

ARIZONA HOUSE OF REPRESENTATIVES  
Fifty-second Legislature -- Second Regular Session

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CHIEF CLERK'S OFFICE

3-1-16

**COMMITTEE ON WAYS AND MEANS**

Report of Regular Meeting  
Monday, February 29, 2016  
House Hearing Room 3 -- 2:00 p.m.

**Convened** 5:16 p.m.

**Recessed**

**Reconvened**

**Adjourned** 7:25 p.m.

**Members Present**

Mr. Bolding  
Mr. Cardenas  
Mr. Mesnard  
Mr. Olson  
Ms. Ugenti-Rita  
Mr. Weninger  
Mr. Wheeler  
Mr. Kern, Vice-Chairman  
Mr. Mitchell, Chairman

**Members Absent**

None

**Agenda**

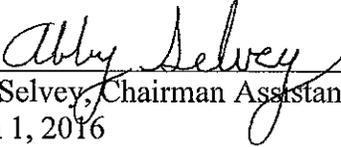
Original Agenda – Attachment 1

**Request to Speak**

Report – Attachment 2

**Committee Action**

<b><u>Bill</u></b>	<b><u>Action</u></b>	<b><u>Vote</u></b>	<b><u>Attachments (Summaries, Amendments, Roll Call, Attendance)</u></b>
SB1316	DPA S/E Committee Attendance	6-3-0-0	3, 4, 5 6

  
Abby Selvey, Chairman Assistant  
March 1, 2016

(Original attachments on file in the Office of the Chief Clerk; video archives available at <http://www.azleg.gov>)

REVISED - 02/25/16

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Conv.: 5:16 pm  
Adjn: 7:25 pm  
REVISED - 02/25/16

ARIZONA HOUSE OF REPRESENTATIVES  
Fifty-second Legislature - Second Regular Session

REGULAR MEETING AGENDA

**COMMITTEE ON WAYS AND MEANS**

DATE Monday, February 29, 2016

ROOM HHR 3

TIME 2:00 P.M.

Members:

Mr. Bolding  
Mr. Cardenas  
Mr. Mesnard

Mr. Olson  
Ms. Ugenti-Rita  
Mr. Weninger

Mr. Wheeler  
Mr. Kern, Vice-Chairman  
Mr. Mitchell, Chairman

Bills

Short Title

Strike Everything Title

\*SB1316

DPAS/E board of trustees; disincorporation; repeal  
(Kavanagh)

S/E: consumer lending; regulation; licensure

6-3-0-0 WM, RULES

\* If first read and assigned

**ORDER OF BILLS TO BE SET BY THE CHAIRMAN**

ams  
2/25/16

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# Information Registered on the Request to Speak System

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*House Ways and Means (2/29/2016)*

## **SB1316, board of trustees; disincorporation; repeal**

### **Testified in support:**

Mike Hanna, representing self; Jennifer Robertson, representing self; Rev. Jarrett Maupin, representing self; David Schwarz, representing self; JOHN RABENOLD, representing self; Jennifer Robertson, representing self

### **Testified as opposed:**

Sam Richard, PROTECTING ARIZONA'S FAMILY COALITION; L. Fitzhugh, representing self; Kathy Jorgensen, St. Vincent Depaul Society; David Hervey, representing self; Cynthia Zwick, Arizona Community Action Association; Dan Torrington, representing self; Christine Krikliwy, representing self; Margo La Barr, representing self; Knoye Jackson, representing self

### **Support:**

Warde Nichols, Arizona Financial Choice Association; Kristen Boilini, SELECT MANAGEMENT RESOURCES; Kelsey Lundy, Lobbyist, Arizona Financial Choice Association; Vanessa Lugo, representing self; Abby Jones, representing self; James Candland, Arizona Financial Choice Association; Gibson McKay, Flex Loan

### **Oppose:**

Jeremy Arp, NATIONAL ASSOCIATION OF SOCIAL WORKERS, ARIZONA CHAPTER; Gina Griffiths, representing self; Pam Gerstner, representing self; Dianne Post, representing self; Molly McGovern, representing self; Alice Stambaugh, representing self; Clinton Reiswig, representing self; Erica Sussman, representing self; Joshua Oehler, CHILDREN'S ACTION ALLIANCE; Kelly Griffith, SOUTHWEST CENTER FOR ECONOMIC INTEGRITY; Penny Allee Taylor, Valley Of The Sun United Way; Paige Wambold, representing self; David Schroyer, representing self; Rivko Knox, representing self; Natalie Fritts, representing self; Tasha Zitzewitz, representing self; Lise Lindsay, representing self; Dale Domzalski, representing self; Chaelee Chavez, representing self; Sharon Weiss, representing self; Craig McDermott, representing self; Dustin Wallace, representing self; Connie Phillips, representing self; Judith Simons, representing self; Jerry Kendrick, representing self; Beverly Rogers, representing self; Ken Briggs, United Way of Tucson and Southern Arizona, representing self; Mary Ryan, SOUTHWEST CENTER FOR ECONOMIC INTEGRITY; Jeff Sandquist, VERITEC SOLUTIONS LLC; Andrea Chiasson, United Way of Tucson and Southern Arizona, representing self; Arthur Rogers, representing self; Zaida Dedolph, PROTECTING ARIZONA'S FAMILY COALITION, Self; Joanna Marroquin, representing self; Eddie Sissons, representing self; Katie Greisiger, representing self; Eric Schindler, representing self; Eric Ehst, representing self; Alexandria Kassman, representing self; Jay Gittrich, representing self; Michelle Guilmette, representing self; ellen katz, William E. Morris Institute For Justice; Donna Kruck, Ability360; Sabrina Dobson, representing self; Alona Del Rosario, AZ COALITION TO END SEXUAL AND DOMESTIC VIOLENCE; Joan Serviss, Executive Director, AZ COALITION TO END HOMELESSNESS; Timothy Schmaltz, Coordinator- PAFCO, representing self; Whitney Barkley, CENTER FOR RESPONSIBLE LENDING; Susan Jacobs, representing self; Carol Maas, representing self; Josselyn Berry, representing self; Ron Johnson, AZ CATHOLIC CONFERENCE; Tory Anderson, AZ ALLIANCE FOR RETIRED AMERICANS; Joshua Huggins, representing self

