

1 A bill to be entitled
 2 An act relating to consumer finance charges; amending
 3 s. 516.031, F.S.; increasing the proportionate loan
 4 amounts that are subject to descending maximum rates
 5 of interest; increasing the maximum delinquency charge
 6 that may be imposed for each loan payment in default
 7 for not less than a specified time; revising the
 8 maximum amount that a lender may impose as a service
 9 charge on a borrower who gives the lender a bad check
 10 in full or partial payment of a loan; reenacting and
 11 amending s. 516.19, F.S., relating to penalties, for
 12 the purpose of incorporating the amendment made to s.
 13 516.031, F.S., in a reference thereto; providing
 14 penalties; providing application; providing an
 15 effective date.

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

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 19 Section 1. Subsections (1) and (3) of section 516.031,
 20 Florida Statutes, are amended to read:

21 516.031 Finance charge; maximum rates.—

22 (1) INTEREST RATES.—Every licensee may lend any sum of
 23 money not exceeding \$25,000. A licensee may not take a security
 24 interest secured by land on any loan less than \$1,000. The
 25 licensee may charge, contract for, and receive thereon interest
 26 charges as provided and authorized by this section. The maximum
 27 interest rate shall be 30 percent per annum, computed on the
 28 first \$3,000 ~~\$2,000~~ of the principal amount as computed from

29 time to time; 24 percent per annum on that part of the principal
 30 amount as computed from time to time exceeding \$3,000 ~~\$2,000~~ and
 31 not exceeding \$4,000 ~~\$3,000~~; and 18 percent per annum on that
 32 part of the principal amount as computed from time to time
 33 exceeding \$4,000 ~~\$3,000~~ and not exceeding \$25,000. The original
 34 principal amount as used in this section shall be the same
 35 amount as the amount financed as defined by the federal Truth in
 36 Lending Act and Regulation Z of the Board of Governors of the
 37 Federal Reserve System. In determining compliance with the
 38 statutory maximum interest and finance charges set forth herein,
 39 the computations utilized shall be simple interest and not add-
 40 on interest or any other computations. When two or more interest
 41 rates are to be applied to the principal amount of a loan, the
 42 licensee may charge, contract for, and receive interest at that
 43 single annual percentage rate which if applied according to the
 44 actuarial method to each of the scheduled periodic balances of
 45 principal would produce at maturity the same total amount of
 46 interest as would result from the application of the two or more
 47 rates otherwise permitted, based upon the assumption that all
 48 payments are made as agreed.

49 (3) OTHER CHARGES.—

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

- 56 1. An amount not to exceed \$25 to reimburse a portion of

57 | the costs for investigating the character and credit of the
 58 | person applying for the loan;

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

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

65 | 4. Intangible personal property tax on the loan note or
 66 | obligation when secured by a lien on real property;

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

72 | 6. The premium payable for any insurance in lieu of
 73 | perfecting any security interest otherwise required by the
 74 | licensee in connection with the loan, if the premium does not
 75 | exceed the fees which would otherwise be payable, which premium
 76 | may be collected when the loan is made or at any time
 77 | thereafter;

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

80 | 8. Actual and commercially reasonable expenses of
 81 | repossession, storing, repairing and placing in condition for
 82 | sale, and selling of any property pledged as security; or

83 | 9. A delinquency charge not to exceed \$15 ~~\$10~~ for each
 84 | payment in default for a period of not less than 10 days, if the

85 charge is agreed upon, in writing, between the parties before
86 imposing the charge.

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88 Any charges, including interest, in excess of the combined total
89 of all charges authorized and permitted by this chapter
90 constitute a violation of chapter 687 governing interest and
91 usury, and the penalties of that chapter apply. In the event of
92 a bona fide error, the licensee shall refund or credit the
93 borrower with the amount of the overcharge immediately but
94 within 20 days from the discovery of such error.

95 (b) Notwithstanding the provisions of paragraph (a), any
96 lender of money who receives a check, draft, negotiable order of
97 withdrawal, or like instrument drawn on a bank or other
98 depository institution, which instrument is given by a borrower
99 as full or partial repayment of a loan, may, if such instrument
100 is not paid or is dishonored by such institution, make and
101 collect from the borrower a bad check charge of not greater than
102 the maximum worthless check service charge permissible under s.
103 68.065 ~~more than the greater of \$20 or an amount equal to the~~
104 ~~actual charge made to the lender by the depository institution~~
105 ~~for the return of the unpaid or dishonored instrument.~~

106 Section 2. For the purpose of incorporating the amendment
107 made by this act to section 516.031, Florida Statutes, in a
108 reference thereto, section 516.19, Florida Statutes, is
109 reenacted and amended to read:

110 516.19 Penalties.—Any person who violates any of the
111 provisions of s. 516.02, s. 516.031, s. 516.05(3), s. 516.05(6),
112 or s. 516.07(1)(e) commits ~~is guilty of~~ a misdemeanor of the

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113 first degree, punishable as provided in s. 775.082 or s.
114 775.083.

115 Section 3. This act shall take effect July 1, 2012, and
116 shall apply to all consumer finance loans entered into on or
117 after that date.