

By Senator Gruters

23-00431-22

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

23  
24   Be It Enacted by the Legislature of the State of Florida:

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

28       516.03 Application for license; fees; etc.—

29       (1) APPLICATION.—Application for a license to make loans

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30 under this chapter shall be in the form prescribed by rule of  
31 the commission. The commission may require each applicant to  
32 provide any information reasonably necessary to determine the  
33 applicant's eligibility for licensure. The applicant shall also  
34 provide information that the office requires concerning any  
35 officer, director, control person, member, partner, or joint  
36 venturer of the applicant or any person having the same or  
37 substantially similar status or performing substantially similar  
38 functions or concerning any individual who is the ultimate  
39 equitable owner of a 10-percent or greater interest in the  
40 applicant. The office may require information concerning any  
41 such applicant or person, including, but not limited to, his or  
42 her full name and any other names by which he or she may have  
43 been known, age, social security number, residential history,  
44 qualifications, educational and business history, and  
45 disciplinary and criminal history. The applicant must provide  
46 evidence of liquid assets of at least \$25,000 or documents  
47 satisfying the requirements of s. 516.05(10). At the time of  
48 making such application the applicant shall pay to the office a  
49 nonrefundable biennial license fee of \$625. Applications, except  
50 for applications to renew or reactivate a license, must also be  
51 accompanied by a nonrefundable investigation fee of \$200. An  
52 application is considered received for purposes of s. 120.60  
53 upon receipt of a completed application form as prescribed by  
54 commission rule, a nonrefundable application fee of \$625, and  
55 any other fee prescribed by law. The commission may adopt rules  
56 requiring electronic submission of any form, document, or fee  
57 required by this act if such rules reasonably accommodate  
58 technological or financial hardship. The commission may

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59 prescribe by rule requirements and procedures for obtaining an  
60 exemption due to a technological or financial hardship.

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

63 516.031 Finance charge; maximum rates.—

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

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

70 516.05 License.—

71 (10) (a) In lieu of the \$25,000 liquid asset requirement in  
72 s. 516.03(1), a licensee or an applicant may provide to the  
73 office:

74 1.a. A surety bond in the amount of at least \$25,000,  
75 issued by a bonding company or an insurance company authorized  
76 to do business in this state.

77 b. A company with at least one currently licensed location  
78 must provide to the office a rider or surety bond in the amount  
79 of at least \$5,000 for each additional license, issued by a  
80 bonding company or an insurance company authorized to do  
81 business in this state. However, the aggregate amount of the  
82 surety bond required for a company with multiple licenses may  
83 not exceed \$100,000.

84 2. Evidence of a certificate of deposit in the amount of at  
85 least \$25,000. The certificate of deposit must be deposited in a  
86 financial institution as defined in s. 655.005(1) (i).

87 3. An irrevocable letter of credit in the amount of at

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88 least \$25,000.

89 (b) The original surety bond, certificate of deposit, or  
90 letter of credit must be filed with the office, and the office  
91 must be named as beneficiary. The surety bond, certificate of  
92 deposit, or letter of credit must be for the use and benefit of  
93 any borrower who is injured by acts of a licensee involving  
94 fraud, misrepresentation, or deceit, including willful  
95 imposition of illegal or excessive charges, or  
96 misrepresentation, circumvention, or concealment of any matter  
97 required to be stated or furnished to a borrower, where such  
98 acts are in connection with a loan made under this chapter. The  
99 office, or any claimant, may bring an action in a court of  
100 competent jurisdiction on the surety bond, certificate of  
101 deposit, or letter of credit. The surety bond, certificate of  
102 deposit, or letter of credit must be payable on a pro rata  
103 basis, but the aggregate amount may not exceed the amount of the  
104 surety bond, certificate of deposit, or letter of credit.

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

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

116 (e) If the principal sum of the surety bond, certificate of

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

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

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

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

136 516.07 Grounds for denial of license or for disciplinary  
137 action.—

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

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

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146 location.

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

149 559.952 Financial Technology Sandbox.—

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

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

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

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

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

168 4. Section 560.118(2).

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

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

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

178 7. Section 560.128.

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

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

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

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

192 12. Section 560.205(2).

193 13. Section 560.208(2).

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

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