

1 HB335
2 217118-2
3 By Representative Blackshear
4 RFD: Financial Services
5 First Read: 10-FEB-22

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ENROLLED, An Act,

Relating to banking and financial institutions; to authorize limited closing fees on certain small loans.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 5-18-15, Code of Alabama 1975, is 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 five hundred dollars (\$1,500) 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 five hundred dollars (\$1,500).

"(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

1 fee shall be determined at the date of the loan, but may not
2 be prepaid. Such fee as so determined shall not bear interest
3 and shall constitute a part of the finance charge.

4 "(c) Method of computing charges.

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

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

16 "(2) When the loan contract requires repayment in
17 substantially equal and consecutive monthly installments of
18 principal and charges or interest combined, the charges or
19 interest may be precomputed at the agreed monthly or periodic
20 rate not in excess of that provided for in subsections (a) and
21 (b) on scheduled unpaid principal balances according to the
22 terms of the contract and added to the principal of the loan.
23 Every payment may be applied to the combined total of
24 principal and precomputed charge until the contract is fully
25 paid. The acceptance or payment of charges on loans made under

1 the provisions of this subsection shall not be deemed to
2 constitute payment, deduction, or receipt thereof in advance
3 nor compounding under subdivision (1) ~~above~~.

4 "(d) Refunds.

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

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

1 the consent of the borrower reschedule the remaining
2 installments and precompute charges as prescribed in
3 subdivision (2) of subsection (c).

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

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

1 substantially equivalent to charges authorized to be collected
2 by licensees under this section.

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

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

19 "(i) Installment payments; contract period. No
20 licensee shall enter into any contract of loan under this
21 chapter in which the borrower agrees to make any scheduled
22 repayment of the cash advance more than 25 calendar months
23 from the date of making the contract of loan. Every loan
24 contract shall require payment of the cash advance and charges
25 in installments which shall be payable at approximately equal

1 periodic intervals; except, that payment dates may be omitted
2 to accommodate borrowers with seasonal incomes. No installment
3 contracted for shall be substantially larger than any
4 preceding installment.

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

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

23 "(l) Liabilities of licensees making excess charges.
24 Any licensee making any charge in excess of the amount
25 authorized herein, except as the result of a deliberate

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

25 "(m) Alternative rates of charge.

1 "(1) As an alternative to the interest rates and
2 charges permitted to be charged by a licensee pursuant to
3 subsections (a) and (b) on loans of less than one thousand
4 five hundred dollars (\$1,500), a licensee may charge an
5 acquisition charge for making the loan in an amount not in
6 excess of 10 percent of the amount of the principal and an
7 installment account handling charge in an amount no greater
8 than the following:

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

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

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

18 "d. Twenty dollars (\$20) per month on any loan of an
19 amount in excess of five hundred dollars (\$500), but not more
20 than one thousand dollars (\$1,000).

21 "e. Twenty-three dollars (\$23) per month on any loan
22 of an amount in excess of one thousand dollars (\$1,000), but
23 not more than one thousand two hundred fifty dollars (\$1,250).

24 "f. Twenty-six dollars (\$26) per month on any loan
25 of an amount in excess of one thousand two hundred fifty

1 dollars (\$1,250), but not equal to or exceeding one thousand
2 five hundred dollars (\$1,500.)

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

12 "(2) The minimum term for repayment of a loan under
13 this subsection is three months and the maximum term of any
14 loan made under this subsection is 18 months.

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

19 "(4) No insurance charge under Section 5-18-17, no
20 interest surcharge under Section 8-8-14, nor any other charge
21 of any nature whatsoever, is permitted for loans made pursuant
22 to the rate structure of this subsection, except for
23 acquisition charges and installment account handling charges
24 as provided under this subsection, default charges under

1 subsection (e), recording fees under subsection (g), bad check
2 charges under Section 8-8-15, and assessed court costs.

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

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

11 "(7) In addition to the acquisition charge provided
12 under subdivision (m) (1), the licensee may collect a closing
13 fee in an amount not to exceed the lesser of four percent of
14 the loan amount or fifty dollars (\$50). The closing fee may be
15 paid from the proceeds of the loan amount and financed by the
16 licensee.

17 "(8) Upon the prepayment in full of any loan under
18 this subsection, any closing fee collected shall be subject to
19 subsection (d), as it relates to refunds, provided, however,
20 that the licensee may retain up to twenty-five dollars (\$25)
21 of the closing fee.

22 "(n) (1) Act 2017-373 shall apply to loan contracts
23 entered into after May 25, 2017.

24 "(2) Act 2017-373 shall not affect loan contracts
25 entered into prior to May 25, 2017."

1 Section 2. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.

