

By the Committee on Banking and Insurance; and Senator Rossin

311-1721-99

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 providing for calculating the amount financed;
26 requiring disclosure of additional information
27 under certain installment contracts; requiring
28 evidence of satisfaction of lien under certain
29 installment contracts; amending s. 520.085,
30 F.S.; authorizing certain additional charges
31 under certain installment contracts; providing

1 for a deferment of the due date of certain
2 contracts; providing a fee; providing for the
3 extension of insurance coverage; providing
4 disclosure requirement; amending s. 520.34,
5 F.S.; authorizing sellers under retail
6 installment contracts to collect a processing
7 fee under certain circumstances; amending s.
8 520.994, F.S.; authorizing rules to allow
9 electronic submission of forms, documents, and
10 fees; amending ss. 559.9232, 681.102, and
11 697.05, F.S.; conforming cross-references;
12 providing effective dates.

13

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

15

16 Section 1. Section 516.03, Florida Statutes, is
17 amended to read:

18 516.03 Application for license; fees; etc.--

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

31 Applications, except for applications to renew or reactivate a

1 license, must also be accompanied by an investigation fee of
2 \$200. The department may adopt rules to allow electronic
3 submission of any form, document, or fee required by this act.

4 (2) FEES.--Fees herein provided for shall be collected
5 by the department and shall be turned into the State Treasury
6 to the credit of the regulatory trust fund under the Division
7 of Finance of the department. The department shall have full
8 power to employ such examiners or clerks to assist the
9 department as may from time to time be deemed necessary and
10 fix their compensation. The department may adopt rules to
11 allow electronic submission of any fee required by this
12 section.

13 Section 2. Subsection (4) of section 516.05, Florida
14 Statutes, is amended, and subsection (9) is added to that
15 section, to read:

16 516.05 License.--

17 (4) Prior to relocating his or her place of business,
18 a licensee must file with the department, in the manner
19 prescribed by department rule, notice of the relocation.~~A~~
20 ~~licensee may not change the place of business maintained under~~
21 ~~a license without prior approval of the department. When a~~
22 ~~licensee wishes to change a place of business, the licensee~~
23 ~~shall give written notice thereof to the department, and, if~~
24 ~~the department finds that the proposed location is reasonably~~
25 ~~accessible to borrowers under existing loan contracts, it~~
26 ~~shall permit the change and shall amend the license~~
27 ~~accordingly. If the department does not so find, it shall~~
28 ~~enter an order denying removal of the business to the~~
29 ~~requested location.~~

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

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

6 516.07 Grounds for denial of license or for
7 disciplinary action.--

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

12 (a) A material misstatement of fact in an application
13 for a license;

14 (b) Failure to maintain liquid assets of at least
15 \$25,000 at all times for the operation of business at a
16 licensed location or proposed location;

17 (c) Failure to demonstrate financial responsibility,
18 experience, character, or general fitness, such as to command
19 the confidence of the public and to warrant the belief that
20 the business operated at the licensed or proposed location is
21 lawful, honest, fair, efficient, and within the purposes of
22 this chapter;

23 (d) The violation, either knowingly or without the
24 exercise of due care, of any provision of this chapter, any
25 rule or order adopted under this chapter, or any written
26 agreement entered into with the department;

27 (e) Any act of fraud, misrepresentation, or deceit,
28 regardless of reliance by or damage to a borrower, or any
29 illegal activity, where such acts are in connection with a
30 loan under this chapter. Such acts include, but are not
31 limited to:

- 1 1. Willful imposition of illegal or excessive charges;
2 or
- 3 2. Misrepresentation, circumvention, or concealment of
4 any matter required to be stated or furnished to a borrower;
5 (f) The use of unreasonable collection practices or of
6 false, deceptive, or misleading advertising, where such acts
7 are in connection with the operation of a business to make
8 consumer finance loans;
9 (g) Any violation of part III of chapter 817 or part
10 II of chapter 559 or of any rule adopted under part II of
11 chapter 559;
12 (h) 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 under
15 this chapter, or by any agreement entered into with the
16 department; ~~or~~
- 17 (i) 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;
20 (j) Pleading nolo contendere to, or having been
21 convicted or found guilty of, a crime involving fraud,
22 dishonest dealing, or any act of moral turpitude, regardless
23 of whether adjudication is withheld;
- 24 (k) Paying money or anything else of value, directly
25 or indirectly, to any person as compensation, inducement, or
26 reward for referring loan applicants to a licensee;
- 27 (l) Allowing any person other than the licensee to use
28 the licensee's business name, address, or telephone number in
29 an advertisement;
- 30 (m) Accepting or advertising that the licensee accepts
31 money on deposit or as consideration for the issuance or

