SB284

183291-2

By Senators Orr and Smitherman

RFD: Judiciary

First Read: 07-MAR-17
SYNOPSIS: Under existing law, the maximum rate of interest on a small loan is three percent a month on amounts not more than $200 and two percent a month for amounts in excess of $200, and the maximum term of the small loan is limited to 25 months. Under existing law, in lieu of these interest rates, the lender may utilize an alternative rate of charge that consists of an acquisition fee of up to 10 percent of the principal and a monthly installment handling fee. Under existing law, the maximum term of a small loan on which the alternative rate of charge may be utilized is 12 months.

This bill would provide that the minimum term for a small loan in which the lender is charging the alternative rate is six months. This bill would prohibit the lender from collecting an additional acquisition charge if the loan is refinanced within the first six months.
Under existing law, the term of a deferred presentment transaction is between 10 and 31 days, and the deferred presentment services provider may charge an interest rate of up to 17.5 percent for the term. Under existing law, a borrower may renew a deferred presentment transaction no more than once, and, if, after one renewal, the borrower is unable to repay, the deferred presentment services provider must allow the borrower to repay in four equal monthly installments.

This bill would limit the number of deferred presentment transactions a borrower could enter into in a 12-month period to four transactions and would prohibit a licensee from rolling over a deferred presentment transaction within seven days of a prior transaction. This bill would set the term of all deferred presentment transactions at 30 days. This bill would provide for one automatic three-month extension. This bill would prohibit a licensee from engaging in certain actions in an attempt to collect on a transaction or evading the requirements of the Deferred Presentment Services Act by disguising the transaction as another type of loan product. This bill would provide for licensing through a national database.

Under existing law, a person may pawn the title of his or her automobile.
This bill would specify that no person may enter into a pawn transaction with respect to titled personal property.

Under existing law, on a loan in which the principal amount is $2,000 or more, the parties may agree to any rate of interest so long as it is not unconscionable.

This bill would cap the interest rate on loans of more than $2,000 at a 60 percent annualized rate as defined by federal regulation.

Amendment 621 of the Constitution of Alabama of 1901 prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of Amendment 621. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in Amendment 621.
A BILL

TO BE ENTITLED

AN ACT

Relating to loans and other types of consumer credit transactions; to amend Sections 5-18-15, 5-18A-3, 5-18A-12, 5-18A-13, and 8-8-5 of the Code of Alabama 1975, to provide further for small loans; to specify a minimum term for certain small loans; to prohibit a lender from charging an additional acquisition fee for a small loan refinanced in the first six months of the term; to provide further for deferred presentment transactions; to limit the number of deferred presentment transactions a borrower may enter into; to further specify a term for deferred presentment services transactions; to provide further for roll overs and installment plans for repayments; to prohibit a deferred presentment services licensee from engaging in certain actions; to authorize the State Banking Department to provide for licensing through a national database; to provide that no person may enter into a pawn transaction with respect to titled personal property; to specify the maximum rate of interest on certain loans; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
Section 1. Sections 5-18-15, 5-18A-3, 5-18A-12, 5-18A-13, and 8-8-5 of the Code of Alabama 1975, are amended to read as follows:

"§5-18-15.

(a) Maximum rates of interest and charge. Every licensee under this chapter may contract for and receive as interest on any loan of money less than one thousand dollars ($1,000) an amount at a rate not exceeding three percent a month on that part of the unpaid principal balance not in excess of two hundred dollars ($200), and two percent a month on that part of the unpaid principal balance in excess of two hundred dollars ($200) but less than one thousand dollars ($1,000).

(b) Account maintenance fee. In addition to the maximum rate of interest and charges pursuant to subsection (a), a licensee may enter into a contract of loan under this chapter in which the borrower agrees to pay an account maintenance fee of not more than three dollars ($3) for each month of the scheduled period of repayment of the loan provided that the scheduled monthly payments are equal to or greater than thirty dollars ($30). Such account maintenance fee shall be determined at the date of the loan, but may not be prepaid. Such fee as so determined shall not bear interest and shall constitute a part of the finance charge.

(c) Method of computing charges.

(1) Interest or charges under this chapter shall not be paid, deducted, discounted, or received in advance or
compounded, but the rate of charge authorized by subsections (a) and (b) may be precomputed as provided in subdivision (2) of this subsection.