## All Comments:

Sam Richard, PROTECTING ARIZONA'S FAMILY COALITION: This measure would legalize usury, create loans that carry interest in excess of 200%, and drive vulnerable families deeper into poverty. Furthermore, Arizona voters have routinely and overwhelmingly opposed payday-style predatory loans. Vote no.; Jeremy Arp, NATIONAL ASSOCIATION OF SOCIAL WORKERS, ARIZONA CHAPTER: The proposed measure would allow lenders to offer flexible credit loans (or "flex loans") to under-qualified borrowers.; L. Fitzhugh, Self: Predatory lending products do not offer a life saves, they tie a weight around the consumer. Predatory lending products cascade consumers in to debtors prisons with out walls, devastate household budgets, while reaping rapacious glutinous profits.; Dianne Post, Self: I understand this will be a striker for the predatory lending bill. That bill exemplifies the worse of legislation that the voters have told you time and time again we do not want. It targets the most vulnerable to steal from them. Do not pass it.; Alice Stambaugh, Self: Outrageous interest charges--why would anyone consider this a helpful law?; Clinton Reiswig, Self: Loans that this will foster will do nothing but push desperate people further into poverty.; Kelly Griffith, SOUTHWEST CENTER FOR ECONOMIC INTEGRITY: This usurious lending scheme undermines AZ existing law. Repayment plan allows lenders to charge interest for three months – The repayment plan will not stop the debt trap. AZ consumers don't need this and AZ voters don't want it.; Penny Allee Taylor, Valley Of The Sun United Way: Please oppose the Strike all amendment; David Schroyer, Self: Supporters of this bill claim that low income citizens rely on and even "need" these loans to make ends meet. This statement is misleading. They won't help anyone, save for those that seek to profit off the low wage earners of our state.; Natalie Fritts, Self: Predatory lending is never a wise thing to legalize. It hurts families who are struggling just to pay the rent. We should be looking at how to restore financial stability for families who are finding it difficult to get from one paycheck to the next.; Lise Lindsay, Self: I do NOT support this!; David Hervey, Self: I have been a resident of AZ for about 10 years and have seen beauty and have seen poverty. Please do NOT support this bill because it will engender further poverty in AZ. Payday loans and the like have exorbitant interest rates - protect the poor.; Craig McDermott, Self: Re: the striker. The voters of Arizona spoke, and spoke clearly, in 2008 when they rejected payday loans. Even if you don't agree with us (and it appears that you don't), please respect our wishes in this area.; Connie Phillips, Self: Predatory lending is bad for AZ. Do not allow our citizens to become victims.; Judith Simons, Self: This bill allows predatory lending which voters have already clearly rejected. It permits egregious financial harm to poor people. Take care of THEM, not out-of-state lending interests.; Jerry Kendrick, Self: It's unfortunate that the Senate of the great state of AZ should be defiled with even hearing this proposal to legalize usury against the most vulnerable members of our society.; Beverly Rogers, Self: I believe it is wrong to charge high interest rates to people who are struggling financially.; Mary Ryan, SOUTHWEST CENTER FOR ECONOMIC INTEGRITY: Please vote no to this predatory loan bill. Triple digit interest is usurious. Arizona has adequate small dollar loans that do not target and victimize borrowers.; Jeff Sandquist, VERITEC SOLUTIONS LLC: This bill allows the predatory lending that voters have previously rejected for the egregious interest rates that grossly gouge already poor people. Take care of THEM, not these out-of-state lending interests.; Dan Torrington, Self: SB 1316 will do great harm to Arizona's poor.; Christine Krikliwy, Self: Prevent SB 1316 from ruining lives.; Margo La Barr, Self: Vote against 1316; Eddie Sissons, Self: Do not support any effort to allow predatory lenders back in AZ. The voters said NO very loudly. Heed what your voters said.; Eric Schindler, Self: Predatory lending is the last thing Arizona needs; we have enough poverty. We have rejected this evil already; Michelle Guilmette, Self: Raising interest on flex loans? Horrible idea. When receiving a flex loan, one is typically trying to avoid getting into massive debt and this interest increase would cause most to be buried in debt. Vote NO.; Kristen Bollini, SELECT MANAGEMENT RESOURCES: Support S/E Amendment; ellen katz, William E. Morris Institute For Justice: Strike everything. Voted down in Senate. Voters rejected this product in 2008; this is a choice the voters did not want. The Dept of Defense will not allow these products to be sold to the military--they adversely affect military readiness.; Donna Kruck, Ability360: The amendment is an attempt to bring back predatory lending which the AZ voters have already strongly objected to. This bill would hurt Arizona families working and struggling to make ends

meet.; Sabrina Dobson, Self: Predatory lending is dangerous for our economy.; Alona Del Rosario, AZ COALITION TO END SEXUAL AND DOMESTIC VIOLENCE: The dependency perpetuated by flex loans or payday lending, specifically unaffordable loans with excessive fees, is harmful to survivors of sexual and domestic violence. Predatory lending exacerbates the economic barriers already faced by survivors.; Timothy Schmaltz, Self: Against strikeall amendment related to predatory lending.; Susan Jacobs, Self: Bad bill for Arizona - please vote NO I live in Rep Mesnard's district; Josselyn Berry, Self: SB1316 creates loans with interest rates and fees amounting to 204 percent, meaning a \$2500 loan could turn into a \$10,000 debt in months. These loans do nothing but trap borrowers into a debt spiral that benefits payday loan sharks; Jennifer Robertson, Self: Wish to speak to the strike everything amendment.; Rev. Jarrett Maupin, Self: On Behalf of Humanity Organized Promoting Equality, (HOPE) Inc. and the Historic Fellowship Baptist Church.; David Schwarz, Self: Community Choice Financial, Inc.; JOHN RABENOLD, Self: ON BEHALF OF AXCESS FINANCIAL, DBA, CHECK 'N GO; Tory Anderson, AZ ALLIANCE FOR RETIRED AMERICANS: On behalf of the 44,000 AZ Alliance for Retired American members, we oppose the strike all amendment regarding consumer lending.; Vanessa Lugo, Self: Representing Check Into Cash; Abby Jones, Self: Check into Cash/ Creditcorp; Jennifer Robertson, Self: Representing Checkmate



# HOUSE OF REPRESENTATIVES

SB 1316

board of trustees; disincorporation; repeal  
Prime Sponsor: Senator Kavanagh, LD 23

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X Committee on Ways and Means

Caucus and COW

House Engrossed

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## STRIKE-EVERYTHING SUMMARY

The proposed strike-everything amendment to SB 1316 establishes flexible credit loans, regulated by the Arizona Department of Financial Institutions (DFI) and outlines the requirements for licensure, loan plans, interest rates and finance charges.

## PROVISIONS

### *Flexible Credit Lender Licensure*

1. Requires a person seeking to engage in the business of making a flexible credit loan to be licensed by the Superintendent of DFI (Superintendent), unless exempted.
  - a. Specifies that each applicant for licensure must submit an application in writing, under oath, on a form prescribed by the Superintendent, along with an application fee to be determined by the Superintendent.
2. Requires a license to be renewed each year by June 30. A license not renewed by June 30<sup>th</sup> is suspended until renewal and if not renewed by July 31, is considered expired.
  - a. Establishes an annual license renewal fee of \$1,000, plus an additional \$200 for each branch office.
3. Allows the Superintendent to deny licensure or licensure renewal to an applicant for specified reasons.
4. Stipulates that a license is not transferable or assignable and a person cannot acquire control of a license through stock purchase or other device without written consent of the Superintendent.
5. Requires the Superintendent to issue a license within 120 days of receiving a complete application if the Superintendent finds no grounds for denial.
6. Stipulates that all licenses remain in full force until surrendered, revoked or suspended.
7. Specifies that a license is to remain a property of this state and requires a licensee, upon termination of a license, to immediately deliver the license to the Superintendent.
8. Directs a licensee to designate the principal location of the licensed office within or outside of the state.
9. Outlines the licensing process for a licensee that maintains multiple branch offices.
10. Requires a licensee to display a flexible credit lender license prominently in the licensee's office along with any branch offices.

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1316

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 6-125, Arizona Revised Statutes, is amended to  
3 read:

4 6-125. Annual examination assessment of financial institutions  
5 and enterprises; costs of foreign examination; payment

6 A. Before August 31 of each year the superintendent shall make the  
7 following annual assessments:

8 1. ~~Upon~~ ON banks, the annual assessment set by the superintendent.

9 2. ~~Upon~~ ON savings and loan associations, a charge not to exceed the  
10 annual assessment set for state banks under paragraph 1 of this subsection.

11 3. ~~Upon~~ ON credit unions, the annual assessment set by the  
12 superintendent.

13 B. The superintendent shall assess against the institution or  
14 enterprise examined a charge at the rate set by the superintendent but not to  
15 exceed sixty-five dollars per hour for each examiner employed in the  
16 following examinations:

17 1. Any examination of a trust company.

18 2. Any examination of the trust operation of a bank or a savings and  
19 loan association.

20 3. Any examination of a financial institution ordered by the  
21 superintendent in addition to the regular examination required under section  
22 6-122.

