

AMENDED AS OF JULY 6, 2009

STATE OF ALABAMA

STATE BANKING DEPARTMENT BUREAU OF LOANS



ALABAMA CONSUMER CREDIT ACT ALABAMA SMALL LOAN ACT REGULATIONS



Fob James, Jr.
Governor

**STATE OF ALABAMA
STATE BANKING DEPARTMENT**



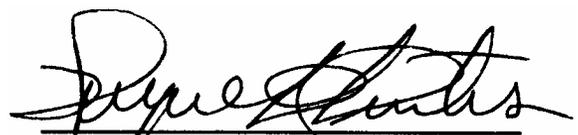
Wayne C. Curtis, Ph.D.
Superintendent of Banks

STATE OF ALABAMA

MONTGOMERY COUNTY

By authority of Section 5-18-12 and Section 5-19-21, Code of Alabama 1975, the following regulations are adopted to become effective August 1, 1997; however, compliance is optional until October 1, 1997. All previous regulations adopted under the Alabama Consumer Credit Act and the Alabama Small Loan Act are hereby repealed and superseded by these regulations. Given under my hand and seal of office this the 26th day of June, 1997.




Wayne C. Curtis

**ALABAMA STATE BANKING DEPARTMENT
BUREAU OF LOANS**

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I. CHAPTER 155-2-1: GENERAL APPLICATION REGULATIONS

155-2-1-.01 Organization

(1) The Alabama State Banking Department is a statutorily-created department of the State of Alabama.

(2) The Department is under the direction, supervision, and control of the Superintendent of Banks, who is appointed by the Governor.

(3) The Department has a statutorily-created Division, the Bureau of Loans.

(4) The Bureau of Loans is under the supervision of the Supervisor of the Bureau of Loans, who is appointed by the Superintendent of Banks, with the approval of the Governor and subject to the provisions of the merit system.

Author: Scott Corcadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-2A-1, §5-2A-3, §5-2A-80, §5-19-1, §5-19-21
History: Effective October 1, 1997

155-2-1-.02 Rulemaking Proceedings

(1) Pursuant to the Alabama Small Loan Act, the Supervisor of the Bureau of Loans is authorized to promulgate rules and regulations as may be necessary or appropriate for the execution and enforcement of the Alabama Small Loan Act. Pursuant to the Alabama Consumer Credit Act, the Superintendent of Banks (also referred to as the “administrator”) is authorized to promulgate rules and regulations and official interpretations (all of which are referred to as “regulations”) and to issue written interpretations as may be necessary or appropriate for the execution and enforcement of the Alabama Consumer Credit Act.

(2) The Supervisor of the Bureau of Loans is, by this regulation, an authorized designee for the purpose of the issuance of written interpretations of the Alabama Consumer Credit Act and the regulations thereunder and the Alabama Small Loan Act and the regulations thereunder.

(3) The regulations and interpretations of the State Banking Department-Bureau of Loans implementing the Alabama Consumer Credit Act and Alabama Small Loan Act shall be promulgated in accordance with the provisions of Section 5-19-21, and the regulations shall be published in the Alabama Administrative Monthly. Communications regarding regulatory proceedings should be addressed to the State Banking Department - Bureau of Loans, Montgomery, Alabama 36130.

Author: Scott Corscadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-18-12, §5-19-21
History: Effective October 1, 1997

155-2-1-.03 Petition for Regulation, Amendment or Repeal

(1) Any person who wishes to propose that the State Banking Department adopt, amend, or repeal any consumer finance regulation shall submit said proposal in the following form:

PETITION FOR ADOPTION AMENDMENT OR REPEAL OF REGULATION

1. This is a petition:

- () To adopt a regulation.
- () To amend an existing regulation.
- () To repeal an existing regulation.

2. This petition is presented by (Petitioner):

Name: _____

Address: _____

Phone: _____

3. The person signing the petition is:

- () The true party in interest and is the petitioner.
- () An officer or employee of the petitioner.

State Title: _____

() Other (Specify): _____

4. The petitioner's representative is:

Name: _____

Address: _____

Phone: _____

5. If this petition proposes to amend or repeal an existing regulation, specify the regulation:

Regulation No. _____

6. If this petition proposes the adoption of a new regulation, specify all existing regulations it would affect, and specify what chapter of the Department's regulations it should be part of.

7. Attach as "Exhibit A", a typed (double-spaced) narrative as to why the adoption, amendment, or the repeal is needed, specifying:

- (A) The persons or class of persons it would affect and how it would affect them.
- (B) The benefits and disadvantages of the adoption, amendment, or repeal.
- (C) The estimated cost or cost savings to the Department.
- (D) Legal authority for the adoption, amendment, or repeal.
- (E) The names and addresses of any persons, organizations, and the identity of any class of persons who would be or could be adversely affected by the proposed regulation, modification, or repeal.
- (F) The estimated cost or benefit to the consumer.
- (G) Any other reasons for the adoption, amendment, or repeal which should be considered by the Department.

8. Attach as "Exhibit B", any other documents, reports or studies that you want to be considered in connection with your petition.

Dated this the _____ day of _____

Signature of Petitioner
or Representative

Note: The original and five (5) copies of the petition must be submitted to Supervisor of the Bureau of Loans, State Banking Department, Montgomery, Alabama 36130.

Author: Scott Corcadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-18-12, §5-19-21
History: Effective October 1, 1997

155-2-1-.04 Request for Written Interpretation

(1) The Superintendent or his designee may issue written interpretations of the Alabama Consumer Credit Act and/or the regulations issued thereunder and the Alabama Small Loan Act and/or the regulations issued thereunder. A

request for a written interpretation must be made in writing and submitted to the State Banking Department - Bureau of Loans, Montgomery, Alabama 36130.

