



538170

CHAMBER ACTION

Senate

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House

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1 The Committee on Banking and Insurance (Bennett) recommended the  
2 following **amendment**:

3  
4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause  
6 and insert:

7 Section 1. Part II of chapter 687, Florida Statutes,  
8 consisting of ss. 687.149-687.162, is created to read:

9 687.149 This part may be cited as the "Credit Enhancement  
10 Loan Act."

11 687.150 Legislative findings and intent.--

12 (1) Customer education for unbanked and underbanked  
13 customers is necessary in order to educate them on the various  
14 options for customer credit and financial services that are  
15 available.

16 (2) Mainstream banking services should be made available to  
17 unbanked customers to meet their individual financial needs.



538170

18       (3) Accurate and understandable disclosure of agreement  
19 terms, conditions, and the cost of obtaining credit is absolutely  
20 essential.

21       (4) It is necessary to provide and support ongoing  
22 activities to equitably provide mainstream financial services and  
23 credit products to financially underserved customers while  
24 providing a vehicle to bridge the gap of the financial  
25 empowerment divide by:

26       (a) Providing a vehicle for banking services and mainstream  
27 credit products to build and rebuild credit histories to enable  
28 customers in all segments of the financial spectrum, especially  
29 the financially underserved and unbanked populations, to improve  
30 their credit ratings and qualify for mainstream financial  
31 services;

32       (b) Setting forth a minimum set of parameters to establish  
33 a credit enhancement loan that other financial institutions may  
34 offer to qualified customers; and

35       (c) Recognizing that there is often a high cost to a  
36 financial institution in serving this segment of the customer  
37 financial marketplace, and therefore a higher-risk-based interest  
38 rate shall be permitted to cover this higher risk when a credit  
39 enhancement loan is offered.

40       687.151 Purpose.--The purpose of this part is to:

41       (1) Provide general regulatory powers to be exercised by  
42 the Financial Services Commission and the Office of Financial  
43 Regulation in relation to the regulation of credit enhancement  
44 loans, services, and charges. This part applies to all licensees  
45 under the authority of this part in issuing credit enhancement  
46 loans.



538170

47       (2) Provide for and promote, subject to the provisions of  
48 this part:

49       (a) The safe and sound conduct of the business of credit  
50 enhancement loans.

51       (b) The maintenance of public confidence in the industry.

52       (c) The protection of the interests of the public in the  
53 system.

54       (d) The deterrence of the use of credit enhancement loans  
55 as a vehicle for money laundering.

56       (e) The opportunity for licensees to be and remain  
57 competitive with each other and with other business organizations  
58 existing under the laws of this state, and with other  
59 organizations organized under the laws of other states, the  
60 United States, or foreign countries.

61       (f) The opportunity for licensees to effectively serve the  
62 convenience and needs of their customers and the public and to  
63 participate in and promote the economic progress and welfare of  
64 this state and the United States.

65       (g) The opportunity for the management of licensees to  
66 exercise their business judgment within the framework of this  
67 part.

68       (h) Rulemaking power and administrative discretion to the  
69 commission as is necessary, in order that the supervision and  
70 regulation of licensees may be flexible and readily responsive to  
71 changes in economic conditions, in technology, and in practices.

72  
73 Any person aggrieved by any rule, order, or act of the department  
74 may appeal to the office or commission for review upon giving  
75 notice in writing within 60 days after such rule, order, or act



538170

76 is adopted, issued, or done. Any aggrieved party to a decision of  
77 the office is entitled to an appeal pursuant to chapter 120.

78 687.152 Definitions.--As used in this part, the term:

79 (1) "Amount of the extension of credit" means the aggregate  
80 of the loan amounts, services fees, and other charges authorized  
81 by this part.

82 (2) "Commission" means the Financial Services Commission.

83 (3) "Credit enhancement loan" means a short-term loan that  
84 complies with all of the requirements of this part.

85 (4) "Creditable assets" means cash or bank deposits, loans,  
86 or extensions of credit made as a licensee pursuant to this part  
87 or any other amounts as the office may approve, or any  
88 combination of two or more of these amounts.

