

House Bill 891

By: Representatives Coomer of the 14<sup>th</sup>, Hawkins of the 27<sup>th</sup>, Bruce of the 61<sup>st</sup>, McCall of the 33<sup>rd</sup>, Greene of the 151<sup>st</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 3 of Title 7 of the Official Code of Georgia Annotated, relating to  
2 industrial loans, so as to provide for alternative charges to those currently authorized for  
3 industrial loans and provide for loan conditions when such charges are elected; to change the  
4 description of industrial loans to installment loans throughout the Code; to correct  
5 cross-references; to provide for related matters; to repeal conflicting laws; and for other  
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 style="text-align:center">**SECTION 1.**

9 Chapter 3 of Title 7 of the Official Code of Georgia Annotated, relating to industrial loans,  
10 is amended in Code Section 7-3-14, relating to maximum loan amount, period, and charges,  
11 by deleting "and" at the end of paragraph (4), by substituting "; and" for the period at the end  
12 of paragraph (5) and, by adding a new paragraph to read as follows:

13 "(6) **Alternative charges.** In lieu of the charges a licensee may charge under  
14 paragraphs (1) through (5) of this Code section, on any loan issued under this paragraph,  
15 a licensee may contract for, charge, receive, and collect:

16 (A) A transaction charge for making the loan not in excess of 10 percent of the amount  
17 financed. For purposes of this subparagraph, the term 'amount financed' shall have the  
18 same meaning as set forth in 12 C.F.R. 1026.18(b);

19 (B) A monthly installment account handling charge no greater than:

20 (i) The amount of \$5.00 per month per each \$100.00 of the face amount of the  
21 contract, provided that such contract amount is no more than \$1,000.00, to be repaid  
22 in no more than 12 months;

23 (ii) The amount of \$3.05 per month per each \$100.00 of the face amount of the  
24 contract, provided that such contract amount is greater than \$1,000.00, but no more  
25 than \$1,500.00, to be repaid in no more than 18 months;

26 (iii) The amount of \$3.07 per month per each \$100.00 of the face amount of the  
27 contract, provided that such contract amount is greater than \$1,500.00, but no more  
28 than \$2,000.00, to be repaid in no more than 24 months;  
29 (iv) The amount of \$3.10 per month per each \$100.00 of the face amount of the  
30 contract, provided that such contract amount is greater than \$2,000.00, but no more  
31 than \$2,500.00, to be repaid in no more than 30 months; or  
32 (v) The amount of \$3.15 per month per each \$100.00 of the face amount of the  
33 contract, provided that such contract amount is greater than \$2,500.00, but no more  
34 than \$3,000.00, to be repaid in no more than 36 months;  
35 (C) On loans with a term that includes a partial month, the installment account  
36 handling charge may be assessed only on the whole months included in the loan term;  
37 (D) The transaction charge and installment account handling charge may be calculated  
38 for the term of the contract and added to the amount financed;  
39 (E) Repayments of a loan with charges authorized under this paragraph shall be made  
40 in equal installments sufficient to amortize the loan fully over the scheduled term;  
41 (F) The minimum term of any loan made under this paragraph shall be four months and  
42 the maximum term shall be 36 months;  
43 (G) On any prepayment of any loan issued under this paragraph, the monthly  
44 installment account handling charges authorized under subparagraph (B) of this  
45 paragraph shall be subject to refund pursuant to the actuarial method as of the  
46 installment due date following the date of prepayment, unless the prepayment is made  
47 on an installment due date;  
48 (H) The transaction charge shall be earned at the time the loan is made and shall not  
49 be subject to refund;  
50 (I) On any loan issued pursuant to this paragraph, no insurance charge or ancillary  
51 charge or any other charge of any nature shall be permissible except as provided for in  
52 this paragraph, the closing fee authorized by Code Section 13-1-14, the convenience fee  
53 for electronic payments authorized by Code Section 13-1-15, the service charge for  
54 dishonored checks authorized by Code Section 13-6-15, the actual lawful fees paid by  
55 the lender to file or record a security interest in property that is collateral for the loan,  
56 court costs and attorney fees incurred in the collection of any loan contract in default  
57 as authorized by law, and the actual and reasonable expenses of repossessing, storing,  
58 and selling collateral;  
59 (J) A licensee may charge and collect from the borrower a late or delinquent charge of  
60 \$15.00 or an amount equal to 5¢ for each \$1.00 of any installment which is not paid  
61 within five days from the date such payment is due, whichever is greater, provided that  
62 this late or delinquent charge shall not be collected more than once for the same default;

63 (K) The charges authorized under this paragraph shall not be construed as a violation  
 64 of Code Section 7-4-18; and

65 (L)(i) Any person who has entered into a contract for a loan with the charges  
 66 authorized by this paragraph may cancel such contract by giving written notice of  
 67 cancellation any time before 12:00 Midnight of the third business day following the  
 68 date on which the contract was signed along with the return of the cash amount of the  
 69 principal of the loan.

70 (ii) Notice of cancellation may be given personally or by mail. If given by mail, the  
 71 notice is effective upon deposit in a mailbox, properly addressed and postage prepaid.  
 72 Notice of cancellation need not take a particular form and is sufficient if it indicates,  
 73 by any form of written expression, the intention of the borrower not to be bound by  
 74 the contract.

75 (iii) Upon receipt of cancellation, a lender shall return to the borrower any fees or  
 76 charges that have been collected in connection to a loan with charges authorized  
 77 under this paragraph.

78 (iv) Rights of cancellation may not be waived or otherwise surrendered."

79 **SECTION 2.**

80 Titles 7, 10, 16, 18, and 45 of the Official Code of Georgia Annotated, relating to banking  
 81 and finance, commerce and trade, crimes and offenses, debtors and creditors, and public  
 82 officers and employees, respectively, are amended by replacing "Industrial Loan" with  
 83 "Installment Loan" and "industrial" with "installment" wherever such phrases appear in:

- 84 (1) Code Section 7-1-1001, relating to exemption for certain persons and entities from  
 85 registration requirements for mortgage lenders and mortgage brokers;  
 86 (2) Code Section 7-3-1, relating to short title of the Georgia Industrial Loan Act;  
 87 (3) Code Section 7-3-3, relating to definitions relative to the Georgia Industrial Loan Act;  
 88 (4) Code Section 7-3-7, relating to powers and duties of the Industrial Loan  
 89 Commissioner;  
 90 (5) Code Section 7-4-2, relating to legal and maximum rate of interest;  
 91 (6) Code Section 7-4-19, relating to civil action to enforce provisions in this Code section;  
 92 (7) Code Section 10-1-2, relating to definitions and construction relative to retail  
 93 installment home solicitation sales;  
 94 (8) Code Section 10-1-31, relating to definitions and construction relative to motor vehicle  
 95 sales and financing;  
 96 (9) Code Section 10-5-2, relating to definitions relative to Georgia uniform securities;  
 97 (10) Code Section 16-17-1, relating to definitions, legislative findings, prohibited activity  
 98 relative to payday lending;

- 99 (11) Code Section 16-17-2, relating to prohibition on loans of \$3,000.00 or less and  
100 exceptions;
- 101 (12) Code Section 18-5-3, relating to exemption for debt adjustment by certain individuals  
102 or entities;
- 103 (13) Code Section 45-14-3, relating to duties of Safety Fire Commissioner and Industrial  
104 Loan Commissioner relative to the Commissioner of Insurance; and
- 105 (14) Code Section 45-14-5, relating to the seal of the Commissioner of Insurance.

106 **SECTION 3.**

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