

By the Appropriations Committee on Agriculture, Environment, and General Government; and Senator Burton

601-03262-24

20241436c1

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; requiring licensees
19 to offer borrowers a certain education program or
20 seminar; specifying the topics that such program or
21 seminar may address; requiring that such program or
22 seminar be offered at no cost to borrowers;
23 prohibiting licensees from requiring borrowers to
24 participate in such education program or seminar as a
25 condition of a loan; creating s. 516.38, F.S.;
26 requiring licensees to file annual reports with the
27 office; providing for rulemaking by the Financial
28 Services Commission; specifying requirements for the
29 reports; providing requirements for a licensee

601-03262-24

20241436c1

30 claiming that submitted information contains a trade
31 secret; authorizing the office to publish a report in
32 a certain manner; creating s. 516.39, F.S.; requiring
33 certain licensees to suspend specified actions for a
34 certain timeframe after a federally declared disaster;
35 reenacting s. 516.19, F.S., relating to penalties, to
36 incorporate the amendments made to ss. 516.02 and
37 516.031, F.S., in references thereto; providing an
38 effective date.

39
40 Be It Enacted by the Legislature of the State of Florida:

41
42 Section 1. Section 516.01, Florida Statutes, is reordered
43 and amended to read:

44 516.01 Definitions.—As used in this chapter, the term:

45 (1) "Branch" means any location, other than a licensee's
46 principal place of business, at which a licensee operates or
47 conducts business under this chapter or which the licensee owns
48 or controls for the purpose of conducting business under this
49 chapter.

50 (3) "Consumer finance borrower" or "borrower" means a
51 person who has incurred either direct or contingent liability to
52 repay a consumer finance loan.

53 (4) ~~(2)~~ "Consumer finance loan" means a loan of money,
54 credit, goods, or choses in action, including, except as
55 otherwise specifically indicated, provision of a line of credit,
56 in an amount or to a value of \$25,000 or less for which the
57 lender charges, contracts for, collects, or receives interest at
58 a rate greater than 18 percent per annum.

601-03262-24

20241436c1

59 (2)~~(3)~~ "Commission" means the Financial Services
60 Commission.

61 (9)~~(4)~~ "Office" means the Office of Financial Regulation of
62 the commission.

63 (6)~~(5)~~ "Interest" means the cost of obtaining a consumer
64 finance loan and includes any profit or advantage of any kind
65 whatsoever that a lender may charge, contract for, collect,
66 receive, or in anywise obtain, including by means of any
67 collateral sale, purchase, or agreement, as a condition for a
68 consumer finance loan. Charges specifically permitted by this
69 chapter, including commissions received for insurance written as
70 permitted by this chapter, shall not be deemed interest.

71 (7)~~(6)~~ "License" means a permit issued under this chapter
72 to make and collect loans in accordance with this chapter at a
73 single place of business.

74 (8)~~(7)~~ "Licensee" means a person to whom a license is
75 issued.

76 (5)~~(8)~~ "Control person" means an individual, partnership,
77 corporation, trust, or other organization that possesses the
78 power, directly or indirectly, to direct the management or
79 policies of a company, whether through ownership of securities,
80 by contract, or otherwise. A person is presumed to control a
81 company if, with respect to a particular company, that person:

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

84 (b) Directly or indirectly may vote 10 percent or more of a
85 class of a voting security or sell or direct the sale of 10
86 percent or more of a class of voting securities; or

87 (c) In the case of a partnership, may receive upon

601-03262-24

20241436c1

88 dissolution or has contributed 10 percent or more of the
89 capital.

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

92 516.02 Loans; lines of credit; rate of interest; license.—

93 (1) A person may ~~must~~ not engage in the business of making
94 consumer finance loans or operate a branch of such business
95 unless she or he is authorized to do so under this chapter or
96 other statutes and unless the person first obtains a license
97 from the office.

