

By: Senator(s) Minor

To: Business and Financial  
Institutions

SENATE BILL NO. 2172

1 AN ACT TO AMEND SECTION 75-17-1, MISSISSIPPI CODE OF 1972, TO  
2 REMOVE THE REPEALER ON THE PROVISION OF LAW WHICH ALLOWS ANY  
3 BORROWER OR DEBTOR AND ANY LENDER TO CONTRACT FOR ANY FINANCE  
4 CHARGE AGREED TO IN WRITING IN EXCESS OF THAT OTHERWISE ALLOWED ON  
5 CERTAIN CONTRACTS OR OBLIGATIONS; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 75-17-1, Mississippi Code of 1972, is  
8 amended as follows:

9 75-17-1. (1) The legal rate of interest on all notes,  
10 accounts and contracts shall be eight percent (8%) per annum,  
11 calculated according to the actuarial method, but contracts may be  
12 made, in writing, for payment of a finance charge as otherwise  
13 provided by this section or as otherwise authorized by law.

14 (2) Any borrower or debtor may contract for and agree to pay  
15 a finance charge for any loan or other extension of credit made  
16 directly or indirectly to a borrower or debtor which will result  
17 in a yield not to exceed the greater of ten percent (10%) per  
18 annum or five percent (5%) per annum above the discount rate,  
19 excluding any surcharge thereon, on ninety-day commercial paper in  
20 effect at the Federal Reserve bank in the Federal Reserve district  
21 where the lender is located, each calculated according to the  
22 actuarial method. The rate of finance charge authorized under  
23 this subsection (2) shall be known as the "contract rate."

24 (3) Notwithstanding the foregoing and any other provision of  
25 law to the contrary, any partnership, joint venture, religious  
26 society, unincorporated association, or domestic or foreign  
27 corporation, whether organized for profit or nonprofit, may  
28 contract for and agree to pay a finance charge which will result

29 in a yield not to exceed the greater of fifteen percent (15%) per  
30 annum or five percent (5%) per annum above the discount rate,  
31 excluding any surcharge thereon, on ninety-day commercial paper in  
32 effect at the Federal Reserve bank in the Federal Reserve district  
33 where the lender is located, each calculated according to the  
34 actuarial method, on any contract, loan, extension of credit or  
35 other obligation under which the principal balance to be repaid  
36 shall originally exceed Two Thousand Five Hundred Dollars  
37 (\$2,500.00), or on any series of advances of money pursuant to a  
38 contract if the aggregate of sums advanced or originally proposed  
39 to be advanced shall exceed Two Thousand Five Hundred Dollars  
40 (\$2,500.00); and as to any such agreement, the claim or defense of  
41 usury by such partnership, joint venture, religious society,  
42 unincorporated association, or corporation, or their successors,  
43 guarantors, assigns or anyone on their behalf is prohibited.

44 (4) Notwithstanding the foregoing and any other provision of  
45 law to the contrary, any borrower or debtor may contract for and  
46 agree to pay a finance charge which will result in a yield not to  
47 exceed the greater of ten percent (10%) per annum or five percent  
48 (5%) per annum above the index of market yields of the Monthly  
49 Twenty-Year Constant Maturity Index of Long-Term United States  
50 Government Bond Yields, as compiled by the United States Treasury  
51 Department, each calculated according to the actuarial method, on  
52 any loan, mortgage or advance which is secured by a lien on  
53 residential real property or by a lien on stock in a residential  
54 cooperative housing corporation where the loan, mortgage or  
55 advance is used to finance the acquisition of such stock. The  
56 term "residential real property," as used in this subsection,  
57 means real estate upon which there is located or to be located a  
58 structure or structures designed in whole or in part for  
59 residential use, or which comprises or includes one or more  
60 apartments, condominium units or other dwelling units.

61 (5) Notwithstanding the foregoing and any other provision of  
62 law to the contrary, any borrower or debtor may contract for and  
63 agree to pay and any lender or extender of credit may contract for  
64 and receive any finance charge agreed to in writing by the  
65 parties, notwithstanding that such charge is in excess of that  
66 otherwise allowed on any contract, credit sale, obligation or  
67 other extension of credit, regardless of the security taken or the  
68 purpose of the extension of credit, under which the principal  
69 balance to be repaid originally exceeds Two Thousand Dollars  
70 (\$2,000.00), or on any series of advances of money pursuant to a  
71 contract if the aggregate of sums advanced or originally proposed  
72 to be advanced exceeds Two Thousand Dollars (\$2,000.00), or on any  
73 extension or renewal thereof; and as to any such agreement, the  
74 claim or defense of usury or violation of any law prescribing,  
75 limiting or regulating the rate of finance charge by any borrower  
76 or debtor, or his successors, guarantors, assigns or anyone on his  
77 behalf is prohibited.

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79 (6) Notwithstanding the foregoing and any other provisions  
80 of law to the contrary, the outstanding balance of a prior loan or  
81 lease of a motor vehicle used as a trade-in, as well as other  
82 items that are capitalized or amortized during the lease term, may  
83 be included in a lease for a motor vehicle, provided that the rate  
84 of finance charge associated with the lease contract does not at  
85 any time exceed the finance charge limitations specified in  
86 Section 63-19-43.

87 SECTION 2. This act shall take effect and be in force from  
88 and after July 1, 2001.