

Senate Bill 139

By: Senators Miller of the 49th, Staton of the 18th, Harbison of the 15th, Shafer of the 48th,
Mullis of the 53rd and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 13 of the Official Code of Georgia Annotated, relating to
2 general provisions for contracts, so as to provide for the collection of closing fees for
3 contracts for the advance of money or the extension of credit; to provide for the refund of
4 closing fees in certain instances; to amend Article 4 of Chapter 1 of Title 7 of the Official
5 Code of Georgia Annotated, relating to the sale of checks or money orders, so as to provide
6 for a licensing exemption for the selling and issuing of checks by state and federal entities
7 and authorized agents; to provide for exclusions and applicability; to provide for related
8 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

10 Chapter 1 of Title 13 of the Official Code of Georgia Annotated, relating to general
11 provisions for contracts, is amended by adding a new Code section to read as follows:

12 "13-1-14.

13 (a) In addition to any other charges permitted for the advance of money or for the
14 extension of credit, a lender or seller may collect a closing fee at the time of making a loan
15 or extending credit in order to defray the costs of investigation and verification of a
16 borrower's or purchaser's credit reports and references. Such closing fee may be for an
17 amount up to 4 percent of the face amount of the loan or credit extension or total amount
18 of the sales contract but shall not be more than \$50.00. Such closing fee may be paid from
19 the proceeds of the amount borrowed or added to the principal amount of the loan or credit
20 extension.

21 (b) When any loan or sales contract upon which a closing fee has been charged is prepaid
22 in full by any means within 90 days of the date of the loan or sales contract, the lender or
23 seller shall refund or credit the borrower or purchaser with a pro rata portion of the closing
24 fee; provided, however, that in such event, the lender or seller may retain an amount of not
25 more than \$25.00 from the collected closing fee.

27 (c) This Code section shall only apply to industrial loans made pursuant to Chapter 3 of
 28 Title 7, retail installment and home solicitation sales contracts entered into pursuant to
 29 Article 1 of Chapter 1 of Title 10, and insurance premium finance agreements entered into
 30 pursuant to Chapter 22 of Title 33; provided, however, that a closing fee authorized under
 31 this Code section shall not constitute interest, a time price differential, a finance charge, or
 32 a service charge within the meaning of Code Section 7-3-15, 10-1-4, or 33-22-9.

33 (d) Nothing contained in Code Section 7-4-18 shall be construed to amend or modify the
 34 provisions of this Code section."

35 **SECTION 2.**

36 Article 4 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to the
 37 sale of checks or money orders, is amended by revising Code Section 7-1-681, relating to
 38 licensing requirements, to read as follows:

39 "7-1-681.

40 No person or corporation, other than a bank or trust company, a credit union, a savings and
 41 loan association, or a savings bank, whether state or federally chartered, the deposits of
 42 which are federally insured; the authorized agent of a licensee; ~~or the United States Postal~~
 43 ~~Service; or a federal or state governmental department, agency, authority, or~~
 44 instrumentality and its authorized agents, shall engage in the business of selling or issuing
 45 checks without having first obtained a license under this article. This restriction applies
 46 to any nonresident person or corporation that engages in this state in the business of selling
 47 or issuing checks through a branch, subsidiary, affiliate, or agent in this state. A license
 48 for the sale of checks or money orders shall also qualify as a license for the business of
 49 money transmission. The provisions of this article shall also apply to the business of
 50 money transmission unless specifically excluded."

51 **SECTION 3.**

52 This Act shall become effective upon its approval by the Governor or upon its becoming law
 53 without such approval.

54 **SECTION 4.**

55 All laws and parts of laws in conflict with this Act are repealed.