

By: Senator(s) Mettetal

To: Business and Financial  
InstitutionsCOMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2720

1 AN ACT TO AMEND SECTION 75-67-303, MISSISSIPPI CODE OF 1972,  
2 TO DEFINE THE TERMS "RECORDS/DOCUMENTS" FOR THE PURPOSES OF THE  
3 PAWNSHOP LICENSURE ACT; TO AMEND SECTION 75-67-321, MISSISSIPPI  
4 CODE OF 1972, TO REVISE THE FEE FOR A PAWNSHOP LICENSE; TO AMEND  
5 SECTION 75-67-323, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE  
6 INITIAL APPLICATION AND BOND FOR A PAWNSHOP LICENSE SHALL BE FILED  
7 WITH THE COMMISSIONER OF BANKING, INSTEAD OF THE LOCAL  
8 AUTHORITIES; TO AMEND SECTION 75-67-333, MISSISSIPPI CODE OF 1972,  
9 TO REQUIRE THE COMMISSIONER OF BANKING TO PROVIDE NOTICE AND  
10 HEARING BEFORE IMPOSING A CIVIL PENALTY FOR VIOLATIONS OF THE  
11 PAWNSHOP LICENSURE ACT; TO AMEND SECTION 75-67-341, MISSISSIPPI  
12 CODE OF 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING TO CHARGE  
13 PAWNSHOP LICENSEES AN EXAMINATION FEE; TO CREATE A NEW CODE  
14 SECTION TO BE CODIFIED WITHIN ARTICLE 7 OF CHAPTER 67 OF TITLE 75,  
15 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING  
16 TO EXAMINE PERSONS REASONABLY SUSPECTED OF CONDUCTING BUSINESS  
17 WHICH REQUIRES A PAWNSHOP LICENSE; TO AMEND SECTION 75-67-305,  
18 MISSISSIPPI CODE OF 1972, TO REVISE THE RECORD-KEEPING  
19 REQUIREMENTS FOR PAWNSHOP TRANSACTIONS; TO AMEND SECTION  
20 75-67-309, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE USE OF  
21 ELECTRONIC TRANSMISSION FOR PAWNSHOP RECORDS; TO AMEND SECTION  
22 75-67-315, MISSISSIPPI CODE OF 1972, TO REVISE THE LIST OF  
23 PROHIBITED ACTS OF PAWNBROKERS; TO AMEND SECTION 75-67-335,  
24 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR RESTITUTION TO  
25 PAWNBROKERS; AND FOR RELATED PURPOSES.

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

27 SECTION 1. Section 75-67-303, Mississippi Code of 1972, is  
28 amended as follows:

29 75-67-303. The following words and phrases used in this act  
30 shall have the following meanings unless the context clearly  
31 indicates otherwise:

32 (a) "Pawnbroker" means any person engaged in whole or  
33 in part in the business of lending money on the security of  
34 pledged goods left in pawn, or in the business of purchasing  
35 tangible personal property to be left in pawn on the condition  
36 that it may be redeemed or repurchased by the seller for a fixed  
37 price within a fixed period of time; provided, however, that the  
38 following are exempt from the definition of "pawnbroker" and from



the provisions of this act: any bank which is regulated by the State 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 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 any finance company subject to licensing and regulation by the State Department of Banking and Consumer Finance.

(b) "Pawnshop" means the location at which or premises in which a pawnbroker regularly conducts business.

(c) "Pawn transaction" means any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods are left with the pawnbroker and may be redeemed or repurchased by the seller for a fixed price within a fixed period of time. A "pawn transaction" does not include the pledge to or the purchase by a pawnbroker of real or personal property from a customer followed by the sale of the leasing of that same property back to the customer in the same or a related transaction and such is not permitted by this article.

(d) "Person" means an individual, partnership, corporation, joint venture, trust, association, or any legal entity however organized.

(e) "Pledged goods" means tangible personal property other than choses in action, securities, or printed evidence of indebtedness, which property is purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction.



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

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

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

(i) "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 2. Section 75-67-321, Mississippi Code of 1972, is amended as follows:

75-67-321. (1) A person may not engage in business as a pawnbroker or otherwise portray himself as a pawnbroker 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 pawnshop and an application shall be made to the commissioner in accordance with this article.

