

1 HB160  
2 167355-3  
3 By Representatives Pringle, McMillan, Sessions, Gaston and  
4 Williams (JW)  
5 RFD: Financial Services  
6 First Read: 05-MAR-15



1 5-19-26, Code of Alabama 1975; and to provide that the  
2 Superintendent of Banks of the State Banking Department is  
3 authorized to issue regulations and interpretations of this  
4 act; to provide remedies for violations of this act by a  
5 consumer lawsuit lender.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. This act shall be known as the "Alabama  
8 Consumer Lawsuit Lending Act."

9 Section 2. For the purposes of this act, the  
10 following terms shall have the meanings ascribed to them by  
11 this section:

12 (1) CONSUMER. Any natural person who is, or who is  
13 contemplating being or becoming, a plaintiff or claimant in  
14 any dispute.

15 (2) CONSUMER LAWSUIT LENDER. A person that engages  
16 in consumer lawsuit lending.

17 (3) CONSUMER LAWSUIT LENDING. The act of providing  
18 money or credit to a consumer who is a resident of this state,  
19 or from a place of business in this state or through an  
20 employee in this state, pursuant to an agreement or  
21 arrangement with the consumer under which the consumer is not  
22 prohibited from using the money or credit for a purpose other  
23 than prosecuting a dispute, and repayment of the money or  
24 credit is conditioned upon the consumer's recovery of money in  
25 a dispute pursuant to a judgment, award, settlement, or  
26 otherwise or recourse against the consumer by the person  
27 providing the money or credit is limited exclusively or

1 primarily to all or part of the amount recovered by the  
2 consumer in a dispute. Each such provision of money or credit  
3 to a consumer shall be deemed to be a credit transaction that  
4 is a loan, whether the transaction under which the money or  
5 credit is provided is structured as a loan to the consumer, an  
6 investment, a purchase from or other assignment by the  
7 consumer of all or part of the consumer's contingent right to  
8 a recovery in a dispute, or otherwise. The principal loan  
9 amount of the loan shall be the full amount of money actually  
10 provided to and obtained by the consumer.

11 (4) CONSUMER LAWSUIT LENDING AGREEMENT. A contract  
12 or other arrangement that governs and sets out the terms of a  
13 consumer lawsuit lending transaction.

14 (5) DISPUTE. Any civil action, alternative dispute  
15 resolution proceeding, or administrative proceeding before any  
16 agency or instrumentality of a state or the United States.

17 (6) FINANCE CHARGE. As defined in Section 5-19-1(1)  
18 of the Code of Alabama 1975, provided that any amount paid or  
19 payable to the consumer lawsuit lender in a consumer lawsuit  
20 lending transaction in excess of the amount of money actually  
21 provided to the consumer by the consumer lawsuit lender shall  
22 be a finance charge, regardless of the manner in which the  
23 amount paid or payable is designated or the consumer lawsuit  
24 lending transaction is structured. The finance charge shall  
25 not be determined or expressed, in whole or in part, as a  
26 percentage or other share of any recovery in a dispute.

1                   Section 3. The finance charge under a consumer  
2 lawsuit lending agreement shall not exceed the rate of ten  
3 dollars (\$10) upon one hundred dollars (\$100) of the principal  
4 loan amount for one year and at that rate for a greater or  
5 lesser sum and for a longer or shorter time. The foregoing  
6 limitation shall apply notwithstanding any other provision of  
7 law, including, without limitation, Sections 8-8-1 through  
8 8-8-5, Section 8-8-14, and Section 5-20-5 of the Code of  
9 Alabama 1975.

10                   Section 4. (a) A consumer lawsuit lending agreement  
11 shall be subject to the provisions of Section 5-19-16 of the  
12 Code of Alabama 1975.

13                   (b) The provisions of Section 5-19-19 of the Code of  
14 Alabama 1975, that apply to a creditor that is a lender of  
15 money or a licensee under Section 5-19-22 of the Code of  
16 Alabama 1975, shall be applicable to a consumer lawsuit lender  
17 in a consumer lawsuit lending transaction.

18                   (c) Before engaging in a consumer lawsuit lending  
19 transaction, a person shall obtain a license under Section  
20 5-19-22 of the Code of Alabama 1975, without regard to the  
21 number of extensions of credit the person made or arranged  
22 during the preceding calendar year, unless the person is  
23 exempted from licensing under that section.

24                   (d) Sections 5-19-23 through 5-19-25 of the Code of  
25 Alabama 1975, shall be applicable to a consumer lawsuit lender  
26 that is licensed under Sections 5-19-22 and 5-19-26 of the  
27 Code of Alabama 1975, shall apply to a lender that is licensed

1 or has applied for a license under Section 5-19-22 of the Code  
2 of Alabama 1975.

3 (e) Section 5-19-29 of the Code of Alabama 1975,  
4 shall be applicable to a consumer lawsuit lender.

5 Section 5. A consumer litigation funding agreement  
6 shall contain inside a text box, in bold type, a right of  
7 rescission permitting the consumer to cancel the agreement  
8 without penalty or further obligation if, not later than the  
9 fifth business day after the funding date, the consumer shall  
10 do the following:

11 (1) Returns to the consumer litigation funder the  
12 full amount of the disbursed funds by personally delivering  
13 the funder's uncashed check to the funder's office; or

14 (2) Sends by insured, certified, or registered  
15 United States mail to the address specified in the agreement a  
16 notice of cancellation and the full amount of disbursed funds  
17 in the form of the funder's uncashed check or a registered or  
18 certified check or money order.

19 Section 6. The Superintendent of Banks of the State  
20 Banking Department is authorized and empowered to promulgate  
21 regulations and official interpretations as may be necessary  
22 or appropriate for the execution and enforcement of this act.  
23 The Superintendent of Banks or, if authorized by the  
24 regulations, the superintendent's designee, or both, may also  
25 issue written interpretations of this act and the regulations.  
26 The procedure for adopting, amending, repealing, or contesting

1 any regulation shall be as set forth in Section 5-19-21(b) of  
2 the Code of Alabama 1975.

3 Section 7. If any provision or provisions of this  
4 act shall be held to be invalid, unenforceable, or in conflict  
5 with the Constitution of this state or of the United States,  
6 the validity, legality, and enforceability of the remaining  
7 provisions shall not be affected or impaired thereby.

8 Section 8. This act shall become effective on the  
9 first day of the third month following its passage and  
10 approval by the Governor, or its otherwise becoming law;  
11 provided, that any consumer lawsuit lender that is first  
12 required to be licensed under Section 5-19-22 of the Code of  
13 Alabama 1975, upon the effective date of this act shall obtain  
14 such license not later than September 30, 2015, and the  
15 license fee for such license for the period ending December  
16 31, 2015, shall be a prorated fee of one hundred twenty-five  
17 dollars (\$125) for each office, branch, or place of business  
18 of the licensee.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Financial Ser-  
vices..... . . . . 05-MAR-15

Read for the second time and placed  
on the calendar with 1 substitute  
and..... . . . . 09-APR-15

Read for the third time and passed  
as amended..... . . . . 23-APR-15

Yeas 98, Nays 1, Abstains 2

Jeff Woodard  
Clerk