

By Senator Rossin

35-615D-99

1 A bill to be entitled
2 An act relating to consumer finance; amending
3 s. 516.03, F.S.; increasing an application fee;
4 amending ss. 516.05, 520.997, F.S.; requiring
5 licensees to notify the Department of Banking
6 and Finance before relocating a business;
7 requiring a licensee to report bankruptcy
8 filings to the department; amending ss. 516.07,
9 520.995, F.S.; providing additional grounds for
10 certain disciplinary actions; amending ss.
11 516.11, 520.996, F.S.; deleting a schedule of
12 examination fees; providing criteria for paying
13 travel expenses and per diem allowances to
14 examiners; amending s. 615.12, F.S.; requiring
15 that licensees make accounts and records
16 available to the Department of Banking and
17 Finance; amending ss. 520.02, 520.31, 520.61,
18 F.S.; providing additional definitions;
19 amending ss. 520.03, 520.32, 520.52, 520.63,
20 F.S.; clarifying procedures for obtaining
21 certain licenses and imposing certain license
22 application and renewal fees; requiring
23 department notification before relocating
24 certain offices; amending s. 520.07, F.S.;
25 requiring disclosure of additional information
26 under certain installment contracts; requiring
27 evidence of satisfaction of lien under certain
28 installment contracts; amending s. 520.085,
29 F.S.; authorizing certain additional charges
30 under certain installment contracts; providing
31 for a deferment of the due date of certain

1 contracts; providing a fee; providing for the
2 extension of insurance coverage; providing
3 disclosure requirement; amending s. 520.34,
4 F.S.; authorizing sellers under retail
5 installment contracts to collect a processing
6 fee under certain circumstances; amending ss.
7 559.9232, 681.102, and 697.05, F.S.; conforming
8 cross-references; providing effective dates.

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10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Subsection (1) of section 516.03, Florida
13 Statutes, is amended to read:

14 516.03 Application for license; fees; etc.--

15 (1) APPLICATION.--Application for a license to make
16 loans under this chapter shall be in writing, under oath, and
17 in the form prescribed by the department, and shall contain
18 the name, residence and business addresses of the applicant
19 and, if the applicant is a copartnership or association, of
20 every member thereof and, if a corporation, of each officer
21 and director thereof, also the county and municipality with
22 the street and number or approximate location where the
23 business is to be conducted, and such further relevant
24 information as the department may require. At the time of
25 making such application the applicant shall pay to the
26 department a biennial license fee of \$625~~\$550~~. Applications,
27 except for applications to renew or reactivate a license, must
28 also be accompanied by an investigation fee of \$200.

29 Section 2. Subsection (4) of section 516.05, Florida
30 Statutes, is amended, and subsection (9) is added to that
31 section, to read:

1 516.05 License.--

2 (4) Prior to relocating his or her place of business,
3 a licensee must provide to the department written notice of
4 the relocation.~~A licensee may not change the place of~~
5 ~~business maintained under a license without prior approval of~~
6 ~~the department. When a licensee wishes to change a place of~~
7 ~~business, the licensee shall give written notice thereof to~~
8 ~~the department, and, if the department finds that the proposed~~
9 ~~location is reasonably accessible to borrowers under existing~~
10 ~~loan contracts, it shall permit the change and shall amend the~~
11 ~~license accordingly. If the department does not so find, it~~
12 ~~shall enter an order denying removal of the business to the~~
13 ~~requested location.~~

14 (9) A licensee that is the subject of a voluntary or
15 involuntary bankruptcy filing must report such filing to the
16 department within 7 business days after the filing date.

