

1985

Session Law 85-032

Florida Senate & House of Representatives

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LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT

Year 1985	Session Law No. 85-32	LOF Cite	#pp
Prime Bill# HB 217	Sponsor	Comp./Sim. Bills SB 250	
JLHC Hist. Leg. Cites	Senate pp.#s 30	House pp.#s	#pp
Committee of Ref.	Senate House	Previous versions?	

Committee Records

H/S	Committee	Year	Record Series: Folder Title, etc.	Location Cite	#pp
H			...		9
			...		2
			...	17/...	7
			...	"	7
S	Commerce	1985	Meeting file	18/1504	
			Bill file SB 250	18/120	20
			" HE 217	18/1507	7
	ECCA		" SB 250	18/1374	6
			") SB 250 suppl	18/1428	2

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: Senator Hill

This publication was produced at an annual cost of \$8.78 per printed page to inform members of the Legislature and the public of proposed legislation.

1 A bill to be entitled

2 An act relating to consumer finance; amending

3 ss. 516.02, 516.031, 516.18, and 516.21, F.S.,

4 relating to the amount of loan principal

5 subject to the 18 percent interest rate under

6 the Florida Consumer Finance Act; reenacting s.

7 516.035, F.S., to incorporate the amendment to

8 s. 516.031, F.S., in a reference; providing an

9 effective date.

10

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

12

13 Section 1. Subsection (1) of section 516.02, Florida

14 Statutes, is amended to read:

15 516.02 Loans; rate of interest; license.--

16 (1) No person shall engage in the business of making

17 loans of money, credit, goods, or choses in action in the

18 amount, or to the value of \$5,000 ~~\$2,500~~ or less, and charge,

19 contract for, or receive a greater rate of interest than 18

20 percent per annum therefor except as authorized by this

21 chapter or other statute and without first obtaining a license

22 from the department.

23 Section 2. Subsection (1) of section 516.031, Florida

24 Statutes, 1984 Supplement, is amended to read:

25 516.031 Finance charge; maximum rates.--

26 (1) INTEREST RATES.--Every licensee may lend any sum

27 of money not exceeding \$25,000. A licensee may not take a

28 security interest secured by land on any loan less than

29 \$1,000. The licensee may charge, contract for, and receive

30 thereon interest charges as provided and authorized by this

31 section. The maximum interest rate shall be 30 percent per

1 annum, computed on the first \$500 of the principal amount as
 2 computed from time to time, 24 percent per annum on that part
 3 of the principal amount as computed from time to time
 4 exceeding \$500 and not exceeding \$1,000; and 18 percent per
 5 annum on that part of the principal amount as computed from
 6 time to time exceeding \$1,000 and not exceeding \$5,000 ~~\$2,500~~;
 7 on loans exceeding \$5,000 ~~\$2,500~~, the total interest charged
 8 on the entire principal amount shall not exceed 18 percent per
 9 annum simple interest. The original principal amount as used
 10 in this section shall be the same amount as the amount
 11 financed as defined by the Federal Truth-In-Lending Act and
 12 Regulation Z of the Board of Governors of the Federal Reserve
 13 System. In determining compliance with the statutory maximum
 14 interest and finance charges set forth herein, the
 15 computations utilized shall be simple interest and not add-on
 16 interest or any other computations.

17 Section 3. Subsection (1) of section 516.18, Florida
 18 Statutes, is amended to read:

19 516.18 Rate of interest or consideration.--

20 (1) No person engaged in the business of making loans
 21 of money, except as authorized by this chapter or other
 22 statutes of this state, shall directly or indirectly charge,
 23 contract for, or receive any interest or consideration greater
 24 than 18 percent per annum upon the loan, use, or forbearance
 25 of money, goods, or things in action, or upon the loan or use
 26 of credit, of the amount or value of \$5,000 ~~\$2,500~~ or less.

27 Section 4. Subsection (1) of section 516.21, Florida
 28 Statutes, is amended to read:

29 516.21 Restriction of borrower's indebtedness.--

30 (1) No licensee shall directly or indirectly charge,
 31 contract for, or receive any interest, discount, or

1 consideration greater than 18 percent per annum upon any loan,
2 or upon any part or all of any aggregate loan indebtedness of
3 the same borrower, of the amount of more than \$5,000 ~~\$2,500~~.
4 The foregoing prohibition shall also apply to any licensee who
5 permits any person, as borrower, or as endorser, guarantor, or
6 surety for any borrower, or otherwise, or any husband and
7 wife, jointly or severally, to owe directly or contingently or
8 both to the licensee at any time a sum of more than \$5,000
9 ~~\$2,500~~ for principal; provided, however, that if the proceeds
10 of any loan of \$5,000 ~~\$2,500~~ or less are used to discharge a
11 preexisting debt of the borrower for goods or services owed
12 directly to the person who provided such goods or services,
13 the licensee may accept from such person a guaranty of payment
14 of the principal of such loan with interest at a rate not
15 exceeding 18 percent per annum, and the acceptance of one or
16 more such guaranties in any aggregate amount shall not affect
17 the rights of such licensee to make the charges against the
18 primary borrower authorized by s. 516.031, nor shall the
19 limitation apply to the isolated acquisition directly or
20 indirectly by purchase or by discount of bona fide obligations
21 of a borrower. However, in the event a licensee shall make a
22 bona fide purchase of substantially all of the loans made
23 under this chapter from another licensee or other lender not
24 affiliated with the purchaser and such licensee or other
25 lender shall have an existing loan outstanding to one or more
26 of the borrowers whose loans are purchased, such licensee
27 making such purchase shall be entitled to liquidate and
28 collect the balances due on such loans, including all lawful
29 charges and interest at the rates or amounts agreed upon in
30 such loan contracts.
31

1 Section 5. For the purpose of incorporating the
 2 amendment to section 516.031(1), Florida Statutes, by this act
 3 in a reference thereto, section 516.035, Florida Statutes, is
 4 reenacted to read:

5 516.035 Rate of interest upon default.--In the event
 6 that any balance remains unpaid at the expiration of the
 7 scheduled maturity date of a loan, licensees may continue to
 8 charge interest on the unpaid balance at the rate provided for
 9 in s. 516.031(1) for a period not to exceed 12 months.
 10 Thereafter, the interest shall not exceed 10 percent per
 11 annum.