"For the purpose of this section, one month shall be that period of time from any date in a month to a corresponding date in the next month and, if there is not a corresponding date, then to the next day of the next month, and a day shall be considered one thirtieth of a month when computation is made for a fraction of a month.

"(2) When the loan contract requires repayment in substantially equal and consecutive monthly installments of principal and charges or interest combined, the charges or interest may be precomputed at the agreed monthly or periodic rate not in excess of that provided for in subsections (a) and (b) on scheduled unpaid principal balances according to the terms of the contract and added to the principal of the loan. Every payment may be applied to the combined total of principal and precomputed charge until the contract is fully paid. The acceptance or payment of charges on loans made under the provisions of this subsection shall not be deemed to constitute payment, deduction, or receipt thereof in advance nor compounding under subdivision (1) above.

"(d) Refunds.

"(1) When any loan contract is paid in full by cash, a new loan, renewal, or otherwise one month or more before the final installment date, the licensee shall refund or credit the borrower with that portion of the total charges which
shall be due the borrower as determined by schedules prepared under the rule of seventy-eighths or sum of the digits principle as follows: The amount of the refund or credit shall be as great a proportion of the total charges originally contracted for as the sum of the periodic time balances of the contract scheduled to follow the date of prepayment bears to the sum of all the periodic time balances of the contract, both sums to be determined according to the payment schedule originally contracted for.

"(2) If the loan contract, with charges precomputed under subsections (a) and (b), is not prepaid in full but becomes partially prepaid in an amount equal to three or more installments, the licensee shall reduce the balance due by the amount that would be required to be refunded for prepayment in full on the date of the partial prepayment and compute charges as payments are made thereafter in the manner prescribed in subdivision (1) of subsection (c), or the licensee may with the consent of the borrower reschedule the remaining installments and precompute charges as prescribed in subdivision (2) of subsection (c).

"(e) Default or extension charges. If the contract so provides, when a scheduled payment is in default or delinquent for 10 or more days, the licensee may charge and collect an additional late charge not to exceed the greater of ten dollars ($10) or five percent of the amount of the scheduled payment in default. Each of the late charges permitted under this subsection may be collected only once on
any scheduled payment, regardless of the period during which
the payment remains in default or is delinquent. It is the
intent of this subsection that if the payment date of all
wholly unpaid installments is deferred or extended one or more
full months and the contract so provides, the licensee may
charge and collect a deferment or default charge only on the
installment which is delinquent at the date the contract is
extended or deferred.

"(f) Rules and regulations. In addition to the
general authority granted to him or her by subsection (a) of
Section 5-18-12, the supervisor may make such rules and
regulations as he or she may deem necessary or advisable to
insure that rebates, default charges, and deferment charges
are so computed, paid to or collected from borrowers that the
total charges collected by licensees under this section are
substantially equivalent to charges authorized to be collected
by licensees under this section.

"(g) Recording fees. The licensee may collect from
the borrower the actual fees paid a public official or agency
of the state for filing, recording, or releasing any
instrument securing the loan.

"(h) Further charges; splitting of contracts. No
further or other charges shall be directly or indirectly
contracted for or received by any licensee, including
insurance premiums of any kind, except those specifically
authorized by this chapter or by Chapter 8 of Title 8. No
licensee shall divide into separate parts any contract made
for the purpose of or with the effect of obtaining charges in excess of those authorized by this section. All balances due to a licensee from any person as a borrower, or as an endorser, guarantor, or surety for any borrower or otherwise, shall be considered a part of any loan being made by a licensee to the person for the purpose of computing charges.

"(i) Installment payments; contract period. No licensee shall enter into any contract of loan under this chapter in which the borrower agrees to make any scheduled repayment of the cash advance more than 25 calendar months from the date of making the contract of loan. Every loan contract shall require payment of the cash advance and charges in installments which shall be payable at approximately equal periodic intervals; except, that payment dates may be omitted to accommodate borrowers with seasonal incomes. No installment contracted for shall be substantially larger than any preceding installment.

"(j) Interest after due date of final installment. Interest as provided in this section shall not accrue or be recovered or charged on any loan made under this chapter for any longer than six months after the due date of the final installment of principal or interest. After the expiration of said six-month period, interest may be charged at a rate not to exceed eight percent per annum.

"(k) Inducing borrower to become obligated under more than one contract. No licensee shall induce or permit any person or any husband and wife, jointly or severally, to
become obligated directly or contingently or both under more
than one contract of loan at the same time for the purpose of
obtaining a higher rate of charge than would otherwise be
permitted by this section. It shall be unlawful for any
licensee to evade or attempt to evade this section by inducing
a customer to borrow from another loan company in which he or
she has a pecuniary interest or with whom he or she has an
arrangement for exchange of customers.

