

By the Committee on Banking and Insurance; and Senator Grant

311-1803-00

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A bill to be entitled
An act relating to consumer finance; amending
s. 516.031, F.S.; providing for delinquency
charges on consumer finance loans; prescribing
standards for imposition of such charges;
amending s. 520.07, F.S.; revising the
disclosure requirements for retail installment
contracts; providing an effective date.

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

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

516.031 Finance charge; maximum rates.--

(3) OTHER CHARGES.--

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

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

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

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

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 it is imposed.

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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.

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1 Section 2. Subsections (2) and (3) of section 520.07,
2 Florida Statutes, are 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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5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 Senate Bill 2028

8 The committee substitute transfers the disclosure requirement
9 for retail installment contracts relating to the number and
10 the amount of each payment and date of first payment from the
11 separate itemized document to the contract itself, to conform
12 to federal disclosure requirements.

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