

TITLE 75. REGULATION OF TRADE, COMMERCE AND INVESTMENTS  
CHAPTER 67. LOANS  
ARTICLE 5. SMALL LOAN PRIVILEGE TAX LAW

Miss. Code Ann. § 75-67-201 (2011)

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**§ 75-67-201. Title of article**

This article shall be known as and referred to as "The Small Loan Privilege Tax Law" of this state.

**HISTORY:** SOURCES: Codes, 1942, § 5591-31; Laws, 1958, ch. 168, § 1, eff from and after July 1, 1958.

**§ 75-67-203. Definitions**

The following words and phrases, when used in this article, shall, for the purposes of this article have the meanings respectively ascribed to them in this section, except where the context clearly describes and indicates a different meaning:

(a) The word "person" shall mean and include every natural person, firm, corporation, copartnership, joint stock or other association or organization, and any other legal entity whatsoever;

(b) The term "licensee" shall mean and include every person, except those specifically exempt by the provisions of this article, who, in addition to any other right and powers he or it might otherwise possess, shall engage in the business of lending money, either directly or indirectly, to be paid back in monthly installments, or other regular installments for periods of more or less than one (1) month, and whether or not the lender requires security from the borrower as indemnity for the repayment of the loan;

(c) The word "commissioner" shall mean the Commissioner of Banking and Consumer Finance of the State of Mississippi;

(d) The word "department" shall mean the Department of Banking and Consumer Finance of the State of Mississippi;

(e) "Records" or "documents" means any item in hard copy or produced in a format of storage commonly described as electronic, imaged, magnetic, microphotographic or otherwise, and any reproduction so made shall have the same force and effect as the original thereof and be admitted in evidence equally with the original.

**HISTORY:** SOURCES: Codes, 1942, § 5591-32; Laws, 1958, ch. 168, § 2; Laws, 1996, ch. 423, § 6; Laws, 2000, ch. 621, § 15, eff from and after passage (approved May 23, 2000.)

#### **§ 75-67-205. License required**

No person shall engage in the business of lending money except as authorized by this article and by the Small Loan Regulatory Law (Section 75-67-101 et seq.), and without being the holder of a valid and subsisting license to engage in such business as provided herein, furnishing the requisite bond as required hereby, and paying the privilege license tax imposed hereby. Every person engaged in the business of lending money as authorized by this article shall have a physical office located in the State of Mississippi. A separate license is required for each office doing business in the State of Mississippi. Any person who shall violate the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$ 1,000.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment in the discretion of the court.

**HISTORY:** SOURCES: Codes, 1942, § 5591-33; Laws, 1958, ch. 168, § 3; Laws, 1996, ch. 423, § 7, eff from and after July 1, 1996.

#### **§ 75-67-207. Responsibilities for administration of Article 5**

The provisions of this article shall be enforced and administered by the state comptroller of banks and his duly authorized agents, representatives and employees.

**HISTORY:** SOURCES: Codes, 1942, § 5591-34; Laws, 1958, ch. 168, § 4, eff from and after July 1, 1958.

#### **§ 75-67-209. Application for license or renewal license**

If any person shall desire to engage in the business of lending money in the State of Mississippi, as defined herein, such person shall make a written request to the commissioner for the necessary

license application form. The commissioner shall mail or deliver the license application form to the person making the request within ten (10) days after receipt of the request by the commissioner. Such person shall make application in writing to the commissioner for a license therefor prior to engaging in such business, which license application shall be made on the forms prepared and provided by the commissioner and which shall give, in addition to such other information as the commissioner may require, the following:

- (a) The full name and address of the applicant;
- (b) The municipality, county and street address where the business is to be operated;
- (c) Whether or not the applicant is an individual, partnership or corporation;
- (d) In the case of an individual, both the business and residence address of the applicant;
- (e) In the case of a partnership, the names and business and residence addresses of all partners; and
- (f) In the case of a corporation, the domicile thereof and the names and business and residence addresses of each officer and director thereof.

All such applications shall be sworn to by the applicant, or a member of the firm in the case of a partnership, or a duly authorized officer in the case of a corporation, and there shall be presented and filed therewith an affidavit, executed before a notary public or other officer authorized to administer oaths, to the effect that the applicant will conduct his or its business in conformity to and will abide by the provisions of this article, all regulations promulgated hereunder and all other applicable statutes of the State of Mississippi.

For a renewal license, the licensee shall furnish on forms provided by the commissioner information that the business is to be continued for one (1) year; such continuation form shall be signed by the applicant, a member of the firm in the case of a partnership, or a duly authorized officer in the case of a corporation, and shall give such information as the commissioner shall require.

