

By: Guice

To: Banks and Banking

HOUSE BILL NO. 723
(As Passed the House)

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 FIVE BUSINESS DAYS
62 AFTER THE TITLE PLEDGE LENDER HAS TAKEN POSSESSION OF THE
63 PROPERTY; TO PROVIDE THAT IF THE LENDER SELLS THE PROPERTY AFTER
64 THE FIVE-DAY PERIOD, THE LENDER SHALL RETURN TO THE PLEDGOR ANY
65 AMOUNT RECEIVED FROM THE SALE ABOVE THE AMOUNT NEEDED TO REDEEM
66 THE PROPERTY; TO REQUIRE THAT ANY SUCH SALE SHALL BE MADE IN A
67 COMMERCIALY REASONABLE MANNER; TO REQUIRE THE TITLE PLEDGE LENDER
68 TO GIVE A WRITTEN NOTICE TO THE PLEDGOR, AT THE TIME THE LENDER
69 TAKES POSSESSION OF THE PROPERTY, THAT THE PROPERTY IS SUBJECT TO
70 BEING SOLD AFTER FIVE DAYS; TO AMEND SECTION 75-67-413,
71 MISSISSIPPI CODE OF 1972, TO REQUIRE A PLEDGOR TO REDUCE THE
72 PRINCIPAL AMOUNT FINANCED BY AT LEAST 10% BEGINNING WITH THE FIRST
73 EXTENSION OR CONTINUATION, RATHER THAN BEGINNING WITH THE THIRD;
74 TO PROVIDE THAT ANY ADDITIONAL PAYMENT OF FUNDS ON THE SAME
75 PLEDGED PROPERTY MUST BE EVIDENCED BY A SEPARATE TITLE PLEDGE
76 AGREEMENT; TO PROHIBIT A TITLE PLEDGE LENDER FROM ADVANCING FUNDS
77 TO A PLEDGOR TO PAY OFF AN EXISTING TITLE PLEDGE AGREEMENT; TO
78 AMEND SECTION 75-67-419, MISSISSIPPI CODE OF 1972, TO REVISE THE
79 FEE FOR A TITLE PLEDGE LENDER LICENSE; TO AMEND SECTION 75-67-421,
80 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE INITIAL APPLICATION
81 AND BOND FOR A TITLE PLEDGE LENDER LICENSE SHALL BE FILED WITH THE
82 COMMISSIONER OF BANKING, INSTEAD OF THE LOCAL AUTHORITIES; TO
83 AMEND SECTION 75-67-435, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
84 THE COMMISSIONER OF BANKING TO CHARGE TITLE PLEDGE LICENSEES AN
85 EXAMINATION FEE; TO CREATE A NEW CODE SECTION TO BE CODIFIED
86 WITHIN ARTICLE 9 OF CHAPTER 67 OF TITLE 75, MISSISSIPPI CODE OF
87 1972, TO PROHIBIT LICENSEES UNDER THE TITLE PLEDGE ACT FROM
88 ADVERTISING, DISPLAYING OR PUBLISHING ANY STATEMENT OR
89 REPRESENTATION THAT IS FALSE, MISLEADING OR DECEPTIVE; TO CREATE A
90 NEW CODE SECTION TO BE CODIFIED WITHIN ARTICLE 9 OF CHAPTER 67 OF
91 TITLE 75, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER
92 OF BANKING TO EXAMINE PERSONS REASONABLY SUSPECTED OF CONDUCTING
93 BUSINESS WHICH REQUIRES A LICENSE UNDER THE TITLE PLEDGE LOAN ACT;
94 TO AMEND SECTION 81-19-3, MISSISSIPPI CODE OF 1972, TO DEFINE THE
95 TERM "RECORDS/DOCUMENTS" FOR THE PURPOSES OF THE CONSUMER LOAN
96 BROKER ACT; TO AMEND SECTION 81-19-15, MISSISSIPPI CODE OF 1972,
97 TO REVISE THE PENALTY FOR FAILURE TO PAY THE FEE FOR A CONSUMER
98 LOAN BROKER LICENSE; TO AMEND SECTION 81-19-17, MISSISSIPPI CODE
99 OF 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING TO IMPOSE
100 ADMINISTRATIVE FINES FOR VIOLATIONS OF THE CONSUMER LOAN BROKER
101 ACT; TO AMEND SECTION 81-19-19, MISSISSIPPI CODE OF 1972, TO
102 PROVIDE THAT SUCH ADMINISTRATIVE FINES SHALL BE DEPOSITED INTO THE
103 CONSUMER FINANCE FUND AND NOT THE STATE GENERAL FUND; TO CREATE A
104 NEW CODE SECTION TO BE CODIFIED WITHIN CHAPTER 19 OF TITLE 81,
105 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING
106 TO EXAMINE PERSONS REASONABLY SUSPECTED OF CONDUCTING BUSINESS
107 WHICH REQUIRES A CONSUMER LOAN BROKER LICENSE; TO AMEND SECTION
108 81-21-1, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM
109 "RECORDS/DOCUMENTS" FOR THE PURPOSES OF THE INSURANCE PREMIUM
110 FINANCE COMPANY LICENSURE LAW; TO AMEND SECTION 81-21-3,
111 MISSISSIPPI CODE OF 1972, TO REVISE THE LICENSE FEE FOR INSURANCE
112 PREMIUM FINANCE COMPANIES; TO AMEND SECTION 81-21-9, MISSISSIPPI
113 CODE OF 1972, TO PROVIDE FOR A CIVIL PENALTY AGAINST ANY INSURANCE
114 PREMIUM FINANCE COMPANY WHICH FAILS TO TIMELY PAY THE REQUIRED
115 LICENSE FEE; TO CREATE A NEW CODE SECTION TO BE CODIFIED WITHIN