Author: Scott Corscadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-19-21, §5-18-12
History: Effective October 1, 1997

155-2-1-.05 Fee Schedule

(1) The following charges are in addition to those specifically required by the Alabama Consumer Credit Act or Alabama Small Loan Act:

- | | |
|--|------------------|
| a. Copies | \$ 1.00 per page |
| b. Certificate of Existence of License | \$10.00 |
| c. Certification of Records | \$10.00 |
| d. List of Licensees | \$25.00 |

Author: Scott Corscadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-19-21, §5-18-6, §5-18-12
History: Effective October 1, 1997

155-2-1-.06 Application Forms

(1) All original applications, renewal applications, and annual reports required by the Alabama Consumer Credit Act and the Alabama Small Loan Act are color-coded for Departmental use. The Department will not accept any application which is not on the Department's color-coded form.

Author: Scott Corscadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-19-21, §5-19-22, §5-18-6
History: October 1, 1997

II. CHAPTER 155-2-2: ALABAMA CONSUMER CREDIT ACT REGULATIONS

155-2-2-.01 Licensing-Alabama Consumer Credit Act

(1) The provisions of the Alabama Consumer Credit Act require that a license for each proposed location be obtained from the State Banking Department - Supervisor of the Bureau of Loans prior to engaging in the business of making consumer loans or taking assignments of consumer credit contracts unless otherwise exempt from licensing.

(2) A license is required for each location of an Automated Loan Machine (ALM) where the application, approval, closing and issuance of a check takes place while the applicant is at the ALM.

(3) The exemption as to licensing contained in Section 5-19-22(a) for banks chartered by this state or any other state, banks chartered by the United States, trust companies, savings or building and loan associations, savings banks, and other thrift institutions, credit unions, and life insurance companies shall not apply to consumer finance subsidiaries of those exempt entities.

(4) The exemption as to licensing contained in Section 5-19-31(a) for creditors who are approved mortgagees under the provisions of the National Housing Act shall not apply to subsidiaries of entities which are approved mortgagees under the National Housing Act. Those subsidiaries must be approved mortgagees to be exempt from licensing under Section 5-19-31(a).

(5) Prior to the issuance of a license, the applicant shall have executed and submitted a license application in the form prescribed by the Supervisor and shall include, upon request, additional information, statements and representations as may be required to enable the Supervisor to make the determination as to issuance or denial of license.

(6) Prior to the issuance of a license, the applicant shall have submitted satisfactory evidence that it has tangible net worth/capital of not less than \$25,000.00 available for the operation of the business under the Alabama Consumer Credit Act.

(7) Prior to the issuance of a license, the applicant shall have tendered the investigation fee and the license fee as required by the Alabama Consumer Credit Act to the Supervisor simultaneously with the filing of the license application. Separate checks for each fee are required and each should be payable to the State Banking Department.

(8) A licensee shall notify and submit the license issued by the Department to the Supervisor within thirty (30) days of the closing of a licensed office.

Author: Scott Corscadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-19-21, §5-19-22
History: Effective October 1, 1997

155-2-2-.02 Renewal Application - Alabama Consumer Credit Act

(1) Application for renewal of license shall be submitted in the form prescribed by the Supervisor and shall include such information, statements and representations as may otherwise be required by the Supervisor.

Author: Scott Corcadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-19-21, §5-19-22
History: Effective October 1, 1997

155-2-2-.03 Amendment of License - Alabama Consumer Credit Act

(1) Any amendment of the license shall require the prior approval of the Supervisor. Authorized amendments, including but not limited to changes in location or trade name, shall be made only upon written request of the licensee and submission of the current license.

(2) Failure to obtain the prior approval of the Supervisor may result in a fine not to exceed \$500.00.

Author: Scott Corcadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-19-21, §5-19-22, §5-19-25
History: Effective October 1, 1997

155-2-2-.04 Changes in Ownership – Alabama Consumer Credit Act

(1) A licensee, other than a licensee whose shares are publicly traded, shall notify the Supervisor, in writing, of any changes affecting ownership and submit such information as the Supervisor may require consistent with the provisions of the Alabama Consumer Credit Act. The Supervisor may request such information at any time should he or she have reasonable cause to believe a change in licensee's ownership has occurred.

Author: Scott Corcadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-19-21, §5-19-22
History: Effective October 1, 1997

155-2-2-.05 Office Copy of Act and Regulations - Alabama Consumer Credit Act

(1) Each licensed location shall maintain a file containing a copy of the Act and a copy of all current regulations issued thereunder.

Author: Scott Corcadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-19-21, §5-19-22
History: Effective October 1, 1997

155-2-2-.06 Additional Reports and Records - Alabama Consumer Credit Act

(1) In addition to the reports and records required elsewhere in the Act and regulations, each licensee shall maintain and/or submit to the Bureau of Loans such other reports and records at such time and in such form as the Supervisor shall require.

