MISSISSIPPI LEGISLATURE REGULAR SESSION 2003

By: Senator(s) Mettetal

To: Business and Financial Institutions

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2561

AN ACT TO AMEND SECTION 75-15-3, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF THE TERM "CHECK" UNDER THE SALE OF CHECKS LAW; TO AMEND SECTION 75-15-7, MISSISSIPPI CODE OF 1972, TO DELETE THE EXEMPTION FROM THE SALE OF CHECKS LAW FOR THE RECEIPT OF MONEY BY A TELEGRAPH COMPANY FOR IMMEDIATE TRANSMISSION BY TELEGRAPH; TO AMEND SECTION 75-15-19, MISSISSIPPI CODE OF 1972, TO REVISE THE EXAMINATION FEE WHICH MAY BE CHARGED BY THE COMMISSIONER OF BANKING FOR EXAMINING THE RECORDS OF LICENSEES UNDER THE SALE OF CHECKS LAW; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 75-15-3, Mississippi Code of 1972, is amended as follows:

75-15-3. For the purposes of this chapter:

(a) "Person" means any individual, partnership, association, joint stock association, trust or corporation, but does not include the United States government or the government of this state.

(b) "Licensee" means a person duly licensed by the commissioner under this chapter.

(c) "Check" means any check, draft, money order, personal money order or other instrument, including, but not limited to, stored value cards, for the transmission or payment of money. The format of a check may be either paper, electronic, plastic or any combination thereof.

(d) "Personal money order" means any instrument for the transmission or payment of money in relation to which the purchaser or remitter appoints or purports to appoint the seller thereof as his agent for the receipt, transmission or handling of money, whether such instrument be signed by the seller or by the purchaser or remitter or some other person.

(e) "Sell" means to sell, to issue or to deliver a check.

(f) "Deliver" means to deliver a check to the first person who in payment for same makes or purports to make a remittance of or against the face amount thereof, whether or not the deliverer also charges a fee in addition to the face amount, and whether or not the deliverer signs the checks.

(g) "Commissioner" or "comptroller" means the Commissioner of Banking and Consumer Finance of the State of Mississippi.

(h) "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 75-15-7, Mississippi Code of 1972, is amended as follows:

75-15-7. Nothing in this chapter shall apply to the sale or issuance or delivering of checks by:

(a) Banks, trust companies, and savings and loan associations, authorized to do business in this state; *** * ***

(b) The government of the United States or any department or agent thereof; *** * ***

(c) The State of Mississippi or any municipal corporation, county or other political subdivision of this state;

(d) Agents of a licensee, as provided for in Section 75-15-17, provided that this exemption shall apply only to the agent's acts on behalf of the licensee and this exemption shall not exempt the agent from the provisions of this chapter where he issues his own checks for his own account;

(e) Attorneys at law, as to checks issued in the regular course of the practice of law; or

(f) Persons not carrying on the trade or business of selling, issuing or delivering checks, this exemption being intended to include persons who sell, issue or deliver checks only as an incidental act to another trade or business regularly carried on by them, and persons who only occasionally and infrequently sell, issue or deliver checks for another person.

SECTION 3. Section 75-15-19, Mississippi Code of 1972, is amended as follows:

75-15-19. (1) Each licensee shall file with the commissioner annually on or before April 15 of each year a statement listing:

(a) The locations, offices and agencies authorized by the licensee to act for and on behalf of the licensee in selling or issuing or dispensing checks. A supplemental statement setting forth any changes in the list of locations, offices and agencies shall be filed with the commissioner on or before the first day of July, October and January of each year and the principal sum of the corporate surety bond or deposit required under Section 75-15-11 shall be adjusted, if appropriate, to reflect any increase or decrease in the number of locations, offices and agencies. The annual and supplemental statement shall not be required of any licensee who continues to maintain a corporate surety bond, as required by subsection (b) of Section 75-15-11, *** * *** in the principal sum of Two Hundred Fifty Thousand Dollars ($250,000.00), or a securities deposit having an aggregate market value at least equal to Two Hundred Fifty Thousand Dollars ($250,000.00).

(b) Each licensee shall file with the commissioner annually on or before April 15 of each year, statements correctly reflecting its net worth as of the close of its most recent fiscal year, the statement to be certified to by a certified public accountant satisfactory to the commissioner.

(2) The commissioner may conduct or cause to be conducted an examination or audit of the books and records of any licensee at any time or times he * * * deems proper, the cost of the examination or audit to be borne by the licensee. The refusal of access to the books and records shall be cause for the revocation of its license. The commissioner may charge the licensee an examination fee in an amount not less than Three Hundred Dollars ($300.00) nor more than Six Hundred Dollars ($600.00) for each office or location within the State of Mississippi, plus any actual expenses incurred while examining the licensee's records or books that are located outside the State of Mississippi. However, in no event shall a licensee be examined more than once in a two-year period unless for cause shown based upon consumer complaint and/or other exigent reasons as determined by the commissioner.

(3) On or before July 1, 2007, the commissioner shall file with the Chairman of the Senate Business and Financial Institutions Committee and the Chairman of the House Banking Committee a report containing the total number of examinations or audits of licensees conducted by the department for each year, the total cost of such examinations, the number of examinations grouped by range of costs, and any other information the commissioner deems relevant to substantiate the examination fee authorized in this section.

(4) This section shall stand repealed from and after July 1, 2007.

SECTION 4. This act shall take effect and be in force from and after its passage.