

REPORT OF CONFERENCE COMMITTEE

MADAM PRESIDENT AND MR. SPEAKER:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 2411: MS Check Cashers Act; revise licensing requirements and civil penalties, and extend repealer.

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.

2. That the Senate and House adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

26 75-67-505. (1) (a) A person may not engage in business as
27 a check casher or otherwise portray himself as a check casher
28 unless the person has a valid license authorizing engagement in
29 the business. A separate license is required for each place of
30 business under this article and each business must be independent
31 of, and not a part of, any other business operation. A check
32 cashing business shall not be a part of, or located at the same

33 business address with, a pawnshop, title pledge office and small
34 loan company.

35 (b) A check cashing business shall (i) have a
36 definitive United States Postal address and E911 address; (ii)
37 comply with local zoning requirements; (iii) have a minimum of
38 one hundred (100) square feet with walls from floor to ceiling
39 separating the operation from any other businesses; (iv) have an
40 outside entrance, but may be located in an area that has a common
41 lobby shared by other businesses as long as the customers do not
42 enter the check cashing business through another business; (v)
43 have proper signage; and (vi) maintain separate books and
44 records. Any licensee who does not cash any delayed deposit
45 checks as authorized under Section 75-67-519 shall not be subject
46 to the requirements of subparagraphs (i), (iii) and (iv) of this
47 paragraph.

48 (c) A licensed check casher may * * * sell, at the
49 same location as his check cashing business, the following items
50 and services: money orders; income tax preparation service; copy
51 service; wire transfer service; notary service; pagers; pager
52 service; prepaid cellular service; debit card; prepaid telephone
53 cards; prepaid telephone service; and operate a processing center
54 where utility bills, credit card payments and other payments are

55 collected from the general public and governmental and private
56 payments are distributed. In the event a licensee accepts wire
57 transfers in the form of a direct deposit of a payroll check or
58 other similar types of deposit, the licensee shall not encumber
59 any transferred funds against a deferred deposit agreement or any
60 delinquent deferred deposit agreement with such customer. The
61 commissioner may authorize additional functions in addition to
62 those provided in this subsection that may be performed as part
63 of a check cashing business.

64 (d) The commissioner may issue more than one (1)
65 license to a person if that person complies with this article for
66 each license. A new license or application to transfer an
67 existing license is required upon a change, directly or
68 beneficially, in the ownership of any licensed check casher
69 business and an application shall be made to the commissioner in
70 accordance with this article.

71 (2) When a licensee wishes to move a check casher business
72 to another location, the licensee shall give thirty (30) days'
73 prior written notice to the commissioner who shall amend the
74 license accordingly.

75 (3) Each license shall remain in full force and effect
76 until relinquished, suspended, revoked or expired. With each

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

93 (4) Notwithstanding other provisions of this article, the
94 commissioner may issue a temporary license authorizing the
95 operator of a check casher business on the receipt of an
96 application for a license involving principals and owners that
97 are substantially identical to those of an existing licensed
98 check casher. The temporary license is effective until the

99 permanent license is issued or denied.

100 (5) Notwithstanding other provisions of this article,
101 neither a new license nor an application to transfer an existing
102 license shall be required upon any change, directly or
103 beneficially, in the ownership of any licensed check casher
104 business incorporated under the laws of this state or any other
105 state as long as the licensee continues to operate as a
106 corporation doing a check casher business under the license.
107 However, the commissioner may require the licensee to provide
108 such information as he deems reasonable and appropriate
109 concerning the officers and directors of the corporation and
110 persons owning in excess of twenty-five percent (25%) of the
111 outstanding shares of the corporation.

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

114 75-67-515. (1) The department may adopt reasonable
115 administrative regulations, not inconsistent with law, for the
116 enforcement of this article.

117 (2) To assure compliance with the provisions of this
118 article, the department may examine the books and records of any
119 licensee without notice during normal business hours. The
120 commissioner may charge the licensee an examination fee in an

121 amount not less than Two Hundred Dollars (\$200.00) nor more than
122 Three Hundred Dollars (\$300.00) per examination of each office or
123 location within the State of Mississippi plus any actual expenses
124 incurred while examining the licensee's records or books that are
125 located outside the State of Mississippi. However, in no event
126 shall a licensee be examined more than once in a two-year period
127 unless for cause shown based upon consumer complaint and/or other
128 exigent reasons as determined by the commissioner.

129 (3) Each licensee shall keep and use in its business any
130 books, accounts and records the department may require to carry
131 into effect the provisions of this article and the administrative
132 regulations issued under this article. Every licensee shall
133 preserve the books, accounts and records of its business for at
134 least two (2) years.

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

138 (5) Before a licensee deposits with any bank or other
139 depository institution a check cashed by the licensee, the check
140 shall be endorsed with the actual name under which the licensee
141 is doing business.

142 (6) All personal checks cashed for a customer by a licensee

143 shall be dated on the actual date the cash is tendered to the
144 customer.

145 (7) No licensee shall cash a check payable to a payee
146 unless the licensee has previously obtained appropriate
147 identification of the payee clearly indicating the authority of
148 the person cashing the check, draft or money order on behalf of
149 the payee.