89 (5) "Customer" means any person who borrows money from any  
90 licensee or who pays or obligates himself or herself to pay any  
91 money or otherwise furnishes any valuable consideration to any  
92 licensee for any act of the licensee as a licensee.

93 (6) "Lending" means, but is not limited to, endorsing or  
94 otherwise securing extensions of credit or contracts for the  
95 repayment of extensions of credit.

96 (7) "License" means the license issued by the office under  
97 the authority of this part to issue credit enhancement loans.

98 (8) "Licensee" means a person to whom one or more licenses  
99 have been issued.

100 (9) "Loan" means a loan made within this state by a  
101 licensee pursuant to this part.

102 (10) "Office" means the Office of Financial Regulation.

103 (11) "Person" means any person, firm, partnership,  
104 association, or corporation, or other legal entity.

105 687.153 Requirements of registration; penalties.--



538170

106       (1) A person may not engage in the business of offering  
107 credit enhancement loans in amounts of \$3,000 or less and  
108 contract for, exact, or receive, directly or indirectly, on or in  
109 connection with any credit enhancement loan, any charges whether  
110 for interest, compensation, consideration, or expense, or any  
111 other purpose whatsoever, which in the aggregate are greater than  
112 authorized by this part and without first having obtained a  
113 license from the office.

114       (2) The provisions of subsection (1) apply to any person  
115 who seeks to avoid its application by any device, subterfuge, or  
116 pretense whatsoever.

117       (3) Any person not exempt from this part who fails to  
118 comply with or who otherwise violates any of the provisions of  
119 this section or any rule of the office adopted pursuant to this  
120 part commits a misdemeanor of the first degree, punishable as  
121 provided in s. 775.082 or s. 775.083. Each violation shall be  
122 considered a separate offense. The office shall provide the  
123 district attorney of the court having jurisdiction of any offense  
124 under this part with facts and evidence in his or her actual or  
125 constructive possession and shall testify as to those facts upon  
126 the trial of any person for any offense under this part.

127       (4) Any contract for the extension of credit or the  
128 collection of which violates any provision of this part or rule  
129 issued pursuant to this part, except as a result of accidental or  
130 bona fide error of computation, is void. The licensee or any  
131 other party in violation does not have any right to collect,  
132 receive, or retain any principal or charges whatsoever with  
133 respect to that extension of credit.

134       687.154 Application.--Application for a license to make  
135 credit enhancement loans under this part shall be in the form

Bill No. SB 2638



538170

136 prescribed by rule of the commission. The commission may require  
137 each applicant to provide any information reasonably necessary to  
138 determine the applicant's eligibility for licensure. The  
139 applicant shall also provide information that the office requires  
140 concerning any officer, director, controlling person, member,  
141 partner, or joint venturer of the applicant or any person having  
142 the same or substantially similar status or performing  
143 substantially similar functions or concerning any individual who  
144 is the ultimate equitable owner of a 10 percent or greater  
145 interest in the applicant. The office may require information  
146 concerning any such applicant or person, including, but not  
147 limited to, his or her full name and any other names by which he  
148 or she may have been known, age, social security number,  
149 residential history, qualifications, educational and business  
150 history, and disciplinary and criminal history. The applicant  
151 shall provide evidence, on a consolidated basis and computed in  
152 accordance with generally accepted accounting principles, of a  
153 minimum net worth of not less than \$1 million at the time of the  
154 application for a license. At the time of making such  
155 application, the applicant shall pay to the office a  
156 nonrefundable biennial license fee of \$2,500. Applications,  
157 except for applications to renew or reactivate a license, must  
158 also be accompanied by a nonrefundable investigation fee of  
159 \$2,500. An application is considered received for purposes of s.  
160 120.60 upon receipt of a completed application form as prescribed  
161 by commission rule, a nonrefundable application fee of \$2,500,  
162 and any other fee prescribed by law. The commission may adopt  
163 rules requiring electronic submission of any form, document, or  
164 fee required by this part if such rules reasonably accommodate  
165 technological or financial hardship. The commission may prescribe

Bill No. SB 2638



538170

166 by rule requirements and procedures for obtaining an exemption  
167 due to a technological or financial hardship.