17 Section 3. Subsection (1) of section 516.07, Florida
18 Statutes, is amended to read:

19 516.07 Grounds for denial of license or for
20 disciplinary action.--

21 (1) The following acts are violations of this chapter
22 and constitute grounds for denial of an application for a
23 license to make consumer finance loans and grounds for any of
24 the disciplinary actions specified in subsection (2):

25 (a) A material misstatement of fact in an application
26 for a license;

27 (b) Failure to maintain liquid assets of at least
28 \$25,000 at all times for the operation of business at a
29 licensed location or proposed location;

30 (c) Failure to demonstrate financial responsibility,
31 experience, character, or general fitness, such as to command

1 the confidence of the public and to warrant the belief that
2 the business operated at the licensed or proposed location is
3 lawful, honest, fair, efficient, and within the purposes of
4 this chapter;

5 (d) The violation, either knowingly or without the
6 exercise of due care, of any provision of this chapter, any
7 rule or order adopted under this chapter, or any written
8 agreement entered into with the department;

9 (e) Any act of fraud, misrepresentation, or deceit,
10 regardless of reliance by or damage to a borrower, or any
11 illegal activity, where such acts are in connection with a
12 loan under this chapter. Such acts include, but are not
13 limited to:

14 1. Willful imposition of illegal or excessive charges;
15 or

16 2. Misrepresentation, circumvention, or concealment of
17 any matter required to be stated or furnished to a borrower;

18 (f) The use of unreasonable collection practices or of
19 false, deceptive, or misleading advertising, where such acts
20 are in connection with the operation of a business to make
21 consumer finance loans;

22 (g) Any violation of part III of chapter 817 or part
23 II of chapter 559 or of any rule adopted under part II of
24 chapter 559;

25 (h) Failure to maintain, preserve, and keep available
26 for examination, all books, accounts, or other documents
27 required by this chapter, by any rule or order adopted under
28 this chapter, or by any agreement entered into with the
29 department; ~~or~~

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1 (i) Refusal to permit inspection of books and records
2 in an investigation or examination by the department or
3 refusal to comply with a subpoena issued by the department;

4 (j) Pleading nolo contendere to, or having been
5 convicted or found guilty of, a crime involving fraud,
6 dishonest dealing, or any act of moral turpitude, regardless
7 of whether adjudication is withheld;

8 (k) Paying money or anything else of value, directly
9 or indirectly, to any person as compensation, inducement, or
10 reward for referring loan applicants to a licensee;

11 (l) Allowing any person other than the licensee to use
12 the licensee's business name, address, or telephone number in
13 an advertisement;

14 (m) Accepting or advertising that the licensee accepts
15 money on deposit or as consideration for the issuance or
16 delivery of certificates of deposit, savings certificates, or
17 similar instruments, except to the extent permitted under
18 chapter 517; or

19 (n) Failure to pay any fee, charge, or fine imposed or
20 assessed pursuant to this chapter or any rule adopted under
21 this chapter.

22 Section 4. Effective January 1, 2001, subsections (1)
23 and (2) of section 516.11, Florida Statutes, are amended to
24 read:

25 516.11 Investigations and complaints.--

26 (1) The department shall, at intermittent periods,
27 make such investigations and examinations of any licensee or
28 other person as it deems necessary to determine compliance
29 with this chapter. For such purposes, the department may
30 examine the books, accounts, records, and other documents or
31 matters of any licensee or other person and compel the

1 production of all relevant books, records, and other documents
2 and materials relative to an examination or investigation.
3 Examinations of a licensee may not be made more often than
4 once a year unless the department has reason to believe the
5 licensee is not complying with this chapter. ~~Each licensee~~
6 ~~shall pay to the department an examination fee based upon the~~
7 ~~amount of outstanding loans due the licensee at the time of~~
8 ~~the examination, as follows:~~

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10	Amount Outstanding	Examination Fee
11	From \$0 to \$50,000.....	\$100
12	From \$50,000.01 to \$100,000.....	125
13	From \$100,000.01 to \$250,000.....	150
14	From \$250,000.01 to \$500,000.....	200
15	From \$500,000.01 and over.....	325

