioner may,  
896 however, require the licensee to provide such information as he  
897 deems reasonable and appropriate concerning the officer and  
898 directors of the corporation and persons owning in excess of  
899 twenty-five percent (25%) of the outstanding shares of the  
900 corporation.

901 SECTION 25. Section 75-67-421, Mississippi Code of 1972, is  
902 amended as follows:

903 75-67-421. (1) To be eligible for a title pledge lender  
904 license, an applicant shall:

905 (a) Operate lawfully and fairly within the purposes of  
906 this article;

907 (b) Not have been convicted of a felony in the last ten

(10) years or be active as a beneficial owner for someone who has been convicted of a felony in the last ten (10) years;

(c) File with the commissioner a bond with good security in the penal sum of One Hundred Thousand Dollars (\$100,000.00), payable to the State of Mississippi for the faithful performance by the licensee of the duties and obligations pertaining to the business so licensed and the prompt payment of any judgment which may be recovered against the licensee on account of damages or other claim arising directly or collaterally from any violation of the provisions of this article; such bond shall not be valid until it is approved by the commissioner; such applicant may file, in lieu thereof, cash, a certificate of deposit, or government bonds in the amount of Ten Thousand Dollars (\$10,000.00), the deposit of which shall be filed with the commissioner and is subject to the same terms and conditions as are provided for in the surety bond required herein; any interest or earnings on such deposits are payable to the depositor.

(d) File with the commissioner an application accompanied by a set of fingerprints from any local law enforcement agency, \* \* \* and the initial license fee required in this article. In order to determine the applicant's suitability for license, the commissioner shall forward the fingerprints to the Department of Public Safety; and if no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety to the FBI for a national criminal history record check.

(2) Upon the filing of an application in a form prescribed by the commissioner, accompanied by the fee and documents required in this article, the department shall investigate to ascertain whether the qualifications prescribed by this article have been satisfied. If the commissioner finds that the qualifications have been satisfied and, if he approves the documents so filed by the applicant, he shall issue to the applicant a license to engage in

the business of title pledge lending in this state.

(3) Complete and file with the commissioner an annual renewal application accompanied by the renewal fee required in this article.

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

SECTION 26. Section 75-67-435, Mississippi Code of 1972, is amended as follows:

75-67-435. (1) The Commissioner of Banking and Consumer Finance shall develop and provide any necessary forms to carry out the provisions of this article.

(2) The department may adopt reasonable administrative regulations, not inconsistent with law, for the enforcement of this article.

(3) To assure compliance with the provision of this article, the department may examine the books and records of any licensee without notice during normal business hours. The commissioner may charge the licensee an examination fee in an amount not less than Two Hundred Dollars (\$200.00) nor more than Three Hundred Dollars (\$300.00) per examination of each office or location within the State of Mississippi, plus any actual expenses incurred while examining the licensee's records or books that are located outside the State of Mississippi. However, in no event shall a licensee be examined more than once in a two-year period unless for cause shown based upon consumer complaint and/or other exigent reasons as determined by the commissioner.

SECTION 27. The following section shall be codified as a separate code section within Article 9 of Chapter 67 of Title 75, Mississippi Code of 1972:

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

SECTION 28. The following section shall be codified as a separate code section within Article 9 of Chapter 67 of Title 75, Mississippi Code of 1972:

75-67-\_\_\_. The commissioner, or his duly authorized representative, for the purpose of discovering violations of this article and for the purpose of determining whether persons are subject to the provisions of this article, may examine persons licensed under this article and persons reasonably suspected by the commissioner of conducting business that requires a license under this article, including all relevant books, records and papers employed by those persons in the transaction of their business, and may summon witnesses and examine them under oath concerning matters relating to the business of those persons, or such other matters as may be relevant to the discovery of violations of this article, including without limitation the conduct of business without a license as required under this article.

