

1 SB67
2 172512-1
3 By Senators Ward, Marsh and Reed
4 RFD: Judiciary
5 First Read: 02-FEB-16

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8 SYNOPSIS: This bill would regulate the providing of
9 money or credit to a consumer pursuant to an
10 agreement under which the consumer is not
11 prohibited from using the money or credit for a
12 purpose other than prosecuting a dispute, and under
13 which repayment of the money or credit is
14 conditioned upon the consumer's recovery of money
15 in a dispute or where recourse against the consumer
16 by the person providing the money or credit is
17 limited exclusively or primarily to the amount
18 recovered by the consumer in a dispute.

19 This bill would define provider of money or
20 credit as a consumer lawsuit lender.

21 This bill would provide that each provision
22 of money or credit would be deemed to be a consumer
23 loan and the maximum finance charge on the loan
24 would be as provided in this bill, regardless of
25 the amount of the loan or credit provided.

1 This bill would require each consumer
2 lawsuit lender to obtain a license under Section
3 5-19-22 of the Code of Alabama 1975.

4 This bill would provide that the lender
5 would be subject to Sections 5-19-16, 5-19-19,
6 5-19-23, 5-19-24, 5-19-25, and 5-19-26, Code of
7 Alabama 1975.

8 This bill would allow the Superintendent of
9 Banks of the State Banking Department to issue
10 regulations and interpretations under the act.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT

15
16 Relating to the extension of money or credit to
17 consumers for a purpose other than the prosecution of a
18 dispute where repayment of the money or credit is conditioned
19 upon the consumer's recovery of money in a dispute or where
20 recourse against the consumer by the person providing the
21 money or credit is limited exclusively or primarily to the
22 amount recovered by the consumer in a dispute; to define the
23 terms amount financed, consumer, consumer lawsuit lender,
24 consumer lawsuit lending, consumer lawsuit lending agreement,
25 dispute, and finance charge; to provide for the maximum
26 finance charge under a consumer lawsuit lending agreement
27 without regard to the amount financed or the manner in which

1 the transaction is structured; to provide that a consumer
2 lawsuit lender is required to be licensed under Section
3 5-19-22 of the Code of Alabama 1975, to engage in consumer
4 lawsuit lending transactions without regard to the number of
5 extensions of credit the consumer lawsuit lender made or
6 arranged in the preceding calendar year; to provide that a
7 consumer lawsuit lender is subject to the provisions of
8 Sections 5-19-16, 5-19-19, 5-19-23, 5-19-24, 5-19-25, and
9 5-19-26, Code of Alabama 1975; and to provide that the
10 Superintendent of Banks of the State Banking Department is
11 authorized to issue regulations and interpretations of this
12 act; to provide remedies for violations of this act by a
13 consumer lawsuit lender.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

17 Section 2. For the purposes of this act, the
18 following terms shall have the meanings ascribed to them by
19 this section:

20 (1) CONSUMER. Any natural person who is, or who is
21 contemplating being or becoming, a plaintiff or claimant in
22 any dispute.

23 (2) CONSUMER LAWSUIT LENDER. A person that engages
24 in consumer lawsuit lending.

25 (3) CONSUMER LAWSUIT LENDING. The act of providing
26 money or credit to a consumer who is a resident of this state,
27 or from a place of business in this state or through an

1 employee in this state, pursuant to an agreement or
2 arrangement with the consumer under which the consumer is not
3 prohibited from using the money or credit for a purpose other
4 than prosecuting a dispute, and repayment of the money or
5 credit is conditioned upon the consumer's recovery of money in
6 a dispute pursuant to a judgment, award, settlement, or
7 otherwise or recourse against the consumer by the person
8 providing the money or credit is limited exclusively or
9 primarily to all or part of the amount recovered by the
10 consumer in a dispute. Each such provision of money or credit
11 to a consumer shall be deemed to be a credit transaction that
12 is a loan, whether the transaction under which the money or
13 credit is provided is structured as a loan to the consumer, an
14 investment, a purchase from or other assignment by the
15 consumer of all or part of the consumer's contingent right to
16 a recovery in a dispute, or otherwise. The principal loan
17 amount of the loan shall be the full amount of money actually
18 provided to and obtained by the consumer.

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

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

25 (6) FINANCE CHARGE. As defined in Section 5-19-1(1)
26 of the Code of Alabama 1975, provided that any amount paid or
27 payable to the consumer lawsuit lender in a consumer lawsuit

1 lending transaction in excess of the amount of money actually
2 provided to the consumer by the consumer lawsuit lender shall
3 be a finance charge, regardless of the manner in which the
4 amount paid or payable is designated or the consumer lawsuit
5 lending transaction is structured. The finance charge shall
6 not be determined or expressed, in whole or in part, as a
7 percentage or other share of any recovery in a dispute.

8 Section 3. The finance charge under a consumer
9 lawsuit lending agreement shall not exceed the rate of ten
10 dollars (\$10) upon one hundred dollars (\$100) of the principal
11 loan amount for one year and at that rate for a greater or
12 lesser sum and for a longer or shorter time. The foregoing
13 limitation shall apply notwithstanding any other provision of
14 law, including, without limitation, Sections 8-8-1 through
15 8-8-5, Section 8-8-14, and Section 5-20-5 of the Code of
16 Alabama 1975.

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

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

25 (c) Before engaging in a consumer lawsuit lending
26 transaction, a person shall obtain a license under Section
27 5-19-22 of the Code of Alabama 1975, without regard to the

1 number of extensions of credit the person made or arranged
2 during the preceding calendar year, unless the person is
3 exempted from licensing under that section.

4 (d) Sections 5-19-23 through 5-19-25 of the Code of
5 Alabama 1975, shall be applicable to a consumer lawsuit lender
6 that is licensed under Sections 5-19-22 and 5-19-26 of the
7 Code of Alabama 1975, shall apply to a lender that is licensed
8 or has applied for a license under Section 5-19-22 of the Code
9 of Alabama 1975.

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

12 Section 5. The Superintendent of Banks of the State
13 Banking Department is authorized and empowered to promulgate
14 regulations and official interpretations as may be necessary
15 or appropriate for the execution and enforcement of this act.
16 The Superintendent of Banks or, if authorized by the
17 regulations, the superintendent's designee, or both, may also
18 issue written interpretations of this act and the regulations.
19 The procedure for adopting, amending, repealing, or contesting
20 any regulation shall be as set forth in Section 5-19-21(b) of
21 the Code of Alabama 1975.

22 Section 6. If any provision or provisions of this
23 act shall be held to be invalid, unenforceable, or in conflict
24 with the Constitution of this state or of the United States,
25 the validity, legality, and enforceability of the remaining
26 provisions shall not be affected or impaired thereby.

1 Section 7. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law;
4 provided, that any consumer lawsuit lender that is first
5 required to be licensed under Section 5-19-22 of the Code of
6 Alabama 1975, upon the effective date of this act shall obtain
7 such license not later than September 30, 2016, and the
8 license fee for such license for the period ending December
9 31, 2016, shall be a prorated fee of one hundred twenty-five
10 dollars (\$125) for each office, branch, or place of business
11 of the licensee.