

By: Representative Guice

To: Banking and Financial Services; Appropriations

HOUSE BILL NO. 715

1 AN ACT TO AMEND SECTION 75-17-21, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE CALCULATION OF THE CLOSING FEE THAT SMALL LOAN
3 LICENSEES MAY CHARGE ON LOANS; TO AMEND SECTION 75-67-121,
4 MISSISSIPPI CODE OF 1972, TO AUTHORIZE SMALL LOAN LICENSEES TO
5 OFFER BORROWERS THE OPPORTUNITY TO PURCHASE AUTO CLUB MEMBERSHIPS,
6 PROVIDED THAT THE PURCHASE IS OPTIONAL AND NOT REQUIRED AS A
7 CONDITION OF RECEIVING ANY LOAN OR OTHER EXTENSION OF CREDIT; AND
8 FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 75-17-21, Mississippi Code of 1972, is
11 amended as follows:

12 75-17-21. Notwithstanding any provision of law to the
13 contrary, the maximum finance charge which may be contracted for
14 and received for any loan or extension of credit made by a
15 licensee under the Small Loan Regulatory Law (Sections 75-67-101
16 through 75-67-135) and the Small Loan Privilege Tax Law (Sections
17 75-67-201 through 75-67-243) may result in a yield not to exceed
18 the following annual percentage rates calculated according to the
19 actuarial method:

20 (a) Thirty-six percent (36%) per annum for the portion
21 of the unpaid balance of the amount financed that is not greater
22 than One Thousand Dollars (\$1,000.00);

23 (b) Thirty-three percent (33%) per annum for the
24 portion of the unpaid balance of the amount financed in excess of
25 One Thousand Dollars (\$1,000.00) but not greater than Two Thousand
26 Five Hundred Dollars (\$2,500.00);

27 (c) Twenty-four percent (24%) per annum for the portion
28 of the unpaid balance of the amount financed in excess of Two
29 Thousand Five Hundred Dollars (\$2,500.00) but not greater than
30 Five Thousand Dollars (\$5,000.00);

31 (d) Fourteen percent (14%) per annum for the portion of
32 the unpaid balance of the amount financed in excess of Five
33 Thousand Dollars (\$5,000.00).

34 As an alternative and in lieu of the rates established in
35 paragraphs (a), (b), (c) and (d) of this section, on loans in an
36 amount of Twenty-five Thousand Dollars (\$25,000.00) or more, a
37 licensee may contract for and receive a maximum finance charge
38 which will result in a yield not to exceed an annual percentage
39 rate, calculated according to the actuarial method, of eighteen
40 percent (18%) per annum on the unpaid balance of the amount
41 financed.

42 A licensee may contract for and charge a closing fee not
43 exceeding four percent (4%) of the total payments due on the loan
44 or Twenty-five Dollars (\$25.00), whichever is greater, which fee
45 may be made on any type of loan regardless of the loan amount and
46 which shall not be part of the finance charge.

47 The rates set forth in paragraph (a) of this section may be
48 increased by the number of percentage points by which the discount
49 rate, excluding any surcharge thereon, on ninety-day commercial
50 paper in effect at the Federal Reserve bank in the Federal Reserve
51 district where the lender is located exceeds eight percent (8%),
52 and the rates set forth in paragraphs (b), (c) and (d) of this
53 section may be increased by the number of percentage points by
54 which the discount rate, excluding any surcharge thereon, on
55 ninety-day commercial paper in effect at the Federal Reserve bank
56 in the Federal Reserve district where the lender is located
57 exceeds ten percent (10%).

58 The finance charges authorized in this section are the
59 maximum rates which may be contracted for or received for any loan
60 or extension of credit made by a licensee under the Small Loan
61 Regulatory Law (Sections 75-67-101 through 75-67-135), and the
62 Small Loan Privilege Tax Law (Sections 75-67-201 through
63 75-67-243). Nothing in this section shall prohibit lending money

64 or handling, negotiating or arranging loans for a finance charge
65 that is less than that specified herein. This section does not
66 limit or restrict the manner of contracting for the finance
67 charge, whether by way of add-on, discount or otherwise, so long
68 as the annual percentage rate of the finance charge does not
69 exceed that permitted by this section.

70 **SECTION 2.** Section 75-67-121, Mississippi Code of 1972, is
71 amended as follows:

72 75-67-121. Any licensee under this article may charge any
73 borrower on loans of One Hundred Dollars (\$100.00) or more the
74 actual cost of recording any instrument executed as security for a
75 loan; any reasonable fee paid to an attorney for investigating the
76 title to any property given as security for a loan; the actual
77 cost of any premium paid for insurance upon any property given as
78 security for a loan, such insurance to be placed with an insurance
79 company agent of the borrower's selection so long as it is
80 licensed to do business in the State of Mississippi; the actual
81 cost of any premium paid for life, health and/or accident
82 insurance on any borrower where the amount of insurance required
83 is not in excess of the amount of the loan and the premium for the
84 insurance is in keeping with that usually and customarily paid for
85 like insurance.

86 In addition, the licensee may offer the borrower the
87 opportunity to purchase an auto club membership, provided that the
88 purchase is optional and not required as a condition of receiving
89 any loan or other extension of credit. The licensee shall allow
90 the borrower to pay the cost of the membership using funds other
91 than the proceeds of a loan or have the cost deducted from the
92 proceeds of any loan obtained from the licensee.

93 Whenever he * * * finds it necessary, the commissioner shall
94 have the power to adopt and enforce reasonable rules and
95 regulations to prevent the abuse of this section and the making of
96 excessive charges under this section.

97 **SECTION 3.** This act shall take effect and be in force from
98 and after July 1, 2005.