23 4. Any examination of an enterprise ordered by the superintendent.

1           5. Any examination of a financial institution holding company or  
2 international banking facility.

3           6. Any examination of a consumer lender.

4           7. ANY EXAMINATION OF A FLEXIBLE CREDIT LENDER.

5           C. For a financial institution or enterprise maintaining an office  
6 outside this state, in addition to the annual assessment or examination  
7 assessment, the superintendent shall make an assessment equal to the travel  
8 and subsistence expense incurred in the examination of the office in the  
9 foreign state or country. Notwithstanding any other limitation prescribed by  
10 law, examiners engaged in examination of a foreign office shall be reimbursed  
11 for their necessary travel and subsistence expenses. Reimbursement for  
12 examiners' expenses shall be credited to the appropriation account of the  
13 department.

14           D. Assessments under this section are due and payable to the  
15 department within thirty days after notice of the assessment is mailed by the  
16 department. The superintendent shall assess a penalty of fifty dollars for  
17 each day after the thirty-day period that the financial institution or  
18 enterprise fails to remit the assessment, unless, ~~upon~~ ON good cause shown, a  
19 written request for an extension is approved by the superintendent prior to  
20 the expiration of the specified time. In no event shall the total penalty  
21 exceed the examination assessment.

22           E. The superintendent shall set the amount of the annual assessment to  
23 be charged to banks and credit unions. In setting the annual assessment ~~upon~~  
24 ON banks, the superintendent shall consider the annual assessment set by the  
25 comptroller of currency for national banks. In setting the annual assessment  
26 ~~upon~~ ON credit unions the superintendent shall consider the annual assessment  
27 set by the national credit union administration for federal credit unions.

28           Sec. 2. Section 6-126, Arizona Revised Statutes, is amended to read:

29           6-126. Application fees for financial institutions and  
30                                   enterprises

31           A. The following nonrefundable fees are payable to the department with  
32 the filing of the following applications:

- 1           1. To apply for a banking permit, five thousand dollars.
- 2           2. To apply for an amendment to a banking or savings and loan  
3 association permit, one thousand dollars.
- 4           3. To establish each banking branch office, seven hundred fifty  
5 dollars.
- 6           4. To move a banking office to other than an established office of a  
7 bank, one thousand dollars.
- 8           5. To apply for a savings and loan association permit, five thousand  
9 dollars.
- 10          6. To establish each savings and loan association branch office, one  
11 thousand five hundred dollars.
- 12          7. To move an office of a savings and loan association to other than  
13 an established office, one thousand dollars.
- 14          8. To organize and establish a credit union, one hundred dollars.
- 15          9. To establish each credit union branch or to move a credit union  
16 office to other than an established office of a credit union, two hundred  
17 fifty dollars.
- 18          10. To organize and establish any other financial institutions for  
19 which an application or investigation fee is not otherwise provided by law,  
20 two thousand five hundred dollars.
- 21          11. To acquire control of a financial institution, other than a  
22 consumer lender, five thousand dollars.
- 23          12. To apply for a trust company license, five thousand dollars.
- 24          13. To apply for a commercial mortgage banker, mortgage banker, escrow  
25 agent or consumer lender license, one thousand five hundred dollars.
- 26          14. To apply for a mortgage broker, commercial mortgage broker, sales  
27 finance company or debt management company license, eight hundred dollars.
- 28          15. To apply for a collection agency license, one thousand five  
29 hundred dollars.
- 30          16. To apply for a deferred presentment company license, one thousand  
31 dollars.

House Amendments to S.B. 1316

1           17. To apply for a motor vehicle dealer license, three hundred  
2 dollars.

3           18. To apply for a branch office of an escrow agent, consumer lender,  
4 FLEXIBLE CREDIT LENDER, commercial mortgage banker, mortgage banker, trust  
5 company, money transmitter, collection agency or deferred presentment  
6 company, five hundred dollars.

7           19. To apply for a branch office of a mortgage broker, commercial  
8 mortgage broker, debt management company or sales finance company, two  
9 hundred fifty dollars.

10          20. To apply for approval of the articles of incorporation of a  
11 business development corporation, five hundred dollars.

12          21. To apply for approval for the merger or consolidation of two or  
13 more financial institutions, five thousand dollars per institution.

14          22. To apply for approval to convert from a national bank or federal  
15 savings and loan charter to a state chartered institution, five thousand  
16 dollars.

17          23. To apply for approval to convert from a federal credit union to a  
18 state chartered credit union, one thousand dollars.

19          24. To apply for approval to merge or consolidate two or more credit  
20 unions, five hundred dollars per credit union.

21          25. To move an established office of an enterprise to other than an  
22 established office, fifty dollars.

23          26. To issue a duplicate or replace a lost enterprise's license, one  
24 hundred dollars.

25          27. To change a responsible person on a mortgage broker's, commercial  
26 mortgage broker's, commercial mortgage banker's or a mortgage banker's  
27 license, two hundred fifty dollars.

28          28. To change an active manager on a collection agency license or a  
29 manager of a money transmitter branch office license, two hundred fifty  
30 dollars.

31          29. To change the licensee name on a financial institution or  
32 enterprise license, not more than two hundred fifty dollars.

1           30. To apply for a money transmitter license, one thousand five  
2 hundred dollars plus twenty-five dollars for each branch office and  
3 authorized delegate to a maximum of four thousand five hundred dollars.

4           31. To acquire control of any money transmitter or controlling person  
5 pursuant to chapter 12 of this title, two thousand five hundred dollars.

6           32. To receive the following publications:

7           (a) Quarterly bank and savings and loan statement of condition, not  
8 more than ten dollars per copy.

9           (b) Monthly summary of actions report, not more than five dollars per  
10 copy.

11           (c) A list of licensees, a monthly pending actions report and all  
12 other in-house prepared reports or listings made available to the public, not  
13 more than one dollar per page.

14           33. To apply for a loan originator license, an amount to be determined  
15 by the superintendent.

16           34. To apply for a loan originator license transfer, an amount to be  
17 determined by the superintendent.

18           35. To apply for a conversion from a mortgage banker license to a  
19 mortgage broker license, an amount to be determined by the superintendent.

20           36. TO APPLY FOR A FLEXIBLE CREDIT LENDER LICENSE, AN AMOUNT TO BE  
21 DETERMINED BY THE SUPERINTENDENT.

22           B. On issuance of a license or permit for a financial institution or  
23 enterprise, the superintendent shall collect the first year's annual  
24 assessment or renewal fee for the financial institution or enterprise  
25 prorated according to the number of quarters remaining until the date of the  
26 next annual assessment or renewal.

27           C. The following annual renewal fees shall be paid each year:

28           1. For an escrow agent, or trust company, one thousand dollars plus  
29 two hundred fifty dollars for each branch office.

30           2. For a debt management company or sales finance company, five  
31 hundred dollars plus two hundred dollars for each branch office.

1           3. For a collection agency, six hundred dollars plus two hundred  
2 dollars for each branch office.

3           4. For a motor vehicle dealer, one hundred fifty dollars.

4           5. For an inactive mortgage broker or commercial mortgage broker, two  
5 hundred fifty dollars.

6           6. For a mortgage banker that negotiates or closes in the aggregate  
7 one hundred loans or less in the immediately preceding calendar year, seven  
8 hundred fifty dollars, and for a mortgage banker that negotiates or closes in  
9 the aggregate over one hundred loans in the immediately preceding calendar  
10 year, one thousand two hundred fifty dollars. In addition, a mortgage banker  
11 shall pay two hundred fifty dollars for each branch office.