12 Section 6. This act shall take effect October 1, 1985.

13 *****

14 HOUSE SUMMARY

15
 16
 17
 18
 19 Increases from \$2,500 to \$5,000 the maximum amount of
 20 loan which may be made at the 18 percent interest rate by
 21 a person not licensed to engage in the business of making
 22 loans. Increases from \$2,500 to \$5,000 the amount of
 23 loan beyond which the 18 percent total cap on interest
 24 applies to licensees under the Florida Consumer Finance
 25 Act.
 26
 27
 28
 29
 30
 31

1 annum, computed on the first \$500 of the principal amount as 1.30
 2 computed from time to time; 24 percent per annum on that part 1.31
 3 of the principal amount as computed from time to time 1.32
 4 exceeding \$500 and not exceeding \$1,000; and 18 percent per 1.33
 5 annum on that part of the principal amount as computed from 1.35
 6 time to time exceeding \$1,000 and not exceeding \$5,000 ~~\$2,500~~; 1:10s
 7 on loans exceeding \$5,000 ~~\$2,500~~, the total interest charged 1.37
 8 on the entire principal amount shall not exceed 18 percent per
 9 annum simple interest. The original principal amount as used 1.39
 10 in this section shall be the same amount as the amount 1.41
 11 financed as defined by the Federal Truth-In-Lending Act and 1.42
 12 Regulation Z of the Board of Governors of the Federal Reserve 1.43
 13 System. In determining compliance with the statutory maximum 1.44
 14 interest and finance charges set forth herein, the 1.45
 15 computations utilized shall be simple interest and not add-on 1.46
 16 interest or any other computations.
 17 Section 3. Subsection (1) of section 516.18, Florida 1.47
 18 Statutes, is amended to read
 19 516.18 Rate of interest or consideration.-- 1.48
 20 (1) No person engaged in the business of making loans 1.49
 21 of money, except as authorized by this chapter or other 1.50
 22 statutes of this state, shall directly or indirectly charge, 1.51
 23 contract for, or receive any interest or consideration greater 1.52
 24 than 18 percent per annum upon the loan, use, or forbearance 1.53
 25 of money, goods, or things in action, or upon the loan or use
 26 of credit, of the amount or value of \$5,000 ~~\$2,500~~ or less. 1.54
 27 Section 4. Subsection (1) of section 516.21, Florida 1.55
 28 Statutes, is amended to read:
 29 516.21 Restriction of borrower's indebtedness -- 1.56
 30 (1) No licensee shall directly or indirectly charge, 1.57
 31 contract for, or receive any interest, discount, or 1.59

1 consideration greater than 18 percent per annum upon any loan, 1.60
 2 or upon any part or all of any aggregate loan indebtedness of
 3 the same borrower, of the amount of more than \$5,000 ~~\$2,500~~. 1.61
 4 The foregoing prohibition shall also apply to any licensee who 1.63
 5 permits any person, as borrower, or as endorser, guarantor, or 1.64
 6 surety for any borrower, or otherwise, or any husband and 1.65
 7 wife, jointly or severally, to owe directly or contingently or
 8 both to the licensee at any time a sum of more than \$5,000 1.66
 9 ~~\$2,500~~ for principal; provided, however, that if the proceeds 1.68
 10 of any loan of \$5,000 ~~\$2,500~~ or less are used to discharge a 1.70
 11 preexisting debt of the borrower for goods or services owed
 12 directly to the person who provided such goods or services, 1.71
 13 the licensee may accept from such person a guaranty of payment 1.72
 14 of the principal of such loan with interest at a rate not 1.73
 15 exceeding 18 percent per annum, and the acceptance of one or 1.74
 16 more such guaranties in any aggregate amount shall not affect
 17 the rights of such licensee to make the charges against the 1.75
 18 primary borrower authorized by s. 516.031, nor shall the 1.76
 19 limitation apply to the isolated acquisition directly or 1.77
 20 indirectly by purchase or by discount of bona fide obligations 1.78
 21 of a borrower. However, in the event a licensee shall make a 1.79
 22 bona fide purchase of substantially all of the loans made 1.80
 23 under this chapter from another licensee or other lender not 1.81
 24 affiliated with the purchaser and such licensee or other 1.82
 25 lender shall have an existing loan outstanding to one or more
 26 of the borrowers whose loans are purchased, such licensee 1.83
 27 making such purchase shall be entitled to liquidate and 1.84
 28 collect the balances due on such loans, including all lawful 2.1
 29 charges and interest at the rates or amounts agreed upon in 2.2
 30 such loan contracts.
 31

By Representative Silver

1 Section 5. For the purpose of incorporating the 2.3
 2 amendment to section 516.031(1), Florida Statutes, by this act 2.4
 3 in a reference thereto, section 516.035, Florida Statutes, is
 4 reenacted to read. 2.5
 5 516.035 Rate of interest upon default --In the event 2.7
 6 that any balance remains unpaid at the expiration of the
 7 scheduled maturity date of a loan, licensees may continue to 2.9
 8 charge interest on the unpaid balance at the rate provided for
 9 in s. 516.031(1) for a period not to exceed 12 months. 2.11
 10 Thereafter, the interest shall not exceed 10 percent per 2.12
 11 annum.

12 Section 6 This act shall take effect October 1, 1985. 2 13

HOUSE SUMMARY

18 Increases from \$2,500 to \$5,000 the maximum amount of
 19 loan which may be made at the 18 percent interest rate by
 20 a person not licensed to engage in the business of making
 21 loans. Increases from \$2,500 to \$5,000 the amount of
 22 loan beyond which the 18 percent total cap on interest
 23 applies to licensees under the Florida Consumer Finance
 24 ACT.

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Tallahassee, FL 32399-0250

Series 19 Carton 443

CODING: Words stricken are deletions; words underlined are additions.

1 A bill to be entitled
 2 An act relating to consumer finance; amending
 3 ss. 516.02, 516.031, 516.18, and 516.21, F.S.,
 4 relating to the amount of loan principal
 5 subject to the 18 percent interest rate under
 6 the Florida Consumer Finance Act; reenacting s.
 7 516.035, F.S., to incorporate the amendment to
 8 s. 516.031, F.S., in a reference; providing an
 9 effective date.
 10
 11 Be It Enacted by the Legislature of the State of Florida
 12
 13 Section 1. Subsection (1) of section 516.02, Florida
 14 Statutes, is amended to read:
 15 516 02 Loans, rate of interest, license --
 16 (1) No person shall engage in the business of making
 17 loans of money, credit, goods, or choses in action in the
 18 amount, or to the value of \$5,000 ~~\$2,500~~ or less, and charge,
 19 contract for, or receive a greater rate of interest than 18
 20 percent per annum therefor except as authorized by this
 21 chapter or other statute and without first obtaining a license
 22 from the department.
 23 Section 2. Subsection (1) of section 516 031, Florida
 24 Statutes, 1984 Supplement, is amended to read
 25 516 031 Finance charge, maximum rates --
 26 (1) INTEREST RATES --Every licensee may lend any sum
 27 of money not exceeding \$25,000. A licensee may not take a
 28 security interest secured by land on any loan less than
 29 \$1,000 The licensee may charge, contract for, and receive
 30 thereon interest charges as provided and authorized by this
 31 section. The maximum interest rate shall be 30 percent per

This publication was produced at an average cost of 1.5 cents per single page for the information of members of the Legislature and the public.