1 delivery of certificates of deposit, savings certificates, or
2 similar instruments, except to the extent permitted under
3 chapter 517; or

4 (n) Failure to pay any fee, charge, or fine imposed or
5 assessed pursuant to this chapter or any rule adopted under
6 this chapter.

7 Section 4. Effective January 1, 2001, subsections (1)
8 and (2) of section 516.11, Florida Statutes, are amended to
9 read:

10 516.11 Investigations and complaints.--

11 (1) The department shall, at intermittent periods,
12 make such investigations and examinations of any licensee or
13 other person as it deems necessary to determine compliance
14 with this chapter. For such purposes, the department may
15 examine the books, accounts, records, and other documents or
16 matters of any licensee or other person and compel the
17 production of all relevant books, records, and other documents
18 and materials relative to an examination or investigation.
19 Examinations of a licensee may not be made more often than
20 once a year unless the department has reason to believe the
21 licensee is not complying with this chapter. ~~Each licensee~~
22 ~~shall pay to the department an examination fee based upon the~~
23 ~~amount of outstanding loans due the licensee at the time of~~
24 ~~the examination, as follows:~~

Amount Outstanding	Examination Fee
From \$0 to \$50,000.....	\$100
From \$50,000.01 to \$100,000.....	125
From \$100,000.01 to \$250,000.....	150
From \$250,000.01 to \$500,000.....	200
From \$500,000.01 and over.....	325

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

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

23 516.12 Records to be kept by licensee.--

24 (2) A licensee, operating two or more licensed places
25 of business in this state, may maintain the books, accounts,
26 and records of all such offices at any one of such offices, or
27 at any other office maintained by such licensee, upon the
28 filing of a written request with the department designating in
29 the written request therein the office at which such records
30 are maintained. However, the licensee shall make all books,
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1 accounts, and records available at a convenient location in
2 this state upon request of the department.

3 Section 6. Present subsections (1) through (9) of
4 section 520.02, Florida Statutes, are renumbered as
5 subsections (2) through (10), respectively, present
6 subsections (10) through (15) of that section are renumbered
7 as subsections (12) through (17), respectively, and new
8 subsections (1) and (11) are added to that section, to read:

9 520.02 Definitions.--In this act, unless the context
10 or subject matter otherwise requires:

11 (1) "Branch" means any location, other than a
12 licensee's principal place of business, at which a licensee
13 operates or conducts business under this act or which a
14 licensee owns or controls for the purpose of conducting
15 business under this act.

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

20 Section 7. Subsections (2), (3), and (4) of section
21 520.03, Florida Statutes, are amended to read:

22 520.03 Licenses.--

23 (2) An application for a license under this part must
24 be submitted to the department in ~~on~~ such form ~~forms~~ as the
25 department may prescribe by rule. If the department
26 determines that an application should be granted, it shall
27 issue the license for a period not to exceed 2 years. A
28 nonrefundable application fee of \$175 ~~not exceeding \$200~~ shall
29 ~~be set by rule and~~ accompany an initial application for the
30 principal place of business and each application for a branch
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1 location of a retail installment seller who is required to be
2 licensed under this chapter.

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

18 (4) Each license shall ~~must~~ specify the location for
19 which it is issued and must be conspicuously displayed at that
20 location. Prior to relocating a principal place of business or
21 any branch location, the licensee must provide to the
22 department notice of the relocation in a form prescribed by
23 department rule. ~~If a licensee's principal place of business~~
24 ~~or branch location changes, the licensee shall notify the~~
25 ~~department and the department shall endorse the change of~~
26 ~~location without charge.~~ A licensee may not transact business
27 as a motor vehicle retail installment seller except under the
28 name by which it is licensed. Licenses issued under this part
29 are not transferable or assignable.