12           7. For a commercial mortgage banker, one thousand two hundred fifty  
13 dollars. In addition, a commercial mortgage banker shall pay two hundred  
14 fifty dollars for each branch office.

15           8. For a mortgage broker or commercial mortgage broker that negotiates  
16 or closes in the aggregate fifty loans or less in the immediately preceding  
17 calendar year, two hundred fifty dollars and for a mortgage broker or  
18 commercial mortgage broker that negotiates or closes in the aggregate more  
19 than fifty loans in the immediately preceding calendar year, five hundred  
20 dollars. In addition, a mortgage broker or commercial mortgage broker shall  
21 pay two hundred dollars for each branch office.

22           9. For a consumer lender OR A FLEXIBLE CREDIT LENDER, one thousand  
23 dollars plus two hundred dollars for each branch office.

24           10. For a money transmitter, five hundred dollars plus twenty-five  
25 dollars for each branch office and each authorized delegate to a maximum of  
26 two thousand five hundred dollars.

27           11. For a deferred presentment company, four hundred dollars. In  
28 addition, a deferred presentment company shall pay two hundred dollars for  
29 each branch office.

30           12. For a loan originator, an amount to be determined by the  
31 superintendent.



1           6. "FLEXIBLE CREDIT LOAN" MEANS A WRITTEN AGREEMENT SUBJECT TO THIS  
2 CHAPTER BETWEEN A LICENSEE AND A CONSUMER ESTABLISHING A DIRECT CLOSED-END  
3 LOAN THAT SATISFIES ALL OF THE FOLLOWING:

4           (a) HAS AN ORIGINAL PRINCIPAL AMOUNT THAT IS NOT LESS THAN FIVE  
5 HUNDRED DOLLARS AND NOT MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS.

6           (b) IS FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES.

7           (c) IS UNSECURED OR IS SECURED BY PERSONAL PROPERTY NOT INCLUDING REAL  
8 ESTATE.

9           (d) HAS A MAXIMUM TERM OF TWENTY-FOUR MONTHS.

10           (e) IS PAYABLE IN SUBSTANTIALLY EQUAL INSTALLMENTS OF PRINCIPAL AND  
11 INTEREST FOR THE TERM OF THE LOAN.

12           (f) IS SUBJECT TO PREPAYMENT IN WHOLE OR IN PART AT ANY TIME WITHOUT  
13 PENALTY.

14           7. "LICENSEE" MEANS A PERSON LICENSED PURSUANT TO THIS CHAPTER.

15           8. "REGULARLY ENGAGED IN THE BUSINESS" MEANS EITHER:

16           (a) ADVERTISING TO OR ANY OTHER SOLICITATION OF A RESIDENT OF THIS  
17 STATE THAT OFFERS A FLEXIBLE CREDIT LOAN AND THAT OCCURS WITHIN THIS STATE.

18           (b) MAKING THREE OR MORE FLEXIBLE CREDIT LOANS WITHIN A CALENDAR YEAR  
19 TO RESIDENTS OF THIS STATE.

20           6-1802. Exemptions

21           A. THIS CHAPTER DOES NOT APPLY TO A PERSON THAT:

22           1. DOES BUSINESS UNDER ANY OTHER LAW OF THIS STATE, OR ANY OTHER STATE  
23 WHILE REGULATED BY A STATE AGENCY OF THAT OTHER STATE, OR OF THE UNITED  
24 STATES, RELATING TO BANKS, SAVINGS BANKS, TRUST COMPANIES, SAVINGS AND LOAN  
25 ASSOCIATIONS, PROFIT SHARING AND PENSION TRUSTS, CREDIT UNIONS, INSURANCE  
26 COMPANIES OR RECEIVERSHIPS IF THE FLEXIBLE CREDIT LOAN TRANSACTIONS ARE  
27 REGULATED BY THE OTHER LAW OR ARE UNDER THE JURISDICTION OF A COURT.

28           2. IS LICENSED AS A PAWNBROKER PURSUANT TO TITLE 44, CHAPTER 11,  
29 ARTICLE 3 TO THE EXTENT THAT THE PERSON'S ACTIVITIES ARE GOVERNED BY THAT  
30 ARTICLE.

31           3. IS NOT REGULARLY ENGAGED IN THE BUSINESS OF MAKING FLEXIBLE CREDIT  
32 LOANS.

1           4. IS LICENSED PURSUANT TO CHAPTER 5 OF THIS TITLE OR ACTING PURSUANT  
2 TO TITLE 44, CHAPTER 2.1 TO THE EXTENT THAT THE PERSON'S ACTIVITIES ARE  
3 GOVERNED BY THAT CHAPTER.

4           B. THE REQUIREMENTS OF THIS CHAPTER DO NOT APPLY TO:

5           1. CLOSED-END LOANS OF LESS THAN FIVE HUNDRED DOLLARS OR MORE THAN TWO  
6 THOUSAND FIVE HUNDRED DOLLARS.

7           2. CONSUMER LOANS MADE UNDER CHAPTER 5 OF THIS TITLE.

8           3. FLEXIBLE CREDIT LOANS THAT ARE LAWFULLY MADE TO NONRESIDENTS OF  
9 THIS STATE PURSUANT TO A FLEXIBLE CREDIT LOAN LAW OF ANOTHER STATE SIMILAR IN  
10 PRINCIPLE TO THIS CHAPTER.

11          4. EDUCATIONAL LOANS THAT ARE EITHER:

12          (a) MADE, INSURED OR GUARANTEED PURSUANT TO A PROGRAM AUTHORIZED BY  
13 THE UNITED STATES, THIS STATE OR ANY OTHER STATE.

14          (b) MADE BY A NONPROFIT ORGANIZATION THAT IS EXEMPT FROM TAXATION  
15 UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE TO STUDENTS WHO ATTEND  
16 POSTSECONDARY EDUCATIONAL INSTITUTIONS IN THIS STATE.

17          5. SECONDARY MOTOR VEHICLE FINANCE TRANSACTIONS AS DEFINED IN SECTION  
18 44-281.

19          6-1803. License; applicability; contents of application; fees;  
20                 nontransferable

21          A. UNLESS EXEMPT UNDER SECTION 6-1802, A PERSON, WHETHER LOCATED IN  
22 THIS STATE OR IN ANOTHER STATE, MAY NOT ENGAGE IN THE BUSINESS OF MAKING A  
23 FLEXIBLE CREDIT LOAN TO A RESIDENT OF THIS STATE WITHOUT FIRST BEING LICENSED  
24 AS A FLEXIBLE CREDIT LENDER BY THE SUPERINTENDENT.

25          B. THIS CHAPTER APPLIES TO ANY PERSON THAT SEEKS TO AVOID ITS  
26 APPLICATION BY ANY DEVICE, SUBTERFUGE OR PRETENSE.

27          C. EACH APPLICANT FOR A LICENSE SHALL SUBMIT AN APPLICATION IN  
28 WRITING, UNDER OATH AND IN THE FORM PRESCRIBED BY THE SUPERINTENDENT. THE  
29 SUPERINTENDENT MAY REQUIRE AS PART OF AN APPLICATION ANY OTHER INFORMATION  
30 THAT THE SUPERINTENDENT DEEMS NECESSARY.

31          D. AT THE TIME OF FILING AN APPLICATION FOR A LICENSE, AN APPLICANT  
32 SHALL PAY TO THE SUPERINTENDENT THE FEE PRESCRIBED IN SECTION 6-126.

1           E. BEFORE JUNE 30 OF EACH YEAR, EACH LICENSEE MAY OBTAIN A RENEWAL OF  
2 A LICENSE BY FILING AN APPLICATION IN THE FORM PRESCRIBED BY THE  
3 SUPERINTENDENT AND PAYING THE FEE PRESCRIBED IN SECTION 6-126.

