SB330

175097-1

By Senator Ward

RFD: Banking and Insurance

First Read: 08-MAR-16
SYNOPSIS: Under existing law, lenders of $1,000 or less are licensed and regulated under the Alabama Small Loan Act.

This bill would authorize non-bank lenders to issue short-term unsecured loans, known as flex loans.

This bill would provide for the licensure and regulation of lenders of flex loans by the State Banking Department.

This bill would establish the maximum interest rate and maximum duration of a flex loan and provide for fees that may be charged to a customer.

This bill would set qualifications, including financial guarantees, for lenders and provide civil penalties for violations by lenders.

This bill would also authorize the State Banking Department to enforce the provisions of this act and promulgate rules.
A BILL
TO BE ENTITLED
AN ACT

Relating to short-term loans; to authorize non-bank lenders to issue short-term unsecured loans, known as flex loans; to provide for the licensure and regulation of lenders of flex loans by the State Banking Department; to establish the maximum interest rate and maximum duration of a flex loan and provide for fees that may be charged to a customer; to set qualifications, including financial guarantees, for lenders and provide civil penalties for violations by lenders; and to authorize the State Banking Department to enforce the provisions of this act and promulgate rules.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Flexible Credit Act.

Section 2. As used in this act, the following words shall have the following meanings:

(1) CONTROL. Possession, direct or indirect, of the power to direct or cause the direction of management and policies of a person, whether through the ownership of securities by contract or otherwise; provided that no individual shall be deemed to control a person solely on account of being a director, officer, or employee of the person. A person who, directly or indirectly, owns, controls, holds the power to vote, or holds proxies representing 25
percent or more of the then outstanding voting securities issued by another person, is presumed to control the other person. For purposes of this definition, the superintendent may determine whether a person, in fact, controls another person.

(2) CONTROLLING PERSON. Any person in control of a licensee.

(3) DEFAULT. The occurrence of both of the following:

a. The failure of a customer to make a required payment pursuant to a period billing statement within a certain number of days of the due date as agreed upon by the licensee and the customer in the flex loan plan, provided that such a period may not exceed 61 days after the due date on the billing statement.

b. The customer's failure to otherwise perform the obligations under the flex loan plan.

(4) DEPARTMENT. The State Banking Department.

(5) FLEX LOAN. A loan made pursuant to a flex loan plan.

(6) FLEX LOAN PLAN. A written agreement subject to this act between a licensee and a customer establishing an open-end credit plan under which the licensee contemplates repeated noncommercial loans for personal, family, or household purposes that:

a. May be unsecured or secured by personal property;
b. May be without fixed maturities or limitations as to the length of term; and

c. Are subject to prepayment in whole or in part at any time without penalty.

(7) LICENSEE. A person licensed to offer flex loans pursuant to this act.

(8) PERSON. An individual, group of individuals, partnership, association, corporation, or any other business unit or legal entity.

(9) SUPERINTENDENT. The Superintendent of the State Banking Department.

Section 3. (a) A person may not engage in the business of making flex loans unless the person is licensed to make flex loans pursuant to this act. A person is deemed to be engaged in the business of making flex loans in this state if the person induces a consumer, while located in this state, to enter into a flex loan plan in this state through the use of the Internet, facsimile, telephone, or other means. A separate license shall be required for each location from which the business of making flex loans is conducted.

(b) A nonresident person may be licensed to make flex loans pursuant to this act. Any nonresident person seeking a license under this act shall furnish the superintendent with the name and address of a resident of this state upon whom notices or orders issued by the superintendent, or process affecting a licensee under this act, may be served. The nonresident licensee shall promptly
notify the superintendent in writing of every change in its
designated agent for service of process, and the change shall
not become effective until approved by the superintendent.

Section 4. (a) To qualify for a license to make flex
loans, an applicant shall meet all of the following
requirements:

(1) The applicant has a tangible net worth that
comprises tangible assets less liabilities of not less than
fifty thousand dollars ($50,000) for each location.

