

By: Senator(s) Mettetal, Robertson, Moffatt

To: Business and Financial Institutions

SENATE BILL NO. 2532
(As Sent to Governor)

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 MAKE A TECHNICAL CORRECTION; AND FOR RELATED PURPOSES.

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

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

9 75-17-21. (1) Notwithstanding any provision of law to the
10 contrary, the maximum finance charge which may be contracted for
11 and received for any loan or extension of credit made by a
12 licensee under the Small Loan Regulatory Law (Sections 75-67-101
13 through 75-67-135) and the Small Loan Privilege Tax Law (Sections
14 75-67-201 through 75-67-243) may result in a yield not to exceed
15 the following annual percentage rates calculated according to the
16 actuarial method:

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

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

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

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

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

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

41 (a) For loans in the amount of Ten Thousand Dollars
42 (\$10,000.00) or less, four percent (4%) of the total payments due
43 on the loan or Twenty-five Dollars (\$25.00), whichever is greater;

44 (b) For loans in an amount greater than Ten Thousand
45 Dollars (\$10,000.00), a maximum charge of Five Hundred Dollars
46 (\$500.00).

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

48 (4) The rates set forth in paragraph (a) of subsection (1)
49 may be increased by the number of percentage points by which the
50 discount rate, excluding any surcharge thereon, on ninety-day
51 commercial paper in effect at the Federal Reserve bank in the
52 Federal Reserve district where the lender is located exceeds eight
53 percent (8%), and the rates set forth in paragraphs (b), (c) and
54 (d) of subsection (1) may be increased by the number of percentage
55 points by which the discount rate, excluding any surcharge
56 thereon, on ninety-day commercial paper in effect at the Federal
57 Reserve bank in the Federal Reserve district where the lender is
58 located exceeds ten percent (10%).

59 The finance charges authorized in this section are the
60 maximum rates which may be contracted for or received for any loan

61 or extension of credit made by a licensee under the Small Loan
62 Regulatory Law (Sections 75-67-101 through 75-67-135), and the
63 Small Loan Privilege Tax Law (Sections 75-67-201 through
64 75-67-243). Nothing in this section shall prohibit lending money
65 or handling, negotiating or arranging loans for a finance charge
66 that is less than that specified herein. This section does not
67 limit or restrict the manner of contracting for the finance
68 charge, whether by way of add-on, discount or otherwise, so long
69 as the annual percentage rate of the finance charge does not
70 exceed that permitted by this section.

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

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

87 Whenever he shall find it necessary, the Commissioner of
88 Banking and Consumer Finance shall have the power to adopt and
89 enforce reasonable rules and regulations to prevent the abuse of
90 this section and the making of excessive charges under this
91 section.

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