

By: Senator(s) Mettetal, Robertson, Moffatt

To: Business and Financial Institutions

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2532

1 AN ACT TO AMEND SECTION 75-17-21, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE CLOSING FEE WHICH MAY BE CONTRACTED FOR AND CHARGED  
3 BY A LICENSEE UNDER THE SMALL LOAN REGULATORY LAW AND SMALL LOAN  
4 PRIVILEGE TAX LAW; TO AMEND SECTION 75-67-121, MISSISSIPPI CODE OF  
5 1972, TO AUTHORIZE A LICENSEE UNDER THE SMALL LOAN REGULATORY LAW  
6 TO OFFER THE BORROWER THE OPPORTUNITY TO PURCHASE AN AUTO CLUB  
7 MEMBERSHIP; AND FOR RELATED PURPOSES.

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

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

11 75-17-21. (1) Notwithstanding any provision of law to the  
12 contrary, the maximum finance charge which may be contracted for  
13 and received for any loan or extension of credit made by a  
14 licensee under the Small Loan Regulatory Law (Sections 75-67-101  
15 through 75-67-135) and the Small Loan Privilege Tax Law (Sections  
16 75-67-201 through 75-67-243) may result in a yield not to exceed  
17 the following annual percentage rates calculated according to the  
18 actuarial method:

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

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

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

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

33 (2) As an alternative and in lieu of the rates established  
34 in paragraphs (a), (b), (c) and (d) of subsection (1), on loans in  
35 an amount of Twenty-five Thousand Dollars (\$25,000.00) or more, a  
36 licensee may contract for and receive a maximum finance charge  
37 which will result in a yield not to exceed an annual percentage  
38 rate, calculated according to the actuarial method, of eighteen  
39 percent (18%) per annum on the unpaid balance of the amount  
40 financed.

41 (3) A licensee may contract for and charge a closing fee as  
42 follows:

43 (a) For loans in the amount of Ten Thousand Dollars  
44 (\$10,000.00) or less, four percent (4%) of the total payments due  
45 on the loan or Twenty-five Dollars (\$25.00), whichever is greater;

46 (b) For loans in an amount greater than Ten Thousand  
47 Dollars (\$10,000.00) but not exceeding Twenty Thousand Dollars  
48 (\$20,000.00), three percent (3%) of the total payments due on the  
49 loan;

50 (c) For loans in an amount greater than Twenty Thousand  
51 Dollars (\$20,000.00), two percent (2%) of the total payments due  
52 on the loan or One Thousand Dollars (\$1,000.00), whichever is  
53 less.

54 Such closing fee shall not be part of the finance charge.

55 (4) The rates set forth in paragraph (a) of subsection (1)  
56 may be increased by the number of percentage points by which the  
57 discount rate, excluding any surcharge thereon, on ninety-day  
58 commercial paper in effect at the Federal Reserve bank in the  
59 Federal Reserve district where the lender is located exceeds eight  
60 percent (8%), and the rates set forth in paragraphs (b), (c) and  
61 (d) of subsection (1) may be increased by the number of percentage  
62 points by which the discount rate, excluding any surcharge

63 thereon, on ninety-day commercial paper in effect at the Federal  
64 Reserve bank in the Federal Reserve district where the lender is  
65 located exceeds ten percent (10%).

66 The finance charges authorized in this section are the  
67 maximum rates which may be contracted for or received for any loan  
68 or extension of credit made by a licensee under the Small Loan  
69 Regulatory Law (Sections 75-67-101 through 75-67-135), and the  
70 Small Loan Privilege Tax Law (Sections 75-67-201 through  
71 75-67-243). Nothing in this section shall prohibit lending money  
72 or handling, negotiating or arranging loans for a finance charge  
73 that is less than that specified herein. This section does not  
74 limit or restrict the manner of contracting for the finance  
75 charge, whether by way of add-on, discount or otherwise, so long  
76 as the annual percentage rate of the finance charge does not  
77 exceed that permitted by this section.

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

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

94 Any licensee may offer the borrower the opportunity to  
95 purchase an auto club membership provided that the purchase is

96 optional and not required as a condition of receiving any loan or  
97 other extension of credit. The licensee shall allow the borrower  
98 to pay the cost of the membership by using funds other than the  
99 proceeds of a loan or having the cost deducted from the proceeds  
100 of any loan obtained from the licensee.

101 Whenever he shall find it necessary, the Commissioner of  
102 Banking and Consumer Finance shall have the power to adopt and  
103 enforce reasonable rules and regulations to prevent the abuse of  
104 this section and the making of excessive charges under this  
105 section.

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