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17 (2) The department shall conduct all examinations at a
18 convenient location in this state unless the department
19 determines that it is more effective or cost-efficient to
20 perform an examination at the licensee's out-of-state
21 location. For an examination performed at the licensee's
22 out-of-state location, the licensee shall also pay the travel
23 expense and per diem subsistence at the rate provided by law
24 for up to 30 eight-hour days per year for each examiner who
25 participates in such an examination. However, if the
26 examination involves or reveals possible fraudulent conduct of
27 the licensee, the licensee shall pay the travel expenses and
28 per diem subsistence provided by law, without limitation, for
29 each participating examiner ~~allowance provided for state~~
30 ~~employees in s. 112.061. The licensee shall not be required to~~
31 ~~pay a per diem fee and expenses of an examination which shall~~

1 ~~consume more than 30 worker days in any one year unless such~~
2 ~~examination or investigation is due to fraudulent practices of~~
3 ~~the licensee, in which case such licensee shall be required to~~
4 ~~pay the entire cost regardless of time consumed.~~

5 Section 5. Subsection (2) of section 516.12, Florida
6 Statutes, is amended to read:

7 516.12 Records to be kept by licensee.--

8 (2) A licensee, operating two or more licensed places
9 of business in this state, may maintain the books, accounts,
10 and records of all such offices at any one of such offices, or
11 at any other office maintained by such licensee, upon the
12 filing of a written request with the department designating in
13 the written request ~~therein~~ the office at which such records
14 are maintained. However, the licensee shall make all books,
15 accounts, and records available at a convenient location in
16 this state upon request of the department.

17 Section 6. Present subsections (1) through (9) of
18 section 520.02, Florida Statutes, are renumbered as
19 subsections (2) through (10), respectively, present
20 subsections (10) through (15) of that section are renumbered
21 as subsections (12) through (17), respectively, and new
22 subsections (1) and (11) are added to that section, to read:

23 520.02 Definitions.--In this act, unless the context
24 or subject matter otherwise requires:

25 (1) "Branch" means any location, other than a
26 licensee's principal place of business, at which a licensee
27 operates or conducts business under this act or which a
28 licensee owns or controls for the purpose of conducting
29 business under this act.

30 (11) "Principal place of business" means the physical
31 location designated on the licensee's application for

1 licensure, unless otherwise designated as required by this
2 chapter.

3 Section 7. Subsections (2), (3), and (4) of section
4 520.03, Florida Statutes, are amended to read:

5 520.03 Licenses.--

6 (2) An application for a license under this part must
7 be submitted to the department on such forms as the department
8 may prescribe by rule. If the department determines that an
9 application should be granted, it shall issue the license for
10 a period not to exceed 2 years. A nonrefundable application
11 fee of \$175 ~~not exceeding \$200~~ shall be set by rule and
12 accompany an initial application for the principal place of
13 business and each application for a branch location of a
14 retail installment seller who is required to be licensed under
15 this chapter.

16 (3) The ~~A~~ renewal fee for a motor vehicle retail
17 installment seller license shall be \$175 ~~not exceeding \$200~~
18 ~~shall be set by rule.~~ The department shall establish by rule
19 biennial licensure periods and procedures for renewal of
20 licenses ~~may also be established by the department by rule.~~ A
21 license that is not renewed by ~~at~~ the end of the biennium
22 established by the department shall ~~automatically expire and~~
23 revert from active to inactive status. ~~An~~ Such inactive
24 license may be reactivated within 6 months after becoming
25 inactive ~~the expiration date~~ upon filing submission of a
26 completed reactivation form, payment of the renewal
27 application fee, and payment of a reactivation fee equal to
28 the renewal ~~application~~ fee. A license that is not
29 reactivated within 6 months after becoming inactive
30 automatically expires ~~may not be reactivated.~~

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1 (4) Each license shall ~~must~~ specify the location for
2 which it is issued and must be conspicuously displayed at that
3 location. Prior to relocating a principal place of business or
4 any branch location, the licensee must provide to the
5 department written notice of the relocation.~~If a licensee's~~
6 ~~principal place of business or branch location changes, the~~
7 ~~licensee shall notify the department and the department shall~~
8 ~~endorse the change of location without charge.~~ A licensee may
9 not transact business as a motor vehicle retail installment
10 seller except under the name by which it is licensed. Licenses
11 issued under this part are not transferable or assignable.

