

February 23, 2002

TO THE MISSISSIPPI HOUSE OF REPRESENTATIVES:

GOVERNOR'S VETO MESSAGE FOR HOUSE BILL 1646

I am returning House Bill Number 1646: "AN ACT TO AMEND SECTION 75-67-103, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITIONS UNDER THE SMALL LOAN REGULATORY LAW TO INCLUDE A DEFINITION OF THE TERM "OTHER CHARGES"; TO AMEND SECTIONS 75-67-119 AND 75-17-25, MISSISSIPPI CODE OF 1972, TO PROVIDE THE REMEDY FOR CONTRACTING FOR AND RECEIVING UNLAWFUL OTHER CHARGES; AND FOR RELATED PURPOSES" without my approval, and assign the following reasons for my veto.

I am vetoing House Bill 1646 today because it protects loan companies who would victimize Mississippi consumers by fraud, deception, and false representations. It is grossly unfair to Mississippi borrowers. The bill arises from a legitimate concern by responsible banks and lenders that mistakes and errors in preparation of loan documents have resulted in unsubstantiated judgments and settlements, and that such cases pose a threat to the availability of credit and the viability of lending institutions. I am mindful of this concern but the bill, as submitted to me, goes too far and deprives the defrauded victims of rights and remedies equal to the wrong and harm done.

Statutory remedies can be good policy but where they are both exclusive and inadequate such remedies not only limit risk but also fail to deter unlawful, harmful conduct. I remind you that the acts in question are intentional and deliberate. These acts of unscrupulous companies must be punished and discouraged. The statutory amounts represent essentially a cost of doing business for loan companies engaged in fraudulent and deceptive practices.

Bear in mind there are more than a few instances where poor and elderly Mississippians have lost their homes, lifelong savings and financial viability by means of fraud and deception to unscrupulous financial institutions. House Bill 1646 removes any deterrence to such practices by loan companies and completely alters the balance between lending institutions that can take care of themselves and the financially vulnerable Mississippians without the resources to do so.

We should offer legitimate financial institutions the ability to lend money without fear of bankruptcy for the commission of errors and miscalculations. The Legislature needs to suspend the rules and pass a bill that would remove the protection for fraud- that is, intentional, deliberate acts- and provide legitimate financial institutions protection for negligent acts and errors for which no bank should have to pay punitive damages.

By doing so legitimate lenders will be shielded from excessive judgments; wronged borrowers will be offered appropriate remedies; predatory practices will be deterred; and the availability of capital will be preserved in areas of need. This legislation could be prepared in this session. I earnestly encourage the leadership and the members to take up and pass such a bill before Sine Die, and I will sign it.

I urge the members to sustain the veto and reject House Bill 1646.

Respectfully submitted,

RONNIE MUSGROVE

GOVERNOR