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

100 516.03 Application for license; fees; etc.—

101 (1) APPLICATION.—Application for a license to make loans
102 under this chapter shall be in the form prescribed by rule of
103 the commission. The commission may require each applicant to
104 provide any information reasonably necessary to determine the
105 applicant's eligibility for licensure. The applicant shall also
106 provide information that the office requires concerning any
107 officer, director, control person, member, partner, or joint
108 venturer of the applicant or any person having the same or
109 substantially similar status or performing substantially similar
110 functions or concerning any individual who is the ultimate
111 equitable owner of a 10-percent or greater interest in the
112 applicant. The office may require information concerning any
113 such applicant or person, including, but not limited to, his or
114 her full name and any other names by which he or she may have
115 been known, age, social security number, residential history,
116 qualifications, educational and business history, and

601-03262-24

20241436c1

117 disciplinary and criminal history. The applicant must provide
118 evidence of liquid assets of at least \$25,000 or documents
119 satisfying the requirements of s. 516.05(10). At the time of
120 making such application, the applicant shall pay to the office a
121 nonrefundable biennial license fee of \$625 for the principal
122 place of business and for each branch application filed.
123 Applications for a license for the principal place of business,
124 ~~except for applications to renew or reactivate a license,~~ must
125 also be accompanied by a nonrefundable investigation fee of
126 \$200. An application is considered received for purposes of s.
127 120.60 upon receipt of a completed application form as
128 prescribed by commission rule, a nonrefundable application fee
129 of \$625, and any other fee prescribed by law. The commission may
130 adopt rules requiring electronic submission of any form,
131 document, or fee required by this chapter ~~act~~ if such rules
132 reasonably accommodate technological or financial hardship. The
133 commission may prescribe by rule requirements and procedures for
134 obtaining an exemption due to a technological or financial
135 hardship.

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

138 516.031 Finance charge; maximum rates.—

139 (1) INTEREST RATES.—A licensee may lend any sum of money up
140 to \$25,000. A licensee may not take a security interest secured
141 by land on any loan less than \$1,000. The licensee may charge,
142 contract for, and receive thereon interest charges as provided
143 and authorized by this section. The maximum interest rate shall
144 be 36 ~~30~~ percent per annum, computed on the first \$10,000 ~~\$3,000~~
145 of the principal amount; 30 ~~24~~ percent per annum on that part of

601-03262-24

20241436c1

146 the principal amount exceeding \$10,000 ~~\$3,000~~ and up to \$20,000
147 ~~\$4,000~~; and 24 ~~18~~ percent per annum on that part of the
148 principal amount exceeding \$20,000 ~~\$4,000~~ and up to \$25,000. The
149 original principal amount as used in this section is the same as
150 the amount financed as defined by the federal Truth in Lending
151 Act and Regulation Z of the Board of Governors of the Federal
152 Reserve System. In determining compliance with the statutory
153 maximum interest and finance charges set forth herein, the
154 computations used shall be simple interest and not add-on
155 interest or any other computations. If two or more interest
156 rates are applied to the principal amount of a loan, the
157 licensee may charge, contract for, and receive interest at that
158 single annual percentage rate which, if applied according to the
159 actuarial method to each of the scheduled periodic balances of
160 principal, would produce at maturity the same total amount of
161 interest as would result from the application of the two or more
162 rates otherwise permitted, based upon the assumption that all
163 payments are made as agreed.

164 (3) OTHER CHARGES.—

165 (a) In addition to the interest, delinquency, and insurance
166 charges provided in this section, further or other charges or
167 amount for any examination, service, commission, or other thing
168 or otherwise may not be directly or indirectly charged,
169 contracted for, or received as a condition to the grant of a
170 loan, except:

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

174 2. An annual fee of \$25 on the anniversary date of each

601-03262-24

20241436c1

175 line-of-credit account;

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

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

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

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

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

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

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

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

203 b. For payments due semimonthly, the delinquency charge for

601-03262-24

20241436c1

204 a payment in default may not exceed \$7.50.