(2) When a licensee wishes to move a pawnshop 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 a license fee, which includes premiums for examinations, of Five Hundred Dollars (\$500.00), and on or before December 1 of each year thereafter, an annual renewal fee, which includes premiums for examinations, of Three Hundred Fifty Dollars (\$350.00). However, when more than one (1) license to an applicant is issued, the commissioner, for each subsequent license, may only impose a fee, which includes premiums for examinations, of Three Hundred Fifty Dollars (\$350.00) at the time of application, and an annual renewal fee, which includes premiums for examinations, of Three Hundred Fifty Dollars (\$350.00) on or before December 1 of each year thereafter. If the annual fee remains unpaid thirty (30) days after December 1, the license shall thereupon expire, but not before December 31 of any year for which the annual fee has been paid. If any person engages in business as provided for in this article without paying the license fee provided for in this article 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 such business without a license or after the expiration of a license. All licensing fees and penalties authorized in this section shall be paid into the Consumer Finance Fund of the Department of Banking and Consumer Finance.

(4) Notwithstanding other provisions of this article, the commissioner may issue a temporary license authorizing the operator of a pawnshop on the receipt of an application to transfer a license from one person to another or on the receipt of an application for a license involving principals and owners that are substantially identical to those of an existing licensed



138 pawnshop. The temporary license is effective until the permanent  
139 license is issued or denied.

140 (5) Notwithstanding other provisions of this article,  
141 neither a new license nor an application to transfer an existing  
142 license shall be required upon any change, directly or  
143 beneficially, in the ownership of any licensed pawnshop  
144 incorporated under the laws of this state or any other state so  
145 long as the licensee continues to operate as a corporation doing a  
146 pawnshop business under the license. The commissioner may,  
147 however, require the licensee to provide such information as he  
148 deems reasonable and appropriate concerning the officer and  
149 directors of the corporation and persons owning in excess of  
150 twenty-five percent (25%) of the outstanding shares of the  
151 corporation.

152 SECTION 3. Section 75-67-323, Mississippi Code of 1972, is  
153 amended as follows:

154 75-67-323. To be eligible for a pawnbroker license, an  
155 applicant shall:

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

158 (b) Not have been convicted of a felony in the last ten  
159 (10) years or be active as a beneficial owner for someone who has  
160 been convicted of a felony in the last ten (10) years;

161 (c) File with the commissioner a bond with good  
162 security in the penal sum of Ten Thousand Dollars (\$10,000.00),  
163 payable to the State of Mississippi for the faithful performance  
164 by the licensee of the duties and obligations pertaining to the  
165 business so licensed and the prompt payment of any judgment which  
166 may be recovered against such licensee on account of damages or  
167 other claim arising directly or collaterally from any violation of  
168 the provisions of this article; such bond shall not be valid until  
169 it is approved by the commissioner; such applicant may file, in  
170 lieu thereof, cash, a certificate of deposit, or government bonds



in the amount of Ten Thousand Dollars (\$10,000.00); such deposit 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 the initial license fee required in this article.

(e) Submit a set of fingerprints from any local law enforcement agency. In order to determine the applicant's suitability for license, the commissioner shall forward the fingerprints to the Department of Public Safety; and if no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety to the FBI for a national criminal history record check.

(f) Submit, as a part of the application (initial or renewal), certification from a local law enforcement agency with jurisdiction that applicant is in compliance with all local rules, regulations and ordinances concerning pawnshop activity. Such certification shall also include a recommendation to issue the pawnshop license.

(2) Every licensee shall post his license in a conspicuous place at each place of business.

(3) Every licensee shall post and display a sign which measures at least twenty (20) inches by twenty (20) inches in a conspicuous place and in easy view of all persons who enter the place of business. The sign shall display bold, blocked letters, easily readable, with the following information: "This pawnshop is licensed and regulated by the Mississippi Department of Banking and Consumer Finance. If you encounter any unresolved problem with a transaction at this location, you are entitled to assistance. Please call or write: Mississippi Department of Banking and Consumer Finance, Post Office Drawer 23729, Jackson, MS 39225-3729; Phone 1-800-844-2499."



SECTION 4. Section 75-67-333, Mississippi Code of 1972, is amended as follows:

75-67-333. (1) In addition to any other penalty which may be applicable, any licensee or employee who willfully violates any provision of this article, or who willfully makes a false entry in any record specifically required by this article, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine not in excess of One Thousand Dollars (\$1,000.00) per violation or false entry.