(2) The financial responsibility, financial
condition, business experience, character, and general fitness
of the applicant reasonably warrants the belief that the
applicant's business will be conducted lawfully and fairly. In
determining whether this qualification has been met, and for
the purpose of investigating compliance with this act, the
superintendent may review and approve all of the following:

a. The relevant business records and the capital
adequacy of the applicant.

b. The competence, experience, integrity, and
financial ability of any person who is a director, officer, or
10 percent or more shareholder of the applicant or who owns or
controls the applicant.

c. Any record, on the part of the applicant or any
person referred to in paragraph b. of any criminal activity,
any fraud or other act of dishonesty, or any suspension,
removal, or administrative action by any agency or department
of the United States or any state, from participation in the
conduct of business.

(b) The requirements set forth in subsection (a) are
continuing in nature.

Section 5. Each application for a license shall be
in writing and made under oath or affirmation to the
superintendent, in a form prescribed by the superintendent,
and shall include all of the following:

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

(2) The location in this state where the registered
agent of the applicant is located; provided "registered agent
of the applicant" includes a person designated by the
applicant for accepting notices or orders from the
superintendent or process affecting the applicant pursuant to
Section 3.

(3) Other data and information the superintendent
may require with respect to the applicant and its directors,
trustees, officers, members, managing employees, or agents.

Section 6. (a) Each application for a license shall
be accompanied by all of the following:

(1) A filing fee of five hundred dollars ($500),
which shall not be subject to refund but which, if the license
is granted, shall constitute the license fee for the first
license year or part thereof; provided, however, if a
supervision fee is established pursuant to Section 18, the superintendent shall require applicants under this act to instead pay the supervision fee in place of the filing fee.

(2) An audited financial statement, including, but not limited to, a balance sheet, a statement of income or loss, and a statement of changes in financial position, for the immediately preceding fiscal year end, prepared in accordance with generally accepted accounting principles by a certified public accountant or public accounting firm, neither of which is affiliated with the applicant. For a newly created entity, the superintendent may accept only a balance sheet prepared by a certified public accountant or a public accounting firm, neither of which is affiliated with the applicant, accompanied by a projected income statement demonstrating that the applicant will have adequate capital after payment of start-up costs.

(3) Evidence of a surety bond in an amount of twenty-five thousand dollars ($25,000) issued by a company authorized to do business in this state, approved by the superintendent, and not affiliated with the applicant for each location, or in the case of a nonresident licensee, its principal place of business; provided, however, in no event shall the aggregate amount of the surety bond required for a single licensee exceed two hundred thousand dollars ($200,000). In lieu of the surety bond, the applicant shall file an irrevocable letter of credit, in the amount of the surety bond, issued by any federally insured bank, savings
bank, or credit union, none of which is affiliated with the applicant. The bond or irrevocable letter of credit shall be in favor of this state to discharge unsatisfied indebtedness or liability of the licensee to this state, any political subdivision thereof, or to any person who may have a cause of action against the lender by reason of the lender's conduct under this act.

(b) The surety on the bond or owner of the irrevocable letter of credit issued pursuant to subdivision (3) of subsection (a) may cancel the bond or letter of credit by giving 60 days' notice in writing to the superintendent, and thereafter the surety or owner shall be relieved of liability after the effective date of cancellation. The superintendent shall require a new bond or irrevocable letter of credit in an amount of twenty-five thousand dollars ($25,000) at any time he or she has knowledge that a licensee's surety bond or irrevocable letter of credit has expired, is about to expire or, in the opinion of the superintendent, is insecure for any reason. The license of any lender authorized to make flex loans under this act who fails to post a replacement surety bond or irrevocable letter of credit within 10 days from receipt of a notice from the superintendent shall be cancelled immediately.

(c) Claimants against the licensee may bring suit directly on the surety bond or irrevocable letter of credit, and the Attorney General also may bring suit on behalf of claimants in one or multiple actions. The surety bond or
(d)(1) The superintendent is authorized to require an applicant for a license to consent to a criminal history records check and to provide with the application fingerprints in a form acceptable to the superintendent. The superintendent may require such consent and fingerprints from any individual who is a director, officer, or 10 percent or more shareholder of the applicant or who owns or controls the applicant, as well as from any other individual associated with the applicant as is reasonably necessary to meet the purposes of this act. Refusal of any person to consent to a criminal history records check or to provide fingerprints pursuant to this subsection constitutes grounds for the superintendent to deny the applicant a license.