**HISTORY:** SOURCES: Codes, 1942, § 5591-35; Laws, 1958, ch. 168, § 5; Laws, 1991, ch. 567, § 1; Laws, 1996, ch. 423, § 8, eff from and after July 1, 1996.

#### **§ 75-67-211. Bond required**

There shall be presented and filed with such application a good and sufficient bond in the principal amount of one thousand dollars (\$ 1,000.00) written by some surety company authorized to do business in the State of Mississippi, which shall be subject to the approval of the comptroller. Said bond shall be payable to the State of Mississippi and shall be conditioned that the applicant will well and truly operate its business in conformity to and will abide by the laws of this state regulating the handling of loans or lending money, and all regulations promulgated by the department, and all other applicable statutes of the State of Mississippi, and will pay and discharge any and all indebtedness for which such applicant may become liable under the provisions of this article and any other applicable statutes of the State of Mississippi, to the State of Mississippi, or to any county, municipality or other political subdivision thereof, or any person, firm, or corporation whatsoever. Suits may be brought on said bond and against the surety thereon by any person having a right of

action against same in the name of the State of Mississippi for the use and benefit of the person having such right of action.

**HISTORY:** SOURCES: Codes, 1942, § 5591-36; Laws, 1958, ch. 168, § 6, eff from and after July 1, 1958.

### **§ 75-67-213. Annual license fee**

With each initial application for a license under the provisions of this article, the applicant shall pay to the commissioner at the time of making such application a license fee of Seven Hundred Fifty Dollars (\$ 750.00), and for renewal applications, an annual renewal fee of Four Hundred Seventy-five Dollars (\$ 475.00). The licenses issued under the provisions hereof shall be valid for a period of one (1) year from the date of the issuance thereof. Such fee is in addition to any other privilege tax or fee required by law. Within thirty (30) days prior to the expiration of any valid and subsisting license issued hereunder, the holder thereof, if he desires to continue to engage in business in the State of Mississippi, shall file application for a new license in the same manner and under the same conditions herein provided.

**HISTORY:** SOURCES: Codes, 1942, § 5591-37; Laws, 1958, ch. 168, § 7; Laws, 1975, ch. 438; Laws, 1996, ch. 423, § 9; Laws, 2000, ch. 621, § 16, eff from and after passage (approved May 23, 2000.)

### **§ 75-67-215. Penalties**

(1) If any person engages in business as provided for in this article without paying the license fee provided for in this article before commencing business or before the expiration of the person's current license, as the case may be, then the person 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 or after the expiration of a license.

(2) The commissioner may, after notice and hearing as defined in Section 75-67-237 in cases of revocation of license, impose a civil penalty against any licensee if the licensee is adjudged by the commissioner to be in willful 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 Consumer Finance Fund of the Department of Banking and Consumer Finance. Any licensee who has been imposed a civil penalty by the commissioner may, within twenty (20) days after the fine is imposed, appeal to the circuit court of the county where the business is being conducted, as in cases from an order of a lesser tribunal. The trial on appeal shall be de novo.

(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.

**HISTORY:** SOURCES: Codes, 1942, § 5591-38; Laws, 1958, ch. 168, § 8; Laws, 2000, ch. 621, § 17; Laws, 2004, ch. 449, § 2, eff from and after passage (approved Apr. 28, 2004.)

**§ 75-67-217. Procedure when application is filed; issuance or denial of license generally; prohibition against issuance of licenses to banks, trust companies, etc**

When any application is filed for a license under the provisions of this article and the requisite fee is paid and the necessary bond furnished, the commissioner shall make an investigation for the purpose of determining whether or not the financial responsibility, previous experience, character and general fitness of the applicant (including the members thereof if the applicant is a firm, partnership or association, and the officers and directors thereof, if the applicant is a corporation) are such as to merit the respect and confidence of the community in which the business is to be operated and to warrant the belief that the business will be operated honestly, fairly, efficiently and in compliance with the provisions of the applicable laws of this state, and the regulations promulgated by the department. For applications both for original licenses and for renewal licenses, the commissioner shall make a determination either to approve or to disapprove the issuance of the license, and his determination shall be conveyed in writing to the applicant within sixty (60) days after the date the application is received by the commissioner. If such determination shall be in the affirmative, then the commissioner shall thereupon issue to the applicant a license, in such form as the commissioner may deem proper, for the operation of such business at the location stated in the application, which license shall be valid for a period of one (1) year. If the application is denied, the commissioner shall give written notice of the denial to the applicant, together with the reason or reasons for the denial. If the commissioner does not issue the license or give written disapproval of the issuance of the license within the required sixty-day period, the license shall be deemed approved and issued effective the next calendar day. In all cases where the proper application for a renewal license shall be filed, it shall be lawful for the applicant to operate his business while the application is pending before the commissioner and until the license has been issued or the application has been rejected, as provided in this section. No license under the Small Loan Privilege Tax Law shall be granted to a bank, savings bank, trust company, savings and loan association, building and loan association insurance company, credit union or pawnbroker.

