

1 A bill to be entitled

2 An act relating to consumer finance loans; amending s.
3 516.03, F.S.; authorizing an applicant for a license
4 to make and collect loans under the Florida Consumer
5 Finance Act to provide a surety bond, certificate of
6 deposit, or letter of credit in lieu of liquid assets;
7 amending s. 516.031, F.S.; prohibiting a person
8 licensed to make and collect consumer finance loans
9 from charging prepayment penalties for loans; amending
10 s. 516.05, F.S.; authorizing an applicant for a
11 license to make and collect consumer finance loans or
12 a licensee to provide a surety bond, certificate of
13 deposit, or letter of credit in lieu of liquid assets;
14 providing requirements for such bonds, certificates of
15 deposit, and letters of credit; providing rulemaking
16 authority; amending s. 516.07, F.S.; revising grounds
17 for denial of license or disciplinary action; amending
18 s. 559.952, F.S.; revising exceptions for a licensee
19 during the Financial Technology Sandbox period;
20 providing an effective date.

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

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24 Section 1. Subsection (1) of section 516.03, Florida
25 Statutes, is amended to read:

26 516.03 Application for license; fees; assets, bonds,
27 certificates of deposit, or letters of credit; etc.—

28 (1) APPLICATION.—Application for a license to make loans
29 under this chapter shall be in the form prescribed by rule of
30 the commission. The commission may require each applicant to
31 provide any information reasonably necessary to determine the
32 applicant's eligibility for licensure. The applicant shall also
33 provide information that the office requires concerning any
34 officer, director, control person, member, partner, or joint
35 venturer of the applicant or any person having the same or
36 substantially similar status or performing substantially similar
37 functions or concerning any individual who is the ultimate
38 equitable owner of a 10-percent or greater interest in the
39 applicant. The office may require information concerning any
40 such applicant or person, including, but not limited to, his or
41 her full name and any other names by which he or she may have
42 been known, age, social security number, residential history,
43 qualifications, educational and business history, and
44 disciplinary and criminal history. The applicant must provide
45 evidence of liquid assets of at least \$25,000 or documents
46 satisfying the requirements in s. 516.05(10). At the time of
47 making such application the applicant shall pay to the office a
48 nonrefundable biennial license fee of \$625. Applications, except
49 for applications to renew or reactivate a license, must also be
50 accompanied by a nonrefundable investigation fee of \$200. An

51 application is considered received for purposes of s. 120.60
52 upon receipt of a completed application form as prescribed by
53 commission rule, a nonrefundable application fee of \$625, and
54 any other fee prescribed by law. The commission may adopt rules
55 requiring electronic submission of any form, document, or fee
56 required by this act if such rules reasonably accommodate
57 technological or financial hardship. The commission may
58 prescribe by rule requirements and procedures for obtaining an
59 exemption due to a technological or financial hardship.

60 Section 2. Subsection (6) is added to section 516.031,
61 Florida Statutes, to read:

62 516.031 Finance charge; maximum rates.—

63 (6) PREPAYMENT PENALTIES PROHIBITED.—A licensee may not
64 require a borrower to pay a prepayment penalty for paying all or
65 part of the loan principal before the date on which the payment
66 is due.

67 Section 3. Subsection (10) is added to section 516.05,
68 Florida Statutes, to read:

69 516.05 License.—

70 (10) (a) In lieu of the \$25,000 liquid asset requirement in
71 s. 516.03(1):

72 1. An applicant or a licensee may provide to the office a
73 surety bond in the amount of at least \$25,000, issued by a
74 bonding company or insurance company authorized to do business
75 in this state.

76 2. A company with at least one currently licensed location
77 must provide to the office a rider or surety bond, in the amount
78 of at least \$5,000 for each additional license, issued by a
79 bonding company or insurance company authorized to do business
80 in this state. However, in no event may the aggregate amount of
81 the surety bond required for a company with multiple licenses
82 exceed \$100,000.

83 (b) In lieu of a surety bond, the applicant or the
84 licensee may provide evidence of a certificate of deposit or an
85 irrevocable letter of credit in the same amount of the surety
86 bond required under paragraph (a). The certificate of deposit
87 must be deposited in a financial institution, as defined in s.
88 655.005(1)(i). The letter of credit must be issued by a
89 financial institution, as defined in s. 655.005(1)(i).

90 (c) The original surety bond, certificate of deposit, or
91 letter of credit must be filed with the office, and the office
92 must be named as beneficiary. The surety bond, certificate of
93 deposit, or letter of credit must be for the use and benefit of
94 any borrower who is injured by acts of a licensee involving
95 fraud, misrepresentation, or deceit, including willful
96 imposition of illegal or excessive charges; or
97 misrepresentation, circumvention, or concealment of any matter
98 required to be stated or furnished to a borrower, where such
99 acts are in connection with a loan made under this chapter. The
100 office, or any claimant, may bring an action in a court of

101 competent jurisdiction on the surety bond, certificate of
 102 deposit, or letter of credit. The surety bond, certificate of
 103 deposit, or letter of credit must be payable on a pro rata
 104 basis, but the aggregate amount may not exceed the amount of the
 105 surety bond, certificate of deposit, or letter of credit.

