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Chapter No. 309
11/HR40/R977SG
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# *HOUSE BILL NO. 455*

Originated in House Don Richardson Clerk

HOUSE BILL NO. 455

AN ACT TO REENACT SECTIONS 75-67-501 THROUGH 75-67-537, MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI CHECK CASHERS ACT; TO AMEND REENACTED SECTION 75-67-505, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY TRANSACTION THAT WOULD BE SUBJECT TO THE CHECK CASHERS ACT THAT IS MADE BY A PERSON WHO DOES NOT HAVE A VALID LICENSE UNDER THE ACT SHALL BE NULL AND VOID; TO AMEND REENACTED SECTION 75-67-519, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE PERIOD OF A DELAYED DEPOSIT CHECK OF NOT MORE THAN $250.00 MAY BE FOR UP TO 30 DAYS, AND THE PERIOD OF A DELAYED DEPOSIT CHECK OF MORE THAN $250.00 BUT NOT MORE THAN $500.00 SHALL BE FOR 28 TO 30 DAYS, AS SELECTED BY THE CUSTOMER, WITH THE LICENSEE HAVING THE OPTION TO DEPOSIT OR COLLECT THE CHECK; TO INCREASE THE MAXIMUM FACE AMOUNT OF A DELAYED DEPOSIT CHECK TO $500.00 AND INCREASE THE MAXIMUM AMOUNT THAT A CUSTOMER MAY HAVE OUTSTANDING AT ANY TIME TO $500.00; TO REVISE THE MAXIMUM FEE FOR CASHING A DELAYED DEPOSIT CHECK FROM A PERCENTAGE OF THE FACE VALUE OF THE CHECK TO A STATED DOLLAR AMOUNT PER $100.00 ADVANCED; TO PROVIDE THAT THE MAXIMUM FEE FOR CASHING A DELAYED DEPOSIT CHECK OF NOT MORE THAN $250.00 SHALL BE $20.00 PER $100.00 ADVANCED, AND THE MAXIMUM FEE FOR CASHING A DELAYED DEPOSIT CHECK OF MORE THAN $250.00 BUT NOT MORE THAN $500.00 SHALL BE $21.95 PER $100.00 ADVANCED; TO REQUIRE LICENSEES TO PROVIDE THE CUSTOMER A PAMPHLET PREPARED BY THE COMMISSIONER OF BANKING THAT DESCRIBES GENERAL INFORMATION ABOUT THE TRANSACTION AND ABOUT THE CUSTOMER'S RIGHTS AND RESPONSIBILITIES IN THE TRANSACTION AND INCLUDES THE CONSUMER HOTLINE PHONE NUMBER TO THE MISSISSIPPI DEPARTMENT OF BANKING AND CONSUMER FINANCE AND TO THE MISSISSIPPI ATTORNEY GENERAL'S OFFICE, BEFORE ENTERING INTO A DELAYED DEPOSIT TRANSACTION; TO AMEND SECTION 75-67-539, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE REPEALER ON THE CHECK CASHERS ACT; AND FOR RELATED PURPOSES.

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

**SECTION 1.** Section 75-67-501, Mississippi Code of 1972, is reenacted as follows:

75-67-501. This article shall be known and may be cited as the "Mississippi Check Cashers Act."

**SECTION 2.** Section 75-67-503, Mississippi Code of 1972, is reenacted as follows:

75-67-503. The following words and phrases used in this article shall have the following meanings unless the context clearly indicates otherwise:

(a) "Appropriate law enforcement agency" means the sheriff of each county in which the licensee maintains an office, or the police chief of the municipality in which the licensee maintains an office, or law enforcement officers of the Department of Public Safety.

(b) "Attorney General" means the Attorney General of the State of Mississippi.

(c) "Check" means any check, draft, money order, personal money order, pre-authorized customer draft, or other instrument for the transmission or payment of money as determined by the Commissioner of Banking and Consumer Finance, but shall not include travelers checks or foreign drawn payment instruments.

(d) A "check casher" means any individual, partnership, association, joint-stock association, trust or corporation, excluding the United States government and the government of this state, who exchanges cash or other value for any check, draft, money order, personal money order, or other instrument for the transmission or payment of money, except travelers checks and foreign drawn payment instruments, and who charges a fee therefor.