"(l) Liabilities of licensees making excess charges.

Any licensee making any charge in excess of the amount
authorized herein, except as the result of a deliberate
violation of or reckless disregard for this chapter, shall
refund to the borrower the total amount of the actual economic
damages which at the licensee's option may be done by payment
to the borrower, or by reducing the amount of the borrower's
principal obligation. If the borrower is entitled to a refund
and the licensee refuses to refund within 60 days after
written demand, including the filing of a legal action, the
licensee shall forfeit, in addition to the actual economic
damages his or her right to any finance charge. If the
licensee has made an excess charge in deliberate violation of
or in reckless disregard for this chapter, the licensee and
the several members, officers, directors, agents, and
employees thereof who shall have participated in a deliberate
violation of or reckless disregard for this chapter, shall be
guilty of a misdemeanor which, upon conviction, shall be
punishable by a fine of not more than five hundred dollars
($500) and not less than one hundred dollars ($100) or by
imprisonment of not more than six months, or by both fine and
imprisonment in the direction of the court. The remedies
provided herein shall be the remedy of the borrower under this
chapter as the result of this violation. No action under this
section may be brought more than 18 months after the due date
of the last scheduled payment of the agreement pursuant to
which the charge was made.

"(m) Alternative rates of charge.

"(1) As an alternative to the interest rates and
charges permitted to be charged by a licensee pursuant to
subsections (a) and (b) on loans of less than one thousand
dollars ($1,000), a licensee may charge an acquisition charge
for making the loan in an amount not in excess of 10 percent
of the amount of the principal and an installment account
handling charge in an amount no greater than the following:

"a. Twelve dollars ($12) per month on any loan of an
amount of one hundred dollars ($100) or more, up to and
including the amount of three hundred dollars ($300).

"b. Fourteen dollars ($14) per month on any loan of
an amount in excess of three hundred dollars ($300), but not
more than four hundred dollars ($400).

"c. Sixteen dollars ($16) per month on any loan of
an amount in excess of four hundred dollars ($400), but not
more than five hundred dollars ($500).
"d. Seventeen dollars ($17) per month on any loan of an amount in excess of five hundred dollars ($500), but not more than eight hundred dollars ($800).

e. Twenty dollars ($20) per month on any loan of an amount in excess of eight hundred dollars ($800), but less than one thousand dollars ($1,000).

Provided, however, that the scheduled payments are in amounts equal to or greater than forty dollars ($40) per month, inclusive of the installment account handling charge. The acquisition charge and the installment account handling charge may be calculated for the term of the contract and added to the amount of the principal. The acceptance or payment of charges on loans made under this subsection shall not be deemed to constitute payment, deduction, or receipt thereof in advance nor compounding under this subsection.

"(2) The maximum term of any loan made under this subsection is 12 months. For contracts entered into on or after August 1, 2017, the minimum term of any loan made under this subsection shall be six months. On and after August 1, 2017, no acquisition charge may be collected on any loan that was refinanced within the first six months of the date of the original loan contract. For purposes of this section, refinanced loans include any loan extended within seven days of the original loan payoff.

"(3) Upon the prepayment in full of any loan under this subsection, the installment account handling charge is
subject to subsection (d), as it relates to refunds. The
acquisition charge shall not be subject to refund.

"(4) No insurance charge under Section 5-18-17, no
interest surcharge under Section 8-8-14, nor any other charge
of any nature whatsoever, is permitted for loans made pursuant
to the rate structure of this subsection, except for
acquisition charges and installment account handling charges
as provided under this subsection, default charges under
subsection (e), recording fees under subsection (g), bad check
charges under Section 8-8-15, and assessed court costs.

"(5) The loan charges allowed under this subsection
may not be imposed on a loan to a borrower who has more than
one loan outstanding with the licensee and upon which loan
charges were imposed under this subsection.

"(6) No licensee shall file a claim against a
decedent borrower's estate for any unpaid indebtedness for a
loan whose charges include an acquisition charge or an
installment account handling charge under this subsection.

"§5-18A-3.