150 (8) No licensee shall indicate through advertising, signs,
151 billboards or otherwise that checks may be cashed without
152 identification of the bearer of the check; and any person seeking
153 to cash a check shall be required to submit reasonable
154 identification as prescribed by the department. The provisions
155 of this subsection shall not prohibit a licensee from cashing a
156 check simultaneously with the verification and establishment of
157 the identity of the presenter by means other than presentation of
158 identification.

159 (9) Within five (5) business days after being advised by
160 the payor financial institution that a check has been altered,
161 forged, stolen, obtained through fraudulent or illegal means,
162 negotiated without proper legal authority or represents the
163 proceeds of illegal activity, the licensee shall notify the
164 department and the district attorney for the judicial district in

165 which the check was received. If a check is returned to the
166 licensee by the payor financial institution for any of these
167 reasons, the licensee may not release the check without consent
168 of the district attorney or other investigating law enforcement
169 authority.

170 (10) If a check is returned to a licensee from a payor
171 financial institution because there are insufficient funds in or
172 on deposit with the financial institution to pay the check, the
173 licensee or any other person on behalf of the licensee shall not
174 institute or initiate any criminal prosecution against the maker
175 or drawer of the personal check with the intent and purpose of
176 aiding in the collection of or enforcing the payment of the
177 amount owed to the check casher by the maker or drawer of the
178 check.

179 (11) Nothing in this article shall prohibit a licensee from
180 issuing coupons to customers or potential customers which are
181 redeemable against a deferred deposit transaction provided the
182 redemption results in a financial benefit to the customer on
183 current or future transactions.

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

186 75-67-519. (1) A licensee may defer the deposit of a

187 personal check cashed for a customer for up to thirty (30) days
188 under the provisions of this section.

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

193 (3) Each delayed deposit check cashed by a licensee shall
194 be documented by a written agreement that has been signed by the
195 customer and the licensee. The written agreement shall contain a
196 statement of the total amount of any fees charged, expressed as a
197 dollar amount and as an annual percentage rate. The written
198 agreement shall authorize the licensee to defer deposit of the
199 personal check until a specific date not later than thirty (30)
200 days from the date the check is cashed.

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

204 (5) No check cashed under the provisions of this section
205 shall be repaid by the proceeds of another check cashed by the
206 same licensee or any affiliate of the licensee. A licensee shall
207 not renew or otherwise extend any delayed deposit check.

208 (6) A licensee shall not offer discount catalog sales or

209 other similar inducements as part of a delayed deposit
210 transaction.

211 (7) A licensee shall not charge a late fee or collection
212 fee on any deferred deposit transaction as a result of a returned
213 check or the default by the customer in timely payment to the
214 licensee * * *. Notwithstanding anything to the contrary
215 contained in this section, a licensee may charge a processing
216 fee, not to exceed an amount authorized by the commissioner, for
217 a check returned for any reason, including, without limitation,
218 insufficient funds, closed account or stop payment, if such
219 processing fee is authorized in the written agreement signed by
220 the customer and licensee. In addition, if a licensee takes
221 legal action against a customer to collect the amount of a
222 delayed deposit check for which the licensee has not obtained
223 payment and obtains a judgment against the customer for the
224 amount of that check, the licensee shall also be entitled to any
225 court-awarded fees.

226 (8) When cashing a delayed deposit check, a licensee may
227 pay the customer in the form of the licensee's business check or
228 a money order; however, no additional fee may then be charged by
229 the licensee for cashing the licensee's business check or money
230 order issued to the customer.

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

233 75-67-525. (1) Any person who engages in the business of
234 check cashing without first securing a license prescribed by this
235 article shall be guilty of a misdemeanor and upon conviction
236 thereof, shall be punishable by a fine not in excess of One
237 Thousand Dollars (\$1,000.00) or by confinement in the county jail
238 for not more than one (1) year, or both.

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

247 SECTION 5. A licensee shall not advertise, display or
248 publish, or permit to be advertised, displayed or published, in
249 any manner whatsoever, any statement or representation that is
250 false, misleading or deceptive.

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

253 75-67-539. Sections 75-67-501 through 75-67-539 shall stand
254 repealed on July 1, 2004.

255

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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 AUTHORIZE A LICENSEE TO RECEIVE COURT-AWARDED FEES IN A LEGAL
14 ACTION TAKEN TO COLLECT THE AMOUNT OF A DELAYED DEPOSIT CHECK; TO
15 AMEND SECTION 75-67-525, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
16 ANY PERSON WHO ENGAGES IN THE BUSINESS OF CHECK CASHING WITHOUT
17 FIRST SECURING A LICENSE SHALL BE LIABLE FOR THE FULL AMOUNT OF
18 THE LICENSE FEE PLUS A PENALTY; TO CREATE A NEW CODE SECTION TO
19 PROHIBIT THE ADVERTISING, DISPLAYING OR PUBLISHING OF FALSE OR

20 MISLEADING STATEMENTS BY A LICENSEE; TO AMEND SECTION 75-67-539,
21 MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON THE
22 MISSISSIPPI CHECK CASHERS ACT; AND FOR RELATED PURPOSES.

CONFEREES FOR THE SENATE

CONFEREES FOR THE HOUSE

X _____
Nolan Mettetal

X _____
Danny Guice

X _____
Nickey Browning

X _____
Bobby Howell

X _____
Hillman Frazier

X _____
Johnny Stringer