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1
 2 An act relating to consumer finance loans; amending s.
 3 516.01, F.S.; defining the term "branch"; amending s.
 4 516.02, F.S.; prohibiting a person from operating a
 5 branch of a business making consumer finance loans
 6 before obtaining a license from the Office of
 7 Financial Regulation; amending s. 516.03, F.S.;
 8 specifying application fees for branch licenses;
 9 revising the applicability of investigation fees;
 10 making a technical change; amending s. 516.031, F.S.;
 11 revising the maximum interest rate and the calculation
 12 of interest rates on consumer finance loans; revising
 13 the minimum amount of time before which a delinquency
 14 charge for each payment in default may be imposed;
 15 amending s. 516.15, F.S.; requiring licensees offering
 16 an assistance program to borrowers after a federally
 17 declared major disaster to send a specified notice to
 18 the office within a certain timeframe; providing
 19 construction; creating s. 516.38, F.S.; requiring
 20 licensees to file annual reports with the office;
 21 providing for rulemaking by the Financial Services
 22 Commission; specifying requirements for the reports;
 23 providing requirements for a licensee claiming that
 24 submitted information contains a trade secret;
 25 authorizing the office to publish a report in a

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26 certain manner; creating s. 516.39, F.S.; requiring
 27 certain licensees to suspend specified actions for a
 28 certain timeframe after a federally declared disaster;
 29 reenacting s. 516.19, F.S., relating to penalties, to
 30 incorporate the amendments made to ss. 516.02 and
 31 516.031, F.S., in references thereto; providing an
 32 effective date.
 33

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

35
 36 Section 1. Section 516.01, Florida Statutes, is amended to
 37 read:

38 516.01 Definitions.—As used in this chapter, the term:

39 (1) "Branch" means any location, other than a licensee's
 40 principal place of business, at which a licensee operates or
 41 conducts business under this chapter or which the licensee owns
 42 or controls for the purpose of conducting business under this
 43 chapter.

44 (2)~~(3)~~ "Commission" means the Financial Services
 45 Commission.

46 (3)~~(1)~~ "Consumer finance borrower" or "borrower" means a
 47 person who has incurred either direct or contingent liability to
 48 repay a consumer finance loan.

49 (4)~~(2)~~ "Consumer finance loan" means a loan of money,
 50 credit, goods, or choses in action, including, except as

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51 otherwise specifically indicated, provision of a line of credit,
 52 in an amount or to a value of \$25,000 or less for which the
 53 lender charges, contracts for, collects, or receives interest at
 54 a rate greater than 18 percent per annum.

55 (5)~~(8)~~ "Control person" means an individual, partnership,
 56 corporation, trust, or other organization that possesses the
 57 power, directly or indirectly, to direct the management or
 58 policies of a company, whether through ownership of securities,
 59 by contract, or otherwise. A person is presumed to control a
 60 company if, with respect to a particular company, that person:

61 (a) Is a director, general partner, or officer exercising
 62 executive responsibility or having similar status or functions;

63 (b) Directly or indirectly may vote 10 percent or more of
 64 a class of a voting security or sell or direct the sale of 10
 65 percent or more of a class of voting securities; or

66 (c) In the case of a partnership, may receive upon
 67 dissolution or has contributed 10 percent or more of the
 68 capital.

69 (6)~~(5)~~ "Interest" means the cost of obtaining a consumer
 70 finance loan and includes any profit or advantage of any kind
 71 whatsoever that a lender may charge, contract for, collect,
 72 receive, or in anywise obtain, including by means of any
 73 collateral sale, purchase, or agreement, as a condition for a
 74 consumer finance loan. Charges specifically permitted by this
 75 chapter, including commissions received for insurance written as

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76 | permitted by this chapter, shall not be deemed interest.

77 | ~~(7)~~~~(6)~~ "License" means a permit issued under this chapter
78 | to make and collect loans in accordance with this chapter at a
79 | single place of business.

80 | ~~(8)~~~~(7)~~ "Licensee" means a person to whom a license is
81 | issued.

82 | ~~(9)~~~~(4)~~ "Office" means the Office of Financial Regulation
83 | of the commission.