(2) Any criminal history records check conducted pursuant to this subsection shall be conducted by the State Bureau of Investigation, the Federal Bureau of Investigation, or both, and the results of the criminal history records check shall be forwarded to the superintendent. All costs incurred in conducting the criminal history records check shall be paid by the applicant, in addition to any other fees required by this act.

Section 7. (a) Upon the filing of an application in a form prescribed by the superintendent, accompanied by the
fee and documents required in Section 6, the superintendent shall investigate to ascertain whether the requirements prescribed by Section 4 have been satisfied. If the superintendent finds that the requirements have been satisfied, and approves the documents, the superintendent shall issue to the applicant a license to engage in the business of making flex loans in this state.

(b) The license shall be kept conspicuously posted in the place of business of the licensee, or in the case of a nonresident licensee, its principal place of business.

(c) A license issued pursuant to this act shall remain in force and effective through the remainder of the year ending December 31 after its date of issuance unless earlier surrendered, suspended, or revoked pursuant to this act.

Section 8. (a) If the superintendent determines that an applicant is not qualified to receive a license, the superintendent shall notify the applicant in writing that the application has been denied, stating the basis for denial.

(b) If the superintendent denies an application, or if the superintendent fails to act on an application within 90 days after the filing of a properly completed application, the applicant may make a written demand to the superintendent for a hearing before the superintendent on the question of whether the license should be granted.

(c) Any hearing on the denial of a license shall be conducted pursuant to the Administrative Procedure Act. In the
hearing, the burden of proving that the applicant is entitled
to a license shall be on the applicant. A decision of the
superintendent following any hearing on the denial of a
license is subject to review under the Administrative
Procedure Act.

Section 9. (a) Licenses issued pursuant to this act
shall expire on December 31. Each license may be renewed for
the ensuing 12-month period upon application by the license
holder showing continued compliance with the requirements of
Section 4 and the payment to the superintendent annually,
between November 1 and December 31, of a license renewal fee
of five hundred dollars ($500). If a supervision fee is
established pursuant to Section 18, the superintendent shall
require licensees under this act to instead pay the
supervision fee in place of the license renewal fee.

(b) A licensee making timely and complete
application for renewal of its license shall be permitted to
continue to operate under its existing license until its
application is approved or denied.

(c) The superintendent may establish a biennial
license arrangement for the filing of the application for
license renewal, but in no case shall the license fee or
supervision fee, if established pursuant to Section 18, be
payable for more than one year at a time.

Section 10. (a) A license issued pursuant to this
act is not transferable or assignable.
(b)(1) The prior written approval of the superintendent is required for the continued operation of a flex loan business whenever a change in control of a licensee is proposed. The superintendent may require information deemed necessary to determine whether a new application is required. Reasonable and actual costs incurred by the superintendent in investigating a change of control request shall be paid by the person requesting approval.

(2) Whenever control is acquired or exercised in violation of this section, the license shall be deemed revoked as of the date of the unlawful acquisition of control. The licensee or its controlling person shall surrender the license to the superintendent on demand.

(c) A licensee shall notify the department five days before any change in the licensee's principal place of business, branch office, or name.

Section 11. (a) Notwithstanding any other statutory limitation, a licensee authorized to make flex loans under this act may charge and collect interest, fees, and charges in a manner consistent with this section.

(b) A licensee may charge and collect a periodic interest rate not to exceed 36 percent per annum.

