

By Senator Richter

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A bill to be entitled

An act relating to consumer finance charges; amending s. 516.031, F.S.; increasing the proportionate loan amounts that are subject to descending maximum rates of interest; increasing the maximum delinquency charge that may be imposed for each loan payment in default for not less than a specified time; reenacting and amending s. 516.19, F.S., relating to penalties, for the purpose of incorporating the amendment made to s. 516.031, F.S., in a reference thereto; providing penalties; making technical and grammatical changes; providing applicability; providing an effective date.

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

Section 1. 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 ~~Every~~ licensee may lend any sum of money up to not exceeding \$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 30 percent per annum, computed on the first \$3,000 ~~\$2,000~~ of the principal amount ~~as computed from time to time~~; 24 percent per annum on that part of the principal amount ~~as computed from time to time~~ exceeding \$3,000 ~~\$2,000~~ and up to \$4,000 ~~not exceeding \$3,000~~; and 18 percent per annum on that part of the principal amount ~~as computed from time to time~~

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30 exceeding \$4,000 ~~\$3,000~~ and up to not exceeding \$25,000. The
31 original principal amount as used in this section is ~~shall be~~
32 the same ~~amount~~ as the amount financed as defined by the federal
33 Truth in Lending Act and Regulation Z of the Board of Governors
34 of the Federal Reserve System. In determining compliance with
35 the statutory maximum interest and finance charges set forth
36 herein, the computations used ~~utilized~~ shall be simple interest
37 and not add-on interest or any other computations. If ~~When~~ two
38 or more interest rates are ~~to be~~ applied to the principal amount
39 of a loan, the licensee may charge, contract for, and receive
40 interest at that single annual percentage rate which, if applied
41 according to the actuarial method to each of the scheduled
42 periodic balances of principal, would produce at maturity the
43 same total amount of interest as would result from the
44 application of the two or more rates otherwise permitted, based
45 upon the assumption that all payments are made as agreed.

46 (3) OTHER CHARGES.—

47 (a) In addition to the interest, delinquency, and insurance
48 charges ~~herein~~ provided in this section ~~for~~, ~~no~~ further or other
49 charges or amount ~~whatsoever~~ for any examination, service,
50 commission, or other thing or otherwise may not ~~shall~~ be
51 directly or indirectly charged, contracted for, or received as a
52 condition to the grant of a loan, except:

53 1. An amount of up to not to exceed \$25 to reimburse a
54 portion of the costs for investigating the character and credit
55 of the person applying for the loan;

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

58 3. Charges paid for the brokerage fee on a loan or line of

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59 credit of more than \$10,000, title insurance, and the appraisal
60 of real property offered as security if ~~when~~ paid to a third
61 party and supported by an actual expenditure;

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

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

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

75 7. Actual and reasonable attorney ~~attorney's~~ fees and court
76 costs as determined by the court in which suit is filed;

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

80 9. A delinquency charge of up to \$15 ~~not to exceed \$10~~ for
81 each payment in default for at least ~~a period of not less than~~
82 10 days, ~~if~~ the charge is agreed upon, in writing, between the
83 parties before imposing the charge.

84
85 Any charges, including interest, in excess of the combined total
86 of all charges authorized and permitted by this chapter
87 constitute a violation of chapter 687 governing interest and

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88 usury, and the penalties of that chapter apply. In the event of
89 a bona fide error, the licensee shall refund or credit the
90 borrower with the amount of the overcharge immediately but
91 within 20 days after ~~from~~ the discovery of such error.

92 Section 2. For the purpose of incorporating the amendment
93 made by this act to section 516.031, Florida Statutes, in a
94 reference thereto, section 516.19, Florida Statutes, is
95 reenacted and amended to read:

96 516.19 Penalties.—Any person who violates any of the
97 provisions of s. 516.02, s. 516.031, s. 516.05(3), s. 516.05(6),
98 or s. 516.07(1)(e) commits ~~is guilty of~~ a misdemeanor of the
99 first degree, punishable as provided in s. 775.082 or s.
100 775.083.

101 Section 3. This act shall take effect July 1, 2013, and
102 applies to all consumer finance loans entered into on or after
103 that date.