

1984

Session Law 84-193

Florida Senate & House of Representatives

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LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT

Year 1984	Session Law No. 84-193	LOF Cite I, 1, 534, 596-7	#pp
Prime Bill# SB 321	Sponsor	Comp./Sim. Bills HR 401	
JLMC Hist. Leg. Cites	Senate pp.#s	House pp.#s 143-4	#pp
Committee of Ref.	Senate Commerce	House Commerce (subcommittee)	Previous versions? SB 932, HB 238; SB 401, SF 406

Committee Records

H/S	Committee	Year	Record Series: Folder Title, etc.	Location Cite	#pp
H		1980		18/1-9	
"		1980		18/1-9	
S	ELCA	1981	SF 401	18/1-11	
"		1980	SB 321	18/1358	
"	Commerce	1982		18/110	6
"			SF 401	"	✓
"			Subcommittee	18/1275	2
"			Bill	18/1271	1
"		1980	SF 321	18/1401	

Senate/House Journals

Page	?	Date	#pp	Page	?	Date	#pp

Tape Recordings

H/S	Floor	Committee/subcommittee	Date	# Tapes	Location Cite

Other Documentation

Record series title, folder title, etc.	Location Cite	#pp

By Representative Silver

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A bill to be entitled
An act relating to interest and finance;
amending s. 516.031, F.S.; providing that the
limitation on charges received by consumer
finance licensees applies to charges received
as a condition to the grant of a loan;
authorizing certain additional charges;
amending s. 516.15, F.S.; revising requirements
relating to statements and receipts which
licensees must furnish borrowers; amending s.
516.20, F.S.; revising the definition of
"interest"; amending s. 687.08, F.S.; revising
requirements relating to receipts which lenders
must furnish borrowers; providing an effective
date.

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

Section 1. Subsection (3) of section 516.031, Florida
Statutes, is amended, and subsection (6) is added to said
section to read:

516.031 Finance charge; maximum rates.--

(3) OTHER CHARGES.--

(a) In addition to the interest and insurance charges
herein provided for, no further or other charges or amount
whatsoever for any examination, service, brokerage,
commission, or other thing or otherwise shall be directly or
indirectly charged, contracted for, or received as a condition
to the grant of the loan, except charges paid for title
insurance and appraisal of real property offered as security
when paid to a third party and supported by an actual

1	expenditure; intangible personal property tax on the loan note	
2	or obligation when secured by a lien on real property; the	1.26
3	documentary excise tax and lawful fees, if any, actually and	1.27
4	necessarily paid out by the licensee to any public officer for	1.28
5	filing, recording, or releasing in any public office any	1.29
6	instrument securing the loan, <u>or the premium payable for any</u>	
7	<u>insurance in lieu of perfecting any security interest</u>	1.30
8	<u>otherwise required by the licensee in connection with the</u>	1.31
9	<u>loan, if the premium does not exceed the fees which would</u>	
10	<u>otherwise be payable, which fees or premium may be collected</u>	1.33
11	when the loan is made or at any time thereafter; or actual and	
12	reasonable attorney's fees as determined by the court in which	1.34
13	suit is filed and court costs, including the actual and	1.35
14	reasonable expenses of repossession, storing, repairing and	1.36
15	placing in condition for sale, and selling of any property	
16	pledged as security. Any charges, including interest, in	1.38
17	excess of the combined total of all charges authorized and	1.39
18	permitted by this chapter shall constitute a violation of	
19	chapter 687 governing interest and usury, and the penalties of	1.40
20	chapter 687 shall apply. In the event of a bona fide error,	1.42
21	the licensee shall refund or credit the borrower with the	
22	amount of such overcharge immediately but within 20 days from	1.43
23	the discovery of such error.	
24	<u>(b) Notwithstanding the provisions of paragraph (a),</u>	1:1us
25	<u>any licensee who receives a check, draft, negotiable order of</u>	1.45
26	<u>withdrawal or like instrument drawn on a bank or other</u>	1.46
27	<u>depository institution given by any borrower as full or</u>	1.47
28	<u>partial repayment of a loan may, if such instrument is not</u>	
29	<u>paid or is dishonored by such institution, make and collect</u>	1.48
30	<u>from the borrower a bad check charge of not more than the</u>	
31	<u>greater of either \$10 or an amount equal to the actual charge</u>	1.49

1	<u>made to the licensee by the depository institution for the</u>	1.50
2	<u>return of the unpaid or dishonored instrument.</u>	
3	<u>(6) If all or part of the consideration for a new loan</u>	1.51
4	<u>contract is the unpaid principal balance of a prior loan with</u>	1.52
5	<u>the licensee, then the principal amount payable under the new</u>	1.53
6	<u>loan contract may include not more than 60 days' unpaid</u>	
7	<u>interest which has accrued on the prior loan.</u>	1.54
8	Section 2. Subsections (1) and (2) of section 516.15,	1.55
9	Florida Statutes, are amended to read:	1.56
10	516.15 Duties of licensee.--Every licensee shall:	1.57
11	(1) Deliver to the borrower at the time a loan is made	1.59
12	a statement in the English language showing in clear and	
13	distinct terms the amount and date of the loan and of its	1.60
14	maturity, the nature of the security, if any, for the loan,	1.61
15	the name and address of the borrower and of the licensee, and	1.63
16	the rate of interest charged. Upon such statement these shall	1:105
17	be printed in English a copy of s. 516.031.	1.66
18	(2) Give to the borrower a plain and complete receipt	1.67
19	for all payments made on account of any loan at the time	1.68
20	payments are made, or, <u>alternatively, furnish to the borrower</u>	
21	<u>an annual statement showing the interest paid on the loan</u>	1.69
22	<u>during the previous year as well as the remaining balance on</u>	1.70
23	<u>the loan; however, a simple receipt shall be given to the</u>	
24	<u>borrower for all payments made in cash.</u>	1.71
25	Section 3. Subsection (1) of section 516.20, Florida	1.71
26	Statutes, is amended to read:	
27	516.20 "Interest" defined.--	1.72
28	(1) Any profit or advantage of any kind whatsoever	1.73
29	that any licensee may contract for, collect, receive, or in	1.74
30	anywise obtain by a collateral sale, purchase, or agreement,	1.75
31	<u>as a condition to the grant of in connection with any loan</u>	1:105

1	regulated by this chapter, shall be deemed to be interest or	1.77
2	consideration for the purposes of regulation under this	1.78
3	chapter. Such transactions shall be governed by and subject	1.80
4	to the provisions of this Chapter, except commissions received	
5	as a person licensed by the Department of Insurance on	1.81
6	insurance written as hereinafter permitted. However, security	1.83
7	consisting of tangible property offered as security may be	1.84
8	reasonably insured against loss for a reasonable term,	
9	considering the circumstances of the loan, and such insurance	2.1
10	shall not be deemed such collateral sale, purchase, or	2.2
11	agreement when the policy is payable to the borrower or any	2.3
12	member of his family, even though the customary mortgagee	
13	clause is attached or the licensee is a coassured; provided	2.4
14	such insurance is sold at standard rates through a person duly	2.5
15	licensed by the Department of Insurance.	2.6
16	Section 4. Section 687.08, Florida Statutes, is	2.8
17	amended to read:	
18	687.08 Persons lending money to give borrower receipt	2.9
19	for payments; contents of receipt; penalty for violation.--	2.10
20	Every person, or the agent, officer, or other representative	2.11
21	of any person, lending money in this state upon security	2.12
22	shall, whenever the borrower of such money makes payment of	2.13
23	any money, either principal or interest, immediately upon such	2.14
24	payment being made, give to said borrower, a receipt, dated of	2.15
25	the date of such payment, which receipt shall state the amount	
26	paid and for what such payment is made. If such payment is	2.17
27	for interest on the sum borrowed, the receipt shall so state.	2.18
28	If the sum so paid is to be applied to the payment of the	2.20
29	principal sum borrowed, the receipt shall so state. All such	2.21
30	receipts shall be duly and properly signed by the person, or	2.22
31	the agent, officer or other representative of the person, to	2.23

1 | whom such money is paid. In lieu of providing such receipt, a 1:1
 2 | lender may furnish to the borrower an annual statement showing 2:2
 3 | the interest paid on the loan during the previous year as well 2:2
 4 | as the remaining balance on the loan; however, a simple 2:2
 5 | receipt shall be given to the borrower for all payments made
 6 | in cash. Whoever refuses, upon demand, to give a receipt or 2:2
 7 | statement complying with the requirements of this section 2:3
 8 | shall forfeit the entire interest upon said principal sum to
 9 | the borrower. 2:3

10 | Section 5. This act shall take effect October 1, 1984. 2:3

11 | *****

12 | HOUSE SUMMARY

13 | Provides that the limitation on charges which may be
 14 | received by a consumer finance licensee, and that the
 15 | definition of interest under the Florida Consumer Finance
 16 | Act, apply to charges received as a condition to the
 17 | grant of a loan. Authorizes imposition of charges for
 18 | premiums for insurance in lieu of perfecting a security
 19 | interest, imposition of bad check charges, and addition
 20 | of interest to the principal amount of a renewal loan.

21 | Authorizes lenders, including consumer finance licensees,
 22 | to furnish a borrower with an annual statement in lieu of
 23 | a receipt for payments made, except for cash payments.

ORIGINAL SENATE BILL No. 401

40-635-82

A BILL relating to
(Brief statement of subject)

interest rates;

Anderson

By Senator of the 40 District

By the Committee on

Chairman's signature

SENATE ACTION

Read 1st Time **JAN 18 1982**
Referred to Committees on

COMMERCE

Fav Unfav With Amend Com Sub

ECONOMIC, COMMUNITY & CONS AFFAIRS

Fav Unfav With Amend Com Sub

Fav Unfav With Amend Com Sub

Read 2nd Time
Read 3rd Time
and

Secretary of Senate

- Immediately Certified to House
- Laid on Table
- Motion to Reconsider by Senator

HOUSE AMENDMENTS ACTION — See reverse side

HOUSE ACTION

Read 1st Time
Referred to Committees on

Fav Unfav With Amend Com Sub

Fav Unfav With Amend Com Sub

Fav Unfav With Amend Com Sub

Read 2nd Time
Read 3rd Time
and

Clerk, House of Representatives

- Immediately Certified to Senate
- Laid on Table under Rule
- Motion to Reconsider pending

SENATE AMEND TO HOUSE AMEND ACTION —
See reverse side

1 A bill to be entitled
2 An act relating to interest rates; amending ss.
3 516.01, 516.02(1), 516.031(1) and (3), 516.19,
4 and 516.20, Florida Statutes, and repealing ss.
5 516.031(4), 516.035, 516.18, and 516.21,
6 Florida Statutes, defining "consumer loan"
7 under the Florida Consumer Finance Act;
8 deleting specific limitations on maximum rate
9 of interest allowed under said act and
10 providing that rates permitted under chapter
11 687, Florida Statutes, shall apply; providing a
12 penalty for charging in excess of allowed rates
13 and providing for application of penalties and
14 defenses under chapter 687; deleting a
15 prohibition against dividing loans; deleting
16 provisions relating to interest on default;
17 deleting a definition of "interest"; amending
18 ss 520.07(5), 520.08(1), 520.09, 520.10,
19 520.12, 520 125(1), 520.34(5)(a) and (10),
20 520.35(3), 520.37, 520.39, 520.57, 520.78,
21 520 84, 520 85, 520.86(2), and 520.99, Florida
22 Statutes, and repealing s. 520.79, Florida
23 Statutes, as amended; deleting specific
24 limitations on maximum rates of finance charges
25 allowed under the Motor Vehicles Sales Finance
26 Act, the Retail Installment Sales Act, and the
27 Home Improvement Sales and Finance Act, and
28 providing that rates permitted under chapter
29 687 shall apply; providing penalties for
30 charging in excess of allowed rates under said
31 acts and providing for application of penalties

1 any loan in which the interest is precomputed, the amount of
 2 such rebate shall be determined by the sum-of-the-digits
 3 method or the actuarial method. Any charges in excess of the
 4 combined total of all charges authorized and permitted by this
 5 paragraph shall constitute a violation of chapter 687
 6 governing interest and usury, and the penalties of chapter 687
 7 shall apply.

8 Section 30. Section 664.071, Florida Statutes, is
 9 created to read.

10 664.071 Penalties.--

11 (1) Unless otherwise specifically allowed by law, any
 12 person who willfully and knowingly, directly or indirectly,
 13 violates or conspires to violate the provisions of s.
 14 664.07(1)(a) shall be guilty of a felony of the third degree,
 15 punishable as provided in s. 775.082, s. 775.083, or s.
 16 775 084.

17 (2) Any person who willfully violates the provisions
 18 of s. 664.07(1)(a) shall be subject to the penalties provided
 19 in s. 687.04, as now existing or hereafter amended.

20 (3) Any person who charges a rate in excess of that
 21 permitted by s. 664 07(1)(a) shall have the benefit of the
 22 defenses provided in s. 687 04, as now existing or hereafter
 23 amended.

24 Section 31. Subsection (1) of section 687.02, Florida
 25 Statutes, is amended to read:

26 687.02 "Usurious contracts" defined.--

27 (1) All contracts for the payment of interest upon any
 28 loan, advance of money, line of credit, or forbearance to
 29 enforce the collection of any debt, or upon any obligation
 30 whatever, at a higher rate of interest than the equivalent of
 31 the maximum rate permitted by s. 687.071, as now existing or

1 hereafter amended, 18 percent per annum simple interest are
 2 hereby declared usurious. However, if such loan, advance of
 3 money, line of credit, forbearance to enforce the collection
 4 of a debt, or obligation exceeds \$500,000 in amount or value,
 5 then no contract to pay interest thereon is usurious unless
 6 the rate of interest exceeds the rate prescribed in s.
 7 ~~687.071.~~

8 Section 32. Section 687.03, Florida Statutes, is
 9 amended to read:

10 687.03 "Unlawful rates of interest" defined;
 11 proviso.--

12 (1) Except as provided herein, it shall be usury and
 13 unlawful for any person, or for any agent, officer, or other
 14 representative of any person, to reserve, charge, or take for
 15 any loan, advance of money, line of credit, forbearance to
 16 enforce the collection of any sum of money, or other
 17 obligation a rate of interest greater than the equivalent of
 18 the maximum rate permitted by s. 687.071, as now existing or
 19 hereafter amended 18 percent per annum simple interest, either
 20 directly or indirectly, by way of commission for advances,
 21 discounts, or exchange, or by any contract, contrivance, or
 22 device whatever whereby the debtor is required or obligated to
 23 pay a sum of money greater than the actual principal sum
 24 received, together with interest at a the rate exceeding the
 25 equivalent of the maximum rate permitted by s. 687.071, as now
 26 existing or hereafter amended. of the equivalent of 18 percent
 27 per annum simple interest. However, if any loan, advance of
 28 money, line of credit, forbearance to enforce the collection
 29 of a debt, or obligation exceeds \$500,000 in amount or value,
 30 it shall not be usury or unlawful to reserve, charge, or take
 31 interest thereon unless the rate of interest exceeds the rate

1 prescribed in s- 687-071. The provisions of this section shall
 2 not apply to sales of bonds in excess of \$100 and mortgages
 3 securing the same, or money loaned on bonds.

4 ~~(2)(a)~~ The provisions of this section and of s- 687-02
 5 shall not apply to loans or other advances of credit made
 6 pursuant to-

7 1- A commitment to insure by the Federal Housing
 8 Administration-

9 2- A commitment to guarantee by the Veterans
 10 Administration-

11 3- A commitment to purchase a loan issued by the
 12 Federal National Mortgage Association, Government National
 13 Mortgage Association, Federal Home Loan Mortgage Corporation,
 14 any department, agency, or instrumentality of the Federal
 15 Government, or any successor of any of them, pursuant to any
 16 provision of the acts of Congress or federal regulations-

17 (b) This act shall apply only to loans or advances of
 18 credit made subsequent to the effective date of this act. All
 19 present laws shall remain in full force and effect as to loans
 20 or advances of credit made prior to the effective date of this
 21 act-

22 (2)(3) For the purpose of this chapter, the rate of
 23 interest on any loan, advance of money, line of credit,
 24 forbearance to enforce the collection of a debt, or other
 25 obligation to pay interest shall be determined and computed
 26 upon the assumption that the debt will be paid according to
 27 the agreed terms, whether or not said loan, advance of money,
 28 line of credit, forbearance to enforce collection of a debt,
 29 or other obligation is paid or collected by court action prior
 30 to its term, and any payment or property charged, reserved, or
 31 taken as an advance or forbearance, which is in the nature of,

1 and taken into account in the calculation of, interest shall
 2 be valued as of the date received and shall be spread over the
 3 stated term of the loan, advance of money, line of credit,
 4 forbearance to enforce collection of a debt, or other
 5 obligation for the purpose of determining the rate of
 6 interest. The spreading of any such advance or forbearance
 7 for the purpose of computing the rate of interest shall be
 8 calculated by first computing the advance or forbearance as a
 9 percentage of the total stated amount of such loan, advance of
 10 money, line of credit, forbearance to enforce collection of a
 11 debt, or other obligation. This percentage shall then be
 12 divided by the number of years, and fractions thereof, of the
 13 loan, advance of money, line of credit, forbearance to enforce
 14 collection of a debt, or other obligation according to its
 15 stated maturity date, without regard to early maturity in the
 16 event of default. The resulting annual percentage rate shall
 17 then be added to the stated annual percentage rate of interest
 18 to produce the effective rate of interest for purposes of this
 19 chapter. Moreover, for the purposes of this chapter, a loan,
 20 advance of money, line of credit, forbearance, or other
 21 obligation shall be deemed to exceed \$500,000 in amount or
 22 value if-

- 23 (a) The outstanding principal indebtedness of such
 24 loan, advance of money, line of credit, forbearance, or other
 25 obligation initially exceeds \$500,000, or
 26 (b) The aggregate principal indebtedness of such loan,
 27 advance of money, line of credit, forbearance, or other
 28 obligation may reasonably be expected to exceed \$500,000
 29 during the term thereof, notwithstanding the fact that less
 30 than that amount in the aggregate is initially or at any time
 31

1 thereafter advanced in one transaction or a series of related
2 transactions, or

3 ~~(e)~~ Such loan, advance of money, line of credit,
4 forbearance, or other obligation exceeds \$500,000 at any time,
5 notwithstanding the fact that such indebtedness is or is not
6 subsequently reduced to less than \$500,000 and thereafter
7 additional amounts are advanced in one transaction or a series
8 of related transactions which in the aggregate do not exceed
9 \$500,000-

10 (3)(4) If, as provided in subsection ~~(3)~~, a loan,
11 advance of money, line of credit, forbearance, or other
12 obligation exceeds \$500,000, then, for the purposes of this
13 chapter, interest on that loan, advance of money, line of
14 credit, forbearance, or other obligation shall not include the
15 value of property charged, reserved, or taken as an advance or
16 forbearance, the value of which substantially depends on the
17 success of the venture in which are used the proceeds of that
18 loan, advance of money, line of credit, forbearance, or other
19 obligation. Stock options and interests in profits, receipts,
20 or residual values are examples of the type of property the
21 value of which would be excluded from calculation of interest
22 under the preceding sentence. For the purposes of this
23 subsection, a loan, advance of money, line of credit,
24 forbearance, or other obligation shall be deemed to exceed
25 \$500,000 in amount or value if:

26 (a) The outstanding principal indebtedness of such
27 loan, advance of money, line of credit, forbearance, or other
28 obligation initially exceeds \$500,000; or

29 (b) The aggregate principal indebtedness of such loan,
30 advance of money, line of credit, forbearance, or other
31 obligation may reasonably be expected to exceed \$500,000

1 during the term thereof, notwithstanding the fact that less
2 than that amount in the aggregate is initially or at any time
3 thereafter advanced in one transaction or a series of related
4 transactions; or

5 (c) Such loan, advance of money, line of credit,
6 forbearance, or other obligation exceeds \$500,000 at any time,
7 notwithstanding the fact that such indebtedness is or is not
8 subsequently reduced to less than \$500,000 and thereafter
9 additional amounts are advanced in one transaction or a series
10 of related transactions which in the aggregate do not exceed
11 \$500,000.

12 (4) Except as otherwise specifically provided by
13 statute, interest or finance charges on any loan or extension
14 of credit may be compounded, provided that the yield to the
15 lender or creditor, after taking into consideration the effect
16 of compounding, does not exceed the maximum yield permitted by
17 the statute under which the loan or extension or credit is
18 made.

19 (5) As amended by chapter 79-592, Laws of Florida,
20 chapter 79-274, Laws of Florida, which amended subsection (1):

21 (a) Shall apply only to loans, advances of credit, or
22 lines of credit made on or subsequent to July 1, 1979, and to
23 loans, advances of credit, or lines of credit made prior to
24 that date if the lender has the legal right to require full
25 payment or to adjust or modify the interest rate, by renewal,
26 assumption, reaffirmation, contract, or otherwise; and

27 (b) Shall not be construed as diminishing the force
28 and effect of any laws applying to loans, advances of credit,
29 or lines of credit, other than to those mentioned in paragraph
30 (a), completed prior to July 1, 1979.

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1 guilty of a misdemeanor of the first degree, punishable as
2 provided in s. 775.082 or s. 775.083.

3 ~~(5)~~(6) No person shall be excused from attending and
4 testifying or producing any books, paper, or other document
5 before any court upon any investigation, proceeding, or trial,
6 for any violation of this section upon the ground or for the
7 reason that the testimony or evidence, documentary or
8 otherwise, required of him may tend to convict him of a crime
9 or subject him to a penalty or forfeiture, but no person shall
10 be prosecuted or subjected to any penalty or forfeiture for or
11 on account of any transaction, matter, or thing concerning
12 which he may so testify or produce evidence, documentary or
13 otherwise, and no testimony so given or produced shall be
14 received against him upon any criminal investigation or
15 proceeding.

16 ~~(7) No extension of credit made in violation of any of~~
17 ~~the provisions of this section shall be an enforceable debt in~~
18 ~~the courts of this state.~~

19 Section 36. Section 687 08, Florida Statutes, is
20 amended to read:

21 687.08 Persons lending money to give borrower
22 statement of interest receipt for payments; contents of
23 ~~receipt;~~ penalty for violation.--Every person, or the agent,
24 officer, or other representative of any person, lending money
25 in this state upon security shall, at least once annually
26 ~~whenever the borrower of such money makes payment of any~~
27 ~~money, either principal or interest, immediately upon such~~
28 ~~payment being made, give to said borrower, a statement of the~~
29 amount of interest paid during the preceding 12-month period.
30 ~~receipt, dated of the date of such payment, which receipt~~
31 ~~shall state the amount paid and for what such payment is made-~~

1 If such payment is for interest on the sum borrowed, the
 2 receipt shall so state. If the sum so paid is to be applied
 3 to the payment of the principal sum borrowed, the receipt
 4 shall so state. All such receipts shall be duly and properly
 5 signed by the person, or the agent, officer or other
 6 representative of the person, to whom such money is paid.
 7 Whoever refuses, upon demand, to give a statement receipt
 8 complying with the requirements of this section shall forfeit
 9 the entire interest for such 12-month period upon said
 10 principal sum to the borrower.

