REFERENCE TITLE: small installment loans

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HB 2550

Introduced by
Representative Weiers J

AN ACT

AMENDING TITLE 6, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 6-639; PROVIDING FOR THE DELAYED REPEAL OF SECTION 6-639, ARIZONA REVISED STATUTES; RELATING TO CONSUMER LENDER LOANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 6, chapter 5, article 2, Arizona Revised Statutes, is amended by adding section 6-639, to read:

6-639. Alternative charges for loans; renewals; prepayment penalty prohibited; delinquent accounts; licensees with same ownership; prohibition; applicability; definition

A. WITH RESPECT TO A CONSUMER LOAN HAVING AN AMOUNT FINANCED OF AT LEAST TWO HUNDRED DOLLARS BUT NOT MORE THAN THREE THOUSAND DOLLARS, A LICENSEE MAY CHARGE, IN LIEU OF THE FINANCE CHARGES PERMITTED UNDER SECTION 6-632, BOTH OF THE FOLLOWING:

1. AN ACQUISITION FEE FOR MAKING THE LOAN THAT DOES NOT EXCEED TEN PER CENT OF THE AMOUNT FINANCED OR SEVENTY-FIVE DOLLARS, WHICHEVER IS LESS. THE ACQUISITION FEE MAY BE CHARGED ONLY ON NET PROCEEDS DISTRIBUTED TO THE CUSTOMER. THE MINIMUM ACQUISITION FEE SHALL BE FIFTEEN DOLLARS FOR EACH TRANSACTION. THE ACQUISITION FEE SHALL BE EARNED ON A DAILY PRORATED BASIS FOR THE FIRST NINETY DAYS OF THE LOAN EXCEPT FOR THE FIRST FIFTEEN DOLLARS, WHICH IS EARNED ON THE FIRST DAY.

2. A MONTHLY INSTALLMENT ACCOUNT HANDLING CHARGE THAT DOES NOT EXCEED THE FOLLOWING AMOUNTS:

(a) FOUR PER CENT PER HUNDRED, IN AGGREGATE BUT NOT CUMULATIVE, PER MONTH ON THE AMOUNT FINANCED UP TO SEVEN HUNDRED FIFTY DOLLARS.

(b) THREE PER CENT PER HUNDRED, IN AGGREGATE BUT NOT CUMULATIVE, PER MONTH ON THE AMOUNT FINANCED THAT IS MORE THAN SEVEN HUNDRED FIFTY DOLLARS UP TO ONE THOUSAND FIVE HUNDRED DOLLARS.

(c) TWO PER CENT PER HUNDRED, IN AGGREGATE BUT NOT CUMULATIVE, PER MONTH ON THE AMOUNT FINANCED THAT IS MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS UP TO TWO THOUSAND TWO HUNDRED FIFTY DOLLARS.

(d) ONE PER CENT PER HUNDRED, IN AGGREGATE BUT NOT CUMULATIVE, PER MONTH ON THE AMOUNT FINANCED THAT IS MORE THAN TWO THOUSAND TWO HUNDRED FIFTY DOLLARS UP TO THREE THOUSAND DOLLARS.

B. THE MINIMUM TERM OF ANY LOAN MADE UNDER THIS SECTION SHALL BE FIVE MONTHS. THE MAXIMUM TERM OF ANY LOAN MADE UNDER THIS SECTION SHALL BE TWELVE MONTHS FOR AMOUNTS FINANCED UP TO ONE THOUSAND FIVE HUNDRED DOLLARS AND TWENTY-FOUR MONTHS FOR AMOUNTS FINANCED THAT ARE MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS UP TO THREE THOUSAND DOLLARS. ALL LOANS SHALL BE PRECOMPUTED AND SCHEDULED TO BE PAYABLE IN SUBSTANTIALLY EQUAL MONTHLY PAYMENTS TO BE APPLIED TO BOTH PRINCIPAL AND INTEREST. INTEREST ONLY PAYMENT PERIODS ARE PROHIBITED.

C. BEFORE APPROVING A LOAN PURSUANT TO THIS SECTION, THE LICENSEE SHALL DETERMINE IF THE CONSUMER HAS THE ABILITY TO PAY FOR THE LOAN BY:

1. PREPARING A BUDGET THAT INCLUDES ALL OF THE CONSUMER'S MONTHLY EXPENDITURES AND INCOME IN ORDER TO DETERMINE IF THERE IS A POSITIVE NET FREE CASH FLOW THAT MATCHES THE PAYMENT EXPECTATIONS OF THE LOAN.