84 | Section 2. Subsection (1) of section 516.02, Florida
85 | Statutes, is amended to read:

86 | 516.02 Loans; lines of credit; rate of interest; license.—

87 | (1) A person must not engage in the business of making
88 | consumer finance loans or operate a branch of such business
89 | unless she or he is authorized to do so under this chapter or
90 | other statutes and unless the person first obtains a license
91 | from the office.

92 | Section 3. Subsection (1) of section 516.03, Florida
93 | Statutes, is amended to read:

94 | 516.03 Application for license; fees; etc.—

95 | (1) APPLICATION.—Application for a license to make loans
96 | under this chapter shall be in the form prescribed by rule of
97 | the commission. The commission may require each applicant to
98 | provide any information reasonably necessary to determine the
99 | applicant's eligibility for licensure. The applicant shall also
100 | provide information that the office requires concerning any

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101 officer, director, control person, member, partner, or joint
 102 venturer of the applicant or any person having the same or
 103 substantially similar status or performing substantially similar
 104 functions or concerning any individual who is the ultimate
 105 equitable owner of a 10-percent or greater interest in the
 106 applicant. The office may require information concerning any
 107 such applicant or person, including, but not limited to, his or
 108 her full name and any other names by which he or she may have
 109 been known, age, social security number, residential history,
 110 qualifications, educational and business history, and
 111 disciplinary and criminal history. The applicant must provide
 112 evidence of liquid assets of at least \$25,000 or documents
 113 satisfying the requirements of s. 516.05(10). At the time of
 114 making such application, the applicant shall pay to the office a
 115 nonrefundable biennial license fee of \$625 for the principal
 116 place of business and for each branch application filed.
 117 ~~Applications for a license for the principal place of business,~~
 118 ~~except for applications to renew or reactivate a license,~~ must
 119 also be accompanied by a nonrefundable investigation fee of
 120 \$200. An application is considered received for purposes of s.
 121 120.60 upon receipt of a completed application form as
 122 prescribed by commission rule, a nonrefundable application fee
 123 of \$625, and any other fee prescribed by law. The commission may
 124 adopt rules requiring electronic submission of any form,
 125 document, or fee required by this chapter ~~act~~ if such rules

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126 reasonably accommodate technological or financial hardship. The
 127 commission may prescribe by rule requirements and procedures for
 128 obtaining an exemption due to a technological or financial
 129 hardship.

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

132 516.031 Finance charge; maximum rates.—

133 (1) INTEREST RATES.—A licensee may lend any sum of money
 134 up to \$25,000. A licensee may not take a security interest
 135 secured by land on any loan less than \$1,000. The licensee may
 136 charge, contract for, and receive thereon interest charges as
 137 provided and authorized by this section. The maximum interest
 138 rate shall be 36 ~~30~~ percent per annum, ~~computed on the first~~
 139 ~~\$3,000 of the principal amount; 24 percent per annum on that~~
 140 ~~part of the principal amount exceeding \$3,000 and up to \$4,000;~~
 141 ~~and 18 percent per annum on that part of the principal amount~~
 142 ~~exceeding \$4,000 and up to \$25,000.~~ The original principal
 143 amount as used in this section is the same as the amount
 144 financed as defined by the federal Truth in Lending Act and
 145 Regulation Z of the Board of Governors of the Federal Reserve
 146 System. In determining compliance with the statutory maximum
 147 interest and finance charges set forth herein, the computations
 148 used shall be simple interest and not add-on interest or any
 149 other computations. ~~If two or more interest rates are applied to~~
 150 ~~the principal amount of a loan, the licensee may charge,~~

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151 ~~contract for, and receive interest at that single annual~~
 152 ~~percentage rate which, if applied according to the actuarial~~
 153 ~~method to each of the scheduled periodic balances of principal,~~
 154 ~~would produce at maturity the same total amount of interest as~~
 155 ~~would result from the application of the two or more rates~~
 156 ~~otherwise permitted, based upon the assumption that all payments~~
 157 ~~are made as agreed.~~

158 (3) OTHER CHARGES.—

159 (a) In addition to the interest, delinquency, and
 160 insurance charges provided in this section, further or other
 161 charges or amount for any examination, service, commission, or
 162 other thing or otherwise may not be directly or indirectly
 163 charged, contracted for, or received as a condition to the grant
 164 of a loan, except:

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

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

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

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

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176 5. The documentary excise tax and lawful fees, if any,
 177 actually and necessarily paid out by the licensee to any public
 178 officer for filing, recording, or releasing in any public office
 179 any instrument securing the loan, which may be collected when
 180 the loan is made or at any time thereafter;

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

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

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

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

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

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

199 c. For payments due every 2 weeks, the delinquency charge
 200 for a payment in default may not exceed \$7.50 if two payments

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201 are due within the same calendar month, and may not exceed \$5 if
 202 three payments are due within the same calendar month.