11 Section 37. Section 687 12, Florida Statutes, is
 12 amended to read:

13 687.12 Interest rates; parity among licensed lenders
 14 or creditors.--

15 (1) Any lender or creditor licensed or chartered under
 16 the provisions of chapter 516, chapter 520, chapter 657,
 17 chapter 658 ~~or former chapter 659~~, chapter 664 ~~or former~~
 18 ~~chapter 656~~, chapter 665, or part XV of chapter 627; any
 19 lender or creditor located in the State of Florida and
 20 licensed or chartered under the laws of the United States and
 21 authorized to conduct a lending business; or any lender or
 22 creditor lending through a licensee under chapter 494, shall
 23 be authorized to charge interest or a finance charge on loans
 24 or extensions of credit to any person as defined in s
 25 1.01(3), or to any firm or corporation, at the maximum rate ~~of~~
 26 ~~interest~~ permitted by law to be charged on similar loans or
 27 extensions of credit made by any lender or creditor in the
 28 State of Florida, except that the statutes governing the
 29 maximum permissible rate of interest or rate of finance charge
 30 on any loan or extension of credit, and other statutory
 31 restrictions relating thereto, shall also govern the amount,

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HOUSE SUMMARY

Amends the Florida Consumer Finance Act, the Motor Vehicles Sales Finance Act, the Retail Installment Sales Act, the Home Improvement Sales and Finance Act, and provisions relating to credit unions, banks, and industrial savings banks, deleting specific limitations on maximum rate of interest and finance charges allowed and providing that rates permitted under chapter 687, F.S., shall apply. Provides a penalty for charging in excess of allowed rates and provides for application of penalties and defenses under chapter 687. Deletes a prohibition against dividing loans and provisions relating to interest on default under the Florida Consumer Finance Act. Deletes the \$5 maximum for delinquency charges under the Motor Vehicles Sales Finance Act, the Retail Installment Sales Act, and the Home Improvement Sales and Finance Act. In chapter 687, F.S., deletes the maximum interest rate applicable to loans under \$500,000 (18 percent simple interest) and specifies that the rate permitted by s. 687.071 (45 percent), which presently applies only to loans in excess of \$500,000, shall apply to all loans. Also provides that interest or finance charges may be compounded, that the principal sum of a usurious contract is an enforceable debt, and revises requirements relating to receipts to be given to the borrower.

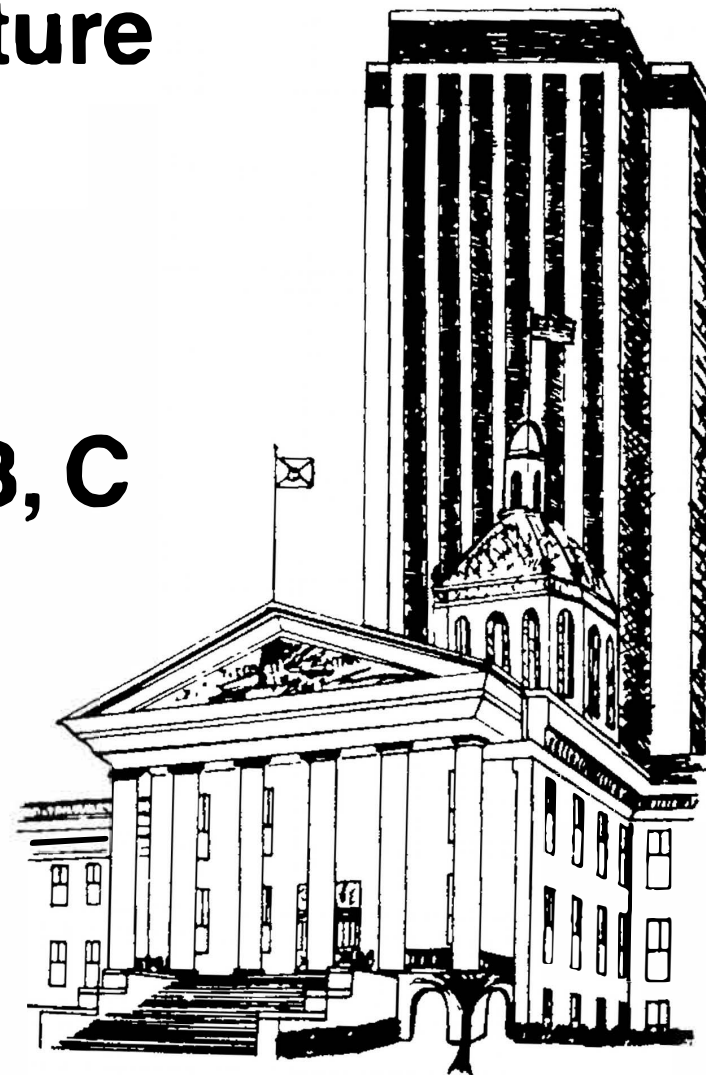
Florida Legislature

History of Legislation

1983 Regular Session

1983 Special Sessions A, B, C

1982 Special Session H



prepared by:

Joint Legislative Management Committee

Legislative Information Division

Capitol Building, Room 826—488-4371

07/25/83 13:39

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HISTORY OF SENATE BILLS

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04/27/83 SENATE COMM. REPORT: FAVORABLE, PLACED ON CALENDAR BY AGRICULTURE -SJ 00182

06/03/83 SENATE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS ON CALENDAR

S 0932 GENERAL BILL BY NEAL AND OTHERS (SIMILAR H 1238)
INTEREST RATES; DELETES SPECIFIC LIMITATIONS ON MAXIMUM INTEREST RATE ALLOWED UNDER SAID ACT & PROVIDES THAT CERTAIN PERMITTED RATES SHALL APPLY; DELETES PROHIBITION AGAINST DIVIDING LOANS, ETC. AMENDS CHS. 516, 520, 627, 628, 664, 687; REPEALS 516.031(4), 520.79, 667.122. EFFECTIVE DATE: 10/01/83.

04/15/83 SENATE FILED

04/20/83 SENATE INTRODUCED, REFERRED TO COMMERCE -SJ 00136

05/05/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE COMMERCE

05/19/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE COMMERCE

05/31/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE COMMERCE

06/03/83 SENATE INDEFINITELY POSTPONED & W/D (SCR 1209), WAS IN COMMITTEE ON COMMERCE

S 0933 GENERAL BILL BY NEAL AND OTHERS (SIMILAR CS/H 0949)
HEALTH FACILITIES; REVISES STATE HEALTH FACILITIES AUTHORITY LAW; PROVIDES FINDINGS & DECLARATION OF NECESSITY; PROVIDES DEFINITIONS; PROVIDES THAT AUTHORITY IS SEPARATE BODY & INSTRUMENTALITY OF STATE, PROVIDES FOR VARIOUS FINANCING AGREEMENTS, INCLUDING POOLED FINANCING, ETC. AMENDS CH. 124. EFFECTIVE DATE: 10/01/83.

04/15/83 SENATE FILED

04/20/83 SENATE INTRODUCED, REFERRED TO HEALTH AND REHABILITATIVE SERVICES -SJ 00136

05/02/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE HEALTH AND REHABILITATIVE SERVICES

05/19/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE HEALTH AND REHABILITATIVE SERVICES

05/25/83 SENATE WITHDRAWN FROM HEALTH AND REHABILITATIVE SERVICES, REREFERRED TO APPROPRIATIONS -SJ 00364

05/26/83 SENATE ON COMMITTEE AGENDA-- APPROPRIATIONS, TEMPORARILY POSTPONED

05/30/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE APPROPRIATIONS

06/03/83 SENATE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS IN COMMITTEE ON APPROPRIATIONS

06/24/83 REFER TO HB 7-B (CH. 83-328)

S 0934 GENERAL BILL BY MARGOLIS (COMPARE CS/H 0166, H 0552)
HANDGUNS; PROVIDES REQUIREMENTS FOR SALE & PURCHASE OF HANDGUNS; PROVIDES PENALTY; PROVIDES FOR ISSUANCE OF CERTAIN FORMS BY LAW ENFORCEMENT DEPT.; REQUIRES DEPARTMENT TO CHARGE CERTAIN FEES; PROHIBITS SALE OF A HANDGUN TO CERTAIN INELIGIBLE PERSONS; PROVIDES A PENALTY. EFFECTIVE DATE: 10/01/83.

04/15/83 SENATE FILED

04/20/83 SENATE INTRODUCED, REFERRED TO JUDICIARY-CRIMINAL, APPROPRIATIONS -SJ 00136

04/28/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE JUDICIARY-CRIMINAL

05/13/83 SENATE ON COMMITTEE AGENDA-- JUDICIARY-CRIMINAL, 5/17/83, 9:00 AM, RM. C

05/17/83 SENATE COMM. REPORT: UNFAVORABLE, LAID ON TABLE UNDER RULE BY JUDICIARY-CRIMINAL -SJ 00303

S 0935 GENERAL BILL BY THURMAN (SIMILAR CS/H 0152)
VETERANS' AFFAIRS DEPARTMENT; CREATES SAID DEPT., TRANSFERS VETERANS' AFFAIRS DIV. OF D.D.A. TO SAID DEPT., PROVIDES POWERS & DUTIES; TRANSFERS FLA. COMM. ON VETERANS' AFFAIRS FROM GOVERNOR'S OFF. TO VETERANS' AFFAIRS DEPT. TO SERVE AS ADVISORY BODY, ETC. CREATES 20.36; AMENDS 292.04, .05, 20.18, .31. APPROPRIATION: \$154,759. EFFECTIVE DATE: 07/01/83.

04/15/83 SENATE FILED

04/20/83 SENATE INTRODUCED, REFERRED TO ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS, GOVERNMENTAL OPERATIONS, APPROPRIATIONS -SJ 00136

05/09/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS

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05/19/83 SENATE ON COMMITTEE AGENDA-- ECCA, 05/23/83, 10:00 AM, RM. H

05/20/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS

05/23/83 SENATE COMM. REPORT: FAVORABLE BY ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS -SJ 00329

05/24/83 SENATE NOW IN GOVERNMENTAL OPERATIONS -SJ 00329

06/03/83 SENATE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS IN COMMITTEE ON GOVERNMENTAL OPERATIONS

S 0936 GENERAL BILL BY CRAWFORD (SIMILAR CS/H 0749)
ANIMAL INDUSTRY; AMENDS PROVISION RE CHARGING OF CERTAIN LABORATORY SERVICE FEES BY AGRICULTURE & CONSUMER SERVICES DEPT. & USE OF REVENUE THEREFROM; ESTABLISHES ANIMAL INDUSTRY DIAGNOSTIC LABORATORY ACCOUNT. AMENDS 585.65. EFFECTIVE DATE: 10/01/83.

04/15/83 SENATE FILED

04/20/83 SENATE INTRODUCED, REFERRED TO AGRICULTURE, APPROPRIATIONS -SJ 00136

04/25/83 SENATE ON COMMITTEE AGENDA-- AGRICULTURE, 04/27/83, 9:00 AM, RM. B

04/27/83 SENATE COMM. REPORT: FAVORABLE WITH AMEND. BY AGRICULTURE -SJ 00181

04/28/83 SENATE NOW IN APPROPRIATIONS -SJ 00181

05/04/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE APPROPRIATIONS

05/16/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE APPROPRIATIONS

05/30/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE APPROPRIATIONS

06/03/83 SENATE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS IN COMMITTEE ON APPROPRIATIONS

S 0937 GENERAL BILL/CS BY JUDICIARY-CIVIL, WEINSTEIN AND OTHERS (SIMILAR H 0938)
HUMAN RIGHTS; GRANTS TO CERTAIN LOCAL AGENCIES & UNITS OF GOVERNMENT THE AUTHORITY TO FILE IN STATE CIRCUIT COURTS FOR ENFORCEMENT OF ORDERS AS TO DISCRIMINATORY EMPLOYMENT PRACTICES; GRANTS TO CIRCUIT COURTS THE JURISDICTION TO HEAR SUCH ACTIONS, ETC. AMENDS 23.167. EFFECTIVE DATE: 10/01/83.

04/15/83 SENATE FILED

04/20/83 SENATE INTRODUCED, REFERRED TO JUDICIARY-CIVIL -SJ 00136

05/02/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE JUDICIARY-CIVIL

05/16/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE JUDICIARY-CIVIL

05/18/83 SENATE ON COMMITTEE AGENDA-- JUDICIARY-CIVIL, TEMPORARILY POSTPONED

05/20/83 SENATE ON COMMITTEE AGENDA-- JUDICIARY-CIVIL, 05/24/83, 9:00 AM, RM. B

05/24/83 SENATE COMM. REPORT: C/S PLACED ON CALENDAR BY JUDICIARY-CIVIL -SJ 00408

05/26/83 SENATE C/S READ FIRST TIME -SJ 00409

06/03/83 SENATE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS ON CALENDAR

S 0938 GENERAL BILL BY VOGT (IDENTICAL H 0049, COMPARE CS/H 0052, H 0906, S 0193, S 0322)
EDUCATION; DELETES OBSOLETE PROVISIONS & PROVISIONS AUTHORIZING EARLY ENTRANCE TO FIRST GRADE & KINDERGARTEN; GRANDFATHERS IN CERTAIN CHILDREN. AMENDS 232.01, .04. EFFECTIVE DATE: 07/01/83.

04/15/83 SENATE FILED

04/20/83 SENATE INTRODUCED, REFERRED TO EDUCATION, APPROPRIATIONS -SJ 00136

04/27/83 SENATE ON COMMITTEE AGENDA-- EDUCATION, NO ACTION

05/05/83 SENATE ON COMMITTEE AGENDA-- EDUCATION, NO ACTION

05/09/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE EDUCATION

05/19/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE EDUCATION

05/25/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE EDUCATION

06/03/83 SENATE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS IN COMMITTEE ON EDUCATION

06/24/83 REFER TO SB 6-B (CH. 83-324)

S 0939 GENERAL BILL BY FOX (COMPARE CS/H 0844, CS/S 1034)
COMMUNITY MENTAL HEALTH SERVICES; PROVIDES FOR APPLICATION OF AUDIT LIABILITIES TO CONTRACTOR'S OR SUBCONTRACTOR'S TOTAL AGENCY BUDGET;

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- 05/16/83 HOUSE SUBREFERRED TO SUBCOMMITTEE ON EDUCATION/TRANSPORTATION (SUB. 111)
- 06/03/83 HOUSE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS IN COMMITTEE ON APPROPRIATIONS
- H 1231 GENERAL BILL BY TRANSPORTATION AND OTHERS (SIMILAR S 1128)
DRIVERS' LICENSES; PROHIBITS UNAUTHORIZED USE/POSSESSION OF IDENTIFICATION CARD OF TYPE PROVIDED TO CERTAIN PERSONS IN PLACE OF DRIVER'S LICENSE; PROVIDES CERTAIN PENALTIES; REDUCES PENALTIES FOR CERTAIN OFFENSES RE UNAUTHORIZED POSSESSION OF DRIVERS' LICENSES, ETC. AMENDS 322.212; REPEALS 322.32(5) EFFECTIVE DATE: 10/01/83.
04/27/83 HOUSE FILED
05/03/83 HOUSE INTRODUCED, PLACED ON CALENDAR -HJ 00308
06/03/83 HOUSE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS ON CALENDAR
- H 1232 GENERAL BILL BY TRANSPORTATION, JOHNSON, B. L. (IDENTICAL S 0127)
TRANSPORTATION DEPARTMENT; REMOVES OBSOLETE LANGUAGE; AUTHORIZES DISPOSITION OF CERTAIN PROPERTY NO LONGER NEEDED FOR PUBLIC PURPOSE. AMENDS 337.28. EFFECTIVE DATE: UPON BECOMING LAW.
04/27/83 HOUSE FILED
05/03/83 HOUSE INTRODUCED, PLACED ON CALENDAR -HJ 00308
05/31/83 HOUSE READ SECOND TIME; READ THIRD TIME; PASSED; YEAS 113 NAYS 0; RECONSIDERED; IDEN./SIM. SENATE BILL SUBSTITUTED; LAID ON TABLE UNDER RULE, IDEN./SIM./COMPARE BILL PASSED, REFER TO SB 127 (CH. 83-144) -HJ 00832
- H 1233 GENERAL BILL BY TRANSPORTATION, WILLIAMS (SIMILAR CS/S 0599)
MOTOR VEHICLE LICENSE PLATES; PROVIDES FEE FOR CAREER FOREIGN CONSUL LICENSE TAGS; CHANGES DESIGNATION ON PERSONALIZED PRESTIGE LICENSE PLATES FOR MEMBERS OF CONGRESS; AUTHORIZES ISSUANCE OF LICENSE PLATES TO CAREER & HONORARY FOREIGN CONSULS, ETC. AMENDS 320.06, .0805, .0844; CREATES 320.115. EFFECTIVE DATE: 07/01/83.
04/27/83 HOUSE FILED
05/03/83 HOUSE INTRODUCED, PLACED ON CALENDAR -HJ 00308
05/12/83 HOUSE PLACED ON SPECIAL ORDER CALENDAR
05/17/83 HOUSE READ SECOND TIME; AMENDMENTS ADOPTED -HJ 00450
05/19/83 HOUSE READ THIRD TIME; AMENDMENTS ADOPTED; PASSED AS AMENDED; YEAS 117 NAYS 0 -HJ 00471
05/20/83 HOUSE RECONSIDERED; AMENDMENT ADOPTED; PASSED AS AMENDED; YEAS 100 NAYS 1 -HJ 00495; IMMEDIATELY CERTIFIED
05/23/83 SENATE RECEIVED, REFERRED TO TRANSPORTATION, APPROPRIATIONS -SJ 00345
06/03/83 SENATE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS IN COMMITTEE ON TRANSPORTATION
- H 1234 GENERAL BILL BY TRANSPORTATION, SILVER (SIMILAR ENG/S 0787)
TRAFFIC CONTROL; INCLUDES CERTAIN AREAS AT AIRPORTS WITHIN TERM "STREET OR HIGHWAY" FOR PURPOSES OF TRAFFIC CONTROL LAWS; AUTHORIZES LOCAL AUTHORITIES TO REGULATE TRAFFIC AT PUBLIC AIRPORTS. AMENDS 316.003, .008. EFFECTIVE DATE: UPON BECOMING LAW.
04/27/83 HOUSE FILED
05/03/83 HOUSE INTRODUCED, PLACED ON CALENDAR -HJ 00308
05/31/83 HOUSE PLACED ON SPECIAL ORDER CALENDAR
06/02/83 HOUSE IDEN./SIM. SENATE BILL SUBSTITUTED; LAID ON TABLE UNDER RULE, IDEN./SIM./COMPARE BILL PASSED, REFER TO SB 787 (CH. 83-164) -HJ 00998
- H 1235 GENERAL BILL BY TRANSPORTATION, GALLAGHER (SIMILAR CS/S 0569, COMPARE CS/H 0193)
TOWING; PROVIDES THAT LOCAL GOVERNMENTS MAY ENACT CERTAIN ORDINANCES RE TOWING; PROHIBITS TOWING OR REMOVAL OF A VEHICLE FROM A MUNICIPALITY UNDER CERTAIN CIRCUMSTANCES; AUTHORIZES MUNICIPALITIES & COUNTIES TO REQUIRE LICENSES FOR PERSONS ENGAGED IN SUCH BUSINESS, ETC. AMENDS 166.043, 715.07. EFFECTIVE DATE: 10/01/83.
04/27/83 HOUSE FILED
05/03/83 HOUSE INTRODUCED, REFERRED TO COMMUNITY AFFAIRS -HJ 00308
CONTINUED ON NEXT PAGE
- 05/06/83 HOUSE ON COMMITTEE AGENDA-- COMMUNITY AFFAIRS, 314 HOB, 9:00 AM, 05/10/83
- 05/16/83 HOUSE COMM. REPORT: FAVORABLE WITH AMEND., PLACED ON CALENDAR BY COMMUNITY AFFAIRS -HJ 00383
- 06/03/83 HOUSE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS ON CALENDAR
- 06/24/83 REFER TO HB 1-8 (CH. 83-330)
- H 1236 GENERAL BILL BY COMMERCE (SIMILAR S 0875, COMPARE H 1024, S 0561)
BANKER'S BANKS; PROVIDES FOR CREATION OF BANKER'S BANKS; PROVIDES FOR APPLICABILITY OF FLA. BANKING CODE; PROVIDES EXCEPTIONS; AUTHORIZES INVESTMENTS IN SUCH BANKS, ETC. AMENDS 658.12, .67; CREATES 658.165. EFFECTIVE DATE: UPON BECOMING LAW.
04/27/83 HOUSE FILED
05/03/83 HOUSE INTRODUCED, REFERRED TO APPROPRIATIONS -HJ 00308
05/06/83 HOUSE WITHDRAWN FROM APPROPRIATIONS -HJ 00350; PLACED ON CALENDAR
05/12/83 HOUSE PLACED ON SPECIAL ORDER CALENDAR
05/17/83 HOUSE IDEN./SIM. SENATE BILL SUBSTITUTED; LAID ON TABLE UNDER RULE, IDEN./SIM./COMPARE BILL PASSED, REFER TO SB 875 (CH. 83-48) -HJ 00450
- H 1237 GENERAL BILL BY COMMERCE (SIMILAR S 0668)
SECURITIES; AMENDS PROVISION RELATING TO REGISTRATION OF SECURITIES; AUTHORIZES BANKING & FINANCE DEPT. TO ISSUE PERMIT TO SELL DEBT SECURITIES FOR PERIOD LONGER THAN ONE YEAR UNDER CERTAIN CIRCUMSTANCES. AMENDS 517.07. EFFECTIVE DATE: 10/01/83.
04/27/83 HOUSE FILED
05/03/83 HOUSE INTRODUCED, PLACED ON CALENDAR -HJ 00308
05/12/83 HOUSE PLACED ON SPECIAL ORDER CALENDAR
05/16/83 HOUSE READ SECOND TIME -HJ 00425
05/17/83 HOUSE READ THIRD TIME; PASSED; YEAS 119 NAYS 0 -HJ 00443
05/19/83 SENATE IN MESSAGES
05/25/83 SENATE RECEIVED, REFERRED TO COMMERCE -SJ 00346
05/31/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE COMMERCE
06/02/83 SENATE WITHDRAWN FROM COMMERCE -SJ 00708; SUBSTITUTED FOR SB 868; PASSED; YEAS 37 NAYS 0 -SJ 00709
ORDERED ENROLLED
06/09/83 HOUSE SIGNED BY OFFICERS AND PRESENTED TO GOVERNOR
06/22/83 APPROVED BY GOVERNOR CHAPTER NO. 83-201
- H 1238 GENERAL BILL BY COMMERCE (SIMILAR S 0932)
INTEREST RATES; SPECIFIES MAXIMUM INTEREST RATES FOR CONSUMER FINANCE; INCREASES MAXIMUM FINANCE CHARGE FOR MOTOR VEHICLE SALES; SPECIFIES UNLAWFUL RATES OF INTEREST; PROVIDES PENALTIES FOR UNLAWFUL RATES OF INTEREST; REQUIRES RECEIPTS, ETC. AMENDS CHS. 516, 520, 657, 658, 664, 687. EFFECTIVE DATE: 10/01/83.
04/27/83 HOUSE FILED
05/03/83 HOUSE INTRODUCED, PLACED ON CALENDAR -HJ 00309
06/03/83 HOUSE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS ON CALENDAR
- H 1239 GENERAL BILL BY TRANSPORTATION AND OTHERS (COMPARE H 0567, CS/H 0827, S 0620, S 1026, S 1130)
AIRCRAFT; PROVIDES FOR IMPOSITION OF LIEN ON CERTAIN AIRCRAFT LANDING ON CERTAIN PUBLICLY OWNED & OPERATED AIRPORTS; PROHIBITS REMOVAL OF SUCH AIRCRAFT AFTER NOTICE OF LIEN HAS BEEN SERVED OR POSTED; PROVIDES FOR NOTICE OF LIENS FOR AIRCRAFT, ETC. CREATES 715.792; REPEALS 125.021. EFFECTIVE DATE: 10/01/83.
04/27/83 HOUSE FILED
05/03/83 HOUSE INTRODUCED, REFERRED TO JUDICIARY -HJ 00309
05/16/83 HOUSE ON COMMITTEE AGENDA-- JUDICIARY, 317 C, 8:00 AM, 05/18/83
05/20/83 HOUSE COMM. REPORT: FAVORABLE, PLACED ON CALENDAR BY JUDICIARY -HJ 00533
05/30/83 HOUSE READ SECOND TIME; READ THIRD TIME; PASSED; YEAS 107 NAYS 1 -HJ 00797
05/30/83 SENATE IN MESSAGES
05/31/83 SENATE RECEIVED, REFERRED TO JUDICIARY-CIVIL -SJ 00532
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Florida Legislature

