

By: Senator(s) Michel

To: Business and Financial
Institutions

SENATE BILL NO. 2713

1 AN ACT TO BRING FORWARD SECTION 75-17-25, MISSISSIPPI CODE OF
2 1972, WHICH DEFINES THE TERM "FINANCE CHARGE" AS IT RELATES TO THE
3 USURY STATUTES; TO BRING FORWARD SECTION 75-67-137, MISSISSIPPI
4 CODE OF 1972, WHICH PROVIDES CIVIL IMMUNITY TO LICENSEES UNDER THE
5 SMALL LOAN REGULATORY LAW; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 75-17-25, Mississippi Code of 1972, is
8 brought forward as follows:

9 75-17-25. The term "finance charge" as used in this section,
10 Sections 75-17-1, 75-17-11, 75-17-13, 75-17-15, 75-17-17,
11 75-17-19, 75-17-21, 75-17-23, 75-17-27, 75-17-29, 75-17-33,
12 63-19-43, 75-67-127 and 75-67-217 means the amount or rate paid or
13 payable, directly or indirectly, by a debtor for receiving a loan
14 or incident to or as a condition of the extension of credit,
15 including, but not limited to, interest, brokerage fees, finance
16 charges, loan fees, discount, points, service charges, transaction
17 charges, activity charges, carrying charges, time price
18 differential, finders fees or any other cost or expense to the
19 debtor for services rendered or to be rendered to the debtor in
20 making, arranging or negotiating a loan of money or an extension
21 of credit and for the accounting, guaranteeing, endorsing,
22 collecting and other actual services rendered by the lender;
23 provided, however, that recording fees, motor vehicle title fees,
24 attorney's fees, insurance premiums, fees permitted to be charged
25 under the provisions of Section 79-7-7, service charges as
26 provided in Section 81-19-31, and with respect to a debt secured
27 by an interest in land, bona fide closing costs and appraisal fees



28 incidental to the transaction shall not be included in the finance
29 charge.

30 Subject to the other provisions of this section, Sections
31 75-17-1, 75-17-13, 75-17-15, 75-17-17, 75-17-19, 75-17-21,
32 75-17-23, 75-17-27, 75-17-29, 75-17-33, 63-19-43, 75-67-127 and
33 75-67-217, the finance charge may be calculated on the assumption
34 that the indebtedness will be discharged as it becomes due, and
35 prepayment penalties and statutory default charges shall not be
36 included in the finance charge. Nothing in Section 75-17-1 or
37 Sections 75-17-19, 75-17-21, 75-17-23, 75-17-27, 75-17-29, or
38 75-17-33 shall limit or restrict the manner of contracting for
39 such finance charge, whether by way of add-on, discount or
40 otherwise, so long as the annual percentage rate does not exceed
41 that permitted by law. If a greater finance charge than that
42 authorized by applicable law shall be stipulated for or received
43 in any case, all interest and finance charge shall be forfeited,
44 and may be recovered back, whether the contract be executed or
45 executory. If a finance charge be contracted for or received that
46 exceeds the maximum authorized by law by more than one hundred
47 percent (100%), the principal and all finance charges shall be
48 forfeited and any amount paid may be recovered by suit. The
49 provisions of this section, Section 75-17-1 and Sections 75-17-19,
50 75-17-21, 75-17-23, 75-17-27, 75-17-29 and 75-17-33 shall not
51 restrict the extension of credit pursuant to any other applicable
52 law. A licensee under the Small Loan Regulatory Law (Sections
53 75-67-101 through 75-67-135), and the Small Loan Privilege Tax Law
54 (Sections 75-67-201 through 75-67-243), may contract for and
55 receive finance charges as authorized by Section 75-17-21, and the
56 late payment charge as authorized by Section 75-17-27, regardless
57 of the purpose for which the loan or other extension of credit is
58 made.

59 **SECTION 2.** Section 75-67-137, Mississippi Code of 1972, is
60 brought forward as follows:



61 75-67-137. (1) A licensee under this article shall have no
62 liability for any act or practice done or omitted in conformity
63 with (a) any rule or regulation of the commissioner, or (b) any
64 rule, regulation, interpretation or approval of any other state or
65 federal agency or any opinion of the Attorney General,
66 notwithstanding that after such act or omission has occurred the
67 rule, regulation, interpretation, approval or opinion is amended,
68 rescinded, or determined by judicial or other authority to be
69 invalid for any reason.

70 (2) A licensee under this article, acting in conformity with
71 a written interpretation or approval by an official or employee of
72 any state or federal agency or department, shall be presumed to
73 have acted in accordance with applicable law, notwithstanding that
74 after such act has occurred, the interpretation or approval is
75 amended, rescinded, or determined by judicial or other authority
76 to be incorrect or invalid for any reason.

77 **SECTION 3.** This act shall take effect and be in force from
78 and after July 1, 2002.

