

CHAPTER 2024-276

Committee Substitute for House Bill No. 1347

An act relating to consumer finance loans; amending s. 516.01, F.S.; defining the term “branch”; amending s. 516.02, F.S.; prohibiting a person from operating a branch of a business making consumer finance loans before obtaining a license from the Office of Financial Regulation; amending s. 516.03, F.S.; specifying application fees for branch licenses; revising the applicability of investigation fees; making a technical change; amending s. 516.031, F.S.; revising the maximum interest rates and the calculation of interest rates on consumer finance loans; revising the minimum amount of time before which a delinquency charge for each payment in default may be imposed; amending s. 516.15, F.S.; requiring licensees offering an assistance program to borrowers after a federally declared major disaster to send a specified notice to the office within a certain timeframe; providing construction; requiring licensees to offer to borrowers credit education programs or seminars; providing topics for such programs or seminars; requiring that such programs or seminars be free; prohibiting licensees from requiring borrowers to participate in such programs or seminars as a condition of receiving loans; creating s. 516.38, F.S.; requiring licensees to file annual reports with the office; providing for rulemaking by the Financial Services Commission; specifying requirements for the reports; providing requirements for a licensee claiming that submitted information contains a trade secret; authorizing the office to publish a report in a certain manner; creating s. 516.39, F.S.; requiring certain licensees to suspend specified actions for a certain timeframe after a federally declared disaster; reenacting s. 516.19, F.S., relating to penalties, to incorporate the amendments made to ss. 516.02 and 516.031, F.S., in references thereto; providing an effective date.

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

Section 1. Section 516.01, Florida Statutes, is amended to read:

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

(1) “Branch” means any location, other than a licensee’s principal place of business, at which a licensee operates or conducts business under this chapter or which the licensee owns or controls for the purpose of conducting business under this chapter.

~~(2)(3)~~ “Commission” means the Financial Services Commission.

~~(3)(1)~~ “Consumer finance borrower” or “borrower” means a person who has incurred either direct or contingent liability to repay a consumer finance loan.

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

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

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

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

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

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

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

~~(8)~~(7) “Licensee” means a person to whom a license is issued.

~~(9)~~(4) “Office” means the Office of Financial Regulation of the commission.

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

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

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

Section 3. 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 for the principal place of business and for each branch application filed. Applications for a license for the principal place of business, 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 chapter ~~aet~~ 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 4. Subsection (1) and paragraph (a) of subsection (3) of section 516.031, Florida Statutes, are amended to read:

516.031 Finance charge; maximum rates.—

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

computations used shall be simple interest and not add-on interest or any other computations. If two or more interest rates are applied to the principal amount of a loan, the licensee may charge, contract for, and receive interest at that single annual percentage rate which, if applied according to the actuarial method to each of the scheduled periodic balances of principal, would produce at maturity the same total amount of interest as would result from the application of the two or more rates otherwise permitted, based upon the assumption that all payments are made as agreed.

(3) OTHER CHARGES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

516.15 Duties of licensee.—Every licensee shall:

(5) In the event of a Federal Emergency Management Agency response to a Presidential Disaster Declaration in the state, if the licensee offers any assistance program to borrowers impacted by the disaster, within 10 days after the licensee’s establishment of the program, send written notice to the office in physical or electronic format and include all of the following information, subject to change as any additional declaration is issued or any declaration is revoked:

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

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

(c) A brief description of the assistance program available to borrowers in the affected areas.

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

For purposes of this subsection, assistance programs may include, but are not limited to, deferments, forbearance, waivers of late fees, payment modifications, or changes in payment due dates.

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

- (a) The importance and methodology of establishing a household budget.
- (b) The impact, value of, and ways to improve a credit score.
- (c) The importance and methodology of establishing household savings.
- (d) Ways to obtain a free copy of a credit report.
- (e) Ways to dispute an error in a credit report.
- (f) Ways to manage and prevent identity theft.

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

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

516.38 Annual reports by licensees.—

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

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

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

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

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

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

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

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

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

- 2. Five thousand and one dollars to \$10,000.
- 3. Ten thousand and one dollars to \$15,000.
- 4. Fifteen thousand and one dollars to \$20,000.
- 5. Twenty thousand and one dollars to \$25,000.

(g) The total dollar amount of loans and the number of loans charged off as of December 31 of the preceding calendar year.

(h) The total dollar amount of loans and the number of loans with delinquency status listed as:

- 1. Current or less than 30 days past due.
- 2. From 30 to 59 days past due.
- 3. From 60 to 89 days past due.
- 4. At least 90 days past due.

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

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

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

516.39 Suspension of penalties and remedial measures after federal disaster declaration.—In the event of a Federal Emergency Management Agency response to a Presidential Disaster Declaration in the state, a licensee operating in a county designated in the declaration must suspend for a period of 90 days after the date of the initial declaration the following:

- (1) The application of delinquency charges under s. 516.031(3)(a)9.
- (2) Repossessions of collateral pledged to loans made under this chapter.
- (3) The filing of civil actions for the collection of amounts owed for loans made under this chapter.

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

516.19 Penalties.—Any person who violates any of the provisions of s. 516.02, s. 516.031, s. 516.05(3), s. 516.05(6), or s. 516.07(1)(e) commits a

misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

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

Approved by the Governor June 28, 2024.

Filed in Office Secretary of State June 28, 2024.