History of Legislation 1984 Regular Session



prepared by:

Joint Legislative Management Committee

Legislative Information Division
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05/01/84 SENATE Placed on Special Order Calendar, CS passed, YEAS 35
NAYS 0 -SJ 00201
05/02/84 HOUSE In Messages
05/07/84 HOUSE Received, placed on Calendar -HJ 00301
05/18/84 HOUSE Placed on Special Order Calendar
05/23/84 HOUSE Placed on Consent Calendar; Read second time, Read
third time, Passed, YEAS 110 NAYS 0 -HJ 00562
05/23/84 Ordered enrolled -SJ 00404
05/31/84 SENATE Signed by Officers and presented to Governor -SJ 00685
06/07/84 Approved by Governor Chapter No. 84-129

S 0320 GENERAL BILL by Gordon and others

Education; creates & provides powers for boards of trustees for state universities, authorizes payment of costs of civil actions against members of university boards of trustees & employees, prescribes authority for & transfers certain powers & duties to said boards, etc Amends Chs 240, 447 203 Effective Date 10/01/84.

02/09/84 SENATE Prefiled
02/17/84 SENATE Referred to Education, Appropriations
04/03/84 SENATE Introduced, referred to Education, Appropriations
-SJ 00029
04/12/84 SENATE On Committee agenda-- Education, 04/12/84, Temporarily
postponed
04/16/84 SENATE Extension of time granted Committee Education
04/18/84 SENATE On Committee agenda-- Education, 04/18/84, Temporarily
postponed
04/27/84 SENATE Extension of time granted Committee Education
05/09/84 SENATE Extension of time granted Committee Education
05/18/84 SENATE Extension of time granted Committee Education
05/30/84 SENATE Extension of time granted Committee Education
06/01/84 SENATE Died in Committee on Education

S 0321 GENERAL BILL by Jennings (Similar H 0429)

Consumer Loans; provides that limitation on charges received by consumer finance company shall apply only to charges received as condition to grant of a loan; authorizes certain additional charges, limits definition of "interest", etc. Amends 516 031, .15, .20, 687.08. Effective Date: 10/01/84.

02/09/84 SENATE Prefiled
02/17/84 SENATE Referred to Commerce, Economic, Community and Consumer
Affairs
04/03/84 SENATE Introduced, referred to Commerce, Economic, Community
and Consumer Affairs -SJ 00029
04/13/84 SENATE On Committee agenda-- Commerce, 04/17/84, 9 00 am, Rm
A
04/16/84 SENATE Extension of time granted Committee Commerce
04/17/84 SENATE Comm Report Favorable by Commerce -SJ 00149
04/18/84 SENATE Now in Economic, Community and Consumer Affairs
-SJ 00149
04/20/84 SENATE On Committee agenda-- ECCA, 04/24/84, 2 00 pm, Rm H
04/24/84 SENATE Comm. Report Favorable, placed on Calendar by
Economic, Community and Consumer Affairs -SJ 00180
05/17/84 SENATE Placed on Consent Calendar, Passed, YEAS 35 NAYS 0
-SJ 00321, Immediately certified -SJ 00326
05/17/84 HOUSE In Messages
05/23/84 HOUSE Received, placed on Calendar -HJ 00538; Substituted for
HB 429; Read second time; Amendment adopted; Read third
time; Passed as amended, YEAS 104 NAYS 2 -HJ 00576
05/24/84 SENATE In Messages
05/28/84 SENATE Concurred; Passed as amended, YEAS 30 NAYS 0
05/28/84 Ordered engrossed, then enrolled -SJ 00452
06/06/84 SENATE Signed by Officers and presented to Governor
06/13/84 Approved by Governor Chapter No 84-193

S 0322 GENERAL BILL by Grant

Appointed Counsel Compensation provides for attorneys' fees above limits set by law in certain circumstances Amends 925 036

Effective Date, 10/01/84
02/10/84 SENATE Prefiled
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02/17/84 SENATE Referred to Judiciary-Criminal, Judiciary-Civil,
Appropriations
04/03/84 SENATE Introduced, referred to Judiciary-Criminal,
Judiciary-Civil, Appropriations -SJ 00030
04/09/84 SENATE On Committee agenda-- Judiciary-Criminal, 04/11/84,
9 00 am, Rm C
04/11/84 SENATE Comm Report Favorable with amend by
Judiciary-Criminal -SJ 00102
04/12/84 SENATE Now in Judiciary-Civil -SJ 00102
04/13/84 SENATE Extension of time granted Committee Judiciary-Civil
04/27/84 SENATE Extension of time granted Committee Judiciary-Civil
05/11/84 SENATE Extension of time granted Committee Judiciary-Civil
05/26/84 SENATE Extension of time granted Committee Judiciary-Civil
06/01/84 SENATE Died in Committee on Judiciary-Civil

S 0323 GENERAL BILL by Myers (Similar H 1047)

Nursing Homes; provides additional educational requirements for licensure as nursing home administrator Amends 468.1695 Effective Date: Upon becoming law.

02/10/84 SENATE Prefiled
02/17/84 SENATE Referred to Economic, Community and Consumer Affairs
04/03/84 SENATE Introduced, referred to Economic, Community and
Consumer Affairs -SJ 00030
04/13/84 SENATE Extension of time granted Committee Economic, Community
and Consumer Affairs
04/26/84 SENATE Extension of time granted Committee Economic, Community
and Consumer Affairs
05/09/84 SENATE Extension of time granted Committee Economic, Community
and Consumer Affairs
05/21/84 SENATE Extension of time granted Committee Economic, Community
and Consumer Affairs
06/01/84 SENATE Died in Committee on Economic, Community and Consumer
Affairs

S 0324 LOCAL BILL by Castor (Identical H 0378)

Pasco Co /Municipal Elections; provides uniform filing & election dates for municipal elections; provides for conduct of such elections by Pasco Co. Elections Supervisor, provides for reimbursement of cost, provides that candidate with highest number of votes shall be winner, etc Effective Date: 01/01/85.

02/10/84 SENATE Prefiled
02/17/84 SENATE Referred to Rules and Calendar
04/03/84 SENATE Introduced, referred to Rules and Calendar -SJ 00030
04/17/84 SENATE Extension of time granted Committee Rules and Calendar
04/24/84 SENATE Considered, placed on Local Calendar by Rules and
Calendar -SJ 00164
04/25/84 SENATE Iden /Sim House Bill substituted; Laid on table under
Rule, Iden /Sim./Compare Bill passed, refer to HB 378
(Ch. 84-506) -SJ 00168

S 0325 GENERAL BILL by Jennings (Identical H 0933, Compare Eng/S 0153)

Retirement, provides for changes in amortization schedule for unfunded liability of governmental retirement systems, revises criteria for certifying law enforcement & correctional officers eligible for special risk membership, etc. Amends 112 64, 121.021, .0515, 052. Effective Date: 07/01/84

02/10/84 SENATE Prefiled
02/17/84 SENATE Referred to Personnel, Retirement and Collective
Bargaining, Appropriations
04/03/84 SENATE Introduced, referred to Personnel, Retirement and
Collective Bargaining, Appropriations -SJ 00030, On
Committee agenda-- Personnel, R & C B, 04/04/84, 2 00
pm, Rm C
04/04/84 SENATE Comm. Report Favorable by Personnel, Retirement and
Collective Bargaining -SJ 00086
04/05/84 SENATE Now in Appropriations -SJ 00086
04/18/84 SENATE Withdrawn from Appropriations -SJ 00134, Placed on
Calendar
04/25/84 SENATE Placed on Special Order Calendar, Passed, YEAS 36 NAYS
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05/31/84 amended, YEAS 32 NAYS 0 -SJ 00684
 05/31/84 HOUSE In Messages
 06/01/84 HOUSE Concurred, CS passed as further amended, YEAS 110 NAYS
 0 -HJ 01059
 06/01/84 Ordered engrossed, then enrolled
 06/07/84 HOUSE Signed by Officers and presented to Governor
 06/18/84 Approved by Governor Chapter No 84-223

H 0427 GENERAL BILL by Dunbar, Patchett and others
Saltwater Fisheries; removes Marine Resources Div from definition of "salt water", prohibits king mackerel netting, prohibits red drum/ spotted sea trout netting in freshwater, provides bag & size limits for cobia, limits no. of hooks per line for taking saltwater fish, etc Amends Cha. 370, 372 Effective Date 10/01/84.
 02/07/84 HOUSE Prefiled
 02/14/84 HOUSE Referred to Natural Resources
 02/16/84 HOUSE Subreferred to Subcommittee on Living Resources
 04/03/84 HOUSE Introduced, referred to Natural Resources -HJ 00044, Subreferred to Subcommittee on Living Resources
 04/20/84 HOUSE On Committee agenda-- Subcomm. Nat. Resources, 413 C, 1:30pm, 04/24
 06/01/84 HOUSE Died in Committee on Natural Resources

H 0428 GENERAL BILL by Deutsch (Similar S 0615)
Adoption, requires certain disclosure by intermediaries to persons seeking to adopt a child Creates 63.085; amends 63 092 Effective Date 07/01/84
 02/07/84 HOUSE Prefiled
 02/14/84 HOUSE Referred to Health & Rehabilitative Services
 02/17/84 HOUSE Subreferred to Subcommittee on Health, Economic and Social Services, On Committee agenda-- Subcomm. H. R S., 317 C, 1 pm, 03/12/84
 04/03/84 HOUSE Introduced, referred to Health & Rehabilitative Services -HJ 00044, Subreferred to Subcommittee on Health, Economic and Social Services
 04/05/84 HOUSE On Committee agenda-- H.R.S., 317 C, 1:15 pm, 04/09/84
 04/10/84 HOUSE Comm. Report Favorable, placed on Calendar by Health & Rehabilitative Services -HJ 00166
 04/16/84 HOUSE Placed on Special Order Calendar, Read second time -HJ 00214
 04/17/84 HOUSE Read third time, Passed; YEAS 116 NAYS 0 -HJ 00221, Immediately certified
 04/17/84 SENATE In Messages
 04/19/84 SENATE Received, referred to Judiciary-Civil -SJ 00157
 04/27/84 SENATE Extension of time granted Committee Judiciary-Civil
 05/01/84 SENATE Withdrwn from Judiciary-Civil; Substituted for SB 615, Passed as amended, YEAS 36 NAYS 0 -SJ 00200
 05/02/84 HOUSE In Messages
 05/03/84 HOUSE Concurred, Passed as amended, YEAS 100 NAYS 2 -HJ 00292
 05/03/84 Ordered engrossed, then enrolled
 05/08/84 HOUSE Signed by Officers and presented to Governor -HJ 00336
 05/15/84 Approved by Governor Chapter No 84-28 -HJ 00444

H 0429 GENERAL BILL by Silver (Similar Eng/S 0321)
Interest & Finance; provides that limitation on charges received by consumer finance licensees applies to charges received as condition to grant of a loan, authorizes certain additional charges; revises definition of "interest", etc Amends 516 031, .15, .20, 687.08 Effective Date 10/01/84
 02/07/84 HOUSE Prefiled
 02/14/84 HOUSE Referred to Commerce
 02/16/84 HOUSE Subreferred to Subcommittee on Banking and Commerce
 02/17/84 HOUSE On Committee agenda, pending subcommittee action-- Commerce, 21 HOB, 8 30 am, 03/13/84
 04/03/84 HOUSE Introduced, referred to Commerce -HJ 00044, Subreferred to Subcommittee on Banking and Commerce
 04/05/84 HOUSE On Committee agenda-- Commerce, 21 HOB, 3 30 pm, 04/09/84
 CONTINUED ON NEXT PAGE

07/10/84 16:32

HISTORY OF HOUSE BILLS

PAGE 144

04/11/84 HOUSE Comm Report Favorable with amend, placed on Calendar by Commerce -HJ 00181
 05/23/84 HOUSE Placed on Consent Calendar, Iden /Sim Senate Bill substituted, Laid on table under Rule, Iden /Sim /Compare Bill passed, refer to SB 321 (Ch 84-193) -HJ 00576

H 0430 GENERAL BILL by McEwan (Similar S 0466, Compare CS/H 0801, S 0947)
Credit Union Guaranty Act, eliminates language authorizing Fla Credit Union Guaranty Corporation, Inc. to refund certain investments made by a withdrawing credit union which is member of corporation, requires corporation to maintain loss reserve along described lines, etc Amends 657 258. Effective Date 10/01/84
 02/07/84 HOUSE Prefiled
 02/14/84 HOUSE Referred to Commerce, Appropriations
 02/16/84 HOUSE Subreferred to Subcommittee on Banking and Commerce
 02/17/84 HOUSE On Committee agenda-- Subcomm. Commerce, 16 HOB, 8 30 am, 03/06/84; On Committee agenda, pending subcommittee action-- Commerce, 21 HOB, 8:30 am, 03/13/84
 04/03/84 HOUSE Introduced, referred to Commerce, Appropriations -HJ 00044, Subreferred to Subcommittee on Banking and Commerce
 04/05/84 HOUSE On Committee agenda-- Commerce, 21 HOB, 3 30 pm 04/09/84
 04/10/84 HOUSE Comm Report Favorable by Commerce -HJ 00166. Now in Appropriations
 04/17/84 HOUSE Withdrawn from Appropriations -HJ 00223, Placed on Calendar
 05/02/84 HOUSE Placed on Special Order Calendar
 05/14/84 HOUSE Iden./Sim Senate Bill substituted, Laid on table under Rule, Iden /Sim /Compare Bill passed, refer to SB 466 (Ch. 84-74) & CS/HB 501 (Ch. 84-216) -HJ 00403

H 0431 GENERAL BILL/CS by Health & Rehabilitative Services, Reddick (Similar CS/S 0234, Compare Eng/H 1046)
Nursing Homes; specifies funds & property that must be maintained in trust re nursing homes & related health care facilities, provides for handling of funds & property of deceased residents, limits use of mechanical restraints in licensed facilities, etc Amends 400 162, 402, 411, 441 Effective Date: 10/01/84
 02/07/84 HOUSE Prefiled
 02/14/84 HOUSE Referred to Health & Rehabilitative Services
 02/17/84 HOUSE Subreferred to Subcommittee on Health, Economic and Social Services, On Committee agenda-- Subcomm H R S., 317 C, 1 pm, 03/12/84
 04/03/84 HOUSE Introduced, referred to Health & Rehabilitative Services -HJ 00045, Subreferred to Subcommittee on Health, Economic and Social Services
 04/05/84 HOUSE On Committee agenda-- H.R.S., 317 C, 1 15 pm, 04/09/84
 04/10/84 HOUSE Comm Report CS placed on Calendar by Health & Rehabilitative Services -HJ 00186
 04/12/84 HOUSE Placed on Special Order Calendar
 04/16/84 HOUSE CS read first and second times -HJ 00214
 04/17/84 HOUSE Read third time; Amendment adopted, CS passed as amended, YEAS 118 NAYS 0 -HJ 00220
 04/19/84 SENATE In Messages
 04/27/84 SENATE Received, referred to Health and Rehabilitative Services -SJ 00187
 05/03/84 SENATE On Committee agenda-- HRS, 05/09/84, 9 00 am, Rm A
 05/09/84 SENATE Comm Report Favorable, placed on Calendar by Health and Rehabilitative Services -SJ 00253
 05/30/84 SENATE Placed on Consent Calendar; Passed as amended, YEAS 30 NAYS 2 -SJ 00569
 05/30/84 HOUSE In Messages
 05/31/84 HOUSE Concurred, CS passed as further amended, YEAS 109 NAYS 0 -HJ 00918
 05/31/84 Ordered engrossed, then enrolled
 06/07/84 HOUSE Signed by Officers and presented to Governor
 06/22/84 Vetoed by Governor

ORIGINAL SENATE BILL No. 406

40-647-82

A BILL relating to
(Brief statement of subject)

interest rates and finance charges;

By Senator *Candlish* of the 40 District

By the Committee on

Chairman's signature

and

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SENATE ACTION

Read 1st Time **JAN 18 1982**
Referred to Committees on

COMMERCE			
Fav	Unfav	With Amend	Com Sub
ECONOMIC, COMMUNITY & CONS. AFFAIRS			
Fav	Unfav	With Amend	Com Sub
Fav	Unfav	With Amend	Com Sub

Read 2nd Time
Read 3rd Time
and

Secretary of Senate

- Immediately Certified to House
- Laid on Table
- Motion to Reconsider by Senator

HOUSE AMENDMENTS ACTION — See reverse side

HOUSE ACTION

Read 1st Time
Referred to Committees on

Fav	Unfav	With Amend	Com Sub
Fav	Unfav	With Amend	Com Sub
Fav	Unfav	With Amend	Com Sub

Read 2nd Time
Read 3rd Time
and

Clerk House of Representatives

- Immediately Certified to Senate
- Laid on Table under Rule
- Motion to Reconsider pending

SENATE AMEND TO HOUSE AMEND ACTION --
See reverse side

1 Section 30. Subsection (1) of section 687.02, Florida
2 Statutes, is amended to read:

3 687.02 "Usurious contracts" defined.--

4 (1) All contracts for the payment of interest upon any
5 loan, advance of money, line of credit, or forbearance to
6 enforce the collection of any debt, or upon any obligation
7 whatever, at a higher rate of interest than the equivalent of
8 the maximum rate permitted by s. 687.071, as now existing or
9 hereafter amended, is percent per annum simple interest are
10 hereby declared usurious. ~~However, if such loan, advance of~~
11 ~~money, line of credit, forbearance to enforce the collection~~
12 ~~of a debt, or obligation exceeds \$500,000 in amount or value,~~
13 ~~then no contract to pay interest thereon is usurious unless~~
14 ~~the rate of interest exceeds the rate prescribed in s.~~
15 ~~687-071-~~

16 Section 31. Section 687.03, Florida Statutes, is
17 amended to read.

18 687.03 "Unlawful rates of interest" defined;
19 proviso.--

20 (1) Except as provided herein, it shall be usury and
21 unlawful for any person, or for any agent, officer, or other
22 representative of any person, to reserve, charge, or take for
23 any loan, advance of money, line of credit, forbearance to
24 enforce the collection of any sum of money, or other
25 obligation a rate of interest greater than the equivalent of
26 the maximum rate permitted by s. 687.071, as now existing or
27 hereafter amended is percent per annum simple interest, either
28 directly or indirectly, by way of commission for advances,
29 discounts, or exchange, or by any contract, contrivance, or
30 device whereby the debtor is required or obligated to
31 pay a sum of money greater than the actual principal sum

1 received, together with interest at a the rate exceeding the
 2 equivalent of the maximum rate permitted by s. 687.071, as now
 3 existing or hereafter amended of the equivalent of 18 percent
 4 per annum simple interest. However, if any loan, advance of
 5 money, line of credit, forbearance to enforce the collection
 6 of a debt, or obligation exceeds \$500,000 in amount or value,
 7 it shall not be usury or unlawful to reserve, charge, or take
 8 interest thereon unless the rate of interest exceeds the rate
 9 prescribed in s- 687-071- The provisions of this section shall
 10 not apply to sales of bonds in excess of \$100 and mortgages
 11 securing the same, or money loaned on bonds.

12 (2)(a) The provisions of this section and of s- 687-02
 13 shall not apply to loans or other advances of credit made
 14 pursuant to -

15 1- A commitment to insure by the Federal Housing
 16 Administration;

17 2- A commitment to guarantee by the Veterans
 18 Administration;

19 3- A commitment to purchase a loan issued by the
 20 Federal National Mortgage Association, Government National
 21 Mortgage Association, Federal Home Loan Mortgage Corporation,
 22 any department, agency, or instrumentality of the Federal
 23 Government, or any successor of any of them, pursuant to any
 24 provision of the acts of Congress or federal regulations;

25 (b) This act shall apply only to loans or advances of
 26 credit made subsequent to the effective date of this act. All
 27 present laws shall remain in full force and effect as to loans
 28 or advances of credit made prior to the effective date of this
 29 act.

