

1 SB530
2 140930-1
3 By Senator Taylor
4 RFD: Finance and Taxation General Fund
5 First Read: 17-APR-12

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8 SYNOPSIS: Under existing law, there is an exemption
9 from the payment of license fees under the Alabama
10 Small Loan Act for persons licensed under the
11 Alabama Consumer Credit Act.

12 This bill would remove that exemption.

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14 A BILL
15 TO BE ENTITLED
16 AN ACT

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18 To amend Section 5-19-22, Code of Alabama 1975,
19 relating to the Alabama Consumer Credit Act; to remove the
20 exemption for the payment of the license fee under the Alabama
21 Small Loan Act for those licensees also licensed under the
22 Alabama Consumer Credit Act.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 5-19-22, Code of Alabama 1975, is
25 amended to read as follows:

26 "§5-19-22.

1 "(a) No creditor shall engage in any one or more of
2 the following activities without first having obtained a
3 license from the administrator:

4 "(1) Making consumer loans to Alabama residents,
5 regardless of whether the creditor has a place of business in
6 Alabama or an employee residing in Alabama.

7 "(2) Making consumer loans originated by an
8 individual required to be licensed as a mortgage loan
9 originator under the Alabama Secure and Fair Enforcement for
10 Mortgage Licensing Act of 2009.

11 "(3) Taking assignments of consumer credit
12 contracts, either from a place of business in Alabama or
13 through use of an employee residing in Alabama whose
14 employment includes taking assignments of consumer credit
15 contracts.

16 "Banks chartered by this state or any other state,
17 banks chartered by the United States, trust companies, savings
18 or building and loan associations, savings banks and other
19 thrift institutions, bank holding companies, thrift holding
20 companies, credit unions, and federally constituted agencies
21 shall be exempt from licensing. A seller, with respect to
22 consumer credit sale transactions and the financing of charges
23 permitted by this chapter, is not required to be licensed
24 under this chapter. Any creditor required to be licensed under
25 this chapter shall obtain a license for each location in
26 Alabama from which these activities are conducted or, if the
27 creditor has no location in Alabama, for the location where

1 the creditor maintains its records regarding Alabama loans or
2 Alabama consumer credit contracts; provided, however,
3 insurance companies and their subsidiaries and affiliates who
4 do not make loans or take assignments of consumer credit
5 contracts secured by real property may obtain a license for
6 the location where the records are maintained in lieu of
7 obtaining a license for each location where the activity is
8 conducted.

9 "(b) The license application shall be in writing,
10 under oath, in the form prescribed by the administrator, and
11 be accompanied by an investigation fee of one hundred dollars
12 (\$100).

13 "(c) Upon receipt of the application and
14 investigation fee, the administrator shall investigate the
15 applicant and determine whether the license should be issued
16 or denied.

17 "(d) No license shall be issued unless the
18 administrator determines that the financial responsibility,
19 character, and fitness of the applicant, and of the members
20 thereof if the applicant is a partnership or association,
21 officers and directors thereof if the applicant is a
22 corporation are such as to warrant belief that the business
23 will be operated honestly and fairly within the purpose of
24 this chapter and finds that the applicant has assets available
25 for the operation of business under this chapter of at least
26 twenty-five thousand dollars (\$25,000). The State Banking
27 Department may require the applicant or licensee engaging in

1 extensions of credit secured by real estate to obtain a surety
2 bond in lieu of the net asset requirement in order to fulfill
3 the requirements of the Alabama Secure and Fair Enforcement
4 for Mortgage Licensing Act. The amount of the surety bond will
5 be determined by the department. The surety bond will be in
6 favor of the State of Alabama for the use, benefit, and
7 indemnity of any person who suffers damage or loss as a result
8 of the company's breach of contract or of any obligation
9 arising therefrom or any violation of the law.

10 "(e) Upon written request, the applicant is entitled
11 to a hearing on the question of his qualifications for a
12 license if:

13 "(1) The administrator has notified the applicant in
14 writing that the application has been denied; or

15 "(2) The administrator has not issued a license
16 within 60 days after the application for the license was
17 filed.

18 "A request for a hearing may not be made more than
19 15 days after the administrator has mailed by certified mail a
20 writing to the applicant notifying him that the application
21 has been denied stating in substance the administrator's
22 findings supporting denial of the application.

23 ~~"(f) Any person licensed under the Alabama Small
24 Loan Act may engage in business under the Alabama Small Loan
25 Act, but shall not make loans in excess of one thousand
26 dollars (\$1,000) unless such person is also licensed under
27 this chapter. The payment of the license and examination fees~~

1 ~~required by this chapter shall be in lieu of the license and~~
2 ~~examination fees required by the Alabama Small Loan Act when~~
3 ~~the licensee is also licensed under the Alabama Small Loan~~
4 ~~Act.~~

5 "~~(g)~~ (f) The license shall be in the form prescribed
6 by the administrator, posted conspicuously in the place of
7 business of the licensee, and shall not be assignable or
8 transferable or removed to another location without permission
9 of the administrator.

10 "~~(h)~~ (g) The annual license fee shall be five
11 hundred dollars (\$500) for each office, branch, or place of
12 business of the licensee, which shall be due on January 1 of
13 each year, and shall be for a one-year period ending December
14 31, and shall be delinquent on February 1 of each year, and
15 there shall be a penalty of 10 percent for each month or part
16 thereof that the licensee is delinquent in the payment of such
17 license fee. All license fees and investigation fees
18 collected shall be nonrefundable and paid into the special
19 fund provided by Section 5-2A-20 and used in the supervision
20 and examination of licensees.

21 "~~(i)~~ (h) With respect to any license applicants that
22 will make Residential Mortgage Loans, as defined in the
23 Alabama S.A.F.E. Act, the State Banking Department may require
24 applicants to apply through the Nationwide Mortgage Licensing
25 System and Registry. In order to carry out this requirement,
26 the supervisor is authorized to participate in the Nationwide
27 Mortgage Licensing System and Registry. For this purpose, the

1 supervisor may establish by rule or order requirements as
2 necessary, including, but not limited to, the following:

3 "(1) Background checks for the following purposes:

4 "a. Criminal history through fingerprint or other
5 databases.

6 "b. Civil or administrative records.

7 "c. Credit history.

8 "d. Any other information deemed necessary by the
9 Nationwide Mortgage Licensing System and Registry.

10 "(2) The payment of fees to apply for or renew
11 licenses through the Nationwide Mortgage Licensing System and
12 Registry."

13 Section 2. This act shall become effective on the
14 first day of the third month following its passage and
15 approval by the Governor, or its otherwise becoming law.