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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/23/2009	.	
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The Policy and Steering Committee on Ways and Means  
(Haridopolos) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 3527 and 3528

insert:

Section 71. Section 516.01, Florida Statutes, is amended to  
read:

516.01 Definitions.—As used in this chapter, the term:

(1) "Commission" means the Financial Services Commission.

(2) ~~(1)~~ "Consumer finance borrower" or "borrower" means a  
person who has incurred either direct or contingent liability to  
repay a consumer finance loan or a nonrecourse loan.



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12            (3)~~(2)~~ "Consumer finance loan" means a loan of money,  
13 credit, goods, or choses in action, including, except as  
14 otherwise specifically indicated, provision of a line of credit,  
15 in an amount or to a value of \$25,000 or less for which the  
16 lender charges, contracts for, collects, or receives interest at  
17 a rate greater than 18 percent per annum.

18            ~~(3) "Commission" means the Financial Services Commission.~~

19            (4) "Control person" means an individual, partnership,  
20 corporation, trust, or other organization that possesses the  
21 power, directly or indirectly, to direct the management or  
22 policies of a company, whether through ownership of securities,  
23 by contract, or otherwise. A person is presumed to control a  
24 company if, with respect to a particular company, that person:

25            (a) Is a director, general partner, or officer exercising  
26 executive responsibility or having similar status or functions;

27            (b) Directly or indirectly may vote 10 percent or more of a  
28 class of a voting security or sell or direct the sale of 10  
29 percent or more of a class of voting securities; or

30            (c) In the case of a partnership, may receive upon  
31 dissolution or has contributed 10 percent or more of the  
32 capital.

33            ~~(4) "Office" means the Office of Financial Regulation of~~  
34 ~~the commission.~~

35            (5) "Interest" means the cost of obtaining a consumer  
36 finance loan and includes any profit or advantage of any kind  
37 whatsoever that a lender may charge, contract for, collect,  
38 receive, or in anywise obtain, including by means of any  
39 collateral sale, purchase, or agreement, as a condition for a  
40 consumer finance loan. Charges specifically permitted by this



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41 chapter, including commissions received for insurance written as  
42 permitted by this chapter, shall not be deemed interest.

43 (6) "License" means a permit issued under this chapter to  
44 make and collect loans in accordance with this chapter at a  
45 single place of business.

46 (7) "Licensee" means a person to whom a license is issued.

47 (8) "Nonrecourse loan" means a loan of \$5,000 or less that  
48 is unsecured or may be secured by the personal property of the  
49 borrower, that has a term of not more than 3 years, that fully  
50 amortizes over the term of the loan, and for which the borrower  
51 has no liability beyond the property that is security for the  
52 loan if such loan is secured, except in the instance of fraud.

53 ~~(8) "Control person" means an individual, partnership,~~  
54 ~~corporation, trust, or other organization that possesses the~~  
55 ~~power, directly or indirectly, to direct the management or~~  
56 ~~policies of a company, whether through ownership of securities,~~  
57 ~~by contract, or otherwise. A person is presumed to control a~~  
58 ~~company if, with respect to a particular company, that person:~~

59 ~~(a) Is a director, general partner, or officer exercising~~  
60 ~~executive responsibility or having similar status or functions;~~

61 ~~(b) Directly or indirectly may vote 10 percent or more of a~~  
62 ~~class of a voting security or sell or direct the sale of 10~~  
63 ~~percent or more of a class of voting securities; or~~

64 ~~(c) In the case of a partnership, may receive upon~~  
65 ~~dissolution or has contributed 10 percent or more of the~~  
66 ~~capital.~~

67 (9) "Office" means the Office of Financial Regulation of  
68 the commission.

69 Section 72. Present subsections (2) through (5) of section



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70 516.031, Florida Statutes, are redesignated as subsections (3)  
71 through (6), respectively, a new subsection (2) is added to that  
72 section, and present paragraph (a) of subsection (3) of that  
73 section is amended, to read:

74 516.031 Finance charge; maximum rates.-

75 (2) NONRECOURSE LOAN.-In a nonrecourse loan transaction,  
76 every licensee may charge, contract for, and receive interest  
77 not to exceed 48 percent per annum on the outstanding principal  
78 balance of the nonrecourse loan plus a monthly administrative  
79 fee not to exceed 10 percent per month on the outstanding  
80 principal balance of the nonrecourse loan

81 (4) ~~(3)~~ OTHER CHARGES.-

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

88 1. An amount not to exceed \$25 to reimburse a portion of  
89 the costs for investigating the character and credit of the  
90 person applying for the loan;

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

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

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



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

104           6. The premium payable for any insurance in lieu of  
105 perfecting any security interest otherwise required by the  
106 licensee in connection with the loan, if the premium does not  
107 exceed the fees which would otherwise be payable, which premium  
108 may be collected when the loan is made or at any time  
109 thereafter;

110           7. Actual and reasonable attorney's fees and court costs as  
111 determined by the court in which suit is filed;

112           8. Actual and commercially reasonable expenses of  
113 repossession, storing, repairing and placing in condition for  
114 sale, and selling of any property pledged as security; or

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

119  
120 Any charges, including interest, in excess of the combined total  
121 of all charges authorized and permitted by this chapter  
122 constitute a violation of chapter 687 governing interest and  
123 usury, and the penalties of that chapter apply. In the event of  
124 a bona fide error, the licensee shall refund or credit the  
125 borrower with the amount of the overcharge immediately but  
126 within 20 days from the discovery of such error.  
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128 ===== T I T L E    A M E N D M E N T =====

129 And the title is amended as follows:

130       Delete line 161

131 and insert:

132       certain date; amending s. 516.01, F.S.; defining the  
133       term "nonrecourse loan"; amending s. 516.031, F.S.;  
134       authorizing licensees to charge and receive interest  
135       and a monthly administrative fee in nonrecourse loan  
136       transactions; providing limitations; providing  
137       effective dates.