

House Bill 247

By: Representatives Hawkins of the 27<sup>th</sup>, Bonner of the 73<sup>rd</sup>, Clark of the 100<sup>th</sup>, Williams of the 168<sup>th</sup>, Thomas of the 21<sup>st</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia  
2 Annotated, relating to the "Fair Business Practices Act," so as to provide a maximum interest  
3 rate of six percent on obligations or liabilities incurred by service members while in active  
4 military service of the United States; to provide for findings; to provide for definitions; to  
5 provide for a private right of action; to provide for a civil action by the Attorney General; to  
6 provide for damages; to provide for related matters; to repeal conflicting laws; and for other  
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 The General Assembly finds that:

- 11 (1) Men and women serving in this nation's armed services are too frequently burdened  
12 with exorbitant interest rates on obligations or liabilities incurred during military service;
- 13 (2) Federal law prohibits charging service members interest in excess of six percent per  
14 year on obligations or liabilities incurred prior to military service; and
- 15 (3) Currently, neither federal nor this state's laws limit the interest that can be charged  
16 service members on obligations or liabilities incurred during military service.

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17 **SECTION 2.**

18 Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,  
19 relating to the "Fair Business Practices Act," is amended by adding a new Code section to  
20 read as follows:

21 "10-1-393.18.

22 (a) As used in this Code section, the term:

23 (1) 'Interest' means service charges, renewal charges, fees, or other charges, except bona  
24 fide insurance, with respect to an obligation or liability.

25 (2) 'Obligation or liability' means moneys owed which are related to a mortgage, trust  
26 deed, or other security in the nature of a mortgage, or charge card debt, credit card debt,  
27 or a loan with a bank or industrial loan company.

28 (b) An obligation or liability incurred by a service member or the service member and the  
29 service member's spouse jointly, while the service member is engaged in active military  
30 service of the United States, shall not bear interest at a rate in excess of 6 percent per year.

31 (c) Active military service of the United States may be performed by members of an  
32 activated reserve unit, or if activated by the President of the United States, members of the  
33 National Guard. Either type of service member must, however, be serving on active duty  
34 orders of 30 days or longer.

35 (d) In order for an obligation or liability of the service member to be subject to the interest  
36 rate limitation in subsection (b) of this Code section, the service member shall provide to  
37 the creditor written notice and a copy of:

38 (1) The military orders calling the service member to military service and any order  
39 further extending such service; or

40 (2) Any other appropriate indicator of military service, including a certified letter from  
41 a commanding officer.

42 (e) Any person aggrieved by a violation of this Code section may in a civil action:

43 (1) Obtain any appropriate equitable or declaratory relief with respect to the violation;

- 44 (2) Recover all other appropriate relief, including monetary damages; and  
45 (3) Be a representative member of any class or be a part of a class action.
- 46 (f) The court may award to a person aggrieved by a violation of this Code section who  
47 prevails in an action brought under subsection (e) of this Code section the costs of the  
48 action, including reasonable attorney fees.
- 49 (g) The Attorney General may commence a civil action in any appropriate court in this  
50 state against any person who:
- 51 (1) Engages in a pattern or practice of violating this Code section; or  
52 (2) Engages in a violation of this Code section that raises an issue of significant public  
53 importance.
- 54 (h) In a civil action commenced under subsection (g) of this Code section, the court may:
- 55 (1) Grant any appropriate equitable or declaratory relief with respect to the violation;  
56 (2) Recover all other appropriate relief, including monetary damages; and  
57 (3) To vindicate the public interest, assess a civil penalty:
- 58 (A) In an amount not exceeding \$55,000.00 for an initial violation; and  
59 (B) In an amount not exceeding \$110,000.00 for any subsequent violation.
- 60 (i) Nothing in this Code section shall be interpreted to preclude or limit any remedy under  
61 law, including consequential and punitive damages.
- 62 (j) A court may grant a creditor relief from the limitations of this Code section if, in the  
63 opinion of the court, the ability of the service member to pay interest upon the obligation  
64 or liability at a rate in excess of 6 percent per year is not materially affected by reason of  
65 the service member's military service."

66 **SECTION 3.**

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