30 (2)(3) For the purpose of this chapter, the rate of
 31 interest on any loan, advance of money, line of credit,

1 forbearance to enforce the collection of a debt, or other
2 obligation to pay interest shall be determined and computed
3 upon the assumption that the debt will be paid according to
4 the agreed terms, whether or not said loan, advance of money,
5 line of credit, forbearance to enforce collection of a debt,
6 or other obligation is paid or collected by court action prior
7 to its term, and any payment or property charged, reserved, or
8 taken as an advance or forbearance, which is in the nature of,
9 and taken into account in the calculation of, interest shall
10 be valued as of the date received and shall be spread over the
11 stated term of the loan, advance of money, line of credit,
12 forbearance to enforce collection of a debt, or other
13 obligation for the purpose of determining the rate of
14 interest. The spreading of any such advance or forbearance
15 for the purpose of computing the rate of interest shall be
16 calculated by first computing the advance or forbearance as a
17 percentage of the total stated amount of such loan, advance of
18 money, line of credit, forbearance to enforce collection of a
19 debt, or other obligation. This percentage shall then be
20 divided by the number of years, and fractions thereof, of the
21 loan, advance of money, line of credit, forbearance to enforce
22 collection of a debt, or other obligation according to its
23 stated maturity date, without regard to early maturity in the
24 event of default. The resulting annual percentage rate shall
25 then be added to the stated annual percentage rate of interest
26 to produce the effective rate of interest for purposes of this
27 chapter. Moreover, for the purposes of this chapter, a loan,
28 advance of money, line of credit, ~~forbearance, or other~~
29 ~~obligation shall be deemed to exceed \$500,000 in amount or~~
30 ~~value if-~~

31

1 (a) The outstanding principal indebtedness of such
2 loan, advance of money, line of credit, forbearance, or other
3 obligation initially exceeds \$500,000, or

4 (b) The aggregate principal indebtedness of such loan,
5 advance of money, line of credit, forbearance, or other
6 obligation may reasonably be expected to exceed \$500,000
7 during the term thereof, notwithstanding the fact that less
8 than that amount in the aggregate is initially or at any time
9 thereafter advanced in one transaction or a series of related
10 transactions, or

11 (c) Such loan, advance of money, line of credit,
12 forbearance, or other obligation exceeds \$500,000 at any time,
13 notwithstanding the fact that such indebtedness is or is not
14 subsequently reduced to less than \$500,000 and thereafter
15 additional amounts are advanced in one transaction or a series
16 of related transactions which in the aggregate do not exceed
17 \$500,000-

18 (3)(4) If, as provided in subsection (3), a loan,
19 advance of money, line of credit, forbearance, or other
20 obligation exceeds \$500,000, then, for the purposes of this
21 chapter, interest on that loan, advance of money, line of
22 credit, forbearance, or other obligation shall not include the
23 value of property charged, reserved, or taken as an advance or
24 forbearance, the value of which substantially depends on the
25 success of the venture in which are used the proceeds of that
26 loan, advance of money, line of credit, forbearance, or other
27 obligation. Stock options and interests in profits, receipts;
28 or residual values are examples of the type of property the
29 value of which would be excluded from calculation of interest
30 under the preceding sentence For the purposes of this
31 subsection, a loan, advance of money, line of credit,

1 forbearance, or other obligation shall be considered to exceed
2 \$500,000 in amount or value if:

3 (a) The outstanding principal indebtedness of such
4 loan, advance of money, line of credit, forbearance, or other
5 obligation initially exceeds \$500,000;

6 (b) The aggregate principal indebtedness of such loan,
7 advance of money, line of credit, forbearance, or other
8 obligation may reasonably be expected to exceed \$500,000
9 during the term thereof, notwithstanding the fact that less
10 than that amount in the aggregate is initially or at any time
11 thereafter advanced in one transaction or a series of related
12 transactions. or

13 (c) Such loan, advance of money, line of credit,
14 forbearance, or other obligation exceeds \$500,000 at any time,
15 notwithstanding the fact that such indebtedness is or is not
16 subsequently reduced to less than \$500,000 and thereafter
17 additional amounts are advanced in one transaction or a series
18 of related transactions which in the aggregate do not exceed
19 \$500,000.

20 (4) Except as otherwise specifically provided by
21 statute, interest or finance charges on any loan or extension
22 of credit may be compounded if the yield to the lender or
23 creditor, after taking into consideration the effect of
24 compounding, does not exceed the maximum yield permitted by
25 the statute under which the loan or extension or credit is
26 made.

27 (5) As amended by chapter 79-592, Laws of Florida,
28 chapter 79-274, Laws of Florida, which amended subsection (1).

29 (a) Shall apply only to loans, advances of credit, or
30 lines of credit made on or subsequent to July 1, 1979, and to
31 loans, advances of credit, or lines of credit made prior to

1 that date if the lender has the legal right to require full
 2 payment or to adjust or modify the interest rate, by renewal,
 3 assumption, reaffirmation, contract, or otherwise, and

4 (b) Shall not be construed as diminishing the force
 5 and effect of any laws applying to loans, advances of credit,
 6 or lines of credit, other than to those mentioned in paragraph
 7 (a), completed prior to July 1, 1979.

8 Section 32. Section 687 031, Florida Statutes, is
 9 amended to read:

10 687 031 Construction, ss. 687 02, and 687 03 and
 11 687 071.--Sections 687.02, and 687.03 and 687.071 shall not be
 12 construed to repeal, modify or limit any ~~or either~~ of the
 13 special provisions of ~~existing~~ statutory law creating
 14 exceptions to the general law governing interest and usury and
 15 specifying the interest rates and charges which may be made
 16 pursuant to such exceptions, including but not limited to
 17 those exceptions which relate to banks, industrial savings
 18 Morris Plan banks, credit unions, discount consumer finance
 19 financing, small loan companies, and savings domestic building
 20 and loan associations.

21 Section 33 Section 687 04, Florida Statutes, is
 22 amended to read:

23 687 04 Penalty for usury; not to apply in certain
 24 situations --

25 (1) Any person, or any agent, officer, or other
 26 representative of any person, willfully violating the
 27 provisions of s 687 071 687-03 shall forfeit the entire
 28 interest so charged, or contracted to be charged or reserved,
 29 and ~~only~~ the ~~actual~~ principal sum of such usurious contract
 30 shall not be an enforceable debt can be enforced in any court
 31 in this state, either at law or in equity; and when ~~said~~

1 the person charged such usurious interest and person acting on
 2 his behalf, who ~~shall~~ knowingly and willfully possesses
 3 ~~possess~~ or maintains ~~maintain~~ such books of account or other
 4 documents, or conspires ~~conspire~~ so to do, shall be guilty of
 5 a misdemeanor of the first degree, punishable as provided in
 6 s. 775.082 or s. 775.083.

7 (6) No person shall be excused from attending and
 8 testifying or producing any books, paper, or other document
 9 before any court upon any investigation, proceeding, or trial,
 10 for any violation of this section upon the ground or for the
 11 reason that the testimony or evidence, documentary or
 12 otherwise, required of him may tend to convict him of a crime
 13 or subject him to a penalty or forfeiture, but no person shall
 14 be prosecuted or subjected to any penalty or forfeiture for or
 15 on account of any transaction, matter, or thing concerning
 16 which he may so testify or produce evidence, documentary or
 17 otherwise, and no testimony so given or produced shall be
 18 received against him upon any criminal investigation or
 19 proceeding.

20 ~~(7) No extension of credit made in violation of any of~~
 21 ~~the provisions of this section shall be an enforceable debt in~~
 22 ~~the courts of this state.~~

23 Section 35. Section 687.08, Florida Statutes, is
 24 amended to read:

25 687.08 Persons lending money to give borrower
 26 statement of interest receipt for payments; contents of
 27 ~~receipt~~; penalty for violation.--Every person, or the agent,
 28 officer, or other representative of any person, lending money
 29 in this state upon security shall, at least once annually
 30 ~~whenever the borrower of such money makes payment of any~~
 31 ~~money, either principal or interest, immediately upon such~~

1 payment being made, give to said borrower, a statement of the
 2 amount of interest paid during the preceding 12-month period.
 3 receipt, dated of the date of such payment, which receipt
 4 shall state the amount paid and for what such payment is made.
 5 If such payment is for interest on the sum borrowed, the
 6 receipt shall so state. If the sum so paid is to be applied
 7 to the payment of the principal sum borrowed, the receipt
 8 shall so state. All such receipts shall be duly and properly
 9 signed by the person, or the agent, officer or other
 10 representative of the person, to whom such money is paid.
 11 Whoever refuses, upon demand, to give a statement receipt
 12 complying with the requirements of this section shall forfeit
 13 the entire interest for such 12-month period upon said
 14 principal sum to the borrower.

15 Section 36. Section 687.12, Florida Statutes, is
 16 amended to read.

17 687.12 Interest rates, parity among licensed lenders
 18 or creditors --

19 (1) Any lender or creditor licensed or chartered under
 20 the provisions of chapter 516, chapter 520, chapter 657,
 21 chapter 658 ~~or former chapter 659~~, chapter 664 ~~or former~~
 22 ~~chapter 656~~, chapter 665, or part XV of chapter 627; any
 23 lender or creditor located in the State of Florida and
 24 licensed or chartered under the laws of the United States and
 25 authorized to conduct a lending business, or any lender or
 26 creditor lending through a licensee under chapter 494, shall
 27 be authorized to charge interest or a finance charge on loans
 28 or extensions of credit to any person as defined in s.
 29 101(3), or to any firm or corporation, at the maximum rate of
 30 ~~interest~~ permitted by law to be charged on similar loans or
 31 extensions of credit made by any lender or creditor in the

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Section 38. This act shall take effect July 1, 1982.

SENATE SUMMARY

Revises various provisions relating to interest rates and
finances charges. Specifies maximum interest rate for
consumer finance. Specifies maximum finance charge for
motor vehicle sales. Applies the maximum interest rates
of chapter 687, F S , to retail installment sales, home
improvement sales and finance, credit unions, banks, and
industrial savings banks. Applies the penalties and
defenses of chapter 687, F.S , to specified violations.
Specifies unlawful rates of interest. See bill for
further details.

Journal
of the
Florida
House of Representatives



Eighty-sixth
Regular Session
since Statehood in 1845
April 3 through June 1, 1984

Including a record of transmittal of Acts subsequent to sine die adjournment

Nays—4

Burrall Dunbar Gardner Messersmith

Votes after roll call.

Yeas—Burke

Yeas to Nays—Hollingsworth, Carpenter

Nays to Yeas—Messersmith, Dunbar

So the bill passed and was immediately certified to the Senate.

HB 429 was taken up On motion by Rep. Silver, SB 321, a similar or companion measure, was substituted for HB 429. Under the rule, the House bill was laid on the table. On motion by Rep. Silver, the rules were waived and—

SB 321—A bill to be entitled An act relating to consumer loans; amending s. 516.031, F.S., providing that the limitation on charges received by a consumer finance company shall apply only to charges received as a condition to the grant of a loan; authorizing charges for the premium payable for insurance in lieu of perfecting a security interest; authorizing the imposition of a bad check charge; authorizing the inclusion in the principal of a new loan of the accrued interest on a prior loan used as consideration for such loan; amending s. 516.15, F.S., deleting the requirement that consumer finance licensees furnish borrowers a copy of s. 516.031, F.S.; authorizing licensees to furnish borrowers an annual statement in lieu of a receipt for each payment except for cash payments; amending s. 516.20, F.S., limiting the definition of "interest;" amending s. 687.08, F.S.; authorizing a lender to furnish an annual statement to a borrower in lieu of a receipt for each payment except for cash payments, providing an effective date

—was read the second time by title

Representatives Hargrett and Silver offered the following amendment:

Amendment 1—On page 4, line 3, and on page 5, line 24, before the period insert: *and for any payment when requested in writing by the borrower*

Rep. Silver moved the adoption of the amendment, which was adopted.

On motion by Rep. Silver, the rules were waived and SB 321, as amended, was read the third time by title. Pending roll call, further consideration of SB 321 was temporarily deferred

THE SPEAKER IN THE CHAIR

Subsequently, the House resumed consideration of SB 321 The question recurred on the passage of SB 321 The vote was:

Yeas—104

The Chair	Clements	Gordon	Jones, D. L.
Abrams	Combee	Grant	Kelly
Armstrong	Cortina	Grindle	Kutun
Arnold	Cosgrove	Gustafson	Lehtinen
Bailey	Crady	Hanson	Liberti
Bankhead	Crotty	Hargrett	Lippman
Bass	Dantzer	Harris	Locke
Brantley	Davis	Hawkins, L. R.	Logan
Bronson	Deutsch	Hawkins, M. E.	Mackenzie
Brown, C.	Drage	Hazouri	Martinez
Brown, T. C.	Dudley	Healey	McEwan
Burke	Dunbar	Hill	Messersmith
Burnsed	Easley	Hodges	Metcalfe
Burrall	Evans-Jones	Jamerson	Mills
Carlton	Figg	Johnson, B. L.	Morgan
Carpenter	Friedman	Johnson, R. C.	Murphy
Casas	Gallagher	Johnson, R. M.	Nergard
Clark	Gardner	Jones, C. F.	Ogden

Patchett	Roe	Simone	Ward
Peeples	Sanderson	Spaet	Watt
Press	Sansom	Stewart	Webster
Ready	Selph	Thomas	Weinstock
Reaves	Shackelford	Thompson	Wetherell
Reddick	Shelley	Tobiassen	Williams
Robinson	Silver	Tobin	Woodruff
Rochlin	Simon	Wallace	Young

Nays—2

Lewis Smith

Votes after roll call:

Yeas—Titone

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

REP HODGES IN THE CHAIR

By the Committees on Appropriations and Criminal Justice and Representatives Martinez, Wetherell, Clements, Burke, McEwan, Shelley, Meffert, and Ready—

CS/HB 1206—A bill to be entitled An act relating to the Commission on Criminal Justice Standards and Training; amending s. 943.085, F.S., providing intent; amending s. 943.09, F.S.; changing certain staff support duties relating to the commission; amending s. 943.10, F.S., changing and providing additional definitions, amending s. 943.11, F.S.; modifying the membership of the commission, providing a method for appointment by the Governor, deleting provisions relating to probable cause panels; amending s. 943.12, F.S.; revising the powers, duties, and functions of the commission, amending s. 943.13, F.S., changing minimum employment qualifications for officers, creating s. 943.131, F.S.; providing for certain temporary employment of officers; creating s. 943.133, F.S., requiring an employing agency to collect, verify, and maintain officers' employment documentation; providing for injunctive relief, creating s. 943.135, F.S.; requiring periodic training or education programs for officers as a condition of employment, creating s. 943.137, F.S.; providing for qualifications above the minimum, creating s. 943.139, F.S., requiring certain notification of employment or discharge of an officer; permitting access to certain information by subsequent employing agency, creating s. 943.1395, F.S.; providing for certification, concurrent certification, reemployment, and revocation, amending s. 943.14, F.S., establishing responsibility of the commission for criminal justice training schools; requiring commission approval of criminal justice training schools, courses, and diplomas; requiring employing agencies to be responsible for inservice training programs, prohibiting certain acts; providing a penalty; providing for injunctive relief, amending s. 943.16, F.S., specifying employing agency, amending s. 943.17, F.S.; creating basic recruit, advanced, and career development training; defining basic recruit, advanced, and career development training; establishing existing specialized training courses as inservice training and radar training as advanced training; requiring the commission to adopt examinations; creating s. 943.173, F.S.; providing confidentiality for certain examinations and records, creating s. 943.175, F.S.; creating an inservice training program; amending s. 943.19, F.S.; providing a saving clause; amending s. 943.22, F.S.; defining certain terms; changing requirements for salary incentive payments for officers, amending s. 943.25, F.S.; specifying duties of the commission relating to certain trust funds, providing for certain funding, requiring financial audits, restricting trust funds for capital improvements; establishing a Criminal Justice Training Improvement Trust Fund; establishing certain positions, creating s. 943.253, F.S., exempting elected officers from training and certification requirements, creating s. 943.254, F.S., requiring certain reports by the Auditor General and commission, amending s. 943.255, F.S., eliminating decertification proceedings, amending s. 316.1906, F.S.; modifying the definition of "officer" with respect to the use of radar speed-measuring devices; providing an additional training requirement for such officers; re-

Bill Analysis

as reported
to Clerk



Florida House of Representatives

H. Lee Moffat, Speaker Steve Pajcik, Speaker pro tempore
Committee on Commerce

Samuel P. Bell, III
Chairman
Dexter W. LeBlond
Vice Chairman

STAFF SUMMARY AND ANALYSIS

HB 429 by Silver DATE: February 14, 1984
relating to interest and REVISED: April 10, 1984
finance REVISED: _____
Other Committees of Reference: IDENTICAL*/SIMILAR BILLS:
None SB 321
EFFECTIVE DATE: _____
October 1, 1984

I. SUMMARY AND PURPOSE

This bill amends several provisions in the Consumer Finance Act, Chapter 516, F.S., and one provision in the General Usury Law, Chapter 687, F.S., relating to interest and finance charges. In the Consumer Finance Act, the restriction on charges which may be received by a licensee would be limited so as to apply only to charges received as a condition to the grant of a loan. Additionally, a licensee would be permitted to charge the borrower for the premium payable on "non-filing insurance" in lieu of the fees that would be required to perfect a security interest, so long as the premium does not exceed the fees which would otherwise be payable. A licensee would also be permitted by the bill to impose a bad check charge for any dishonored check given in payment of a loan. Finally, a licensee would be permitted to include up to 60 days unpaid interest in the principal amount of a new loan when the borrower is refinancing a previous loan.

Other changes in the bill include the deletion of a requirement that a consumer finance licensee give to each borrower a copy of section 516.031, F.S., and an amendment to the provision requiring licensees to give a complete receipt for all payments made on any loan.

The last two sections in the bill would conform related provisions to changes previously described. In the Consumer Finance Act, the word "interest" would be redefined to mean any profit perceived by the licensee as a condition to the grant of a loan, rather than any profit received in connection with a loan. Finally, the receipt requirement under the general usury law would be amended to permit the lender to furnish the borrower an annual statement of the interest paid on a loan during the previous year as well as the remaining balance on the loan in

lieu of providing a separate itemized receipt with each payment.

II. CURRENT LAW AND EFFECT OF CHANGES

A. CURRENT LAW

The Consumer Finance Act presently prohibits a licensee from collecting from a borrower any charge or amount whatsoever other than those specifically authorized in s. 516.031. In addition to the interest charges that are authorized, the licensee may charge the borrower the cost of appraisal and title insurance on real property offered as security for a loan, the intangible personal property tax, the documentary excise tax and any filing or recording fees necessarily paid to a public officer, and expenses of repossession of collateral and collection of a delinquent loan, including reasonable attorneys fees. For the purpose of determining the amount of interest received by a licensee in connection with a loan, the word "interest" is defined to mean any profit or advantage of any kind whatsoever that a licensee receives in connection with a loan.

Other provisions of the Consumer Finance Act require a licensee to give a borrower a disclosure statement showing the amount and date of the loan and the rate of interest charged as well as other terms of the loan, and upon such statement there must be printed in English a copy of s. 516.031. Additionally, a licensee must give a borrower a complete receipt for all payments made on any loan.

A corresponding provision in the General Usury Law requires persons lending money to give a borrower a receipt for each payment showing the amount of such payment credited to interest and principal.

B. EFFECT OF PROPOSED CHANGES

The bill provides that the limitation on charges received by a consumer finance licensee shall apply only to charges received as a condition to the grant of the loan. This would allow licensees to perform other services for borrowers not in connection with any loan and to receive a fee for such services.

The bill would permit licensees to charge borrowers the premium payable for "non-filing insurance" in lieu of any fees which would otherwise be payable to perfect a security interest required in connection with a loan. The premium for such insurance could not exceed the fees which would otherwise be payable.

The bill would permit licensees to assess against borrowers a "bad check charge" of up to \$10 or the amount actually charged the licensee by a depository institution for the return of an unpaid or dishonored item. Although s. 832.07, F.S., appears to authorize the imposition of a service charge on checks and similar items that are returned unpaid because they are drawn on insufficient funds, the present prohibition against consumer finance licensees receiving or collecting any charges whatsoever other than those specified in s. 516.031, F.S., apparently makes this provision unavailable to consumer finance licensees.

Section 2 of the bill makes two changes relating to the duty of a licensee to provide certain information to a borrower. The requirement that the disclosure statement showing the terms of the loan include a copy in English of s. 516.031 would be deleted. This requirement appears to pose certain problems for licensees who must reprint their forms whenever the statute is amended, and it has been suggested that few borrowers bother to read the provision since they are primarily interested in the

terms of the loan which are provided elsewhere in the disclosure statement. The bill would also amend the requirement that a licensee give to the borrower a plain and complete receipt for all payments made on any loan. In lieu of such receipts, licensees could elect to furnish to their borrowers an annual statement showing the interest paid on the loan during the previous year and the principal balance remaining due on the loan. Even so, licensees would still be required to give a simple receipt to a borrower for any payment made in cash.

Section 3 of the bill would amend the definition of interest so that that term would mean any profit received by the licensee as a condition to the grant of a loan rather than in connection with a loan. This change is intended to insure that if a licensee provides any other services to a borrower at the time a loan is made the fee or other charge for such services will not be deemed interest in connection with the loan.

Finally, the bill amends the receipt requirement found in the General Usury Law in the same way that the receipt requirement of the Consumer Finance Act would be amended. Many companies make consumer loans under the General Usury Law rather than through a consumer finance company licensed under Chapter 516. This amendment would put them on an equal footing with licensed consumer finance companies with respect to the requirement that they furnish a receipt to the borrower. Other institutional lenders, such as banks, savings and loan associations and insurance companies are already exempt from this receipt requirement by virtue of s. 687.10, F.S.

III. ECONOMIC IMPACT CONSIDERATIONS

A. PRIVATE SECTOR CONSIDERATIONS

The bill should result in increased opportunities for licensed consumer finance companies to provide income producing services. They would no longer be restricted to income derived from making consumer loans but could also receive fees for the sale of insurance, income tax preparation, and other financial services that they might desire to offer. The authorization to include 60 days unpaid interest in the principal amount of a renewal loan should result in some slight increase in yield on loans that are refinanced. The other changes proposed in the bill should reduce operational expenses to some extent. The authority to recover the cost of a returned check would put licensees in parity with everyone else who receives a worthless check. There should be some saving of printing costs by the deletion of the requirement to provide borrowers with a copy of a portion of the statutes. And the authorization to furnish an annual statement in lieu of a receipt for each payment could result in a considerable savings in postage costs for licensees and others who lend money under the General Usury Law.

