MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Evans (91st)

To: Banking and Financial Services

HOUSE BILL NO. 901

AN ACT TO AMEND SECTIONS 75-67-313 AND 75-67-413, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE MAXIMUM AMOUNT THAT PAWNBROKERS AND TITLE PLEDGE LENDERS MAY CHARGE FOR THEIR SERVICES SHALL NOT EXCEED AN ANNUAL PERCENTAGE RATE OF 25% PER ANNUM ON THE AMOUNT OF THE PRINCIPAL AMOUNT ADVANCED IN THE TRANSACTION THAT REMAINS UNPAID; TO AMEND SECTION 75-67-519, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE MAXIMUM AMOUNT THAT CHECK CASHERS MAY CHARGE FOR CASHING A DELAYED DEPOSIT CHECK SHALL NOT EXCEED AN ANNUAL PERCENTAGE RATE OF 25% ON THE FACE AMOUNT OF THE CHECK; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 75-67-313, Mississippi Code of 1972, is amended as follows:

75-67-313. (1) A pawnbroker may contract for and receive a pawnshop charge *** * *** for all services, expenses, cost and losses of every nature not to exceed an annual percentage rate of twenty-five percent (25%) per annum on the amount of the principal amount *** * *** advanced in the pawn transaction that remains unpaid.

(2) Any interest, charge, or fees contracted for or received, directly or indirectly, in excess of the amount permitted under subsection (1) of this section shall be uncollectible and the pawn transaction shall be void. *** * ***

SECTION 2. Section 75-67-413, Mississippi Code of 1972, is amended as follows:

75-67-413. (1) A title pledge lender may contract for and receive a title pledge service charge *** * *** for all services, expenses, cost and losses of every nature not to exceed an annual percentage rate of twenty-five percent (25%) per annum on the amount of the principal amount *** * *** advanced in the title pledge transaction that remains unpaid.

(2) Any interest, charge or fees contracted for or received, directly or indirectly, in excess of the amount permitted under subsection (1) of this section shall be uncollectible and the title pledge transaction shall be void. *** * ***

(3) By agreement of the parties, the maturity date of the title pledge transaction may be extended or continued for thirty-day periods, provided that the service charges as specified in subsection (1) are not exceeded for any extensions. All extensions or continuations of the title pledge transaction shall be evidenced in writing. No accrued interest or service charge shall be capitalized or added to the original principal of the title pledge transaction during any extension or continuation. Beginning with the first extension or continuation and at each successive extension or continuation thereafter, the pledgor shall be required to reduce the principal amount financed by at least ten percent (10%) of the original principal amount of the title pledge transaction. Notwithstanding any provision in this article

to the contrary, if the pledgor fails to pay at least ten percent (10%) of the original principal amount at any such extension or continuation, the title pledge lender may, at its option, either (a) declare the outstanding principal and any service charges to be immediately due and payable, or (b) allow the transaction to be extended or continued, provided that the title pledge lender shall reduce the principal amount of the loan by ten percent (10%) of the original principal amount solely for the purposes of calculating its service charge. This reduction in principal shall continue to be owing by the pledgor in accordance with the title pledge transaction, but that amount shall not be entitled to accrue interest or service charges thereafter.

(4) Any additional payment of funds on the same pledged property must be evidenced by a separate title pledge agreement. A title pledge lender shall not advance funds to a pledgor to pay off an existing title pledge agreement.

SECTION 3. Section 75-67-519, Mississippi Code of 1972, is amended 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 licensee shall not directly or indirectly charge any fee or other consideration in excess of *** * *** an annual

percentage rate of twenty-five percent (25%) on the face amount of the check.

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*** * *** 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 4. This act shall take effect and be in force from and after July 1, 2021.

ST: Pawnbrokers, title pledge lenders and check cashers; reduce maximum rate of interest that they may charge for their services.