Author: Scott Corscadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-19-21, §5-19-22
History: Effective October 1, 1997

155-2-2-.07 Restricted Activities - Alabama Consumer Credit Act

Any and all collection activity procedures and practices by a licensee must be conducted in accordance with applicable law. Unreasonable collection tactics shall include but not be limited to any conduct by the licensee or employee or agent thereof which:

- (1) Causes the borrower or any member of the borrower's family to suffer or reasonably fear bodily injury or physical harm.
- (2) Constitutes a willful or intentional trespass by force of the borrower's home or the borrower's personal property, without process of law.
- (3) Involves use of printed material which simulates or resembles summons, warrants or other legal processes.
- (4) Although otherwise lawful, occurs at an unreasonable hour of the night. Attempts to make collections by means of personal visits, telephone calls and the like shall be prima facie unreasonable if they occur between the hours of 9:00 p.m. and 6:00 a.m.
- (5) Denies the borrower the possession of or use of items of personal property belonging to the borrower unless the borrower has granted the lender a security interest in the property and the lender has subsequently obtained possession of such property in accordance with applicable law.
- (6) Threatens or commences criminal prosecutions for worthless checks pursuant to *Ala. Code* §13A-9-13.1, when a personal check is held as security for the loan.

Author: V. Lynne Windham, Associate Counsel
Statutory Authority: Code of Alabama 1975, Sections 5-19-21 and 5-19-29; Ala. Const., Art. I §20
History: Amended on August 1, 2002

155-2-2-.08 Other Business Activities - Alabama Consumer Credit Act

(1) A licensee shall not establish or conduct any other business in the same physical premises as the licensed place of business without having obtained prior written approval of the Supervisor.

(2) Such other business must be conducted in a manner that will involve no evasion or violation of the Act. Records of other business activities shall be maintained separate and apart from licensed activity records and shall be subject to review by the Department.

(3) Any prior written permission or non-objection letters to conduct other business, other than the sale of insurance products pursuant to Section 5-19-20(i) and Regulation 155-2-2-.12, shall remain in effect unless revoked, suspended or withdrawn.

(4) Each licensee shall maintain a copy of any written permission or non-objection letter issued by the Supervisor at each licensed location.

Author: Scott Corcadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-19-21
History: Effective October 1, 1997

155-2-2-.09 Finance Charge - Alabama Consumer Credit Act

(1) For the purposes of determining whether the finance charges on any credit transaction with an amount financed of less than \$2,000 produces a yield greater than the yield permitted by Section 5-19-3(a), the calculation must be determined using the annual percentage rate resulting from the rates established in Section 5-19-3(a)(1) and (2) and in compliance with the provisions of Section 5-19-3(d).

(2) Permissible prepaid finance charges include the points permitted under Section 5-19-4(g) and the interest surcharge permitted under Section 8-8-14(a).

(3) As an alternative to the finance charges authorized in Section 5-19-3(a) or referenced in Section 5-19-3(e), any creditor instead may charge or impose the same rate of interest or finance charge to the same extent and under the same circumstances and conditions as any other federal lending institution having its principal place of business in Alabama, as authorized by and subject to the provisions of Section 8-8-1.1.

(4) The determination of whether the charges or premium paid for debt cancellation coverage are considered finance charge shall be determined in accordance with Section 106 of the Federal Truth in Lending Act, 15 U.S.C. §1605, and the regulations of the Federal Reserve Board promulgated pursuant to the Federal Truth in Lending Act, 12 C.F.R. part 226, and the Official Staff Commentary adopted by the Federal Reserve Board pursuant to that regulation.

Author: Scott Corscadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-19-3, §5-19-21
History: Effective October 1, 1997

155-2-2-.10 Records to be Maintained by Licensee – Alabama Consumer Credit Act

(1) Unless otherwise approved pursuant to Regulation 155-2-2-.10(6), each licensee shall maintain adequate files at each licensed location containing all information necessary to verify compliance with the Alabama Consumer Credit Act and regulations, including, but not limited to, the following:

- a. Charges and disclosure information.
- b. Paid out, renewed or refinanced account records from which refund verifications may be made shall be kept in readily available files covering a maximum of the preceding two-year period. Older records shall be removed from files or separately segregated. Refund records shall itemize the amount of finance charge refunded and the amount refunded on each type of permissible insurance included in the transaction.
- c. Each licensee shall maintain up-to-date forms on all insurance claims filed, which shall contain all pertinent information necessary to verify compliance with the Act and regulations and proper settlement of all such claims. A copy of the death certificate shall be maintained on death claims. A copy of the police and/or fire report shall be maintained on property claims if such a report is made. In the event of a death claim, the unearned premium of credit life insurance is considered earned by the insurance company but the unearned premium of all other credit insurance shall be refunded to the second beneficiary or the estate of the debtor. The settlement of death claims shall be as of the date of death. The proceeds of any insurance claim applicable to a period of time preceding death shall be credited to the account prior to the computation of death claim benefits. All amounts in excess of that required to pay the indebtedness shall be paid by check to the second beneficiary or estate of the debtor.
- d. An up-to-date record of suits filed against debtors and of repossessions whether judicial, non-judicial or voluntary release by the debtors and a deficiency itemization in connection with repossessions including but not limited to add-ons prior to sale (i.e., re-conditioning, battery, etc.). This record shall be maintained on a prepared sheet listing, including, but not limited to, the name and address of the debtor, the account number, the amount financed and the date of the contract, the name of the court and county in which suit was filed and the case number, the date of suit and amount, the date of judgment and amount, the date of garnishment, amount and employer. For credit sale transactions, the record also must list the cash price of the goods repossessed or surrendered, a condition report and book value as applicable on the repossessed item(s), and the

amount received from the sale of the repossessed item(s), the date sold and the name and address of the purchaser.

- e. An up-to date record of claims filed in arbitration which have not resulted in litigation.
- f. When any obligation is paid in full, the licensee shall cause each instrument executed by the debtor evidencing the debt to be marked "Paid" or "Canceled", showing the date of such payment or cancellation, and when duly requested, returned promptly to the debtor together with the release of any mortgages and termination of security interests filed.

