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LEGISLATIVE ACTION

Senate

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House

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Floor: WD

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05/01/2023 10:15 AM

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Senator Berman moved the following:

**Senate Amendment (with title amendment)**

Between lines 233 and 234

insert:

Section 6. Section 516.181, Florida Statutes, is created to read:

516.181 Predatory loan prevention.—

(1) A person may not engage in any device, subterfuge, or pretense to evade the requirements of this chapter, including, but not limited to:

(a) Making, offering, or assisting, or arranging for, a



12 borrower to obtain a consumer finance loan with a higher rate or  
13 amount of interest, consideration, charge, or other payment  
14 received incident to the loan than is authorized by this chapter  
15 through any method, including mail, telephone, the Internet, or  
16 any electronic means, regardless of whether the person has a  
17 physical location in this state; or

18 (b) Receiving interest, fees, charges, or other payments in  
19 excess of those authorized by this chapter, regardless of  
20 whether the payment purports to be voluntary.

21 (2) A consumer finance loan made in violation of this  
22 section is void and uncollectible as to any principal, fee,  
23 interest, charge, or payment.

24 (3) If the consumer finance loan exceeds the rate  
25 authorized by s. 516.031, a person is deemed a lender subject to  
26 this section, regardless of whether the person purports to act  
27 as an agent or a service provider or in another capacity for  
28 another entity that is exempt from this chapter, if any of the  
29 following apply:

30 (a) The person holds, acquires, or maintains, directly or  
31 indirectly, the predominant economic interest, risk, or reward  
32 in the loan.

33 (b) The person:

34 1. Markets, solicits, brokers, arranges, facilitates, or  
35 services loans; and

36 2. Holds or has the right, requirement, or first right of  
37 refusal to acquire the loans, a share of receivables, or another  
38 direct or indirect interest in the loans or loan program.

39 (c) The totality of the circumstances indicate that the  
40 person is the lender and that the transaction is structured to



41 evade the requirements of this chapter. Circumstances that weigh  
42 in favor of a person being a lender subject to this section  
43 include, without limitation, whether the person:

44 1. Indemnifies, insures, or protects an exempt entity from  
45 any costs or risks related to the loan;

46 2. Predominantly designs, controls, or operates the loan  
47 program;

48 3. Holds the trademark or intellectual property rights in  
49 the brand, underwriting system, or other core aspects of the  
50 loan program; or

51 4. Purports to act as an agent or a service provider or in  
52 another capacity for an exempt entity while acting directly as a  
53 lender in other states.

54  
55 ===== T I T L E A M E N D M E N T =====

56 And the title is amended as follows:

57 Delete line 19

58 and insert:

59 timeframe; providing construction; creating s.  
60 516.181, F.S.; prohibiting persons from engaging in  
61 actions to evade the requirements of ch. 516, F.S.;

62 providing that consumer finance loans made in  
63 violation of such prohibitions are void and  
64 uncollectable; providing construction relating to when  
65 a person is deemed to be a lender subject to such  
66 prohibitions; creating s. 516.38,