**HISTORY:** SOURCES: Codes, 1942, § 5591-39; Laws, 1958, ch. 168, § 9; Laws, 1974, ch. 564, § 5; Laws, 1991, ch. 567, § 2, eff from and after July 1, 1991.

**§ 75-67-219. Return of bond and fees upon denial of application for license**

When any application for a license is denied, the commissioner shall return to the applicant the bond furnished by him and shall also return to the applicant one-half ( 1/2) of the license fee paid by him, the remaining one-half ( 1/2) thereof to be retained by the commissioner, to be disposed of as are all other collections made by the commissioner under the provisions of the Small Loan Regulatory Law (Section 75-67-101 et seq.) of this state.

**HISTORY:** SOURCES: Codes, 1942, § 5591-40; Laws, 1958, ch. 168, § 10; Laws, 1991, ch. 567, § 3, eff from and after July 1, 1991.

**§ 75-67-221. Hearing when license denied**

When any application for a license is denied, the applicant shall have the right to a hearing thereon by and before the comptroller by filing, within thirty (30) days after the date of the receipt of the notification of denial, a written petition with the comptroller requesting such hearing. Upon the filing of any such request, the comptroller shall fix a date for the hearing, which date shall not be later than thirty (30) days from the date of the filing of the request, and notice shall be given to the public of the fact that such hearing will be held by the publication of a notice in some newspaper

published in the county where the business is proposed to be conducted not less than ten (10) days before the date of the hearing, which notice shall specify the date, time, place and purpose of the hearing.

**HISTORY:** SOURCES: Codes, 1942, § 5591-41; Laws, 1958, ch. 168, § 11; Laws, 1985, ch. 309, eff from and after passage (approved March 8, 1985).

#### **§ 75-67-223. Procedure at the hearing**

All such hearings shall be held and conducted in the office of the comptroller, and the applicant and any and all other interested persons may appear and present such evidence as shall be relevant and material and the comptroller may cause the production and presentation of such evidence as he may deem relevant and material. At all such hearings, the applicant shall have the right to be represented by counsel and to examine and cross-examine any and all witnesses that may testify at such hearing. For the purpose of compelling the attendance of witnesses at such hearing, the comptroller shall have the power to issue subpoenas therefor in the same manner as subpoenas are issued in circuit courts. All witnesses who shall testify at any such hearing shall be sworn in the same manner as witnesses are sworn in the circuit courts and shall be subject to penalties for perjury as is otherwise provided under the laws of this state.

**HISTORY:** SOURCES: Codes, 1942, § 5591-42; Laws, 1958, ch. 168, § 12, eff from and after July 1, 1958.

#### **§ 75-67-225. Review of adverse decision**

At all such hearings the comptroller shall cause the evidence presented to be taken down and a record made thereof and he shall make a written finding and decision with reference to the question presented and shall cause same to be included in the record. The original of said record shall be kept as a permanent record by the comptroller and a copy thereof shall be furnished to the applicant. If the application for the license shall be denied by the comptroller as a result of such hearing, the applicant may, within ten (10) days from the date of denial, obtain a review of such denial by a writ of certiorari to the circuit court of the county where said business is proposed to be conducted, as by law in such cases made and provided. The review by said court shall be on the record made before the comptroller and copies of all applications, bonds and other papers and documents of every kind filed with the comptroller in connection with the application, and said hearing shall be included in said record along with the transcript of the evidence.

**HISTORY:** SOURCES: Codes, 1942, § 5591-43; Laws, 1958, ch. 168, § 13, eff from and after July 1, 1958.

#### **§ 75-67-227. Forms of license**

The license shall be in such form as the commissioner may prescribe and, in addition to such other information as the commissioner may deem proper, it shall set forth the name and address of the licensee, and such license shall be kept conspicuously posted in the licensee's place of business. Such licenses shall not be transferable or assignable.

**HISTORY:** SOURCES: Codes, 1942, § 5591-44; Laws, 1958, ch. 168, § 14; Laws, 1985, ch. 344; Laws, 1996, ch. 423, § 10, eff from and after July 1, 1996.