STORAGE NAME: sa-HB217

Date: March 21, 1985

Revised: _____

Final: _____

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DEPARTMENT OF STATE

R. A. GRAY BUILDING

Tallahassee, FL 32399-0250

Series 19 Carton 144

HOUSE OF REPRESENTATIVES
COMMITTEE ON COMMERCE
STAFF ANALYSIS

BILL# HB 217 SPONSOR Ronald A. Silver

EFFECTIVE DATE Oct. 1, 1985 IDENTICAL*/SIMILAR BILLS SB 250*

RELATING TO Consumer Finance; loan principal

OTHER COMMITTEES OF REFERENCE

I. SUMMARY:

This bill permits a licensee under the Consumer Finance Act to subject a greater principal amount to the higher combined interest rate.

Section 516.02(1), F.S., prohibits any person from engaging in the business of making loans to the value of \$2,500 and subjecting that loan to an interest rate greater than 18 percent per annum without obtaining a license from the Department of Banking and Finance.

Section 516.031(1), F.S., permits a licensee to lend any sum of money not exceeding \$25,000. Interest charges on the money loaned are applied in a graduated manner. The maximum interest rate allowable is 30 percent per annum and is computed on the first \$500 of the principal amount. On that part of the principal amount exceeding \$500 but not exceeding \$1,000, there is a 24 percent per annum interest charge. An 18 percent interest rate applies to that part of the principal amount exceeding \$1,000 but not exceeding \$2,500. Eighteen percent per annum simple interest is charged on the entire principal of loans exceeding \$2,500.

Section 516.21(1), F.S., restricts the indebtedness of a borrower. A licensee is prohibited from subjecting a loan or any part or all of any aggregate loan indebtedness of the same borrower of an amount greater than \$2,500 to any interest, discount, or consideration which exceeds 18 percent per annum. Further, this prohibition applies when the person is a borrower, endorser, guarantor, or surety for any borrower. Similarly, a licensee is restricted by the stated prohibition where a husband and wife, jointly or severally, owe directly or contingently or both to the licensee a sum greater than \$2,500 as the principal amount.

Additionally, s. 516.21(1), F.S., provides that where a loan for \$2,500 or less is used to discharge a pre-existing debt for goods or services, the licensee may accept a guaranty of payment of the loan by the provider of the goods and services. However, the interest rate that applies to the guarantee shall not exceed 18 percent per annum.

Generally, the amendments proposed by this bill raise the principal amount that may be subjected to the graduated rate of interest set forth in the Consumer Finance Act. Further, aggregate loans and loans acquired to discharge a pre-existing debt have an increase in the principal amount to which licensees may apply the 18 percent interest rate. The proposed legislation raises the principal from \$2,500 to \$5,000.

Amending subsection (1) of s. 516.03, F.S., this bill increases from \$2,500 to \$5,000 the cap on the amount of the principal which a licensee may apply to an interest rate of 18 percent per annum. On the portion of the principal exceeding \$1,000 but not exceeding \$5,000, the applicable interest rate is 18 percent. All other portions of the principal subjected to the graduating interest rates remain as previously described. Moreover, a licensee continues to be prohibited from making a loan exceeding \$25,000.

Section 516.035, F.S., referring to the rate of interest upon default is reenacted to incorporate the amendment to s. 516.031(1), F.S. Any balance unpaid at the date of maturity of the loan is subject to the varying interest rates except that such interest shall not be applied for a period exceeding 12 months. Thereafter, a 10 percent interest rate becomes applicable.

II. ECONOMIC IMPACT:

A. Public:

The increase in the portion of the principal amount subject to the 18 percent per annum interest rate will result in a financial gain to persons engaged in the business of making loans and licensed under the Consumer Finance Act. Increasing from \$2,500 to \$5,000, the principal amount that may be subject to an interest rate not exceeding 18 percent per annum by persons not licensed under the act will produce a financial gain to those lenders. Licensees will receive an increase in the overall yield on loans between \$2,500 and \$5,000. However, the extent of the increase will depend on the size of the loan.

B. Government: None

III. COMMENTS:

Highly encouraged by the Consumer Finance Industry, the proposed legislation has the underlying effect of increasing the amount of money consumer finance companies will lend to borrowers. Although the statute permits the licensee to lend up to \$25,000, the general practice is for the principal amount to be limited to \$2,500. The increase in the principal amount from \$2,500 to \$5,000, that can be subjected to the graduated interest rates is likely to encourage lenders to increase the amount of their loans.

During the year 1983, the Florida Consumer Finance Lenders made loans in the amount of \$561,604,837.91. That dollar amount constituted the making of 262,710 loans. Loans of \$2,500 or less were given to 237,317 borrowers. However, only 12,727 loans were made in amounts between \$2,500.01 and \$5,000.

IV. AMENDMENTS:

V. PREPARED BY

Beryl H. Roberts

VI. STAFF DIRECTOR

W. J. Martin

Date: June 26, 1985

Revised: _____

Final: _____

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HOUSE OF REPRESENTATIVES
COMMITTEE ON COMMERCE
FINAL STAFF ANALYSIS

BILL# HB 217 SPONSOR Representative Silver
(As enacted by the Legislature)

EFFECTIVE DATE October 1, 1985 IDENTICAL/SIMILAR BILLS SB 250

BECAME LAW May 24, 1985 Chapter 85-32 Laws of Florida

RELATING TO Consumer Finance Act; loan principal

COMMITTEE CONSIDERATION Commerce

I. SUMMARY:

A. Current Law & Present Situation:

This bill permits a licensee under the Consumer Finance Act to subject a greater principal amount to the higher combined interest rate.

Section 516.02(1), F.S., prohibits any person from engaging in the business of making loans to the value of \$2,500 and subjecting that loan to an interest rate greater than 18 percent per annum without obtaining a license from the Department of Banking and Finance.