(e) "Commissioner" means the Mississippi Commissioner of Banking and Consumer Finance, or his designee, as the designated official for the purpose of enforcing this article.

(f) "Department" means the Department of Banking and Consumer Finance.

(g) "Licensee" means any individual, partnership, association or corporation duly licensed by the Department of Banking and Consumer Finance to engage in the business of cashing checks under this article.

(h) "Person" means an individual, partnership, corporation, joint venture, trust, association or any legal entity however organized.

(i) "Personal money order" means any instrument for the transmission or payment of money in relation to which the purchaser or remitter appoints or purports to appoint the seller thereof as his agent for the receipt, transmission or handling of money, whether such instrument is signed by the seller or by the purchaser or remitter or some other person.

**SECTION 3.** Section 75-67-505, Mississippi Code of 1972, is reenacted and amended as follows:

75-67-505. (1) (a) A person may not engage in business as a check casher or otherwise portray himself as a check casher unless the person has a valid license authorizing engagement in the business. Any transaction that would be subject to this article that is made by a person who does not have a valid license under this article shall be null and void. A separate license is required for each place of business under this article and each business must be independent of, and not a part of, any other business operation. A check cashing business shall not be a part of, or located at the same business address with, a pawnshop, title pledge office and small loan company.

(b) A check cashing business shall (i) have a definitive United States Postal address and E911 address; (ii) comply with local zoning requirements; (iii) have a minimum of one hundred (100) square feet with walls from floor to ceiling separating the operation from any other businesses; (iv) have an outside entrance, but may be located in an area that has a common lobby shared by other businesses as long as the customers do not enter the check cashing business through another business; (v) have proper signage; and (vi) maintain separate books and records. Any licensee who does not cash any delayed deposit checks as authorized under Section 75-67-519 shall not be subject to the

requirements of subparagraphs (i), (iii) and (iv) of this paragraph.

(c) A licensed check casher may sell, at the same location as his check cashing business, the following items and services: money orders; income tax preparation service; copy service; wire transfer service; notary service; pagers; pager service; prepaid cellular service; debit card; prepaid telephone cards; prepaid telephone service; and operate a processing center where utility bills, credit card payments and other payments are collected from the general public and governmental and private payments are distributed. In the event a licensee accepts wire transfers in the form of a direct deposit of a payroll check or other similar types of deposit, the licensee shall not encumber any transferred funds against a deferred deposit agreement or any delinquent deferred deposit agreement with such customer. The commissioner may authorize additional functions in addition to those provided in this subsection that may be performed as part of a check cashing business.

(d) The commissioner may issue more than one (1) license to a person if that person complies with this article for each license. A new license is required upon a change, directly or beneficially, in the ownership of any licensed check casher business and an application shall be made to the commissioner in accordance with this article.

(2) When a licensee wishes to move a check casher business to another location, the licensee shall give thirty (30) days' prior written notice to the commissioner who shall amend the license accordingly.

(3) Each license shall remain in full force and effect until relinquished, suspended, revoked or expired. With each initial application for a license, the applicant shall pay the commissioner at the time of making the application a license fee of Seven Hundred Fifty Dollars ($750.00), and on or before

September 1 of each year thereafter, an annual renewal fee of Four Hundred Seventy-five Dollars ($475.00). If the annual renewal fee remains unpaid twenty-nine (29) days after September 1, the license shall thereupon expire, but not before the thirtieth day of September of any year for which the annual fee has been paid. If any licensee fails to pay the annual renewal fee before the thirtieth day of September of any year for which the renewal fee is due, then the licensee shall be liable for the full amount of the license fee, plus a penalty in an amount not to exceed Twenty-five Dollars ($25.00) for each day that the licensee has engaged in business after September 30. All licensing fees and penalties shall be paid into the Consumer Finance Fund of the Department of Banking and Consumer Finance.

(4) Notwithstanding other provisions of this article, the commissioner may issue a temporary license authorizing the operator of a check casher business on the receipt of an application for a license involving principals and owners that are substantially identical to those of an existing licensed check casher. The temporary license is effective until the permanent license is issued or denied.

