

By: Representative Brown

To: Appropriations

HOUSE BILL NO. 1471

1 AN ACT TO AMEND SECTION 75-17-25, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT FEES FOR SETTING UP, ESTABLISHING, PROCESSING OR  
3 MAINTAINING A LOAN TO A PARTICIPANT FROM A TAX-QUALIFIED  
4 RETIREMENT PLAN THAT ARE PAID OR PAYABLE TO THE PLAN'S RECORD  
5 KEEPER OR THIRD PARTY ADMINISTRATOR SHALL NOT BE CONSIDERED TO BE  
6 A "FINANCE CHARGE"; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 75-17-25, Mississippi Code of 1972, is  
9 amended as follows:

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

30 charge. The term "finance charge," as used in this section and  
31 the sections enumerated above, shall not include any fees for the  
32 set up, establishment, processing or maintenance of a loan to a  
33 plan participant from a retirement plan intending to be  
34 tax-qualified (within the meaning of 26 USCS Section 401 et seq.)  
35 that are paid or payable directly or indirectly by the plan  
36 participant to the plan record keeper or third party  
37 administrator.

38 Subject to the other provisions of this section, Sections  
39 75-17-1, 75-17-13, 75-17-15, 75-17-17, 75-17-19, 75-17-21,  
40 75-17-23, 75-17-27, 75-17-29, 75-17-33, 63-19-43, 75-67-127 and  
41 75-67-217, the finance charge may be calculated on the assumption  
42 that the indebtedness will be discharged as it becomes due, and  
43 prepayment penalties and statutory default charges shall not be  
44 included in the finance charge. Nothing in Section 75-17-1 or  
45 Sections 75-17-19, 75-17-21, 75-17-23, 75-17-27, 75-17-29, or  
46 75-17-33 shall limit or restrict the manner of contracting for  
47 such finance charge, whether by way of add-on, discount or  
48 otherwise, so long as the annual percentage rate does not exceed  
49 that permitted by law. If a greater finance charge than that  
50 authorized by applicable law shall be stipulated for or received  
51 in any case, all interest and finance charge shall be forfeited,  
52 and may be recovered back, whether the contract be executed or  
53 executory. If a finance charge be contracted for or received that  
54 exceeds the maximum authorized by law by more than one hundred  
55 percent (100%), the principal and all finance charges shall be  
56 forfeited and any amount paid may be recovered by suit. The  
57 provisions of this section, Section 75-17-1 and Sections 75-17-19,  
58 75-17-21, 75-17-23, 75-17-27, 75-17-29 and 75-17-33 shall not  
59 restrict the extension of credit pursuant to any other applicable  
60 law. A licensee under the Small Loan Regulatory Law (Sections  
61 75-67-101 through 75-67-135), and the Small Loan Privilege Tax Law  
62 (Sections 75-67-201 through 75-67-243), may contract for and

63 receive finance charges as authorized by Section 75-17-21, and the  
64 late payment charge as authorized by Section 75-17-27, regardless  
65 of the purpose for which the loan or other extension of credit is  
66 made.

67         **SECTION 2.** This act shall take effect and be in force from  
68 and after its passage.