Section 516.031(1), F.S., permits a licensee to lend any sum of money not exceeding \$25,000. Interest charges on the money loaned are applied in a graduated manner. The maximum interest rate allowable is 30 percent per annum and is computed on the first \$500 of the principal amount. On that part of the principal amount exceeding \$500 but not exceeding \$1,000, there is a 24 percent per annum interest charge. An 18 percent interest rate applies to that part of the principal amount exceeding \$1,000 but not exceeding \$2,500. Eighteen percent per annum simple interest is charged on the entire principal of loans exceeding \$2,500.

Section 516.21(1), F.S., restricts the indebtedness of a borrower. A licensee is prohibited from subjecting a loan or any part or all of any aggregate loan indebtedness of the same borrower of an amount greater than \$2,500 to any interest, discount, or consideration which exceeds 18 percent per annum. Further, this prohibition applies when the person is a borrower, endorser, guarantor, or surety for any borrower. Similarly, a licensee is restricted by the stated prohibition where a husband

and wife, jointly or severally, owe directly, contingently or both to the licensee a sum greater than \$2,500 as the principal amount.

Additionally, s. 516.21(1), F.S., provides that where a loan for \$2,500 or less is used to discharge a pre-existing debt for goods or services, the licensee may accept a guaranty of payment of the loan by the provider of the goods and services. However, the interest rate that applies to the guarantee shall not exceed 18 percent per annum.

B. Effect of Changes:

Generally, this bill raises the principal amount that may be subjected to the graduated rate of interest set forth in the Consumer Finance Act. Further, aggregate loans and loans acquired to discharge a pre-existing debt have an increase in the principal amount to which licensees may apply the 18 percent interest rate. This legislation raises the principal from \$2,500 to \$5,000.

Amending subsection (1) of s. 516.03, F.S., this bill increases from \$2,500 to \$5,000 the cap on the amount of the principal which a licensee may apply to an interest rate of 18 percent per annum. On the portion of the principal exceeding \$1,000 but not exceeding \$5,000, the applicable interest rate is 18 percent. All other portions of the principal subjected to the graduating interest rates remain as previously described. Moreover, a licensee continues to be prohibited from making a loan exceeding \$25,000.

Section 516.035, F.S., referring to the rate of interest upon default is reenacted to incorporate the amendment to s. 516.031(1), F.S. Any balance unpaid at the date of maturity of the loan is subject to the varying interest rates except that such interest shall not be applied for a period exceeding 12 months. Thereafter, a 10 percent interest rate becomes applicable.

II. ECONOMIC IMPACT:

A. Public:

The increase in the portion of the principal amount subject to the 18 percent per annum interest rate will result in a financial gain to persons engaged in the business of making loans and licensed under the Consumer Finance Act. Increasing from \$2,500 to \$5,000, the principal amount that may be subject to an interest rate not exceeding 18 percent per annum by persons not licensed under the act will produce a financial gain to those lenders. Licensees will receive an increase in the overall yield on loans between \$2,500 and \$5,000. However, the extent of the increase will depend on the size of the loan.

B. Government: None

III. COMMENTS:

Highly encouraged by the Consumer Finance Industry, the proposed legislation has the underlying effect of increasing the amount of money consumer finance companies will lend to borrowers. Although the statute permits the licensee to lend up to \$25,000, the general practice is for the principal amount to be limited to \$2,500. The increase in the principal amount from \$2,500 to \$5,000, that can be subjected to the graduated interest rates is likely to encourage lenders to increase the amount of their loans.

During the year 1983, the Florida Consumer Finance Lenders made loans in the amount of \$561,604,837.91. That dollar amount constituted the making of 262,710 loans. Loans of \$2,500 or less were given to 237,317 borrowers. However, only 12,727 loans were made in amounts between \$2,500.01 and \$5,000.

IV. LEGISLATIVE HISTORY:

A. Enacted Bill:

House Bill 217, prefiled on February 8, 1985 by Representative Silver, was referred to the Committee on Commerce and subreferred to the Subcommittee on Banking and Finance. On May 3rd, the bill passed the subcommittee without amendments. It was considered by the Full Commerce Committee on May 9th and passed. The bill was placed on the Special Order Calendar and read a second time on May 15th. On third reading, May 18th, the bill passed with a vote of 115-0 (HJ 152).

In the Senate, the bill was received in messages on April 29th and referred to the Committees on Commerce and Economic, Community, and Consumer Affairs. It was withdrawn from both committees on May 14th and substituted for the Senate Bill. On that date, it passed with a vote of 40-0 (SJ 283). The bill was presented to the Governor on May 17, 1985. It was approved by the Governor on May 24, 1985.

B. Disposition of Companion:

Senate Bill 250 was referred to the Committees on Commerce and Economic, Community, and Consumer Affairs. Both committees reported the bill favorably. It was placed on the Special Order Calendar on May 14th, and laid on the table under the Rules. The companion bill in the house was substituted for the Senate Bill.

V. PREPARED BY Beryl D. Roberts
Beryl D. Roberts

VI. STAFF DIRECTOR Wyatt Martin
Wyatt T. Martin

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>Cain</u>	1. <u>COM</u>	_____
2. _____	_____	2. <u>ECCA</u>	_____
3. _____	_____	3. _____	_____

SUBJECT:

Consumer Finance

BILL NO. AND SPONSOR:

SB 250 by
Senator Hill

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 percent on the first \$500; 24 percent on the next \$500; 18 percent on the next \$1,500; and 18 percent overall for any loan in excess of \$2,500, i.e. if a loan exceeds \$2,500 the higher incremental rates may not be charged on the first \$2,500 loaned and 18 percent applies to the entire loan. Any loan in default continues to accrue interest at these rates for twelve months, but thereafter the rate is reduced to 10 percent.

Current law specifies other loan charges which may be imposed by a consumer finance company in addition to the interest charges. Section 516.031, F.S., 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, premiums payable on any insurance coverage if the insurance was obtained in lieu of perfecting a security interest, 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.

Section 516.02(2) specifies that loans for \$600 or less are to be scheduled to be repaid within 24 months, 15 days. Loans for more than \$600 up to \$2,501 are to be scheduled to be repaid within 36 months, 15 days. Loans exceeding \$2,500 may be made for terms exceeding 36 months, 15 days.

Section 516.031, F.S., also specifies that excess interest and other charges would constitute a violation of ch. 687, F.S., the general usury statute, and the penalties of ch. 687, F.S., would apply.

B. Effect of Proposed Changes:

This bill would raise the range in which the graduated interest rates would apply from \$0 - \$2,500 to \$0 - \$5,000. On the

amount of the loan exceeding \$1,000 but not exceeding \$5,000, the applicable interest rate would be 18 percent. The higher interest amounts indicated in A. above would continue to apply to loans which are \$1,000 or less.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Increasing the range in which the incremental rates may apply would be expected to increase the yield to the lender on those loans in the new range between \$2,500 and \$5,000. This allowance would also be expected to encourage these lenders to make loans in greater principal amounts. No other significant impact is anticipated.

