



In bill text the following have special meaning:

green underline denotes added text

~~dark red struck out text denotes deleted text~~

red text denotes vetoed text

The symbol, , indicates a link to an affected code section

2011 AL H 3

AUTHOR: Ford C

VERSION: Enacted

VERSION DATE: 06/09/2011

Act No. 2011-529

Rep(s). By Representative Ford

HB3

ENROLLED , An Act,

To amend Section 5-19-4 , Code of Alabama 1975, relating to late charges under the Alabama Consumer Credit Act, commonly referred to as the Mini-Code, to provide further for a maximum late charge, based on Section 5-18-15.1 , Code of Alabama 1975, of the Alabama Small Loan Act, that certain lenders may charge if the late charge is stipulated in the contract.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 5-19-4 , Code of Alabama 1975, is amended to read as follows:

Section 5-19-4 .

"(a) When a scheduled payment in a consumer credit transaction is in default 10 days or more, the creditor may charge and collect a late charge not ~~exceeding the greater of ten dollars (\$10) or five percent of the amount of the scheduled payment in default, not to exceed one hundred dollars (\$100) to exceed the amount authorized in the Alabama Small Loan Act and stipulated in Section 5-18-15.1 ~~. The late dollars ~~\$(100)~~ exceeding the greater of eighteen dollars (\$18) or five percent of the amount of the scheduled payment in default, not to exceed one hundred dollars (\$100). Should the minimum \$18 late charge permissible under the Alabama Small Loan Act, Section 5-18-15.1 , be increased by a future amendment to the Alabama Small Loan Act, then the minimum \$18 late charge permitted under this subsection automatically shall increase in the same amount without the necessity for an amendment to this section. The ~~late charge may be collected~~ default, not to exceed one hundred dollars (\$100). The late charge may be collected only once on any scheduled payment, regardless of the period during which the scheduled payment remains in default.

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

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

"(1)a. In the case of a consumer credit transaction with an original term of more than 61 months according to any generally accepted actuarial method of computation established or otherwise approved by the administrator; and

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

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

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

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

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

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

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

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

"(3) Notary fees and credit report fees;

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

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

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

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

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

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