116 CHAPTER 21 OF TITLE 81, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
117 COMMISSIONER OF BANKING TO EXAMINE PERSONS REASONABLY SUSPECTED OF
118 CONDUCTING BUSINESS WHICH REQUIRES A PREMIUM FINANCE COMPANY
119 LICENSE; AND FOR RELATED PURPOSES.

120

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

122 SECTION 1. Section 63-19-3, Mississippi Code of 1972, is
123 amended as follows:

124 63-19-3. The following words and phrases, when used in this
125 chapter, shall have the meanings respectively ascribed to them in
126 this section, except where the context or subject matter otherwise
127 requires:

128 (a) "Motor vehicle" means any self-propelled or motored
129 device designed to be used or used primarily for the
130 transportation of passengers or property, or both, and having a
131 gross vehicular weight rating of less than fifteen thousand
132 (15,000) pounds.

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

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

145 (d) "Retail seller" or "seller" means a person who
146 sells a motor vehicle or commercial vehicle to a retail buyer
147 under or subject to a retail installment contract.

148 (e) The "holder" of a retail installment contract means
149 the retail seller of the motor vehicle or commercial vehicle under

or subject to the contract or if the contract is purchased by a sales finance company or other assignee, the sales finance company or other assignee.

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

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

(h) "Cash sale price" means the price stated in a retail installment contract for which the seller would have sold to the buyer, and the buyer would have bought from the seller, the motor vehicle or commercial vehicle which is the subject matter of the retail installment contract, if such sale had been a sale for cash instead of a retail installment transaction. The cash sale price may include any taxes, registration, certificate of title, if any, license and other fees and charges for accessories and

183 their installation and for delivery, servicing, repairing or
184 improving the motor vehicle or commercial vehicle.

185 (i) "Official fees" means the fees prescribed by law
186 for filing, recording or otherwise perfecting and releasing or
187 satisfying a retained title or a lien created by a retail
188 installment contract, if recorded.

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

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

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

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

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

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

216 original.