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

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

217 Section 5. Subsections (5) and (6) are added to section
218 516.15, Florida Statutes, to read:

219 516.15 Duties of licensee.—Every licensee shall:

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

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

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

232 (c) A brief description of the assistance program available

601-03262-24

20241436c1

233 to borrowers in the affected areas; and

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

236
237 For purposes of this subsection, assistance programs may
238 include, but are not limited to, deferments, forbearance, waiver
239 of late fees, payment modification, or changing payment due
240 dates.

241 (6) Offer the borrower at the time a loan is made a credit
242 education program or seminar provided by the licensee or a
243 third-party provider, either in writing or electronically. The
244 credit education program or seminar may address, but need not be
245 limited to, any of the following topics:

246 (a) The importance and methodology of establishing a
247 household budget.

248 (b) The impact, value of, and ways to improve a credit
249 score.

250 (c) The importance and methodology of establishing
251 household savings.

252 (d) Ways to obtain a free copy of a credit report.

253 (e) Ways to dispute an error in a credit report.

254 (f) Ways to manage and prevent identity theft.

255
256 A credit education program or seminar offered under this
257 subsection must be offered at no cost to the borrower. A
258 licensee may not require a borrower to participate in a credit
259 education program or seminar as a condition of receiving a loan.

260 Section 6. Section 516.38, Florida Statutes, is created to
261 read:

601-03262-24

20241436c1

262 516.38 Annual reports by licensees.—

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

269 (2) The report must include the following information for
270 the preceding calendar year:

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

273 (b) The number of loan originations by the licensee from
274 all licenses held under this chapter during the preceding
275 calendar year.

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

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

282 (e) The total dollar amount of loans and the number of
283 unsecured loans as of December 31 of the preceding calendar
284 year.

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

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

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

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

601-03262-24

20241436c1

- 291 4. Fifteen thousand and one dollars to \$20,000.
- 292 5. Twenty thousand and one dollars to \$25,000.
- 293 (g) The total dollar amount of loans and the number of
294 loans charged off as of December 31 of the preceding calendar
295 year.
- 296 (h) The total dollar amount of loans and the number of
297 loans with delinquency status listed as:
- 298 1. Current or less than 30 days past due.
- 299 2. From 30 to 59 days past due.
- 300 3. From 60 to 89 days past due.
- 301 4. At least 90 days past due.
- 302 (3) A licensee claiming that any information submitted in
303 the report contains a trade secret must submit to the office an
304 accompanying affidavit in accordance with s. 655.0591 and
305 designate the information claimed to be a trade secret pursuant
306 to s. 655.0591.
- 307 (4) The office may publish a report of information
308 submitted pursuant to this section, provided that all data
309 published in the report is anonymized and aggregated from all
310 licensees.
- 311 Section 7. Section 516.39, Florida Statutes, is created to
312 read:
- 313 516.39 Suspension of penalties and remedial measures after
314 federal disaster declaration.—In the event of a Federal
315 Emergency Management Agency response to a Presidential Disaster
316 Declaration in the state, a licensee operating in a county
317 designated in the declaration must suspend for a period of 90
318 days after the date of the initial declaration the following:
- 319 (1) The application of delinquency charges under s.

601-03262-24

20241436c1

320 516.031(3)(a)9.

321 (2) Repossessions of collateral pledged to loans made under
322 this chapter.

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

325 Section 8. For the purpose of incorporating the amendments
326 made by this act to sections 516.02 and 516.031, Florida
327 Statutes, in references thereto, section 516.19, Florida
328 Statutes, is reenacted to read:

329 516.19 Penalties.—Any person who violates any of the
330 provisions of s. 516.02, s. 516.031, s. 516.05(3), s. 516.05(6),
331 or s. 516.07(1)(e) commits a misdemeanor of the first degree,
332 punishable as provided in s. 775.082 or s. 775.083.

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