

By: Senator(s) Mettetal

To: Business and Financial
Institutions

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2411

1 AN ACT TO AMEND SECTION 75-67-505, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE LICENSING REQUIREMENTS FOR A CHECK CASHING BUSINESS
3 AND TO PROVIDE THAT A LICENSEE WHO FAILS TO PAY THE ANNUAL RENEWAL
4 FEE SHALL BE LIABLE FOR THE FULL AMOUNT OF THE LICENSE FEE PLUS A
5 PENALTY; TO AMEND SECTION 75-67-515, MISSISSIPPI CODE OF 1972, TO
6 CLARIFY THAT NOTHING IN THIS ARTICLE SHALL PROHIBIT A LICENSEE
7 FROM ISSUING COUPONS TO CUSTOMERS WHICH ARE REDEEMABLE AGAINST A
8 DEFERRED DEPOSIT TRANSACTION PROVIDED THE REDEMPTION RESULTS IN A
9 FINANCIAL BENEFIT TO THE CUSTOMER ON CURRENT OR FUTURE
10 TRANSACTIONS; TO AMEND SECTION 75-67-519, MISSISSIPPI CODE OF
11 1972, TO AUTHORIZE A LICENSEE TO CHARGE A FEE FOR A RETURNED CHECK
12 DUE TO INSUFFICIENT FUNDS IF THE FEE IS IN THE WRITTEN AGREEMENT;
13 TO AMEND SECTION 75-67-525, MISSISSIPPI CODE OF 1972, TO PROVIDE
14 THAT ANY PERSON WHO ENGAGES IN THE BUSINESS OF CHECK CASHING
15 WITHOUT FIRST SECURING A LICENSE SHALL BE LIABLE FOR THE FULL
16 AMOUNT OF THE LICENSE FEE PLUS A PENALTY; TO CREATE A NEW CODE
17 SECTION TO PROHIBIT THE ADVERTISING, DISPLAYING OR PUBLISHING OF
18 FALSE OR MISLEADING STATEMENTS BY A LICENSEE; TO AMEND SECTION
19 75-67-539, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON THE
20 MISSISSIPPI CHECK CASHERS ACT; AND FOR RELATED PURPOSES.

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

22 SECTION 1. Section 75-67-505, Mississippi Code of 1972, is
23 amended as follows:

24 75-67-505. (1) A person may not engage in business as a
25 check casher or otherwise portray himself as a check casher unless
26 the person has a valid license authorizing engagement in the
27 business. A separate license is required for each place of
28 business under this article and each business must be independent
29 of, and not a part of, any other business operation. A check
30 cashing business shall not be a part of, or located at the same
31 business address with, a pawnshop, title pledge office and small
32 loan company. A check cashing business shall have a definitive
33 United States Postal address and E911 address; comply with local
34 zoning requirements; have a minimum of one hundred (100) square
35 feet with walls from floor to ceiling separating the operation
36 from any other businesses; have an outside entrance, but may be



37 located in an area that has a common lobby shared by other
38 businesses as long as the customers do not enter the check cashing
39 business through another business; have proper signage; and
40 maintain separate books and records. * * * A licensed check
41 casher may * * * sell, at the same location as his check cashing
42 business, the following items and services: money orders; income
43 tax preparation service; copy service; wire transfer service;
44 notary service; pagers; pager service; prepaid cellular service;
45 debit card; prepaid telephone cards; prepaid telephone service;
46 and operate a processing center where utility bills, credit card
47 payments and other payments are collected from the general public
48 and governmental and private payments are distributed. In the
49 event a licensee accepts wire transfers in the form of a direct
50 deposit of a payroll check, social security check or other similar
51 types of deposit, the licensee shall not encumber any transferred
52 funds against a deferred deposit agreement or any delinquent
53 deferred deposit agreement with such customer. The commissioner
54 may authorize additional functions in addition to those provided
55 in this subsection that may be performed as part of a check
56 cashing business. The commissioner may issue more than one (1)
57 license to a person if that person complies with this article for
58 each license. A new license or application to transfer an
59 existing license is required upon a change, directly or
60 beneficially, in the ownership of any licensed check casher
61 business and an application shall be made to the commissioner in
62 accordance with this article.