B. Government:

None.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

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>Cain</u> <i>HC</i>	1. <u>COM</u>	<u>Fav.</u>
2. _____	_____	2. <u>ECCA</u>	_____
3. _____	_____	3. _____	_____

SUBJECT:

Consumer Finance

BILL NO. AND SPONSOR:

SB 250 by
Senator Hill

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 percent on the first \$500; 24 percent on the next \$500; 18 percent on the next \$1,500; and 13 percent overall for any loan in excess of \$2,500, i.e. if a loan exceeds \$2,500 the higher incremental rates may not be charged on the first \$2,500 loaned and 18 percent applies to the entire loan. Any loan in default continues to accrue interest at these rates for twelve months, but thereafter the rate is reduced to 10 percent.

Current law specifies other loan charges which may be imposed by a consumer finance company in addition to the interest charges. Section 516.031, F.S., 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, premiums payable on any insurance coverage if the insurance was obtained in lieu of perfecting a security interest, 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.

Section 516.02(2) specifies that loans for \$600 or less are to be scheduled to be repaid within 24 months, 15 days. Loans for more than \$600 up to \$2,501 are to be scheduled to be repaid within 36 months, 15 days. Loans exceeding \$2,500 may be made for terms exceeding 36 months, 15 days.

Section 516.031, F.S., also specifies that excess interest and other charges would constitute a violation of ch. 687, F.S., the general usury statute, and the penalties of ch. 687, F.S., would apply.

B. Effect of Proposed Changes:

This bill would raise the range in which the graduated interest rates would apply from \$0 - \$2,500 to \$0 - \$5,000. On the

amount of the loan exceeding \$1,000 but not exceeding \$5,000, the applicable interest rate would be 18 percent. The higher interest amounts indicated in A. above would continue to apply to loans which are \$1,000 or less.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Increasing the range in which the incremental rates may apply would be expected to increase the yield to the lender on those loans in the new range between \$2,500 and \$5,000. This allowance would also be expected to encourage these lenders to make loans in greater principal amounts. No other significant impact is anticipated.

B. Government:

None.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

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>Cain</u>	1. <u>COM</u>	<u>Fav.</u>
2. _____	_____	2. <u>ECCA</u>	_____
3. _____	_____	3. _____	_____

SUBJECT:

Consumer Finance

BILL NO. AND SPONSOR:

HB 217 by Rep. Silver
(SB 250 by Sen. Hill)
Chapter 85-32, 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 percent on the first \$500; 24 percent on the next \$500; 18 percent on the next \$1,500; and 18 percent overall for any loan in excess of \$2,500, i.e. if a loan exceeds \$2,500 the higher incremental rates may not be charged on the first \$2,500 loaned and 18 percent applies to the entire loan. Any loan in default continues to accrue interest at these rates for twelve months, but thereafter the rate is reduced to 10 percent.

Current law specifies other loan charges which may be imposed by a consumer finance company in addition to the interest charges. Section 516.031, F.S., 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, premiums payable on any insurance coverage if the insurance was obtained in lieu of perfecting a security interest, 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.

Section 516.02(2) specifies that loans for \$600 or less are to be scheduled to be repaid within 24 months, 15 days. Loans for more than \$600 up to \$2,501 are to be scheduled to be repaid within 36 months, 15 days. Loans exceeding \$2,500 may be made for terms exceeding 36 months, 15 days.

Section 516.031, F.S., also specifies that excess interest and other charges would constitute a violation of ch. 687, F.S., the general usury statute, and the penalties of ch. 687, F.S., would apply.

B. Effect of Proposed Changes:

This bill would raise the range in which the graduated interest rates would apply from \$0 - \$2,500 to \$0 - \$5,000. On the amount of the loan exceeding \$1,000 but not exceeding \$5,000, the applicable interest rate would be 18 percent. The higher interest amounts indicated in A. above would continue to apply to loans which are \$1,000 or less.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Increasing the range in which the incremental rates may apply would be expected to increase the yield to the lender on those loans in the new range between \$2,500 and \$5,000. This allowance would also be expected to encourage these lenders to make loans in greater principal amounts. No other significant impact is anticipated.

B. Government:

None.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

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Series 18 Chon 1507

Florida House of Representatives - 1985

HB 217

By Representative Silver

This publication was produced at an average cost of 1.5 cents per single page for the information of members of the Legislature and the public.

1 A bill to be entitled

2 An act relating to consumer finance; amending

3 ss. 516.02, 516.031, 516.18, and 516.21, F.S.,

4 relating to the amount of loan principal

5 subject to the 18 percent interest rate under

6 the Florida Consumer Finance Act; reenacting s.

7 516.035, F.S., to incorporate the amendment to

8 s. 516.031, F.S., in a reference; providing an

9 effective date.

10

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

12

13 Section 1. Subsection (1) of section 516.02, Florida

14 Statutes, is amended to read:

15 516 02 Loans; rate of interest; license.--

16 (1) No person shall engage in the business of making

17 loans of money, credit, goods, or choses in action in the

18 amount, or to the value of \$5,000 ~~\$2,500~~ or less, and charge,

19 contract for, or receive a greater rate of interest than 18

20 percent per annum therefor except as authorized by this

21 chapter or other statute and without first obtaining a license

22 from the department.