**SECTION 4.** Section 75-67-507, Mississippi Code of 1972, is reenacted as follows:

75-67-507. The provisions of this article shall not apply to:

(a) Any bank, trust company, savings association, savings and loan association, savings bank or credit union which is chartered under the laws of this state or under federal law and domiciled in this state.

(b) Any person who cashes checks at their face value and does not charge the consumer a fee or otherwise receive any consideration from the consumer.

(c) Any person principally engaged in the retail sale of goods or services who, either as an incident to or

independently of a retail sale, may from time to time cash checks for a fee, not exceeding three percent (3%) of the face amount of the check or Ten Dollars ($10.00), whichever is greater. However, the fee shall be conspicuously posted for public view.

**SECTION 5.** Section 75-67-509, Mississippi Code of 1972, is reenacted as follows:

75-67-509. To be eligible for a check casher license, an applicant shall:

(a) Operate lawfully and fairly within the purposes of this article.

(b) Not have been convicted of a felony in the last ten (10) years or be active as a beneficial owner for someone who has been convicted of a felony in the last ten (10) years.

(c) File with the commissioner a bond with good security in the penal sum of Ten Thousand Dollars ($10,000.00), payable to the State of Mississippi for the faithful performance by the licensee of the duties and obligations pertaining to the business so licensed and the prompt payment of any judgment which may be recovered against the licensee on account of charges or other claims arising directly or collectively from any violation of the provisions of this article. The bond shall not be valid until it is approved by the commissioner. The applicant may file, in lieu of the bond, cash, a certificate of deposit or government bonds in the amount of Ten Thousand Dollars ($10,000.00). Those deposits shall be filed with the commissioner and are subject to the same terms and conditions as are provided for in the surety bond required in this paragraph. Any interest or earnings on those deposits are payable to the depositor.

(d) File with the commissioner an application for a license and the initial license fee required in this article. If applicant's application is approved, a check casher license will be issued within thirty (30) days.

(e) Submit a set of fingerprints from any local law enforcement agency. In order to determine the applicant's suitability for license, the commissioner shall forward the fingerprints to the Department of Public Safety; and if no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety to the FBI for a national criminal history record check.

(f) Complete and file with the commissioner an annual renewal application for a license accompanied by the renewal fee required in this article.

**SECTION 6.** Section 75-67-511, Mississippi Code of 1972, is reenacted as follows:

75-67-511. Each application for a license shall be in a form prescribed by the commissioner, signed under oath, and shall include the following:

(a) The legal name, residence and business address of the applicant and, if the applicant is a partnership, association or corporation, of every member, officer and director thereof.

However, the application need not state the full name and address of each shareholder, if the applicant is owned directly or beneficially by a person which as an issuer has a class of securities registered under Section 12 of the Securities and Exchange Act of 1934 or is an issuer of securities which is required to file reports with the Securities and Exchange Commission under Section 15(d) of the Securities and Exchange Act, provided that the person files with the commissioner such information, documents and reports as are required by the provisions of the Securities and Exchange Act to be filed by the issuer with the Securities and Exchange Commission.

(b) The complete address of the location at which the applicant proposes to engage in the business of cashing checks.

(c) Other data and information the department may require with respect to the applicant, its directors, trustees, officers, members or agents.

(d) Sworn financial statements of the applicant showing a net worth of at least Twenty Thousand Dollars ($20,000.00) for the first license. The applicant shall possess and maintain a net worth of at least Twenty Thousand Dollars ($20,000.00) for the first license and at least Five Thousand Dollars ($5,000.00) for each additional license.

**SECTION 7.** Section 75-67-513, Mississippi Code of 1972, is reenacted as follows:

75-67-513. (1) Upon filing of an application in a form prescribed by the commissioner, accompanied by the documents required in this article, the department shall investigate to ascertain whether the qualifications prescribed by Sections 75-67-509 and 75-67-511 have been satisfied. If the commissioner finds that the qualifications have been satisfied and, if he approves the documents so filed by the applicant, he shall issue to the applicant a license to engage in the business of check cashing in this state.

(2) The license shall be kept conspicuously posted in the place of business of the licensee.

**SECTION 8.** Section 75-67-515, Mississippi Code of 1972, is reenacted as follows:

75-67-515. (1) The department may adopt reasonable administrative regulations, not inconsistent with law, for the enforcement of this article.