63 (2) When a licensee wishes to move a check casher business
64 to another location, the licensee shall give thirty (30) days'
65 prior written notice to the commissioner who shall amend the
66 license accordingly.

67 (3) Each license shall remain in full force and effect until
68 relinquished, suspended, revoked or expired. With each initial
69 application for a license, the applicant shall pay the



70 commissioner at the time of making the application a license fee
71 of Seven Hundred Fifty Dollars (\$750.00), and on or before
72 September 1 of each year thereafter, an annual renewal fee of Four
73 Hundred Seventy-five Dollars (\$475.00). If the annual renewal fee
74 remains unpaid twenty-nine (29) days after September 1, the
75 license shall thereupon expire, but not before the thirtieth day
76 of September of any year for which the annual fee has been paid.
77 If any licensee fails to pay the annual renewal fee before the
78 thirtieth day of September of any year for which the renewal fee
79 is due, then the licensee shall be liable for the full amount of
80 the license fee, plus a penalty in an amount not to exceed
81 Twenty-five Dollars (\$25.00) for each day that the licensee has
82 engaged in business after September 30. All licensing fees and
83 penalties shall be paid into the Consumer Finance Fund of the
84 Department of Banking and Consumer Finance.

85 (4) Notwithstanding other provisions of this article, the
86 commissioner may issue a temporary license authorizing the
87 operator of a check casher business on the receipt of an
88 application for a license involving principals and owners that are
89 substantially identical to those of an existing licensed check
90 casher. The temporary license is effective until the permanent
91 license is issued or denied.

92 (5) Notwithstanding other provisions of this article,
93 neither a new license nor an application to transfer an existing
94 license shall be required upon any change, directly or
95 beneficially, in the ownership of any licensed check casher
96 business incorporated under the laws of this state or any other
97 state as long as the licensee continues to operate as a
98 corporation doing a check casher business under the license.
99 However, the commissioner may require the licensee to provide such
100 information as he deems reasonable and appropriate concerning the
101 officers and directors of the corporation and persons owning in



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

104 SECTION 2. Section 75-67-515, Mississippi Code of 1972, is
105 amended as follows:

106 75-67-515. (1) The department may adopt reasonable
107 administrative regulations, not inconsistent with law, for the
108 enforcement of this article.

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

121 (3) Each licensee shall keep and use in its business any
122 books, accounts and records the department may require to carry
123 into effect the provisions of this article and the administrative
124 regulations issued under this article. Every licensee shall
125 preserve the books, accounts and records of its business for at
126 least two (2) years.

127 (4) Any fee charged by a licensee for cashing a check shall
128 be posted conspicuously to the bearer of the check before cashing
129 the check, and the fee shall be a service fee and not interest.

130 (5) Before a licensee deposits with any bank or other
131 depository institution a check cashed by the licensee, the check
132 shall be endorsed with the actual name under which the licensee is
133 doing business.



134 (6) All personal checks cashed for a customer by a licensee
135 shall be dated on the actual date the cash is tendered to the
136 customer.

137 (7) No licensee shall cash a check payable to a payee unless
138 the licensee has previously obtained appropriate identification of
139 the payee clearly indicating the authority of the person cashing
140 the check, draft or money order on behalf of the payee.

141 (8) No licensee shall indicate through advertising, signs,
142 billboards or otherwise that checks may be cashed without
143 identification of the bearer of the check; and any person seeking
144 to cash a check shall be required to submit reasonable
145 identification as prescribed by the department. The provisions of
146 this subsection shall not prohibit a licensee from cashing a check
147 simultaneously with the verification and establishment of the
148 identity of the presenter by means other than presentation of
149 identification.

150 (9) Within five (5) business days after being advised by the
151 payor financial institution that a check has been altered, forged,
152 stolen, obtained through fraudulent or illegal means, negotiated
153 without proper legal authority or represents the proceeds of
154 illegal activity, the licensee shall notify the department and the
155 district attorney for the judicial district in which the check was
156 received. If a check is returned to the licensee by the payor
157 financial institution for any of these reasons, the licensee may
158 not release the check without consent of the district attorney or
159 other investigating law enforcement authority.