23 Section 2. Subsection (1) of section 516.031, Florida

24 Statutes, 1984 Supplement, is amended to read:

25 516 031 Finance charge; maximum rates --

26 (1) INTEREST RATES.--Every licensee may lend any sum

27 of money not exceeding \$25,000 A licensee may not take a

28 security interest secured by ~~and~~ on any loan less than

29 \$1,000. The licensee may charge, contract for, and receive

30 thereon interest charges as provided and authorized by this

31 section. The maximum interest rate shall be 30 percent per

1	annum, computed on the first \$500 of the principal amount as	1.30
2	computed from time to time; 24 percent per annum on that part	1.31
3	of the principal amount as computed from time to time	1.32
4	exceeding \$500 and not exceeding \$1,000; and 18 percent per	1.33
5	annum on that part of the principal amount as computed from	1.35
6	time to time exceeding \$1,000 and not exceeding <u>\$5,000</u> \$2,500 ;	1.36
7	on loans exceeding <u>\$5,000</u> \$2,500 , the total interest charged	1.37
8	on the entire principal amount shall not exceed 18 percent per	
9	annum simple interest. The original principal amount as used	1.39
10	in this section shall be the same amount as the amount	1.41
11	financed as defined by the Federal Truth-In-Lending Act and	1.42
12	Regulation Z of the Board of Governors of the Federal Reserve	1.43
13	System. In determining compliance with the statutory maximum	1.44
14	interest and finance charges set forth herein, the	1.45
15	computations utilized shall be simple interest and not add-on	1.46
16	interest or any other computations.	
17	Section 3. Subsection (1) of section 516.18, Florida	1.47
18	Statutes, is amended to read:	
19	516.18 Rate of interest or consideration.--	1.48
20	(1) No person engaged in the business of making loans	1.49
21	of money, except as authorized by this chapter or other	1.50
22	statutes of this state, shall directly or indirectly charge,	1.51
23	contract for, or receive any interest or consideration greater	1.52
24	than 18 percent per annum upon the loan, use, or forbearance	1.53
25	of money, goods, or things in action, or upon the loan or use	
26	of credit, of the amount or value of <u>\$5,000</u> \$2,500 or less.	1.54
27	Section 4. Subsection (1) of section 516.21, Florida	1.55
28	Statutes, is amended to read:	
29	516.21 Restriction of borrower's indebtedness.--	1.56
30	(1) No licensee shall directly or indirectly charge,	1.57
31	contract for, or receive any interest, discount, or	1.59

1	consideration greater than 18 percent per annum upon any loan,	1.60
2	or upon any part or all of any aggregate loan indebtedness of	
3	the same borrower, of the amount of more than <u>\$5,000</u> \$2,500 .	1.61
4	The foregoing prohibition shall also apply to any licensee who	1.63
5	permits any person, as borrower, or as endorser, guarantor, or	1.64
6	surety for any borrower, or otherwise, or any husband and	1.65
7	wife, jointly or severally, to owe directly or contingently or	
8	both to the licensee at any time a sum of more than <u>\$5,000</u>	1.66
9	\$2,500 for principal; provided, however, that if the proceeds	1.68
10	of any loan of <u>\$5,000</u> \$2,500 or less are used to discharge a	1.70
11	preexisting debt of the borrower for goods or services owed	
12	directly to the person who provided such goods or services,	1.71
13	the licensee may accept from such person a guaranty of payment	1.72
14	of the principal of such loan with interest at a rate not	1.73
15	exceeding 18 percent per annum, and the acceptance of one or	1.74
16	more such guaranties in any aggregate amount shall not affect	
17	the rights of such licensee to make the charges against the	1.75
18	primary borrower authorized by s. 516.031, nor shall the	1.76
19	limitation apply to the isolated acquisition directly or	1.77
20	indirectly by purchase or by discount of bona fide obligations	1.78
21	of a borrower. However, in the event a licensee shall make a	1.79
22	bona fide purchase of substantially all of the loans made	1.80
23	under this chapter from another licensee or other lender not	1.81
24	affiliated with the purchaser and such licensee or other	1.82
25	lender shall have an existing loan outstanding to one or more	
26	of the borrowers whose loans are purchased, such licensee	1.83
27	making such purchase shall be entitled to liquidate and	1.84
28	collect the balances due on such loans, including all lawful	2.1
29	charges and interest at the rates or amounts agreed upon in	2.2
30	such loan contracts.	
31		

1	Section 5. For the purpose of incorporating the	2.3
2	amendment to section 516.031(1), Florida Statutes, by this act	2.4
3	in a reference thereto, section 516.035, Florida Statutes, is	
4	reenacted to read:	2.5
5	516.035 Rate of interest upon default.--In the event	2.7
6	that any balance remains unpaid at the expiration of the	
7	scheduled maturity date of a loan, licensees may continue to	2.9
8	charge interest on the unpaid balance at the rate provided for	
9	in s. 516.031(1) for a period not to exceed 12 months.	2.11
10	Thereafter, the interest shall not exceed 10 percent per	2.12
11	annum.	
12	Section 6. This act shall take effect October 1, 1985.	2.13
13		
14		
15		
16	*****	
17	HOUSE SUMMARY	
18	Increases from \$2,500 to \$5,000 the maximum amount of	
19	loan which may be made at the 18 percent interest rate by	
20	a person not licensed to engage in the business of making	
21	loans. Increases from \$2,500 to \$5,000 the amount of	
22	loan beyond which the 18 percent total cap on interest	
23	applies to licensees under the Florida Consumer Finance	
24	Act.	
25		
26		
27		
28		
29		
30		
31		

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>Cain</u>	1. <u>COM</u>	<u>Fav.</u>
2. <u>Balzer</u> <i>BA</i>	<u>Burnside</u> <i>BB</i>	2. <u>ECCA</u>	_____
3. _____	_____	3. _____	_____

SUBJECT: Consumer Finance

BILL NO. AND SPONSOR: SB 250 by Senator Hill

I. SUMMARY:

A. Present Situation:

Chapter 516, Florida Statutes, establishes the Florida Consumer Finance Act.

Section 516.02, Florida Statutes, relating to loans, provides that lenders licensed under the act may make certain loans to the value of \$2,500 or less at an 18 percent per annum interest rate or higher, as authorized by the act or other statutes.

Section 516.031, Florida Statutes, 1984 Supplement, relating to finance charges and maximum interest rates, provides that the maximum interest rate allowed under this act is 30 percent on the first \$500, 24 percent on the next \$500, 18 percent on the next \$1,500, and 18 percent overall for any loan which exceeds \$2,500 (i.e. if a loan exceeds \$2,500, the higher incremental rates of interest are not chargeable on the first \$2,500 loaned but an 18 percent rate of interest applies to the entire amount of the loan).

Section 516.035, Florida Statutes, relating to the rate of interest upon default, provides that any loan in default continues to accrue interest at these rates for the first twelve months, and at 10 percent thereafter.

Section 516.18(1), Florida Statutes, relating to the rate of interest or consideration, prohibits a licensee under the act from directly or indirectly charging, contracting, or receiving any interest or consideration greater than 18 percent per annum upon the loan, use, or forbearance of money, goods, or things in action, or upon a loan or use in credit, of the amount or value of \$2,500 or less.