(c)(1) In addition to the periodic interest rate authorized under subsection (b), a licensee may also charge and collect a customary fee to defray the ordinary costs of opening, administering, and terminating a flex loan plan,
including, but not limited to, costs associated with any of the following:

   a. Underwriting and documenting the account.
   b. Securing and maintaining account information.
   c. Validating customer information.
   d. Offering electronic and phone access to accounts.
   e. Processing account transactions.
   f. Responding to customer inquiries.
   g. Providing periodic billing statements.
   h. Inspecting, verifying, and protecting collateral and establishing, perfecting, and releasing the security interest.
   i. Other services or activities conducted by the licensee under the flex loan plan.

(2) The customary fee shall not be deemed interest for any purpose of law.

(d) No flex loan plan under this act shall have an outstanding principal balance in excess of two thousand dollars ($2,000) at any time.

(e) Any flex loan plan under this act shall require payment on or before the due date of each billing cycle in an amount sufficient to reduce any outstanding principal balance by at least three percent per calendar month.

(f)(1) In the event a customer defaults under the terms of a flex loan plan and the licensee refers the customer's account to an attorney, including a regular
salaried employee of the licensee, for collection, the
licensee may:

a. If the flex loan plan so provides, charge and
collect from the customer a reasonable attorney's fee.

b. If the flex loan plan, or in the case of secured
plans, the security agreement or similar instrument, so
provides, recover from the customer all collection and court
costs, including, in the case of secured plans, all costs of
enforcing the security agreement or similar instrument
actually incurred by the licensee, including those incurred on
appeal.

c. Refer the borrower to an approved consumer credit
counseling agency in coordination with any rule adopted under
Section 26, and may offer concessions with regard to interest
rate, repayment schedule, and other terms as agreed.

(2) A licensee may charge and collect interest
following default of the customer or judgment in favor of the
licensee at the periodic rate permitted by this section.

(3) Disposition of property after default shall
occur in a commercially reasonable manner.

(g) If a check is returned to a licensee from a
payer financial institution due to insufficient funds, the
licensee may not assess a handling charge against the maker or
drawer of the returned check.

Section 12. (a) A licensee shall provide each
prospective customer, before consummation of a flex loan plan,
a written explanation, in clear, understandable language, of
The interest, fees, and charges to be charged by the licensee. The style, content, and method of executing the required written explanation shall comply with federal truth-in-lending laws and shall contain a statement that the customer may prepay the unpaid balance in whole or in part at any time without penalty. The superintendent may promulgate rules establishing additional requirements in order to assure complete and accurate disclosure of the interest, fees, and charges to be charged by a licensee under a flex loan plan.

(b) The account-opening statement for any flex loan plan shall include, along with other state or federal law requirements, both of the following:

(1) A next-business-day customer's right of rescission for any requested draw under the flex loan plan.

(2) A notice informing the customer that complaints may be made to the department, including the department's telephone number and address.

(c) The account-opening statement for any flex loan plan shall not require or provide the licensee the authority to require the customer to draw the full amount of credit available under a flex loan plan at any time.

(d) A licensee shall provide customers with a periodic billing statement in compliance with federal truth-in-lending laws.

Section 13. (a) Each licensee shall keep and use in its business any books, accounts, and records the superintendent may require to effectuate this act and the
rules promulgated pursuant to this act. Every licensee shall preserve the books, accounts, and records for at least two years. Any licensee, after receiving the prior written approval of the superintendent, may maintain records at a location within or outside this state.

(b) A licensee may not engage in unfair or deceptive acts, practices, or advertising in the conduct of the licensed business.

(c)(1) A customer may not have outstanding more than one flex loan plan under this act at any one time. Each licensee shall inquire of any customer seeking a flex loan plan under this act regarding the customer’s outstanding flex loan plans. The superintendent, by rule, may require a licensee to confirm whether a customer has an outstanding flex loan by use of credit bureau agents or a third party private database, if available.

(2) If the customer represents in writing that the customer has no outstanding flex loan plans, a licensee may offer the customer a flex loan plan.

(3) If the customer represents in writing that the customer has one or more outstanding flex loan plans, a licensee shall not offer a flex loan plan to the customer until the customer represents to the licensee in writing that the customer qualifies to open a new flex loan plan in accordance with this subsection.