217 Words in the singular include the plural and vice versa.

218 SECTION 2. Section 63-19-11, Mississippi Code of 1972, is
219 amended as follows:

220 63-19-11. With each initial application for a license, the
221 applicant shall pay to the commissioner at the time of making the
222 application a license fee of Seven Hundred Fifty Dollars
223 (\$750.00), and for renewal applications, an annual renewal fee of
224 Four Hundred Seventy-five Dollars (\$475.00) for each calendar year
225 for each place of business so operated.

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

228 63-19-15. Each license shall specify the location of the
229 office and must be conspicuously displayed there. * * *

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

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

242 All * * * expense fees paid to the commissioner shall be
243 deposited by the commissioner in the State Treasury in a special
244 and separate fund to be known as the "Consumer Finance Fund."

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

247 63-19-31. (1) (a) A retail installment contract shall be
248 in writing, shall be signed by both the buyer and the seller, and

shall be completed as to all essential provisions prior to the signing of the contract by the buyer.

(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;

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

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

311 (3) No retail installment contract shall be signed by any
312 party thereto when it contains blank spaces to be filled in after
313 it has been signed except that, if delivery of the motor vehicle
314 is not made at the time of the execution of the contract, the

identifying numbers or marks of the motor vehicle or similar information and the due date of the first installment may be 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

381 amended as follows:[RF1]

382 75-15-3. For the purposes of this chapter:

383 (a) "Person" means any individual, partnership,
384 association, joint stock association, trust, or corporation, but
385 does not include the United States government or the government of
386 this state.

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

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

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

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

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

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

408 (h) "Records" or "documents" means any item in hard
409 copy or produced in a format of storage commonly described as
410 electronic, imaged, magnetic, microphotographic or otherwise, and
411 any reproduction so made shall have the same force and effect as
412 the original thereof and be admitted in evidence equally with the
413 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 his initial application a license fee of Seven Hundred Fifty Dollars (\$750.00), and annually thereafter on or before April 1 of each year, a renewal fee of Four Hundred Dollars (\$400.00), plus Fifty Dollars (\$50.00) for each location in excess of one (1) in Mississippi through which the licensee plans to sell during the license year for which the fee is paid, provided that in no event shall the annual renewal fee exceed One Thousand Dollars (\$1,000.00).

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

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

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

(b) Each licensee shall file with the commissioner annually on or before April 15 of each year, statements correctly

reflecting its net worth as of the close of its most recent fiscal year, such statement to be certified to by a certified public 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.

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

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

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

498 75-15-___. The commissioner, or his duly authorized
499 representative, for the purpose of discovering violations of this
500 chapter and for the purpose of determining whether persons are
501 subject to the provisions of this chapter, may examine persons
502 licensed under this chapter and persons reasonably suspected by
503 the commissioner of conducting business that requires a license
504 under this chapter, including all relevant books, records and
505 papers employed by those persons in the transaction of their
506 business, and may summon witnesses and examine them under oath
507 concerning matters relating to the business of those persons, or
508 such other matters as may be relevant to the discovery of
509 violations of this chapter, including without limitation the
510 conduct of business without a license as required under this
511 chapter.

512 SECTION 13. Section 75-67-103, Mississippi Code of 1972, is

513 amended as follows:

514 75-67-103. The following words and phrases, when used in
515 this article, shall, for the purposes of this article, have the
516 meanings respectively ascribed to them in this section, except
517 where the context clearly describes and indicates a different
518 meaning:

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

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

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

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

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

540 (f) "Records" or "documents" means any item in hard
541 copy or produced in a format of storage commonly described as
542 electronic, imaged, magnetic, microphotographic or otherwise, and
543 any reproduction so made shall have the same force and effect as
544 the original thereof and be admitted in evidence equally with the
545 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 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.