160 (10) If a check is returned to a licensee from a payor
161 financial institution because there are insufficient funds in or
162 on deposit with the financial institution to pay the check, the
163 licensee or any other person on behalf of the licensee shall not
164 institute or initiate any criminal prosecution against the maker
165 or drawer of the personal check with the intent and purpose of



166 aiding in the collection of or enforcing the payment of the amount
167 owed to the check casher by the maker or drawer of the check.

168 (11) Nothing in this article shall prohibit a licensee from
169 issuing coupons to customers or potential customers which are
170 redeemable against a deferred deposit transaction provided the
171 redemption results in a financial benefit to the customer on
172 current or future transactions.

173 SECTION 3. Section 75-67-519, Mississippi Code of 1972, is
174 amended as follows:

175 75-67-519. (1) A licensee may defer the deposit of a
176 personal check cashed for a customer for up to thirty (30) days
177 under the provisions of this section.

178 (2) The face amount of any delayed deposit check cashed
179 under the provisions of this section shall not exceed Four Hundred
180 Dollars (\$400.00). Each customer is limited to a maximum amount
181 of Four Hundred Dollars (\$400.00) at any time.

182 (3) Each delayed deposit check cashed by a licensee shall be
183 documented by a written agreement that has been signed by the
184 customer and the licensee. The written agreement shall contain a
185 statement of the total amount of any fees charged, expressed as a
186 dollar amount and as an annual percentage rate. The written
187 agreement shall authorize the licensee to defer deposit of the
188 personal check until a specific date not later than thirty (30)
189 days from the date the check is cashed.

190 (4) A licensee shall not directly or indirectly charge any
191 fee or other consideration for cashing a delayed deposit check in
192 excess of eighteen percent (18%) of the face amount of the check.

193 (5) No check cashed under the provisions of this section
194 shall be repaid by the proceeds of another check cashed by the
195 same licensee or any affiliate of the licensee. A licensee shall
196 not renew or otherwise extend any delayed deposit check.



197 (6) A licensee shall not offer discount catalog sales or
198 other similar inducements as part of a delayed deposit
199 transaction.

200 (7) A licensee shall not charge a late fee or collection fee
201 on any deferred deposit transaction as a result of a returned
202 check or the default by the customer in timely payment to the
203 licensee * * *. Notwithstanding anything to the contrary
204 contained in this section, a licensee may charge a processing fee
205 for a check returned for any reason, including, without
206 limitation, insufficient funds, closed account or stop payment, if
207 such processing fee is authorized in the written agreement signed
208 by the customer and licensee.

209 (8) When cashing a delayed deposit check, a licensee may pay
210 the customer in the form of the licensee's business check or a
211 money order; however, no additional fee may then be charged by the
212 licensee for cashing the licensee's business check or money order
213 issued to the customer.

214 SECTION 4. Section 75-67-525, Mississippi Code of 1972, is
215 amended as follows:

216 75-67-525. (1) Any person who engages in the business of
217 check cashing without first securing a license prescribed by this
218 article shall be guilty of a misdemeanor and upon conviction
219 thereof, shall be punishable by a fine not in excess of One
220 Thousand Dollars (\$1,000.00) or by confinement in the county jail
221 for not more than one (1) year, or both.

222 (2) Any person who engages in the business of check cashing
223 without first securing a license prescribed by this article shall
224 be liable for the full amount of the license fee, plus a penalty
225 in an amount not to exceed Twenty-five Dollars (\$25.00) for each
226 day that the person has engaged in the business without a license.
227 All licensing fees and penalties shall be paid into the Consumer
228 Finance Fund of the Department of Banking and Consumer Finance.



229 SECTION 5. A licensee shall not advertise, display or
230 publish, or permit to be advertised, displayed or published, in
231 any manner whatsoever, any statement or representation that is
232 false, misleading or deceptive.

233 SECTION 6. Section 75-67-539, Mississippi Code of 1972, is
234 amended as follows:

235 75-67-539. Sections 75-67-501 through 75-67-539 shall stand
236 repealed on July 1, 2004.

237 SECTION 7. This act shall take effect and be in force from
238 and after its passage.

