

By: Senator(s) Mettetal, Robertson, Moffatt

To: Business and Financial Institutions

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 an amount of Ten Thousand Dollars
44 (\$10,000.00) or less, four percent (4%) of the total payments due
45 on the loan; however, in no event shall the amount of the closing
46 fee be less than Twenty-five Dollars (\$25.00);

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

51 (c) For loans in an amount greater than Twenty Thousand
52 Dollars (\$20,000.00) but not exceeding Fifty Thousand Dollars
53 (\$50,000.00), two percent (2%) of the total payments due on the
54 loan;

55 (d) For loans in an amount greater than Fifty Thousand
56 Dollars (\$50,000.00), Twenty-five Dollars (\$25.00).

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

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

63 percent (8%), and the rates set forth in paragraphs (b), (c) and
64 (d) of subsection (1) may be increased by the number of percentage
65 points by which the discount rate, excluding any surcharge
66 thereon, on ninety-day commercial paper in effect at the Federal
67 Reserve bank in the Federal Reserve district where the lender is
68 located exceeds ten percent (10%).

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

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

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

95 therefor is in keeping with that usually and customarily paid for
96 like insurance.

97 Any licensee may offer the borrower the opportunity to
98 purchase an auto club membership provided that the purchase is
99 optional and not required as a condition of receiving any loan or
100 other extension of credit. The licensee shall allow the borrower
101 to pay the cost of the membership by using funds other than the
102 proceeds of a loan or having the cost deducted from the proceeds
103 of any loan obtained from the licensee.

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

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