SOS APA Form 001

Mississippi Secretary of State

125 South Congress St., P. O. Box 136, Jackson, MS 39205-0136

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME		CONTACT PERSON	TELEPHONE NUMBER	
Department of Banking and Consumer Finance		Lyndsy Irwin, Legal Counsel	601-321-6916	
ADDRESS P.O. Box 12129		CITY Jackson	STATE MS	ZIP 39236 -2129
EMAIL Lyndsy.irwin@dbcf.ms.gov	SUBMIT DATE 01/04/20 21	Name or number of rule(s): Title 5: Banking and Consumer Finance, Part 3: Consumer Activities, Chapter 6 (New Chapter)		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: **Issue guidance to credit availability business in accordance with the Mississippi Credit Availability Act.**

Specific legal authority authorizing the promulgation of rule: **Miss. Code Ann. § 75-67-615; 75-67-621.**

List all rules repealed, amended, or suspended by the proposed rule: N/A

ORAL PROCEEDING:

☐ An oral proceeding is scheduled for this rule on Date: _____ Time: _____ Place: _____

☒ Presently, an oral proceeding is not scheduled on this rule.

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

ECONOMIC IMPACT STATEMENT:

☐ Economic impact statement not required for this rule. ☒ Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
_____ Original filing _____ Renewal of effectiveness To be in effect in _____ days Effective date: _____ Immediately upon filing _____ Other (specify): _____	**Action proposed:** _X_ New rule(s) _____ Amendment to existing rule(s) _____ Repeal of existing rule(s) _____ Adoption by reference **Proposed final effective date:** _X_ 30 days after filing _____ Other (specify): _____	**Date Proposed Rule Filed:** _____ **Action taken:** _____ Adopted with no changes in text _____ Adopted with changes _____ Adopted by reference _____ Withdrawn _____ Repeal adopted as proposed **Effective date:** _____ 30 days after filing _____ Other (specify): _____

Printed name and Title of person authorized to file rules: Rhoshunda G. Kelly, Interim Commissioner

Signature of person authorized to file rules: Rhoshunda G. Kelly

DO NOT WRITE BELOW THIS LINE

OFFICIAL FILING STAMP	OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
	FILED JAN 04 2021 MISSISSIPPI SECRETARY OF STATE	
Accepted for filing by	**Accepted for filing by** #25314 JW	**Accepted for filing by**

The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Michael Watson
SECRETARY OF STATE

CONCISE SUMMARY OF ECONOMIC IMPACT STATEMENT

An Economic Impact Statement is required for this proposed rule by Section 25-43-3.105 of the Administrative Procedures Act. This is a Concise Summary of the Economic Impact Statement which must be filed with the Secretary of State's Office.

AGENCY NAME Department of Banking and Consumer Finance	CONTACT PERSON Lyndsy Irwin, Legal Counsel		TELEPHONE NUMBER 601-321-6916
ADDRESS P.O. Box 12129	CITY Jackson	STATE MS	ZIP 39236-2129
EMAIL Lyndsy.irwin@dbcf.ms.gov	DESCRIPTIVE TITLE OF PROPOSED RULE Mississippi Credit Availability Act Rules		

Specific Legal Authority Authorizing the promulgation of Rule:	Reference to Rules repealed, amended or suspended by the Proposed Rule:
Miss. Code Ann. § 75-67-615; 75-67-621.	N/A

A. Estimated Costs and Benefits

1. Briefly summarize the benefits that may result from this regulation and who will benefit:
   Benefits include:
   - More consistent application of the MCAA across the credit availability Licensees.
   - Licensees will have a better understanding of DBCF expectations when examining Licensees in accordance with the MCAA.
   - Less confusion to consumers and credit availability account holders.
   - Fewer transactional errors negatively impacting consumers.