168 687.155 Fees.--Fees provided for in this part shall be  
169 collected by the office and shall be remitted to the State  
170 Treasury to the credit of the regulatory trust fund under the  
171 office. The office may employ such examiners or clerks to assist  
172 the office as it deems necessary and fix their compensation. The  
173 commission may adopt rules requiring electronic submission of any  
174 fee required by this section if such rules reasonably accommodate  
175 technological or financial hardship. The commission may prescribe  
176 by rule requirements and procedures for obtaining an exemption  
177 due to a technological or financial hardship.

178 687.156 License.--

179 (1) Upon the filing of an application for a license and  
180 payment of all applicable fees, the office shall, unless the  
181 application is to renew or reactivate an existing license, make  
182 an investigation of the facts concerning the applicant's  
183 background. If the office determines that a license should be  
184 granted, it shall issue the license for a period not to exceed 2  
185 years. Biennial licensure periods and procedures for renewal of  
186 licenses shall be established by rule of the commission. If the  
187 office determines that grounds exist under this part for denial  
188 of an application other than an application to renew a license,  
189 it shall deny such application.

190 (2) The office shall approve or deny every application for  
191 a license within 90 days following the date a complete  
192 application is submitted. This period may be extended by the  
193 written consent of the applicant. The office shall notify the  
194 applicant of the date when the application is deemed complete. In  
195 the absence of approval or denial of the application, or consent



538170

196 to the extension of the 90-day period, the application shall be  
197 deemed approved and the office shall issue the license effective  
198 as of the first day after the 90-day or extended period has  
199 elapsed. If the office reasonably determines from a preliminary  
200 investigation that the applicant does not satisfy the conditions  
201 set forth in s. 687.154, the office shall notify the applicant in  
202 writing and offer specific findings of fact as to the provisions  
203 of this section which have not been met.

204 (3) A license that is not renewed at the end of the  
205 biennium established by the commission shall automatically revert  
206 to inactive status. An inactive license may be reactivated upon  
207 submission of a completed reactivation application, payment of  
208 the biennial license fee, and payment of a reactivation fee that  
209 equals the biennial license fee. A license expires on the date on  
210 which it has been inactive for 6 months.

211 (4) Only one place of business for the purpose of making  
212 loans under this part may be maintained under one license, but  
213 the office may issue additional licenses to a licensee upon  
214 compliance with all the provisions of this part governing  
215 issuance of a single license.

216 (5) Each licensee shall report, on a form prescribed by  
217 rule of the commission, any change to the information contained  
218 in any initial application form or any amendment to such  
219 application not later than 30 days after the change is effective.

220 (6) Each licensee shall report any changes in the partners,  
221 officers, members, joint venturers, directors, or control persons  
222 of any licensee, or changes in the form of business organization,  
223 by written amendment in such form and at such time as the  
224 commission specifies by rule.





538170

225 (a) In any case in which a person or a group of persons,  
226 directly or indirectly or acting by or through one or more  
227 persons, proposes to purchase or acquire a controlling interest  
228 in a licensee, such person or group must submit an initial  
229 application for licensure before such purchase or acquisition at  
230 such time and in such form as the commission prescribes by rule.

231 (b) As used in this subsection, the term "controlling  
232 interest" means possession of the power to direct or cause the  
233 direction of the management or policies of a company whether  
234 through ownership of securities, by contract, or otherwise. Any  
235 person who directly or indirectly has the right to vote 25  
236 percent or more of the voting securities of a company or is  
237 entitled to 25 percent or more of the company's profits is  
238 presumed to possess a controlling interest.

239 (c) Any addition of a partner, officer, member, joint  
240 venturer, director, or control person of the applicant who does  
241 not have a controlling interest and who has not previously  
242 complied with the provisions of s. 687.154(1) is subject to such  
243 provisions unless required to file an initial application in  
244 accordance with paragraph (a).