SECTION 29. Section 81-19-3, Mississippi Code of 1972, is amended as follows:[RF2]

81-19-3. As used in this chapter:

(a) "Advance fee" means any consideration which is assessed or collected prior to the closing of a loan.

(b) "Commissioner" means the Commissioner of Banking and Consumer Finance.

(c) "Consumer loan" means a transaction by which a lender extends credit for personal, family or household purposes in the form of payment of money or of agreement to pay money, for the account of, or to a third party on behalf of, a natural person or persons and which is repayable in installments and may be unsecured or secured by real or personal property. The term "consumer loan" also includes the creation of consumer debt by a credit to an account with a lender upon which the borrower is entitled to draw immediately.

(d) "Consumer loan broker" means a person not otherwise exempt from this chapter who, for compensation from borrowers, finds and obtains consumer loans or credit cards for borrowers from third party lenders.

(e) "Department" means the Department of Banking and Consumer Finance.

(f) "Lender" means a person who makes consumer loans.

(g) "License" means a license required by this chapter.

(h) "Loan charges and fees" means amounts collected from a borrower by a consumer loan broker on behalf of a lender to defray costs of such items as appraisals, surveys, title opinions and similar other expenses.

(i) "Service charge" means the amount charged a borrower by a consumer loan broker for the service of finding and obtaining a consumer loan for the borrower from a third party lender.

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

SECTION 30. Section 81-19-15, Mississippi Code of 1972, is amended as follows:

81-19-15. Applications for renewal of a license shall be submitted, along with the payment of the annual fee, on an application form supplied by the commissioner upon which information relating to all of the applicant's licensed offices shall be set forth in accordance with instructions contained therein, including, in the discretion of the commissioner, such additional information as may be required by statute or regulation for the issuance of an initial license.

The application for renewal of a license shall be received by

the commissioner within thirty (30) days prior to the expiration of any valid and existing license issued hereunder. If any person engages in business as provided for in this chapter without paying the license fee provided for in this chapter before commencing business or before the expiration of his current license shall be liable for the full amount of the license fee, plus a penalty in an amount not to exceed Twenty-five Dollars (\$25.00) for each day that the person has engaged in the business without a license or after the expiration of a license.

SECTION 31. Section 81-19-17, Mississippi Code of 1972, is amended as follows:

81-19-17. (1) Each licensee shall be subject to the supervision of the commissioner.

(2) The commissioner is authorized to make and enforce such reasonable regulations as are necessary and proper for the administration, enforcement and interpretation of the provisions of this chapter. In adopting such regulations, the commissioner shall follow the procedures set forth in the Mississippi Administrative Procedures Act (Section 25-43-1 et seq., Mississippi Code of 1972).

(3) In order to discover violations of this chapter and to identify persons subject to the provisions of this chapter, the commissioner is authorized to examine licensees, including all books, records, accounts and papers employed by such licensees in the transaction of their business, to summon witnesses and examine them under oath concerning matters relating to the business of such persons, and to investigate such other matters as may be relevant in the opinion of the commissioner. For this purpose and for the general purposes of administration of this chapter, the commissioner may employ such deputies and assistants as may be necessary, and such deputies and assistants, in the discretion of the commissioner, may be vested with the same authority conferred upon the commissioner by this chapter.

1073           (4) For the purpose of defraying a portion of the  
1074 examination and administrative expenses incurred by the  
1075 commissioner, each licensee shall pay at the time of examination  
1076 the actual expenses of the examination, not to exceed Two Hundred  
1077 Dollars (\$200.00) per day for the time actually devoted to  
1078 examining the business of the licensee. However, for any  
1079 examination other than one conducted because of suspected blatant  
1080 violation of this chapter, the amount charged to any single  
1081 licensee in any one (1) year shall not exceed Two Thousand Dollars  
1082 (\$2,000.00).

1083           (5) The commissioner may impose and collect an  
1084 administrative fine against any person found to have charged or  
1085 collected a service charge or advance fee from a borrower before a  
1086 loan is actually found, obtained and closed for such borrower.  
1087 Such fine shall not exceed Five Thousand Dollars (\$5,000.00) for  
1088 each violation.

