

By: Smith (39th), Hamilton

To: Banks and Banking

HOUSE BILL NO. 1367

1 AN ACT TO AMEND SECTIONS 75-67-403 AND 75-67-413, MISSISSIPPI  
2 CODE OF 1972, TO AUTHORIZE LIENS IN FAVOR OF TITLE PLEDGE LENDERS;  
3 TO AUTHORIZE THE ASSESSMENT OF RECORDING FEES; AND FOR RELATED  
4 PURPOSES.

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

6 SECTION 1. Section 75-67-403, Mississippi Code of 1972, is  
7 amended as follows:

8 75-67-403. The following words and phrases shall have the  
9 following meanings:

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

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

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

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

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

26 (f) "Pledged property" means any personal property  
27 certificate of title that is deposited with a title pledge lender

28 in the course of the title pledge lender's business and is the  
29 subject of a title pledge agreement.

30 (g) "Pledgor" means the person to whom the property is  
31 titled.

32 (h) "Title pledge agreement" means a thirty-day written  
33 agreement whereby a title pledge lender agrees to make a loan of  
34 money to a pledgor, and the pledgor agrees to give the title  
35 pledge lender a security interest in unencumbered titled personal  
36 property owned by the pledgor. The pledgor shall agree that the  
37 title pledge lender keep possession of the certificate of title.  
38 The pledgor shall have the exclusive right to redeem the  
39 certificate of title by repaying the loan of money in full and by  
40 complying with the title pledge agreement. When the certificate  
41 of title is redeemed, the title pledge lender shall release the  
42 security interest in the titled personal property and return the  
43 personal property certificate of title to the pledgor. The title  
44 pledge agreement shall provide that upon failure by the pledgor to  
45 redeem the certificate of title at the end of the original  
46 thirty-day agreement period, or at the end of any extension(s)  
47 thereof, the title pledge lender shall be allowed to take  
48 possession of the titled personal property. The title pledge  
49 agreement shall contain a power of attorney which authorizes the  
50 title pledge lender to transfer title to the pledged property from  
51 the pledgor to the title pledge lender upon failure to redeem the  
52 pledged property on or before the maturity date of the title  
53 pledge agreement, or any extension thereof. The title pledge  
54 lender shall take physical possession of the certificate of title  
55 for the entire length of the title pledge agreement, but shall not  
56 be required to take physical possession of the titled personal  
57 property at any time. A title pledge lender may require a  
58 borrower to have a lien placed upon the certificate in favor of  
59 the title pledge lender.

60 (i) "Title pledge lender" means any person engaged in  
61 the business of making title pledge agreements with pledgors;  
62 provided, however, that the following are exempt from the  
63 definition of "title pledge lender" and from the provisions of  
64 this article: any bank which is regulated by the Department of

65 Banking and Consumer Finance, the Comptroller of the Currency of  
66 the United States, the Federal Deposit Insurance Corporation, the  
67 Board of Governors of the Federal Reserve System or any other  
68 federal or state authority and all affiliates of such bank, and  
69 additionally any bank or savings and loan association whose  
70 deposits or accounts are eligible for insurance by the Bank  
71 Insurance Fund or the Savings Association Insurance Fund or other  
72 fund administered by the Federal Deposit Insurance Corporation or  
73 any successor thereto, and all affiliates of such banks and  
74 savings and loan associations, any state or federally chartered  
75 credit union and finance company subject to licensing and  
76 regulation by the Department of Banking and Consumer Finance.

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

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

87 (l) "Title pledge transaction form" means the  
88 instrument on which a title pledge lender records title pledge  
89 agreements pursuant to this article.

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

93 SECTION 2. Section 75-67-413, Mississippi Code of 1972, is  
94 amended as follows:

95 75-67-413. (1) A title pledge lender may contract for and  
96 receive a title pledge service charge in lieu of interest,  
97 recording fees or other charges for all services, expenses, cost

98 and losses of every nature \* \* \*.

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

108 (3) By agreement of the parties, the maturity date of the  
109 title pledge transaction may be extended or continued for  
110 thirty-day periods, provided that the service charges as specified  
111 in subsection (1) are not exceeded for any extensions. All  
112 extensions or continuations of the title pledge transaction shall  
113 be evidenced in writing. No accrued interest or service charge  
114 shall be capitalized or added to the original principal of the  
115 title pledge transaction during any extension or continuation.  
116 Beginning with the third extension or continuation, the principal  
117 amount financed shall be reduced by at least ten percent (10%) of  
118 the original principal amount for each successive extension or  
119 continuation. Failure by the pledgor to pay at least ten percent  
120 (10%) of the original principal amount of the title pledge  
121 transaction at the maturity date of each such successive extension  
122 or continuation shall cause the remaining principal and any  
123 service charges or fees to become immediately due and payable.

124 SECTION 3. This act shall take effect and be in force from  
125 and after July 1, 2000.