4           F. THE SUPERINTENDENT MAY DENY A LICENSE TO A PERSON IF THE  
5 SUPERINTENDENT FINDS THAT AN APPLICANT:

6           1. IS INSOLVENT AS DEFINED IN SECTION 47-1201.

7           2. HAS FAILED TO DEMONSTRATE THE FINANCIAL RESPONSIBILITY, EXPERIENCE,  
8 CHARACTER AND GENERAL FITNESS TO COMMAND THE CONFIDENCE OF THE PUBLIC AND TO  
9 WARRANT THE BELIEF THAT THE BUSINESS WILL BE OPERATED LAWFULLY, HONESTLY,  
10 FAIRLY AND EFFICIENTLY WITHIN THE PURPOSES OF THIS CHAPTER.

11           3. HAS FAILED TO PAY THE LICENSE FEE.

12           4. HAS FAILED TO HAVE AT LEAST TWENTY-FIVE THOUSAND DOLLARS IN ASSETS  
13 READILY AVAILABLE FOR USE IN THE CONDUCT OF THE BUSINESS OF EACH LICENSED  
14 OFFICE AND BRANCH OFFICE.

15           G. A FLEXIBLE CREDIT LENDER LICENSE IS NOT TRANSFERABLE OR ASSIGNABLE,  
16 AND A PERSON MAY NOT ACQUIRE CONTROL OF A LICENSEE THROUGH STOCK PURCHASE OR  
17 OTHER DEVICE WITHOUT THE PRIOR WRITTEN CONSENT OF THE SUPERINTENDENT. THE  
18 SUPERINTENDENT MAY REFUSE CONSENT IF THE SUPERINTENDENT FINDS THAT ANY OF THE  
19 GROUNDS FOR DENIAL OF RENEWAL, REVOCATION OR SUSPENSION OF A LICENSE  
20 PRESCRIBED IN SECTION 6-1805 ARE APPLICABLE TO THE ACQUIRING PERSON. FOR THE  
21 PURPOSES OF THIS SUBSECTION, "CONTROL" MEANS THE POWER TO VOTE MORE THAN  
22 TWENTY PERCENT OF THE OUTSTANDING VOTING SHARES OF A LICENSED CORPORATION,  
23 LIMITED LIABILITY COMPANY, PARTNERSHIP, ASSOCIATION OR TRUST.

24           6-1804. Issuance of license; license year; requirements

25           A. IF THE SUPERINTENDENT FINDS NO GROUNDS FOR DENIAL OF A LICENSE,  
26 WITHIN ONE HUNDRED TWENTY DAYS AFTER RECEIVING A COMPLETE APPLICATION, THE  
27 SUPERINTENDENT SHALL GRANT THE APPLICATION AND ISSUE A LICENSE TO THE  
28 APPLICANT.

29           B. THE LICENSE YEAR FOR A LICENSEE BEGINS ON JULY 1 AND ENDS ON JUNE  
30 30 OF EACH YEAR. A FLEXIBLE CREDIT LENDER SHALL APPLY FOR RENEWAL AS  
31 PRESCRIBED BY THE SUPERINTENDENT NOT LATER THAN JUNE 30 OF EACH YEAR. A  
32 LICENSE FOR WHICH A RENEWAL APPLICATION IS NOT RECEIVED BY THE SUPERINTENDENT

1 BY JUNE 30 IS SUSPENDED AND THE FLEXIBLE CREDIT LENDER MAY NOT ACT AS A  
2 FLEXIBLE CREDIT LENDER UNTIL THE LICENSE IS RENEWED OR A NEW LICENSE IS  
3 ISSUED PURSUANT TO THIS ARTICLE. THE LICENSE OF A FLEXIBLE CREDIT LENDER  
4 THAT HAS NOT FILED A RENEWAL APPLICATION AND PAID THE RENEWAL FEE BY JULY 31  
5 EXPIRES.

6 C. ALL LICENSES ISSUED REMAIN IN FULL FORCE UNTIL SURRENDERED, REVOKED  
7 OR SUSPENDED.

8 D. A LICENSE REMAINS THE PROPERTY OF THIS STATE. ON TERMINATION AT  
9 THE REQUEST OF THE LICENSEE OR REVOCATION BY THE SUPERINTENDENT, THE LICENSEE  
10 SHALL IMMEDIATELY DELIVER THE LICENSE TO THE SUPERINTENDENT. TERMINATION OF  
11 THE LICENSE DOES NOT AFFECT ANY OTHER LIABILITY OF THE LICENSEE.

12 E. THE LICENSEE SHALL DESIGNATE THE PRINCIPAL LOCATION OF THE LICENSED  
13 OFFICE WITHIN OR OUTSIDE THIS STATE. IF A LICENSEE WISHES TO MAINTAIN MORE  
14 THAN ONE OFFICE LOCATION, THE LICENSEE SHALL FIRST OBTAIN A BRANCH OFFICE  
15 LICENSE FROM THE SUPERINTENDENT FOR EACH BRANCH OFFICE. THE LICENSEE SHALL  
16 SUBMIT AN APPLICATION IN THE FORM PRESCRIBED BY THE SUPERINTENDENT AND PAY  
17 THE FEE PRESCRIBED IN SECTION 6-126 FOR EACH BRANCH OFFICE LICENSE. IF THE  
18 SUPERINTENDENT DETERMINES THAT THE APPLICANT IS QUALIFIED, THE SUPERINTENDENT  
19 SHALL ISSUE A BRANCH OFFICE LICENSE INDICATING THE ADDRESS OF THE BRANCH  
20 OFFICE.

21 F. A LICENSEE SHALL PROMINENTLY DISPLAY THE FLEXIBLE CREDIT LENDER  
22 LICENSE IN THE OFFICE OF THE FLEXIBLE CREDIT LENDER AND ANY BRANCH OFFICE  
23 LICENSE IN THAT BRANCH OFFICE WHERE LOAN TRANSACTIONS ARE CONDUCTED.

24 6-1805. Denial of renewal; suspension; revocation

25 A. THE SUPERINTENDENT MAY DENY RENEWAL OF A LICENSE OR SUSPEND OR  
26 REVOKE A LICENSE IF THE SUPERINTENDENT FINDS THAT A LICENSEE:

27 1. IS INSOLVENT AS DEFINED IN SECTION 47-1201.

28 2. HAS SHOWN THAT THE LICENSEE IS NOT A PERSON OF HONESTY,  
29 TRUTHFULNESS AND GOOD CHARACTER.

30 3. HAS FAILED TO PAY THE ANNUAL RENEWAL FEES.

31 4. HAS FAILED TO FILE AN ANNUAL REPORT WHEN DUE OR WITHIN ANY  
32 EXTENSION OF TIME GRANTED BY THE SUPERINTENDENT FOR GOOD CAUSE.

1           5. HAS FAILED TO HAVE OR MAINTAIN AT LEAST TWENTY-FIVE THOUSAND  
2 DOLLARS IN ASSETS USED OR READILY AVAILABLE FOR USE IN THE CONDUCT OF THE  
3 BUSINESS OF EACH LICENSED OFFICE AND BRANCH OFFICE.

4           6. EITHER KNOWINGLY OR WITHOUT THE EXERCISE OF DUE CARE TO PREVENT A  
5 VIOLATION, HAS VIOLATED ANY PROVISION OF THIS TITLE OR ANY RULE OR ORDER  
6 ADOPTED OR MADE PURSUANT TO THIS TITLE.

