

**7-17-8 Damages for lender's violation of act -- Limitations on recovery.**

- (1) Except as otherwise provided in this act, a lender who violates this act is liable to the borrower, his successors or assigns, for the actual damages suffered by the borrower, his assigns or successors, or \$100, whichever is greater. If an action is commenced, the prevailing party may be awarded reasonable attorney's fees as determined by the court.
- (2) A lender has no liability under this section if the court finds that written demand for payment of the claim of the borrower, his successors or assigns, was made on the lender not less than 30 days before commencement of the action and that the lender tendered to the borrower, his successors or assigns, prior to the commencement of the action, an amount not less than the damages awarded.
- (3) A lender may not be held liable under this section for a violation of this act if the lender shows that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures to avoid such errors.
- (4) A reserve account established or maintained in violation of this act is voidable, at the option of the borrower, his successors or assigns, at any time, but does not otherwise affect the validity of the loan, the security interest in the real property or any other obligation of the borrower.
- (5) No action under this section may be brought more than one year after the date of the violation.

Amended by Chapter 378, 2010 General Session