

CHAPTER 2022-130

Senate Bill No. 546

An act relating to consumer finance loans; amending s. 516.03, F.S.; authorizing an applicant for a license to make and collect loans under the Florida Consumer Finance Act to provide certain documents in lieu of evidence of liquid assets; amending s. 516.031, F.S.; prohibiting a person licensed to make and collect consumer finance loans from charging prepayment penalties for loans; amending s. 516.05, F.S.; authorizing a licensee or an applicant for a license to make and collect consumer finance loans to provide a surety bond, certificate of deposit, or letter of credit in lieu of evidence of liquid assets; providing requirements for such bonds, certificates of deposit, and letters of credit; providing rulemaking authority to the Financial Services Commission; amending s. 516.07, F.S.; modifying grounds for denial of license or disciplinary action for certain violations of the Florida Consumer Finance Act; amending s. 559.952, F.S.; revising exceptions for a licensee during the Financial Technology Sandbox period; providing an effective date.

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

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

516.03 Application for license; fees; etc.—

(1) APPLICATION.—Application for a license to make loans under this chapter shall be in the form prescribed by rule of the commission. The commission may require each applicant to provide any information reasonably necessary to determine the applicant's eligibility for licensure. The applicant shall also provide information that the office requires concerning any officer, director, control person, member, partner, or joint venturer of the applicant or any person having the same or substantially similar status or performing substantially similar functions or concerning any individual who is the ultimate equitable owner of a 10-percent or greater interest in the applicant. The office may require information concerning any such applicant or person, including, but not limited to, his or her full name and any other names by which he or she may have been known, age, social security number, residential history, qualifications, educational and business history, and disciplinary and criminal history. The applicant must provide evidence of liquid assets of at least \$25,000 or documents satisfying the requirements of s. 516.05(10). At the time of making such application the applicant shall pay to the office a nonrefundable biennial license fee of \$625. Applications, except for applications to renew or reactivate a license, must also be accompanied by a nonrefundable investigation fee of \$200. An application is considered received for purposes of s. 120.60 upon receipt of a completed application form as prescribed by commission rule, a nonrefundable application fee of \$625, and any other fee prescribed by law. The

commission may adopt rules requiring electronic submission of any form, document, or fee required by this act if such rules reasonably accommodate technological or financial hardship. The commission may prescribe by rule requirements and procedures for obtaining an exemption due to a technological or financial hardship.

Section 2. Subsection (6) is added to section 516.031, Florida Statutes, to read:

516.031 Finance charge; maximum rates.—

(6) PREPAYMENT PENALTIES PROHIBITED.—A licensee may not require a borrower to pay a prepayment penalty for paying all or part of the loan principal before the date on which the payment is due.

Section 3. Subsection (10) is added to section 516.05, Florida Statutes, to read:

516.05 License.—

(10)(a) In lieu of the \$25,000 liquid asset requirement in s. 516.03(1):

1. An applicant or a licensee may provide to the office a surety bond in the amount of at least \$25,000, issued by a bonding company or insurance company authorized to do business in this state.

2. A company with at least one currently licensed location must provide to the office a rider or surety bond, in the amount of at least \$5,000 for each additional license, issued by a bonding company or insurance company authorized to do business in this state. However, in no event may the aggregate amount of the surety bond required for a company with multiple licenses exceed \$100,000.

(b) In lieu of a surety bond, the applicant or the licensee may provide evidence of a certificate of deposit or an irrevocable letter of credit in the same amount of the surety bond required under paragraph (a). The certificate of deposit must be deposited in a financial institution, as defined in s. 655.005(1)(i). The letter of credit must be issued by a financial institution, as defined in s. 655.005(1)(i).

(c) The original surety bond, certificate of deposit, or letter of credit must be filed with the office, and the office must be named as beneficiary. The surety bond, certificate of deposit, or letter of credit must be for the use and benefit of any borrower who is injured by acts of a licensee involving fraud, misrepresentation, or deceit, including willful imposition of illegal or excessive charges; or misrepresentation, circumvention, or concealment of any matter required to be stated or furnished to a borrower, where such acts are in connection with a loan made under this chapter. The office, or any claimant, may bring an action in a court of competent jurisdiction on the surety bond, certificate of deposit, or letter of credit. The surety bond, certificate of deposit, or letter of credit must be payable on a pro rata basis,

but the aggregate amount may not exceed the amount of the surety bond, certificate of deposit, or letter of credit.

