

By Senator Garcia

36-01064-25

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1                                   A bill to be entitled  
2       An act relating to requirements of lenders of money;  
3       providing a short title; amending s. 687.08, F.S.;  
4       requiring lenders of money or the agents, officers, or  
5       other representatives of such lenders to provide a  
6       dated receipt under certain circumstances; clarifying  
7       additional requirements for such lenders; creating s.  
8       687.085, F.S.; requiring lenders of money or the  
9       agents, officers, or other representatives of such  
10      lenders to give a specified notice to the borrower and  
11      all obligors of the loan within a specified timeframe;  
12      requiring that such notice be sent to certain mailing  
13      addresses and, if provided, e-mail addresses;  
14      specifying the content of such notice; prohibiting  
15      default or delinquency interest charges under certain  
16      circumstances; requiring such lenders or the agents,  
17      officers, or other representatives of such lenders to  
18      provide to the borrower monthly statements after  
19      initial notification to the borrower and obligors;  
20      specifying requirements for such statements; providing  
21      applicability; providing a penalty for lenders who  
22      fail or refuse to comply with certain provisions;  
23      amending s. 701.01, F.S.; requiring the assignor of a  
24      mortgage loan to provide, within a specified  
25      timeframe, a copy of the loan history statement to a  
26      borrower or obligor upon request; requiring the  
27      assignor to provide the first copy of the history  
28      statement at no cost; authorizing the assignor to  
29      charge its standard charge for additional copies of

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30 such statement; requiring the assignee of a mortgage  
 31 loan to make specified notifications to the borrower  
 32 and obligor; specifying the requirements of such  
 33 notice; providing retroactive application; providing  
 34 an effective date.

35  
 36 Be It Enacted by the Legislature of the State of Florida:

37  
 38 Section 1. This act may be cited as the "Default Interest  
 39 Transparency Act."

40 Section 2. Section 687.08, Florida Statutes, is amended to  
 41 read:

42 687.08 Lenders of Person lending money to provide ~~give~~  
 43 borrower receipt for payments; contents of receipt; penalty for  
 44 violation.-

45 (1) A lender of money in this state, whether a natural  
 46 person or an entity ~~Every person~~, or the agent, officer, or  
 47 other representative of such lender ~~any person~~, lending money in  
 48 ~~this state upon security~~ shall, whenever the borrower ~~of such~~  
 49 ~~money~~ makes a payment of ~~any money, either principal or~~  
 50 interest, immediately provide ~~upon such payment being made, give~~  
 51 ~~to the borrower a dated receipt that states, dated of the date~~  
 52 ~~of such payment, which receipt shall state the amount paid, the~~  
 53 purpose of and for what such payment, and, as applicable, that  
 54 ~~is made. If such payment is for interest on the sum borrowed or~~  
 55 ~~the receipt shall so state. If the sum so paid is to be applied~~  
 56 ~~to the payment of the principal sum borrowed, the receipt shall~~  
 57 ~~so state. Every~~ Such receipt must ~~shall~~ be duly and properly  
 58 signed by such lender ~~the person~~, or the agent, officer, or

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59 other representative of such lender ~~the person, to whom such~~  
60 ~~money is paid~~. In lieu of providing such receipt and in addition  
61 to the requirements imposed under s. 687.085, such a lender may  
62 provide ~~furnish~~ to the borrower an annual statement showing the  
63 amount of interest paid on the loan during the previous year as  
64 well as the remaining balance on the loan; except that a simple  
65 receipt must ~~shall~~ be given to the borrower for each payment  
66 that ~~which~~ is made in cash or for any payment for which receipt  
67 is requested in writing by the borrower.

68 (2) Any lender that ~~whoever~~ refuses, upon demand, to  
69 provide ~~give~~ a receipt or statement in compliance ~~complying~~ with  
70 ~~the requirements of this section~~ forfeits to the borrower all  
71 ~~shall forfeit the entire interest on the~~ upon such principal sum  
72 ~~to the borrower~~.

73 Section 3. Section 687.085, Florida Statutes, is created to  
74 read:

75 687.085 Required notifications by lender of money if  
76 borrower defaults; penalty for violation.-

77 (1) If a borrower defaults on a loan and such default  
78 allows a lender of money to recover additional interest on the  
79 unpaid principal of the loan, whether at such lender's option or  
80 discretion or automatically under the loan's term, such lender,  
81 whether a natural person or an entity, or the agent, officer, or  
82 other representative of such lender, must, within 45 days after  
83 the default, give written notice to the borrower and all  
84 obligors of the loan in compliance with subsection (2).