(2) (a) In addition to any other penalty which may be applicable, any licensee or employee who fails to make a record of a pawnshop transaction and subsequently sells or disposes of the pledged goods from such transaction shall be punished as follows:

(i) For a first offense, the licensee or employee shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine not in excess of One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not more than one (1) year, or both fine and imprisonment;

(ii) For a second offense, the licensee or employee shall be guilty of a felony and upon conviction thereof, shall be punishable by a fine not in excess of Five Thousand Dollars (\$5,000.00) or by imprisonment in the custody of the State Department of Corrections for a term not less than one (1) year nor more than five (5) years, or by both fine and imprisonment.

(b) Any licensee convicted in the manner provided in this subsection (2) shall forfeit the surety bond or deposit required in Section 75-67-323 and the amount of such bond or deposit shall be credited to the budget of the state or local agency, which directly participated in the prosecution of such licensee, for the specific purpose of increasing law enforcement resources for that specific state or local agency. Such bond or deposit shall be used to augment existing state and local law enforcement budgets and not to supplant them.



(3) Compliance with the criminal provisions of this article shall be enforced by the appropriate law enforcement agency who may exercise for such purpose any authority conferred upon such agency by law.

(4) When the commissioner has reasonable cause to believe that a person is violating any provision of this article, the commissioner, in addition to and without prejudice to the authority provided elsewhere in this article, may enter an order requiring the person to stop or to refrain from the violation. The commissioner may sue in any circuit court of the state having jurisdiction and venue to enjoin the person from engaging in or continuing the violation or from doing any act in furtherance of the violation. In such an action, the court may enter an order or judgment awarding a preliminary or permanent injunction.

(5) The commissioner may, after notice and a hearing, impose a civil penalty against any licensee adjudged by the commissioner to be in violation of the provisions of this article. Such civil penalty shall not exceed Five Hundred Dollars (\$500.00) per violation and shall be deposited into the State General Fund.

SECTION 5. Section 75-67-341, Mississippi Code of 1972, is amended as follows:

75-67-341. (1) The Commissioner of Banking shall develop and provide any necessary forms to carry out the provisions of this article.

(2) To assure compliance with the provisions of this article, the commissioner may examine the pawn books and records of any licensee without notice during normal business hours.

Any expenses incurred for such examinations are included in the licensee's application fee; however, the commissioner may charge the licensee any actual expenses incurred while examining the licensee's pawn records or books which are located outside of the State of Mississippi.





SECTION 6. The following section shall be codified as a separate Code section within Article 7 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 7. Section 75-67-305, Mississippi Code of 1972, is amended as follows:

75-67-305. (1) At the time of making the pawn or purchase transaction, the pawnbroker shall enter upon the pawn ticket a record of the following information which shall be typed or written in ink and in the English language:

(a) A clear and accurate description of the property, including the following:

- (i) Brand name;
- (ii) Model number;
- (iii) Serial number;
- (iv) Size;
- (v) Color, as apparent to the untrained eye;
- (vi) Precious metal type, weight and content, if known;



(vii) Gemstone description, including the number of stones;

(viii) In the case of firearms, the type of action, caliber or gauge, number of barrels, barrel length and finish; and

(ix) Any other unique identifying marks, numbers, names or letters;

(b) The name, residence address and date of birth of pledgor or seller;

(c) Date of pawn or purchase transaction;

(d) Driver's license number or social security number or Mississippi identification card number, as defined in Section 45-35-1, Mississippi Code of 1972, of the pledgor or seller or identification information verified by at least two (2) forms of identification, one (1) of which shall be a photographic identification;

(e) Description of the pledgor including approximate height, sex and race;

(f) Amount of cash advanced;

(g) The maturity date of the pawn transaction and the amount due; and

(h) The monthly rate and pawn charge. Such rates and charges shall be disclosed using the requirements prescribed in Regulation Z (Truth in Lending) of the rules and regulations of the Board of Governors of the Federal Reserve.

(2) Each pawn or purchase transaction document shall be consecutively numbered and entered in a corresponding log or record book. Separate logs or record books for pawn and purchase transactions shall be kept.

(3) Records may be in the form of traditional hard copies, computer printouts or magnetic media if readily accessible for viewing on a screen with the capability of being promptly printed upon request.



334       (4) Every licensee shall maintain a record which indicates  
335 the total number of accounts and the total dollar value of all  
336 pawn transactions outstanding as of December 31 of each year.

