

By Senator Burton

12-01002-24

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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 on consumer  
12      finance loans; revising the minimum amount of time  
13      before which a delinquency charge for each payment in  
14      default may be imposed; amending s. 516.15, F.S.;  
15      requiring licensees offering an assistance program to  
16      borrowers after a federally declared disaster to send  
17      a specified notice to the office within a certain  
18      timeframe; providing construction; creating s. 516.38,  
19      F.S.; requiring licensees to file annual reports with  
20      the office; providing for rulemaking by the Financial  
21      Services Commission; specifying requirements for the  
22      reports; providing requirements for a licensee  
23      claiming that submitted information contains a trade  
24      secret; authorizing the office to publish a report in  
25      a certain manner; creating s. 516.39, F.S.; requiring  
26      certain licensees to suspend specified actions for a  
27      certain timeframe after a federally declared disaster;  
28      reenacting s. 516.19, F.S., relating to penalties, to  
29      incorporate the amendments made to ss. 516.02 and

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30 516.031, F.S., in references thereto; providing an  
31 effective date.

32  
33 Be It Enacted by the Legislature of the State of Florida:

34  
35 Section 1. Section 516.01, Florida Statutes, is reordered  
36 and amended to read:

37 516.01 Definitions.—As used in this chapter, the term:

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

43 (3) "Consumer finance borrower" or "borrower" means a  
44 person who has incurred either direct or contingent liability to  
45 repay a consumer finance loan.

46 (4)~~(2)~~ "Consumer finance loan" means a loan of money,  
47 credit, goods, or choses in action, including, except as  
48 otherwise specifically indicated, provision of a line of credit,  
49 in an amount or to a value of \$25,000 or less for which the  
50 lender charges, contracts for, collects, or receives interest at  
51 a rate greater than 18 percent per annum.

52 (2)~~(3)~~ "Commission" means the Financial Services  
53 Commission.

54 (9)~~(4)~~ "Office" means the Office of Financial Regulation of  
55 the commission.

56 (6)~~(5)~~ "Interest" means the cost of obtaining a consumer  
57 finance loan and includes any profit or advantage of any kind  
58 whatsoever that a lender may charge, contract for, collect,

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

64 (7)~~(6)~~ "License" means a permit issued under this chapter  
65 to make and collect loans in accordance with this chapter at a  
66 single place of business.

67 (8)~~(7)~~ "Licensee" means a person to whom a license is  
68 issued.

69 (5)~~(8)~~ "Control person" means an individual, partnership,  
70 corporation, trust, or other organization that possesses the  
71 power, directly or indirectly, to direct the management or  
72 policies of a company, whether through ownership of securities,  
73 by contract, or otherwise. A person is presumed to control a  
74 company if, with respect to a particular company, that person:

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

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

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

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

85 516.02 Loans; lines of credit; rate of interest; license.-

86 (1) A person may ~~must~~ not engage in the business of making  
87 consumer finance loans or operate a branch of such business

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88 unless she or he is authorized to do so under this chapter or  
89 other statutes and unless the person first obtains a license  
90 from the office.

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

93 516.03 Application for license; fees; etc.—

94 (1) APPLICATION.—Application for a license to make loans  
95 under this chapter shall be in the form prescribed by rule of  
96 the commission. The commission may require each applicant to  
97 provide any information reasonably necessary to determine the  
98 applicant's eligibility for licensure. The applicant shall also  
99 provide information that the office requires concerning any  
100 officer, director, control person, member, partner, or joint  
101 venturer of the applicant or any person having the same or  
102 substantially similar status or performing substantially similar  
103 functions or concerning any individual who is the ultimate  
104 equitable owner of a 10-percent or greater interest in the  
105 applicant. The office may require information concerning any  
106 such applicant or person, including, but not limited to, his or  
107 her full name and any other names by which he or she may have  
108 been known, age, social security number, residential history,  
109 qualifications, educational and business history, and  
110 disciplinary and criminal history. The applicant must provide  
111 evidence of liquid assets of at least \$25,000 or documents  
112 satisfying the requirements of s. 516.05(10). At the time of  
113 making such application, the applicant shall pay to the office a  
114 nonrefundable biennial license fee of \$625 for the principal  
115 place of business and for each branch application filed.  
116 Applications for a license for the principal place of business

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117 ~~except for applications to renew or reactivate a license,~~ must  
118 also be accompanied by a nonrefundable investigation fee of  
119 \$200. An application is considered received for purposes of s.  
120 120.60 upon receipt of a completed application form as  
121 prescribed by commission rule, a nonrefundable application fee  
122 of \$625, and any other fee prescribed by law. The commission may  
123 adopt rules requiring electronic submission of any form,  
124 document, or fee required by this chapter ~~act~~ if such rules  
125 reasonably accommodate technological or financial hardship. The  
126 commission may prescribe by rule requirements and procedures for  
127 obtaining an exemption due to a technological or financial  
128 hardship.