1089           (6) Whenever the commissioner has reasonable cause to  
1090 believe that any person is violating any of the provisions of this  
1091 chapter, in addition to all other remedies provided herein, the  
1092 commissioner may, by, through and on the relation of the Attorney  
1093 General, district attorney or county attorney, apply to a court of  
1094 competent jurisdiction for an injunction, both temporary and  
1095 permanent, to restrain such person from engaging in or continuing  
1096 such violation of the provisions of this chapter or from doing any  
1097 act or acts in furtherance thereof.

1098           (7) The commissioner may, after notice and hearing, impose  
1099 an administrative fine against any licensee if the licensee or  
1100 employee is adjudged by the commissioner to be in violation of the  
1101 provisions of this chapter. The administrative fine shall not  
1102 exceed Five Hundred Dollars (\$500.00) per violation and shall be  
1103 deposited into the Consumer Finance Fund of the Department of  
1104 Banking and Consumer Finance.

1105           SECTION 32. Section 81-19-19, Mississippi Code of 1972, is



1106 amended as follows:

1107       81-19-19. All funds coming into the possession of the  
1108 commissioner as a result of this chapter, including all annual  
1109 fees and examination fees \* \* \*, shall be deposited by the  
1110 commissioner into the special fund in the State Treasury known as  
1111 the "Consumer Finance Fund," and shall be expended by the  
1112 commissioner solely and exclusively for the administration and  
1113 enforcement of this chapter. \* \* \*

1114       SECTION 33. The following section shall be codified as a  
1115 separate code section within Chapter 19 of Title 81, Mississippi  
1116 Code of 1972:

1117       81-19-\_\_\_. The commissioner, or his duly authorized  
1118 representative, for the purpose of discovering violations of this  
1119 chapter and for the purpose of determining whether persons are  
1120 subject to the provisions of this chapter, may examine persons  
1121 licensed under this chapter and persons reasonably suspected by  
1122 the commissioner of conducting business that requires a license  
1123 under this chapter, including all relevant books, records and  
1124 papers employed by those persons in the transaction of their  
1125 business, and may summon witnesses and examine them under oath  
1126 concerning matters relating to the business of those persons, or  
1127 such other matters as may be relevant to the discovery of  
1128 violations of this chapter, including without limitation the  
1129 conduct of business without a license as required under this  
1130 chapter.

1131       SECTION 34. Section 81-21-1, Mississippi Code of 1972, is  
1132 amended as follows:

1133       81-21-1. The following words and phrases shall have the  
1134 meanings ascribed herein unless the context clearly indicates  
1135 otherwise:

1136               (a) "Commissioner" means the Commissioner of Banking  
1137 and Consumer Finance.

1138               (b) "Person" means an individual, partnership,

association, business corporation, nonprofit corporation,  
common-law trust, joint stock company or any other entity, however  
organized.

(c) "Premium finance agreement" means an agreement by  
which an insurance or prospective insured promises to pay to a  
premium finance company the amount advanced or to be advanced to  
an insurer or to an insurance agent or broker in payment of  
premiums of an insurance contract together with interest or  
discount and a service charge, as authorized and limited by  
Sections 81-21-13 through 81-21-23.

(d) "Premium finance company" means a person engaged in  
the business of entering into premium finance agreements or  
acquiring premium finance agreements from other premium finance  
companies.

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

SECTION 35. Section 81-21-3, Mississippi Code of 1972, is  
amended as follows:

81-21-3. (1) No person shall engage in the business of a  
premium finance company in this state without first having  
obtained a license as a premium finance company from the  
commissioner.

