

By Senator Bennett

21-00422A-12

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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 an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

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

20 516.031 Finance charge; maximum rates.—

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

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

48 (3) OTHER CHARGES.—

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

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

58 2. An annual fee of \$25 on the anniversary date of each

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59 line-of-credit account;

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

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

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

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

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

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

82 9. A delinquency charge not to exceed \$15 ~~\$10~~ for each
83 payment in default for a period of not less than 10 days, if the
84 charge is agreed upon, in writing, between the parties before
85 imposing the charge.

86

87 Any charges, including interest, in excess of the combined total

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

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

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

109 516.19 Penalties.—Any person who violates any of the
110 provisions of s. 516.02, s. 516.031, s. 516.05(3), s. 516.05(6),
111 or s. 516.07(1)(e) commits ~~is guilty of~~ a misdemeanor of the
112 first degree, punishable as provided in s. 775.082 or s.
113 775.083.

114 Section 3. This act shall take effect July 1, 2012.