203
 204 Any charges, including interest, in excess of the combined total
 205 of all charges authorized and permitted by this chapter
 206 constitute a violation of chapter 687 governing interest and
 207 usury, and the penalties of that chapter apply. In the event of
 208 a bona fide error, the licensee shall refund or credit the
 209 borrower with the amount of the overcharge immediately but
 210 within 20 days after the discovery of such error.

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

213 516.15 Duties of licensee.—Every licensee shall:

214 (5) In the event of a Federal Emergency Management Agency
 215 response to a Presidential Disaster Declaration in the state, if
 216 the licensee offers any assistance program to borrowers impacted
 217 by the disaster, within 10 days after the licensee's
 218 establishment of the program, send written notice to the office
 219 in either physical or electronic format and include the
 220 following information, subject to change as any additional
 221 declarations are issued or declarations are revoked:

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

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

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

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

230

231 For purposes of this subsection, assistance programs may
 232 include, but are not limited to, deferments, forbearance, waiver
 233 of late fees, payment modification, or changing payment due
 234 dates.

235 Section 6. Section 516.38, Florida Statutes, is created to
 236 read:

237 516.38 Annual reports by licensees.-

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

244 (2) The report must include the following information for
 245 the preceding calendar year:

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

248 (b) The number of loan originations by the licensee from
 249 all licenses held under this chapter during the preceding
 250 calendar year.

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

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

257 (e) The total dollar amount of loans and the number of
 258 unsecured loans as of December 31 of the preceding calendar
 259 year.

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

- 263 1. Up to and including \$5,000.
- 264 2. Five thousand and one dollars to \$10,000.
- 265 3. Ten thousand and one dollars to \$15,000.
- 266 4. Fifteen thousand and one dollars to \$20,000.
- 267 5. Twenty thousand and one dollars to \$25,000.

268 (g) The total dollar amount of loans and the number of
 269 loans charged off as of December 31 of the preceding calendar
 270 year.

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

- 273 1. Current or less than 30 days past due.
- 274 2. From 30 to 59 days past due.
- 275 3. From 60 to 89 days past due.

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276 4. At least 90 days past due.

277 (3) A licensee claiming that any information submitted in
 278 the report contains a trade secret must submit to the office an
 279 accompanying affidavit in accordance with s. 655.0591 and
 280 designate the information claimed to be a trade secret pursuant
 281 to s. 655.0591.

282 (4) The office may publish a report of information
 283 submitted pursuant to this section, provided that all data
 284 published in the report is anonymized and aggregated from all
 285 licensees.

286 Section 7. Section 516.39, Florida Statutes, is created to
 287 read:

288 516.39 Suspension of penalties and remedial measures after
 289 federal disaster declaration.—In the event of a Federal
 290 Emergency Management Agency response to a Presidential Disaster
 291 Declaration in the state, a licensee operating in a county
 292 designated in the declaration must suspend for a period of 90
 293 days after the date of the initial declaration the following:

294 (1) The application of delinquency charges under s.
 295 516.031(3)(a)9.

296 (2) Repossessions of collateral pledged to loans made
 297 under this chapter.

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

300 Section 8. For the purpose of incorporating the amendments

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301 made by this act to sections 516.02 and 516.031, Florida
302 Statutes, in references thereto, section 516.19, Florida
303 Statutes, is reenacted to read:

304 516.19 Penalties.—Any person who violates any of the
305 provisions of s. 516.02, s. 516.031, s. 516.05(3), s. 516.05(6),
306 or s. 516.07(1)(e) commits a misdemeanor of the first degree,
307 punishable as provided in s. 775.082 or s. 775.083.

308 Section 9. This act shall take effect July 1, 2023.