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CS/HB 1347

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1
2 An act relating to consumer finance loans; amending s.
3 516.01, F.S.; defining the term "branch"; amending s.
4 516.02, F.S.; prohibiting a person from operating a
5 branch of a business making consumer finance loans
6 before obtaining a license from the Office of
7 Financial Regulation; amending s. 516.03, F.S.;
8 specifying application fees for branch licenses;
9 revising the applicability of investigation fees;
10 making a technical change; amending s. 516.031, F.S.;
11 revising the maximum interest rates and the
12 calculation of interest rates on consumer finance
13 loans; revising the minimum amount of time before
14 which a delinquency charge for each payment in default
15 may be imposed; amending s. 516.15, F.S.; requiring
16 licensees offering an assistance program to borrowers
17 after a federally declared major disaster to send a
18 specified notice to the office within a certain
19 timeframe; providing construction; requiring licensees
20 to offer to borrowers credit education programs or
21 seminars; providing topics for such programs or
22 seminars; requiring that such programs or seminars be
23 free; prohibiting licensees from requiring borrowers
24 to participate in such programs or seminars as a
25 condition of receiving loans; creating s. 516.38,

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26 F.S.; requiring licensees to file annual reports with
 27 the office; providing for rulemaking by the Financial
 28 Services Commission; specifying requirements for the
 29 reports; providing requirements for a licensee
 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 amended to
 43 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 (2)-(3) "Commission" means the Financial Services

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51 Commission.

52 (3)~~(1)~~ "Consumer finance borrower" or "borrower" means a
 53 person who has incurred either direct or contingent liability to
 54 repay a consumer finance loan.

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

61 (5)~~(8)~~ "Control person" means an individual, partnership,
 62 corporation, trust, or other organization that possesses the
 63 power, directly or indirectly, to direct the management or
 64 policies of a company, whether through ownership of securities,
 65 by contract, or otherwise. A person is presumed to control a
 66 company if, with respect to a particular company, that person:

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

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

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

75 (6)~~(5)~~ "Interest" means the cost of obtaining a consumer

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76 | finance loan and includes any profit or advantage of any kind
 77 | whatsoever that a lender may charge, contract for, collect,
 78 | receive, or in anywise obtain, including by means of any
 79 | collateral sale, purchase, or agreement, as a condition for a
 80 | consumer finance loan. Charges specifically permitted by this
 81 | chapter, including commissions received for insurance written as
 82 | permitted by this chapter, shall not be deemed interest.

83 | ~~(7)-(6)~~ "License" means a permit issued under this chapter
 84 | to make and collect loans in accordance with this chapter at a
 85 | single place of business.

86 | ~~(8)-(7)~~ "Licensee" means a person to whom a license is
 87 | issued.

88 | ~~(9)-(4)~~ "Office" means the Office of Financial Regulation
 89 | of the commission.

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 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.—

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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
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

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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
 140 up to \$25,000. A licensee may not take a security interest
 141 secured by land on any loan less than \$1,000. The licensee may
 142 charge, contract for, and receive thereon interest charges as
 143 provided and authorized by this section. The maximum interest
 144 rate shall be 36 ~~30~~ percent per annum, computed on the first
 145 \$10,000 ~~\$3,000~~ of the principal amount; 30 ~~24~~ percent per annum
 146 on that part of the principal amount exceeding \$10,000 ~~\$3,000~~
 147 and up to \$20,000 ~~\$4,000~~; and 24 ~~18~~ percent per annum on that
 148 part of the principal amount exceeding \$20,000 ~~\$4,000~~ and up to
 149 \$25,000. The original principal amount as used in this section
 150 is the same as the amount financed as defined by the federal

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151 Truth in Lending Act and Regulation Z of the Board of Governors
 152 of the Federal Reserve System. In determining compliance with
 153 the statutory maximum interest and finance charges set forth
 154 herein, the computations used shall be simple interest and not
 155 add-on interest or any other computations. If two or more
 156 interest rates are applied to the principal amount of a loan,
 157 the licensee may charge, contract for, and receive interest at
 158 that single annual percentage rate which, if applied according
 159 to the actuarial method to each of the scheduled periodic
 160 balances of principal, would produce at maturity the same total
 161 amount of interest as would result from the application of the
 162 two or more rates otherwise permitted, based upon the assumption
 163 that all payments are made as agreed.

164 (3) OTHER CHARGES.—

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

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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:

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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
 204 for 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 physical or electronic format and include all of the

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226 following information, subject to change as any additional
 227 declaration is issued or any declaration is revoked:

228 (a) The licensed locations affected by the disaster
 229 declaration, including the 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
 233 available to borrowers in the affected areas.

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,
 239 waivers of late fees, payment modifications, or changes in
 240 payment due dates.

241 (6) Offer the borrower at the time a loan is made a credit
 242 education program or seminar provided, in writing or by
 243 electronic means, by the licensee or a third-party provider. 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

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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:

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
 272 this 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.

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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.
- 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.

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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.
 320 516.031(3)(a)9.

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

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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.