

SENATE BILL 2031

By Ford

AN ACT to amend Tennessee Code Annotated, Title 47,
relative to late fees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding the following new part thereto:

47-18-5601.

As used in this part, unless the context otherwise requires:

(1) "Consumer contract" means a contract involving the sale, lease, or provision of goods or services that are for personal, family, or household purposes;

(2) "Contract", unless specifically provided otherwise, includes consumer, commercial, and business contracts, covenants, leases of any kind, and tariffs on file with any regulatory authority; and

(3) "Late fee" means any charge or fee imposed because a payment is not made when the payment is due under the terms of a contract, including, but not limited to a fee that is:

- (A) As a flat rate;
- (B) As a percentage of the amount due; or
- (C) In any other terms.

47-18-5602.

(a) The parties to a contract may agree to require the payment of a late fee when a party fails to make a payment when the payment is due.

(b) A contract that requires the payment of a late fee shall disclose, by its terms or by notice:

- (1) The amount of the late fee;
- (2) The conditions under which the late fee will be imposed; and
- (3) The timing for the imposition of the late fee.

47-18-5603.

(a) A late fee imposed pursuant to this part is not:

- (1) Interest;
- (2) A finance charge;
- (3) Liquidated damages; or
- (4) A penalty.

(b) This part does not affect a late fee, a finance charge, interest, or any other fee or charge otherwise allowed under applicable law.

47-18-5604.

(a) A late fee included in a consumer contract pursuant to this part is subject to one (1) of the following limitations:

- (1)
 - (A) The amount of the late fee may be up to five dollars (\$5.00) per month, or up to ten percent (10%) per month of the payment amount that is past due, whichever is greater; and
 - (B) No more than three (3) monthly late fees may be imposed for any single payment amount that is past due, regardless of the period during which the payment remains past due; or

(2) The amount of the late fee may be up to one and a half percent (1.5%) per month of the payment amount that is past due.

(b) The amount of the late fee under subdivision (a) shall be disclosed, in the consumer contract or by notice, in size equal to at least 10-point bold type.

(c)

(1) Except as provided in subdivision (c)(2), a late fee included in a consumer contract pursuant to this part may not be imposed until fifteen (15) days after the date the bill was rendered for the goods or services provided.

(2) If a bill is not rendered, a late fee included in a consumer contract pursuant to this part may not be imposed until fifteen (15) days after the payment amount becomes due.

(d) A late fee imposed under this part is subject to any additional limitations or conditions prescribed by any federal, state, or local regulatory agency or authority having jurisdiction over entities imposing late fees regulated by this part.

47-18-5605.

A violation of this part shall constitute a violation of the Tennessee Consumer Protection Act, compiled in part 1 of this chapter. For the purpose of application of the Tennessee Consumer Protection Act, any violation of this part shall be construed to constitute an unfair or deceptive act or practice affecting the conduct of any trade or commerce and subject to the penalties and remedies as provided by that act.

SECTION 2. This act shall take effect July 1, 2011, the public welfare requiring it, and shall apply to any contract entered into on or after the effective date of this act.