

By the Committee on Banking and Insurance; and Senator Gibson

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1 A bill to be entitled
2 An act relating to consumer finance loans; amending s.
3 516.03, F.S.; authorizing an applicant for a license
4 to make and collect loans under the Florida Consumer
5 Finance Act to provide certain documents in lieu of
6 evidence of liquid assets; amending s. 516.031, F.S.;
7 prohibiting a person licensed to make and collect
8 consumer finance loans from charging prepayment
9 penalties for loans; amending s. 516.05, F.S.;
10 authorizing an applicant for a license to make and
11 collect consumer finance loans or a licensee to
12 provide a surety bond, certificate of deposit, or
13 letter of credit in lieu of evidence of liquid assets;
14 providing requirements for such bonds, certificates of
15 deposit, and letters of credit; providing rulemaking
16 authority; amending s. 516.07, F.S.; amending grounds
17 for denial of license or disciplinary action; amending
18 s. 516.36, F.S.; providing requirements for loan
19 terms; amending s. 559.952, F.S.; revising exceptions
20 for a licensee during the Financial Technology Sandbox
21 period; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

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

27 516.03 Application for license; fees; etc.—

28 (1) APPLICATION.—Application for a license to make loans
29 under this chapter shall be in the form prescribed by rule of

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30 the commission. The commission may require each applicant to
31 provide any information reasonably necessary to determine the
32 applicant's eligibility for licensure. The applicant shall also
33 provide information that the office requires concerning any
34 officer, director, control person, member, partner, or joint
35 venturer of the applicant or any person having the same or
36 substantially similar status or performing substantially similar
37 functions or concerning any individual who is the ultimate
38 equitable owner of a 10-percent or greater interest in the
39 applicant. The office may require information concerning any
40 such applicant or person, including, but not limited to, his or
41 her full name and any other names by which he or she may have
42 been known, age, social security number, residential history,
43 qualifications, educational and business history, and
44 disciplinary and criminal history. The applicant must provide
45 evidence of liquid assets of at least \$25,000 or documents
46 satisfying the requirements of s. 516.05(10). At the time of
47 making such application the applicant shall pay to the office a
48 nonrefundable biennial license fee of \$625. Applications, except
49 for applications to renew or reactivate a license, must also be
50 accompanied by a nonrefundable investigation fee of \$200. An
51 application is considered received for purposes of s. 120.60
52 upon receipt of a completed application form as prescribed by
53 commission rule, a nonrefundable application fee of \$625, and
54 any other fee prescribed by law. The commission may adopt rules
55 requiring electronic submission of any form, document, or fee
56 required by this act if such rules reasonably accommodate
57 technological or financial hardship. The commission may
58 prescribe by rule requirements and procedures for obtaining an

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59 exemption due to a technological or financial hardship.

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

62 516.031 Finance charge; maximum rates.—

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

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

69 516.05 License.—

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

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

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

83 (b) In lieu of a surety bond, the applicant or the licensee
84 may provide evidence of a certificate of deposit or an
85 irrevocable letter of credit in the same amount of the surety
86 bond required under paragraph (a). The certificate of deposit
87 must be deposited in a financial institution, as defined in s.

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88 655.005(1)(i).

89 (c) The original surety bond, certificate of deposit, or
90 letter of credit must be filed with the office, and the office
91 must be named as beneficiary. The surety bond, certificate of
92 deposit, or letter of credit must be for the use and benefit of
93 any borrower who is injured by acts of a licensee involving
94 fraud, misrepresentation, or deceit, including willful
95 imposition of illegal or excessive charges, or
96 misrepresentation, circumvention, or concealment of any matter
97 required to be stated or furnished to a borrower, where such
98 acts are in connection with a loan made under this chapter. The
99 office, or any claimant, may bring an action in a court of
100 competent jurisdiction on the surety bond, certificate of
101 deposit, or letter of credit. The surety bond, certificate of
102 deposit, or letter of credit must be payable on a pro rata
103 basis, but the aggregate amount may not exceed the amount of the
104 surety bond, certificate of deposit, or letter of credit.

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

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

116 (f) If the principal sum of the surety bond, certificate of

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

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

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

134 Section 4. Paragraph (b) of subsection (1) of section
135 516.07, Florida Statutes, is amended to read:

136 516.07 Grounds for denial of license or for disciplinary
137 action.—

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

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

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146 location.

147 Section 5. Section 516.36, Florida Statutes, is amended to
148 read:

149 516.36 Installment requirement.—

150 (1) Every loan made pursuant to this chapter must be repaid
151 in periodic installments as nearly equal as mathematically
152 practicable, except that the final payment may be less than the
153 amount of the prior installments. Installments may be due every
154 2 weeks, semimonthly, or monthly. This section does not apply to
155 lines of credit.

156 (2) Every loan, including a refinancing, made pursuant to
157 this chapter on or after October 1, 2021, must have a minimum
158 loan term of 6 months.

159 Section 6. Paragraph (a) of subsection (4) of section
160 559.952, Florida Statutes, is amended to read:

161 559.952 Financial Technology Sandbox.—

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

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

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

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

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

180 4. Section 560.118(2).

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

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

190 7. Section 560.128.

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

193 9. Section 560.142(1) and (2), except that the office may
194 prorate, but may not entirely eliminate, the license renewal
195 fees in s. 560.143 for an extension granted under subsection
196 (7).

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

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

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204 12. Section 560.205(2).

205 13. Section 560.208(2).

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

213 Section 7. This act shall take effect October 1, 2021.