



STATE OF ALABAMA STATE BANKING DEPARTMENT



Frequently Asked Questions Regarding Licensing

The Alabama State Banking Department, through the Bureau of Loans, licenses and regulates a variety of companies under various laws. These include the following Acts:

- The Alabama Consumer Credit Act – Mini Code
- The Alabama Small Loan Act
- Mortgage Brokers Licensing Act
- Deferred Presentment Services Act
- Alabama Pawnshop Act

The companies subject to these various Acts include consumer finance companies, residential mortgage brokers, small loan companies, deferred presentment providers (“payday lenders”) and pawnshops (including title pawn lenders). (hereinafter “lenders”) Each Act requires the submission of a specific type of application. Copies of the applications can be obtained by downloading from the Department’s website or by calling our office. The following Frequently Asked Questions address many issues regarding the licensing requirements for each law enforced by the Bureau of Loans. After review of these commonly asked questions, should you have questions, please do not hesitate to contact the Bureau of Loans at (334) 242-3452.

1. Who must be licensed under the Alabama Consumer Credit Act – Mini Code?

Creditors who regularly extend or arrange for the extension of credit or take assignments of consumer loans and who have a place of business or resident employee in Alabama must obtain an Alabama Consumer Credit Act license. Creditors with offices in Alabama must obtain a license for each location in Alabama. Creditors having no place of business in Alabama but having a resident employee in Alabama shall obtain a license for the location where the creditor maintains its records regarding Alabama loans or consumer credit contracts. Out-of-state consumer lenders with no resident employee in Alabama, banks and life insurance companies are exempt from licensing; however, they must still follow all other requirements of the Alabama Consumer Credit Act regarding their consumer loans in Alabama.

The Alabama Consumer Credit Act caps interest rates for consumer loans in amounts of less than \$2,000. The rate cap is a “stacked rate” allowing a maximum of 15% per year for the first \$750 of the amount financed and 10% per year for that portion of the amount financed over \$750 but less than \$2,000. There is no interest rate cap for loans of \$2,000 or more. The Alabama Consumer Credit Act limits the assessment of prepaid fees to 5% “points” in real estate loans. The Alabama Consumer Credit Act is codified at Alabama Code §5-19-1 et seq., a copy of which is available on our website, as are the supplementing regulations. Lenders may hold both an Alabama Consumer Credit Act and an Alabama Small Loan Act license at the same location.

2. Who must be licensed under the Alabama Small Loan Act? Creditors who engage in the business of making consumer loans in amounts of less than \$1,000 must first obtain a Small Loan license for each of their locations in Alabama. Banks and pawnshops are exempt. The Alabama Small Loan Act now has two different fee caps. The traditional method caps fees to 3% per month for the first \$200 and 2% per month for the remaining balance up to \$1,000. In addition, a \$3 monthly account maintenance fee may be charged if the monthly payment is \$30 or more, and licensees may sell and finance credit insurance. The minimum term for repaying a small loan is one month, while the maximum term is 25 months.

Alternatively, SLA licensees may charge a fee under the new “Alternative Rate of Charge” in lieu of selling and financing any other ancillary products, such as credit insurance. The Alternative Rate of Charge allows licensees to charge both: (1) a 10% acquisition charge; and (2) an installment account handling charge, which varies depending on the loan amount.

The Alabama Small Loan Act is codified at Alabama Code §5-18-1 et seq., a copy of which is available on our website, as are the supplementing regulations. Lenders may hold both a Consumer Credit Act and a Small Loan Act license at the same location.

3. Who must be licensed under Alabama’s Mortgage Brokers Licensing Act? A mortgage broker is defined as any person who directly or indirectly solicits, processes, places or negotiates mortgage loans for a residential borrower concerning real property located in Alabama. Brokers that “table-fund” loans must apply for a Brokers’ license, while “brokers” who fund their own loans with warehouse-lines of credit should apply for an Alabama Consumer Credit Act license. The Mortgage Brokers Licensing Act does not apply to commercial property transactions. Banks, Alabama Consumer Credit Act licensees and approved mortgagees under the provisions of the National Housing Act are exempt. Applicants must have 12 hours of continuing education from an approved provider before the Department will issue a license.

Mortgage broker fees are limited to the same 5% “points” restriction found in the Alabama Consumer Credit Act for mortgage loans. Brokers must disclose their fees to their borrowers upfront, but cannot collect their fee upfront. The Mortgage Brokers Licensing Act is codified at Alabama Code §5-25-1 et seq., a copy of which is available on our website.

4. Who must be licensed under the Deferred Presentment Services Act? Lenders that hold personal checks until the borrower’s next payday, also known as “payday lenders,” must obtain a Deferred Presentment Services license for each location in Alabama. Banks, savings & loans, and thrift institutions are exempt from the Act. The maximum fee for payday loans in Alabama is 17.50% of cash advanced. The maximum loan amount is \$500 and the term must be a minimum of 10 days to a maximum of 31 days. Alabama’s Deferred Presentment Services Act is codified at Alabama Code §5-18A-1 et seq., a copy of which is available on our website.

5. Who must be licensed under the Alabama Pawnshop Act? Pawn transactions are non-recourse loans based on the pledging of personal property. Pawnbrokers must take actual physical possession of the items pawned and cannot demand repayment of the loan from the pledgor. The pledging of car titles is allowed under the Alabama Pawnshop Act. Banks and Alabama Consumer Credit Act licensees are exempt. All pawn transactions in Alabama are for

one month. The maximum fee is 25% per month. The Alabama Pawnshop Act is codified at Alabama Code §5-19A-1 et seq., a copy of which is available on our website.

6. Are licensees subject to examination? Yes. All licensees are subject to an on-site examination of records. Our field examiners review records of transactions for compliance with the applicable law. The current exam fee is \$100 per examiner per day, or part thereof. When an examination is conducted outside Alabama, the licensee shall pay the reasonable and necessary expenses related to the examination at the place of business where records are maintained.