

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Fernandez-Barquin offered the following:

Amendment (with title amendment)

Remove lines 108-280 and insert:

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4
5
6 Applications for a license for the principal place of business~~7~~
7 ~~except for applications to renew or reactivate a license~~~~7~~, must
8 also be accompanied by a nonrefundable investigation fee of
9 \$200. An application is considered received for purposes of s.
10 120.60 upon receipt of a completed application form as
11 prescribed by commission rule, a nonrefundable application fee
12 of \$625, and any other fee prescribed by law. The commission may
13 adopt rules requiring electronic submission of any form,
14 document, or fee required by this chapter ~~act~~ if such rules
15 reasonably accommodate technological or financial hardship. The
16 commission may prescribe by rule requirements and procedures for

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17 obtaining an exemption due to a technological or financial
18 hardship.

19 Section 4. Subsection (1) and paragraph (a) of subsection
20 (3) of section 516.031, Florida Statutes, are amended to read:

21 516.031 Finance charge; maximum rates.—

22 (1) INTEREST RATES.—A licensee may lend any sum of money
23 up to \$25,000. A licensee may not take a security interest
24 secured by land on any loan less than \$1,000. The licensee may
25 charge, contract for, and receive thereon interest charges as
26 provided and authorized by this section. The maximum interest
27 rate shall be 36 ~~30~~ percent per annum, ~~computed on the first~~
28 ~~\$3,000 of the principal amount; 24 percent per annum on that~~
29 ~~part of the principal amount exceeding \$3,000 and up to \$4,000;~~
30 ~~and 18 percent per annum on that part of the principal amount~~
31 ~~exceeding \$4,000 and up to \$25,000.~~ The original principal
32 amount as used in this section is the same as the amount
33 financed as defined by the federal Truth in Lending Act and
34 Regulation Z of the Board of Governors of the Federal Reserve
35 System. In determining compliance with the statutory maximum
36 interest and finance charges set forth herein, the computations
37 used shall be simple interest and not add-on interest or any
38 other computations. ~~If two or more interest rates are applied to~~
39 ~~the principal amount of a loan, the licensee may charge,~~
40 ~~contract for, and receive interest at that single annual~~
41 ~~percentage rate which, if applied according to the actuarial~~

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42 ~~method to each of the scheduled periodic balances of principal,~~
43 ~~would produce at maturity the same total amount of interest as~~
44 ~~would result from the application of the two or more rates~~
45 ~~otherwise permitted, based upon the assumption that all payments~~
46 ~~are made as agreed.~~

47 (3) OTHER CHARGES.—

48 (a) In addition to the interest, delinquency, and
49 insurance charges provided in this section, further or other
50 charges or amount for any examination, service, commission, or
51 other thing or otherwise may not be directly or indirectly
52 charged, contracted for, or received as a condition to the grant
53 of a loan, except:

54 1. An amount of up to \$25 to reimburse a portion of the
55 costs for investigating the character and credit of the person
56 applying for the loan;

57 2. An annual fee of \$25 on the anniversary date of each
58 line-of-credit account;

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

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

65 5. The documentary excise tax and lawful fees, if any,
66 actually and necessarily paid out by the licensee to any public

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67 officer for filing, recording, or releasing in any public office
68 any instrument securing the loan, which may be collected when
69 the loan is made or at any time thereafter;

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

75 7. Actual and reasonable attorney fees and court costs as
76 determined by the court in which suit is filed;

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

80 9. A delinquency charge for each payment in default for at
81 least 12 ~~10~~ days if the charge is agreed upon, in writing,
82 between the parties before imposing the charge. Delinquency
83 charges may be imposed as follows:

84 a. For payments due monthly, the delinquency charge for a
85 payment in default may not exceed \$15.

86 b. For payments due semimonthly, the delinquency charge
87 for a payment in default may not exceed \$7.50.

88 c. For payments due every 2 weeks, the delinquency charge
89 for a payment in default may not exceed \$7.50 if two payments
90 are due within the same calendar month, and may not exceed \$5 if
91 three payments are due within the same calendar month.

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93 Any charges, including interest, in excess of the combined total
94 of all charges authorized and permitted by this chapter
95 constitute a violation of chapter 687 governing interest and
96 usury, and the penalties of that chapter apply. In the event of
97 a bona fide error, the licensee shall refund or credit the
98 borrower with the amount of the overcharge immediately but
99 within 20 days after the discovery of such error.

100 Section 5. Subsection (5) is added to section 516.15,
101 Florida Statutes, to read:

102 516.15 Duties of licensee.—Every licensee shall:

103 (5) If the Federal Emergency Management Agency issues a
104 major disaster declaration for this state and if a licensee
105 offers an assistance program to borrowers impacted by the
106 disaster, within 10 days after the licensee's establishment of
107 the program, send written notice to the office in either
108 physical or electronic format and include the following
109 information, subject to change as any additional declarations
110 are issued or declarations are revoked:

111 (a) The licensed locations affected by the disaster
112 declaration, including physical addresses, if applicable;

113 (b) The telephone number, e-mail address, or other contact
114 information for the licensee;

115 (c) A brief description of the assistance program
116 available to borrowers in the affected areas; and

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117 (d) The start date, and end date if known, of the
118 assistance program.