(4) Each licensee may rely on a written representation of a customer regarding the existence of any
outstanding indebtedness with any other lender other than the
licensee receiving the representation.

(d) A licensee may not use any device or agreement,
including agreements with affiliated licensees, with the
intent to obtain greater charges than otherwise would be
authorized by this act.

(e) A licensee shall comply with any state or
federal law, rule, or regulation applicable to any business
authorized or conducted under this act, including, but not
limited to, the federal Truth in Lending Act, compiled in 15
U.S.C. §1601 et seq., the federal Equal Credit Opportunity
seq.

(f)(1) A flex loan plan subject to this act may not:
   a. Provide that the law of a jurisdiction other than
this state applies.
   b. Provide that the customer consents to the
jurisdiction of another state or foreign country.
   c. Fix venue.
   d. Waive any provision of this act.

(2) Any provision described in subdivision (1) that
is contained in a flex loan plan subject to this act is void
as a matter of public policy.

Section 14. The business of making flex loans in
accordance with this act is not subject to or controlled by
any other statute governing the imposition of interest, fees,
or loan charges, including, but not limited to, Chapter 8 of Title 8 of the Code of Alabama 1975.

Section 15. (a) The superintendent may promulgate rules for the enforcement of this act. A copy of any rule adopted by the superintendent shall be mailed to the principal place of business of each license holder at least 30 days before the date it takes effect.

(b) To assure compliance with this act, the superintendent may examine the relevant business, books, and records of any licensee. Further, for the purposes of discovering violations of this act and determining whether persons are subject to this act, the superintendent may examine or investigate persons licensed under this act and persons reasonably suspected by the superintendent of conducting business that requires a license under this act by exercising authority that includes, but is not limited to, the power to summon witnesses and examine them under oath or affirmation, and to compel the production of books and records that may be relevant to the examination or investigation.

(c)(1) A licensee or unlicensed person subject to the licensing requirements of this act, that is examined or investigated in accordance with this act, shall pay to the superintendent the reasonable and actual expenses of the investigation or examination. The expenses shall be payable in addition to all other fees, taxes, and costs required by law.

(2) If a supervision fee is established pursuant to Section 18, then licensees who pay the supervision fee are not
required to pay examination expenses pursuant to this subsection for examinations that occur after payment of the supervision fee.

Section 16. (a) The superintendent, after notice and a hearing, may suspend or revoke any license if the superintendent finds that the licensee has knowingly or through lack of due care done any of the following:

(1) Failed to pay any fees, expenses, or costs imposed by the superintendent under the authority of this act.

(2) Committed any fraud, engaged in any dishonest activities, or made any misrepresentations.

(3) Violated any provision of this act, any rule issued pursuant to this act, or any other law in the course of the licensee's dealings as a licensee.

(4) Made a false statement in the application for the license or failed to give a true reply to a question in the application.

(5) Demonstrated incompetency or untrustworthiness to act as a licensee.

(b) If the reason for revocation or suspension of a licensee's license at any one location is of general application to all locations operated by a licensee, the superintendent may revoke or suspend all licenses issued to a licensee.

(c) A hearing shall be held on written notice given at least 20 days prior to the date of the hearing and shall be conducted in accordance with the Administrative Procedure Act.
Section 17. If, after notice and opportunity for a hearing, the superintendent finds that a person has violated this act or any rule issued pursuant to this act, the superintendent may take any of the following actions or any combination of such actions:

(1) Order the person to cease and desist violating the act or any rule promulgated pursuant to this act.

(2) Require the refund of any fees collected by the person in violation of this act.

(3) Order the person to pay to the superintendent a civil penalty of not more than one thousand dollars ($1,000) for each transaction in violation of this act or for each day that a violation occurs or continues.

Section 18. (a) The superintendent, after notice and opportunity for a hearing, may censure, suspend for a period not to exceed 12 months, or bar a person from any position of employment, management, or control of a licensee, if the superintendent finds that the censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of this act or any rule or order of the superintendent, or finds that the person has either been:

(1) Convicted or pled guilty to, or pled nolo contendere to, any crime.