7           7. HAS FAILED TO OPERATE THE BUSINESS OF MAKING FLEXIBLE CREDIT LOANS  
8 FOR A CONTINUOUS PERIOD OF TWELVE MONTHS OR MORE, EXCEPT THAT THE  
9 SUPERINTENDENT, ON GOOD CAUSE SHOWN, MAY EXTEND THE TIME FOR OPERATING THAT  
10 BUSINESS FOR A SINGLE FIXED PERIOD OF NOT MORE THAN TWELVE MONTHS.

11           B. THE SUPERINTENDENT MAY ALSO DENY RENEWAL OF A LICENSE OR SUSPEND OR  
12 REVOKE A LICENSE IF THE SUPERINTENDENT FINDS THAT ANY FACT OR CONDITION  
13 EXISTS THAT, IF IT HAD EXISTED AT THE TIME OF THE ORIGINAL APPLICATION FOR  
14 THE LICENSE, WOULD HAVE CLEARLY WARRANTED THE SUPERINTENDENT TO REFUSE TO  
15 ISSUE THE LICENSE.

16           6-1806. Business limited to licensed locations; restrictions

17           A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, A LICENSEE MAY  
18 NOT CONDUCT THE BUSINESS OF MAKING FLEXIBLE CREDIT LOANS PURSUANT TO THIS  
19 CHAPTER UNDER ANY NAME OR AT ANY PLACE OF BUSINESS OTHER THAN THE NAME AND  
20 PLACE STATED IN THE LICENSEE'S FLEXIBLE CREDIT LENDER LICENSE OR BRANCH  
21 OFFICE LICENSE.

22           B. A LICENSEE MAY:

23           1. MAKE FLEXIBLE CREDIT LOANS BY MAIL OR ELECTRONIC MEANS.

24           2. ON REQUEST, MAKE ACCOMMODATIONS TO CONSUMERS AT ANY LOCATION  
25 REQUESTED BY THE CONSUMER.

26           3. CONDUCT ANY ADMINISTRATIVE, LOAN SERVICING OR RECORDKEEPING  
27 ACTIVITY AT ANY OTHER LOCATION NOT OPEN TO THE PUBLIC, IF THE SUPERINTENDENT  
28 IS NOTIFIED IN ADVANCE OF THAT ACTIVITY.

29           C. A LICENSEE MAY CHANGE THE LOCATION OF ITS LICENSED OFFICE OR  
30 LICENSED BRANCH OFFICE BY GIVING WRITTEN NOTICE TO THE SUPERINTENDENT, WHO  
31 SHALL AMEND THE LICENSE ACCORDINGLY.

1           D. ALL FLEXIBLE CREDIT LOANS THAT ARE MADE AT THE LOCATION OF A  
2 LICENSED OFFICE OR BRANCH OFFICE ARE SUBJECT TO THE REQUIREMENTS OF ARTICLE 2  
3 OF THIS CHAPTER, WHETHER MADE BY A LICENSEE, ANY PERSON OTHERWISE EXEMPT FROM  
4 THIS CHAPTER PURSUANT TO SECTION 6-1802 OR ANY OTHER PERSON.

5           E. A LICENSEE MAY NOT CONDUCT THE BUSINESS OF MAKING FLEXIBLE CREDIT  
6 LOANS PURSUANT TO THIS CHAPTER FROM WITHIN ANY LICENSED OFFICE OR BRANCH  
7 OFFICE IN WHICH ANY OTHER BUSINESS NOT LICENSED PURSUANT TO THIS TITLE IS  
8 SOLICITED OR ENGAGED IN, OR IN ASSOCIATION OR CONJUNCTION WITH ANY OTHER  
9 BUSINESS NOT LICENSED PURSUANT TO THIS TITLE, WITHOUT GIVING PRIOR NOTICE TO  
10 THE SUPERINTENDENT. IF IT APPEARS TO THE SUPERINTENDENT THAT THE OTHER  
11 BUSINESS IS OF SUCH A NATURE OR IS BEING CONDUCTED IN SUCH A MANNER AS TO  
12 CONCEAL AN EVASION OF THIS CHAPTER OR IS CONTRARY TO THE PUBLIC INTEREST OR  
13 OTHERWISE BEING CONDUCTED IN AN UNLAWFUL MANNER, THE SUPERINTENDENT MAY ACT  
14 PURSUANT TO SECTION 6-137 TO RESTRICT THE LICENSEE FROM CONDUCTING ITS  
15 BUSINESS IN CONJUNCTION WITH THAT OTHER BUSINESS. FOR THE PURPOSES OF THIS  
16 SUBSECTION, "PUBLIC INTEREST" MEANS THE LAWS OF THIS STATE OR OF THE UNITED  
17 STATES OR RULES ADOPTED BY THE SUPERINTENDENT.

18           6-1807. Books; accounts; records; access

19           A. A LICENSEE SHALL MAINTAIN BOOKS, ACCOUNTS AND RECORDS THAT ENABLE  
20 THE SUPERINTENDENT TO DETERMINE WHETHER THE LICENSEE IS IN COMPLIANCE WITH  
21 THIS CHAPTER.

22           B. A LICENSEE SHALL PRESERVE ITS BOOKS, ACCOUNTS AND RECORDS OF  
23 FLEXIBLE CREDIT LOANS FOR AT LEAST TWO YEARS AFTER MAKING THE FINAL ENTRY FOR  
24 ANY FLEXIBLE CREDIT LOAN. A LICENSEE THAT USES AN ELECTRONIC RECORDKEEPING  
25 SYSTEM IS NOT REQUIRED TO KEEP A WRITTEN COPY OF THE ACCOUNTS AND RECORDS IF  
26 THE LICENSEE IS ABLE TO GENERATE ALL OF THE INFORMATION REQUIRED BY THIS  
27 SECTION IN A TIMELY MANNER FOR EXAMINATION OR OTHER PURPOSES.

28           C. EVERY LICENSEE SHALL OBSERVE GENERALLY ACCEPTED ACCOUNTING  
29 PRINCIPLES AND PRACTICES.

30           D. A LICENSEE SHALL MAKE ANY BOOKS, ACCOUNTS AND RECORDS THAT ARE KEPT  
31 OUTSIDE OF THIS STATE AVAILABLE TO THE SUPERINTENDENT IN THIS STATE NOT MORE  
32 THAN THREE BUSINESS DAYS AFTER DEMAND IS MADE BY THE SUPERINTENDENT OR THE

1 SUPERINTENDENT MAY CHOOSE TO PERFORM THE EXAMINATION OR INVESTIGATION AT THE  
2 OFFICE OF THE LICENSEE LOCATED OUTSIDE THIS STATE.

3 E. FOR THE PURPOSES OF THIS CHAPTER, THE SUPERINTENDENT OR THE  
4 SUPERINTENDENT'S DULY AUTHORIZED REPRESENTATIVES SHALL HAVE ACCESS DURING  
5 NORMAL BUSINESS HOURS TO THE OFFICES AND PLACES OF BUSINESS, FILES, SAFES AND  
6 VAULTS OF ALL LICENSEES REGARDING THAT BUSINESS OR THE SUBJECT MATTER OF ANY  
7 EXAMINATION, INVESTIGATION OR HEARING.

8 6-1808. Annual report of licensee; civil penalty for failure to  
9 file

10 A. ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE LICENSEE SHALL FILE A  
11 REPORT UNDER OATH AND IN THE FORM PRESCRIBED BY THE SUPERINTENDENT CONCERNING  
12 THE BUSINESS AND OPERATIONS DURING THE TWELVE-MONTH PERIOD ENDING THE  
13 PRECEDING JUNE 30. ON GOOD CAUSE SHOWN BY A LICENSEE, THE SUPERINTENDENT MAY  
14 EXTEND THE TIME FOR FILING THE REPORT FOR A PERIOD OF NOT MORE THAN SIXTY  
15 DAYS.