337       SECTION 8. Section 75-67-309, Mississippi Code of 1972, is  
338 amended as follows:

339       75-67-309. (1) The pledgor or seller shall sign a statement  
340 verifying that the pledgor or seller is the rightful owner of the  
341 goods or is entitled to sell or pledge the goods and shall receive  
342 an exact copy of the pawn ticket which shall be signed or  
343 initialed by the pawnbroker or any employee of the pawnbroker.

344       (2) The pawnbroker shall maintain a record of all  
345 transactions of pledged or purchased goods on the premises. A  
346 pawnbroker shall upon request provide to the appropriate law  
347 enforcement agency a complete record of all transactions. These  
348 records shall be a correct copy of the entries made of the pawn or  
349 purchase transaction, except as to the amount of cash advanced or  
350 paid for the goods and monthly pawnshop charge. If the law  
351 enforcement agency supplies the appropriate computer software and  
352 the pawnbroker has the appropriate computer hardware, all  
353 transactions shall be made available by means of electronic  
354 transmission through a modem or similar device or by providing a  
355 computer disc to the law enforcement agency within seventy-two  
356 (72) hours of the transaction. Any pawnbroker who is recording  
357 transactions through the use of computer hardware on the effective  
358 date of this act and is provided such appropriate software shall  
359 not cease or alter the use of his computer hardware unless  
360 authorized by the law enforcement agency.

361       (3) All goods purchased across the counter by the pawnbroker  
362 shall be maintained on the premises by the pawnbroker for at least  
363 fourteen (14) calendar days if the pawnbroker makes available all  
364 transactions either electronically or on computer disc to the  
365 appropriate law enforcement agency as provided in subsection (2)



above. Otherwise, the pawnbroker shall maintain on the premises the purchased goods for twenty-one (21) calendar days.

SECTION 9. Section 75-67-315, Mississippi Code of 1972, is amended as follows:

75-67-315. A pawnbroker and any clerk, agent or employee of such pawnbroker shall not:

(a) Fail to make an entry of any material matter in his record book;

(b) Make any false entry therein;

(c) Falsify, obliterate, destroy or remove from his place of business such records, books or accounts relating to the licensee's pawn transaction;

(d) Refuse to allow the commissioner, the appropriate law enforcement agency, the Attorney General or any other duly authorized state or federal law enforcement officer to inspect his pawn records or any pawn goods in his possession during the ordinary hours of business or other acceptable time to both parties;

(e) Fail to maintain a record of each pawn transaction for four (4) years;

(f) Accept a pledge or purchase property from a person under the age of eighteen (18) years;

(g) Make any agreement requiring the personal liability of a pledgor or seller, or waiving any of the provisions of this act or providing for a maturity date less than thirty (30) days after the date of the pawn transaction;

(h) Fail to return or replace pledged goods to a pledgor or seller upon payment of the full amount due the pawnbroker unless the pledged goods have been taken into custody by a court or a law enforcement officer or agency;

(i) Sell or lease, or agree to sell or lease, pledged or purchased goods back to the pledgor or back to the seller in the same or related transaction;



399           (j) Sell or otherwise charge for insurance in  
400 connection with a pawn transaction;  
401           (k) Remove pledged goods from the premises within  
402 thirty (30) days following the originally fixed maturity date;  
403           (l) Accept a pledge or purchase property when such  
404 property has manufacturer's serial numbers which have been  
405 obviously removed and/or obliterated.

406           SECTION 10. Section 75-67-335, Mississippi Code of 1972, is  
407 amended as follows:

408           75-67-335. If any pledged goods from a pawn transaction are  
409 found to be stolen goods and are returned to the rightful owner by  
410 law enforcement authorities and if the licensee who accepted such  
411 pledged goods has complied with all of the duties and  
412 responsibilities as specified in this article during such  
413 transaction, then the rightful owner of such pledged goods shall  
414 be liable to the licensee for the pledged amount if the rightful  
415 owner fails to prosecute or cooperate in the criminal prosecution  
416 related to such pawn transaction, provided that the rightful owner  
417 can prove that the stolen goods are his. It shall also be the  
418 responsibility of the licensee to assist or cooperate in the  
419 criminal prosecution related to such pawn transaction. Upon  
420 successful criminal prosecution, restitution shall be awarded to  
421 the pawnbroker and the rightful owner, if applicable, by the  
422 criminal court at the time of the defendant's sentencing. If the  
423 identity of a person who pawned stolen goods can be determined,  
424 the district attorney may prosecute such person for any applicable  
425 criminal violations.

426           SECTION 11. This act shall take effect and be in force from  
427 and after its passage.