245 (d) The commission shall adopt rules pursuant to ss.  
246 120.536(1) and 120.54 providing for the waiver of the application  
247 required by this subsection if the person or group of persons  
248 proposing to purchase or acquire a controlling interest in a  
249 licensee has previously complied with the provisions of s.  
250 516.03(1) with the same legal entity or is currently licensed  
251 with the office under this part.

252 (7) A licensee may conduct the business of making loans  
253 under this part within a place of business in which other  
254 business is solicited or engaged in, unless the office shall find



538170

255 that the conduct of such other business by the licensee results  
256 in an evasion of this part.

257 (8) Licenses are not transferable or assignable. A licensee  
258 may invalidate any license by delivering it to the office with a  
259 written notice of the delivery, but such delivery does not affect  
260 any civil or criminal liability or the authority to enforce this  
261 part for acts committed in violation thereof.

262 (9) The office may refuse to process an initial application  
263 for a license if the applicant or any person with power to direct  
264 the management or policies of the applicant's business is the  
265 subject of a pending criminal prosecution in any jurisdiction  
266 until conclusion of such criminal prosecution.

267 (10) A licensee who is the subject of a voluntary or  
268 involuntary bankruptcy filing must report such filing to the  
269 office within 7 business days after the filing date.

270 687.157 Appeal.--The applicant is entitled to an informal  
271 hearing on the decision that the applicant does not satisfy the  
272 conditions set forth in this part if the applicant requests an  
273 informal hearing in writing within 30 days after receipt by the  
274 applicant of the notification. In the event of an informal  
275 hearing, to be held before the office, the office shall  
276 reconsider the application and, after the hearing, issue a  
277 written order granting or denying the application. The applicant  
278 is entitled to a formal appeal and hearing as prescribed in  
279 chapter 120.

280 687.158 Prohibited acts and practices; administrative  
281 enforcement.--

282 (1) The office may issue an order revoking or suspending  
283 the right of a licensee and an officer, agent, employee, or  
284 representative to do business in this state as a licensee if the



538170

285 office finds, after due notice and hearing, or opportunity for  
286 hearing, that the licensee or an officer, agent, employee, or  
287 representative of that licensee has done any of the following:

288 (a) Failed to comply with the rules, instructions, or  
289 orders issued by the office;

290 (b) Failed or refused to submit its reports to the office;

291 (c) Failed to pay fees for examination and supervision that  
292 are validly due and owed; or

293 (d) Knowingly furnished false information to the commission  
294 or office.

295 (2) Upon receipt of an order revoking or suspending the  
296 right of that licensee to do business in this state from the  
297 office, the licensee shall immediately surrender his or her  
298 license to the office. Within 5 days after the entry of an order  
299 to cease business in this state, the office shall place on file  
300 his or her findings of fact and mail or otherwise deliver a copy  
301 to the licensee. Any licensee who fails to make any extension of  
302 credit during any period of 90 consecutive days after being  
303 licensed shall surrender his or her license to the office.

304 (3) Any licensee may surrender any license by delivering it  
305 to the office with written notice of the surrender, but the  
306 surrender does not affect the licensee's civil or criminal  
307 liability for acts committed before the surrender of the license.

308 (4) A revocation, suspension, or surrender of any license  
309 does not impair or affect the obligation of any preexisting  
310 lawful contract between the licensee and any obligor.

311 (5) The office may reinstate a suspended license or issue a  
312 new license to a person whose license has been revoked or  
313 surrendered if and when he or she demonstrates that a fact or  
314 condition does not exist that clearly would have justified the

Bill No. SB 2638



538170

315 office in refusing originally to issue the license under this  
316 part.

317 (6) The licensee is entitled to a formal appeal and hearing  
318 as prescribed in chapter 120.

319 687.159 Procedures for disciplinary actions.--

320 (1) The office may issue and serve upon any person a  
321 complaint stating charges whenever the office has reason to  
322 believe that such person has engaged in or is engaging in conduct  
323 described in s. 687.158.

324 (2) The complaint must contain a statement of the facts and  
325 notice of opportunity for a hearing pursuant to s. 120.57.