(2) With each initial application for a license, the  
applicant shall pay to the commissioner at the time of making the  
application a license fee of Seven Hundred Fifty Dollars  
(\$750.00), and for renewal applications, an annual renewal fee of  
Four Hundred Seventy-five Dollars (\$475.00) payable as of the  
first day of July of each year to the commissioner for deposit  
into the special fund in the State Treasury designated as the

"Consumer Finance Fund." The commissioner may employ persons as necessary to administer this chapter and to examine or investigate and make reports on violations of this chapter.

(3) The commissioner may charge the licensee an examination fee in an amount not less than Two Hundred Dollars (\$200.00) nor more than Three Hundred Dollars (\$300.00) per examination of each office or location within the State of Mississippi, plus any actual expenses incurred while examining the licensee's records or books that are located outside the State of Mississippi. However, in no event shall a licensee be examined more than once in a two-year period unless for cause shown based upon consumer complaint and/or other exigent reasons as determined by the commissioner. Such fees shall be payable in addition to other fees and taxes now required by law and shall be expendable receipts for the use of the commissioner in defraying the cost of the administration of this chapter.

All fees, license tax and penalties provided for in this chapter which are payable to the commissioner shall, when collected by him or his designated representative, be deposited in the special fund in the State Treasury known as the "Consumer Finance Fund" and shall be expended by the commissioner solely and exclusively for the purpose of administering and enforcing the provisions of this chapter.

(4) Application for licensing shall be made on forms prepared by the commissioner and shall contain the following information:

(a) Name, business address and telephone number of the premium finance company;

(b) Name and business address of corporate officers and directors or principals or partners; and

(c) A sworn statement by an appropriate officer, principal or partner of the premium finance company that:

(i) The premium finance company is financially

capable to engage in the business of insurance premium financing;

(ii) If a corporation, that the corporation is authorized to transact business in this state; and

(iii) If any material change occurs in the information contained in the registration form, a revised statement shall be submitted to the commissioner.

(5) The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this chapter. All such rules and regulations shall be promulgated in accordance with the provisions of the Mississippi Administrative Procedures Law.

SECTION 36. Section 81-21-9, Mississippi Code of 1972, is amended as follows:

81-21-9. (1) In lieu of revoking or suspending the license for any of the causes enumerated in this chapter, after a hearing as provided in Section 81-21-7, the commissioner may subject such company to a penalty not to exceed Five Hundred Dollars (\$500.00) for each offense when the commissioner finds that the public interest would not be harmed by the continued operation of the company. The amount of any such penalty shall be paid by such company to the commissioner for deposit into the special fund in the State Treasury designated as the "Consumer Finance Fund." At any hearing provided by this chapter, the commissioner shall have authority to administer oaths to witnesses. Anyone testifying falsely, after having been administered such oath, shall be subject to the penalty of perjury.

(2) If any person engages in business as provided for in this chapter without paying the license fee provided for in this chapter before commencing business or before the expiration of the person's current license, as the case may be, then the person shall be liable for the full amount of the license fee, plus a penalty in an amount not to exceed Twenty-five Dollars (\$25.00) for each day that the person has engaged in the business without a license or after the expiration of a license.

1238           SECTION 37. The following section shall be codified as a  
1239 separate code section within Chapter 21 of Title 81, Mississippi  
1240 Code of 1972:

1241           81-21-\_\_\_. The commissioner, or his duly authorized  
1242 representative, for the purpose of discovering violations of this  
1243 chapter and for the purpose of determining whether persons are  
1244 subject to the provisions of this chapter, may examine persons  
1245 licensed under this chapter and persons reasonably suspected by  
1246 the commissioner of conducting business that requires a license  
1247 under this chapter, including all relevant books, records and  
1248 papers employed by those persons in the transaction of their  
1249 business, and may summon witnesses and examine them under oath  
1250 concerning matters relating to the business of those persons, or  
1251 such other matters as may be relevant to the discovery of  
1252 violations of this chapter, including without limitation the  
1253 conduct of business without a license as required under this  
1254 chapter.

1255           SECTION 38. This act shall take effect and be in force from  
1256 and after its passage.