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

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

75-67-203. 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) The word "person" shall mean and include every natural person, firm, corporation, copartnership, joint stock or other association or organization, and any other legal entity whatsoever;

(b) The term "licensee" shall mean and include every person, except those specifically exempt by the provisions of this article, who, in addition to any other right 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

579 security from the borrower as indemnity for the repayment of the
580 loan;

581 (c) The word "commissioner" shall mean the Commissioner
582 of Banking and Consumer Finance of the State of Mississippi;

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

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

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

593 75-67-213. With each initial application for a license under
594 the provisions of this article, the applicant shall pay to the
595 commissioner at the time of making such application a license fee
596 of Seven Hundred Fifty Dollars (\$750.00), and for renewal
597 applications, an annual renewal fee of Four Hundred Seventy-five
598 Dollars (\$475.00). The licenses issued under the provisions
599 hereof shall be valid for a period of one (1) year from the date
600 of the issuance thereof. Such fee is in addition to any other
601 privilege tax or fee required by law. Within thirty (30) days
602 prior to the expiration of any valid and subsisting license issued
603 hereunder, the holder thereof, if he desires to continue to engage
604 in business in the State of Mississippi, shall file application
605 for a new license in the same manner and under the same conditions
606 herein provided * * *.

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

609 75-67-215. (1) If any person shall engage in business as
610 provided for in this article without paying the license fee
611 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.

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

681 (f) "Pledged property" means any personal property
682 certificate of title that is deposited with a title pledge lender
683 in the course of the title pledge lender's business and is the
684 subject of a title pledge agreement.

685 (g) "Pledgor" means the person to whom the property is
686 titled.

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

be required to take physical possession of the titled personal property at any time. A title pledge lender may only take unencumbered certificates of title for pledge, but may encumber the title as part of the title pledge transaction by perfecting its security interest in the titled property.

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

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

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

(l) "Title pledge transaction form" means the

instrument on which a title pledge lender records title pledge agreements pursuant to this article.

(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:

777 75-67-411. (1) A pledgor shall have no obligation to redeem
778 pledged property or make any payment on a title pledge
779 transaction. Upon the pledgor's failure to redeem the pledged
780 property on or before the maturity date of the title pledge
781 agreement or any extension or continuation thereof, the title
782 pledge lender has the right to take possession of the titled
783 personal property and to exercise a power of attorney to transfer
784 title to the pledged property. In taking possession, the title
785 pledge lender or his agent may proceed without judicial process if
786 this can be done without breach of the peace; or, if necessary,
787 may proceed by action to obtain judicial process.

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

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

802 (4) Notwithstanding anything in the preceding subsections of
803 this section, the pledgor shall have five (5) business days after
804 the title pledge lender has taken possession of the titled
805 personal property to redeem the property by paying the amount of
806 the unpaid principal balance, the delinquent service charge and
807 the actual cost of the repossession. If the title pledge lender
808 sells the titled personal property after the five-day period, the
809 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. Such sale shall occur under circumstances which are commercially reasonable, including but not limited to, that an arm's length transaction involving such sale shall occur. The title pledge lender shall give the pledgor, at the time the lender takes possession of the titled pledged property, written notice that the property is subject to being sold after five (5) business days.

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

876 of Seven Hundred Fifty Dollars (\$750.00), and on or before June 1
877 of each year thereafter, an annual renewal fee of Four Hundred
878 Seventy-five Dollars (\$475.00). If the annual fee remains unpaid
879 thirty (30) days after June 1, the license shall thereupon expire,
880 but not before June 30 of any year for which the annual fee has
881 been paid. If any person engages in business as provided for in
882 this article without paying the license fee provided for in this
883 article before commencing business or before the expiration of
884 such person's current license, as the case may be, then the person
885 shall be liable for the full amount of the license fee, plus a
886 penalty in an amount not to exceed Twenty-five Dollars (\$25.00)
887 for each day that the person has engaged in the business without a
888 license or after the expiration of a license. All licensing fees
889 and penalties shall be paid into the Consumer Finance Fund of the
890 Department of Banking and Consumer Finance.

891 (4) Notwithstanding other provisions of this article, the
892 commissioner may issue a temporary license authorizing the
893 operation of a title pledge office on the receipt of an
894 application to transfer a license from one person to another or on
895 the receipt of an application for a license involving principals
896 and owners that are substantially identical to those of an
897 existing licensed title pledge office. The temporary license is
898 effective until the permanent license is issued or denied.