12 Section 8. Subsections (3) and (8) of section 520.07,
13 Florida Statutes, are amended to read:

14 520.07 Requirements and prohibitions as to retail
15 installment contracts.--

16 (3) The seller shall provide a separate written
17 itemization of the amount financed, which itemization shall
18 disclose the following:

19 (a) The cash price;

20 (b) The amount of down payment;

21 (c) The difference between the amounts disclosed under
22 paragraphs (a) and (b);

23 (d) The amounts, if any, included for insurance and
24 other benefits, specifying the types of coverages and
25 benefits; ~~and~~

26 (e) Any taxes and official fees not included in the
27 cash price; and

28 (f) The number of scheduled payments, the amount of
29 each payment, and the date of the first payment.

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1 The itemization required by this subsection may appear on a
2 disclosure statement separate from all other material, or it
3 may be placed on the same document with the contract or other
4 information so long as it is clearly and conspicuously
5 segregated from everything else on the document.

6 (8)(a) Upon written request from the buyer, the holder
7 of a retail installment contract shall give or forward to the
8 buyer a written statement of the dates and amounts of payments
9 and the total amount unpaid under such contract. A buyer
10 shall be given a written receipt for any payment when made in
11 cash.

12 (b) When a motor vehicle retail installment contract
13 is paid in full, the holder shall ensure that the contract or
14 title reflects that the lien has been satisfied or released
15 and shall ensure that evidence of satisfaction is provided to
16 the borrower or payor.

17 Section 9. Section 520.085, Florida Statutes, is
18 amended to read:

19 520.085 Simple-interest contracts.--

20 (1) A retail installment contract under The Motor
21 Vehicle Retail Sales Finance Act may provide that the rate of
22 finance charge be calculated on a simple-interest basis
23 subject to the following provisions:

24 (a)~~(1)~~ Instead of a finance charge computed on the
25 amount financed as determined under s. 520.07(2), the seller
26 may compute the finance charge at a simple-interest rate
27 equivalent to the finance charge permitted by s. 520.08 on the
28 unpaid balance as it changes from time to time or by any other
29 method. For the purposes of this section, the class of motor
30 vehicle shall be determined at the time of execution of the
31 retail installment contract.

1 ~~(b)(2)~~ The language in s. 520.08(2) which provides
2 that the finance charge may be computed on the basis of a full
3 month for any fractional-month period in excess of 10 days
4 shall not be applicable to a simple-interest contract.

5 ~~(c)(3)~~ The provisions of s. 520.09 which prescribe a
6 refund credit upon prepayment in full before maturity of the
7 unpaid balance of a retail installment contract shall not be
8 applicable to a simple-interest contract. However, the lender
9 may impose an acquisition charge, not to exceed \$75, for
10 services performed on behalf of the borrower for processing
11 the retail installment contract if the contract is paid in
12 full within 6 months after the effective date of the contract.

13 ~~(d)(4)~~ In the event the unpaid balance of a retail
14 installment contract is extended, deferred, renewed, or
15 restated, the holder may compute the refinance charge in
16 accordance with the provisions of this section.

17 ~~(e)(5)~~ Notwithstanding any provisions of The Motor
18 Vehicle Retail Sales Finance Act or any other law to the
19 contrary, the finance charge percentage rate included in a
20 retail installment sale contract representing the sale of a
21 motor vehicle primarily for business or commercial use may
22 vary, but no higher than the limits set forth in s. 520.08,
23 during the term of the contract pursuant to a formula or index
24 set forth therein (such as a prime rate or commercial paper
25 rate quoted by one or more banking institutions or the highest
26 prime rate reported effective on the date in question by The
27 Wall Street Journal) that is made readily available to and
28 verifiable by the buyer and is beyond the control of the
29 holder of the contract. For the purpose of disclosing the
30 amount of finance charge and time balance and setting forth a
31 payment schedule of equal successive monthly installments,

1 such amounts may be calculated using the finance charge
2 percentage rate applicable to the transaction as of the date
3 of execution of the contract, notwithstanding the fact that
4 such finance charge percentage may increase or decrease over
5 the term of the contract according to a formula or index set
6 forth in the contract.