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1 Section 8. Paragraph (a) of subsection (2) and
2 subsections (3) and (8) of section 520.07, Florida Statutes,
3 are amended to read:

4 520.07 Requirements and prohibitions as to retail
5 installment contracts.--

6 (2) The contract shall contain the following:

7 (a) Amount financed.--The "amount financed," using
8 that term, and a brief description such as "the amount of
9 credit provided to you or on your behalf." The amount
10 financed is calculated by:

11 1. Determining the cash price, and subtracting any
12 down payment;

13 2. Adding any other amounts that are financed by the
14 creditor and that are not part of the finance charge,
15 including any additional amount financed in a retail
16 installment contract to discharge a security interest, lien,
17 or lease interest on a motor vehicle traded in connection with
18 the contract; and

19 3. Subtracting any prepaid finance charge.
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21 Except for the requirement in subsection (3) that a separate
22 written itemization of the amount financed be provided, a
23 contract which complies with the federal Truth in Lending Act,
24 15 U.S.C. ss. 1601 et seq., or any accompanying regulations
25 shall be deemed to comply with the provisions of this
26 subsection and subsection (3). However, in any proceeding to
27 enforce the provisions of this section, the burden of alleging
28 and proving compliance with the federal Truth in Lending Act
29 shall be on the party claiming compliance.
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1 (3) The seller shall provide a separate written
2 itemization of the amount financed, which itemization shall
3 disclose the following:

4 (a) The cash price;

5 (b) The amount of down payment;

6 (c) The difference between the amounts disclosed under
7 paragraphs (a) and (b);

8 (d) The amounts, if any, included for insurance and
9 other benefits, specifying the types of coverages and
10 benefits; ~~and~~

11 (e) Any taxes and official fees not included in the
12 cash price; and

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

15
16 The itemization required by this subsection may appear on a
17 disclosure statement separate from all other material, or it
18 may be placed on the same document with the contract or other
19 information so long as it is clearly and conspicuously
20 segregated from everything else on the document.

21 (8)(a) Upon written request from the buyer, the holder
22 of a retail installment contract shall give or forward to the
23 buyer a written statement of the dates and amounts of payments
24 and the total amount unpaid under such contract. A buyer
25 shall be given a written receipt for any payment when made in
26 cash.

27 (b) When a motor vehicle retail installment contract
28 is paid in full, the holder shall ensure that the contract or
29 title reflects that the lien has been satisfied or released
30 and shall ensure that evidence of satisfaction is provided to
31 the borrower or payor.

1 Section 9. Section 520.085, Florida Statutes, is
2 amended to read:

3 520.085 Simple-interest contracts.--

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

8 (a)~~(1)~~ Instead of a finance charge computed on the
9 amount financed as determined under s. 520.07(2), the seller
10 may compute the finance charge at a simple-interest rate
11 equivalent to the finance charge permitted by s. 520.08 on the
12 unpaid balance as it changes from time to time or by any other
13 method. For the purposes of this section, the class of motor
14 vehicle shall be determined at the time of execution of the
15 retail installment contract.

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

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

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

1 ~~(e)(5)~~ Notwithstanding any provisions of The Motor
2 Vehicle Retail Sales Finance Act or any other law to the
3 contrary, the finance charge percentage rate included in a
4 retail installment sale contract representing the sale of a
5 motor vehicle primarily for business or commercial use may
6 vary, but no higher than the limits set forth in s. 520.08,
7 during the term of the contract pursuant to a formula or index
8 set forth therein (such as a prime rate or commercial paper
9 rate quoted by one or more banking institutions or the highest
10 prime rate reported effective on the date in question by The
11 Wall Street Journal) that is made readily available to and
12 verifiable by the buyer and is beyond the control of the
13 holder of the contract. For the purpose of disclosing the
14 amount of finance charge and time balance and setting forth a
15 payment schedule of equal successive monthly installments,
16 such amounts may be calculated using the finance charge
17 percentage rate applicable to the transaction as of the date
18 of execution of the contract, notwithstanding the fact that
19 such finance charge percentage may increase or decrease over
20 the term of the contract according to a formula or index set
21 forth in the contract.

