

By Senator Gruters

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1 A bill to be entitled
2 An act relating to consumer finance loans; reordering
3 and amending s. 516.01, F.S.; defining the term
4 "branch"; amending s. 516.02, F.S.; prohibiting a
5 person from operating a branch of a business making
6 consumer finance loans before obtaining a license from
7 the Office of Financial Regulation; amending s.
8 516.03, F.S.; specifying application fees for branch
9 licenses; revising the applicability of investigation
10 fees; making a technical change; amending s. 516.031,
11 F.S.; revising the maximum interest rate and the
12 calculation of interest rates on consumer finance
13 loans; revising the minimum amount of time before
14 which a delinquency charge for each payment in default
15 may be imposed; amending s. 516.15, F.S.; requiring
16 licensees offering an assistance program to borrowers
17 after a federally declared major disaster to send a
18 specified notice to the office within a certain
19 timeframe; 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
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

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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 reordered
37 and amended to 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 (3)~~(1)~~ "Consumer finance borrower" or "borrower" means a
45 person who has incurred either direct or contingent liability to
46 repay a consumer finance loan.

47 (4)~~(2)~~ "Consumer finance loan" means a loan of money,
48 credit, goods, or choses in action, including, except as
49 otherwise specifically indicated, provision of a line of credit,
50 in an amount or to a value of \$25,000 or less for which the
51 lender charges, contracts for, collects, or receives interest at
52 a rate greater than 18 percent per annum.

53 (2)~~(3)~~ "Commission" means the Financial Services
54 Commission.

55 (9)~~(4)~~ "Office" means the Office of Financial Regulation of
56 the commission.

57 (6)~~(5)~~ "Interest" means the cost of obtaining a consumer
58 finance loan and includes any profit or advantage of any kind

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59 whatsoever that a lender may charge, contract for, collect,
60 receive, or in anywise obtain, including by means of any
61 collateral sale, purchase, or agreement, as a condition for a
62 consumer finance loan. Charges specifically permitted by this
63 chapter, including commissions received for insurance written as
64 permitted by this chapter, shall not be deemed interest.

65 (7)~~(6)~~ "License" means a permit issued under this chapter
66 to make and collect loans in accordance with this chapter at a
67 single place of business.

68 (8)~~(7)~~ "Licensee" means a person to whom a license is
69 issued.

70 (5)~~(8)~~ "Control person" means an individual, partnership,
71 corporation, trust, or other organization that possesses the
72 power, directly or indirectly, to direct the management or
73 policies of a company, whether through ownership of securities,
74 by contract, or otherwise. A person is presumed to control a
75 company if, with respect to a particular company, that person:

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

78 (b) Directly or indirectly may vote 10 percent or more of a
79 class of a voting security or sell or direct the sale of 10
80 percent or more of a class of voting securities; or

81 (c) In the case of a partnership, may receive upon
82 dissolution or has contributed 10 percent or more of the
83 capital.

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

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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
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.

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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
 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 up
 134 to \$25,000. A licensee may not take a security interest secured
 135 by land on any loan less than \$1,000. The licensee may charge,
 136 contract for, and receive thereon interest charges as provided
 137 and authorized by this section. The maximum interest rate shall
 138 be 36 ~~30~~ percent per annum, ~~computed on the first \$3,000 of the~~
 139 ~~principal amount; 24 percent per annum on that part of the~~
 140 ~~principal amount exceeding \$3,000 and up to \$4,000; and 18~~
 141 ~~percent per annum on that part of the principal amount exceeding~~
 142 ~~\$4,000 and up to \$25,000.~~ The original principal amount as used
 143 in this section is the same as the amount financed as defined by
 144 the federal Truth in Lending Act and Regulation Z of the Board
 145 of Governors of the Federal Reserve System. In determining

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146 compliance with the statutory maximum interest and finance
147 charges set forth herein, the computations used shall be simple
148 interest and not add-on interest or any other computations. ~~If~~
149 ~~two or more interest rates are applied to the principal amount~~
150 ~~of a loan, the licensee may charge, contract for, and receive~~
151 ~~interest at that single annual percentage rate which, if applied~~
152 ~~according to the actuarial method to each of the scheduled~~
153 ~~periodic balances of principal, would produce at maturity the~~
154 ~~same total amount of interest as would result from the~~
155 ~~application of the two or more rates otherwise permitted, based~~
156 ~~upon the assumption that all payments are made as agreed.~~

157 (3) OTHER CHARGES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

202
203 Any charges, including interest, in excess of the combined total

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

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

212 516.15 Duties of licensee.—Every licensee shall:

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

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

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

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

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

229 Section 6. Section 516.38, Florida Statutes, is created to
230 read:

231 516.38 Annual reports by licensees.—

232 (1) By March 15, 2024, and each year thereafter, a licensee

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233 shall file a report with the office in a form and manner
234 prescribed by commission rule. The report must include each of
235 the items specified in subsection (2) for the preceding calendar
236 year using aggregated and anonymized data and without reference
237 to any borrower's nonpublic personal information.

238 (2) The report must include the following information for
239 the preceding calendar year:

240 (a) The number of licenses held by the licensee under this
241 chapter as of December 31 of the preceding calendar year.

242 (b) The number of loan originations by the licensee from
243 all licenses held under this chapter during the preceding
244 calendar year.

245 (c) The total dollar amount of loans and the number of
246 loans outstanding by the licensee from all licenses held under
247 this chapter as of December 31 of the preceding calendar year.

248 (d) The total number of loans in which the licensee holds a
249 security interest in collateral as of December 31 of the
250 preceding calendar year.

251 (e) The total number of unsecured loans as of December 31
252 of the preceding calendar year.

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

256 1. Up to and including \$5,000.

257 2. Five thousand and one dollars to \$10,000.

258 3. Ten thousand and one dollars to \$15,000.

259 4. Fifteen thousand and one dollars to \$20,000.

260 5. Twenty thousand and one dollars to \$25,000.

261 (g) The total number and amount of loans charged off as of

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262 December 31 of the preceding calendar year.

263 (3) A licensee claiming that any information submitted in
264 the report contains a trade secret must submit to the office an
265 accompanying affidavit in accordance with s. 655.0591 and
266 designate the information claimed to be a trade secret pursuant
267 to s. 655.0591.

268 (4) The office may publish a report of information
269 submitted pursuant to this section, provided that all data
270 published in the report is anonymized and aggregated from all
271 licensees.

272 Section 7. Section 516.39, Florida Statutes, is created to
273 read:

274 516.39 Suspension of penalties and remedial measures after
275 federal disaster declaration.—If the Federal Emergency
276 Management Agency issues a major disaster declaration for this
277 state, a licensee operating in a county designated in the
278 declaration must suspend for a period of 90 days after the date
279 of the initial declaration the following:

280 (1) The application of delinquency charges under s.
281 516.031(3)(a)9.

282 (2) Repossessions of collateral pledged to loans made under
283 this chapter.

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

286 Section 8. For the purpose of incorporating the amendments
287 made by this act to sections 516.02 and 516.031, Florida
288 Statutes, in references thereto, section 516.19, Florida
289 Statutes, is reenacted to read:

290 516.19 Penalties.—Any person who violates any of the

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291 provisions of s. 516.02, s. 516.031, s. 516.05(3), s. 516.05(6),
292 or s. 516.07(1)(e) commits a misdemeanor of the first degree,
293 punishable as provided in s. 775.082 or s. 775.083.

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