(2) Each licensee shall maintain an adequate and readily available record on each borrower, showing the following information:

- a. Loan or account number,
- b. Name and address of the borrower,
- c. Name of co-makers, endorser, guarantors and sureties,
- d. Date of loan,
- e. Schedule of payments (number and amount),
- f. Date of first payment and maturity date,
- g. Amount financed and finance charge and components thereof and the total of payments, as applicable,
- h. Recording or filing and releasing fee if collected, where recorded and date released,
- i. Type of security pledged,
- j. Date and amount of payments received (posting shall be as of the date payments are received and payments made from insurance proceeds shall be so noted),
- k. The amount of each payment applied to interest and amount applied to principal (if interest is not pre-computed),
- l. The unpaid balance after each payment,
- m. The amount of late charges collected, and
- n. Any insurance premiums collected.

(3) If the licensee is also licensed under the provisions of the Small Loan Act, the records in connection with loans made under each act shall be maintained separately and apart or if computerized, such records shall be segregated according to the act under which the loan was made and retrievable in such a manner.

(4) A licensee may maintain records by a generally recognized record retention system provided the Department is afforded access to such system.

(5) A licensee must provide pay-off information in writing to the borrower without charge.

(6) A licensee shall not sell, transfer, remove or otherwise dispose of any relevant record from its licensed location within two years after the last transaction on the account without the prior written approval of the Supervisor.

Author: Scott Corscadden, General Counsel
Statutory Authority: Code of Alabama 1975 §5-19-21, §5-19-24
History: Effective October 1, 1997

155-2-2-.11 Deferral and Extension Charges - Alabama Consumer Credit Act

(1) On a pre-computed consumer credit transaction, a deferral charge may be computed by multiplying the final month finance charge refund under the Rule of 78s, exclusive of any earned additional day charges included in the first payment and/or any prepaid finance charges, by the number of months the payment is deferred.

(2) When one or more deferral charges have been made in a scheduled contract, upon renewal or repayment, the number of months elapsed in the contract shall be reduced by the number of deferral charges paid. Refunds shall then be computed on the original finance charge, exclusive of any earned additional day charges included in the first payment and/or any prepaid finance charges, in accordance with Sections 5-19-4(c) and 5-19-4(d) of the Alabama Consumer Credit Act.

(3) On a pre-computed consumer credit transaction when the first payment date is extended, a charge for each additional day may be assessed in an amount not in excess of the maximum finance charges authorized by the Alabama Consumer Credit Act. Such additional charges shall be included in the first payment and, except in the case when daily pro rata refunds are required, not subject to rebate once the extended period has passed.

(4) Prepayment penalties may be provided for in a consumer credit transaction contract and assessed in a simple interest transaction only where the original amount financed is equal to or greater than \$2,000 and (a) the transaction involves an interest in real property and the creditor is either an approved mortgagee under the provisions of the National Housing Act or exempt from licensing under the Alabama Consumer Credit Act; or (b) the creditor is a trust institution or an exempt trust as described in Section 5-19-31(a). In all other situations, whether the consumer credit transaction is simple interest or pre-

computed, the inclusion of a prepayment penalty is not permissible under the Alabama Consumer Credit Act.

Author: V. Lynne Windham, Associate Counsel
Statutory Authority: Code of Alabama 1975, §5-19-3, §5-19-4, §5-19-21
History: Amended October 1, 2001

155-2-2-.12 Insurance - Alabama Consumer Credit Act

(1) All insurance offered and written pursuant to Section 5-19-20 shall be with a company licensed to do business in the State of Alabama and shall be in accordance with the Rules, Regulations and Orders of the Alabama Department of Insurance in effect at the time the insurance is written. A schedule of rates, policy forms and certificates or statement of insurance shall be maintained by each licensee at each licensed location showing evidence of such filing and/or approval.

(2) Credit Life Insurance. The maximum rates for credit life insurance shall not exceed the following:

- a. If the premiums are paid on the monthly basis, \$1.23 per month per \$1,000 of the outstanding insured indebtedness.
- b. If the premiums are paid on a single premium basis, the summation of the monthly premiums calculated in accordance with (a) above.
- c. For single payment consumer credit contracts, \$1.60 per \$100 per annum based on the total of payments.
- d. Joint credit life insurance coverage may be written on both the principal debtor and on one co-signer to the consumer credit contract. The maximum rate for such coverage shall not exceed an amount equal to 150% of the premium rates shown above.

(3) Credit Accident and Health Insurance (Disability) Rates. The maximum single premium rates per \$100 of initial indebtedness for credit accident and health insurance offered shall not exceed those rates contained in the following table unless a deviation has been requested and approved by the State Banking Department:

Rate Per \$100 of Initial Indebtedness

No. of Months In which Indebtedness Is payable	Non-Retroactive Benefits		Retroactive Benefits		
	14-day Non-retro	30-day Non-retro	7-day Retro	14-day Retro	30-day Retro
1	1.10	.50	2.50	1.80	1.30
3	1.30	.70	2.75	2.05	1.55
6	1.50	.90	3.00	2.30	1.80
12	1.90	1.30	3.50	2.70	2.20
18	2.30	1.70	4.00	3.10	2.60
24	2.70	2.10	4.50	3.50	3.00
30	3.10	2.50	5.00	3.90	3.40
36	3.50	2.90	5.50	4.30	3.80
42	3.75	3.20	5.90	4.55	4.10
48	4.00	3.50	6.20	4.80	4.40
54	4.20	3.65	6.50	5.00	4.55
60	4.40	3.80	6.80	5.20	4.70
72	4.80	4.20	7.40	5.60	5.00
84	5.20	4.60	8.00	6.00	5.30
96	5.60	5.00	8.60	6.40	5.60
108	6.00	5.40	9.20	6.80	5.90
120	6.40	5.80	9.80	7.20	6.20
Additional 12 months	.20	.20	.20	.20	.20

Note: Rates for schedule in months not listed above shall be the equivalent interpolation of the listed rates. The “initial indebtedness” shall mean the total of payments for the purpose of this regulation.