899 (5) Notwithstanding other provisions of this article,
900 neither a new license nor an application to transfer an existing
901 license shall be required upon any change, directly or
902 beneficially, in the ownership of any licensed title pledge office
903 incorporated under the laws of this state or any other state so
904 long as the licensee continues to operate as a corporation doing a
905 title pledge business under the license. The commissioner may,
906 however, require the licensee to provide such information as he
907 deems reasonable and appropriate concerning the officer and
908 directors of the corporation and persons owning in excess of

twenty-five percent (25%) of the outstanding shares of the corporation.

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

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

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

(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

942 by the Department of Public Safety to the FBI for a national
943 criminal history record check.

944 (2) Upon the filing of an application in a form prescribed
945 by the commissioner, accompanied by the fee and documents required
946 in this article, the department shall investigate to ascertain
947 whether the qualifications prescribed by this article have been
948 satisfied. If the commissioner finds that the qualifications have
949 been satisfied and, if he approves the documents so filed by the
950 applicant, he shall issue to the applicant a license to engage in
951 the business of title pledge lending in this state.

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

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

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

959 75-67-435. (1) The Commissioner of Banking and Consumer
960 Finance shall develop and provide any necessary forms to carry out
961 the provisions of this article.

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

965 (3) To assure compliance with the provision of this article,
966 the department may examine the books and records of any licensee
967 without notice during normal business hours. The commissioner may
968 charge the licensee an examination fee in an amount not less than
969 Two Hundred Dollars (\$200.00) nor more than Three Hundred Dollars
970 (\$300.00) per examination of each office or location within the
971 State of Mississippi, plus any actual expenses incurred while
972 examining the licensee's records or books that are located outside
973 the State of Mississippi. However, in no event shall a licensee
974 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

1074 the transaction of their business, to summon witnesses and examine
1075 them under oath concerning matters relating to the business of
1076 such persons, and to investigate such other matters as may be
1077 relevant in the opinion of the commissioner. For this purpose and
1078 for the general purposes of administration of this chapter, the
1079 commissioner may employ such deputies and assistants as may be
1080 necessary, and such deputies and assistants, in the discretion of
1081 the commissioner, may be vested with the same authority conferred
1082 upon the commissioner by this chapter.

1083 (4) For the purpose of defraying a portion of the
1084 examination and administrative expenses incurred by the
1085 commissioner, each licensee shall pay at the time of examination
1086 the actual expenses of the examination, not to exceed Two Hundred
1087 Dollars (\$200.00) per day for the time actually devoted to
1088 examining the business of the licensee. However, for any
1089 examination other than one conducted because of suspected blatant
1090 violation of this chapter, the amount charged to any single
1091 licensee in any one (1) year shall not exceed Two Thousand Dollars
1092 (\$2,000.00).

1093 (5) The commissioner may impose and collect an
1094 administrative fine against any person found to have charged or
1095 collected a service charge or advance fee from a borrower before a
1096 loan is actually found, obtained and closed for such borrower.
1097 Such fine shall not exceed Five Thousand Dollars (\$5,000.00) for
1098 each violation.

1099 (6) Whenever the commissioner has reasonable cause to
1100 believe that any person is violating any of the provisions of this
1101 chapter, in addition to all other remedies provided herein, the
1102 commissioner may, by, through and on the relation of the Attorney
1103 General, district attorney or county attorney, apply to a court of
1104 competent jurisdiction for an injunction, both temporary and
1105 permanent, to restrain such person from engaging in or continuing
1106 such violation of the provisions of this chapter or from doing any

1107 act or acts in furtherance thereof.

1108 (7) The commissioner may, after notice and hearing, impose
1109 an administrative fine against any licensee if the licensee or
1110 employee is adjudged by the commissioner to be in violation of the
1111 provisions of this chapter. The administrative fine shall not
1112 exceed Five Hundred Dollars (\$500.00) per violation and shall be
1113 deposited into the Consumer Finance Fund of the Department of
1114 Banking and Consumer Finance.