22 (2) The holder of a simple interest contract, upon the
23 request of the buyer, may defer the scheduled due date of all
24 or any part of any installment payment, and may collect a \$15
25 fee for such deferment. The holder may also require the buyer
26 to extend any insurance coverage required by the simple
27 interest contract, or require the buyer to reimburse the
28 holder for any costs incurred by the holder for extending such
29 coverage. With the buyer's approval, the holder may extend any
30 optional insurance coverage purchased in connection with the
31 simple interest contract and may charge the buyer for the

1 costs of extending such optional insurance. A holder may not
2 collect the \$15 deferment fee unless this deferment option was
3 provided for in the simple interest contract. The holder shall
4 disclose in the simple interest contract and any offer to
5 exercise the deferment option that, in addition to the \$15
6 deferment fee and the costs of extending required or optional
7 insurance, the buyer will also be required to pay additional
8 finance charges as a result of exercising the deferment
9 option.

10 Section 10. Present subsections (1) through (8) of
11 section 520.31, Florida Statutes, are renumbered as
12 subsections (2) through (9), respectively, present subsections
13 (9) through (15) of that section are renumbered as subsections
14 (11) through (17), respectively, and new subsections (1) and
15 (10) are added to that section, to read:

16 520.31 Definitions.--Unless otherwise clearly
17 indicated by the context, the following words when used in
18 this act, for the purposes of this act, shall have the
19 meanings respectively ascribed to them in this section:

20 (1) "Branch" means any location, other than a
21 licensee's principal place of business, at which a licensee
22 operates or conducts business under this act or which a
23 licensee owns or controls for the purpose of conducting
24 business under this act.

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

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

31 520.32 Licenses.--

1 (2) An application for a license under this part must
2 be submitted to the department ~~in~~ on such ~~form~~ forms as the
3 department may prescribe by rule. If the department
4 determines that an application should be granted, it shall
5 issue the license for a period not to exceed 2 years. A
6 nonrefundable application fee of \$175 ~~not exceeding \$200~~ shall
7 ~~be set by rule and~~ accompany an initial application for the
8 principal place of business and each application for a branch
9 location of a retail installment seller.

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

24 Section 12. Subsection (14) is added to section
25 520.34, Florida Statutes, to read:

26 520.34 Retail installment contracts.--

27 (14) The seller under a retail installment contract
28 may collect a \$10 processing fee for each retail installment
29 contract that is approved and activated. Such processing fee
30 shall not be considered interest or finance charges pursuant
31 to chapter 687.

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

3 520.52 Licensees.--

4 (2) An application for a license under this part must
5 be submitted to the department in ~~on~~ such form ~~forms~~ as the
6 department may prescribe by rule. If the department
7 determines that an application should be granted, it shall
8 issue the license for a period not to exceed 2 years. A
9 nonrefundable application fee of \$175 ~~not exceeding \$200~~ shall
10 ~~be set by rule and~~ accompany an initial application for the
11 principal place of business and each branch location of a
12 sales finance company.

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

27 Section 14. Present subsections (2) through (17) of
28 section 520.61, Florida Statutes, are renumbered as
29 subsections (3) through (18), respectively, present
30 subsections (18) and (19) of that section are renumbered as
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1 subsections (20) and (21), respectively, and new subsections
2 (2) and (19) are added to that section, to read:

3 520.61 Definitions.--As used in this act:

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

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

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

15 520.63 Licensees.--

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

25 (3) The ~~A~~ renewal fee for a home improvement finance
26 license shall be \$175 ~~not exceeding \$200 shall be set by rule.~~
27 Biennial licensure periods and procedures for renewal of
28 licenses may also be established by the department by rule. A
29 license that is not renewed at the end of the biennium
30 established by the department shall automatically ~~expire and~~
31 revert from active to inactive status. An ~~Such~~ inactive

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

8 Section 16. Subsection (5) of section 520.994, Florida
9 Statutes, 1998 Supplement, is amended to read:

10 520.994 Powers of department.--

11 (5) The department shall administer and enforce this
12 chapter. The department has authority to adopt rules pursuant
13 to ss. 120.536(1) and 120.54 to implement the provisions of
14 this chapter. The department may adopt rules to allow
15 electronic submission of any form, document, or fee required
16 by this act.