119
120 For purposes of this subsection, assistance programs may
121 include, but are not limited to, deferments, forbearance, waiver
122 of late fees, payment modification, or changing payment due
123 dates.

124 Section 6. Section 516.38, Florida Statutes, is created to
125 read:

126 516.38 Annual reports by licensees.-

127 (1) By March 15, 2024, and each March 15 thereafter, a
128 licensee shall file a report with the office in a form and
129 manner prescribed by commission rule. The report must include
130 each of the items specified in subsection (2) for the preceding
131 calendar year using aggregated and anonymized data and without
132 reference to any borrower's nonpublic personal information.

133 (2) The report must include the following information for
134 the preceding calendar year:

135 (a) The number of locations held by the licensee under
136 this chapter as of December 31 of the preceding calendar year.

137 (b) The number of loan originations by the licensee from
138 all licenses held under this chapter during the preceding
139 calendar year.

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140 (c) The total dollar amount of loans and the number of
141 loans outstanding with the licensee from all licenses held under
142 this chapter as of December 31 of the preceding calendar year.

143 (d) The total dollar amount of loans and the number of
144 loans in which the licensee holds a security interest in
145 collateral as of December 31 of the preceding calendar year.

146 (e) The total dollar amount of loans and the number of
147 unsecured loans as of December 31 of the preceding calendar
148 year.

149 (f) The total number of loans, separated by principal
150 amount, in the following ranges as of December 31 of the
151 preceding calendar year:

- 152 1. Up to and including \$5,000.
- 153 2. Five thousand and one dollars to \$10,000.
- 154 3. Ten thousand and one dollars to \$15,000.
- 155 4. Fifteen thousand and one dollars to \$20,000.
- 156 5. Twenty thousand and one dollars to \$25,000.

157 (g) The total dollar amount of loans and the number of
158 loans charged off as of December 31 of the preceding calendar
159 year.

160 (h) The total dollar amount of loans and the number of
161 loans with delinquency status listed as:

- 162 1. Current or less than 30 days past due.
- 163 2. From 30 to 59 days past due.
- 164 3. From 60 to 89 days past due.

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165 4. At least 90 days past due.

166 (3) A licensee claiming that any information submitted in
167 the report contains a trade secret must submit to the office an
168 accompanying affidavit in accordance with s. 655.0591 and
169 designate the information claimed to be a trade secret pursuant
170 to s. 655.0591.

171 (4) The office may publish a report of information
172 submitted pursuant to this section, provided that all data
173 published in the report is anonymized and aggregated from all
174 licensees.

175 Section 7. Section 516.39, Florida Statutes, is created to
176 read:

177 516.39 Suspension of penalties and remedial measures after
178 federal disaster declaration.—If the Federal Emergency
179 Management Agency issues a major disaster declaration for a
180 county, a licensee operating in that county designated in the
181 declaration must suspend for a period of 90 days after the date
182 of the initial declaration the following:

183 (1) The application of delinquency charges under s.
184 516.031(3)(a)9.

185 (2) Repossessions of collateral pledged to loans made
186 under this chapter.

187 (3) The filing of civil actions for the collection of
188 amounts owed for loans made under this chapter.

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189 Section 8. For the purpose of incorporating the amendments
190 made by this act to sections 516.02 and 516.031, Florida
191 Statutes, in references thereto, section 516.19, Florida
192 Statutes, is reenacted to read:

193 516.19 Penalties.—Any person who violates any of the
194 provisions of s. 516.02, s. 516.031, s. 516.05(3), s. 516.05(6),
195 or s. 516.07(1)(e) commits a misdemeanor of the first degree,
196 punishable as provided in s. 775.082 or s. 775.083.

197

198

T I T L E A M E N D M E N T

199

Remove lines 4-23 and insert:

200

516.02, F.S.; prohibiting a person from operating a branch of a
202 business making consumer finance loans before obtaining a
203 license from the Office of Financial Regulation; amending s.

204

516.03, F.S.; specifying application fees for branch licenses;

205

revising the applicability of investigation fees; making a

206

technical change; amending s. 516.031, F.S.; revising the

207

maximum interest rate and the calculation of interest rates on

208

consumer finance loans; revising the minimum amount of time

209

before which a delinquency charge for each payment in default

210

may be imposed; amending s. 516.15, F.S.; requiring licensees

211

offering an assistance program to borrowers after a federally

212

declared major disaster to send a specified notice to the office

213

within a certain timeframe; providing construction; creating s.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1267 (2023)

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214 516.38, F.S.; requiring licensees to file annual reports with
215 the office; providing for rulemaking by the Financial Services
216 Commission; specifying requirements for the reports; providing
217 requirements for a licensee claiming that submitted information
218 contains a trade secret; authorizing the office to publish a
219 report in a certain manner; creating s. 516.39, F.S.; requiring
220 certain licensees to suspend specified actions for a certain
221 timeframe after a federally declared disaster; reenacting s.
222 516.19, F.S., relating to penalties, to incorporate the
223 amendments made to ss. 516.02 and 516.031, F.S., in references
224 thereto; providing an effective date.