

1                   A bill to be entitled  
2           An act relating to consumer finance; amending  
3           s. 516.031, F.S.; authorizing a delinquency  
4           charge on consumer finance loans under certain  
5           circumstances; amending s. 520.07, F.S.;  
6           revising the disclosure requirements for retail  
7           installments contracts; providing an effective  
8           date.

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

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12           Section 1. Paragraph (a) of subsection (3) of section  
13   516.031, Florida Statutes, is amended to read:

14           516.031 Finance charge; maximum rates.--

15           (3) OTHER CHARGES.--

16           (a) In addition to the interest, delinquency, and  
17   insurance charges herein provided for, no further or other  
18   charges or amount whatsoever for any examination, service,  
19   commission, or other thing or otherwise shall be directly or  
20   indirectly charged, contracted for, or received as a condition  
21   to the grant of a loan, except:

22           1. An amount not to exceed \$10 to reimburse a portion  
23   of the costs for investigating the character and credit of the  
24   person applying for the loan;

25           2. An annual fee of \$25 on the anniversary date of  
26   each line-of-credit account;

27           3. Charges paid for brokerage fee on a loan or line of  
28   credit of more than \$10,000, title insurance, and the  
29   appraisal of real property offered as security when paid to a  
30   third party and supported by an actual expenditure;

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1           4. Intangible personal property tax on the loan note  
2 or obligation when secured by a lien on real property;

3           5. The documentary excise tax and lawful fees, if any,  
4 actually and necessarily paid out by the licensee to any  
5 public officer for filing, recording, or releasing in any  
6 public office any instrument securing the loan, which fees may  
7 be collected when the loan is made or at any time thereafter;

8           6. The premium payable for any insurance in lieu of  
9 perfecting any security interest otherwise required by the  
10 licensee in connection with the loan, if the premium does not  
11 exceed the fees which would otherwise be payable, which  
12 premium may be collected when the loan is made or at any time  
13 thereafter;

14           7. Actual and reasonable attorney's fees and court  
15 costs as determined by the court in which suit is filed; ~~or~~

16           8. Actual and commercially reasonable expenses of  
17 repossession, storing, repairing and placing in condition for  
18 sale, and selling of any property pledged as security; ~~or-~~

19           9. A delinquency charge not to exceed \$10 for each  
20 payment in default for a period of not less than 10 days, if  
21 the charge is agreed upon, in writing, between the parties  
22 before imposing the charge.

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24 Any charges, including interest, in excess of the combined  
25 total of all charges authorized and permitted by this chapter  
26 constitute a violation of chapter 687 governing interest and  
27 usury, and the penalties of that chapter apply. In the event  
28 of a bona fide error, the licensee shall refund or credit the  
29 borrower with the amount of the overcharge immediately but  
30 within 20 days from the discovery of such error.

1           Section 2. Subsection (2) and subsections (3) of  
2 section 520.07, Florida Statutes, is amended to read:

3           520.07 Requirements and prohibitions as to retail  
4 installment contracts.--

5           (2) The contract shall contain the following:

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

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

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

18           3. Subtracting any prepaid finance charge.

19           (b) Finance charge.--The "finance charge," using that  
20 term, and a brief description such as "the dollar amount the  
21 credit will cost you."

22           (c) Total of payments.--The "total of payments," using  
23 that term, and a descriptive explanation such as "the amount  
24 you will have paid when you have made all scheduled payments."

25           (d) Total sale price.--In a credit sale, the "total  
26 sale price," using that term, and a descriptive explanation,  
27 including the amount of any down payment, such as "the total  
28 price of your purchase on credit, including your down payment  
29 of \$....." The total sale price is the sum of the cash price,  
30 the items described in subparagraph (a)2., and the finance  
31 charge disclosed under paragraph (b).

1           (e) The number of scheduled payments, the amount of  
2 each payment, and the date of the first payment.

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4 Except for the requirement in subsection (3) that a separate  
5 written itemization of the amount financed be provided, a  
6 contract which complies with the federal Truth in Lending Act,  
7 15 U.S.C. ss. 1601 et seq., or any accompanying regulations  
8 shall be deemed to comply with the provisions of this  
9 subsection and subsection (3). However, in any proceeding to  
10 enforce the provisions of this section, the burden of alleging  
11 and proving compliance with the federal Truth in Lending Act  
12 shall be on the party claiming compliance.

13           (3) The seller shall provide a separate written  
14 itemization of the amount financed, which itemization shall  
15 disclose the following:

16           (a) The cash price;

17           (b) The amount of down payment;

18           (c) The difference between the amounts disclosed under  
19 paragraphs (a) and (b);

20           (d) The amounts, if any, included for insurance and  
21 other benefits, specifying the types of coverages and  
22 benefits; and

23           (e) Any taxes and official fees not included in the  
24 cash price; ~~and~~

25           ~~(f) The number of scheduled payments, the amount of~~  
26 ~~each payment, and the date of the first payment.~~

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

3 Section 3. This act shall take effect July 1, 2000.  
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