### **§ 75-67-229. Additional licenses and changes of location**

Not more than one (1) place of business shall be operated or maintained under the same license, but the commissioner may issue separate licenses to the same licensee for different and separate places of business upon compliance with all of the provisions of this article governing the issuance of licenses with respect to each separate license. If any licensee shall desire to change his place of business within the same municipality during the period for which the license is valid, he shall make written application therefor to the commissioner who shall issue a new license for the unexpired portion of the year showing the new location of the business. However, nothing herein shall authorize or permit a change in the place of business of a licensee to a location outside of the original municipality.

**HISTORY:** SOURCES: Codes, 1942, § 5591-45; Laws, 1958, ch. 168, § 15; Laws, 2000, ch. 621, § 18, eff from and after passage (approved May 23, 2000.)

### **§ 75-67-231. Preservation of records**

All applications, bonds, records and other papers and documents filed with the commissioner in connection with applications for an issuance of all licenses shall be preserved by the commissioner as a permanent record in his office, and shall be available to the public in accordance with the Mississippi Public Records Act (Section 25-61-1 et seq., Mississippi Code of 1972); however, all files on licensees, as defined in Section 75-67-103, Mississippi Code of 1972, who have ceased business under the Small Loan Regulatory Law (Section 75-67-101 et seq.), Mississippi Code of 1972) and the Small Loan Privilege Tax Law (Section 75-67-201 et seq.), Mississippi Code of 1972) shall be maintained in accordance with retention periods established by the State Records Committee.

**HISTORY:** SOURCES: Codes, 1942, § 5591-46; Laws, 1958, ch. 168, § 16; Laws, 1994, ch. 320, § 7, eff from and after July 1, 1994.

### **§ 75-67-233. Additional bonds; when required**

If the comptroller shall find, at any time, that any bond filed with him by a licensee under the provisions of this article is insecure for any reason, or if same has been exhausted, the comptroller shall require an additional bond in the amount of one thousand dollars (\$ 1,000.00) conditioned as provided by this article. If, after ten (10) days' written notice by the comptroller, any licensee shall fail, neglect or refuse to furnish such additional bond, the license held by such persons shall be forthwith cancelled by the comptroller. Notice of all suits filed against licensee and the surety on his bond shall be given the comptroller at the time of the institution thereof, and notice of the result or outcome of all such suits shall be given the comptroller within ten (10) days after the termination thereof.

**HISTORY:** SOURCES: Codes, 1942, § 5591-47; Laws, 1958, ch. 168, § 17, eff from and after July 1, 1958.

### **§ 75-67-235. Discontinuance of business and surrender of license**

Any person holding a license under the provisions of this article may discontinue his business by giving the comptroller written notice thereof and surrendering his license to the comptroller, but such action shall in nowise relieve the licensee or the surety on his bond from any liability which may have accrued or existed at the time of the surrender of such license nor shall impair or affect the

obligation of any lawful pre-existing contract between the licensee and any other person, firm or corporation.

**HISTORY:** SOURCES: Codes, 1942, § 5591-48; Laws, 1958, ch. 168, § 18, eff from and after July 1, 1958.

#### **§ 75-67-237. Revocation of license; procedure and review by court**

The commissioner may, if he be of the opinion that reasonable grounds exist to believe that a licensee has willfully violated any of the provisions of this article, or the Small Loan Regulatory Law (Section 75-67-101 et seq.), or any regulation of the commissioner made under the authority of either, or any other applicable statute of this state, upon written notice to the licensee distinctly specifying the charges against him, cite the licensee to appear before him to show cause why his license should not be revoked. Such notice shall fix the date, time and place of the hearing, which hearing shall not be held less than ten (10) days from the date of such notice. At such hearing the licensee shall have the right to be heard either in person or by counsel, to produce witnesses in his behalf, and to examine and cross-examine all witnesses who may testify.

If, after the hearing, the commissioner finds that the licensee has been guilty of willfully violating any provision of this article, or the Small Loan Regulatory Law (Section 75-67-101 et seq.), or any regulations made by the commissioner under the authority of either, or any other applicable statute of the State of Mississippi, the commissioner shall forthwith revoke the license involved; otherwise, the proceedings shall be dismissed. At all such hearings, the commissioner shall cause the evidence to be taken down and a record made thereof and he shall make a written finding and decision and shall cause same to be included in the record. The original of the record shall be retained by the commissioner and a copy thereof shall be furnished to the licensee. Any licensee whose license is revoked by the commissioner may, within twenty (20) days after such revocation, appeal to the circuit court of the county where the business is being conducted, as in cases of appeal from an order of a lesser tribunal. The trial on appeal shall be de novo.