7 (2) The holder of a simple interest contract, upon the
8 request of the buyer, may defer the scheduled due date of all
9 or any part of any installment payment, and may collect a \$15
10 fee for such deferment. The holder may also require the buyer
11 to extend any insurance coverage required by the simple
12 interest contract, or require the buyer to reimburse the
13 holder for any costs incurred by the holder for extending such
14 coverage. With the buyer's approval, the holder may extend any
15 optional insurance coverage purchased in connection with the
16 simple interest contract and may charge the buyer for the
17 costs of extending such optional insurance. A holder may not
18 collect the \$15 deferment fee unless this deferment option was
19 provided for in the simple interest contract. The holder shall
20 disclose in the simple interest contract and any offer to
21 exercise the deferment option that, in addition to the \$15
22 deferment fee and the costs of extending required or optional
23 insurance, the buyer will also be required to pay additional
24 finance charges as a result of exercising the deferment
25 option.

26 Section 10. Present subsections (1) through (8) of
27 section 520.31, Florida Statutes, are renumbered as
28 subsections (2) through (9), respectively, present subsections
29 (9) through (15) of that section are renumbered as subsections
30 (11) through (17), respectively, and new subsections (1) and
31 (10) are added to that section, to read:

1 520.31 Definitions.--Unless otherwise clearly
2 indicated by the context, the following words when used in
3 this act, for the purposes of this act, shall have the
4 meanings respectively ascribed to them in this section:

5 (1) "Branch" means any location, other than a
6 licensee's principal place of business, at which a licensee
7 operates or conducts business under this act or which a
8 licensee owns or controls for the purpose of conducting
9 business under this act.

10 (10) "Principal place of business" means the physical
11 location designated on the licensee's application for
12 licensure, unless otherwise designated as required by this
13 chapter.

14 Section 11. Subsections (2) and (3) of section 520.32,
15 Florida Statutes, are amended to read:

16 520.32 Licenses.--

17 (2) An application for a license under this part must
18 be submitted to the department on such forms as the department
19 may prescribe by rule. If the department determines that an
20 application should be granted, it shall issue the license for
21 a period not to exceed 2 years. A nonrefundable application
22 fee of \$175 ~~not exceeding \$200~~ shall be set by rule and
23 accompany an initial application for the principal place of
24 business and each application for a branch location of a
25 retail installment seller.

26 (3) The A renewal fee for a retail seller license
27 shall be \$175 ~~not exceeding \$200 shall be set by rule.~~
28 Biennial licensure periods and procedures for renewal of
29 licenses may also be established by the department by rule. A
30 license that is not renewed at the end of the biennium
31 established by the department shall ~~automatically expire and~~

1 revert from active to inactive status. ~~An~~ ~~Such~~ inactive
2 license may be reactivated within 6 months after becoming
3 inactive ~~the expiration date~~ upon filing ~~submission~~ of a
4 completed reactivation form, payment of the renewal
5 ~~application~~ fee, and payment of a reactivation fee equal to
6 the renewal ~~application~~ fee. A license that is not
7 reactivated within 6 months after becoming inactive
8 automatically expires ~~may not be reactivated~~.

9 Section 12. Subsection (14) is added to section
10 520.34, Florida Statutes, to read:

11 520.34 Retail installment contracts.--

12 (14) The seller under a retail installment contract
13 may collect a \$10 processing fee for each retail installment
14 contract that is approved and activated.

15 Section 13. Subsections (2) and (3) of section 520.52,
16 Florida Statutes, are amended to read:

17 520.52 Licensees.--

18 (2) An application for a license under this part must
19 be submitted to the department on such forms as the department
20 may prescribe by rule. If the department determines that an
21 application should be granted, it shall issue the license for
22 a period not to exceed 2 years. A nonrefundable application
23 fee of \$175 ~~not exceeding \$200~~ shall ~~be set by rule and~~
24 accompany an initial application for the principal place of
25 business and each branch location of a sales finance company.