(2) Held liable in any civil action by final judgment, or any administrative judgment by any public agency, if the criminal, civil, or administrative judgment involved any offense reasonably related to the qualifications,
functions, or duties of a person engaged in the business of
making flex loans pursuant to this act.

(b) In connection with a censure or following a
suspension, the superintendent may impose additional
conditions and compliance responsibilities, the costs of which
shall be paid by the licensee in the form of an additional
supervision fee.

(c) Persons suspended or barred under this section
are prohibited from participating in any business activity of
a licensee and from engaging in any business activity on the
premises where a licensee is conducting its business within
Alabama. This subsection shall not be construed to prohibit
suspended or barred persons from having their personal
transactions processed by a licensee.

Section 19. (a) The superintendent may enter into a
consent order at any time with any person to resolve any
matter arising under this act. A consent order shall be signed
by the person to whom it is issued, or a duly authorized
representative, and shall indicate agreement to the terms
contained in the order. A consent order need not constitute an
admission by any person that any provision of this act, or any
rule or order promulgated or issued under this act has been
violated, nor need it constitute a finding by the
superintendent that the person has violated this act, or any
rule or order promulgated or issued under this act.
(b) Notwithstanding the issuance of a consent order, the superintendent may seek civil or criminal penalties concerning matters encompassed by the consent order.

(c) In cases involving extraordinary circumstances requiring immediate action, the superintendent may take any enforcement action authorized by this act without providing the opportunity for a prior hearing, but shall promptly afford a subsequent hearing upon an application to rescind the action taken that is filed with the superintendent within 20 days after receipt of the notice of the superintendent's emergency action.

Section 20. (a) Any person aggrieved by the conduct of a licensee under this act in connection with the licensee's regulated activities may file a written complaint with the superintendent who may investigate the complaint.

(b) In the course of the investigation of the complaint, the superintendent may do any of the following:

(1) Subpoena witnesses.

(2) Administer oaths.

(3) Examine any individual under oath or affirmation.

(4) Compel the production of records, books, papers, contracts, or other documents relevant to the investigation.

(c) If any person fails to comply with a subpoena of the superintendent under this act or to testify concerning any matter about which the person may be interrogated under this
act, the superintendent may petition any court of competent jurisdiction for enforcement.

(d) The license of any licensee under this act who fails to comply with a subpoena of the superintendent may be suspended pending compliance with the subpoena.

(e) The superintendent shall have exclusive administrative power to investigate and enforce any and all complaints relating to the business of making flex loans filed by any person that are not criminal in nature.

Section 21. Within 15 days of the occurrence of any one of the following events, a licensee shall file a written report with the superintendent describing the event and its expected impact on the activities of the licensee in this state:

(1) The filing for bankruptcy or reorganization by the licensee.

(2) The institution of revocation or suspension proceedings against the licensee by any state or governmental entity.

(3) The denial of the opportunity to engage in the business of making loans by any state or governmental entity.

(4) Any felony indictment of the licensee or any of its directors, officers, or principals.

(5) Any felony conviction of the licensee or any of its directors, officers, or principals.

(6) Other events that the superintendent may determine and identify by rule.
Section 22. (a) Each licensee shall file an annual report with the superintendent on the date of the renewal application required in Section 9 containing all of the following information:

1. The names and addresses of persons owning a controlling interest in each licensee.

2. The location of all places of business operated by the licensee and the nature of the business conducted at each location.

3. The names and addresses of all affiliated entities regulated under Title 5 of the Code of Alabama 1975, doing business in this state.

4. An audited financial statement, including, but not limited to, a balance sheet, statement of income or loss, and statement of changes in financial position, for the immediately preceding fiscal year end, prepared in accordance with generally accepted accounting principles by a certified public accountant or public accounting firm, neither of which is affiliated with the licensee.

5. If the licensee is a corporation, the names and addresses of its officers and directors; if the licensee is a partnership, the names and addresses of the partners; or if the licensee is a limited liability company, the names and addresses of the board of governors or managers of the limited liability company.
(b) If the licensee holds two or more licenses or is affiliated with other licensees, a composite report may be filed, but may not be required.