85 (2) The notice required under subsection (1) must be sent  
86 to the borrower's and obligor's last known mailing addresses as  
87 recorded by such lender. If an e-mail address for the borrower

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88 or the obligor has been provided, the notice must also be sent  
89 to the most recent e-mail address on record. The notice must  
90 include all of the following:

91 (a) A statement that the loan is in default.

92 (b) A description of the nature of the default.

93 (c) The interest rate currently accruing on the unpaid  
94 principal of the loan.

95 (d) The amount of interest that will accrue daily, monthly,  
96 and annually on the unpaid principal if the loan is not paid off  
97 or the lender does not authorize a waiver of the default in  
98 writing.

99 (3) Except in cases where the default arises from the  
100 borrower's failure to pay a loan in full by the maturity date  
101 specified in the loan contract, default or delinquency interest  
102 charges may not be applied retroactively or in arrears for more  
103 than 45 days before the date the lender provides the required  
104 notice to the borrower and obligors under this section.

105 (4) After the initial notification to a borrower and  
106 obligors as required under this section, the lender, or the  
107 agent, officer, or other representative of the lender, shall  
108 provide to the borrower monthly statements. Each statement must  
109 include all of the following information:

110 (a) Payments received since the previous statement.

111 (b) The allocation of each payment to interest, principal,  
112 or other charges.

113 (c) The total unpaid balance of the loan, including  
114 interest and penalties.

115 (d) The current interest rate and the rate accruing on the  
116 unpaid principal of the loan.

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117 (5) This section applies to loans that are accelerated for  
118 default and on which such lender is charging delinquency  
119 interest charges on the unpaid principal balance.

120 (6) This section does not apply to consumer loans governed  
121 by chapter 520 or chapter 560.

122 (7) Any lender who fails or refuses to provide the notice  
123 required by this section forfeits the right to charge additional  
124 interest above the nondefault interest rate on the unpaid  
125 principal of the loan for the duration of the noncompliance  
126 period.

127 Section 4. Section 701.01, Florida Statutes, is amended to  
128 read:

129 701.01 Assignment.—

130 (1) Any mortgagee may assign and transfer any mortgage made  
131 to her or him, and the person to whom any mortgage may be  
132 assigned or transferred may also assign and transfer it, and  
133 that person or her or his assigns or subsequent assignees may  
134 lawfully have, take and pursue the same means and remedies which  
135 the mortgagee may lawfully have, take or pursue for the  
136 foreclosure of a mortgage and for the recovery of the money  
137 secured thereby. Within 10 business days after a borrower's or  
138 obligor's request, the assignor of a mortgage loan shall provide  
139 to the requesting borrower or obligor a copy of the loan history  
140 statement, detailing payments and outstanding balances up to the  
141 date of assignment. The first copy must be provided to the  
142 borrower or obligor at no cost; however, the assignor may charge  
143 its standard charge for a bank statement copy for any additional  
144 copies of the loan history statement requested by the borrower  
145 or obligor.

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146       (2) In addition to complying with s. 687.085, the assignee  
147 of a mortgage loan shall notify the borrower and obligor of any  
148 changes to outstanding balances owed on the loan, including  
149 changes to the loan history of payments and outstanding balances  
150 of the loan as of the date of assignment. Such notification must  
151 be included with the assignee's first statement or notice of  
152 amounts sent to the borrower or obligor, but no later than 30  
153 days after the mortgage loan is assigned. The notification must  
154 include all of the following information:

155       (a) The default relied upon by the assignee for the changes  
156 made.

157       (b) An explanation of the assignee's method of calculating  
158 the additional charges.

159       (c) A detailed breakdown of the amounts claimed as owed,  
160 including unpaid principal, interest, charges, or other amounts  
161 under the loan contract.

162       Section 5. The amendments made by this act and s. 687.085,  
163 Florida Statutes, as created by this act, are remedial in nature  
164 and apply to all loans executed in this state before, on, or  
165 after the effective date of this act which are not governed by  
166 other specific regulations that charge additional interest on  
167 the unpaid principal before the stated maturity date of the  
168 loan, subject to the limits on interest charges imposed under  
169 chapter 687, Florida Statutes.

170       Section 6. This act shall take effect July 1, 2025.