(4) Any request for a deviation from the rates established in the table in subsection (3) must be received in writing by the State Banking Department. Upon receipt the State Banking Department shall submit such request for deviation to the Alabama State Insurance Department for review and approval. The person who has requested a deviation shall be informed, in writing, whether the requested deviation has been approved or denied.

(5) Credit Accident and Health Insurance (Disability) may be sold only to a debtor who is employed for at least a minimum of thirty (30) hours per week. A creditor may rely on the debtor’s written certification of the number of hours the debtor is employed per week at the time the insurance is sold.

(6) Joint accident and health insurance coverage shall not be written.

(7) Involuntary Unemployment Insurance: The premium charged for, and refund methods applicable to, involuntary unemployment insurance shall be in compliance with the rules, regulations or orders of the Alabama Department of Insurance.

(8) The consumer's written consent for the placing of dual-interest insurance may be obtained at the time of execution of the consumer credit contract or at the time of placement of such insurance.

(9) Personal Property Insurance.

- a. Where single interest personal property coverage is written, such policies or certificates shall clearly state that such coverage protects the lender's interest only.
- b. The premium charged for, and refund methods applicable to, any personal property insurance shall in compliance with the rules, regulations or orders of the Commissioner of Insurance, State of Alabama.
- c. Where the indebtedness is also secured by other collateral and such collateral is covered by an existing insurance policy in the form of a loss payable to the creditor, the amount of personal property insurance sold or provided by the creditor shall not exceed the difference between the insured value of such collateral and the total indebtedness. If such other collateral is an automobile or mobile home, the insured value shall be the retail value as determined by a nationally recognized pricing guide that states the retail and loan value.
- d. In the event of total loss of insured personal property during the policy term on dual interest coverage, payment of the total original amount of insurance shall be made and the total premium may be considered earned. Settlement of claims shall be as of the date of loss.
- e. A creditor may offer and sell to debtor on a voluntary basis dual interest insurance. The premium charge for voluntary personal property insurance shall be determined in compliance with rules, regulations or orders of the Alabama Department of Insurance.

(10) Automobile and Mobile Home Insurance.

- a. Where single interest automobile or mobile home coverage is written, such policies or certificates shall clearly state that such coverage protects the lender's interest only. Limited or modified physical damage insurance is deemed to be single interest coverage for purposes of these regulations.
- b. The premium charged for, and refund methods applicable to, any automobile or mobile home insurance shall be in compliance with the rules, regulations or orders of the Commissioner of Insurance, State of Alabama.

- c. Single interest coverage is permitted only after the debtor has been notified in writing of the cancellation or lack of dual interest coverage. The debtor shall be afforded at least 15 days to procure a dual interest policy and if such policy is procured, any single interest coverage written by the creditor shall be flat canceled at that time. Single interest coverage may not exceed the retail value of the collateral or the net payoff on the account, whichever is less, at the time of the insurance contract.
- d. In the event of a total loss, no deductible shall be permitted on any form of single interest insurance coverage.
- e. No insurance coverage shall be sold by a creditor unless the average recognized retail value (as determined by a nationally recognized pricing guide which states retail and loan value) of the automobile is four times greater than the annual insurance premium.
- f. No supplementary coverage such as, but not limited to, rental reimbursement and contents coverage shall be required.
- g. On loans where other collateral is used in addition to the automobile to be insured, no automobile insurance shall be sold by a creditor unless the recognized loan value (as determined by a nationally recognized pricing guide which states retail and loan value) is at least 30% of the amount financed.
- h. No automobile insurance shall be sold by a creditor on any vehicle having a recognized retail value (as determined by a nationally recognized pricing guide which states the retail and loan value) of under \$300.00.
- i. In the event insurance cannot be placed or is cancelled by the insurance company, the return premium shall be used to secure other comparable coverage and/or shall be credited to the next maturing installment(s) or may be credited to the final installment(s) along with the finance charge applicable to the return.
- j. In the event a loss occurs that is insured under the provisions of this section, the creditor shall, immediately upon being notified by the debtor or otherwise, of such loss, promptly report such fact to the insurance company or its designated claim agent or representative, and shall exercise his best efforts to secure a just settlement without undue delay.
- k. The date of total loss shall be used in computing refunds or unearned finance charges and insurance premiums if coverage was written or financed by the creditor or the creditors affiliate.

(11) Non-filing Insurance. Non-filing insurance may be written in lieu of recording a security interest in the property given as security on a loan or credit sale. The cost of such insurance shall in no case exceed the amount required to actually file or record a security interest. Self-insurance against non-filing shall not be permitted.

(12) Other Insurance.

- a. Any prior written permission or non-objection letters to offer and finance any insurance other than those specifically authorized by the Act shall expire upon final adoption of these regulations.
- b. A creditor may offer and finance other insurances only under the following procedure: The creditor shall submit with its request to write other insurances to the Supervisor: (i) a description of the insurance product for which the permission is being sought, with copies of certificates, policies or benefit forms which will be furnished to customers; (ii) a statement of actions to be taken by the creditor to assure compliance with other applicable laws and regulations; and (iii) other information requested by the Supervisor or the Administrator. Only upon the written approval and pursuant to the conditions established by the Supervisor may the creditor offer and finance the approved insurance. Upon disapproval, the creditor may appeal the decision to the Administrator.

