

1 HB3  
2 126193-3  
3 By Representative Ford  
4 RFD: Financial Services  
5 First Read: 01-MAR-11  
6 PFD: 02/22/2011



1 default, not to exceed one hundred dollars (\$100). Should the  
2 minimum \$18 late charge permissible under the Alabama Small  
3 Loan Act, Section 5-18-15.1, be increased by a future  
4 amendment to the Alabama Small Loan Act, then the minimum \$18  
5 late charge permitted under this subsection automatically  
6 shall increase in the same amount without the necessity for an  
7 amendment to this section. The late charge may be collected  
8 only once on any scheduled payment, regardless of the period  
9 during which the scheduled payment remains in default.

10 "(b) With respect to the deferral of one or more  
11 wholly unpaid scheduled payments in a consumer credit  
12 transaction, in which the finance charge was determined by the  
13 precomputed method, the creditor may collect, by agreement  
14 with the debtor either before or after default, an additional  
15 charge for each full month that any wholly unpaid scheduled  
16 payments are outstanding after the due date of each scheduled  
17 payment equal to that proportion of the finance charge which  
18 the amount of the deferred monthly scheduled payment bears to  
19 the sum of all monthly balances originally scheduled.

20 "(c) Except as otherwise provided by law, when any  
21 debt is paid in full before the final scheduled payment date,  
22 the debtor may do so without penalty, and the creditor shall  
23 refund or credit the debtor with not less than that portion of  
24 the finance charge which shall be due the debtor as follows:

25 "(1)a. In the case of a consumer credit transaction  
26 with an original term of more than 61 months according to any

1 generally accepted actuarial method of computation established  
2 or otherwise approved by the administrator; and

3 "b. In all other consumer credit transactions  
4 according to the rule of 78ths or sum of the digits method,  
5 meaning the amount of the refund or credit shall be as great a  
6 proportion of the finance charge originally contracted for as  
7 the sum of the periodic time balances of the debt scheduled to  
8 follow the date of prepayment bears to the sum of all the  
9 periodic time balances of the debt, both sums to be determined  
10 according to the scheduled payments originally contracted for.

11 "(2) No refund of less than one dollar (\$1) need be  
12 made.

13 "(3) If the prepayment is made by the debtor other  
14 than on a scheduled payment date, the nearest scheduled  
15 payment date shall be used in the computation.

16 "(d) Except as otherwise provided by law, when any  
17 debt is renewed or refinanced by any creditor or creditor's  
18 affiliate within a period of 90 days from the date the debt is  
19 made or incurred, the debtor shall be entitled to a pro rata  
20 refund or credit of any unearned portion of the original  
21 finance charge computed as of the date of such refinancing or  
22 renewal. When the renewal or refinancing occurs after 90 days,  
23 any refund or credit shall be calculated as provided in  
24 subsection (c) above. On and after January 1, 1997, except as  
25 otherwise provided by law, when any debt is renewed or  
26 refinanced by any creditor or creditor's affiliate within a  
27 period of 120 days from the date the debt is made or incurred,

1 the debtor shall be entitled to a pro rata refund or credit of  
2 any unearned portion of the original finance charge computed  
3 as of the date of such refinancing or renewal. When the  
4 renewal or refinancing occurs after 120 days, any refund or  
5 credit shall be calculated as provided in subsection (c)  
6 above.

7 "(e) When any consumer debt is renewed or refinanced  
8 by the creditor or an affiliate of the creditor, any minimum  
9 finance charge for a credit sale shall be reduced to the  
10 finance charge which is otherwise permitted by Section 5-19-3.

11 "(f) A creditor may charge and collect in a  
12 transaction secured by real property the following fees and  
13 charges if bona fide and reasonable in amount, and provided  
14 that, other than the appraisal fees authorized by subdivision  
15 (4) and fees and charges authorized by regulations promulgated  
16 by the administrator, the fees are paid to parties unrelated  
17 to the creditor:

18 "(1) Fees for title examination, abstract of title,  
19 title insurance, property survey, pest inspection, flood  
20 inspection, and similar purposes;

21 "(2) Fees for preparing deeds, mortgages, and  
22 reconveyance, settlement, and similar documents;

23 "(3) Notary fees and credit report fees;

24 "(4) Appraisal fees paid to persons licensed under  
25 the provisions of the Alabama Real Estate Appraisers Act,  
26 whether or not the appraiser is employed by or otherwise  
27 related to the creditor; and

1           "(5) Fees and charges prescribed by law which are or  
2 will be paid to public officials or agencies for recording or  
3 releasing a lien on property which secured the loan, provided,  
4 however, that a releasing fee may only be charged and  
5 collected at or after the time the lien is released.

6           "(6) The administrator may by regulation promulgated  
7 pursuant to Section 5-19-21 authorize other fees and charges.

8           "(g) A creditor may, pursuant to a consumer credit  
9 transaction contract secured by an interest in real property,  
10 charge and collect points in an amount not to exceed five  
11 percent of the original principal balance in the case of a  
12 closed-end consumer credit transaction, or five percent of the  
13 total line of credit in the case of an open-end credit plan.  
14 Points may be paid in cash at the time of the consumer credit  
15 transaction, or may be deducted from the proceeds and included  
16 in the original amount financed for the purposes of Section  
17 5-19-3 or financed under the open-end credit plan. Points  
18 shall be in addition to all other charges, are fully earned on  
19 the date of the consumer credit transaction, and may be  
20 excluded from the finance charge for the purpose of computing  
21 any finance charge credit or refund.

22           "(h) Subsections (b), (c), (d), and (e) of this  
23 section shall not apply to open-end credit plans. The  
24 requirements of a refund or credit of any unearned finance  
25 charge under subsections (c) and (d) of this section apply  
26 only if and to the extent the consumer credit transaction  
27 includes a precomputed or prepaid finance charge."

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
  
16  
17  
18  
19

House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Financial Ser-  
vices..... . . . . 01-MAR-11

Read for the second time and placed  
on the calendar with 1 substitute  
and..... . . . . 03-MAR-11

Read for the third time and passed  
as amended..... . . . . 14-APR-11

Yeas 76, Nays 11, Abstains 3

Greg Pappas  
Clerk