(d) The surety bond, certificate of deposit, or letter of credit may not be canceled by the licensee, bonding or insurance company, or financial institution except upon notice to the office by certified mail. A cancellation may not take effect until 30 calendar days after receipt by the office of the notice.

(e) The bonding or insurance company or financial institution must, within 10 calendar days after it pays a claim, give notice to the office by certified mail of such payment with details sufficient to identify the claimant and the claim or judgment paid.

(f) If the principal sum of the surety bond, certificate of deposit, or letter of credit is reduced by one or more recoveries or payments, the licensee must furnish to the office a new or additional surety bond, certificate of deposit, or letter of credit so that the total or aggregate principal sum equals the amount required under this subsection. Alternatively, a licensee may furnish an endorsement executed by the bonding or insurance company or financial institution reinstating the required principal amount.

(g) The required surety bond, certificate of deposit, or letter of credit must remain in place for 2 years after the licensee ceases licensed operations in this state. During the 2-year period, the office may allow for a reduction or elimination of the surety bond, certificate of deposit, or letter of credit to the extent the licensee's outstanding consumer finance loans in this state are reduced.

(h) The commission may prescribe by rule forms and procedures to implement this subsection.

Section 4. Paragraph (b) of subsection (1) of section 516.07, Florida Statutes, is amended to read:

516.07 Grounds for denial of license or for disciplinary action.—

(1) The following acts are violations of this chapter and constitute grounds for denial of an application for a license to make consumer finance loans and grounds for any of the disciplinary actions specified in subsection (2):

(b) Failure to maintain liquid assets of at least \$25,000 or a surety bond, certificate of deposit, or letter of credit in the amount required by s. 516.05(10) at all times for the operation of business at a licensed location or proposed location.

Section 5. Paragraph (a) of subsection (4) of section 559.952, Florida Statutes, is amended to read:

559.952 Financial Technology Sandbox.—

(4) EXCEPTIONS TO GENERAL LAW AND WAIVERS OF RULE REQUIREMENTS.—

(a) Notwithstanding any other law, upon approval of a Financial Technology Sandbox application, the following provisions and corresponding rule requirements are not applicable to the licensee during the sandbox period:

1. Section 516.03(1), except for the application fee, the investigation fee, the requirement to provide the social security numbers of control persons, evidence of liquid assets of at least \$25,000 or documents satisfying the requirements of s. 516.05(10), and the office's authority to investigate the applicant's background. The office may prorate the license renewal fee for an extension granted under subsection (7).

2. Section 516.05(1) and (2), except that the office shall investigate the applicant's background.

3. Section 560.109, only to the extent that the section requires the office to examine a licensee at least once every 5 years.

4. Section 560.118(2).

5. Section 560.125(1), only to the extent that the subsection would prohibit a licensee from engaging in the business of a money transmitter or payment instrument seller during the sandbox period.

6. Section 560.125(2), only to the extent that the subsection would prohibit a licensee from appointing an authorized vendor during the sandbox period. Any authorized vendor of such a licensee during the sandbox period remains liable to the holder or remitter.

7. Section 560.128.

8. Section 560.141, except for s. 560.141(1)(a)1., 3., 7.-10. and (b), (c), and (d).

9. Section 560.142(1) and (2), except that the office may prorate, but may not entirely eliminate, the license renewal fees in s. 560.143 for an extension granted under subsection (7).

10. Section 560.143(2), only to the extent necessary for proration of the renewal fee under subparagraph 9.

11. Section 560.204(1), only to the extent that the subsection would prohibit a licensee from engaging in, or advertising that it engages in, the selling or issuing of payment instruments or in the activity of a money transmitter during the sandbox period.

12. Section 560.205(2).

13. Section 560.208(2).

14. Section 560.209, only to the extent that the office may modify, but may not entirely eliminate, the net worth, corporate surety bond, and collateral deposit amounts required under that section. The modified amounts must be in such lower amounts that the office determines to be commensurate with the factors under paragraph (5)(c) and the maximum number of consumers authorized to receive the financial product or service under this section.

Section 6. This act shall take effect October 1, 2022.

Approved by the Governor May 20, 2022.

Filed in Office Secretary of State May 20, 2022.