(2) To assure compliance with the provisions of this article, the department may examine the books and records of any licensee without notice during normal business hours. The commissioner may charge the licensee an examination fee in an amount not less than Three Hundred Dollars ($300.00) nor more than Six Hundred Dollars ($600.00) for each office or location within

the State of Mississippi plus any actual expenses incurred while examining the licensee's records or books that are located outside the State of Mississippi. However, in no event shall a licensee be examined more than once in a two-year period unless for cause shown based upon consumer complaint and/or other exigent reasons as determined by the commissioner.

(3) Each licensee shall keep and use in its business any books, accounts and records the department may require to carry into effect the provisions of this article and the administrative regulations issued under this article. Every licensee shall preserve the books, accounts and records of its business for at least two (2) years.

(4) Any fee charged by a licensee for cashing a check shall be posted conspicuously to the bearer of the check before cashing the check, and the fee shall be a service fee and not interest.

(5) Before a licensee deposits with any bank or other depository institution a check cashed by the licensee, the check shall be endorsed with the actual name under which the licensee is doing business.

(6) All personal checks cashed for a customer by a licensee shall be dated on the actual date the cash is tendered to the customer.

(7) No licensee shall cash a check payable to a payee unless the licensee has previously obtained appropriate identification of the payee clearly indicating the authority of the person cashing the check, draft or money order on behalf of the payee.

(8) No licensee shall indicate through advertising, signs, billboards or otherwise that checks may be cashed without identification of the bearer of the check; and any person seeking to cash a check shall be required to submit reasonable identification as prescribed by the department. The provisions of this subsection shall not prohibit a licensee from cashing a check simultaneously with the verification and establishment of the

identity of the presenter by means other than presentation of identification.

(9) Within five (5) business days after being advised by the payor financial institution that a check has been altered, forged, stolen, obtained through fraudulent or illegal means, negotiated without proper legal authority or represents the proceeds of illegal activity, the licensee shall notify the department and the district attorney for the judicial district in which the check was received. If a check is returned to the licensee by the payor financial institution for any of these reasons, the licensee may not release the check without consent of the district attorney or other investigating law enforcement authority.

(10) If a check is returned to a licensee from a payor financial institution because there are insufficient funds in or on deposit with the financial institution to pay the check, the licensee or any other person on behalf of the licensee shall not institute or initiate any criminal prosecution against the maker or drawer of the personal check with the intent and purpose of aiding in the collection of or enforcing the payment of the amount owed to the check casher by the maker or drawer of the check.

(11) Nothing in this article shall prohibit a licensee from issuing coupons to customers or potential customers which are redeemable against a deferred deposit transaction provided the redemption results in a financial benefit to the customer on current or future transactions.

**SECTION 9.** Section 75-67-516, Mississippi Code of 1972, is reenacted as follows:

75-67-516. A licensee shall not advertise, display or publish, or permit to be advertised, displayed or published, in any manner whatsoever, any statement or representation that is false, misleading or deceptive.

**SECTION 10.** Section 75-67-517, Mississippi Code of 1972, is reenacted as follows:

75-67-517. Notwithstanding any other provision of law, no check cashing business licensed under this article shall directly or indirectly charge or collect fees for check cashing services in excess of the following:

(a) Three percent (3%) of the face amount of the check or Five Dollars ($5.00), whichever is greater, for checks issued by the federal government, state government, or any agency of the state or agency of the state or federal government, or any county or municipality of this state.

(b) Ten percent (10%) of the face amount of the check or Five Dollars ($5.00), whichever is greater, for personal checks.

(c) Five percent (5%) of the face amount of the check or Five Dollars ($5.00), whichever is greater, for all other checks, or for money orders.

A licensee may not advance monies on the security of any personal check unless the presenter attests that the check being presented is drawn on a legitimate, open and active account. Except as provided by Section 75-67-519, any licensee who cashes a check for a fee shall deposit the check not later than three (3) business days from the date the check is cashed.

**SECTION 11.** Section 75-67-519, Mississippi Code of 1972, is amended as follows:

**[Through December 31, 2011, this section shall read as follows:]**

75-67-519. (1) A licensee may defer the deposit of a personal check cashed for a customer for up to thirty (30) days under the provisions of this section.