Author: Scott Corcadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-19-20, §5-19-21
History: Amended March 9, 1998

155-2-2-.13 Refunds – Alabama Consumer Credit Act

(1) When any debt is prepaid in full, renewed, or refinanced, all insurance provided by a creditor, either as seller, lessor, lender or assignee, (such as credit life, accident and health, involuntary unemployment insurance, single interest or modified single interest auto and property) shall be canceled as of the date of prepayment, renewal or refinancing with such termination to be without prejudice to any claim. Refund of unearned premiums, except the premium for credit life insurance which shall be deemed fully earned as of the date of death, shall be made at that time by the creditor to whom payments are made and shall be in accordance with the refund regulations as determined by the Commissioner of Insurance for the State of Alabama.

(2) No refund of less than \$1.00 need be made on any single insurance coverage.

Author: Scott Corcadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-19-4, §5-19-20, §5-19-21
History: Effective October 1, 1997

155-2-2-.14 Examination Fees - Alabama Consumer Credit Act

(1) When an examination is conducted in the State of Alabama, the examination fees shall be \$100.00 per day or a fraction thereof for each examiner and such fee shall be due and payable at the close of the examination.

(2) When an examination is conducted outside of the State of Alabama, the licensee shall pay the reasonable and necessary expenses for the Administrator or his representative to examine their records at the place of business where they are maintained.

Author: Scott Corscadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-19-21, §5-19-24, §5-2A-24
History: Effective October 1, 1997

155-2-2-.15 Refinancing - Alabama Consumer Credit Act

(1) If more than one existing pre-computed consumer credit transaction contract will be consolidated, the annual percentage rate for the newly consolidated pre-computed consumer credit transaction contract shall not exceed the lowest annual percentage rate of any prior existing pre-computed consumer credit transaction contract or contracts to be consolidated. Where an existing pre-computed consumer credit transaction contract of less than two thousand dollars (\$2,000) is consolidated or refinanced with a subsequent pre-computed consumer credit transaction contract, such that the amount financed exceeds two thousand dollars (\$2,000), the restriction contained in Section 5-19-17(c) is still applicable.

(2) The determination or measurement of the annual percentage rate shall be at the time of the consummation of the pre-computed consumer credit transaction in question, without regard to actual timing and receipt of payments.

(3) The fee for filing an application for certificate of title, as well as any statutorily authorized fee charged by a designated agent of the Department of Revenue, may be charged in connection with the consolidation or refinancing of any existing pre-computed consumer credit transaction contract, and shall not be considered a duplicate fee or expense under Section 5-19-17(c).

(4) The interest surcharge permitted by Section 8-8-14(a) may be assessed in a subsequent pre-computed consumer credit transaction contract, notwithstanding its assessment on a prior existing pre-computed consumer credit transaction contract; and, such interest surcharge is not considered a duplicate fee or expense under Section 5-19-17(c).

(5) Points permitted by Section 5-19-4(g) are considered a duplicate fee or expense for purposes of Section 5-19-17(c) and may not be assessed in a subsequent pre-computed consumer credit transaction contract.

Author: Scott Corscadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-19-17, §5-19-21
History: Effective October 1, 1997

155-2-2-.16 Annual Report - Alabama Consumer Credit Act

(1) In addition to the records required elsewhere in the Alabama Consumer Credit Act and Regulations, each licensee shall, on or before the first day of May of each year, submit to the Superintendent of Banks a report covering its activities under the Alabama Consumer Credit Act. Such report shall be on forms furnished by the Banking Department and shall be submitted to the State Banking Department, Montgomery, Alabama 36130.

(2) Failure to file an annual report by the first day of May of each year shall result in a \$500 fine.

(3) Failure to file an accurate annual report by the first day of May of each year may result in an additional \$500 fine.

Author: Scott Corscadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-19-21, §5-19-24
History: Effective October 1, 1997

155-2-2-.17 Minimum Loan Term -- Alabama Consumer Credit Act

(1) The minimum term for repayment in all consumer credit transactions is thirty days for any credit transaction with an original amount financed that is less than two thousand dollars (\$2,000).

Author: V. Lynne Windham, Associate Counsel
Statutory Authority: Code of Alabama 1975, Sections 5-19-3 and 5-19-21
History: Adopted August 1, 2002

155-2-2-.18 Mortgage Loan Modification – Alabama Consumer Credit Act

(1) Any person engaged in the business of providing consumer mortgage loan modification services for loans secured by residential real property located in the State of Alabama, for compensation, is required to be licensed under Chapter 19 or Chapter 25 of Title 5 of the Code of Alabama unless otherwise exempt from licensing under Chapter 19 and Chapter 25, as applicable. Any consumer mortgage loan modification service provider licensed under the Mortgage Brokers Licensing Act or Alabama Consumer Credit Act is allowed to charge and collect a fee of not more than \$500.00 for consumer mortgage loan modification services. No part of this fee may be paid to the mortgagee or person related to the mortgagee. No fee charged by a loan modification service provider greater than \$500.00 is permitted or considered bona fide and reasonable under Section 5-19-4(f). Attorneys acting in the capacity of attorney for the borrower and not attorney for the mortgage loan modification service provider are not subject to this regulation. Mortgagees

on loans that are being modified are not engaged in the business of providing consumer mortgage loan modification services under this regulation.