26 (3) The ~~A~~ renewal fee for a sales finance company
27 license shall be \$175 ~~not exceeding \$200 shall be set by rule.~~
28 Biennial licensure periods and procedures for renewal of
29 licenses may also be established by the department by rule. A
30 license that is not renewed at the end of the biennium
31 established by the department shall ~~automatically expire and~~

1 revert from active to inactive status. ~~An~~ ~~Such~~ inactive
2 license may be reactivated within 6 months after becoming
3 inactive ~~the expiration date~~ upon filing ~~submission~~ of a
4 completed reactivation form, payment of the renewal
5 ~~application~~ fee, and payment of a reactivation fee equal to
6 the renewal ~~application~~ fee. A license that is not
7 reactivated within 6 months after becoming inactive
8 automatically expires ~~may not be reactivated~~.

9 Section 14. Present subsections (2) through (17) of
10 section 520.61, Florida Statutes, are renumbered as
11 subsections (3) through (18), respectively, present
12 subsections (18) and (19) of that section are renumbered as
13 subsections (20) and (21), respectively, and new subsections
14 (2) and (19) are added to that section, to read:

15 520.61 Definitions.--As used in this act:

16 (2) "Branch" means any location, other than a
17 licensee's principal place of business, at which a licensee
18 operates or conducts business under this act or which a
19 licensee owns or controls for the purpose of conducting
20 business under this act.

21 (19) "Principal place of business" means the physical
22 location designated on the licensee's application for
23 licensure, unless otherwise designated as required by this
24 chapter.

25 Section 15. Subsections (2) and (3) of section 520.63,
26 Florida Statutes, are amended to read:

27 520.63 Licensees.--

28 (2) An application for a license under this part must
29 be submitted to the department on such forms as the department
30 may prescribe by rule. If the department determines that an
31 application should be granted, it shall issue the license for

1 a period not to exceed 2 years. A nonrefundable application
2 fee of \$175 ~~not exceeding \$200~~ shall be set by rule and
3 accompany an initial application for the principal place of
4 business and each application for a branch location of a home
5 improvement finance seller.

6 (3) The ~~A~~ renewal fee for a home improvement finance
7 license shall be \$175 ~~not exceeding \$200 shall be set by rule.~~
8 Biennial licensure periods and procedures for renewal of
9 licenses may also be established by the department by rule. A
10 license that is not renewed at the end of the biennium
11 established by the department shall automatically ~~expire and~~
12 revert from active to inactive status. An ~~Such~~ inactive
13 license may be reactivated within 6 months after becoming
14 inactive ~~the expiration date~~ upon filing ~~submission~~ of a
15 completed reactivation form, payment of the renewal
16 ~~application~~ fee, and payment of a reactivation fee equal to
17 the renewal ~~application~~ fee. A license that is not
18 reactivated within 6 months after becoming inactive
19 automatically expires ~~may not be reactivated.~~

20 Section 16. Subsections (1) and (3) of section
21 520.995, Florida Statutes, are amended to read:

22 520.995 Grounds for disciplinary action.--

23 (1) The following acts are violations of this chapter
24 and constitute grounds for the disciplinary actions specified
25 in subsection (2):

26 (a) Failure to comply with any provision of this
27 chapter, any rule or order adopted pursuant to this chapter,
28 or any written agreement entered into with the department;

29 (b) Fraud, misrepresentation, deceit, or gross
30 negligence in any home improvement finance transaction or
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1 retail installment transaction, regardless of reliance by or
2 damage to the buyer or owner;

3 (c) Fraudulent misrepresentation, circumvention, or
4 concealment of any matter required to be stated or furnished
5 to a retail buyer or owner pursuant to this chapter,
6 regardless of reliance by or damage to the buyer or owner;

7 (d) Willful imposition of illegal or excessive charges
8 in any retail installment transaction or home improvement
9 finance transaction;

10 (e) False, deceptive, or misleading advertising by a
11 seller or home improvement finance seller;

12 (f) Failure to maintain, preserve, and keep available
13 for examination, all books, accounts, or other documents
14 required by this chapter, by any rule or order adopted
15 pursuant to this chapter, or by any agreement entered into
16 with the department;

17 (g) Refusal to permit inspection of books and records
18 in an investigation or examination by the department or
19 refusal to comply with a subpoena issued by the department; ~~or~~

20 (h) Criminal conduct in the course of a person's
21 business as a seller, as a home improvement finance seller, or
22 as a sales finance company; or

23 (i) Failure to timely pay any fee, charge, or fine
24 imposed or assessed pursuant to this chapter or any rule
25 adopted under this chapter.