17 Section 17. Subsections (1) and (3) of section
18 520.995, Florida Statutes, are amended to read:

19 520.995 Grounds for disciplinary action.--

20 (1) The following acts are violations of this chapter
21 and constitute grounds for the disciplinary actions specified
22 in subsection (2):

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

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

30 (c) Fraudulent misrepresentation, circumvention, or
31 concealment of any matter required to be stated or furnished

1 to a retail buyer or owner pursuant to this chapter,
2 regardless of reliance by or damage to the buyer or owner;
3 (d) Willful imposition of illegal or excessive charges
4 in any retail installment transaction or home improvement
5 finance transaction;
6 (e) False, deceptive, or misleading advertising by a
7 seller or home improvement finance seller;
8 (f) Failure to maintain, preserve, and keep available
9 for examination, all books, accounts, or other documents
10 required by this chapter, by any rule or order adopted
11 pursuant to this chapter, or by any agreement entered into
12 with the department;
13 (g) Refusal to permit inspection of books and records
14 in an investigation or examination by the department or
15 refusal to comply with a subpoena issued by the department; ~~or~~
16 (h) Criminal conduct in the course of a person's
17 business as a seller, as a home improvement finance seller, or
18 as a sales finance company; or
19 (i) Failure to timely pay any fee, charge, or fine
20 imposed or assessed pursuant to this chapter or any rule
21 adopted under this chapter.
22 (3) In addition to the acts specified in subsection
23 (1), the following shall be grounds for denial of a license
24 pursuant to this chapter, or for revocation, suspension, or
25 restriction of a license previously granted:
26 (a) A material misstatement of fact in an initial or
27 renewal application for a license;
28 (b) Having a license, registration, or the equivalent,
29 to practice any profession or occupation denied, suspended,
30 revoked, or otherwise acted against by a licensing authority
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1 in any jurisdiction for fraud, dishonest dealing, or any act
2 of moral turpitude;

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

7 (d) Being insolvent or having a demonstrated lack of
8 honesty or financial responsibility.

9 Section 18. Effective January 1, 2001, subsection (1)
10 of section 520.996, Florida Statutes, is amended to read:

11 520.996 Investigations and complaints.--

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

29 (b) The department shall conduct all examinations at a
30 convenient location in this state unless the department
31 determines that it is more effective or cost-efficient to

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

17 Section 19. Subsection (5) is added to section
18 520.997, Florida Statutes, to read:

19 520.997 Books, accounts, and records.--

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

23 Section 20. Subsection (2) of section 559.9232,
24 Florida Statutes, is amended to read:

25 559.9232 Definitions; exclusion of rental-purchase
26 agreements from certain regulations.--

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

30
31

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

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

6 (c) Any lease for agricultural, business, or
7 commercial purposes;

8 (d) Any lease made to an organization;

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

13 (f) A security interest as defined in s. 671.201(37).
14 Section 21. Subsection (19) of section 681.102,
15 Florida Statutes, 1998 Supplement, is amended to read:
16 681.102 Definitions.--As used in this chapter, the
17 term:

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

1 Section 22. Subsection (4) of section 697.05, Florida
2 Statutes, is amended to read:

3 697.05 Balloon mortgages; scope of law; definition;
4 requirements as to contents; penalties for violations;
5 exemptions.--

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

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

8 (b) Any first mortgage, excluding a mortgage in favor
9 of a home improvement contractor defined in s. 520.61(12)~~s.~~
10 ~~520.61(11)~~the execution of which is required solely by the
11 terms of a home improvement contract which is governed by the
12 provisions of ss. 520.60-520.992;

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

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

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

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

29 (g) Any mortgage granted by a purchaser to a seller
30 pursuant to a written agreement to buy and sell real property
31

1 which provides that the final payment of said mortgage debt
2 will exceed the periodic payments thereon.

3 Section 23. Except as otherwise expressly provided in
4 this act, this act shall take effect October 1, 1999.

5

6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 Senate Bill 1264

9 Authorizes the Department of Banking and Finance to adopt
10 rules to allow electronic submission of any form, document, or
11 fee required by chapters 516 or 520, F.S.

12 Requires that the calculation for the amount financed under a
13 motor vehicle retail sales contract, and disclosed to the
14 borrower, include any additional amount that is financed to
15 discharge a security interest, lien, or lease interest on a
16 motor vehicle that is traded in connection with the contract
(typically referred to as "negative equity");

17 Specifies that the \$10 processing fee that may be charged by
18 the seller for each retail installment contract as authorized
19 by SB 1264, shall not be considered interest or finance
20 charges pursuant to chapter 687, F.S.

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