To the extent that licensees would be permitted to engage in other types of business in addition to making regulated consumer loans, the increased competition in these areas should theoretically benefit consumers to some extent.

B. PUBLIC SECTOR CONSIDERATIONS

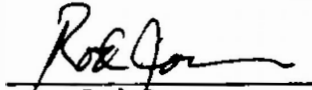
The effect of the bill in the public sector should be negligible. If the bill results in an increased use of non-filing insurance in lieu of the traditional methods of perfecting security interest, there could be some slight decline in the receipt of filing fees by the Secretary of State and the Circuit Court Clerks.

IV. COMMENTS

V. AMENDMENTS

The committee recommended one amendment relating to the lender's duty to provide a receipt for a loan payment under both chapters 516 and 687. If the amendment were adopted, a lender would be required to furnish such a receipt for any payment when requested in writing by the borrower.

Prepared by:


Rod Jones

Staff Director:


Wyatt T. Martin

If amendment is text of other bill or bills,
insert: Bill No(s)

HB **429**
SB

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Committee Amendment No. **1**
(For committee use)

The Committee on Commerce

..... offered the following amendment:

Amendment	On page <u>3</u>	line <u>24</u> and
2.	on page <u>3,</u>	line <u>6</u>
3.	before the period (.), insert:	
4.	
5.	<u>and for any payment when requested in writing by the borrower</u>	
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Senate Action: House Action:
..... House Amendment

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A bill to be entitled
An act relating to consumer loans; amending s.
516 031, F.S.; providing that the limitation on
charges received by a consumer finance company
shall apply only to charges received as a
condition to the grant of a loan; authorizing
charges for the premium payable for insurance
in lieu of perfecting a security interest;
authorizing the imposition of a bad check
charge, authorizing the inclusion in the
principal of a new loan of the accrued interest
on a prior loan used as consideration for such
loan; amending s. 516 15, F.S., deleting the
requirement that consumer finance licensees
furnish borrowers a copy of s. 516.031, F.S.;
authorizing licensees to furnish borrowers an
annual statement in lieu of a receipt for each
payment except for cash payments, amending s.
516 20, F.S ; limiting the definition of
"interest," amending s 687.08, F S ;
authorizing a lender to furnish an annual
statement to a borrower in lieu of a receipt
for each payment except for cash payments;
providing an effective date.

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

Section 1. Subsection (3) of section 516.031, Florida
Statutes, is amended and a new subsection (6) is added to said
section to read:

516 031 Finance charge; maximum rates.--

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BY 18

1 (3) OTHER CHARGES --
2 (a) In addition to the interest and insurance charges
3 herein provided for, no further or other charges or amount
4 whatsoever for any examination, service, brokerage,
5 commission, or other thing or otherwise shall be directly or
6 indirectly charged, contracted for, or received as a condition
7 to the grant of the loan, except charges paid for title
8 insurance and appraisal of real property offered as security
9 when paid to a third party and supported by an actual
10 expenditure, intangible personal property tax on the loan note
11 or obligation when secured by a lien on real property; the
12 documentary excise tax and lawful fees, if any, actually and
13 necessarily paid out by the licensee to any public officer for
14 filing, recording, or releasing in any public office any
15 instrument securing the loan, or the premium payable for any
16 insurance in lieu of perfecting any security interest
17 otherwise required by the licensee in connection with the
18 loan, if the premium does not exceed the fees which would
19 otherwise be payable, which fees or premium may be collected
20 when the loan is made or at any time thereafter; or actual and
21 reasonable attorney's fees as determined by the court in which
22 suit is filed and court costs, including the actual and
23 reasonable expenses of repossession, storing, repairing and
24 placing in condition for sale, and selling of any property
25 pledged as security. Any charges, including interest, in
26 excess of the combined total of all charges authorized and
27 permitted by this chapter shall constitute a violation of
28 chapter 687 governing interest and usury, and the penalties of
29 chapter 687 shall apply. In the event of a bona fide error,
30 the licensee shall refund or credit the borrower with the
31

1 amount of such overcharge immediately but within 20 days from
2 the discovery of such error.

3 (b) Notwithstanding the provisions of paragraph (a),
4 any lender of money who receives a check, draft, negotiable
5 order of withdrawal, or like instrument drawn on a bank or
6 other depository institution given by any borrower as full or
7 partial repayment of a loan may, if such instrument is not
8 paid or is dishonored by such institution, make and collect
9 from the borrower a bad check charge of not more than the
10 greater of either \$10 or an amount equal to the actual charge
11 made to the lender by the depository institution for the
12 return of the unpaid or dishonored instrument.

13 (6) If all or part of the consideration for a new loan
14 contract is the unpaid principal balance of a prior loan with
15 the licensee, then the principal amount payable under the new
16 loan contract may include not more than 60 days' unpaid
17 interest which has accrued on the prior loan.

18 Section 2. Section 516.15, Florida Statutes, is
19 amended to read:

20 516 15 Duties of licensee.--Every licensee shall:

21 (1) Deliver to the borrower at the time a loan is made
22 a statement in the English language showing in clear and
23 distinct terms the amount and date of the loan and of its
24 maturity, the nature of the security, if any, for the loan,
25 the name and address of the borrower and of the licensee, and
26 the rate of interest charged. ~~Upon such statement there shall~~
27 ~~be printed in English a copy of s. 516.031.~~

28 (2) Give to the borrower a plain and complete receipt
29 for all payments made on account of any loan at the time
30 payments are made, or, alternatively, furnish to the borrower
31 an annual statement showing the amount of interest paid on the

1 loan during the previous year as well as the remaining balance
2 on the loan, provided that a simple receipt shall be given to
3 the borrower for all payments made in cash.

4 (3) Permit payment of the loan in whole or in part
5 prior to its maturity with interest on such payment to the
6 date thereof.

7 (4) Upon repayment of the loan in full, mark indelibly
8 every paper signed by the borrower with the word "Paid" or
9 "Canceled" and release any mortgage, restore any pledge,
10 cancel and return any note, and cancel and return any
11 assignment given by the borrower as security.

12 Section 3. Subsection (1) of section 516 20, Florida
13 Statutes, is amended to read.

14 516 20 "Interest" defined.--

15 (1) Any profit or advantage of any kind whatsoever
16 that any licensee may contract for, collect, receive, or in
17 anywise obtain by a collateral sale, purchase, or agreement,
18 as a condition to the grant of ~~in connection with~~ any loan
19 regulated by this chapter, shall be deemed to be interest or
20 consideration for the purposes of regulation under this
21 chapter. Such transactions shall be governed by and subject
22 to the provisions of this chapter, except commissions received
23 as a person licensed by the Department of Insurance on
24 insurance written as hereinafter permitted. However, security
25 consisting of tangible property offered as security may be
26 reasonably insured against loss for a reasonable term,
27 considering the circumstances of the loan, and such insurance
28 shall not be deemed such collateral sale, purchase, or
29 agreement when the policy is payable to the borrower or any
30 member of his family, even though the customary mortgagee
31 clause is attached or the licensee is a coassured, provided

1 such insurance is sold at standard rates through a person duly
2 licensed by the Department of Insurance

3 Section 4. Section 687.08, Florida Statutes, is
4 amended to read:

5 687.08 Persons lending money to give borrower receipt
6 for payments; contents of receipt; penalty for violation.--
7 Every person, or the agent, officer, or other representative
8 of any person, lending money in this state upon security
9 shall, whenever the borrower of such money makes payment of
10 any money, either principal or interest, immediately upon such
11 payment being made, give to said borrower, a receipt, dated of
12 the date of such payment, which receipt shall state the amount
13 paid and for what such payment is made. If such payment is
14 for interest on the sum borrowed, the receipt shall so state.
15 If the sum so paid is to be applied to the payment of the
16 principal sum borrowed, the receipt shall so state. All such
17 receipts shall be duly and properly signed by the person, or
18 the agent, officer or other representative of the person, to
19 whom such money is paid. In lieu of providing such receipt, a
20 lender may furnish to the borrower an annual statement showing
21 the amount of interest paid on the loan during the previous
22 year as well as the remaining balance on the loan; provided,
23 however, that a simple receipt shall be given to the borrower
24 for all payments made in cash. Whoever refuses, upon demand,
25 to give a receipt or statement complying with the requirements
26 of this section shall forfeit the entire interest upon said
27 principal sum to the borrower.

28 Section 5. This act shall take effect October 1, 1984.
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SENATE SUMMARY

Provides that the limitation on the amount of interest and other charges received by a consumer finance company licensed under ch. 516, F.S., shall apply only to charges received as a condition to the grant of the loan. Authorizes charges by such a company for the premium payable for insurance in lieu of perfecting any security interest otherwise required by the company if the premium does not exceed the fees otherwise payable. Authorizes a licensee to make and collect a bad check charge. Authorizes the collection of up to 60 days' accrued interest on a prior loan used as consideration for a new loan in the principal payable under the new loan contract. Deletes the provision requiring a licensee to furnish a borrower a copy of s. 516 031, F S., which sets out the maximum amount of money a licensee can loan and the maximum rate of interest which can be charged. Authorizes a licensee to furnish a borrower with an annual statement in lieu of a receipt for each payment at the time of payment except payments made in cash. Amends the definition of "interest " Provides that any person lending money upon security may provide the borrower with a statement in lieu of a receipt for each payment, except for cash payments, and such statement is sufficient to prevent the lender from forfeiting the entire interest upon the principal to the borrower because of refusal to give a receipt

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Livingston</u>	<u>Martin</u>	1. <u>COM</u>	_____
2. _____	_____	2. <u>ECCA</u>	_____
3. _____	_____	3. _____	_____

SUBJECT:

Consumer Loans

BILL NO. AND SPONSOR:

SB 321 by
Senator Jennings

I. SUMMARY:

A. Present Situation:

The Florida Consumer Finance Act, Chapter 516, Florida Statutes, enables consumer finance lenders to make consumer loans in amounts up to \$25,000. The act: (1) requires the lender to be licensed; (2) limits maximum repayment periods for loans up to \$2,500; (3) prohibits wage assignments as security; (4) prohibits an interest in land as security for loans of less than \$1,000; (5) requires disclosures in addition to truth in lending; (6) prohibits penalty for prepayment; and (7) provides certain limitations in case of default. The interest allowed under this act is 30% on the first \$500; 24% on the next \$500; 18% on the next \$1,500; and 18% overall for any loan in excess of \$2,500. Any loan in default continues to accrue interest at these rates for twelve months, but thereafter the rate is reduced to 10%.

Current law specifies and limits other charges which may be imposed by a consumer finance company in addition to the interest charges. Section 516.031, Florida Statutes, permits a licensee to charge the borrower the cost of appraisal and title insurance on real property offered as security for a loan, the intangible personal property tax, the documentary excise tax and any filing or recording fees paid to a public officer, and expenses of repossession of collateral and collection of a delinquent loan, including reasonable attorney's fees, court costs and the expenses associated with the sale of property pledged as collateral.

The statute also requires a licensee to give the borrower a disclosure statement indicating the amount and date of the loan, its maturity date, the nature of the security, if any, the name and address of the borrower and the licensee and the rate of interest to be charged. The statement must include a printed copy of s.516.031, Florida Statutes.

This chapter also requires that a licensee must give a borrower a complete receipt for payments made on the loan at the time the payments are made. A similar provision in the general usury law requires persons lending money to give a borrower a receipt for each payment.

B. Effect of Proposed Changes:

This bill would specify that the charges received by a consumer finance licensee shall apply only to charges received as a condition to the grant of the loan. This would allow licensees to perform other services for borrowers not in connection with any loan and to receive a fee for these services.

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The bill would authorize an additional charge to be paid by the borrower for the premiums payable on any insurance coverage if the insurance was obtained in lieu of perfecting any security interest required in connection with the loan. Payment of the premium could not exceed the fees that would otherwise be charged for perfecting the security.

The bill authorizes a licensee to collect a "bad check charge" of up to \$10 or the amount actually charged the licensee by the depository institution for the return of an unpaid or dishonored check.

The bill authorizes a licensee to include up to 60 days unpaid interest in the principal amount of a new loan when the borrower is refinancing a previous loan.

The bill would delete the requirement that a consumer finance licensee must print a copy of s. 516.031, Florida Statutes, on its disclosure statement. Additionally, the bill would allow a licensee the option of providing a receipt for all payments made by the borrower on the loan or furnish to the borrower an annual statement showing the interest paid on the loan during the previous year and the remaining balance of the loan. This change would also be made in chapter 687, Florida Statutes, the general usury law.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

The bill is designed to allow consumer finance companies the opportunity to provide additional services other than just consumer loans. A licensee would no longer be restricted to income derived from making just consumer loans but could also receive fees or commissions for other services that they might choose to offer.

There should be some savings by the licensee in expenses by the deletion of the requirement to provide borrowers a copy of a portion of the statutes.

The option to furnish an annual statement in lieu of a receipt for each payment could result in savings to the licensee and to others who lend under the general usury law.

B. Government:

No significant impact is anticipated.

III. COMMENTS:

IV. AMENDMENTS:

None.

C O P Y

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Livingston</u>	<u>Martin</u>	1. <u>COM</u>	<u>Fav.</u>
2. _____	_____	2. <u>ECCA</u>	_____
3. _____	_____	3. _____	_____

SUBJECT:

Consumer Loans

BILL NO. AND SPONSOR:

SB 321 by
Senator Jennings

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A. Present Situation:

The Florida Consumer Finance Act, Chapter 516, Florida Statutes, enables consumer finance lenders to make consumer loans in amounts up to \$25,000. The act: (1) requires the lender to be licensed; (2) limits maximum repayment periods for loans up to \$2,500; (3) prohibits wage assignments as security; (4) prohibits an interest in land as security for loans of less than \$1,000; (5) requires disclosures in addition to truth in lending; (6) prohibits penalty for prepayment; and (7) provides certain limitations in case of default. The interest allowed under this act is 30% on the first \$500; 24% on the next \$500; 18% on the next \$1,500; and 18% overall for any loan in excess of \$2,500. Any loan in default continues to accrue interest at these rates for twelve months, but thereafter the rate is reduced to 10%.

Current law specifies and limits other charges which may be imposed by a consumer finance company in addition to the interest charges. Section 516.031, Florida Statutes, permits a licensee to charge the borrower the cost of appraisal and title insurance on real property offered as security for a loan, the intangible personal property tax, the documentary excise tax and any filing or recording fees paid to a public officer, and expenses of repossession of collateral and collection of a delinquent loan, including reasonable attorney's fees, court costs and the expenses associated with the sale of property pledged as collateral.

The statute also requires a licensee to give the borrower a disclosure statement indicating the amount and date of the loan, its maturity date, the nature of the security, if any, the name and address of the borrower and the licensee and the rate of interest to be charged. The statement must include a printed copy of s.516.031, Florida Statutes.

This chapter also requires that a licensee must give a borrower a complete receipt for payments made on the loan at the time the payments are made. A similar provision in the general usury law requires persons lending money to give a borrower a receipt for each payment.

B. Effect of Proposed Changes:

This bill would specify that the charges received by a consumer finance licensee shall apply only to charges received as a condition to the grant of the loan. This would allow licensees to perform other services for borrowers not in connection with any loan and to receive a fee for these services.

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The bill would authorize an additional charge to be paid by the borrower for the premiums payable on any insurance coverage if the insurance was obtained in lieu of perfecting any security interest required in connection with the loan. Payment of the premium could not exceed the fees that would otherwise be charged for perfecting the security.

The bill authorizes a licensee to collect a "bad check charge" of up to \$10 or the amount actually charged the licensee by the depository institution for the return of an unpaid or dishonored check.

The bill authorizes a licensee to include up to 60 days unpaid interest in the principal amount of a new loan when the borrower is refinancing a previous loan.

The bill would delete the requirement that a consumer finance licensee must print a copy of s. 516.031, Florida Statutes, on its disclosure statement. Additionally, the bill would allow a licensee the option of providing a receipt for all payments made by the borrower on the loan or furnish to the borrower an annual statement showing the interest paid on the loan during the previous year and the remaining balance of the loan. This change would also be made in chapter 687, Florida Statutes, the general usury law.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

The bill is designed to allow consumer finance companies the opportunity to provide additional services other than just consumer loans. A licensee would no longer be restricted to income derived from making just consumer loans but could also receive fees or commissions for other services that they might choose to offer.

There should be some savings by the licensee in expenses by the deletion of the requirement to provide borrowers a copy of a portion of the statutes.

The option to furnish an annual statement in lieu of a receipt for each payment could result in savings to the licensee and to others who lend under the general usury law.

B. Government:

No significant impact is anticipated.

III. COMMENTS:

IV. AMENDMENTS:

None.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Livingston	Martin	1. COM	Fav.
2. _____	_____	2. ECCA	_____
3. _____	_____	3. _____	_____

SUBJECT:

Consumer Loans

BILL NO. AND SPONSOR:

SB 321 by
Senator Jennings
Ch. 84-193, Laws of Florida

I. SUMMARY:

A. Present Situation:

The Florida Consumer Finance Act, Chapter 516, Florida Statutes, enables consumer finance lenders to make consumer loans in amounts up to \$25,000. The act: (1) requires the lender to be licensed; (2) limits maximum repayment periods for loans up to \$2,500; (3) prohibits wage assignments as security; (4) prohibits an interest in land as security for loans of less than \$1,000; (5) requires disclosures in addition to truth in lending; (6) prohibits penalty for prepayment; and (7) provides certain limitations in case of default. The interest allowed under this act is 30% on the first \$500; 24% on the next \$500; 18% on the next \$1,500; and 18% overall for any loan in excess of \$2,500. Any loan in default continues to accrue interest at these rates for twelve months, but thereafter the rate is reduced to 10%.

Current law specifies and limits other charges which may be imposed by a consumer finance company in addition to the interest charges. Section 516.031, Florida Statutes, permits a licensee to charge the borrower the cost of appraisal and title insurance on real property offered as security for a loan, the intangible personal property tax, the documentary excise tax and any filing or recording fees paid to a public officer, and expenses of repossession of collateral and collection of a delinquent loan, including reasonable attorney's fees, court costs and the expenses associated with the sale of property pledged as collateral.

The statute also requires a licensee to give the borrower a disclosure statement indicating the amount and date of the loan, its maturity date, the nature of the security, if any, the name and address of the borrower and the licensee and the rate of interest to be charged. The statement must include a printed copy of s.516.031, Florida Statutes.

This chapter also requires that a licensee must give a borrower a complete receipt for payments made on the loan at the time the payments are made. A similar provision in the general usury law requires persons lending money to give a borrower a receipt for each payment.

B. Effect of Proposed Changes:

This bill would specify that the charges received by a consumer finance licensee shall apply only to charges received as a condition to the grant of the loan. This would allow licensees to perform other services for borrowers not in connection with any loan and to receive a fee for these services.

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1. GRAY BUILDING

Tallahassee, FL 32399-0250

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The bill would authorize an additional charge to be paid by the borrower for the premiums payable on any insurance coverage if the insurance was obtained in lieu of perfecting any security interest required in connection with the loan. Payment of the premium could not exceed the fees that would otherwise be charged for perfecting the security.

The bill authorizes a licensee to collect a "bad check charge" of up to \$10 or the amount actually charged the licensee by the depository institution for the return of an unpaid or dishonored check.

The bill authorizes a licensee to include up to 60 days unpaid interest in the principal amount of a new loan when the borrower is refinancing a previous loan.

The bill would delete the requirement that a consumer finance licensee must print a copy of s. 516.031, Florida Statutes, on its disclosure statement. Additionally, the bill would allow a licensee the option of providing a receipt for all payments made by the borrower on the loan or furnish to the borrower an annual statement showing the interest paid on the loan during the previous year and the remaining balance of the loan. This change would also be made in chapter 687, Florida Statutes, the general usury law.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

The bill is designed to allow consumer finance companies the opportunity to provide additional services other than just consumer loans. A licensee would no longer be restricted to income derived from making just consumer loans but could also receive fees or commissions for other services that they might choose to offer.

There should be some savings by the licensee in expenses by the deletion of the requirement to provide borrowers a copy of a portion of the statutes.

The option to furnish an annual statement in lieu of a receipt for each payment could result in savings to the licensee and to others who lend under the general usury law.

B. Government:

No significant impact is anticipated.

III COMMENTS:

IV AMENDMENTS:

None.



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Florida House of Representatives

H. Lee Moffitt, Speaker Steve Pajcic, Speaker pro tempore
Committee on Commerce

Samuel P. Bell, III
Chairman

Dexter W. Lehtinen
Vice Chairman

March 10, 1983

MEMORANDUM

TO: Members of the Commerce Committee

FROM: Wyatt T. Martin, Staff Director *WM*

SUBJECT: Current Status of Interest Rate Regulation in Florida

This report is intended to serve as a brief summary of the current statutory provisions which regulate interest rates in the State of Florida. The report outlines: (1) the general usury law; Chapter 687, Florida Statutes; (2) the exceptions found in various other statutes; and (3) recently enacted Federal legislation which pre-empts state usury laws with respect to certain types of loans. In addition to the interest rates themselves, the report attempts to cover the restrictions and requirements which attend the right to charge the rates specified in the various statutes.

CHAPTER 687

Any discussion of usury in Florida must begin with Chapter 687. Its provisions govern all transactions involving the payment of interest except for those that come within the various statutory or common law exceptions. Section 687.03 prohibits any person from reserving, charging, or taking for any loan, advance of money, or forbearance to enforce the collection of any sum of money a rate of interest greater than the equivalent of 18% per annum simple interest, either directly or indirectly. For this purpose it is of course necessary to determine which of the charges paid by a borrower in connection with a loan constitute interest. This determination depends not upon the label placed on the charges, but rather on all the facts and circumstances surrounding the payment.

Interest Rate Regulation

"Interest" is generally defined as compensation for the use of money or for the forbearance to collect money that is due. In order to constitute interest, the money must be paid by the borrower to the lender in consideration for the loan and not identifiable as reasonable and necessary expenses of the lender in connection with making the loan. Thus, a genuine commitment fee, costs of appraisal, attorney's fees, documentary stamp taxes and recording costs are not interest. However, other charges such as "points" or a simple service charge will generally be considered interest.

As indicated above, the general usury law specifies a maximum simple interest rate of 18% per annum. This limitation applies only to loans and other obligations not exceeding \$500,000. On loans of more than \$500,000, including credit arrangements where the initial advance is less than \$500,000 but the aggregate principle indebtedness is reasonably expected to exceed \$500,000 during the term of the loan, the maximum rate permitted by the statute is 25%.