1115 SECTION 32. Section 81-19-19, Mississippi Code of 1972, is
1116 amended as follows:

1117 81-19-19. All funds coming into the possession of the
1118 commissioner as a result of this chapter, including all annual
1119 fees and examination fees * * *, shall be deposited by the
1120 commissioner into the special fund in the State Treasury known as
1121 the "Consumer Finance Fund," and shall be expended by the
1122 commissioner solely and exclusively for the administration and
1123 enforcement of this chapter. * * *

1124 SECTION 33. The following section shall be codified as a
1125 separate code section within Chapter 19 of Title 81, Mississippi
1126 Code of 1972:

1127 81-19-___. The commissioner, or his duly authorized
1128 representative, for the purpose of discovering violations of this
1129 chapter and for the purpose of determining whether persons are
1130 subject to the provisions of this chapter, may examine persons
1131 licensed under this chapter and persons reasonably suspected by
1132 the commissioner of conducting business that requires a license
1133 under this chapter, including all relevant books, records and
1134 papers employed by those persons in the transaction of their
1135 business, and may summon witnesses and examine them under oath
1136 concerning matters relating to the business of those persons, or
1137 such other matters as may be relevant to the discovery of
1138 violations of this chapter, including without limitation the
1139 conduct of business without a license as required under this

1140 chapter.

1141 SECTION 34. Section 81-21-1, Mississippi Code of 1972, is
1142 amended as follows:

1143 81-21-1. The following words and phrases shall have the
1144 meanings ascribed herein unless the context clearly indicates
1145 otherwise:

1146 (a) "Commissioner" means the Commissioner of Banking
1147 and Consumer Finance.

1148 (b) "Person" means an individual, partnership,
1149 association, business corporation, nonprofit corporation,
1150 common-law trust, joint stock company or any other entity, however
1151 organized.

1152 (c) "Premium finance agreement" means an agreement by
1153 which an insurance or prospective insured promises to pay to a
1154 premium finance company the amount advanced or to be advanced to
1155 an insurer or to an insurance agent or broker in payment of
1156 premiums of an insurance contract together with interest or
1157 discount and a service charge, as authorized and limited by
1158 Sections 81-21-13 through 81-21-23.

1159 (d) "Premium finance company" means a person engaged in
1160 the business of entering into premium finance agreements or
1161 acquiring premium finance agreements from other premium finance
1162 companies.

1163 (e) "Records" or "documents" means any item in hard
1164 copy or produced in a format of storage commonly described as
1165 electronic, imaged, magnetic, microphotographic or otherwise, and
1166 any reproduction so made shall have the same force and effect as
1167 the original thereof and be admitted in evidence equally with the
1168 original.

1169 SECTION 35. Section 81-21-3, Mississippi Code of 1972, is
1170 amended as follows:

1171 81-21-3. (1) No person shall engage in the business of a
1172 premium finance company in this state without first having

1173 obtained a license as a premium finance company from the
1174 commissioner.

1175 (2) With each initial application for a license, the
1176 applicant shall pay to the commissioner at the time of making the
1177 application a license fee of Seven Hundred Fifty Dollars
1178 (\$750.00), and for renewal applications, an annual renewal fee of
1179 Four Hundred Seventy-five Dollars (\$475.00) payable as of the
1180 first day of July of each year to the commissioner for deposit
1181 into the special fund in the State Treasury designated as the
1182 "Consumer Finance Fund." The commissioner may employ persons as
1183 necessary to administer this chapter and to examine or investigate
1184 and make reports on violations of this chapter.