Author: W. Mark Anderson III, Deputy General Counsel

Statutory Authority: Code of Alabama 1975, Sections 5-19-4(f)(6), 5-19-21(b)(1) and 5-25-13(b)(1)

History: Adopted July 6, 2009

III. CHAPTER 155-2-3: ALABAMA SMALL LOAN ACT REGULATIONS

155-2-3-.01 Licensing - Small Loan Act

(1) The provisions of the Alabama Small Loan Act require that a license be obtained from the Alabama State Banking Department-Bureau of Loans prior to lending money under that Act.

(2) Prior to the issuance of a license, the applicant shall have executed and submitted a license application in the form prescribed by the Supervisor of the Bureau of Loans and shall include such information, statements, and representations as may be required by the Supervisor to make a determination as to the issuance or denial of license.

(3) Prior to the issuance of a license, the applicant shall have submitted satisfactory evidence that the applicant has unencumbered cash assets of not less than \$10,000.00 available for the operation of the business under the Small Loan Act.

(4) Prior to the issuance of a license, the applicant shall have tendered an investigation fee and the license fee as required by the Small Loan Act to the Supervisor simultaneously with the filing of the license application. Separate checks for each fee are required and each should be payable to the State Banking Department.

(5) A licensee shall notify and submit the license issued by the Department to the Supervisor within thirty (30) days of the closing of a licensed office.

Author: Scott Corscadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-18-4, §5-18-5, §5-18-12
History: Effective October 1, 1997

155-2-3-.02 Renewal Application - Small Loan Act

(1) Application for renewal of a license shall be submitted in the form prescribed by the Supervisor and shall include such information, statements, and representations as may be required by the Supervisor.

Author: Scott Corscadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-18-5, §5-18-12
History: Effective October 1, 1997

155-2-3-.03 Amendment of License - Small Loan Act

(1) Any amendment of the license shall require the prior approval of the Supervisor. Authorized amendments, including but not limited to changes in location or trade name, shall be made only upon written request of the licensee and submission of the current license.

Author: Scott Corcadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-18-8, §5-18-12
History: Effective October 1, 1997

155-2-3-.04 Changes in Ownership - Small Loan Act

(1) A licensee, other than a licensee whose shares are publicly traded, shall notify the Supervisor, in writing, of any changes affecting ownership and submit such information as the Supervisor may require consistent with the provisions of the Small Loan Act. The Supervisor may request such information at any time should he or she have reasonable cause to believe a change in licensee's ownership has occurred.

Author: Scott Corcadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-18-6, §5-18-9, §5-18-12
History: Effective October 1, 1997

155-2-3-.05 Restricted Activities - Small Loan Act

(1) No licensee shall advertise, display, or distribute mailing pieces which may be mistaken for any negotiable instrument whatsoever.

(2) No licensee shall employ unqualified superlatives in advertising, such as "lowest rates", "lowest costs", "lowest payment plan", or "cheapest loans."

(3) Advertisements, statements, display signs, solicitations to prospective customers, any communication made by or at the behest of a licensee intended as a public statement by said licensee, or any printed matter, including stationery imprinted with the name of the licensee, may identify that licensee as "a licensee under the Alabama Small Loan Act." No other wording may be used with reference to any degree of state supervision of licensee's business.

Author: Scott Corcadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-18-9, §5-18-12, §5-18-13
History: Effective October 1, 1997

155-2-3-.06 Collection Activities - Small Loan Act

Any and all collection activity procedures and practices must be conducted in a reasonable manner. Unreasonable collection tactics shall include but not be limited to any conduct by the licensee or employee or agent thereof which:

- (1) Causes the borrower or any member of the borrower's family to suffer or reasonably fear bodily injury or physical harm.
- (2) Constitutes a willful or intentional trespass by force of the borrower's home or the borrower's personal property, without process of law.
- (3) Involves use of printed material which simulates or resembles summons, warrants or other legal processes.
- (4) Although otherwise lawful, occurs at an unreasonable hour of the night. Attempts to make collections by means of personal visits, telephone calls and the like shall be prima facie unreasonable if they occur between the hours of 9:00 p.m. and 6:00 a.m.
- (5) Denies the borrower the possession of or use of items of personal property belonging to the borrower unless the borrower has granted the lender a security interest in the property and the lender has subsequently obtained possession of such property in accordance with applicable law.
- (6) Threatens or commences criminal prosecutions for worthless checks pursuant to *Ala. Code* §13A-9-13.1, when a personal check is held as security for the loan.

Author: V. Lynne Windham, Associate Counsel
Statutory Authority: Code of Alabama 1975, Sections 5-18-9 and 5-18-12;
Ala. Const., Art. I §20
History: Amended August 1, 2002

155-2-3-.07 Other Business Activities - Small Loan Act

- (1) A licensee shall not establish or conduct any other business in the same physical premises as the licensed place of business without having obtained prior written approval of the Supervisor.
- (2) Such other business must be conducted in a manner that will involve no evasion or violation of the Act. Records of other business activities shall be maintained separate and apart from licensed activity records and shall be subject to review by the Department.
- (3) Any prior written permission or non-objection letters to conduct other business, other than the sale of other insurance products pursuant to Section 5-19-20(i) and Regulation 155-2-2-.12, shall remain in effect unless revoked, suspended or withdrawn.

(4) Each licensee shall maintain a copy of any written permission or non-objection letter issued by the Supervisor at each licensed location.