(2) The face amount of any delayed deposit check cashed under the provisions of this section shall not exceed Four Hundred Dollars ($400.00). Each customer is limited to a maximum amount of Four Hundred Dollars ($400.00) at any time.

(3) Each delayed deposit check cashed by a licensee shall be documented by a written agreement that has been signed by the customer and the licensee. The written agreement shall contain a statement of the total amount of any fees charged, expressed as a dollar amount and as an annual percentage rate. The written agreement shall authorize the licensee to defer deposit of the personal check until a specific date not later than thirty (30) days from the date the check is cashed.

(4) A licensee shall not directly or indirectly charge any fee or other consideration for cashing a delayed deposit check in excess of eighteen percent (18%) of the face amount of the check.

(5) No check cashed under the provisions of this section shall be repaid by the proceeds of another check cashed by the same licensee or any affiliate of the licensee. A licensee shall not renew or otherwise extend any delayed deposit check.

(6) A licensee shall not offer discount catalog sales or other similar inducements as part of a delayed deposit transaction.

(7) A licensee shall not charge a late fee or collection fee on any deferred deposit transaction as a result of a returned check or the default by the customer in timely payment to the licensee. Notwithstanding anything to the contrary contained in this section, a licensee may charge a processing fee, not to exceed an amount authorized by the commissioner, for a check returned for any reason, including, without limitation, insufficient funds, closed account or stop payment, if such processing fee is authorized in the written agreement signed by the customer and licensee. In addition, if a licensee takes legal action against a customer to collect the amount of a delayed deposit check for which the licensee has not obtained payment and obtains a judgment against the customer for the amount of that check, the licensee shall also be entitled to any court-awarded fees.

(8) When cashing a delayed deposit check, a licensee may pay the customer in the form of the licensee's business check or a money order; however, no additional fee may then be charged by the licensee for cashing the licensee's business check or money order issued to the customer.

(9) Before entering any transactions under this section, a licensee shall provide to the customer a pamphlet prepared by the commissioner that describes general information about the transaction and about the customer's rights and responsibilities in the transaction, and that includes the consumer hotline phone number to the Mississippi Department of Banking and Consumer Finance and to the Mississippi Attorney General's office. Each agreement executed by a licensee shall include the following statement, which shall be located just above the signature line for the customer:

"In addition to agreeing to the terms of this agreement, I acknowledge, by my signature below, the receipt of a consumer education pamphlet regarding this transaction."

**[From and after January 1, 2012, this section shall read as follows:]**

75-67-519. (1) (a) A licensee may delay the deposit of a personal check cashed for a customer with a face amount of not more than Two Hundred Fifty Dollars ($250.00) for up to thirty (30) days under the provisions of this section.

(b) A licensee shall enter into a written agreement for a delayed deposit transaction of a personal check cashed for a customer with a face amount of more than Two Hundred Fifty Dollars ($250.00) but not more than Five Hundred Dollars ($500.00) for a period of at least twenty-eight (28) days but not more than thirty (30) days, as selected by the customer, under the provisions of this section, with the licensee having the option to deposit or collect the check.

(2) The face amount of * * * delayed deposit checks cashed under the provisions of this section shall not exceed Five Hundred Dollars ($500.00), including the amount of the fees. Each customer is limited to a maximum amount of Five Hundred Dollars ($500.00), including the amount of the fees, at any time.

(3) Each delayed deposit check cashed by a licensee shall be documented by a written agreement that has been signed by the customer and the licensee. The written agreement shall contain a statement of the total amount of any fees charged, expressed as a dollar amount and as an annual percentage rate. The written agreement shall authorize the licensee to delay deposit of the personal check with a face amount of not more than Two Hundred Fifty Dollars ($250.00) until a specific date not later than thirty (30) days from the date of the transaction, and shall authorize the licensee to delay deposit or collection of the personal check with a face amount of more than Two Hundred Fifty Dollars ($250.00) but not more than Five Hundred Dollars ($500.00) in accordance with the written agreement.

(4) (a) A licensee shall not directly or indirectly charge any fee or other consideration in excess of Twenty Dollars ($20.00) per One Hundred Dollars ($100.00) advanced for cashing a delayed deposit check with a face amount of not more than Two Hundred Fifty Dollars ($250.00).