106 (d) The surety bond, certificate of deposit, or letter of
 107 credit may not be canceled by the licensee, bonding or insurance
 108 company, or financial institution except upon notice to the
 109 office by certified mail. A cancellation may not take effect
 110 until 30 calendar days after receipt by the office of the
 111 notice.

112 (e) The bonding or insurance company or financial
 113 institution must, within 10 calendar days after it pays a claim,
 114 give notice to the office by certified mail of such payment with
 115 details sufficient to identify the claimant and the claim or
 116 judgment paid.

117 (f) If the principal sum of the surety bond, certificate
 118 of deposit, or letter of credit is reduced by one or more
 119 recoveries or payments, the licensee must furnish to the office
 120 a new or additional surety bond, certificate of deposit, or
 121 letter of credit so that the total or aggregate principal sum
 122 equals the amount required under this subsection. Alternatively,
 123 a licensee may furnish an endorsement executed by the bonding or
 124 insurance company or financial institution reinstating the
 125 required principal amount.

126 (g) The required surety bond, certificate of deposit, or
 127 letter of credit must remain in place for 2 years after the
 128 licensee ceases licensed operations in this state. During the 2-
 129 year period, the office may allow for a reduction or elimination
 130 of the surety bond, certificate of deposit, or letter of credit
 131 to the extent the licensee's outstanding consumer finance loans
 132 in the state are reduced.

133 (h) The commission may prescribe by rule forms and
 134 procedures to implement this subsection.

135 Section 4. Paragraph (b) of subsection (1) of section
 136 516.07, Florida Statutes, is amended to read:

137 516.07 Grounds for denial of license or for disciplinary
 138 action.—

139 (1) The following acts are violations of this chapter and
 140 constitute grounds for denial of an application for a license to
 141 make consumer finance loans and grounds for any of the
 142 disciplinary actions specified in subsection (2):

143 (b) Failure to maintain liquid assets of at least \$25,000
 144 or a surety bond, certificate of deposit, or letter of credit in
 145 the amount required by s. 516.05(10) at all times for the
 146 operation of business at a licensed location or proposed
 147 location.

148 Section 5. Paragraph (a) of subsection (4) of section
 149 559.952, Florida Statutes, is amended to read:

150 559.952 Financial Technology Sandbox.—

151 (4) EXCEPTIONS TO GENERAL LAW AND WAIVERS OF RULE
 152 REQUIREMENTS.—

153 (a) Notwithstanding any other law, upon approval of a
 154 Financial Technology Sandbox application, the following
 155 provisions and corresponding rule requirements are not
 156 applicable to the licensee during the sandbox period:

157 1. Section 516.03(1), except for the application fee, the
 158 investigation fee, the requirement to provide the social
 159 security numbers of control persons, evidence of liquid assets
 160 of at least \$25,000 or documents satisfying the requirements in
 161 s. 516.05(10), and the office's authority to investigate the
 162 applicant's background. The office may prorate the license
 163 renewal fee for an extension granted under subsection (7).

164 2. Section 516.05(1) and (2), except that the office shall
 165 investigate the applicant's background.

166 3. Section 560.109, only to the extent that the section
 167 requires the office to examine a licensee at least once every 5
 168 years.

169 4. Section 560.118(2).

170 5. Section 560.125(1), only to the extent that the
 171 subsection would prohibit a licensee from engaging in the
 172 business of a money transmitter or payment instrument seller
 173 during the sandbox period.

174 6. Section 560.125(2), only to the extent that the
 175 subsection would prohibit a licensee from appointing an

176 authorized vendor during the sandbox period. Any authorized
177 vendor of such a licensee during the sandbox period remains
178 liable to the holder or remitter.

179 7. Section 560.128.

180 8. Section 560.141, except for s. 560.141(1)(a)1., 3., 7.-
181 10. and (b), (c), and (d).

182 9. Section 560.142(1) and (2), except that the office may
183 prorate, but may not entirely eliminate, the license renewal
184 fees in s. 560.143 for an extension granted under subsection
185 (7).

186 10. Section 560.143(2), only to the extent necessary for
187 proration of the renewal fee under subparagraph 9.

188 11. Section 560.204(1), only to the extent that the
189 subsection would prohibit a licensee from engaging in, or
190 advertising that it engages in, the selling or issuing of
191 payment instruments or in the activity of a money transmitter
192 during the sandbox period.

193 12. Section 560.205(2).

194 13. Section 560.208(2).

195 14. Section 560.209, only to the extent that the office
196 may modify, but may not entirely eliminate, the net worth,
197 corporate surety bond, and collateral deposit amounts required
198 under that section. The modified amounts must be in such lower
199 amounts that the office determines to be commensurate with the
200 factors under paragraph (5)(c) and the maximum number of

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201 | consumers authorized to receive the financial product or service
202 | under this section.

203 | Section 6. This act shall take effect October 1, 2022.