"(a) On or after January 1, 2004, no person shall
engage in the business of deferred presentment services, in
whole or in part, through any method, including, but not
limited to, offering deferred presentment services by mail,
te telephone, Internet, mobile device application, or in person
without having first obtained a license from the supervisor. A
separate license shall be required for each location from
which the business is conducted.
"(b) Trust companies, life insurance companies, and federally constituted agencies shall be exempt from licensing under this chapter. Notwithstanding anything to the contrary in this chapter, this chapter shall not apply to any of the following entities, and each of these entities shall be exempt from this chapter: Banks, credit unions, savings associations, savings banks, and thrift institutions organized pursuant to the laws of this state or any other state or the laws of the United States and any parent of any of the foregoing entities.

"(c) This chapter shall have no application to persons who do not engage in deferred presentment services.

"(d) Subject to the exemption provided in subsection (b), a licensee or licensee's agent shall not evade the requirements of this chapter through any method including:

"(1) Offering, making, or assisting a borrower to obtain a loan or brokering or acting as an agent for a third party in such a transaction, regardless of whether approval, acceptance, or ratification is necessary to create a legal obligation for the third party.

"(2) Disguising a short-term consumer loan as a revolving line of credit or making or assisting a borrower to obtain a revolving line of credit.

"(e) Any loan contract entered into in violation of this section shall be void, and the lender shall have no right to collect, receive, or retain any principal, interest, or charges whatsoever. Any person who violates any provision of this section shall be guilty of a misdemeanor, which, upon
conviction thereof, shall be punishable by a fine of not more
than five hundred dollars ($500) nor less than one hundred
dollars ($100), or by imprisonment for not more than six
months, or by both fine and imprisonment in the discretion of
the court.

"(f) The State Banking Department may require
applicants to apply for a license through the Nationwide
Multistate Licensing System and Registry. In order to carry
out this requirement, the supervisor may participate in the
Nationwide Multistate Licensing System and Registry. For this
purpose, the supervisor may establish by rule or order such
requirements as necessary, including, but not limited to,
background checks as permitted through the Nationwide
Multistate Licensing System and Registry, civil or
administrative records, credit history, any other information
deemed necessary by the Nationwide Multistate Licensing System
and Registry, and the payment of fees to apply for or renew
licenses through the Nationwide Multistate Licensing System
and Registry.

"§5-18A-12.

"(a) Subject to the following subsections, every
licensee under this chapter may charge and collect a maximum
fee on any deferred presentment transaction not to exceed 17.5
percent of the amount advanced. The maximum amount that may be
advanced in any deferred presentment transaction is five
hundred dollars ($500).
"(b) Each licensee may renew or extend a deferred presentment transaction with the same customer no more than one additional time at this fee for a maximum of two continuous transactions. After two continuous transactions with the customer, the licensee shall not enter into a new deferred presentment transaction with that same customer until the next business day after the transaction amount is repaid in full. After the customer has redeemed the check in full with cash or guaranteed funds, the licensee has the same authority as any other licensee to enter into another agreement for deferred presentment services with the customer on another check.

"(c) After the initial loan period and one rollover with the same customer, the full outstanding amount of the loan, including, but not limited to, held check or debt authorization, shall become due. (b) If the customer is unable to repay the outstanding balance in full, either by declaration to the licensee or otherwise evidenced by default such as a check or debit authorization returned for insufficient funds, the licensee may offer the customer an extended repayment option of four shall extend the loan for three months requiring the borrower to pay three equal monthly installments of the remaining balance. The licensee shall charge no more than three percent of the outstanding balance per month during the extended repayment period. The licensee shall not commence any civil action to collect on a transaction in default until written notice has been sent
notifying the customer of his or her rights. If the customer fails to exercise his or her rights within 15 days of the notice, the licensee may commence action to collect on a transaction in default the expiration of the mandatory extended loan period.

"(d) (c) If there are insufficient funds to pay a check on the date of presentment, the licensee may charge a fee authorized in Section 8-8-15; however, only one such fee may be collected with respect to any particular transaction deferred presentment services transaction, regardless of the number of payments owed. No other fees or charges of any kind may be charged or collected from customers except those authorized herein. No person shall use any device, subterfuge, or pretense whatsoever, including, but not limited to, catalog sales, discount vouchers, Internet instant-rebate programs, phone card clubs, or any agreement, including agreements with affiliated persons, with the intent to obtain greater charges than would otherwise be authorized by this chapter.