16 B. IF A LICENSEE FAILS TO FILE THE ANNUAL REPORT, THE SUPERINTENDENT  
17 OR ANY PERSON DESIGNATED BY THE SUPERINTENDENT MAY EXAMINE THE BOOKS,  
18 ACCOUNTS AND RECORDS OF THE LICENSEE, PREPARE THE ANNUAL REPORT AND CHARGE  
19 THE LICENSEE AN EXAMINATION FEE AS PRESCRIBED IN SECTION 6-125.

20 C. IF A LICENSEE FAILS TO FILE THE ANNUAL REPORT WITHIN THE SPECIFIED  
21 TIME, THE SUPERINTENDENT MAY ASSESS A CIVIL PENALTY FOR THE FAILURE TO FILE  
22 THE ANNUAL REPORT UNLESS AN EXTENSION OF TIME IS GRANTED BY THE  
23 SUPERINTENDENT IN WRITING BEFORE THE DUE DATE OF THE ANNUAL REPORT. THE  
24 SUPERINTENDENT MAY NOT ASSESS A PENALTY OF MORE THAN FIVE DOLLARS PER DAY.  
25 THE LICENSEE SHALL PAY THE PENALTY TO THE SUPERINTENDENT WITHIN THIRTY DAYS  
26 AFTER THE ASSESSMENT.

27 6-1809. Report; average annual percentage rate; average loan  
28 amount

29 A. AT THE TIME OF MAKING ITS ANNUAL REPORT TO THE SUPERINTENDENT, EACH  
30 LICENSEE SHALL REPORT THE LICENSEE'S AVERAGE ANNUAL PERCENTAGE RATE AND  
31 AVERAGE LOAN AMOUNT FOR THE PREVIOUS TWELVE MONTHS. THE AVERAGE ANNUAL  
32 PERCENTAGE RATE DESCRIBED IN THIS SUBSECTION REFERS TO THE AMOUNT FINANCED AS

1 COMPUTED PURSUANT TO THE TRUTH IN LENDING ACT (P.L. 90-321, 82 STAT. 146,  
2 15 UNITED STATES CODE SECTIONS 1601 THROUGH 1667f).

3 B. ON AT LEAST AN ANNUAL BASIS THE SUPERINTENDENT SHALL COMPILE A  
4 REPORT OF THE AVERAGE ANNUAL PERCENTAGE RATE AND AVERAGE LOAN AMOUNT OF EACH  
5 LICENSEE AS SUBMITTED PURSUANT TO SUBSECTION A OF THIS SECTION. THE  
6 SUPERINTENDENT SHALL DISSEMINATE THIS REPORT IN A MANNER DEEMED APPROPRIATE  
7 BY THE SUPERINTENDENT, AND THE SUPERINTENDENT SHALL MAKE THE REPORT AVAILABLE  
8 TO THE PUBLIC FOR INSPECTION AND COPYING.

9 6-1810. Effect of revocation; suspension or surrender on  
10 preexisting contract; impairment of contracts

11 A. THE REVOCATION, SUSPENSION OR SURRENDER OF A FLEXIBLE CREDIT LENDER  
12 LICENSE DOES NOT IMPAIR OR AFFECT:

13 1. THE OBLIGATION OF ANY PREEXISTING FLEXIBLE CREDIT LOAN BETWEEN THE  
14 FLEXIBLE CREDIT LENDER AND ANY CONSUMER.

15 2. THE ABILITY OR RIGHT OF THE FLEXIBLE CREDIT LENDER TO SERVICE  
16 EXISTING FLEXIBLE CREDIT LOANS FROM OUTSIDE THIS STATE.

17 B. IF THIS CHAPTER OR ANY PART OF THIS CHAPTER IS MODIFIED, AMENDED OR  
18 REPEALED, RESULTING IN A CANCELLATION OR ALTERATION OF ANY FLEXIBLE CREDIT  
19 LENDER LICENSE OR RIGHT OF A LICENSEE UNDER THIS CHAPTER, THAT CANCELLATION  
20 OR ALTERATION DOES NOT IMPAIR OR AFFECT THE OBLIGATION OF ANY PREEXISTING  
21 CONTRACT BETWEEN A FLEXIBLE CREDIT LENDER AND ANY CONSUMER.

22 6-1811. Prohibited acts

23 A. A LICENSEE MAY NOT KNOWINGLY ADVERTISE, DISPLAY, DISTRIBUTE,  
24 BROADCAST OR TELEWISE, OR CAUSE OR ALLOW TO BE ADVERTISED, DISPLAYED,  
25 DISTRIBUTED, BROADCAST OR TELEVISED, IN ANY MANNER, ANY FALSE, MISLEADING OR  
26 DECEPTIVE STATEMENT OR REPRESENTATION WITH REGARD TO THE RATES, TERMS OR  
27 CONDITIONS FOR A FLEXIBLE CREDIT LOAN. TO THE EXTENT APPLICABLE, ALL  
28 ADVERTISING SHALL COMPLY WITH THE ADVERTISING REQUIREMENTS OF THE TRUTH IN  
29 LENDING ACT (P.L. 90-321, 82 STAT. 146, 15 UNITED STATES CODE SECTIONS 1601  
30 THROUGH 1667f).

31 B. A CONSUMER MAY NOT HAVE OUTSTANDING FLEXIBLE CREDIT LOANS TOTALING  
32 MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS UNDER THIS CHAPTER AT ANY ONE

1 TIME. EACH LICENSEE SHALL INQUIRE OF ANY CONSUMER SEEKING A FLEXIBLE CREDIT  
2 LOAN UNDER THIS CHAPTER REGARDING THE CONSUMER'S OUTSTANDING FLEXIBLE CREDIT  
3 LOANS. IF THE LICENSEE DETERMINES THAT THE CONSUMER DOES NOT HAVE  
4 OUTSTANDING FLEXIBLE CREDIT LOANS THAT EXCEED A TOTAL INDEBTEDNESS OF TWO  
5 THOUSAND FIVE HUNDRED DOLLARS, A LICENSEE MAY OFFER THE CONSUMER A FLEXIBLE  
6 CREDIT LOAN IN AN AMOUNT THAT DOES NOT TOTAL MORE THAN TWO THOUSAND FIVE  
7 HUNDRED DOLLARS IN TOTAL FLEXIBLE CREDIT LOANS OUTSTANDING BY THE CONSUMER.  
8 IF THE LICENSEE DETERMINES THAT THE CONSUMER HAS FLEXIBLE CREDIT LOANS THAT  
9 TOTAL TWO THOUSAND FIVE HUNDRED DOLLARS, A LICENSEE MAY NOT OFFER A FLEXIBLE  
10 CREDIT LOAN TO THE CONSUMER UNTIL THE LICENSEE DETERMINES THAT THE CONSUMER  
11 QUALIFIES TO OPEN A NEW FLEXIBLE CREDIT LOAN PURSUANT TO THIS SUBSECTION. ON  
12 ANY APPLICATION BEING MADE FOR A FLEXIBLE CREDIT LOAN, THE LICENSEE SHALL  
13 DETERMINE IF THE CONSUMER HAS ANY OUTSTANDING FLEXIBLE CREDIT LOANS AS  
14 FOLLOWS:

15 1. THE CONSUMER SHALL SIGN AN ATTESTATION STATING WHETHER THE CONSUMER  
16 HAS ANY FLEXIBLE CREDIT LOANS OUTSTANDING WITH THE LICENSEE OR ANY OTHER  
17 FLEXIBLE CREDIT LENDER AS DESCRIBED IN THIS SUBSECTION AND IF SO, THE STATUS  
18 OF EACH LOAN.

