

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 a bond, certificate of deposit,
6 or letter of credit in lieu of liquid assets; amending
7 s. 516.031, F.S.; revising references to implementing
8 regulations of the federal Truth in Lending Act;
9 prohibiting a person licensed to make and collect
10 consumer finance loans from charging prepayment
11 penalties for loans; amending s. 516.05, F.S.;
12 authorizing an applicant for a license to make and
13 collect consumer finance loans or a licensee to
14 provide a surety bond, certificate of deposit, or
15 letter of credit in lieu of liquid assets; providing
16 requirements for such bonds, certificates of deposit,
17 and letters of credit; providing rulemaking authority;
18 amending s. 516.07, F.S.; amending grounds for denial
19 of license or disciplinary action; amending s. 516.36,
20 F.S.; providing requirements for loan terms; amending
21 s. 559.952, F.S.; revising exceptions for a licensee
22 during the Financial Technology Sandbox period;
23 providing an effective date.

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

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Section 1. 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 in 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. Applications, except

51 | for applications to renew or reactivate a license, must also be
52 | accompanied by a nonrefundable investigation fee of \$200. An
53 | application is considered received for purposes of s. 120.60
54 | upon receipt of a completed application form as prescribed by
55 | commission rule, a nonrefundable application fee of \$625, and
56 | any other fee prescribed by law. The commission may adopt rules
57 | requiring electronic submission of any form, document, or fee
58 | required by this act if such rules reasonably accommodate
59 | technological or financial hardship. The commission may
60 | prescribe by rule requirements and procedures for obtaining an
61 | exemption due to a technological or financial hardship.

62 | Section 2. Subsections (1) and (2) of section 516.031,
63 | Florida Statutes, are amended, and subsection (6) is added to
64 | that section, to read:

65 | 516.031 Finance charge; maximum rates.—

66 | (1) INTEREST RATES.—A licensee may lend any sum of money
67 | up to \$25,000. A licensee may not take a security interest
68 | secured by land on any loan less than \$1,000. The licensee may
69 | charge, contract for, and receive thereon interest charges as
70 | provided and authorized by this section. The maximum interest
71 | rate shall be 30 percent per annum, computed on the first \$3,000
72 | of the principal amount; 24 percent per annum on that part of
73 | the principal amount exceeding \$3,000 and up to \$4,000; and 18
74 | percent per annum on that part of the principal amount exceeding
75 | \$4,000 and up to \$25,000. The original principal amount as used

76 | in this section is the same as the amount financed as defined by
77 | the federal Truth in Lending Act and Regulation Z of the
78 | Consumer Financial Protection Bureau ~~Board of Governors of the~~
79 | ~~Federal Reserve System~~. In determining compliance with the
80 | statutory maximum interest and finance charges set forth herein,
81 | the computations used shall be simple interest and not add-on
82 | interest or any other computations. If two or more interest
83 | rates are applied to the principal amount of a loan, the
84 | licensee may charge, contract for, and receive interest at that
85 | single annual percentage rate which, if applied according to the
86 | actuarial method to each of the scheduled periodic balances of
87 | principal, would produce at maturity the same total amount of
88 | interest as would result from the application of the two or more
89 | rates otherwise permitted, based upon the assumption that all
90 | payments are made as agreed.

91 | (2) ANNUAL PERCENTAGE RATE UNDER FEDERAL TRUTH IN LENDING
92 | ACT.—The annual percentage rate of finance charge which may be
93 | contracted for and received under any loan contract made by a
94 | licensee under this chapter may equal, but not exceed, the
95 | annual percentage rate which must be computed and disclosed as
96 | required by the federal Truth in Lending Act and Regulation Z of
97 | the Consumer Financial Protection Bureau ~~Board of Governors of~~
98 | ~~the Federal Reserve System~~. The maximum annual percentage rate
99 | of finance charge which may be contracted for and received is 12
100 | times the maximum monthly rate, and the maximum monthly rate

101 shall be computed on the basis of one-twelfth of the annual rate
 102 for each full month. The commission shall by rule establish the
 103 rate for each day in a fraction of a month when the period for
 104 which the charge is computed is more or less than 1 month.

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

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

111 516.05 License.—

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

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

118 2. A company with at least one currently licensed location
 119 must provide to the office a rider or surety bond, in the amount
 120 of at least \$5,000 for each additional license, issued by a
 121 bonding company or insurance company authorized to do business
 122 in this state. However, in no event may the aggregate amount of
 123 the surety bond required for a company with multiple licenses
 124 exceed \$100,000.

125 (b) In lieu of a surety bond, the applicant or the

126 licensee may provide evidence of a certificate of deposit or an
127 irrevocable letter of credit in the same amount of the surety
128 bond required under paragraph (a). The certificate of deposit
129 must be deposited in a financial institution, as defined in s.
130 655.005(1)(i). The letter of credit must be issued by a
131 financial institution, as defined in s. 655.005(1)(i).