Author: Scott Corscadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-18-8, §5-18-12, §5-18-14
History: Effective October 1, 1997

155-2-3-.08 Prohibited Charges - Small Loan Act

(1) No fees or charges, including but not limited to finder's or referral fees charged either directly or indirectly to the referred or prospective borrower, notary fees and attorney's fees shall be contracted for, charged to or collected from the borrower except those specifically authorized and permitted by the Small Loan Act and charges for permissible insurance written in connection with credit transactions under the Small Loan Act authorized by the Alabama Consumer Credit Act - Mini Code and other lawful charges authorized by various state laws.

(2) Prohibited charges do not include a prepaid interest surcharge authorized under Section 8-8-14(a).

Author: Scott Corscadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-18-12, §5-18-15
History: Effective October 1, 1997

155-2-3-.09 Records to be Maintained by Licensee - Small Loan Act

(1) Each licensee shall maintain a file containing a copy of the Small Loan Act and copies of all current rules and regulations issued thereunder.

(2) Unless otherwise approved pursuant to Regulation 155-2-3-. 10(6), each licensee shall maintain adequate files at each licensed location containing all information necessary to verify compliance with the Small Loan Act and regulations, including, but not limited to, the following:

- a. Charges and disclosure information.
- b. Paid out records from which refund verifications may be made shall be kept in readily available files covering a maximum of the preceding two-year period. Older records shall be removed from files or separately segregated. Refund records shall itemize the amount of finance charge refunded and the amount refunded on each type of permissible insurance included in the transaction.
- c. Each licensee shall maintain up-to-date forms on all insurance claims filed, which shall contain all pertinent information necessary to verify compliance with the Small Loan Act, regulations and proper settlement of all such

claims. A copy of the death certificate shall be maintained on death claims. A copy of the police and/or fire report shall be maintained on property claims if such a report is made. In the event of a death claim, the unearned premium of credit life insurance is considered earned by the insurance company but the unearned premium of all other credit insurance shall be refunded to the second beneficiary or the estate of the debtor. The settlement of death claims shall be as of the date of death. The proceeds of any insurance claim applicable to a period of time preceding death shall be credited to the account prior to the computation of death claim benefits. All amounts in excess of that required to pay the indebtedness shall be paid by check to the second beneficiary or estate of the debtor.

- d. An up-to-date record of suits filed against debtors and of repossessions whether judicial, non-judicial or voluntary release by the debtors. This record shall be maintained on a prepared sheet listing, including, but not limited to, the name and address of the debtor, the account number, the amount financed and the date of the contract, the name of the court in which suit was filed and the case number, the date of suit and amount, the date of judgment and amount, the date of garnishment, amount and employer, and the amount received from the sale of the repossession, a condition report and book value as applicable on the repossessed item(s), the date sold and the name and address of the purchaser.
- e. An up-to date record of claims filed in arbitration which have not resulted in litigation.

(3) Each licensee shall keep an alphabetical record of each maker, co-maker, endorser, guarantor or surety on each loan. The record shall include the following information:

- a. The name and address of the maker, co-maker, endorser, guarantor and surety,
- b. Loan or account number
- c. Date of the loan, and amount financed,
- d. Date loan is paid in full.

(4) Each licensee shall maintain an individual record on each borrower, showing the following information:

- a. Loan or account number
- b. Name and address of the borrower,
- c. Name of co-makers, endorser, guarantors and sureties,

- d. Date of loan,
- e. Schedule of payments (number and amount),
- f. Date of first payment and maturity date,
- g. Amount financed and if interest is pre-computed, the total of payments,
- h. Recording or filing and releasing fee if collected, where recorded and date released,
- i. Type of security pledged,
- j. Date and amount of payments received (posting shall be as of the date payments are received and payments made from insurance proceeds shall be so noted),
- k. The amount of each payment applied to interest and amount applied to principal (if interest is not pre-computed),
- l. The unpaid balance after each payment,
- m. The amount of late charges collected, and
- n. Any insurance premiums collected.

(5) In addition to the reports and records required elsewhere in the Small Loan Act and regulations, each licensee shall, upon request of the Supervisor, maintain and/or submit to the Bureau of Loans such other reports and records at such time and in such form as the Supervisor shall require.

(6) A licensee shall not sell, transfer, remove or otherwise dispose of any relevant record from its licensed location within two years after the last transaction on the account without the prior written approval of the Supervisor.

(7) If the licensee is also licensed under the provisions of the Alabama Consumer Credit Act - Mini Code, the records in connection with loans made under each act shall be maintained separately and apart or if computerized, such records shall be segregated according to the act under which the loan was made and retrievable in such a manner.

(8) A licensee may maintain records by a generally recognized record retention system provided the Department is afforded access to any such system.

Author:	Scott Corscadden, General Counsel
Statutory Authority:	<u>Code of Alabama</u> 1975, §5-18-11, §5-18-12
History:	Effective October 1, 1997

155-2-3-.10 Examination Fees

(1) When an examination is conducted in the State of Alabama, the examination fees shall be \$100.00 per day or a fraction thereof for each examiner and such fee shall be due and payable at the close of the examination.

(2) When an examination is conducted outside the State of Alabama, the licensee shall pay the reasonable and necessary expenses for the Supervisor or his representative to examine their records at the place of business where they are maintained.

Author: Scott Corscadden, General Counsel
Statutory Authority: Code of Alabama 1975, §5-18-10, §5-18-12, §5-2A-24
History: Effective October 1, 1997

155-2-3-.11 Minimum Loan Term -- Small Loan Act

(1) The minimum term for repayment in all consumer loans is one month.

Author: V. Lynne Windham, Associate Counsel
Statutory Authority: Code of Alabama 1975, §5-18-15, §5-18-12
History: Effective March 1, 2002