"(a) A licensee may not knowingly enter into a deferred presentment transaction with a customer that has outstanding deferred presentment transactions from any lender at any location that exceeds five hundred dollars ($500) for the term of the loan or who has had more than four deferred presentment transactions in a 12-month period. A licensee may not rollover any deferred presentment transaction or offer a
customer a new deferred presentment transaction within seven
days of payment of a prior transaction.

"(b) Before a licensee shall present for payment or
deposit a check or debit authorization accepted by the
licensee, the check shall be endorsed with the actual name
under which the licensee is doing business.

"(c) Any agreement for a deferred presentment
transaction shall be in writing and signed by the checking
account holder. The customer in a deferred presentment
contract shall have the right to redeem the check or debit
authorization from the licensee before the agreed date of
deposit upon payment to the licensee of the amount of the
contract. A licensee shall not defer presentment of any
personal check or debit authorization for less than 10 days
nor more than 31 calendar days after the date of the contract
The term of a deferred presentment services transaction shall
be 30 calendar days, with an automatic three-month extension
if the balance remains unpaid at the expiration of the
original 30-day term.

"(d) The licensee shall notify the district attorney
for the circuit in which the check was received within five
business days after being advised by the payer financial
institution that a check or draft has been altered, forged,
stolen, obtained through fraudulent or illegal means,
negotiated without proper legal authority, or represents the
proceeds of illegal activity. If a check or draft is returned
to the licensee by the payer financial institution for any of
these reasons, the licensee shall not release the check, draft, or money order without the consent of the district attorney or other investigating law enforcement authority.

"(e) A licensee shall comply with all provisions of state and federal law regarding cash transactions and cash transaction reporting.

"(f) A licensee shall provide each prospective customer, before consummation of the deferred presentment agreement, with a written explanation in clear, understandable language of the fees to be charged by the licensee and the date on which the check or debit authorization may be deposited or presented by the licensee. All fees associated with deferred presentment transactions shall be disclosed as finance charges as required by the Federal Truth-in-Lending Act, 15 U.S.C. §1605, its regulations, 12 C.F.R. Part 226, and Official Staff Commentary as adopted by the Federal Reserve Board. The supervisor may promulgate rules establishing additional requirements in order to assure complete and accurate disclosures. The customer, prior to entering into a deferred presentment transaction, shall receive and acknowledge an accurate and complete notification and disclosure of the itemized and total amounts of all fees and other costs that will or potentially could be imposed as a result of such agreement. This subsection shall not create any inference that a particular method of disclosure was required prior to June 20, 2003. All customers will be notified in clear and conspicuous language that if the borrower expresses
that he or she is unable to pay or if the deferred presentment check or debit authorization after one rollover, is returned for insufficient funds, the deferred presentment transaction will be subject to terms and conditions described in consistent with subsection (c) of Section 5-18A-12. The terms and conditions of the transaction shall be provided in the notification.

"(g) A licensee shall issue a copy of the written agreement to each person for whom a licensee defers deposit of a check or debit authorization. The written agreement shall include the information described in subsection (f) and the extended repayment program described in, including the terms of any automatic extension under subsection (c) of Section 5-18A-12.

"(h) If a check is returned to the licensee from a payer financial institution due to insufficient funds or a closed account, the licensee shall have the right to all civil remedies allowed by law, except as provided for in Section 5-18A-12, to collect the check and may recover court costs and a reasonable attorney's fee. The attorney's fee may not exceed 15 percent of the face amount of the check or debit authorization. No individual who issues a personal check or authorizes a debit for his or her checking account to a licensee for the purpose of a deferred presentment transaction under this chapter shall be convicted pursuant to Section 13A-9-13.1, if the check or debit authorization is returned due to insufficient funds. Checks or debit authorizations
returned to the licensee due to knowingly authorized by a
customer using a closed account may be collected pursuant to

"(i) No licensee may alter or delete the date on any
check accepted by the licensee. No licensee may accept an
undated check or debit authorization or a check or debit
authorization dated on a date other than the date on which the
licensee accepts the check or debit authorization.

"(j) No licensee shall engage in unfair or deceptive
acts, practices, or advertising in the conduct of the licensed
business.

"(k) No licensee shall require a customer to provide
security for the transaction or require the customer to
provide a guaranty from another person use or threaten force
or violence against any customer. No licensee shall threaten a
customer with criminal prosecution, unless the customer's
actions are in clear violation of a criminal statute pursuant
to Section 13A-9-13.1, relating to negotiating a worthless
instrument. No licensee shall trespass on a customer's
property, use printed materials that resemble legal process,
make collection attempts at unreasonable hours of the night,
or deny the customer use of personal property not secured by
the loan.

