

1 HB717  
2 140533-1  
3 By Representative Todd  
4 RFD: Financial Services  
5 First Read: 19-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.