

1 A bill to be entitled
 2 An act relating to consumer finance; amending s.
 3 516.031, F.S.; authorizing a licensee to make
 4 specified loans under certain conditions; revising
 5 provisions relating to certain other charges for
 6 consumer loans; amending s. 516.36, F.S.; revising
 7 installment requirements for consumer loans; providing
 8 an effective date.

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

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 12 Section 1. Subsection (1) and paragraph (b) of subsection
 13 (3) of section 516.031, Florida Statutes, are amended to read:
 14 516.031 Finance charge; maximum rates.—

15 (1) INTEREST RATES.—A licensee may lend any sum of money
 16 up to \$25,000. A licensee may not take a security interest
 17 secured by land on any loan less than \$1,000. The licensee may
 18 charge, contract for, and receive thereon interest charges as
 19 provided and authorized by this section. If two or more interest
 20 rates are applied to the principal amount of a loan, the
 21 licensee may charge, contract for, and receive interest at that
 22 single annual percentage rate which, if applied according to the
 23 actuarial method to each of the scheduled periodic balances of
 24 principal, would produce at maturity the same total amount of
 25 interest as would result from the application of the two or more

26 | rates otherwise permitted, based upon the assumption that all
 27 | payments are made as agreed.

28 | (a) Except as provided in paragraph (b), the maximum
 29 | interest rate shall be 30 percent per annum, computed on the
 30 | first \$3,000 of the principal amount; 24 percent per annum on
 31 | that part of the principal amount exceeding \$3,000 and up to
 32 | \$4,000; and 18 percent per annum on that part of the principal
 33 | amount exceeding \$4,000 and up to \$25,000. The original
 34 | principal amount as used in this paragraph ~~section~~ is the same
 35 | as the amount financed as defined by the federal Truth in
 36 | Lending Act and Regulation Z of the federal Consumer Financial
 37 | Protection Bureau ~~Board of Governors of the Federal Reserve~~
 38 | ~~System~~. In determining compliance with the statutory maximum
 39 | interest and finance charges set forth in this subsection
 40 | herein, the computations used must ~~shall~~ be simple interest and
 41 | not add-on interest or any other computations.

42 | (b) A licensee may make a loan in a principal amount less
 43 | than \$10,000, and charge, contract for, and receive interest
 44 | charges and other charges authorized by this chapter, subject to
 45 | the following:

46 | 1. A borrower may rescind the loan by notifying the
 47 | licensee of such intent, and returning to the licensee the full
 48 | principal amount of the loan advanced to the borrower within 1
 49 | business day after the date the loan is made. The licensee must
 50 | disclose such right in writing to the borrower before the loan

51 is made.

52 2. A licensee may not take any security interest on the
53 loan.

54 3. The term of the loan may not be less than 120 days.

55 4. The maximum annual interest rate of the loan shall be
56 36 percent per annum, computed on the original principal
57 amount of the loan. The interest rate of the loan calculated
58 as of the date the loan is made must be fixed for the life of
59 the loan. The original principal amount of the loan is equal
60 to the amount financed as defined by the federal Truth in
61 Lending Act and Regulation Z of the federal Consumer Financial
62 Protection Bureau. In determining compliance with the
63 statutory maximum interest rate in this paragraph, the
64 computations used must be simple interest and may not be add-
65 on interest or any other computations.

66 5. A licensee may not induce or permit any person to
67 become obligated to the licensee, directly or contingently, or
68 both, under more than one loan with the licensee made under this
69 paragraph at the same time.

70 6. A licensee may not refinance a loan made under this
71 paragraph with another loan made under this paragraph, unless
72 the borrower has repaid at least 60 percent of the outstanding
73 principal remaining on his or her loan and his or her
74 outstanding loan is not in default. For purposes of this
75 paragraph, the term "refinance" means the replacement or

76 revision of an existing loan contract with a borrower that
77 results in an extension of additional principal to that
78 borrower.

