HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	HB 425	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	Goodson	109 **Y's**	6 **N's**
COMPANION BILLS:	(SB 282)	**GOVERNOR'S ACTION:**	Approved

SUMMARY ANALYSIS

HB 425 passed the House on May 1, 2013 as SB 282. The bill amends ch. 516, F.S., the Florida Consumer Finance Act (Act), which governs consumer finance loans. The act defines "consumer finance loan" as a loan of money, credit, goods, or provision of a line of credit, in an amount or to a value of $25,000 or less at an interest rate greater than 18 percent per annum. The allowable interest rates on consumer finance loans are tiered and limited based on the principal amount that falls within each tier of the loan. As the principal amount increases, the allowable interest rate decreases.

The bill retains the maximum interest rates allowable under current law for each tier, but increases by $1,000 the principal amount that would be subject to the maximum amount of interest allowable within each tier. The bill permits consumer finance lenders who are licensed with the Office of Financial Regulation to charge a maximum interest rate of:

- 30% per year, computed on the first $3,000 of the principal amount;
- 24% per year on that part of principal between $3,001 to $4,000; and
- 18% per year on that part of principal between $4,001 and $25,000.

The bill also increases the Act's maximum delinquency charge from $10 to $15.

The bill has no fiscal impact on state or local government, but does have a private sector impact. Borrowers will be subject to increased interest charges, depending upon the principal amount of the loan, as well as increased delinquency charges.

The bill was approved by the Governor on June 7, 2013, ch. 2013-124, L.O.F., and becomes effective on July 1, 2013.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Current Situation

Chapter 516, F.S., is the Florida Consumer Finance Act (the Act) and sets forth maximum interest rates for consumer finance loans, which are "loan[s] of money, credit, goods, or a provision of a line of credit, in an amount or to a value of $25,000 or less at an interest rate greater than 18 percent per annum.[1]" These loans are made by entities that are required to be licensed by the Office of Financial Regulation (OFR), which has regulatory authority over the Act. The Act does not apply to persons doing business under state or federal laws governing banks, savings banks, trust companies, building and loan associations, credit unions, or industrial loan and investment companies.[2] As of February 4, 2013, there are 262 licensed consumer finance loan locations in Florida.

The Office of Financial Regulation also has regulatory authority over entities providing small consumer loans authorized under Chapter 520 (retail installment sellers), Chapter 537 (title loans), and Part IV of Chapter 560, (deferred presentment transactions or payday loans). Each of these loans, in addition to consumer finance loans authorized under the Act, provides for an exception from the 18 percent per year simple interest cap that is set forth in s. 687.02, F.S.

Consumer finance loan licensees may charge a maximum rate of 30% a year, computed on the first $2,000 of the principal amount; 24% a year on that part of principal exceeding $2,000 but not exceeding $3,000; and 18% per year on that part of principal exceeding $3000.[3] These are also the amounts that a licensee is permitted to continue charging for up to 12 months on unpaid balances at the expiration of the scheduled maturity date of a loan; after 12 months, the licensee may charge interest up to the permissible rate of interest in ch. 687.[4] In addition, the annual percentage rate (APR) must be computed and disclosed to the consumer in accordance with the federal Truth in Lending Act (TILA) and Regulation Z.

The Act allows a licensee to charge a borrower up to $25 for the costs of a credit check and an annual fee of $25 on the anniversary date of the line-of-credit account in addition to interest. Current law also allows for specified other charges, such as delinquency, insurance premiums, and costs associated with property pledged as security. The authorized delinquency fee, not to exceed $10 for each payment in default, must be agreed to in writing before the fee can be imposed.

Information provided by the Florida Financial Services Association, a trade organization that represents consumer finance loan companies, indicates that the average loan amount for a regional member is approximately $1,700, while larger national companies report an average loan amount of $3,500.[5] These consumer finance loans are typically used for household expenses by borrowers whose credit histories make it more difficult to obtain loans through commercial banks.

The principal amounts upon which interest rates are computed were last adjusted in 1997.[6] The ability to charge a delinquency fee of up to $10 for each payment in default was added to the act in 2000,[7] and has not been amended since then.

Effect of the Bill

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[1] Section 516.01(2), F.S.
[2] Section 516.02(4), F.S.
[3] Section 516.031(1), F.S.
[4] Section 516.035, F.S.
[5] Meeting with the Florida Financial Services Association on February 5, 2012. Information on file with the Insurance & Banking Subcommittee.
[6] Section 1, ch. 97-181, Laws of Florida.
[7] Section 1, ch. 2000-127, Laws of Florida.

The bill increases the proportionate loan amount by $1,000 in each “tier” that are subject to descending maximum annual rates of interest. Under the bill, a licensee may charge a maximum interest rate of 30% per year on the first $3,000 of principal; 24% per year on that principal exceeding $3,000 and up to $4,000; and 18% per year on that part of principal exceeding $4,000. The following chart illustrates these changes:

Annual Interest Rate	Current Law	Effect of the Bill
30%	Principal up to $2,000	Principal up to $3,000
24%	Principal from $2,001 to $3,000	Principal from $3,001 to $4,000
18%	Principal from $3,001 to $25,000	Principal from $4,001 to $25,000

The following chart compares the annual interest of several hypothetical loan amounts under current law and under the bill, and assumes a 12-month loan term:

Principal Amount	Annual Interest Under Current Law	Annual Interest Under the Bill	Amount of Annual Interest Increase
$2,000	$339.68	$339.68	0
$3,400	$549.50	$574.34	$24.84
$5,000	$744.34	$804.10	$59.76

The bill increases the delinquency charge for each payment in default from $10 to $15.

The bill also makes a technical clarification that a person who violates specified provisions of the Act has committed a misdemeanor of the first degree, not that the violator is guilty.

The act takes effect on July 1, 2013, and applies prospectively to all consumer finance loans entered into on or after that date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Borrowers will be subject to increased interest charges, depending on the principal amount of the consumer finance loan, as well as increased delinquency charges.

D. FISCAL COMMENTS:

None.