(b) A licensee shall not directly or indirectly charge any fee or other consideration in excess of Twenty-one Dollars and Ninety-five Cents ($21.95) per One Hundred Dollars ($100.00) advanced for cashing a delayed deposit check with a face amount of more than Two Hundred Fifty Dollars ($250.00) but not more than Five Hundred Dollars ($500.00).

(c) In no event shall the amount of the checks cashed exceed Five Hundred Dollars ($500.00), including the amount of the fee.

(5) No check cashed under the provisions of this section shall be repaid by the proceeds of another check cashed by the same licensee or any affiliate of the licensee. A licensee shall not renew or otherwise extend any delayed deposit check.

(6) A licensee shall not offer discount catalog sales or other similar inducements as part of a delayed deposit transaction.

(7) A licensee shall not charge a late fee or collection fee on any deferred deposit transaction as a result of a returned check or the default by the customer in timely payment to the licensee. Notwithstanding anything to the contrary contained in this section, a licensee may charge a processing fee, not to exceed an amount authorized by the commissioner, for a check returned for any reason, including, without limitation, insufficient funds, closed account or stop payment, if such processing fee is authorized in the written agreement signed by the customer and licensee. In addition, if a licensee takes legal action against a customer to collect the amount of a delayed deposit check for which the licensee has not obtained payment and obtains a judgment against the customer for the amount of that check, the licensee shall also be entitled to any court-awarded fees.

(8) When cashing a delayed deposit check, a licensee may pay the customer in the form of the licensee's business check or a money order; however, no additional fee may then be charged by the licensee for cashing the licensee's business check or money order issued to the customer.

(9) Before entering any transactions under this section, a licensee shall provide to the customer a pamphlet prepared by the commissioner that describes general information about the transaction and about the customer's rights and responsibilities in the transaction, and that includes the consumer hotline phone number to the Mississippi Department of Banking and Consumer

Finance and to the Mississippi Attorney General's office. Each agreement executed by a licensee shall include the following statement, which shall be located just above the signature line for the customer:

"In addition to agreeing to the terms of this agreement, I acknowledge, by my signature below, the receipt of a consumer education pamphlet regarding this transaction."

**SECTION 12.** Section 75-67-521, Mississippi Code of 1972, is reenacted as follows:

75-67-521. (1) The commissioner may, after notice and hearing, suspend or revoke a license if he finds that:

(a) The licensee, either knowingly, or without the exercise of due care to prevent the same, has violated any provision of this article;

(b) Any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for the license, clearly would have justified the commissioner in refusing the license;

(c) The licensee has aided, abetted or conspired with an individual or person to circumvent or violate the requirement of this article;

(d) The licensee, or a legal or beneficial owner of the license, has been convicted of a felony, or has been convicted of a misdemeanor that the commissioner finds directly relates to the duties and responsibilities of the business of check cashing.

(2) The commissioner may conditionally license or place on probation a person whose license has been suspended or may reprimand a licensee for a violation of this article.

(3) The manner of giving notice and conducting a hearing as required by subsection (1) of this section shall be performed in accordance with procedures prescribed by the commissioner in rules or regulations adopted under Mississippi Administrative Procedures Law, Section 25-43-1 et seq.

(4) Any licensee may surrender any license by delivering it to the commissioner with written notice of its surrender, but that surrender shall not affect the licensee's civil or criminal liability for acts committed prior thereto.

(5) The commissioner may reinstate suspended licenses or issue new licenses to a person whose license or licenses have been revoked if no fact or condition then exists which clearly would have justified the commissioner in refusing originally to issue a license under this article.

(6) The appropriate local law enforcement agency shall be notified of any licensee who has his license suspended or revoked as provided by this article.

(7) The commissioner shall enforce the provisions of this section.

**SECTION 13.** Section 75-67-523, Mississippi Code of 1972, is reenacted as follows:

75-67-523. The commissioner, or his duly authorized representative, for the purpose of discovering violations of this article and for the purpose of determining whether persons are subject to the provisions of this article, may examine persons licensed under this article and persons reasonably suspected by the commissioner of conducting business which requires a license under this article, including all relevant books, records and papers employed by those persons in the transaction of their business, and may summon witnesses and examine them under oath concerning matters relating to the business of those persons, or such other matters as may be relevant to the discovery of violations of this article, including without limiting the conduct of business without a license as required under this article.