(c) The reports shall be filed in a form that may reasonably be required by the superintendent and shall be sworn to by a responsible officer of the licensee.

(d) The information submitted by licensees pursuant to this section shall be afforded the same degree of confidentiality by the department and the superintendent as is applicable to reports filed by other lenders regulated by the state.

Section 23. (a) In addition to any other powers conferred upon the superintendent by law, the superintendent is authorized to require persons subject to this act to be licensed through a multi-state automated licensing system. Pursuant to this authority, the superintendent may do any of the following:

(1) Promulgate rules that are reasonably necessary for participation in, transition to, or operation of a multi-state automated licensing system.

(2) Establish relationships or enter into agreements that are reasonably necessary for participation in, transition to, or operation of a multi-state automated licensing system. The agreements may include, but are not limited to, operating agreements, information sharing agreements, interstate cooperative agreements, and technology licensing agreements.
(3) Require that applications for licensing under this act and renewals of such licenses be filed with a multi-state automated licensing system.

(4) Require that any fees required to be paid under this act be paid through a multi-state automated licensing system.

(5) Establish deadlines for transitioning licensees to a multi-state automated licensing system. The superintendent has the authority to deny any applications or renewal applications not filed with a multi-state automated licensing system after such deadlines have passed, notwithstanding any dates established elsewhere in this act; provided, however, the superintendent shall provide reasonable notice of any transition deadlines to licensees.

(6) Take such further actions as are reasonably necessary to give effect to this section.

(b) Nothing in this section shall authorize the superintendent to require a person who is not subject to this act to submit information to, or to participate in, a multi-state automated licensing system that is operated pursuant to this act.

(c) Notwithstanding this section, the superintendent retains full authority and discretion to license persons under this act and to enforce this act to its fullest extent. Nothing in this section shall be deemed to be a reduction or derogation of that authority and discretion.
(d) Applicants for and holders of licenses issued under this act shall pay all costs associated with submitting an application to or transitioning a license to a multi-state automated licensing system, as well as all costs required by a multi-state automated licensing system for maintaining and renewing any license issued by the superintendent on a multi-state automated licensing system.

Section 24. The superintendent is authorized to use a multi-state automated licensing system as an agent for channeling information, whether criminal or noncriminal in nature, whether derived from or distributed to the United States Department of Justice or any other state or federal governmental agency, or any other source, that the superintendent is authorized to request from, or distribute to, under this act.

Section 25. (a) In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, the requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to a multi-state automated licensing system, and any privilege arising under federal or state law, including the rules of any federal or state court with respect to such information or material, shall continue to apply to the information or material after the information or material has been disclosed to a multi-state automated licensing system. The information or material may be shared with all state and federal regulatory officials with consumer
credit oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal or state law, including the protection available under Chapter 27, Title 8 of the Code of Alabama 1975.

(b) For purposes of subsection (a), the superintendent is authorized to enter into agreements or sharing agreements with other governmental agencies, the Conference of State Bank Supervisors, or other associations representing governmental agencies as established by rule or order of the superintendent.

(c) Information or material that is subject to a privilege or confidential under subsection (a) shall not be subject to either of the following:

(1) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or any agency of the federal government or the respective state.

(2) Subpoena, discovery, or admission into evidence in any private civil action or administrative process, unless with respect to any privilege held by a multi-state automated licensing system applicable to such information or material, the person to whom such information or material pertains waives that privilege, in whole or in part, in the discretion of such person.

(d) This section shall supersede any inconsistent provisions of Section 36-12-40, Code of Alabama 1975, pertaining to the records open to public inspection.
(e) This section shall not apply with respect to
information or material relating to publicly adjudicated
disciplinary and enforcement actions against persons subject
to this act.

Section 26. The superintendent is authorized, by
rule, to require providers of flexible loans licensed under
this act to directly provide borrowers with financial literacy
education material or, in the event of default, in conjunction
with approved consumer credit counseling providers.

Section 27. This act shall become effective January
1, 2017.