2. Briefly describe the need for the proposed rule:
   The Mississippi Credit Availability Act (MCAA) was enacted and became effective July 1, 2016. The MCAA provided the framework for credit availability business transactions, and the MCAA authorizes the Mississippi Department of Banking and Consumer Finance (DBCF) to adopt reasonable administrative regulations, not inconsistent with the law, for the enforcement of the MCAA. The MCAA also set the minimum requirements Licensees are required to meet regarding written explanations of fees and charges that must be provided to consumers. The MCAA authorizes the Commissioner of DBCF to promulgate rules in accordance with the MCAA in order to assure complete and accurate disclosure of the fees and charges to by charged by a Licensee under a credit availability agreement. Since enactment of the MCAA in 2016, DBCF has worked with Licensees to ensure compliance with the MCAA. However, based on questions received from Licensees seeking guidance and examination findings since 2016, these proposed actions are necessary to clarify sections of the MCAA.
   See Mississippi Code Ann. §§ 75-67-601 et seq

3. Briefly describe the effect the proposed action will have on the public health, safety, and welfare:
   Licensees will have more guidance on conducting credit availability transactions. Consumers seeking these services will be provided clear guidance on their rights and responsibilities when receiving credit availability services. The result should be fewer transactional errors that negatively impact consumers.

4. Estimated Cost of implementing proposed action:
   a. To the agency
      ☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive
   b. To other state or local government entities
      ☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive

5. Estimated Cost and/or economic benefit to all persons directly affected by the proposed rule:
   c. Cost:
      ☐ Nothing ☒ Minimal ☐ Moderate ☐ Substantial ☐ Excessive
   d. Economic Benefit:
      ☐ Nothing ☐ Minimal ☒ Moderate ☐ Substantial ☐ Excessive

6. Estimated impact on small businesses:
      ☐ Nothing ☒ Minimal ☐ Moderate ☐ Substantial ☐ Excessive

   a. Estimate of the number of small businesses subject to the proposed regulation:
      440
   b. Projected costs for small businesses to comply:
      Approximately $20 each for signage.
   c. Statement of probable effect on impacted small businesses:
      Minimal effect on impacted business as these actions only provide clarity to existing statutory requirements pursuant to the MCAA.

7. The cost of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):
      ☒ substantially less than ☐ moderately less than ☐ minimally less than
      ☐ the same as ☐ minimally more than ☐ moderately more than
      ☐ substantially more than ☐ excessively more than

8. The benefit of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):
      ☐ substantially less than ☐ moderately less than ☐ minimally less than
      ☐ the same as ☐ minimally more than ☒ moderately more than
      ☐ substantially more than ☐ excessively more than

B. Reasonable Alternative Methods

1. Other than adopting this rule, are there less costly or less intrusive methods for achieving the purpose of the proposed rule?
      ☐ yes ☒ no

2. If yes, please briefly describe available, reasonable alternative(s) and the reasons for rejecting those alternatives in favor of the proposed rule. (Please see §25-43-4.104 for factors you must consider.) NA

C. Data and Methodology

1. Please briefly describe the data and methodology you used in making the estimates required by this form.
   DBCF compared the nominal cost of these proposed actions to the risks of transactional errors negatively impacting consumers, and determined that one transactional error could far outweigh any total nominal costs that might be incurred by MCAA Licensees.

D. Public Notice

1. Where, when, and how may someone present their views on the proposed rule and request an oral proceeding on the proposed rule if one is not already scheduled? In accordance with DBCF Organization Rules, DBCF will conduct an oral proceeding on a proposed rule or amendment if requested by a political subdivision, an agency, or ten (10) persons in writing within twenty (20) days after the filing of the notice of the proposed rule. Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8-1/2 inches by 11 inches). The request may be in the form of a letter addressed to DBCF (Attn: Lyndsy Irwin, P.O. Box 12129, Jackson, MS 39236-2129) or as a pleading filed with a court. Each request must include the full name, telephone number, and mailing address of the requestor(s). All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request. Comments on the proposed rules may be mailed to DBCF, Attn: Lyndsy Irwin, at P.O. Box 12129, Jackson, MS 39236-2129.

SIGNATURE Rhoshunda G. Kelly	TITLE Interim Commissioner
DATE 01/04/2021	PROPOSED EFFECTIVE DATE OF RULE 02/03/2021