"(l) Each licensee shall may pay all proceeds for
any from a deferred presentment transaction in cash, money
order, or stored value card and directly to the customer or by
means of an electronic funds transfer directly to the customer
or the customer's account. The customer may not be charged an additional fee for cashing the lender's business instrument or for negotiating the forms of loan proceeds other than cash. The period of the deferred presentment services transaction shall not begin until the customer receives the funds. There shall be no additional charge related to the payment of the proceeds of any deferred presentment transaction.

"(m) Every licensee shall conspicuously and continuously display a schedule of all fees, charges, and penalties for all services provided by the licensee. The schedule of fees shall contain the following statement in all capital letters and in 12-point type or larger immediately above the space for the borrower's signature: NOTICE: FEES FOR DEFERRED PRESENTMENT TRANSACTIONS MAY BE SIGNIFICANTLY HIGHER THAN FOR OTHER TYPES OF LOANS.

"(n) A deferred presentment provider shall not redeem, extend, or otherwise consolidate a deferred deposit agreement with the proceeds of another deferred presentment transaction made by the same or affiliated deferred presentment provider except as expressly provided in Section 5-18A-12.

"(o) The licensee shall use a third party private sector database, where available, the statewide database selected by the State Banking Department to ensure that the customer does not have outstanding deferred presentment transactions that exceed five hundred dollars ($500).

"§8-8-5.
"(a) Any person or persons, corporations, trust, general partnership or partnerships, limited partnership or partnerships, or association may agree to pay such rate or rates of interest not to exceed 60 percent annualized percentage rate as defined by Regulation Z of the Truth in Lending Act of 1968 for the loan or forbearance of money and for any credit sales as such person, corporation, trust, general partnership, limited partnership, or association may determine, notwithstanding any law of this state otherwise prescribing or limiting such rate or rates of interest; provided, that the original principal balance of the loan or forbearance of money or credit sales is not less than $2,000; provided further, that all laws relating to unconscionability in consumer transactions including but not limited to the provisions of Chapter 19 of Title 5, known as the Mini-Code, shall apply to transactions covered by this section.

"(b) As to any such loan or forbearance of money or credit sales made in compliance with subsection (a) of this section, neither such person, corporation, trust, general partnership, limited partnership, or association, nor their heirs, successors, or assigns, nor any surety, guarantor, endorser, or any other person, firm, partnership, association, trust, or corporation which may become liable, in whole or in part, for the payment of the debt and interest agreed to be paid thereon in accordance with the terms hereof, or any extension, amendment, or renewal thereof, may raise or claim the defense or benefit of the usury laws or any other law
prescribing, regulating, or limiting such rate or rates of interest.

"(c) The term "original principal balance," as used herein, shall include the total principal amount of indebtedness incurred or contracted for in a loan, forbearance of money, credit sales, or in a single issue or sale of bonds, debentures, promissory notes, or like transaction, without regard either to the face amount or denomination of any bond, debenture, note, or other evidence of indebtedness constituting a part of such issue or sale, or to the amount of the initial or any subsequent advance pursuant to such loan, forbearance, or credit sales. The term "interest" as used herein shall include all direct or indirect charges imposed as an incident to a loan, forbearance of money, or credit sales.

"(d) This section shall apply to any person or entity, whether or not organized for profit, and to transactions both prior to and after default, but shall not apply to any agreement involving the loan or forbearance of money or credit sales where the original principal balance is less than $2,000.

"(e) The provisions of this section are cumulative to, and not in derogation of, rights under other provisions of state or federal law and shall not in any way repeal, amend, or modify the provisions of Public Law 96-221 enacted by the Congress of the United States and approved March 31, 1980, as amended."
Section 2. After the effective date of this act, no person licensed pursuant to Chapter 19A of Title 5 of the Code of Alabama 1975, shall enter into a new transaction in which money is advanced in exchange for a security interest in unencumbered titled personal property owned by a consumer, whether it be a pawn, loan, or pledge, and these transactions shall be regulated pursuant to either Chapter 18 or Chapter 19A of Title 5, Code of Alabama 1975, depending on the principal amount advanced in exchange for the security interest.

Section 3. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Amendment 621 because the bill defines a new crime or amends the definition of an existing crime.

Section 4. This act shall become effective on the August 1, 2017.