

*****Adopted*****

AMENDMENT No. 1 PROPOSED TO

Senate Bill NO. 2411

By Representative(s) Committee

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

28 SECTION 1. Section 75-67-505, Mississippi Code of 1972, is
29 amended as follows:
30 75-67-505. (1) A person may not engage in business as a
31 check casher or otherwise portray himself as a check casher unless
32 the person has a valid license authorizing engagement in the
33 business. A separate license is required for each place of
34 business under this article and each business must be independent
35 of, and not a part of, any other business operation. A check
36 cashing business shall not be a part of, or located at the same
37 business address with, a pawnshop, title pledge office and small
38 loan company. A check cashing business shall have a definitive
39 United States Postal address and E911 address; comply with local
40 zoning requirements; have a minimum of one hundred (100) square
41 feet with walls from floor to ceiling separating the operation
42 from any other businesses; have an outside entrance, but may be
43 located in an area that has a common lobby shared by other
44 businesses as long as the customers do not enter the check cashing

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

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

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

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

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

98 (5) Notwithstanding other provisions of this article,
99 neither a new license nor an application to transfer an existing
100 license shall be required upon any change, directly or
101 beneficially, in the ownership of any licensed check casher
102 business incorporated under the laws of this state or any other
103 state as long as the licensee continues to operate as a
104 corporation doing a check casher business under the license.

105 However, the commissioner may require the licensee to provide such
106 information as he deems reasonable and appropriate concerning the
107 officers and directors of the corporation and persons owning in
108 excess of twenty-five percent (25%) of the outstanding shares of
109 the corporation.

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

112 75-67-515. (1) The department may adopt reasonable
113 administrative regulations, not inconsistent with law, for the
114 enforcement of this article.

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

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

133 (4) Any fee charged by a licensee for cashing a check shall
134 be posted conspicuously to the bearer of the check before cashing

135 the check, and the fee shall be a service fee and not interest.

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

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

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

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

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

165 other investigating law enforcement authority.

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

174 (11) Nothing in this article shall prohibit a licensee from
175 issuing coupons to customers or potential customers which are
176 redeemable against a deferred deposit transaction provided the
177 redemption results in a financial benefit to the customer on
178 current or future transactions.

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

181 75-67-519. (1) A licensee may defer the deposit of a
182 personal check cashed for a customer for up to thirty (30) days
183 under the provisions of this section.

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

188 (3) Each delayed deposit check cashed by a licensee shall be
189 documented by a written agreement that has been signed by the
190 customer and the licensee. The written agreement shall contain a
191 statement of the total amount of any fees charged, expressed as a
192 dollar amount and as an annual percentage rate. The written
193 agreement shall authorize the licensee to defer deposit of the
194 personal check until a specific date not later than thirty (30)

195 days from the date the check is cashed.

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

199 (5) No check cashed under the provisions of this section
200 shall be repaid by the proceeds of another check cashed by the
201 same licensee or any affiliate of the licensee. A licensee shall
202 not renew or otherwise extend any delayed deposit check.

203 (6) A licensee shall not offer discount catalog sales or
204 other similar inducements as part of a delayed deposit
205 transaction.

206 (7) A licensee shall not charge a late fee or collection fee
207 on any deferred deposit transaction as a result of a returned
208 check or the default by the customer in timely payment to the
209 licensee * * *. Notwithstanding anything to the contrary
210 contained in this section, a licensee may charge a processing fee,
211 not to exceed Thirty Dollars (\$30.00), for a check returned for
212 any reason, including, without limitation, insufficient funds,
213 closed account or stop payment, if such processing fee is
214 authorized in the written agreement signed by the customer and
215 licensee. In addition, if a licensee takes legal action against a
216 customer to collect the amount of a delayed deposit check for
217 which the licensee has not obtained payment and obtains a judgment
218 against the customer for the amount of that check, the licensee
219 may charge the customer the amount of any court costs assessed in
220 that legal action, not exceeding One Hundred Fifty Dollars
221 (\$150.00).

222 (8) When cashing a delayed deposit check, a licensee may pay
223 the customer in the form of the licensee's business check or a
224 money order; however, no additional fee may then be charged by the

225 licensee for cashing the licensee's business check or money order
226 issued to the customer.

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

229 75-67-525. (1) Any person who engages in the business of
230 check cashing without first securing a license prescribed by this
231 article shall be guilty of a misdemeanor and upon conviction
232 thereof, shall be punishable by a fine not in excess of One
233 Thousand Dollars (\$1,000.00) or by confinement in the county jail
234 for not more than one (1) year, or both.

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

242 SECTION 5. A licensee shall not advertise, display or
243 publish, or permit to be advertised, displayed or published, in
244 any manner whatsoever, any statement or representation that is
245 false, misleading or deceptive.

246 SECTION 6. Notwithstanding other provisions of this article,
247 any person principally engaged in the retail sale of goods or
248 services who overtly advertises that a check cashing service is
249 provided shall obtain a license as required under this article.

250 SECTION 7. Section 75-67-539, Mississippi Code of 1972, is
251 amended as follows:

252 75-67-539. Sections 75-67-501 through 75-67-539 shall stand
253 repealed on July 1, 2004.

254 SECTION 8. This act shall take effect and be in force from

255 and 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 CHARGE A CUSTOMER CERTAIN COURT COSTS
14 ASSESSED IN A LEGAL ACTION TAKEN TO COLLECT THE AMOUNT OF A
15 DELAYED DEPOSIT CHECK; TO AMEND SECTION 75-67-525, MISSISSIPPI
16 CODE OF 1972, TO PROVIDE THAT ANY PERSON WHO ENGAGES IN THE
17 BUSINESS OF CHECK CASHING WITHOUT FIRST SECURING A LICENSE SHALL
18 BE LIABLE FOR THE FULL AMOUNT OF THE LICENSE FEE PLUS A PENALTY;
19 TO CREATE A NEW CODE SECTION TO PROHIBIT THE ADVERTISING,
20 DISPLAYING OR PUBLISHING OF FALSE OR MISLEADING STATEMENTS BY A
21 LICENSEE; TO PROVIDE THAT ANY PERSON PRINCIPALLY ENGAGED IN THE
22 RETAIL SALE OF GOODS OR SERVICES WHO OVERTLY ADVERTISES THAT A
23 CHECK CASHING SERVICE IS PROVIDED SHALL OBTAIN A CHECK CASHING
24 LICENSE; TO AMEND SECTION 75-67-539, MISSISSIPPI CODE OF 1972, TO
25 EXTEND THE REPEALER ON THE MISSISSIPPI CHECK CASHERS ACT; AND FOR
26 RELATED PURPOSES.