326 (3) If a hearing is not requested within the time allowed  
327 by s. 120.57, or if a hearing is held and the office finds that  
328 any of the charges are true, the office may enter an order  
329 directing the licensee to cease and desist from engaging in the  
330 conduct complained of and to take reasonable corrective action.  
331 The office may also issue an order suspending or barring any  
332 licensee or affiliated party from continuing to be employed by or  
333 associated with any licensee during the period such order is in  
334 effect.

335 (4) If any person named in such order fails to respond to  
336 the complaint within the time allotted in s. 120.57, such failure  
337 constitutes a default and justifies the entry of a cease and  
338 desist order or removal order.

339 (5) A contested or default cease and desist order or  
340 removal order, pursuant to subsections (3) and (4), is effective  
341 when produced in writing and served upon the money transmitter,  
342 money transmitter-affiliated party, or the person named therein.  
343 An uncontested cease and desist order or removal order is  
344 effective as agreed.



538170

345 (6) Whenever the office finds that conduct described in s.  
346 687.158 is likely to cause substantial dissipation of assets or  
347 earnings of the licensee or insolvency or substantial prejudice  
348 to the customers or authorized vendor, it may issue an emergency  
349 removal order or an emergency cease and desist order requiring  
350 any person to disassociate itself from participating in the  
351 affairs of the licensee. The emergency order is effective  
352 immediately upon service of the order upon the person and remains  
353 effective for 90 days. Such person may object to the issuance of  
354 the emergency order pursuant to the provisions of chapter 120.  
355 Such objection must be in writing and must include a request for  
356 a formal hearing which shall be promptly instituted and acted  
357 upon. If the office begins nonemergency proceedings, the  
358 emergency order remains effective until the conclusion of the  
359 proceedings under s. 120.57.

360 687.160 Investigations, subpoenas, hearings, and  
361 witnesses.--

362 (1) When the office has reasonable cause, supported by  
363 written evidence, to believe that any person is violating or is  
364 threatening to violate any provision of this part, the office may  
365 in addition to all actions provided for in this part, and without  
366 prejudice to those other actions, enter an order requiring a  
367 person to desist or to refrain from a violation. An action may be  
368 brought in the name of the office to enjoin the person from  
369 engaging in or continuing the violation or from doing any act or  
370 acts in furtherance of the violation. In any action to desist, an  
371 order or judgment may be entered awarding any preliminary or  
372 final injunction as may be deemed proper. In addition to all  
373 other means provided by law for the enforcement of a restraining  
374 order or injunction, the court in which the action is brought may



538170

375 impound and appoint a receiver for the property and business of  
376 the defendant, including any books, papers, documents, and  
377 records that the court deems reasonably necessary to prevent  
378 violations of this part through or by means of the use of that  
379 property and business. The receiver, when appointed and  
380 qualified, shall have those powers and duties pertaining to  
381 custody, collection, administration, winding up, and liquidation  
382 of the property and business as shall from time to time be  
383 conferred upon him or her by the court.

384 (2) Any person aggrieved by any rule, order, or act of the  
385 office may appeal to the office for review upon giving notice in  
386 writing within 20 days after such rule, order, or act is adopted,  
387 issued, or done. Any aggrieved party to a decision of the office  
388 shall be entitled to an appeal pursuant to s. 120.68.

389 687.161 Requirements for credit enhancement loans.--

390 (1) Every licensee under this part shall make credit  
391 available through credit enhancement loans in an amount not  
392 exceeding \$3,000 at a maximum interest rate of up to 19.9 percent  
393 per annum. Interest shall be contracted for and collected at the  
394 single simple interest rate applied to the outstanding balance  
395 that would earn the same amount of interest as the initial rate  
396 for payment according to schedule.

397 (2) Interest on credit enhancement loans made pursuant to  
398 this section may not be paid, deducted, or received in advance.  
399 Interest may not be compounded, but interest on extensions of  
400 credit shall:

401 (a) Be computed and paid only as a percentage of the unpaid  
402 principal balance or portion of the unpaid principal balance; and

403 (b) Be computed on the basis of the number of days actually  
404 elapsed.