26 (3) In addition to the acts specified in subsection
27 (1), the following shall be grounds for denial of a license
28 pursuant to this chapter, or for revocation, suspension, or
29 restriction of a license previously granted:

30 (a) A material misstatement of fact in an initial or
31 renewal application for a license;

1 (b) Having a license, registration, or the equivalent,
2 to practice any profession or occupation denied, suspended,
3 revoked, or otherwise acted against by a licensing authority
4 in any jurisdiction for fraud, dishonest dealing, or any act
5 of moral turpitude;

6 (c) Pleading nolo contendere to, or having been
7 convicted or found guilty of a crime involving fraud,
8 dishonest dealing, or any act of moral turpitude, regardless
9 of whether adjudication is withheld; or

10 (d) Being insolvent or having a demonstrated lack of
11 honesty or financial responsibility.

12 Section 17. Effective January 1, 2001, subsection (1)
13 of section 520.996, Florida Statutes, is amended to read:

14 520.996 Investigations and complaints.--

15 (1)(a) The department or its agent may, at
16 intermittent periods, make such investigations and
17 examinations of any licensee or other person as it deems
18 necessary to determine compliance with this chapter. For such
19 purposes, it may examine the books, accounts, records, and
20 other documents or matters of any licensee or other person. It
21 shall have the power to compel the production of all relevant
22 books, records, and other documents and materials relative to
23 an examination or investigation. Such investigations and
24 examinations shall not be made more often than once during any
25 12-month period unless the department has good and sufficient
26 reason to believe the licensee is not complying with the
27 provisions of this chapter. ~~The expenses of the department~~
28 ~~incurred in each such examination may be established by~~
29 ~~department rule but shall not exceed \$250 per 8-hour day for~~
30 ~~each examiner.~~ Such examination fee shall be calculated on an
31 hourly basis and shall be rounded to the nearest hour.

1 (b) The department shall conduct all examinations at a
2 convenient location in this state unless the department
3 determines that it is more effective or cost-efficient to
4 perform an examination at the licensee's out-of-state
5 location. For an examination performed at the licensee's
6 out-of-state location, the licensee shall also pay the travel
7 expense and per diem subsistence at the rate provided by law
8 for up to 30 eight-hour days per year for each examiner who
9 participates in such an examination. However, if the
10 examination involves or reveals possible fraudulent conduct of
11 the licensee, the licensee shall pay the travel expenses and
12 per diem subsistence provided by law, without limitation, for
13 each participating examiner allowance provided for state
14 ~~employees in s. 112.061. The licensee shall not be required to~~
15 ~~pay a per diem fee and expenses of an examination which shall~~
16 ~~consume more than 30 worker-days in any one year unless such~~
17 ~~examination or investigation is due to fraudulent practices of~~
18 ~~the licensee, in which case such licensee shall be required to~~
19 ~~pay the entire cost regardless of time consumed.~~

20 Section 18. Subsection (5) is added to section
21 520.997, Florida Statutes, to read:

22 520.997 Books, accounts, and records.--

23 (5) A licensee that is the subject of a voluntary or
24 involuntary bankruptcy filing must provide notice of such
25 filing to the department within 7 days after the filing date.