1185 (3) The commissioner may charge the licensee an examination
1186 fee in an amount not less than Two Hundred Dollars (\$200.00) nor
1187 more than Three Hundred Dollars (\$300.00) per examination of each
1188 office or location within the State of Mississippi, plus any
1189 actual expenses incurred while examining the licensee's records or
1190 books that are located outside the State of Mississippi. However,
1191 in no event shall a licensee be examined more than once in a
1192 two-year period unless for cause shown based upon consumer
1193 complaint and/or other exigent reasons as determined by the
1194 commissioner. Such fees shall be payable in addition to other
1195 fees and taxes now required by law and shall be expendable
1196 receipts for the use of the commissioner in defraying the cost of
1197 the administration of this chapter.

1198 All fees, license tax and penalties provided for in this
1199 chapter which are payable to the commissioner shall, when
1200 collected by him or his designated representative, be deposited in
1201 the special fund in the State Treasury known as the "Consumer
1202 Finance Fund" and shall be expended by the commissioner solely and
1203 exclusively for the purpose of administering and enforcing the
1204 provisions of this chapter.

1205 (4) Application for licensing shall be made on forms

1206 prepared by the commissioner and shall contain the following
1207 information:

1208 (a) Name, business address and telephone number of the
1209 premium finance company;

1210 (b) Name and business address of corporate officers and
1211 directors or principals or partners; and

1212 (c) A sworn statement by an appropriate officer,
1213 principal or partner of the premium finance company that:

1214 (i) The premium finance company is financially
1215 capable to engage in the business of insurance premium financing;

1216 (ii) If a corporation, that the corporation is
1217 authorized to transact business in this state; and

1218 (iii) If any material change occurs in the
1219 information contained in the registration form, a revised
1220 statement shall be submitted to the commissioner.

1221 (5) The commissioner is authorized to promulgate rules and
1222 regulations to effectuate the purposes of this chapter. All such
1223 rules and regulations shall be promulgated in accordance with the
1224 provisions of the Mississippi Administrative Procedures Law.

1225 SECTION 36. Section 81-21-9, Mississippi Code of 1972, is
1226 amended as follows:

1227 81-21-9. (1) In lieu of revoking or suspending the license
1228 for any of the causes enumerated in this chapter, after a hearing
1229 as provided in Section 81-21-7, the commissioner may subject such
1230 company to a penalty not to exceed Five Hundred Dollars (\$500.00)
1231 for each offense when the commissioner finds that the public
1232 interest would not be harmed by the continued operation of the
1233 company. The amount of any such penalty shall be paid by such
1234 company to the commissioner for deposit into the special fund in
1235 the State Treasury designated as the "Consumer Finance Fund." At
1236 any hearing provided by this chapter, the commissioner shall have
1237 authority to administer oaths to witnesses. Anyone testifying
1238 falsely, after having been administered such oath, shall be

1239 subject to the penalty of perjury.

1240 (2) If any person engages in business as provided for in
1241 this chapter without paying the license fee provided for in this
1242 chapter before commencing business or before the expiration of the
1243 person's current license, as the case may be, then the person
1244 shall be liable for the full amount of the license fee, plus a
1245 penalty in an amount not to exceed Twenty-five Dollars (\$25.00)
1246 for each day that the person has engaged in the business without a
1247 license or after the expiration of a license.

1248 SECTION 37. The following section shall be codified as a
1249 separate code section within Chapter 21 of Title 81, Mississippi
1250 Code of 1972:

1251 81-21-___. The commissioner, or his duly authorized
1252 representative, for the purpose of discovering violations of this
1253 chapter and for the purpose of determining whether persons are
1254 subject to the provisions of this chapter, may examine persons
1255 licensed under this chapter and persons reasonably suspected by
1256 the commissioner of conducting business that requires a license
1257 under this chapter, including all relevant books, records and
1258 papers employed by those persons in the transaction of their
1259 business, and may summon witnesses and examine them under oath
1260 concerning matters relating to the business of those persons, or
1261 such other matters as may be relevant to the discovery of
1262 violations of this chapter, including without limitation the
1263 conduct of business without a license as required under this
1264 chapter.

1265 SECTION 38. This act shall take effect and be in force from
1266 and after its passage.