538170

405       (3) If, however, part or all of the consideration for a  
406 credit enhancement loan is the unpaid principal balance of a  
407 prior credit enhancement loan, the principal amount payable under  
408 the new credit enhancement loan may include any unpaid interest  
409 on the prior credit enhancement loan which has accrued within 90  
410 days before the making of the new credit enhancement loan. For  
411 the purpose of computing interest, a day equals 1/365 of a year.  
412 Any payment made on a credit enhancement loan shall be applied  
413 first to any accrued interest and then to principal. Any portion  
414 or all of the principal balance on a credit enhancement loan may  
415 be prepaid at any time without penalty.

416       (4) Minimum principal payment requirements on a credit  
417 enhancement loan shall be 4 percent of the loan amount or \$25,  
418 whichever is greater. Customers shall be billed monthly at a  
419 minimum.

420       (5) In addition to the interest authorized in subsection  
421 (1), a licensee offering credit enhancement loans under this part  
422 may collect from the customer the monthly membership fee, which  
423 is not to exceed \$15 for processing the credit enhancement loan.

424       (6) A maximum one-time underwriting fee may not exceed \$10.

425       (7) The maximum monthly maintenance fee may not exceed \$15.

426       (8) The maximum fee for a late payment on a credit  
427 enhancement loan shall be \$25.

428       (9) The maximum fee charged for a returned check from a  
429 borrower shall be \$30.

430       (10) The minimum term of a credit enhancement loan shall be  
431 3 months.

432       (11) If the consumer pays off the loan at any time, there  
433 will be no prepayment penalty. No further membership or  
434 maintenance fees shall be applied.



538170

435       (12) Each licensee under this part shall report, on a  
436 periodic basis based on accepted industry standards, credit  
437 related data, as incurred, and without discrimination to major  
438 credit bureaus to assist customers who pay in a timely manner in  
439 building or rebuilding their credit histories.

440       (13) Every licensee under this part may graduate customers  
441 to better interest rates and other terms based on positive  
442 payment histories in a manner submitted by the licensee and  
443 approved by the commission.

444       (14) To be eligible to apply for a credit enhancement loan,  
445 a consumer must enroll in a financial literacy class or receive  
446 credit counseling approved by the Financial Literacy Council as  
447 created in chapter 2006-140, Laws of Florida. A certificate of  
448 completion or enrollment certificate showing at least a 50-  
449 percent completion of the class must be presented at the time of  
450 the loan application.

451       (15) If a money judgment is obtained against any party on  
452 any credit enhancement loan made under this section, neither the  
453 judgment nor the credit enhancement loan shall carry, from the  
454 date of the judgment, any interest in excess of 8 percent per  
455 annum.

456       (16) Every licensee under this part shall charge only those  
457 fees and interest as authorized in this section and filed with  
458 the commission.

459       (17) Every licensee under this part shall determine the  
460 credit worthiness of a customer applying for a credit enhancement  
461 loan based on industry-accepted or proprietary credit models.

462       (18) A licensee may not make credit enhancement loans to  
463 any customer who already has an outstanding credit enhancement  
464 loan.





538170

465       (19) A licensee shall take every reasonable precaution to  
466 prevent granting credit enhancement loans in violation of  
467 subsection (1).

468       (20) A licensee may service credit enhancement loans and  
469 modify the terms of the loans within the limits authorized by s.  
470 687.161 at any office operated by that licensee regardless of  
471 where the credit enhancement loan was originated.

472       (21) A licensee may not take an assignment of earnings of  
473 the customer for payment or as security for payment of a credit  
474 enhancement loan. An assignment of earnings in violation of this  
475 section is unenforceable by the assignee of the earnings and is  
476 revocable by the customer. However, this section does not  
477 restrict a licensee and customer from entering into an agreement  
478 whereby repayment of a credit enhancement loan can be made  
479 through automatic payroll deduction, direct withdrawal from a  
480 checking account, or other automatic repayment plans.

481       (22) (a) An agreement between a licensee and a customer  
482 pursuant to a credit enhancement loan under this part pertaining  
483 to default by the customer is enforceable only to the extent that  
484 the customer fails to make a payment as required by the  
485 agreement.