If the rate of interest charged exceeds 25%, the lender is subject to the criminal provisions of the usury law. A lender charging more than 25% but less than 45% is guilty of a second degree misdemeanor, and a lender who charges more than 45% is guilty of a third degree felony. Additionally, any person who uses force or threats of force to collect any extension of credit or to punish the failure to repay a loan is guilty of a second degree felony.

Aside from these criminal penalties, various consequences attend the making of usurious loans. Section 687.04 provides that any person who willfully violates the interest rate limitation "shall forfeit the entire interest so charged." Thus, only the actual principal amount of such loans can be enforced through judicial proceedings. Furthermore, when the usurious interest has actually been paid, the statute requires that the lender shall forfeit to the borrower double the amount of interest so exacted. And if the loan violates the criminal usury law, i.e., exceeds 25%, the debt is declared to be unenforceable, and the lender forfeits both principal and interest.

These penalties apply only if the lender, willfully charges a higher rate of interest than is allowed, and this question depends on numerous factors and circumstances. If a lender discovers that he has made a usurious loan and, before any action by the borrower, refunds any overcharge taken, together with interest, and adjusts the contract to insure that the borrower will not be required to pay further excessive interest, then the penalty provisions will not apply. However, this "good faith" exemption does not apply to criminally usurious transactions.

Interest Rate Regulation

The general usury limitation is subject to numerous exemptions. Many of these are found in the "special situation usury laws," which are summarized below. Others are found in Chapter 687. Thus, the usury law does not apply to sales of bonds in excess of \$100 or mortgages securing them. Nor does it apply to any loan or other advance of credit made pursuant to a commitment to insure by the Federal Housing Administration, a commitment to guarantee by the Veterans Administration, or a commitment to purchase a loan by the Federal National Mortgage Association (Fannie Mae), the Government National Mortgage Association (Ginnie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), or any other federal agency or instrumentality. Finally, the civil usury law does not apply to international business loans made by banks to foreign persons.

The one major common-law exception to the usury statute arises from what is known as the "time-price doctrine." Under this theory, Florida courts have consistently held that a seller may charge a higher price for a credit sale than for a cash sale without creating a loan subject to the usury statute. The availability of this exemption is somewhat limited by the provisions of Chapter 520, F.S., which establishes interest limitations in connection with installment sales, certain home improvements, and goods and services purchased primarily for household use. The provisions of Chapter 520 are summarized below.

Other than the interest rate ceiling, the only significant restriction upon lenders found in Chapter 687 is the requirement that in secured loan transactions the lender must furnish the borrower with a receipt for each payment indicating the amount of principal and interest paid. If the lender refuses to furnish the receipt upon demand, he forfeits the entire interest owed by the borrower. The requirement to furnish such receipts does not apply to state or federally chartered banks and savings associations.

The interest rate parity act, section 687.12, F.S., provides that any licensed lender may charge the maximum rate of interest permitted by law on similar loans or extensions of credit made by any other lenders. Thus a bank or credit union making a small consumer loan or a merchant extending credit in connection with the purchase of consumer goods would be permitted to charge the same rate available to a consumer finance company under Chapter 516. However, the parity act does not permit a lender to make any particular type of loan or extension of credit which it is not otherwise authorized to make. In making a loan under the parity act the lender must specifically indicate the statutory provision under which the loan is made and must abide by all the statutory restrictions, including the rate, amount, term, permissible charges and rebate requirements established in that statute.

Interest Rate Regulation

STATUTORY EXCEPTIONS TO GENERAL USURY LAW

CHAPTER 516

The Florida Consumer Finance Act, Chapter 516, F.S., enables consumer finance lenders to make consumer loans in amounts up to \$25,000. The act: (1) requires the lender to be licensed; (2) limits maximum repayment periods for loans up to \$2,500; (3) prohibits wage assignments as security; (4) prohibits an interest in land as security for loans of less than \$1,000; (5) requires disclosures in addition to truth in lending; (6) prohibits penalty for prepayment; and (7) provides certain limitations in case of default. The interest allowed under this act is 30% on the first \$500; 24% on the next \$500; 18% on the next \$1,500; and 18% overall for any loan in excess of \$2,500. Any loan in default continues to accrue interest at these rates for twelve months, but thereafter the rate is reduced to 10%. If a lender charges more than the various rates specified, he cannot enforce the debt as to either principal or interest and, additionally, is guilty of a misdemeanor of the second degree.

CHAPTER 520

PART I

The provisions of Chapter 520, F.S., constitute limitations on the "time price doctrine" which is itself an exception to the general usury law. Under the Motor Vehicle Sales Finance Act, licensees are authorized to impose various finance charges based on the age of the motor vehicle financed. In class 1, new cars, the maximum rate is \$10 per \$100 per year, or about 17.6% on a 48 month contract. For class 2, automobiles not more than two years old, the maximum rate is \$11/\$100/year or 19.6% over a 36 month period. In class 3, cars up to four years old, the top rate is \$15/\$100/year, which is equivalent to 26.6% on a 24 month contract. Finally, in class 4, cars more than 4 years old, the maximum charge is \$17/\$100/year or 30.1% on an 18 month contract. The annual percentage rate varies in each case with the term of the contract because of the add-on method of computation.

Charges for credit life and disability insurance must be included in the finance charge for disclosure purposes if required as a condition for the extension of credit but are not included in the determination of the maximum allowable rate.

If the buyer prepays his obligation, the seller must give him a refund credit for the unearned finance charge as determined under the rule of 78ths after first deducting an acquisition charge of \$25.

Interest Rate Regulation

The statute permits a seller to charge, in addition to the finance charge, a delinquent payment charge of \$5 or 5% of the amount of the delinquent payment, whichever is less, on payments more than 10 days late. If the buyer so requests, the seller may refinance the unpaid balance of the installment debt at the rates applicable to the age of the car at the time of the refinancing. If a seller violates the provisions of the act he is guilty of a second degree misdemeanor and is barred from recovering any finance charge, delinquency, or collection charge.

PART II

Under the Retail Installment Sales Act a retail seller may collect a finance charge of \$12/\$100/year (equivalent to approximately 21.5% simple interest) on a closed-end contract. The statute also provides a minimum finance charge of \$12 if the initial amount financed is \$50-\$100; \$7.50 on \$25-\$50; and \$5 if the initial amount is less than \$25.

On revolving or open-end credit accounts the seller is limited to a finance charge of \$.15 per \$10 per month (i.e. 1.5% per month or 18% per annum, simple interest) on the unpaid balance.

A retail installment contract may provide a delinquent payment penalty of the lesser of \$5 or 5% of the amount of the late payment and for the payment of reasonable attorney's fees if the contract or account is referred for collection to an outside attorney.

Upon any prepayment, the seller must rebate unearned interest under the rule of 78ths after first deducting an acquisition charge of \$15.

A seller who violates the act is guilty of a second degree misdemeanor and is barred from recovering any finance charge or delinquency or collection charge. Additionally, the buyer may recover any of such charges actually paid. However, none of these penalties apply unless and until the seller is notified of his failure to comply with the act and given 30 days to make any necessary adjustments.

PART IV

The maximum finance charge under an installment home improvement contract is \$10/\$100/year, or about 18% simple interest. The buyer may also be charged for credit insurance, the cost of any necessary building permits, the cost of a title search or insurance, and the services of an attorney relating to a mortgage or other lien securing payment.

The statutory provisions for rebate of finance charges on prepayment and delinquent payment penalties are the same as those applicable to motor vehicle sales. Any unauthorized charges may be credited against the next installment or recovered by the buyer. Violation of the act carries a second degree misdemeanor penalty. This act does not apply to home improvement loans by savings and loan associations.

CHAPTER 627

PART III

Section 627.458 provides that an insurer may charge not more than 10% per annum on loans up to the amount of the cash surrender value of a life insurance policy. However, for any rate in excess of 6%, the insurer must furnish to the Department of Insurance evidence that the rate bears a reasonable relationship to other rates.

Additionally, Section 627.4585 permits adjustable rate policy loans. Under this provision, the rate may not exceed the higher of the monthly average yield of corporate bonds as published by Moody's Investors Service or one percent over the rate used to compute the cash surrender value of a policy.

PARTS XV AND XVI

Insurance premium finance companies may charge not more than \$12/\$100/year (approximately 21.5% simple interest) to finance the payment of insurance premiums. They may also collect an additional charge of up to \$20 per year which need not be refunded upon prepayment. Refund of any unearned finance charge upon prepayment is calculated according to the rule of 78ths.

A premium finance agreement may provide for a delinquent payment penalty of not more than \$10 on any payment more than 4 days late and may also provide for attorney's fees up to 20% of the amount due if the account is referred to an outside attorney for collection.

If a premium finance agreement is refinanced, the finance company may charge only 1% per month (12% per year) simple interest for such extension.

If a finance company charges more than is permitted by the statute, it forfeits the entire finance charge to which it would otherwise be entitled and is liable for twice the amount of any such finance charge actually collected.

A licensed insurance agency may impose a service charge for financing premiums at the following rates:

- 1) \$1 per installment up to a maximum of \$6 per year on a balance of \$120 or less;
- 2) \$1 per installment up to a maximum of \$9 per year on a balance of \$120-\$220;

Interest Rate Regulation

- 3) \$1 per installment up to a maximum of \$12 per year on a balance of more than \$220.

Chapter 657

Credit unions chartered under the Florida Credit Union Act may make loans, both secured and unsecured, at an interest rate not exceeding 18% simple interest. Charges for credit life and disability insurance are not considered interest.

Chapter 658

The interest rate ceiling is also 18% simple interest for loans by state banks not in excess of \$50,000. The discounting or prepayment of interest is permitted, and the following charges may be made:

- 1) up to \$10 as a minimum charge on any single payment loan;
- 2) up to \$15 as a minimum charge on an installment loan; and
- 3) an investigation fee of the lesser of \$50 or 5% of the principal amount of the loan.

These additional charges are not available if the delinquency charges exceed 5% of the amount of any payments in default or if the bank refuses to rebate unearned interest upon prepayment.

On credit card loans, the statute allows an interest rate of not more than 1.5% per month on the unpaid balance, or 18% per annum, simple interest.

Chapter 664

The interest rate structure for industrial savings banks resembles that in the banking code. The interest rate may not exceed 18% simple interest on the principal amount of the loan. These banks may receive as a minimum charge up to \$10 on a single payment loan or \$15 on an installment loan, and they may charge an investigation fee of the lesser of \$50 or 2% of the principal amount of the loan. Banks having a delinquency charge of more than 5% of the amount of any payments in default, or which refuse to rebate unearned interest on prepayment, may not avail themselves of the allowable, minimum charge or investigation fee.

Interest Rate Regulation

Chapter 665

The Florida Savings Association Act provides savings associations full exemption from the usury law for the following types of loans:

- 1) loans secured by a first lien on real estate;
- 2) loans secured by savings accounts to the extent of the withdrawal value of the account;
- 3) loans secured by the pledge of those loans described in (1) and (2), above, and by the pledge of investments of a type in which the association is authorized to invest; and
- 4) loans secured by a wrap around mortgage, inferior to the first mortgage, in which the mortgagee is contractually obligated to make the payments required under the first mortgage.

For other types of loans, the general usury law applies.

Federal Preemption

By an act effective April 1, 1980, the Congress has preempted the right of states to limit interest rates on certain types of loans. Title V, sections 501 et seq., P.L. 96-221. However, that act provides that a state may "override" the federal preemption by adopting a law which states explicitly that the state does not want the federal law to apply to loans made in the state.

Part A of Title V preempts state interest rate caps on first mortgage loans on residential real estate, including condominiums and housing cooperatives, and on manufactured housing if certain consumer protection requirements are met. The preemption applies to all such first mortgage loans made by banks, savings associations, credit unions, mortgage bankers and HUD approved lenders. This preemption will be permanent unless a state acts to override it before April 1, 1983.

The impact of this provision in Florida should be relatively limited since savings associations may make such loans without any limit on the interest rate charged under section 665.077, F.S., and this privilege is available to other licensed lenders under the interest rate parity act.

Interest Rate Regulation

Part B preempts state limits on interest rates on business and agricultural loans of \$1,000 or more and places a floating cap on the maximum rates which may be charged. A lender may charge not more than 5 percentage points above the Federal Reserve discount rate, plus any surcharge, on 90 day commercial paper in the Federal Reserve district where the loan is made. This preemption will end on April 1, 1983, or at any earlier time when a state overrides the preemption by appropriate legislation.

Under Part C, banks insured under the Federal Deposit Insurance Act, savings and loan associations affected by the National Housing Act, and credit unions subject to the Federal Credit Union Act may charge interest on all loans at a rate of one percentage point above the discount rate as described above, without surcharge, or the allowable state rate, whichever is greater. Small business companies regulated under the Small Business Investment Act may charge the lowest of: (1) the rate prescribed by SBA regulations; (2) the maximum rate allowed by state law which is not preempted; or (3) the Federal Reserve discount rate plus one percent. This preemption is permanent, subject to the right of a state to override it at any time.

The federal act includes penalties which are analagous to those provided in the Florida general usury law. Any person who knowingly charges a greater rate of interest than is allowed under the act will forfeit the entire interest on the loan. If the greater interest has been paid, the person who paid it may recover twice the amount paid from the person receiving it.

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	STATUTORY AUTHORITY	MAXIMUM RATE	MINIMUM CHARGE	ADDITIONAL CHARGE	REBATE	PREPAYMENT PENALTY	DELINQUENT PAYMENT PENALTY
CONSUMER FINANCE COMPANIES	516.031	30% on first \$ 500 24% on next \$ 500 18% above \$1,000 18% overall if above \$2,500					
MOTOR VEHICLE INSTALLMENT SELLERS	520.08	\$10/\$100/Yr. (17.6%)* \$11/\$100/Yr. (19.6%)* \$15/\$100/Yr. (26.6%)* \$17/\$100/Yr. (30.1%)*	\$25		Rule of 78ths	\$25	5% or \$5 which whichever is less
RETAIL INSTALLMENT CONTRACTS	520.34	\$12/\$100/Yr. (21.5%)*	\$12.00 - over \$50 \$ 7.50 - \$25-\$50 \$ 5.00 -under \$25		Rule of 78ths	\$15	\$5/5%
REVOLVING CHARGE ACCOUNTS	520.35	15¢/\$10/Mo. (18%)	\$1/Mo.				\$5/5%
HOME IMPROVEMENT CONTRACTS	520.78	\$10/\$100/Yr. (18%)*	\$25		Rule of 78ths	\$25	\$5/5%
CREDIT UNIONS	657.038	18%					
BANKS	658.49	18%	\$10 - single pay. \$15 - installment	2% of loan up to max. of \$50	Rule of 78ths		5%
CREDIT CARDS	658.50	1.5% Per Mo.					
INDUSTRIAL SAVINGS BANKS	664.07	18%	\$10 - single pay. \$15 - installment	2% of loan up to max. of \$50	Rule of 78ths		5%
SAVINGS AND LOAN ASSOCIATIONS	665.0731	No limit on first mort- gage, wraparound & certain secured loans; 18% on all others				2% on Home Loans under \$100,000	

*Approximate annual rate. Actual rate depends on term of loan.

Bill Analysis



Florida House of Representatives

H. Lee Moffitt, Speaker Steve Pajcic, Speaker pro tempore
Committee on Commerce

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Samuel P. Bell, III
Chairman

Dexter W. Lehtinen
Vice Chairman

FINAL STAFF SUMMARY

SB 321 by Jennings Date: June 4, 1984
(as enacted by the Legislature)
relating to interest Became Law: June 13, 1984
and finance
Committee Consideration: Ch. 84-193, Laws of Florida
Senate Commerce
Senate ECCA
Identical*/Similar Bills: Effective Date: _____
HB 429 October 1, 1984

I. SUMMARY AND PURPOSE

This bill amends several provisions in the Consumer Finance Act, Chapter 516, F.S., and one provision in the General Usury Law, Chapter 687, F.S., relating to interest and finance charges. In the Consumer Finance Act, the restriction on charges which may be received by a licensee is limited so as to apply only to charges received as a condition to the grant of a loan. Additionally, a licensee is permitted to charge the borrower for the premium payable on "non-filing insurance" in lieu of the fees that would be required to perfect a security interest, so long as the premium does not exceed the fees which would otherwise be payable. A licensee is also permitted by the bill to impose a bad check charge for any dishonored check given in payment of a loan. Finally, a licensee is permitted to include up to 60 days unpaid interest in the principal amount of a new loan when the borrower is refinancing a previous loan.

Other changes in the bill include the deletion of a requirement that a consumer finance licensee give to each borrower a copy of section 516.031, F.S., and an amendment to the provision requiring licensees to give a complete receipt for all payments made on any loan.

The last two sections in the bill conform related provisions to changes previously described. In the Consumer Finance Act, the word "interest" is redefined to mean any profit perceived by the licensee as a condition to the grant of a loan, rather than

any profit received in connection with a loan. Finally, the receipt requirement under the general usury law is amended to permit the lender to furnish the borrower an annual statement of the interest paid on a loan during the previous year as well as the remaining balance on the loan in lieu of providing a separate itemized receipt with each payment.

II. CURRENT LAW AND EFFECT OF CHANGES

A. CURRENT LAW

The Consumer Finance Act presently prohibits a licensee from collecting from a borrower any charge or amount whatsoever other than those specifically authorized in s. 516.031. In addition to the interest charges that are authorized, the licensee may charge the borrower the cost of appraisal and title insurance on real property offered as security for a loan, the intangible personal property tax, the documentary excise tax and any filing or recording fees necessarily paid to a public officer, and expenses of repossession of collateral and collection of a delinquent loan, including reasonable attorneys fees. For the purpose of determining the amount of interest received by a licensee in connection with a loan, the word "interest" is defined to mean any profit or advantage of any kind whatsoever that a licensee receives in connection with a loan.

Other provisions of the Consumer Finance Act require a licensee to give a borrower a disclosure statement showing the amount and date of the loan and the rate of interest charged as well as other terms of the loan, and upon such statement there must be printed in English a copy of s. 516.031. Additionally, a licensee must give a borrower a complete receipt for all payments made on any loan.

A corresponding provision in the General Usury Law requires persons lending money to give a borrower a receipt for each payment showing the amount of such payment credited to interest and principal.

B. EFFECT OF CHANGES

The bill provides that the limitation on charges received by a consumer finance licensee shall apply only to charges received as a condition to the grant of the loan. This would allow licensees to perform other services for borrowers not in connection with any loan and to receive a fee for such services.

The bill permits licensees to charge borrowers the premium payable for "non-filing insurance" in lieu of any fees which would otherwise be payable to perfect a security interest required in connection with a loan. The premium for such insurance may not exceed the fees which would otherwise be payable.

The bill permits licensees to assess against borrowers a "bad check charge" of up to \$10 or the amount actually charged the licensee by a depository institution for the return of an unpaid or dishonored item. Although s. 832.07, F.S., appears to authorize the imposition of a service charge on checks and similar items that are returned unpaid because they are drawn on insufficient funds, the present prohibition against consumer finance licensees receiving or collecting any charges whatsoever other than those specified in s. 516.031, F.S., apparently makes this provision unavailable to consumer finance licensees.

Section 2 of the bill makes two changes relating to the duty of a licensee to provide certain information to a borrower. The requirement that the disclosure statement showing the terms of

the loan include a copy in English of s. 516.031 is deleted. This requirement appears to pose certain problems for licensees who must reprint their forms whenever the statute is amended, and it has been suggested that few borrowers bother to read the provision since they are primarily interested in the terms of the loan which are provided elsewhere in the disclosure statement. The bill also amends the requirement that a licensee give to the borrower a plain and complete receipt for all payments made on any loan. In lieu of such receipts, licensees may furnish to their borrowers an annual statement showing the interest paid on the loan during the previous year and the principal balance remaining due on the loan. Even so, licensees are still required to give a simple receipt to a borrower for any payment made in cash and for any payment when requested in writing by the borrower.

Section 3 of the bill amends the definition of interest so that that term will mean any profit received by the licensee as a condition to the grant of a loan rather than in connection with a loan. This change is intended to insure that if a licensee provides any other services to a borrower at the time a loan is made the fee or other charge for such services will not be deemed interest in connection with the loan.

Finally, the bill amends the receipt requirement found in the General Usury Law in the same way that the receipt requirement of the Consumer Finance Act is amended. Many companies make consumer loans under the General Usury Law rather than through a consumer finance company licensed under Chapter 516. This amendment will put them on an equal footing with licensed consumer finance companies with respect to the requirement that they furnish a receipt to the borrower. Other institutional lenders, such as banks, savings and loan associations and insurance companies are already exempt from this receipt requirement by virtue of s. 687.10, F.S.

III. ECONOMIC IMPACT CONSIDERATIONS

A. PRIVATE SECTOR CONSIDERATIONS

The bill should result in increased opportunities for licensed consumer finance companies to provide income-producing services. They will no longer be restricted to income derived from making consumer loans but may also receive fees for the sale of insurance, income tax preparation, and other financial services that they might desire to offer. The authorization to include 60 days unpaid interest in the principal amount of a renewal loan should result in some slight increase in yield on loans that are refinanced. The other provisions of the bill should reduce operational expenses to some extent. The authority to recover the cost of a returned check will put licensees in parity with everyone else who receives a worthless check. There should be some saving of printing costs by the deletion of the requirement to provide borrowers with a copy of a portion of the statutes. And the authorization to furnish an annual statement in lieu of a receipt for each payment could result in a considerable savings in postage costs for licensees and others who lend money under the General Usury Law.

To the extent that licensees are permitted to engage in other types of business in addition to making regulated consumer loans, the increased competition in these areas should theoretically benefit consumers to some extent.

B. PUBLIC SECTOR CONSIDERATIONS

The effect of the bill in the public sector should be negligible. If the bill results in an increased use of non-

filing insurance in lieu of the traditional methods of perfecting security interests, there could be some slight decline in the receipt of filing fees by the Secretary of State and the Circuit Court Clerks.

IV. COMMENTS

V. LEGISLATIVE HISTORY

A. ENACTED BILL

Senate Bill 321 was considered by the Commerce Committee on April 17 and by the Committee on Economic, Community and Consumer Affairs on April 24. It was reported favorably by both committees and placed on the Calendar. The bill was passed by the Senate by a vote of 35-0 on May 17 (SJ 321).