79 7. The licensee must underwrite each loan to determine a
80 borrower's ability and willingness to repay the loan pursuant to
81 the loan terms, and may not make a loan if it determines,
82 through its underwriting, that the borrower's total monthly debt
83 service payments, at the time of loan origination, including the
84 loan for which the borrower is being considered, and across all
85 outstanding forms of credit that can be independently verified
86 by the licensee, exceed 50 percent of the borrower's gross
87 monthly income. The licensee must seek information and
88 documentation relating to all of a borrower's outstanding debt
89 obligations during the loan application and underwriting
90 process, including loans that are self-reported by the borrower
91 and not available for independent verification by the licensee.
92 The licensee must verify such information and documentation
93 using a credit report from at least one consumer reporting
94 agency that compiles and maintains files on consumers on a
95 nationwide basis or using other available electronic debt
96 verification services that provide reliable evidence of a
97 borrower's outstanding debt obligations. The licensee must also
98 verify the borrower's income upon which the licensee relies to
99 determine the borrower's debt-to-income ratio using reliable
100 evidence of the borrower's actual income.

101 8. The licensee must report each borrower's full payment
102 performance under the loan, including positive payment
103 performance, to at least one consumer reporting agency that
104 compiles and maintains files on consumers on a nationwide basis
105 as defined in s. 603(p) of the federal Fair Credit Reporting
106 Act, 15 U.S.C. s. 1681a(p), upon the licensee's acceptance as a
107 data furnisher by that consumer reporting agency.

108 9. Before making the loan, the licensee must disclose in
109 writing to the borrower information about the office's consumer
110 credit counseling services available under s. 516.32.

111 10.a. A licensee may not initiate a payment transfer from
112 a borrower's bank account in connection with collecting an
113 amount due under the loan after the licensee has attempted to
114 initiate the payment transfer two consecutive times and each
115 attempt resulted in a return indicating that the borrower's bank
116 account lacked sufficient funds. A licensee may collect only one
117 insufficient funds fee for each payment transfer that is
118 dishonored, regardless of whether the payment transfer was
119 initiated and dishonored a second time. A licensee may not
120 condition the making of a loan on the borrower's repayment by
121 one or more electronic funds transfers or predated checks.

122 b. For purposes of this paragraph, the term "payment
123 transfer" means a debit or funds withdrawal and includes, but is
124 not limited to, an electronic funds transfer as defined in the
125 federal Electronic Funds Transfer Act and Regulation E of the

126 federal Consumer Financial Protection Bureau, or a paper check
127 processed through a funds-transfer system, as defined in s.
128 670.105, or through the Automated Clearing House (ACH) network.
129 ~~If two or more interest rates are applied to the principal~~
130 ~~amount of a loan, the licensee may charge, contract for, and~~
131 ~~receive interest at that single annual percentage rate which, if~~
132 ~~applied according to the actuarial method to each of the~~
133 ~~scheduled periodic balances of principal, would produce at~~
134 ~~maturity the same total amount of interest as would result from~~
135 ~~the application of the two or more rates otherwise permitted,~~
136 ~~based upon the assumption that all payments are made as agreed.~~

137 (3) OTHER CHARGES.—

138 (b) Notwithstanding ~~the provisions of~~ paragraph (a), any
139 lender of money who receives a check, draft, electronic funds
140 transfer as defined in the federal Electronic Funds Transfer Act
141 and Regulation E of the federal Consumer Financial Protection
142 Bureau, negotiable order of withdrawal, or like instrument or
143 transfer drawn on a bank or other depository institution, which
144 instrument or transfer is given by a borrower as full or partial
145 repayment of a loan, may, if such instrument or transfer is not
146 paid or is dishonored by such institution, make and collect from
147 the borrower an insufficient funds fee ~~a bad check charge~~ of not
148 more than the greater of \$20 or an amount equal to the actual
149 fee charged ~~charge made~~ to the lender by the depository
150 institution for the return of the unpaid or dishonored

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151 instrument or transfer.

152 Section 2. Section 516.36, Florida Statutes, is amended to
153 read:

154 516.36 ~~Monthly~~ Installment requirement.—Every loan made
155 pursuant to this chapter shall be repaid in approximately equal,
156 periodic ~~monthly~~ installments, except that the amount of the
157 final installment may be less than the amount of the prior
158 installments. Installments must be paid biweekly or monthly ~~as~~
159 nearly equal as mathematically practicable. This section shall
160 not apply to lines of credit.

161 Section 3. This act shall take effect July 1, 2017.