486       (b) A licensee may not deny any credit enhancement loan or  
487 discriminate in the fixing of the amount, duration, application  
488 procedures, or other terms or conditions of any credit  
489 enhancement loan or services because of the race, color,  
490 religion, national origin, gender, or marital status of the  
491 applicant or any other person connected with the transaction.

492       (23) With respect to a credit enhancement loan or services  
493 made pursuant to this part, the agreement may not provide for  
494 payment of attorney's fees by the customer.



538170

495       (24) A licensee may not make any credit enhancement loan  
496 within this state which is in any way secured by real property.

497       (25) A licensee may not engage in any unfair method of  
498 competition or unfair or deceptive trade practices in the conduct  
499 of making or providing any credit enhancement loans or services  
500 to customers pursuant to this part or in collecting or attempting  
501 to collect any money alleged to be due and owed by a customer.

502       (26) At the time a credit enhancement loan is made  
503 available to a customer, the licensee shall deliver to the  
504 customer a written statement, with copies to additional customers  
505 involved in the loan, showing in clear and distinct terms all of  
506 the following:

507           (a) The name and address of the licensee and one of the  
508 primary obligors on the credit enhancement loan;

509           (b) The date of the contract;

510           (c) A schedule or description of required payments;

511           (d) All applicable interest rates and fees; and

512           (e) Any financial literacy materials available to the  
513 customer.

514       (27) At each of its places of business in this state, the  
515 licensee shall make readily available to the customer, in a form  
516 prescribed by the office, a full and accurate schedule of charges  
517 on all credit enhancement loans currently being made available by  
518 the licensee.

519       (28) A copy of the schedule required by subsection (27) of  
520 this section shall be filed in the office.

521       (29) A licensee may not require the customer to agree to or  
522 execute any confession of judgment or power of attorney in favor  
523 of any licensee or in favor of any third person, and any



538170

524 confession of judgment or power of attorney taken in violation of  
525 this subsection is void.

526 (30) A licensee subject to this part may not advertise,  
527 display, distribute, telecast, or broadcast, or cause or permit  
528 to be advertised, displayed, distributed, telecast, or broadcast,  
529 in any manner whatsoever any false, misleading, or deceptive  
530 statement or representation with regard to the rates, terms, or  
531 conditions of credit enhancement loans. The office may require  
532 that charges or rates of charge, if stated by a licensee, be  
533 stated fully and clearly in any manner that the office deems  
534 necessary to prevent misunderstanding by prospective customers.  
535 The office may permit or require licensees to refer in their  
536 advertising to the fact that their business is under state  
537 supervision, subject to any conditions required by the office to  
538 prevent an erroneous impression as to the scope or degree of  
539 protection provided by this part.

540 687.162 Records.--

541 (1) Each licensee shall maintain all financial books and  
542 records directly relating to any credit enhancement loans made or  
543 provided under this part for 2 years, and the office, any deputy,  
544 or a duly authorized examiner or agent or employee may examine  
545 those records at any reasonable time to determine whether the  
546 licensee is complying with this part and the rules adopted to  
547 administer this part. The required financial books and records  
548 may be maintained in any form authorized by the office. The  
549 financial books and records of each licensed office shall be  
550 clearly segregated. When a licensee maintains its financial books  
551 and records outside this state, the licensee shall make them  
552 available for examination at the place where they are maintained  
553 and shall pay for all reasonable and necessary expenses incurred



538170

554 by the office in conducting any examination. Where the data  
 555 processing for any licensee is performed by a person other than  
 556 the licensee, the licensee shall provide to the office a copy of  
 557 a binding agreement between the licensee and the data processor  
 558 which allows the office, any deputy, or a duly authorized  
 559 examiner or agent or employee to examine that particular data  
 560 processor's activities pertaining to the licensee to the same  
 561 extent as if the data processing services were being performed by  
 562 the licensee on its own premises. When billed by the office, the  
 563 licensee shall reimburse the office for all costs and expenses  
 564 incurred by the office in an examination under this subsection.