In the House, the bill was placed directly on the Calendar without committee reference. On May 23 it was substituted for the House companion, HB 429, amended, and passed by a vote of 104-2 (HJ 576). The amendment was the same as had been recommended to the House bill by the Commerce Committee and is described below.

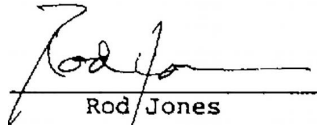
On May 28, the Senate concurred in the House amendment and passed the bill as amended by a vote of 30-0 (SJ 452).

B. DISPOSITION OF COMPANION

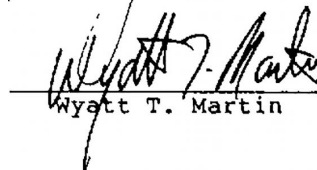
House Bill 429 was heard by the Subcommittee on Banking and Commerce on March 6 and was approved with one amendment. The amendment added a provision to the bill that requires a consumer finance licensee or a person lending under the General Usury Law to furnish a receipt for any loan payment when requested in writing by the borrower. The bill was then reported favorably with the amendment by the full Commerce Committee after its meeting on April 9.

On May 23 the Senate bill was substituted for the House bill which was then laid on the table under the rules.

Prepared by:


Rod Jones

Staff Director:


Wyatt T. Martin

Bill Analysis



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Florida House of Representatives

H. Lee Moffitt, Speaker Steve Pajcic, Speaker pro tempore
Committee on Commerce

Samuel P. Bell, III
Chairman

STAFF SUMMARY AND ANALYSIS

Dexter W. Lehtinen
Vice Chairman

HB 429 by Silver

DATE: February 14, 1984

relating to interest and

REVISED: _____

finance

REVISED: _____

Other Committees of Reference:

IDENTICAL*/SIMILAR BILLS:

SB 321*

EFFECTIVE DATE: _____

October 1, 1984

I. SUMMARY AND PURPOSE

This bill amends several provisions in the Consumer Finance Act, Chapter 516, F.S., and one provision in the General Usury Law, Chapter 687, F.S., relating to interest and finance charges. In the Consumer Finance Act, the restriction on charges which may be received by a licensee would be limited so as to apply only to charges received as a condition to the grant of a loan. Additionally, a licensee would be permitted to charge the borrower for the premium payable on "non-filing insurance" in lieu of the fees that would be required to perfect a security interest, so long as the premium does not exceed the fees which would otherwise be payable. A licensee would also be permitted by the bill to impose a bad check charge for any dishonored check given in payment of a loan. Finally, a licensee would be permitted to include up to 60 days unpaid interest in the principal amount of a new loan when the borrower is refinancing a previous loan.

Other changes in the bill include the deletion of a requirement that a consumer finance licensee give to each borrower a copy of section 516.031, F.S., and an amendment to the provision requiring licensees to give a complete receipt for all payments made on any loan.

The last two sections in the bill would conform related provisions to changes previously described. In the Consumer Finance Act, the word "interest" would be redefined to mean any profit perceived by the licensee as a condition to the grant of a loan, rather than any profit received in connection with a loan. Finally, the receipt requirement under the general usury law would be amended to permit the lender to furnish the borrower an annual statement of the interest paid on a loan during the previous year as well as the remaining balance on the loan in

lieu of providing a separate itemized receipt with each payment.

II. CURRENT LAW AND EFFECT OF CHANGES

A. CURRENT LAW

The Consumer Finance Act presently prohibits a licensee from collecting from a borrower any charge or amount whatsoever other than those specifically authorized in s. 516.031. In addition to the interest charges that are authorized, the licensee may charge the borrower the cost of appraisal and title insurance on real property offered as security for a loan, the intangible personal property tax, the documentary excise tax and any filing or recording fees necessarily paid to a public officer, and expenses of repossession of collateral and collection of a delinquent loan, including reasonable attorneys fees. For the purpose of determining the amount of interest received by a licensee in connection with a loan, the word "interest" is defined to mean any profit or advantage of any kind whatsoever that a licensee receives in connection with a loan.

Other provisions of the Consumer Finance Act require a licensee to give a borrower a disclosure statement showing the amount and date of the loan and the rate of interest charged as well as other terms of the loan, and upon such statement there must be printed in English a copy of s. 516.031. Additionally, a licensee must give a borrower a complete receipt for all payments made on any loan.

A corresponding provision in the General Usury Law requires persons lending money to give a borrower a receipt for each payment showing the amount of such payment credited to interest and principal.

B. EFFECT OF PROPOSED CHANGES

The bill provides that the limitation on charges received by a consumer finance licensee shall apply only to charges received as a condition to the grant of the loan. This would allow licensees to perform other services for borrowers not in connection with any loan and to receive a fee for such services.

The bill would permit licensees to charge borrowers the premium payable for "non-filing insurance" in lieu of any fees which would otherwise be payable to perfect a security interest required in connection with a loan. The premium for such insurance could not exceed the fees which would otherwise be payable.

The bill would permit licensees to assess against borrowers a "bad check charge" of up to \$10 or the amount actually charged the licensee by a depository institution for the return of an unpaid or dishonored item. Although s. 832.07, F.S., appears to authorize the imposition of a service charge on checks and similar items that are returned unpaid because they are drawn on insufficient funds, the present prohibition against consumer finance licensees receiving or collecting any charges whatsoever other than those specified in s. 516.031, F.S., apparently makes this provision unavailable to consumer finance licensees.

Section 2 of the bill makes two changes relating to the duty of a licensee to provide certain information to a borrower. The requirement that the disclosure statement showing the terms of the loan include a copy in English of s. 516.031 would be deleted. This requirement appears to pose certain problems for licensees who must reprint their forms whenever the statute is amended, and it has been suggested that few borrowers bother to

read the provision since they are primarily interested in the terms of the loan which are provided elsewhere in the disclosure statement. The bill would also amend the requirement that a licensee give to the borrower a plain and complete receipt for all payments made on any loan. In lieu of such receipts, licensees could elect to furnish to their borrowers an annual statement showing the interest paid on the loan during the previous year and the principal balance remaining due on the loan. Even so, licensees would still be required to give a simple receipt to a borrower for any payment made in cash.

Section 3 of the bill would amend the definition of interest so that that term would mean any profit received by the licensee as a condition to the grant of a loan rather than in connection with a loan. This change is intended to insure that if a licensee provides any other services to a borrower at the time a loan is made the fee or other charge for such services will not be deemed interest in connection with the loan.

Finally, the bill amends the receipt requirement found in the General Usury Law in the same way that the receipt requirement of the Consumer Finance Act would be amended. Many companies make consumer loans under the General Usury Law rather than through a consumer finance company licensed under Chapter 516. This amendment would put them on an equal footing with licensed consumer finance companies with respect to the requirement that they furnish a receipt to the borrower. Other institutional lenders, such as banks, savings and loan associations and insurance companies are already exempt from this receipt requirement by virtue of s. 687.10, F.S.

III. ECONOMIC IMPACT CONSIDERATIONS

A. PRIVATE SECTOR CONSIDERATIONS

The bill should result in increased opportunities for licensed consumer finance companies to provide income producing services. They would no longer be restricted to income derived from making consumer loans but could also receive fees for the sale of insurance, income tax preparation, and other financial services that they might desire to offer. The authorization to include 60 days unpaid interest in the principal amount of a renewal loan should result in some slight increase in yield on loans that are refinanced. The other changes proposed in the bill should reduce operational expenses to some extent. The authority to recover the cost of a returned check would put licensees in parity with everyone else who receives a worthless check. There should be some saving of printing costs by the deletion of the requirement to provide borrowers with a copy of a portion of the statutes. And the authorization to furnish an annual statement in lieu of a receipt for each payment could result in a considerable savings in postage costs for licensees and others who lend money under the General Usury Law.

To the extent that licensees would be permitted to engage in other types of business in addition to making regulated consumer loans, the increased competition in these areas should theoretically benefit consumers to some extent.

B. PUBLIC SECTOR CONSIDERATIONS

The effect of the bill in the public sector should be negligible. If the bill results in an increased use of non-filing insurance in lieu of the traditional methods of perfecting security interest, there could be some slight decline in the receipt of filing fees by the Secretary of State and the Circuit Court Clerks.

IV. COMMENTS

V. AMENDMENTS

Prepared by:



Rod Jones

Staff Director:



Wyatt T. Martin

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24-962-83

See HB
58 932

1 A bill to be entitled
2 An act relating to interest rates; amending ss.
3 516.01, 516.02(1), 516.031(1) and (3),
4 516.15(2), 516.19, and 516.20, Florida
5 Statutes, and repealing ss. 516.031(4),
6 516.035, 516 18, and 516 21, Florida Statutes;
7 defining "consumer loan" under the Florida
8 Consumer Finance Act; deleting specific
9 limitations on maximum rate of interest allowed
10 under said act and providing that rates
11 permitted under chapter 687, Florida Statutes,
12 shall apply; providing that certain receipt
13 requirements do not apply to payments made by
14 check; providing a penalty for charging in
15 excess of allowed rates and providing for
16 application of penalties and defenses under
17 chapter 687; deleting a prohibition against
18 dividing loans; deleting provisions relating to
19 interest on default, deleting a definition of
20 "interest"; amending ss. 520 07(5), 520.08(1),
21 520.09, 520.10, 520 12, 520.34(5)(a) and (10),
22 520.35(3), 520.37, 520.39, 520.57, 520.78,
23 520.84, 520.85, 520.86(2), and 520.99, Florida
24 Statutes, and s. 520.125(1), Florida Statutes,
25 1982 Supplement, and repealing s. 520.79,
26 Florida Statutes; deleting specific limitations
27 on maximum rates of finance charges allowed
28 under the Motor Vehicles Sales Finance Act, the
29 Retail Installment Sales Act, and the Home
30 Improvement Sales and Finance Act, and
31 providing that rates permitted under chapter

1 any loan in which the interest is precomputed, the amount of
 2 such rebate shall be determined by the sum-of-the-digits
 3 method or the actuarial method. Any charges ~~in excess of the~~
 4 ~~combined total of all charges authorized and permitted by this~~
 5 ~~paragraph shall constitute a violation of chapter 687~~
 6 ~~governing interest and usury, and the penalties of chapter 687~~
 7 ~~shall apply-~~

8 Section 31. Section 664.071, Florida Statutes, is
 9 created to read:

10 664.071 Penalties.--

11 (1) Unless otherwise specifically allowed by law, any
 12 person who willfully and knowingly, directly or indirectly,
 13 violates or conspires to violate the provisions of s.
 14 664.07(1)(a) shall be guilty of a felony of the third degree,
 15 punishable as provided in s. 775.082, s. 775.083, or s.
 16 775.084.

17 (2) Any person who willfully violates the provisions
 18 of s. 664.07(1)(a) shall be subject to the penalties provided
 19 in s. 687.04, as now existing or hereafter amended.

20 (3) Any person who charges a rate in excess of that
 21 permitted by s. 664.07(1)(a) shall have the benefit of the
 22 defenses provided in s. 687.04, as now existing or hereafter
 23 amended.

24 Section 32. Subsection (1) of section 687.02, Florida
 25 Statutes, is amended to read:

26 687.02 "Usurious contracts" defined.--

27 (1) All contracts for the payment of interest upon any
 28 loan, advance of money, line of credit, or forbearance to
 29 enforce the collection of any debt, or upon any obligation
 30 whatever, at a higher rate of interest than the equivalent of
 31 the maximum rate permitted by s. 687 071, as now existing or

1 hereafter amended, 18 percent per annum simple interest are
 2 hereby declared usurious. However, if such loan, advance of
 3 money, line of credit, forbearance to enforce the collection
 4 of a debt, or obligation exceeds \$500,000 in amount or value,
 5 then no contract to pay interest thereon is usurious unless
 6 the rate of interest exceeds the rate prescribed in s.
 7 ~~687-071.~~

8 Section 33 Section 687.03, Florida Statutes, is
 9 amended to read:

10 687.03 "Unlawful rates of interest" defined;
 11 proviso.--

12 (1) Except as provided herein, it shall be usury and
 13 unlawful for any person, or for any agent, officer, or other
 14 representative of any person, to reserve, charge, or take for
 15 any loan, advance of money, line of credit, forbearance to
 16 enforce the collection of any sum of money, or other
 17 obligation a rate of interest greater than the equivalent of
 18 the maximum rate permitted by s. 687.071, as now existing or
 19 hereafter amended 18 percent per annum simple interest, either
 20 directly or indirectly, by way of commission for advances,
 21 discounts, or exchange, or by any contract, contrivance, or
 22 device whatever whereby the debtor is required or obligated to
 23 pay a sum of money greater than the actual principal sum
 24 received, together with interest at a the rate exceeding the
 25 equivalent of the maximum rate permitted by s. 687.071, as now
 26 existing or hereafter amended of the equivalent of 18 percent
 27 per annum simple interest. However, if any loan, advance of
 28 money, line of credit, forbearance to enforce the collection
 29 of a debt, or obligation exceeds \$500,000 in amount or value,
 30 it shall not be usury or unlawful to reserve, charge, or take
 31 interest thereon unless the rate of interest exceeds the rate

1 prescribed in s- 687-071- The provisions of this section shall
 2 not apply to sales of bonds in excess of \$100 and mortgages
 3 securing the same, or money loaned on bonds.

4 (2)(a) The provisions of this section and of s- 687-02
 5 shall not apply to loans or other advances of credit made
 6 pursuant to-

7 1- A commitment to insure by the Federal Housing
 8 Administration-

9 2- A commitment to guarantee by the Veterans
 10 Administration-

11 3- A commitment to purchase a loan issued by the
 12 Federal National Mortgage Association, Government National
 13 Mortgage Association, Federal Home Loan Mortgage Corporation,
 14 any department, agency, or instrumentality of the Federal
 15 Government, or any successor of any of them, pursuant to any
 16 provision of the acts of Congress or federal regulations-

17 (b) This act shall apply only to loans or advances of
 18 credit made subsequent to the effective date of this act. All
 19 present laws shall remain in full force and effect as to loans
 20 or advances of credit made prior to the effective date of this
 21 act-

22 (2)(3) For the purpose of this chapter, the rate of
 23 interest on any loan, advance of money, line of credit,
 24 forbearance to enforce the collection of a debt, or other
 25 obligation to pay interest shall be determined and computed
 26 upon the assumption that the debt will be paid according to
 27 the agreed terms, whether or not said loan, advance of money,
 28 line of credit, forbearance to enforce collection of a debt,
 29 or other obligation is paid or collected by court action prior
 30 to its term, and any payment or property charged, reserved, or
 31 taken as an advance or forbearance, which is in the nature of,

1 and taken into account in the calculation of, interest shall
 2 be valued as of the date received and shall be spread over the
 3 stated term of the loan, advance of money, line of credit,
 4 forbearance to enforce collection of a debt, or other
 5 obligation for the purpose of determining the rate of
 6 interest. The spreading of any such advance or forbearance
 7 for the purpose of computing the rate of interest shall be
 8 calculated by first computing the advance or forbearance as a
 9 percentage of the total stated amount of such loan, advance of
 10 money, line of credit, forbearance to enforce collection of a
 11 debt, or other obligation. This percentage shall then be
 12 divided by the number of years, and fractions thereof, of the
 13 loan, advance of money, line of credit, forbearance to enforce
 14 collection of a debt, or other obligation according to its
 15 stated maturity date, without regard to early maturity in the
 16 event of default. The resulting annual percentage rate shall
 17 then be added to the stated annual percentage rate of interest
 18 to produce the effective rate of interest for purposes of this
 19 chapter. Moreover, for the purposes of this chapter, a loan,
 20 advance of money, line of credit, forbearance, or other
 21 obligation shall be deemed to exceed \$500,000 in amount or
 22 value if:

23 (a) The outstanding principal indebtedness of such
 24 loan, advance of money, line of credit, forbearance, or other
 25 obligation initially exceeds \$500,000; or

26 (b) The aggregate principal indebtedness of such loan,
 27 advance of money, line of credit, forbearance, or other
 28 obligation may reasonably be expected to exceed \$500,000
 29 during the term thereof, notwithstanding the fact that less
 30 than that amount in the aggregate is initially or at any time
 31

1 thereafter advanced in one transaction or a series of related
2 transactions, or

3 (c) Such loan, advance of money, line of credit,
4 forbearance, or other obligation exceeds \$500,000 at any time,
5 notwithstanding the fact that such indebtedness is or is not
6 subsequently reduced to less than \$500,000 and thereafter
7 additional amounts are advanced in one transaction or a series
8 of related transactions which in the aggregate do not exceed
9 \$500,000.

10 (3)(4) If, as provided in subsection ~~(3)~~, a loan,
11 advance of money, line of credit, forbearance, or other
12 obligation exceeds \$500,000, then, for the purposes of this
13 chapter, interest on that loan, advance of money, line of
14 credit, forbearance, or other obligation shall not include the
15 value of property charged, reserved, or taken as an advance or
16 forbearance, the value of which substantially depends on the
17 success of the venture in which are used the proceeds of that
18 loan, advance of money, line of credit, forbearance, or other
19 obligation. Stock options and interests in profits, receipts,
20 or residual values are examples of the type of property the
21 value of which would be excluded from calculation of interest
22 under the preceding sentence. For the purposes of this
23 subsection, a loan, advance of money, line of credit,
24 forbearance, or other obligation shall be deemed to exceed
25 \$500,000 in amount or value if:

26 (a) The outstanding principal indebtedness of such
27 loan, advance of money, line of credit, forbearance, or other
28 obligation initially exceeds \$500,000; or

29 (b) The aggregate principal indebtedness of such loan,
30 advance of money, line of credit, forbearance, or other
31 obligation may reasonably be expected to exceed \$500,000

1 during the term thereof, notwithstanding the fact that less
2 than that amount in the aggregate is initially or at any time
3 thereafter advanced in one transaction or a series of related
4 transactions; or

5 (c) Such loan, advance of money, line of credit,
6 forbearance, or other obligation exceeds \$500,000 at any time,
7 notwithstanding the fact that such indebtedness is or is not
8 subsequently reduced to less than \$500,000 and thereafter
9 additional amounts are advanced in one transaction or a series
10 of related transactions which in the aggregate do not exceed
11 \$500,000.

12 (4) Except as otherwise specifically provided by
13 statute, interest or finance charges on any loan or extension
14 of credit may be compounded, provided that the total yield to
15 the lender or creditor over the stated term of the loan, after
16 taking into consideration the effect of compounding, does not
17 exceed the maximum yield permitted by the statute under which
18 the loan or extension or credit is made.

19 (5) As amended by chapter 79-592, Laws of Florida,
20 chapter 79-274, Laws of Florida, which amended subsection (1):

21 (a) Shall apply only to loans, advances of credit, or
22 lines of credit made on or subsequent to July 1, 1979, and to
23 loans, advances of credit, or lines of credit made prior to
24 that date if the lender has the legal right to require full
25 payment or to adjust or modify the interest rate, by renewal,
26 assumption, reaffirmation, contract, or otherwise; and

27 (b) Shall not be construed as diminishing the force
28 and effect of any laws applying to loans, advances of credit,
29 or lines of credit, other than to those mentioned in paragraph
30 (a), completed prior to July 1, 1979.

31

1 guilty of a misdemeanor of the first degree, punishable as
2 provided in s. 775.082 or s. 775.083.

3 ~~(5)~~(6) No person shall be excused from attending and
4 testifying or producing any books, paper, or other document
5 before any court upon any investigation, proceeding, or trial,
6 for any violation of this section upon the ground or for the
7 reason that the testimony or evidence, documentary or
8 otherwise, required of him may tend to convict him of a crime
9 or subject him to a penalty or forfeiture, but no person shall
10 be prosecuted or subjected to any penalty or forfeiture for or
11 on account of any transaction, matter, or thing concerning
12 which he may so testify or produce evidence, documentary or
13 otherwise, and no testimony so given or produced shall be
14 received against him upon any criminal investigation or
15 proceeding.

16 ~~(7) No extension of credit made in violation of any of~~
17 ~~the provisions of this section shall be an enforceable debt in~~
18 ~~the courts of this state.~~

19 Section 37. Section 687.08, Florida Statutes, is
20 amended to read:

21 687.08 Persons lending money to give borrower
22 statement of interest receipt for payments; contents of
23 receipt; penalty for violation.--Every person, or the agent,
24 officer, or other representative of any person, lending money
25 in this state upon security shall, at least once annually
26 whenever the borrower of such money makes payment of any
27 money, either principal or interest, immediately upon such
28 payment being made, give to said borrower, a statement of the
29 amount of interest paid during the preceding 12-month period.
30 receipt, dated of the date of such payment, which receipt
31 shall state the amount paid and for what such payment is made.

1 if such payment is for interest on the sum borrowed, the
 2 receipt shall so state. If the sum so paid is to be applied
 3 to the payment of the principal sum borrowed, the receipt
 4 shall so state. All such receipts shall be duly and properly
 5 signed by the person, or the agent, officer or other
 6 representative of the person, to whom such money is paid.
 7 Whoever refuses, upon demand, to give a statement receipt
 8 complying with the requirements of this section shall forfeit
 9 the entire interest for such 12-month period upon said
 10 principal sum to the borrower.

11 Section 38 Section 687 12, Florida Statutes, is
 12 amended to read:

13 687.12 Interest rates; parity among licensed lenders
 14 or creditors --

15 (1) Any lender or creditor licensed or chartered under
 16 the provisions of chapter 516, chapter 520, chapter 657,
 17 chapter 658 ~~or former chapter 659~~, chapter 664 ~~or former~~
 18 ~~chapter 656~~, chapter 665, or part XV of chapter 627; any
 19 lender or creditor located in the State of Florida and
 20 licensed or chartered under the laws of the United States and
 21 authorized to conduct a lending business; or any lender or
 22 creditor lending through a licensee under chapter 494, shall
 23 be authorized to charge interest or a finance charge on loans
 24 or extensions of credit to any person as defined in s.
 25 1.01(3), or to any firm or corporation, at the maximum rate ~~of~~
 26 ~~interest~~ permitted by law to be charged on similar loans or
 27 extensions of credit made by any lender or creditor in the
 28 State of Florida, except that the statutes governing the
 29 maximum permissible rate of interest or rate of finance charge
 30 on any loan or extension of credit, and other statutory
 31 restrictions relating thereto, shall also govern the amount,

1 Section 39. Section 687.125, Florida Statutes, 1982
2 Supplement, created as section 697.07 by chapter 82-214, Laws
3 of Florida, is hereby repealed.