2. ACQUIRING THE CONSUMER'S CREDIT REPORT BEFORE APPROVAL OF THE LOAN AND REVIEWING THE CREDIT REPORT WITH THE CONSUMER.

D. THE LICENSEE SHALL RETAIN COPIES OF THE BUDGET AND THE CREDIT REPORT ACQUIRED PURSUANT TO SUBSECTION C OF THIS SECTION AND SHALL PROVIDE COPIES OF THE BUDGET AND THE CREDIT REPORT TO THE CONSUMER.

E. THE LICENSEE SHALL REPORT THE STATUS OF THE LOAN ON A MONTHLY BASIS TO THE CREDIT BUREAU UNLESS REQUESTED BY THE CONSUMER NOT TO MAKE THE REPORT.

F. THE CONSUMER SHALL HAVE THREE BUSINESS DAYS FROM THE DATE AFTER THE LOAN APPROVAL TO RESCIND THE LOAN. ALL FEES EXCEPT FOR A FIFTEEN DOLLAR ADMINISTRATIVE FEE MUST BE RETURNED TO THE CONSUMER, AND ALL LOAN REVENUES MUST BE RETURNED TO THE LICENSEE. THE CONSUMER MAY CANCEL THE LOAN FOR NO REASON, AND THE CANCELLATION SHALL NOT BE REPORTED TO THE CREDIT BUREAU.

G. NO INSURANCE MAY BE SOLD IN CONNECTION WITH A LOAN MADE PURSUANT TO THIS SECTION.

H. THE LICENSEE SHALL NOT TIE OR OTHERWISE CONDITION THE OFFERING OF A LOAN MADE PURSUANT TO THIS SECTION TO THE SALE OF ANY GOOD OR SERVICE.

I. A LOAN MAY BE RENEWED A MAXIMUM OF THREE TIMES IN A CALENDAR YEAR. A LOAN MAY NOT BE RENEWED IF THE RENEWAL DOES NOT RESULT IN POSITIVE NET PROCEEDS TO THE CONSUMER. FOR A RENEWAL, THE LICENSEE MAY CHARGE AN ACQUISITION FEE AS PRESCRIBED IN SUBSECTION A OF THIS SECTION ONLY ON THE NET PROCEEDS.

J. A LICENSEE SHALL NOT CHARGE A PREPAYMENT PENALTY FOR A LOAN MADE PURSUANT TO THIS SECTION.

K. A LATE FEE OF TEN PER CENT OF THE PAYMENT DUE OR TEN DOLLARS, WHICHEVER IS GREATER, IS INCURRED AFTER A PAYMENT IS TEN DAYS OVERDUE.

L. LEGAL ACTION MAY BE TAKEN TO SECURE REPAYMENT OF AN OVERDUE ACCOUNT ONLY AFTER THE ACCOUNT HAS BEEN OVERDUE FOR AT LEAST NINETY DAYS. REASONABLE COSTS AND ATTORNEY FEES SHALL BE PAID BY THE DELINQUENT CONSUMER.

M. NO TWO LICENSEES WITH SUBSTANTIALLY THE SAME OWNERSHIP MAY HAVE LOANS OUTSTANDING PURSUANT TO THIS SECTION TO THE SAME CONSUMER AT THE SAME TIME. A LICENSEE MAY NOT MAKE A LOAN IF THE CONSUMER IS GOING TO USE THE LOAN PROCEEDS TO PAY OFF A LOAN FROM ANOTHER LICENSEE WITH SUBSTANTIALLY THE SAME OWNER AS THE FIRST LICENSEE.

N. THE LIMITATIONS AND REQUIREMENTS SET FORTH IN THIS SECTION DO NOT APPLY TO A CONSUMER LOAN MADE PURSUANT TO ANY OTHER SECTION IN THIS ARTICLE.

O. FOR THE PURPOSES OF THIS SECTION, "NET PROCEEDS" MEANS NET MONIES DISTRIBUTED TO THE CONSUMER AT THE TIME OF THE TRANSACTION AND DOES NOT INCLUDE ANY MONIES USED TO PAY ANY EXISTING INDEBTEDNESS.

Sec. 2. Repeal

Section 6-639, Arizona Revised Statutes, as added by this act, is repealed from and after June 30, 2019.