**SECTION 14.** Section 75-67-525, Mississippi Code of 1972, is reenacted as follows:

75-67-525. (1) Any person who engages in the business of check cashing without first securing a license prescribed by this

article shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine not in excess of One Thousand Dollars ($1,000.00) or by confinement in the county jail for not more than one (1) year, or both.

(2) Any person who engages in the business of check cashing without first securing a license prescribed by this article shall be liable for the full amount of the license fee, plus a penalty in an amount not to exceed Twenty-five Dollars ($25.00) for each day that the person has engaged in the business without a license. All licensing fees and penalties shall be paid into the Consumer Finance Fund of the Department of Banking and Consumer Finance.

**SECTION 15.** Section 75-67-527, Mississippi Code of 1972, is reenacted as follows:

75-67-527. (1) In addition to any other penalty which may be applicable, any licensee or employee who willfully violates any provision of this article, or who willfully makes a false entry in any record specifically required by this article, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine not in excess of One Thousand Dollars ($1,000.00) per violation or false entry.

(2) Compliance with the criminal provisions of this article shall be enforced by the appropriate law enforcement agency, which may exercise for that purpose any authority conferred upon the agency by law.

(3) When the commissioner has reasonable cause to believe that a person is violating any provision of this article, the commissioner, in addition to and without prejudice to the authority provided elsewhere in this article, may enter an order requiring the person to stop or to refrain from the violation. The commissioner may sue in any circuit court of the state having jurisdiction and venue to enjoin the person from engaging in or continuing the violation or from doing any act in furtherance of

the violation. In such an action, the court may enter an order or judgment awarding a preliminary or permanent injunction.

(4) The commissioner may impose a civil penalty against any licensee adjudged by the commissioner to be in violation of the provisions of this article. The civil penalty shall not exceed Five Hundred Dollars ($500.00) per violation and shall be deposited into the Department of Banking and Consumer Finance, "Consumer Finance Fund."

(5) Any licensee convicted in the manner provided in this article shall forfeit the surety bond or deposit required in Section 75-67-509(c) and the amount of the bond or deposit shall be credited to the budget of the state or local agency which directly participated in the prosecution of the licensee, for the specific purpose of increasing law enforcement resources for that specific state or local agency. The bond or deposit shall be used to augment existing state and local law enforcement budgets and not to supplant them.

**SECTION 16.** Section 75-67-529, Mississippi Code of 1972, is reenacted as follows:

75-67-529. The provisions of this article are severable. If any part of this article is declared invalid or unconstitutional, that declaration shall not affect the parts which remain.

**SECTION 17.** Section 75-67-531, Mississippi Code of 1972, is reenacted as follows:

75-67-531. Check cashers operating check cashing locations in business as of July 1, 1998, shall have until September 30, 1998, to apply for a license under this article, and upon the approval of the application, the commissioner shall grant a license under this article.

**SECTION 18.** Section 75-67-533, Mississippi Code of 1972, is reenacted as follows:

75-67-533. The commissioner shall develop and provide any necessary forms to carry out the provisions of this article.

**SECTION 19.** Section 75-67-535, Mississippi Code of 1972, is reenacted as follows:

75-67-535. Municipalities in this state may enact ordinances which are in compliance with, but not more restrictive than, the provisions of this article. Any existing or future order, ordinance or regulation which conflicts with this provision shall be null and void.

**SECTION 20.** Section 75-67-537, Mississippi Code of 1972, is reenacted as follows:

75-67-537. The commissioner may employ the necessary full-time employees above the number of permanent full-time employees authorized for the department for fiscal year 1999, to carry out and enforce the provisions of this article. The commissioner may also expend the necessary funds to equip and provide necessary travel expenses for those employees.

**SECTION 21.** Section 75-67-539, Mississippi Code of 1972, is amended as follows:

75-67-539. Sections 75-67-501 through 75-67-537 shall stand repealed on July 1, 2015.

**SECTION 22.** This act shall take effect and be in force from and after its passage.

PASSED BY THE HOUSE OF REPRESENTATIVES
February 14, 2011

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
February 16, 2011

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

GOVERNOR

2/24/11 9:56 am