4 Section 40 (1) This act shall apply only to loans,
5 extensions of credit, or lines of credit made on or subsequent
6 to October 1, 1983, regardless of whether pursuant to a
7 commitment or other agreement therefor made prior to that
8 date, and to loans, extensions of credit, or lines of credit
9 made prior to that date if the lender has the legal right to
10 require full payment or to adjust or modify the interest rate,
11 by renewal, assumption, reaffirmation, contract, or otherwise

12 (2) This act shall not apply to indebtedness incurred
13 prior to October 1, 1983, under a revolving account, credit
14 card or other open-end consumer credit plan.

15 (3) This act shall not be construed as diminishing the
16 force and effect of any laws applying to loans, extensions of
17 credit, or lines of credit, other than those mentioned in
18 subsections (1) or (2), completed prior to October 1, 1983.

19 Section 41. Sections 657 0385 and 664.071, Florida
20 Statutes, as created by this act, are repealed on October 1,
21 1991, and shall be reviewed by the Legislature pursuant to s.
22 11.61, Florida Statutes, the Regulatory Sunset Act.

23 Section 42. This act shall take effect October 1,
24 1983.

25
26 *****

27 HOUSE SUMMARY

28 Amends the Florida Consumer Finance Act, the Motor
29 Vehicles Sales Finance Act, the Retail Installment Sales
30 Act, the Home Improvement Sales and Finance Act, and
31 provisions relating to credit unions, banks, and
industrial savings banks, deleting specific limitations
on maximum rate of interest and finance charges allowed
and providing that rates permitted under chapter 687,

1 F S., shall apply Provides a penalty for charging in
2 excess of allowed rates and provides for application of
3 penalties and defenses under chapter 687. Deletes a
4 prohibition against dividing loans and provisions
5 relating to interest on default under the Florida
6 Consumer Finance Act, and provides that certain receipt
7 requirements do not apply to payments made by check.
8 Deletes the \$5 maximum for delinquency charges under the
9 Motor Vehicles Sales Finance Act, the Retail Installment
10 Sales Act, and the Home Improvement Sales and Finance
11 Act. Provides a limitation on attorney's fees. In
12 chapter 687, F.S., deletes the maximum interest rate
13 applicable to loans under \$500,000 (18 percent simple
14 interest) and specifies that the rate permitted by s.
15 687.071 (45 percent), which presently applies only to
16 loans in excess of \$500,000, shall apply to all loans.
17 Also provides that interest or finance charges may be
18 compounded, that the principal sum of a usurious contract
19 is an enforceable debt, and revises requirements relating
20 to receipts to be given to the borrower.
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REVISED: February 3, 1982

DATE: January 28, 1982

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

	<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1.	<u>Livingston</u>	<u>Martin</u>	1. <u>Com.</u>	<u>Fav.</u>
2.	<u> </u>	<u> </u>	2. <u>ECCA</u>	<u> </u>
3.	<u> </u>	<u> </u>	3. <u> </u>	<u> </u>

SUBJECT:

Interest Rates

BILL NO. AND SPONSOR:

SB 401 by
Senator Anderson

I. SUMMARY:

A. Present Situation:

Currently, the provisions of the general usury law, chapter 687, F.S., apply to all contracts for the payment of interest on any loan. The provisions of this chapter govern unless the transaction comes within one of the many enumerated exceptions. With exceptions, it is unlawful to charge a rate of interest on any loan, advance of money, line of credit or forbearance to enforce the collection of any sum of money greater than the equivalent of 18 percent per annum simple interest when the principle indebtedness is \$500,000 or less.

For loans, etc., in an amount greater than \$500,000 the maximum lawful rate is 25 percent per annum.

The civil penalty of s. 687.04, F.S., applies only if the lender willfully charges more than the applicable interest rate ceiling. Under this section any person willfully violating the interest rate ceilings is subject to two distinct penalties. First, the usurer must forfeit the entire interest charged or contracted to be charged. This forfeiture relates not only to the interest in excess of the allowable rate, but to the entire interest charged. The lender may recover only the actual principal sum due on the contract. Second, if usurious interest has already been paid, taken or reserved, the lender must forfeit double the amount of interest received.

The criminal usury provisions of this chapter, s. 687.071, F.S., are applicable to any person making a loan above the rates specified in that section, i.e., 25 percent misdemeanor and 45 percent felony, unless a greater rate is authorized by statutory exception.

Noting the exceptions to the general usury statute, restrictions on the type, amount and interest rate of a loan depend on the chapter of the Florida Statutes under which the lender is licensed. These exceptions include the Consumer Finance Act, the Motor Vehicle Sales Finance Act, the Retail Installment Sales Act, the Home Improvement Sales and Finance Act, the Credit Union Act, Industrial Savings Banks, bank loans under \$50,000 and bank loans on credit cards, among others.

In the 1979 Session the Legislature passed SB 1262, chapter 79-274, Laws of Florida, which basically raised the maximum rate of interest which may be charged on loans or extensions of credit to 18 percent per annum, but did not amend the provisions authorizing a rate greater than 18 percent.

B. Effect of Proposed Changes:

This bill would repeal the existing rate limitations and impose a new rate limitation by cross-reference to the general usury law, chapter 687, F.S. Similarly, uniform remedies and

REVISED: February 3, 1982

DATE: January 15, 1982

Page 2

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

Analyst: Livingston
Staff Director: Martin
Subject: Interest Rates

BILL NO. AND SPONSOR:

SB 401 by
Senator Anderson

penalties for violation of the rate limitation are established. Violations of any of the other regulatory provisions of the various statutes would remain subject to whatever penalties are now applicable. In view of the new uniform rate provisions, obsolete or inapplicable language would be deleted wherever necessary.

In sections 687.02 and 687.03, F.S., the definitions of "usurious contracts" and "unlawful rates of interest," which establishes the rate limit of 18 percent would be replaced by "the maximum rate permitted by s. 687.071, F.S., as now existing or hereafter amended."

Section 687.071, which defines and provides penalties for criminal usury, would become the only section where a rate limitation is established. The scheme of cross-references would insure that the same limitation applies to all lenders and extenders of credit.

The bill would repeal the present subsection (2) of section 687.071. This subsection provides that the taking of interest at rates between 25 percent and 45 percent is a second degree misdemeanor. The present subsection (3) would then become the only rate limitation in the law. It provides that any person who charges interest at a rate in excess of 45 percent is guilty of a third degree felony. This limitation and penalty would not be altered by the bill.

Several other changes would be made in chapter 687, F.S. The exemption for loans in excess of \$500,000 would be deleted except in one situation. Where the lender receives property in consideration for the loan and the value of that property "substantially depends on the success of the venture in which are used the proceeds of that loan," then the property will not be considered interest for purposes of the usury law. This property usually takes the form of a stock option or a share in the profits of the business, and in those cases, the lender is considered to be more a joint venturer than a lender. For all other purposes, the \$500,000 exception would be repealed since it only worked to exempt the loan from the civil usury limit (18 percent) and not the criminal limits (25 percent and 45 percent.)

For the same reason, the present provision exempting FHA insured loans, VA guaranteed loans, and loans to be purchased by Fannie Mae, Ginnie Mae, and Freddie Mac would be repealed because the exemption only applied to the civil usury rate and not the criminal rates.

The bill would amend a requirement of s. 687.08, F.S., which provides that the lender give the borrower a statement of principal and interest paid with each payment. Under the bill, the statement would be required only once a year and the penalty for failure to give the statement would be relaxed from forfeiture of all the interest on the loan to forfeiture of the interest for that 12 month period.

The Interest Rate Parity Act would be amended to correct cross-references and to make clear that its provisions apply to finance charges charged by retail sellers under chapter 520. This bill also amends this act to permit licensed lenders to charge any rate permitted under any provision of federal law on

REVISED: February 3, 1982

DATE: January 15, 1982

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

Analyst: Livingston
Staff Director: Martin
Subject: Interest Rates

BILL NO. AND SPONSOR:
SB 401 by
Senator Anderson

loans or extensions of credit similar to those the lender is otherwise authorized to make.

In a change not directly related to interest rate limitations, the delinquent payment penalty provisions of chapter 520, would be amended to remove the \$5 cap on such penalties. Under the bill, the retail seller would be permitted to impose a penalty of up to 5 percent of the amount of the delinquent payment.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

The bill would permit an increase in the rate charged in some types of loan and credit transactions. The increase should depend on the level and trend of market interest rates. If the level is high or the trend is upward, it can be anticipated that rates will rise with the market. If the reverse is true, rates should respond downward. Because usury limits have already been preempted at the federal level for most real estate mortgages, business and agricultural loans, the impact will be felt primarily in the area of consumer lending and retail credit.

While rates charged to consumers may rise, those borrowers who were unable to obtain credit before may then be able to obtain credit from licensed lenders. Lenders who may now be experiencing losses on their consumer credit operations would have the ability to charge and receive interest at the market rate, allowing them to be profitable in this segment of their business. This enhanced profitability should result in an increase in the overall availability of consumer credit.

B. Government:

None.

III. COMMENTS:

Technical errors -- None noted.

IV. AMENDMENTS:

Bill Analysis

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Committee on Commerce

Series 19 Carton 1128
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Vice Chairman

STAFF SUMMARY AND ANALYSIS

PCB 83-25 Y by Commerce
relating to interest rates

DATE: 3/11/83

REVISED: 3/29/83

REVISED: 4/26/83

Other Committees of Reference:

SENATE BILL: _____

EFFECTIVE DATE: _____

October 1, 1983

I. SUMMARY AND PURPOSE

This bill represents a comprehensive revision of the statutory limitations on the rate of interest that may be charged on loans of money or the rate of finance charge that may be charged on installment sales transactions under chapter 520, Florida Statutes. The bill would establish a uniform limit of 25% per year for all of these transactions.

II. CURRENT LAW AND EFFECT OF CHANGES

A. CURRENT LAW

The general usury law, Chapter 687, Florida Statutes, was amended in 1979 to raise the maximum permissible rate of interest on loans under \$500,000 from 10% per year to 18%. At that time, other statutes which regulate interest or finance charges were also amended to conform them with the new usury provision. These amendments brought a measure of uniformity to the matter of interest rate regulation, although a number of statutes permitting rates in excess of 18% remain in effect. For a more detailed analysis of the various rate limitations, please refer to the attached memorandum.

The extreme volatility of interest rates in general over the past several years, together with the unprecedented levels of most interest rates during this period, has given rise to the suggestion that interest rates and finance charges should be deregulated. Proponents of this view maintain that interest levels are governed by conditions in the financial markets worldwide and that state laws are ineffective to control them. The fact that short-term rates are presently only about half what they were two years ago is given as evidence of this market influence. A chart showing the fluctuations in various short-term rates over the past four years is attached.

Many states have already acted to raise or abolish usury limits. The Georgia Legislature recently deregulated interest charges on loans over \$3,000, leaving in place only a criminal usury limitation of 60%. In Arkansas and Washington voters themselves have lifted interest rate limitations. The explanation for these developments seems to be that as market interest rates approach or surpass the legal limit, the amount of available credit shrinks. Ordinarily it is the high-risk/low-income borrower who is most adversely affected by this loss of credit.

Another effect of this sort of credit dislocation is that local financial institutions are unable to compete with lenders from other states where higher interest rates are permitted. For example, Citicorp has established a bank in South Dakota from which it issues all of its Visa credit cards. By doing so, it is able to "export" the higher interest rates allowed in South Dakota and charge these higher rates to its Florida cardholders. Florida banks, on the other hand, were compelled to halt the issuance of new cards when the 18% interest rate limit rendered them unprofitable.

B. EFFECT OF PROPOSED CHANGES

This bill would repeal all interest rate and finance charge restrictions below the present criminal usury rate of 25%. To accomplish this, and to ensure a uniform application of the rate limits, the bill employs a system of cross-references to the rate permitted by chapter 687, the general usury law.

The bill would not alter those provisions now in effect that permit rates above 25%. These include consumer finance loans of up to \$500 (30%), retail installment sales of some older used cars (approximately 30%), and first mortgage or wrap-around mortgage loans by certain licensed lenders (no limit).

Just as the rate limitations in the various statutes are determined by cross-references to the general usury law, so are the civil penalties applicable to a violation of those provisions. The criminal penalties for violation of the rate limitations, however, are set out specifically in each chapter. And violation of the other regulatory provisions would remain subject to the penalties that are now applicable in each of the various statutes.

The bill also includes a number of minor provisions, such as the removal of the present \$5 cap on delinquent payment penalties and the addition of a limitation on attorney's fees in chapter 520, a provision allowing a charge for "non-filing" insurance premiums on loans under chapter 516 in lieu of a charge for filing fees, and a modernization of provisions requiring a receipt for payments in both chapters 516 and 687. Obsolete language is deleted in several places in the bill, definitions are revised in chapter 516, and new language is added in several appropriate places to make it clear that the provisions of this bill apply to the assessment of finance charges in connection with a credit sale under chapter 520 as well as to a loan of money under the other various statutes.

Several other changes would be made in chapter 687. The former exemption for loans in excess of \$500,000 would be deleted except in one situation. Where the lender receives property in consideration for the loan and the value of that property "substantially depends on the success of the venture in which are used the proceeds of that loan," then the property will not be considered interest for purposes of the usury law. This property usually takes the form of a stock option or a share in the profits of the business, and in those cases the lender is

considered to be more a joint venturer than a lender. For all other purposes, the \$500,000 exemption would be repealed since it only worked to exempt the loan from the civil usury limit (18%) and not the criminal limits (25% and 45%).

For the same reason, the present provision exempting FHA insured loans, VA guaranteed loans, and loans to be purchased by Fannie Mae, Ginnie Mae and Freddie Mac would be repealed because the exemption only applied to the civil usury rate and not the criminal rates.

The civil penalties for usury are amended only to correct cross-references and achieve greater clarity. Under the civil penalty, the lender forfeits the right to collect any interest or principal remaining due and must refund double the amount of interest already received. However, if the lender discovers that he has charged excessive interest and, prior to any notice or action by the borrower, refunds the amount of the overcharge together with interest at the maximum lawful rate, then the loan shall not be deemed usurious.

III. ECONOMIC IMPACT CONSIDERATIONS

A. PRIVATE SECTOR CONSIDERATIONS

If one accepts the conventional economic wisdom, the primary effect of the bill would be to increase the availability of credit, particularly when rates are high, for lower income borrowers who are the first victims of credit-rationing. Other borrowers may pay higher rates in some instances than they would otherwise, but they presumably are able to adjust their use of credit as rates fluctuate.

Another major economic aspect of the usury question is the impact of interest rates on the price of goods and services generally. There is little doubt that borrowers suffer from high interest rates and that, where it is possible, interest cost is passed along to others in the form of higher prices on goods or deductions from taxable income. Whether the usury law is an effective way to control prices, however, is open to serious question.

B. PUBLIC SECTOR CONSIDERATIONS

The impact of this legislation in the public sector would be indirect and difficult to measure. To the extent that greater credit availability stimulates business activity, there should be some increase in revenues.

IV. COMMENTS

A. TECHNICAL COMMENTS

While the bill is fairly simple and straight forward in that it removes all interest rate limitations below the present felony usury rate of 45% and makes that rate applicable to all lenders and extenders of credit, two provisions of the bill merit further comment.

As indicated above, the uniform rate is established through the use of appropriate cross-references to the general usury law, chapter 687. Each such cross-reference is followed by the phrase "as now existing or hereafter amended." The rule of statutory construction, at least with respect to specific cross-references, appears to be that when one statute is referred to by another, the cross-reference has the effect of incorporating the provisions of the referenced statute into the referring statute as those provisions existed at the time the cross-reference was

made. Subsequent modifications of the referenced statute, even its repeal, do not alter the effect of the referring statute. Under our system of continuous statutory revision, this rule causes obvious problems for anyone who consults the statutes at some time after the cross-reference was made. While most of the cross-references employed in the bill are general references to chapter 687, as opposed to references to a specific section of chapter 687, we have sought to avoid any confusion by adding the phrase "as now existing or hereafter amended" to the cross-reference, so that any subsequent amendments to chapter 687 will automatically be applicable to the various cross-referencing statutes, and the problem will hopefully be avoided.

As is the practice with most usury-related legislation, there is a provision for prospective application only. Since usury laws create only remedies and penalties and not substantive rights, statutory modification or repeal of such provisions operates retroactively absent some specific provision to the contrary. Section 40 of the bill provides that the act shall be applicable only to loans or extensions of credit made after its effective date (October 1, 1983) and to loans or advances of credit made prior to that date only if the lender has the legal right to require full payment or adjust the interest rate, so that it would not work to excuse any usurious charge made under present law.

Subsection (2) of this section relates to indebtedness incurred on a credit card or revolving charge account. Any unpaid balance on the account at the effective date of the act would continue to be governed by the former law.

B. GENERAL COMMENTS

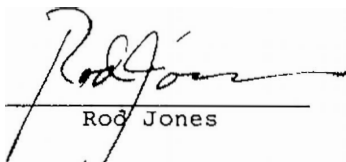
Historically, the usury law has probably not been seen as a tool of economic regulation or a price control. From early on, the legal rate was set sufficiently above market rates so that it was not a factor in most transactions. In fact, complete deregulation of interest rates is not unknown in Florida history. In 1866 all usury laws were repealed by the "Act to Untrammel Capital." The preamble to that act stated that:

money, or its representatives, like other property and commodities thrown upon [the] market for sale or loan, should no more than these be trammelled by law, but [] an enlightened policy makes it judicious that its loan should be left to the laws of demand and supply and to the sense of the mutual interest of loaner and borrower....Chapter 1,562, Laws of 1866.

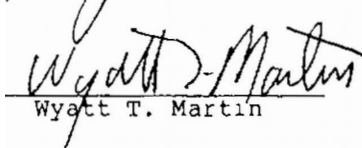
Under this act, interest rates remained unregulated for 25 years until a law was enacted in 1891 which fixed the usury rate at 10 percent.

V. AMENDMENTS

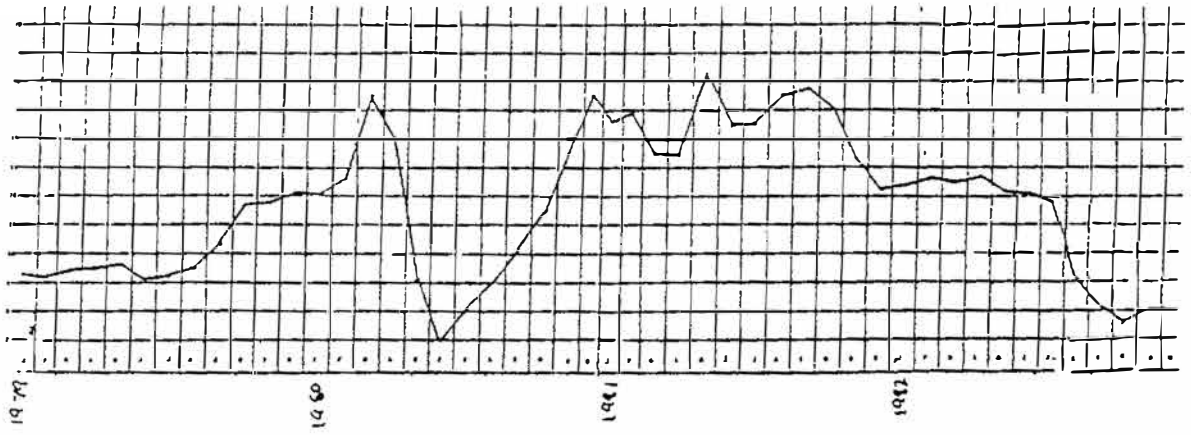
Prepared by:


Rod Jones

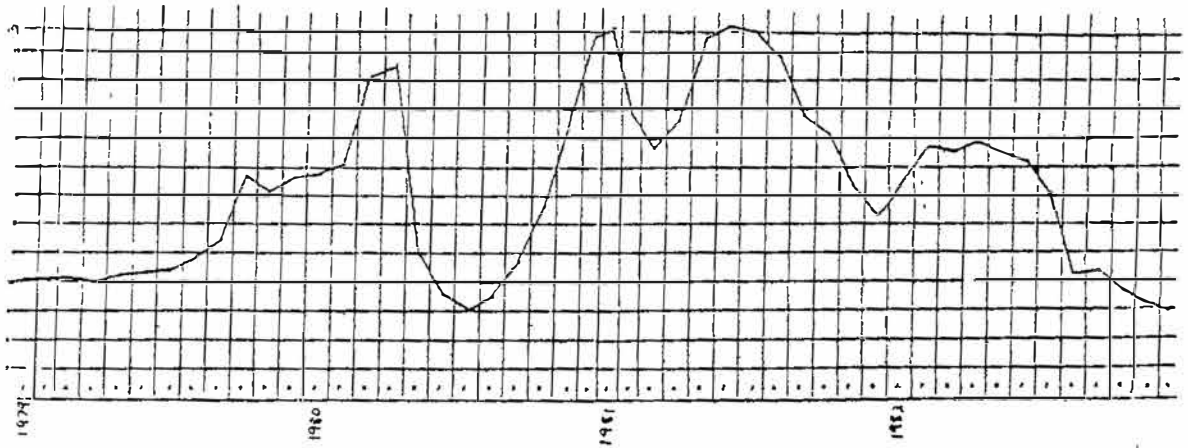
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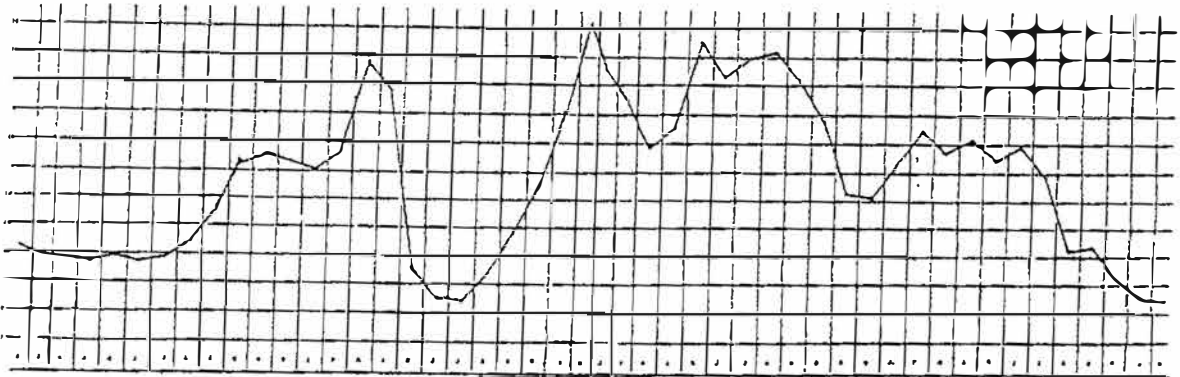
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