Section 516.21(1), Florida Statutes, relating to the restriction of borrower's indebtedness, prohibits a licensee from directly or indirectly charging, contracting or receiving any interest, discount, or consideration greater than 18 percent per annum upon any loan, or upon any part or all of any aggregate loan indebtedness of the same borrower, of the amount of more than \$2,500. The section prohibits a licensee from permitting a person, as borrower, or as endorser, guarantor, or surety for any borrower, or otherwise, or a husband and wife, jointly or severally, from owing directly or contingently or both to the licensee at any time a sum of more than \$2,500 for principal. The section provides, however, that if the proceeds of a loan of \$2,500 or less are used to discharge a preexisting debt of the borrower for goods or services owed directly to the person who provided such goods or services, the licensee may accept a guaranty of the payment of the principal or such loan with interest at a rate not exceeding 18 percent per annum.

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Tallahassee, FL 32399-0250

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B. Effect of Proposed Changes:

The bill would increase the amount that could be loaned by a lender licensed in accordance with the Florida Consumer Finance Act from \$2,500 to \$5,000 and still authorize the lender to charge the 30 percent rate of interest on the first \$500, 24 percent rate of interest on the second \$500, and 18 percent rate of interest on the amount exceeding \$1,000 but not exceeding \$5,000 of a loan. If a loan exceeds \$5,000, the higher incremental rates of interest are not chargeable on the first \$5,000 loaned but an 18 percent rate of interest applies to the entire amount of the loan.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

According to the Department of Banking and Finance, lenders licensed in accordance with the law would benefit to the extent that they would be able to make loans from \$2,500 to \$5,000 and remain authorized to collect 30 percent and 24 percent interest on the first \$500 and second \$500, respectively. It appears that the increased yield would encourage these lenders to make loans in greater principal amounts, and as a result, loans in larger amounts would be available to consumers.

B. Government:

None.

III. COMMENTS:

The bill changes all references in chapter 516, Florida Statutes, to \$2,500 to \$5,000 except in section 516.20(2), Florida Statutes, 1984 Supplement, relating to the definition of "interest," which prohibits a licensee from contracting for a loan under chapter 516, Florida Statutes, for \$600 or less which is not scheduled to be repaid within 24 months and 15 days, or for more than \$600 up to \$2,500 which is not scheduled to be repaid within 36 months and 15 days, but permits such loans exceeding \$2,500 to be made for terms exceeding 36 months and 15 days.

An identical bill, HB 217, has been filed in the House.

IV. AMENDMENTS:

18/1374

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>Cain</u> JB	1. <u>COM</u>	<u>Fav.</u>
2. <u>Balzer</u> BB	<u>Burnside</u> JB	2. <u>ECCA</u>	<u>Favorable</u>
3. _____	_____	3. _____	_____

SUBJECT:

Consumer Finance

BILL NO. AND SPONSOR:

SB 250 by
Senator Hill

I. SUMMARY:

A. Present Situation:

Chapter 516, Florida Statutes, establishes the Florida Consumer Finance Act.

Section 516.02, Florida Statutes, relating to loans, provides that lenders licensed under the act may make certain loans to the value of \$2,500 or less at an 18 percent per annum interest rate or higher, as authorized by the act or other statutes.

Section 516.031, Florida Statutes, 1984 Supplement, relating to finance charges and maximum interest rates, provides that the maximum interest rate allowed under this act is 30 percent on the first \$500, 24 percent on the next \$500, 18 percent on the next \$1,500, and 18 percent overall for any loan which exceeds \$2,500 (i.e. if a loan exceeds \$2,500, the higher incremental rates of interest are not chargeable on the first \$2,500 loaned but an 18 percent rate of interest applies to the entire amount of the loan).

Section 516.035, Florida Statutes, relating to the rate of interest upon default, provides that any loan in default continues to accrue interest at these rates for the first twelve months, and at 10 percent thereafter.

Section 516.18(1), Florida Statutes, relating to the rate of interest or consideration, prohibits a licensee under the act from directly or indirectly charging, contracting, or receiving any interest or consideration greater than 18 percent per annum upon the loan, use, or forbearance of money, goods, or things in action, or upon a loan or use in credit, of the amount or value of \$2,500 or less.

Section 516.21(1), Florida Statutes, relating to the restriction of borrower's indebtedness, prohibits a licensee from directly or indirectly charging, contracting or receiving any interest, discount, or consideration greater than 18 percent per annum upon any loan, or upon any part or all of any aggregate loan indebtedness of the same borrower, of the amount of more than \$2,500. The section prohibits a licensee from permitting a person, as borrower, or as endorser, guarantor, or surety for any borrower, or otherwise, or a husband and wife, jointly or severally, from owing directly or contingently or both to the licensee at any time a sum of more than \$2,500 for principal. The section provides, however, that if the proceeds of a loan of \$2,500 or less are used to discharge a preexisting debt of the borrower for goods or services owed directly to the person who provided such goods or services, the licensee may accept a guaranty of the payment of the principal or such loan with interest at a rate not exceeding 18 percent per annum.

B. Effect of Proposed Changes:

The bill would increase the amount that could be loaned by a lender licensed in accordance with the Florida Consumer Finance Act from \$2,500 to \$5,000 and still authorize the lender to charge the 30 percent rate of interest on the first \$500, 24 percent rate of interest on the second \$500, and 18 percent rate of interest on the amount exceeding \$1,000 but not exceeding \$5,000 of a loan. If a loan exceeds \$5,000, the higher incremental rates of interest are not chargeable on the first \$5,000 loaned but an 18 percent rate of interest applies to the entire amount of the loan.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

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B. Government:

None.

III. COMMENTS:

The bill changes all references in chapter 516, Florida Statutes, to \$2,500 to \$5,000 except in section 516.20(2), Florida Statutes, 1984 Supplement, relating to the definition of "interest," which prohibits a licensee from contracting for a loan under chapter 516, Florida Statutes, for \$600 or less which is not scheduled to be repaid within 24 months and 15 days, or for more than \$600 up to \$2,500 which is not scheduled to be repaid within 36 months and 15 days, but permits such loans exceeding \$2,500 to be made for terms exceeding 36 months and 15 days.

An identical bill, HB 217, ~~has been filed in the House.~~ *ap-
then p.c.*

IV. AMENDMENTS:

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>Cain</u>	1. <u>COM</u>	<u>Fav.</u>
2. <u>Balzer fib</u>	<u>Burnside <u>SB</u></u>	2. <u>ECCA</u>	<u>Favorable</u>
3. _____	_____	3. _____	_____

SUBJECT:

Consumer Finance

BILL NO. AND SPONSOR:

SB 250 by
Senator Hill

I. SUMMARY:

A. Present Situation:

Chapter 516, Florida Statutes, establishes the Florida Consumer Finance Act.

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Section 516.18(1), Florida Statutes, relating to the rate of interest or consideration, prohibits a licensee under the act from directly or indirectly charging, contracting, or receiving any interest or consideration greater than 18 percent per annum upon the loan, use, or forbearance of money, goods, or things in action, or upon a loan or use in credit, of the amount or value of \$2,500 or less.