Any licensee who is exempt from liability for an act or omission under Section 75-67-245 shall not have his license revoked under this section for the same act or omission.

**HISTORY:** SOURCES: Codes, 1942, § 5591-49; Laws, 1958, ch. 168, § 19; Laws, 1997, ch. 332, § 17, eff from and after passage (approved March 17, 1997).

#### **§ 75-67-239. Disposition of funds collected under Article 5**

All fees, license tax and penalties provided for in this article which are payable to the commissioner shall, when collected, be deposited in a special and separate fund to be known as the "Consumer Finance Fund" and shall be expended by the commissioner solely and exclusively for the purpose of administering and enforcing the provisions of this article and the Small Loan Regulatory Law (Section 75-67-101 et seq.).

**HISTORY:** SOURCES: Codes, 1942, § 5591-50; Laws, 1958, ch. 168, § 20; Laws, 1985, ch. 345, § 4, eff from and after July 1, 1985.

### **§ 75-67-241. Exemptions**

This article shall not apply to any person, firm, partnership, corporation or association doing business under any of the laws of this state relating to banks, savings banks, trust companies, building and loan associations, insurance companies, credit unions or pawnbrokers; nor shall this article apply to any person, firm, partnership, corporation or association concerning loans made to the employees or farm tenants of such person, firm, partnership or corporation or association; nor to loans or advances made to be used in or in the furtherance of farming or agricultural operations; nor to loans insured or guaranteed by the United States or any of its agencies; nor to persons, firms, partnerships, associations or corporations making loans only secured by real estate; nor to dealers and sellers or purchasers of conditional sales or retained title contracts on real or personal property; nor a member of an affiliated group as defined by Section 1504 of the Internal Revenue Code of 1986, as amended, on May 24, 1995, with respect to loans made by one (1) member of the affiliated group to another and who is not otherwise engaged in the business of loaning money secured by tangible personal property; nor an occasional lender not regularly engaged in the business of lending money, but such lender shall be governed by the usury statutes of this state.

**HISTORY:** SOURCES: Codes, 1942, § 5591-51; Laws, 1958, ch. 168, § 21; Laws, 1995, ch. 457, § 2; Laws, 1996, ch. 423, § 11, eff from and after July 1, 1996.

### **§ 75-67-243. Rules and regulations**

The commissioner shall have the power and authority to adopt, promulgate and issue such rules and regulations, not inconsistent with this article, or any other statute of the State of Mississippi, as he shall deem necessary for the purpose of the administration of this article. A copy of every rule and regulation promulgated by the commissioner shall be filed in accordance with the Administrative Procedures Law, Section 25-43-1 et seq.

**HISTORY:** SOURCES: Codes, 1942, § 5591-52; Laws, 1958, ch. 168, § 22; Laws, 1996, ch. 423, § 12, eff from and after July 1, 1996.

### **§ 75-67-244. Commissioner authorized to examine persons suspected of conducting business requiring a license**

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 that 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 limitation the conduct of business without a license as required under this article.

**HISTORY:** SOURCES: Laws, 2000, ch. 621, § 19, eff from and after passage (approved May 23, 2000.)

### **§ 75-67-245. Licensee; freedom from liability**

(1) A licensee under this article shall have no liability for any act or practice done or omitted in conformity with (a) any rule or regulation of the commissioner, or (b) any rule, regulation, interpretation or approval of any other state or federal agency or any opinion of the Attorney General, notwithstanding that after such act or omission has occurred the rule, regulation, interpretation, approval or opinion is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(2) A licensee under this article, acting in conformity with a written interpretation or approval by an official or employee of any state or federal agency or department, shall be presumed to have acted in accordance with applicable law, notwithstanding that after such act has occurred, the interpretation or approval is amended, rescinded, or determined by judicial or other authority to be incorrect or invalid for any reason.

**HISTORY:** SOURCES: Laws, 1997, ch. 332, § 13, eff from and after passage (approved March 17, 1997).

### **§ 75-67-247. Municipal and county ordinances void if overly restrictive**

Municipalities and counties in this state may enact ordinances that are in compliance with, but not more restrictive than, the provisions of this article. Any order, ordinance or regulation existing on April 28, 2004 of Sections 75-67-115, 75-67-215, 75-67-247 and this section, or any order, ordinance or regulation enacted after April 28, 2004, of Sections 75-67-115, 75-67-215, 75-67-247 and this section that conflicts with any of the provisions of this article shall be void to the extent of the conflict.

**HISTORY:** SOURCES: Laws, 2004, ch. 449, § 4, eff from and after passage (approved Apr. 28, 2004.)