565 (2) Each licensee shall file annually with the office on or  
 566 before March 31 for the 12-month period ending the preceding  
 567 December 31 reports on forms prescribed by the office. These  
 568 annual reports shall disclose in detail and under appropriate  
 569 headings any changes in the information contained in the original  
 570 license application and other information necessary to show that  
 571 the licensee continues to be in compliance with this part.  
 572 Reports shall be verified by the oath or affirmation of the  
 573 owner, manager, president, vice president, cashier, secretary, or  
 574 treasurer of the licensee.

575 (3) If a licensee conducts another business or is  
 576 affiliated with other licensees under this part or if any other  
 577 situation exists under which allocations of expense are  
 578 necessary, the licensee or licensees shall make that allocation  
 579 according to appropriate and generally accepted accounting  
 580 principles.

581 Section 2. This act shall take effect upon becoming a law.  
 582

583 ===== T I T L E A M E N D M E N T =====



538170

584 And the title is amended as follows:

585 Delete everything before the enacting clause  
586 and insert:

587 A bill to be entitled  
588 An act relating to banking and finance; creating part II  
589 of ch. 687, F.S., the "Credit Enhancement Loan Act";  
590 providing a short title; providing legislative intent;  
591 providing purposes; providing definitions; providing  
592 conditions in which a person may not engage in the  
593 business of offering credit enhancing loans without a  
594 license; providing penalties for violations; providing  
595 that a contract for extension of credit or collecting of  
596 credit is void; providing requirements for the application  
597 of a license from the Office of Financial Regulation  
598 within the Department of Financial Services; providing  
599 requirements necessary for issuance of a license by the  
600 office; providing for fees payable to the office;  
601 authorizing the Financial Services Commission to adopt  
602 rules; providing the office's procedures upon submission  
603 of an application and appropriate fees; providing for the  
604 reactivation of a license; requiring the licensee to  
605 report changes in the initial application to the office;  
606 requiring the commission to adopt rules for the waiver of  
607 an application under certain conditions; providing that a  
608 license is not transferable or assignable; authorizing the  
609 office to refuse to process an initial application under  
610 certain conditions; requiring a licensee who is subject to  
611 bankruptcy to report the bankruptcy to the office within a  
612 specified time; authorizing appeals from actions of the  
613 office; authorizing the office to issue an order revoking



538170

614 or suspending the right of a licensee to do business in  
615 this state under certain circumstances; authorizing a  
616 licensee to surrender a license; providing that a  
617 revocation, suspension, or surrender of any license does  
618 not impair or affect the obligation of any preexisting  
619 lawful contract between the licensee and any obligor;  
620 providing that a licensee is entitled to a formal appeal  
621 and hearing; providing for the procedures for disciplinary  
622 actions; authorizing the office to require a person to  
623 desist or refrain under certain conditions; authorizing  
624 the impoundment of property and business; providing  
625 requirements for credit enhancement loans; requiring  
626 licensees to report credit-related data to major credit  
627 bureaus; authorizing licensees to graduate customers to  
628 better interest rates; providing eligibility requirements  
629 for a credit enhancement loan; prohibiting multiple loans  
630 in certain situations; authorizing a licensee to modify  
631 the terms of a loan; prohibiting a licensee from taking an  
632 assignment of earnings of the customer for payment or  
633 security for payment of a credit enhancement loan;  
634 providing for enforcement of loan agreements; prohibiting  
635 a licensee from making a credit enhancement loan that is  
636 secured by real property and from engaging in unfair  
637 methods of competition or deceptive trade practices;  
638 requiring the licensee to deliver a written statement to a  
639 customer regarding the terms of the loan agreement;  
640 requiring the licensee to make available a schedule of  
641 charges on all credit enhancement loans; prohibiting a  
642 licensee from requiring a customer to agree to or execute  
643 any confession of judgment or power of attorney;



538170

644 | prohibiting a licensee from advertising any deceptive  
645 | statement or representation with regard to the rates,  
646 | terms, or conditions of credit enhancement loans;  
647 | providing disclosure forms for the customer; requiring  
648 | licensees to maintain financial books and records and to  
649 | submit an annual report to the office; providing an  
650 | effective date.