26 Section 19. Subsection (2) of section 559.9232,
27 Florida Statutes, is amended to read:

28 559.9232 Definitions; exclusion of rental-purchase
29 agreements from certain regulations.--

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1 (2) A rental-purchase agreement that complies with
2 this act shall not be construed to be, nor be governed by, any
3 of the following:

4 (a) A lease or agreement which constitutes a credit
5 sale as defined in 12 C.F.R. s. 226.2(a)(16) and s. 1602(g) of
6 the federal Truth in Lending Act, 15 U.S.C. ss. 1601 et seq.;

7 (b) A lease which constitutes a "consumer lease" as
8 defined in 12 C.F.R. s. 213.2(a)(6);

9 (c) Any lease for agricultural, business, or
10 commercial purposes;

11 (d) Any lease made to an organization;

12 (e) A lease or agreement which constitutes a "retail
13 installment contract" or "retail installment transaction" as
14 those terms are defined in s. 520.31(12)~~s. 520.31(10)~~ and
15 (13)~~(11)~~; or

16 (f) A security interest as defined in s. 671.201(37).

17 Section 20. Subsection (19) of section 681.102,
18 Florida Statutes, 1998 Supplement, is amended to read:

19 681.102 Definitions.--As used in this chapter, the
20 term:

21 (19) "Purchase price" means the cash price as defined
22 in s. 520.31(2)~~s. 520.31(1)~~, inclusive of any allowance for a
23 trade-in vehicle, but excludes debt from any other
24 transaction. "Any allowance for a trade-in vehicle" means the
25 net trade-in allowance as reflected in the purchase contract
26 or lease agreement if acceptable to the consumer and
27 manufacturer. If such amount is not acceptable to the
28 consumer and manufacturer, then the trade-in allowance shall
29 be an amount equal to 100 percent of the retail price of the
30 trade-in vehicle as reflected in the NADA Official Used Car
31 Guide (Southeastern Edition) or NADA Recreation Vehicle

1 Appraisal Guide, whichever is applicable, in effect at the
2 time of the trade-in. The manufacturer shall be responsible
3 for providing the applicable NADA book.

4 Section 21. Subsection (4) of section 697.05, Florida
5 Statutes, is amended to read:

6 697.05 Balloon mortgages; scope of law; definition;
7 requirements as to contents; penalties for violations;
8 exemptions.--

9 (4) This section does not apply to the following:

10 (a) Any mortgage in effect prior to January 1, 1960;

11 (b) Any first mortgage, excluding a mortgage in favor
12 of a home improvement contractor defined in s. 520.61(12)~~s.~~
13 ~~520.61(11)~~the execution of which is required solely by the
14 terms of a home improvement contract which is governed by the
15 provisions of ss. 520.60-520.992;

16 (c) Any mortgage created for a term of 5 years or
17 more, excluding a mortgage in favor of a home improvement
18 contractor defined in s. 520.61(12)~~s. 520.61(11)~~the
19 execution of which is required solely by the terms of a home
20 improvement contract which is governed by the provisions of
21 ss. 520.60-520.992;

22 (d) Any mortgage, the periodic payments on which are
23 to consist of interest payments only, with the entire original
24 principal sum to be payable upon maturity;

25 (e) Any mortgage securing an extension of credit in
26 excess of \$500,000;

27 (f) Any mortgage granted in a transaction covered by
28 the federal Truth in Lending Act, 15 U.S.C. ss. 1601 et seq.,
29 in which each mortgagor thereunder is furnished a Truth in
30 Lending Disclosure Statement that satisfies the requirements
31 of the federal Truth in Lending Act; or

1 (g) Any mortgage granted by a purchaser to a seller
2 pursuant to a written agreement to buy and sell real property
3 which provides that the final payment of said mortgage debt
4 will exceed the periodic payments thereon.

5 Section 22. Except as otherwise expressly provided in
6 this act, this act shall take effect October 1, 1999.

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9 SENATE SUMMARY

10 Revises provisions relating to consumer loan finance,
11 motor vehicle sales finance, retail installment sales and
12 finance, and home improvement sales and finance to revise
13 and clarify license fee requirements, revise license
14 examination procedures, clarify notification requirements
15 for relocations and bankruptcies, provide additional
16 grounds for disciplinary actions, and clarify installment
17 contract requirements. (See bill for details.)
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