

2022546er

1
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:

25
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

2022546er

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

2022546er

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):

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

77 2. 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 insurance company authorized to do business
81 in this state. However, in no event may the aggregate amount of
82 the surety bond required for a company with multiple licenses
83 exceed \$100,000.

84 (b) In lieu of a surety bond, the applicant or the licensee
85 may provide evidence of a certificate of deposit or an
86 irrevocable letter of credit in the same amount of the surety
87 bond required under paragraph (a). The certificate of deposit

2022546er

88 must be deposited in a financial institution, as defined in s.
89 655.005(1)(i). The letter of credit must be issued by a
90 financial institution, as defined in s. 655.005(1)(i).

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

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

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

2022546er

117 judgment paid.

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

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

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

136 Section 4. Paragraph (b) of subsection (1) of section
137 516.07, Florida Statutes, is amended to read:

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

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

144 (b) Failure to maintain liquid assets of at least \$25,000
145 or a surety bond, certificate of deposit, or letter of credit in

2022546er

146 the amount required by s. 516.05(10) at all times for the
147 operation of business at a licensed location or proposed
148 location.

149 Section 5. Paragraph (a) of subsection (4) of section
150 559.952, Florida Statutes, is amended to read:

151 559.952 Financial Technology Sandbox.—

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

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

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

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

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

170 4. Section 560.118(2).

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

2022546er

175 6. Section 560.125(2), only to the extent that the
176 subsection would prohibit a licensee from appointing an
177 authorized vendor during the sandbox period. Any authorized
178 vendor of such a licensee during the sandbox period remains
179 liable to the holder or remitter.

180 7. Section 560.128.

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

183 9. Section 560.142(1) and (2), except that the office may
184 prorate, but may not entirely eliminate, the license renewal
185 fees in s. 560.143 for an extension granted under subsection
186 (7).

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

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

194 12. Section 560.205(2).

195 13. Section 560.208(2).

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

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