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

131 516.031 Finance charge; maximum rates.—

132 (1) INTEREST RATES.—A licensee may lend any sum of money up  
133 to \$25,000. A licensee may not take a security interest secured  
134 by land on any loan less than \$1,000. The licensee may charge,  
135 contract for, and receive thereon interest charges as provided  
136 and authorized by this section. The maximum interest rate shall  
137 be 36 ~~30~~ percent per annum, computed on the first \$10,000 ~~\$3,000~~  
138 of the principal amount; 30 ~~24~~ percent per annum on that part of  
139 the principal amount exceeding \$10,000 ~~\$3,000~~ and up to \$20,000  
140 ~~\$4,000~~; and 24 ~~18~~ percent per annum on that part of the  
141 principal amount exceeding \$20,000 ~~\$4,000~~ and up to \$25,000. The  
142 original principal amount as used in this section is the same as  
143 the amount financed as defined by the federal Truth in Lending  
144 Act and Regulation Z of the Board of Governors of the Federal  
145 Reserve System. In determining compliance with the statutory

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146 maximum interest and finance charges set forth herein, the  
147 computations used shall be simple interest and not add-on  
148 interest or any other computations. If two or more interest  
149 rates are applied to the principal amount of a loan, the  
150 licensee may charge, contract for, and receive interest at that  
151 single annual percentage rate which, if applied according to the  
152 actuarial method to each of the scheduled periodic balances of  
153 principal, would produce at maturity the same total amount of  
154 interest as would result from the application of the two or more  
155 rates otherwise permitted, based upon the assumption that all  
156 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) In the event of a Federal Emergency Management Agency  
214 response to a Presidential Disaster Declaration in the state, if  
215 the licensee offers any assistance program to borrowers impacted  
216 by the disaster, within 10 days after the licensee's  
217 establishment of the program, send written notice to the office  
218 in either physical or electronic format and include the  
219 following information, subject to change as any additional  
220 declarations 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  
230 For purposes of this subsection, assistance programs may  
231 include, but are not limited to, deferments, forbearance, waiver  
232 of late fees, payment modification, or changing payment due



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233 dates.

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

236 516.38 Annual reports by licensees.—

237 (1) By March 15, 2025, and each March 15 thereafter, a  
238 licensee shall file a report with the office in a form and  
239 manner prescribed by commission rule. The report must include  
240 each of the items specified in subsection (2) for the preceding  
241 calendar year using aggregated and anonymized data and without  
242 reference to any borrower's nonpublic personal information.

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

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

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

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

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

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

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

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- 262       1. Up to and including \$5,000.
- 263       2. Five thousand and one dollars to \$10,000.
- 264       3. Ten thousand and one dollars to \$15,000.
- 265       4. Fifteen thousand and one dollars to \$20,000.
- 266       5. Twenty thousand and one dollars to \$25,000.
- 267       (g) The total dollar amount of loans and the number of  
268 loans charged off as of December 31 of the preceding calendar  
269 year.
- 270       (h) The total dollar amount of loans and the number of  
271 loans with delinquency status listed as:
- 272       1. Current or less than 30 days past due.
- 273       2. From 30 to 59 days past due.
- 274       3. From 60 to 89 days past due.
- 275       4. At least 90 days past due.
- 276       (3) A licensee claiming that any information submitted in  
277 the report contains a trade secret must submit to the office an  
278 accompanying affidavit in accordance with s. 655.0591 and  
279 designate the information claimed to be a trade secret pursuant  
280 to s. 655.0591.
- 281       (4) The office may publish a report of information  
282 submitted pursuant to this section, provided that all data  
283 published in the report is anonymized and aggregated from all  
284 licensees.
- 285       Section 7. Section 516.39, Florida Statutes, is created to  
286 read:
- 287       516.39 Suspension of penalties and remedial measures after  
288 federal disaster declaration.—In the event of a Federal  
289 Emergency Management Agency response to a Presidential Disaster  
290 Declaration in the state, a licensee operating in a county

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291 designated in the declaration must suspend for a period of 90  
292 days after the date of the initial declaration the following:

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

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

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

299 Section 8. For the purpose of incorporating the amendments  
300 made by this act to sections 516.02 and 516.031, Florida  
301 Statutes, in references thereto, section 516.19, Florida  
302 Statutes, is reenacted to read:

303 516.19 Penalties.—Any person who violates any of the  
304 provisions of s. 516.02, s. 516.031, s. 516.05(3), s. 516.05(6),  
305 or s. 516.07(1)(e) commits a misdemeanor of the first degree,  
306 punishable as provided in s. 775.082 or s. 775.083.

307 Section 9. This act shall take effect July 1, 2024.