132 (c) The original surety bond, certificate of deposit, or
133 letter of credit must be filed with the office, and the office
134 must be named as beneficiary. The surety bond, certificate of
135 deposit, or letter of credit must be for the use and benefit of
136 any borrower who is injured by acts of a licensee involving
137 fraud, misrepresentation, or deceit, including willful
138 imposition of illegal or excessive charges; or
139 misrepresentation, circumvention, or concealment of any matter
140 required to be stated or furnished to a borrower, where such
141 acts are in connection with a loan made under this chapter. The
142 office, or any claimant, may bring an action in a court of
143 competent jurisdiction on the surety bond, certificate of
144 deposit, or letter of credit. The surety bond, certificate of
145 deposit, or letter of credit must be payable on a pro rata
146 basis, but the aggregate amount may not exceed the amount of the
147 surety bond, certificate of deposit, or letter of credit.

148 (d) The surety bond, certificate of deposit, or letter of
149 credit may not be cancelled by the licensee, bonding or
150 insurance company, or financial institution except upon notice

151 to the office by certified mail. A cancellation may not take
152 effect until 30 calendar days after receipt by the office of the
153 written notice.

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

159 (f) If the principal sum of the surety bond, certificate
160 of deposit, or letter of credit is reduced by one or more
161 recoveries or payments, the licensee must furnish to the office
162 a new or additional surety bond, certificate of deposit, or
163 letter of credit so that the total or aggregate principal sum
164 equals the amount required under this subsection. Alternatively,
165 a licensee may furnish an endorsement executed by the bonding or
166 insurance company or financial institution reinstating the
167 required principal amount.

168 (g) The required surety bond, certificate of deposit, or
169 letter of credit must remain in place for 2 years after the
170 licensee ceases licensed operations in this state. During the 2
171 year period, the office may allow for a reduction or elimination
172 of the surety bond, certificate of deposit, or letter of credit
173 to the extent the licensee's outstanding consumer finance loans
174 in this state are reduced.

175 (h) The commission may prescribe by rule forms and

176 procedures to implement this subsection.

177 Section 4. Paragraph (b) of subsection (1) of section
178 516.07, Florida Statutes, is amended to read:

179 516.07 Grounds for denial of license or for disciplinary
180 action.—

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

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

190 Section 5. Section 516.36, Florida Statutes, is amended to
191 read:

192 516.36 Installment requirement.—

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

199 (2) Every loan, including a refinancing, made pursuant to
200 this chapter on or after October 1, 2021, must have a minimum

201 loan term of at least 6 months.

202 Section 6. Paragraph (a) of subsection (4) of section
203 559.952, Florida Statutes, is amended to read:

204 559.952 Financial Technology Sandbox.—

205 (4) EXCEPTIONS TO GENERAL LAW AND WAIVERS OF RULE
206 REQUIREMENTS.—

207 (a) Notwithstanding any other law, upon approval of a
208 Financial Technology Sandbox application, the following
209 provisions and corresponding rule requirements are not
210 applicable to the licensee during the sandbox period:

211 1. Section 516.03(1), except for the application fee, the
212 investigation fee, the requirement to provide the social
213 security numbers of control persons, evidence of liquid assets
214 of at least \$25,000 or documents satisfying the requirements in
215 s. 516.05(10), and the office's authority to investigate the
216 applicant's background. The office may prorate the license
217 renewal fee for an extension granted under subsection (7).

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

220 3. Section 560.109, only to the extent that the section
221 requires the office to examine a licensee at least once every 5
222 years.

223 4. Section 560.118(2).

224 5. Section 560.125(1), only to the extent that the
225 subsection would prohibit a licensee from engaging in the

226 business of a money transmitter or payment instrument seller
 227 during the sandbox period.

228 6. Section 560.125(2), only to the extent that the
 229 subsection would prohibit a licensee from appointing an
 230 authorized vendor during the sandbox period. Any authorized
 231 vendor of such a licensee during the sandbox period remains
 232 liable to the holder or remitter.

233 7. Section 560.128.

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

236 9. Section 560.142(1) and (2), except that the office may
 237 prorate, but may not entirely eliminate, the license renewal
 238 fees in s. 560.143 for an extension granted under subsection
 239 (7).

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

242 11. Section 560.204(1), only to the extent that the
 243 subsection would prohibit a licensee from engaging in, or
 244 advertising that it engages in, the selling or issuing of
 245 payment instruments or in the activity of a money transmitter
 246 during the sandbox period.

247 12. Section 560.205(2).

248 13. Section 560.208(2).

249 14. Section 560.209, only to the extent that the office
 250 may modify, but may not entirely eliminate, the net worth,

251 corporate surety bond, and collateral deposit amounts required
252 under that section. The modified amounts must be in such lower
253 amounts that the office determines to be commensurate with the
254 factors under paragraph (5)(c) and the maximum number of
255 consumers authorized to receive the financial product or service
256 under this section.

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