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B. Effect of Proposed Changes:

The bill would increase the amount that could be loaned by a lender licensed in accordance with the Florida Consumer Finance Act from \$2,500 to \$5,000 and still authorize the lender to charge the 30 percent rate of interest on the first \$500, 24 percent rate of interest on the second \$500, and 18 percent rate of interest on the amount exceeding \$1,000 but not exceeding \$5,000 of a loan. If a loan exceeds \$5,000, the higher incremental rates of interest are not chargeable on the first \$5,000 loaned but an 18 percent rate of interest applies to the entire amount of the loan.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

According to the Department of Banking and Finance, lenders licensed in accordance with the law would benefit to the extent that they would be able to make loans from \$2,500 to \$5,000 and remain authorized to collect 30 percent and 24 percent interest on the first \$500 and second \$500, respectively. It appears that the increased yield would encourage these lenders to make loans in greater principal amounts, and as a result, loans in larger amounts would be available to consumers.

B. Government:

None.

III. COMMENTS:

The bill changes all references in chapter 516, Florida Statutes, to \$2,500 to \$5,000 except in section 516.20(2), Florida Statutes, 1984 Supplement, relating to the definition of "interest," which prohibits a licensee from contracting for a loan under chapter 516, Florida Statutes, for \$600 or less which is not scheduled to be repaid within 24 months and 15 days, or for more than \$600 up to \$2,500 which is not scheduled to be repaid within 36 months and 15 days, but permits such loans exceeding \$2,500 to be made for terms exceeding 36 months and 15 days.

An identical bill, HB 217, was approved by the Governor on May 24, 1985, and appears as chapter 85-32, Laws of Florida.

IV. AMENDMENTS:

None.

STORAGE NAME: sa-HB2-7

Date: March 21, 1985

Revised: _____

Final: _____

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HOUSE OF REPRESENTATIVES
COMMITTEE ON COMMERCE
STAFF ANALYSIS

Series 18 Carton 1507

BILL# HB 217 SPONSOR Ronald A. Silver

EFFECTIVE DATE Oct. 1, 1985 IDENTICAL*/SIMILAR BILLS SB 250*

RELATING TO Consumer Finance; loan principal

OTHER COMMITTEES OF REFERENCE _____

..

I. SUMMARY:

This bill permits a licensee under the Consumer Finance Act to subject a greater principal to a higher combined interest rate.

Section 516.02(1), F.S., permits a licensee engaging in the business of consumer finance and subjecting that loan to a higher combined interest rate of 18 percent per annum without obtaining approval from the Department of Banking and Finance.

Section 516.031(1), F.S., permits a licensee to lend any sum of money not exceeding \$25,000. Interest charges on the money loaned are applied in a graduated manner. The maximum interest rate allowable is 30 percent per annum and is computed on the first \$500 of the principal amount. On that part of the principal amount exceeding \$500 but not exceeding \$1,000, there is a 24 percent per annum interest charge. An 18 percent interest rate applies to that part of the principal amount exceeding \$1,000 but not exceeding \$2,500. Eighteen percent per annum simple interest is charged on the entire principal of loans exceeding \$2,500.

Section 516.21(1), F.S., restricts the indebtedness of a borrower. A licensee is prohibited from subjecting a loan or any part or all of any aggregate loan indebtedness of the same borrower of an amount greater than \$2,500 to any interest, discount, or consideration which exceeds 18 percent per annum. Further, this prohibition applies when the person is a borrower, endorser, guarantor, or surety for any borrower. Similarly, a licensee is restricted by the stated prohibition where a husband and wife, jointly or severally, owe directly or contingently or both to the licensee a sum greater than \$2,500 as the principal amount.

Additionally, s. 516.21(1), F.S., provides that where a loan for \$2,500 or less is used to discharge a pre-existing debt for goods or services, the licensee may accept a guaranty of payment of the loan by the provider of the goods and services. However, the interest rate that applies to the guarantee shall not exceed 18 percent per annum.

Generally, the amendments proposed by this bill raise the principal amount that may be subjected to the graduated rate of interest set forth in the Consumer Finance Act. Further, aggregate loans and loans acquired to discharge a pre-existing debt have an increase in the principal amount to which licensees may apply the 18 percent interest rate. The proposed legislation raises the principal from \$2,500 to \$5,000.

Amending subsection (1) of s. 516.03, F.S., this bill increases from \$2,500 to \$5,000 the cap on the amount of the principal which a licensee may apply to an interest rate of 18 percent per annum. On the portion of the principal exceeding \$1,000 but not exceeding \$5,000, the applicable interest rate is 18 percent. All other portions of the principal subjected to the graduating interest rates remain as previously described. Moreover, a licensee continues to be prohibited from making a loan exceeding \$25,000.

Section 516.035, F.S., referring to the rate of interest upon default is reenacted to incorporate the amendment to s. 516.031(1), F.S. Any balance unpaid at the date of maturity of the loan is subject to the varying interest rates except that such interest shall not be applied for a period exceeding 12 months. Thereafter, a 10 percent interest rate becomes applicable.

II. ECONOMIC IMPACT:

A. Public:

The increase in the portion of the principal amount subject to the 18 percent per annum interest rate will result in a financial gain to persons engaged in the business of making loans and licensed under the Consumer Finance Act. Increasing from \$2,500 to \$5,000, the principal amount that may be subject to an interest rate not exceeding 18 percent per annum by persons not licensed under the act will produce a financial gain to those lenders. Licensees will receive an increase in the overall yield on loans between \$2,500 and \$5,000. However, the extent of the increase will depend on the size of the loan.

B. Government: None

III. COMMENTS:

Highly encouraged by the Consumer Finance Industry, the proposed legislation has the underlying effect of increasing the amount of money consumer finance companies will lend to borrowers. Although the statute permits the licensee to lend up to \$25,000, the general practice is for the principal amount to be limited to \$2,500. The increase in the principal amount from \$2,500 to \$5,000, that can be subjected to the graduated interest rates is likely to encourage lenders to increase the amount of their loans.

During the year 1983, the Florida Consumer Finance Lenders made loans in the amount of \$561,604,837.91. That dollar amount constituted the making of 262,710 loans. Loans of \$2,500 or less were given to 237,317 borrowers. However, only 12,727 loans were made in amounts between \$2,500.01 and \$5,000.

IV. AMENDMENTS:

V. PREPARED BY

Beryl S. Roberts

VI. STAFF DIRECTOR

W. J. Martin