19 2. THE LICENSEE SHALL VERIFY THE ACCURACY OF THE ATTESTATION THROUGH  
20 COMMERCIALY REASONABLE MEANS. A LICENSEE'S METHOD OF VERIFICATION IS IN  
21 COMPLIANCE WITH THIS SECTION ONLY IF THE VERIFICATION METHOD INCLUDES A  
22 MANUAL INVESTIGATION OR AN ELECTRONIC QUERY OF EITHER OF THE FOLLOWING:

23 (a) ANY PRIVATE DATABASE APPROVED BY THE SUPERINTENDENT IF ALL  
24 LICENSEES ARE REQUIRED TO SUBSCRIBE TO THE DATABASE OR OTHERWISE OBTAIN THE  
25 REQUIRED INFORMATION IN A MANNER APPROVED BY THE SUPERINTENDENT ON OR BEFORE  
26 JULY 1, 2017. THE LICENSEE MAY CHARGE THE CONSUMER A FEE FOR DATABASE  
27 VERIFICATION NOT TO EXCEED THE ACTUAL FEE CHARGED TO THE LICENSEE BY THE  
28 DATABASE PROVIDER.

29 (b) UNTIL A PRIVATE DATABASE OR OTHER APPROVED MANNER OF OBTAINING THE  
30 REQUIRED INFORMATION IS APPROVED BY THE SUPERINTENDENT OR IF THE PRIVATE  
31 DATABASE IS NOT ACCESSIBLE, THE ATTESTATION AND THE LICENSEE'S OWN RECORDS,  
32 INCLUDING BOTH RECORDS MAINTAINED AT THE LOCATION AT WHICH THE LOAN IS BEING

1 APPLIED AND RECORDS MAINTAINED AT OTHER LOCATIONS THAT ARE OWNED AND OPERATED  
2 BY THE LICENSEE OR THE LICENSEE'S AFFILIATES.

3 C. THE DEPARTMENT SHALL INVESTIGATE ANY FINDING THAT A CONSUMER HAS  
4 ILLEGALLY OBTAINED A FLEXIBLE CREDIT LOAN FROM A FLEXIBLE CREDIT LENDER IN  
5 EXCESS OF THE MAXIMUM ALLOWABLE AMOUNT OF TWO THOUSAND FIVE HUNDRED DOLLARS  
6 IN TOTAL FLEXIBLE CREDIT LOANS.

7 D. A LICENSEE MAY NOT MAKE A FLEXIBLE CREDIT LOAN HAVING AN ANNUAL  
8 PERCENTAGE RATE GREATER THAN THAT SET FORTH IN FEDERAL LAW IN 10 UNITED  
9 STATES CODE SECTION 987 (b) TO A PERSON WHO IS EITHER:

10 1. A MEMBER OF THE UNITED STATES ARMED FORCES WHO IS ON ACTIVE DUTY  
11 UNDER A CALL OR ORDER THAT DOES NOT SPECIFY A PERIOD OF THIRTY DAYS OR LESS.

12 2. ON ACTIVE NATIONAL GUARD AND RESERVE DUTY.

13 3. A DEPENDENT, AS DEFINED IN THE JOHN WARNER NATIONAL DEFENSE  
14 AUTHORIZATION ACT FOR FISCAL YEAR 2007 (P.L. 109-364; 120 STAT. 2083; 10  
15 UNITED STATES CODE SECTION 987) OR ANY REGULATION ADOPTED PURSUANT TO THAT  
16 ACT, INCLUDING 32 CODE OF FEDERAL REGULATIONS PART 232, OF A PERSON LISTED IN  
17 PARAGRAPHS 1 AND 2 OF THIS SUBSECTION.

18 E. A LICENSEE MAY NOT MAKE A FLEXIBLE CREDIT LOAN TO A PERSON UNLESS  
19 THAT PERSON HAS EITHER:

20 1. SIGNED AND PROVIDED TO THE LICENSEE AS PART OF THE LOAN A STATEMENT  
21 ATTESTING TO WHETHER OR NOT THE PERSON IS A MILITARY MEMBER OR DEPENDENT AS  
22 DEFINED AS A COVERED MEMBER IN THE JOHN WARNER NATIONAL DEFENSE AUTHORIZATION  
23 ACT FOR FISCAL YEAR 2007 (P.L. 109-364; 120 STAT. 2083). SUCH STATEMENT  
24 SHALL BE IN THE FORM AS MAY BE SET BY THE SUPERINTENDENT BY RULE OR MAY  
25 CONFORM WITH THAT PROVIDED BY FEDERAL LAW OR REGULATION REGARDING COVERED  
26 MEMBERS BY THE UNITED STATES DEPARTMENT OF DEFENSE.

27 2. USED ANOTHER AUTHORIZED METHOD TO DETERMINE THE PERSON IS NOT A  
28 COVERED MEMBER AS MAY BE SET OUT IN FEDERAL LAW OR BY UNITED STATES  
29 DEPARTMENT OF DEFENSE REGULATIONS.

30 F. ANY LOAN MADE IN VIOLATION OF THE JOHN WARNER NATIONAL DEFENSE  
31 AUTHORIZATION ACT FOR FISCAL YEAR 2007 (P.L. 109-364; 120 STAT. 2083) IS  
32 VOID.

1           G. A LICENSEE MAY NOT CONDITION A FLEXIBLE CREDIT LOAN ON THE  
2 CONSUMER'S AGREEMENT TO MAKE REPAYMENT BY RECURRING AUTOMATIC ELECTRONIC  
3 FUNDS TRANSFERS FROM THE CONSUMER'S BANK ACCOUNT. THIS SUBSECTION DOES NOT  
4 PRECLUDE THE CONSUMER FROM PROVIDING WRITTEN AUTHORIZATION TO MAKE REPAYMENTS  
5 BY RECURRING AUTOMATIC ELECTRONIC FUNDS TRANSFERS FROM THE CONSUMER'S BANK  
6 ACCOUNT.

7           6-1812. Rules

8           THE SUPERINTENDENT SHALL ADOPT RULES THAT ARE NECESSARY TO REGULATE THE  
9 PROPER CONDUCT OF LICENSEES.

10          6-1813. Restriction; voidable loans

11          A. EXCEPT AS THE RESULT OF AN ACCIDENTAL OR BONA FIDE ERROR, IF THE  
12 LICENSEE CHARGES, CONTRACTS FOR OR RECEIVES ANY AMOUNT IN EXCESS OF THE  
13 FINANCE CHARGES AND OTHER FEES ALLOWED BY THIS CHAPTER AND THE LICENSEE FAILS  
14 TO PROMPTLY REFUND THE OVERCHARGES ON DISCOVERY, THAT FLEXIBLE CREDIT LOAN IS  
15 VOIDABLE.

16          B. ANY FLEXIBLE CREDIT LOAN THAT IS MADE BY A PERSON THAT IS REQUIRED  
17 TO BE LICENSED PURSUANT TO THIS CHAPTER BUT THAT IS NOT LICENSED IS VOID AND  
18 THE PERSON MAKING THAT FLEXIBLE CREDIT LOAN HAS NO RIGHT TO COLLECT, RECEIVE  
19 OR RETAIN ANY PRINCIPAL, FINANCE CHARGES OR OTHER FEES IN CONNECTION WITH  
20 THAT FLEXIBLE CREDIT LOAN.

21          C. THE LICENSEE MAY NOT COLLECT OR RECEIVE ANY PRINCIPAL, FINANCE  
22 CHARGES OR OTHER FEES ON ANY FLEXIBLE CREDIT LOAN THAT HAS BEEN VOIDED.

23          6-1814. Noncompliance

24          EXCEPT AS PROVIDED IN SECTION 6-1813, A FAILURE TO COMPLY WITH THIS  
25 CHAPTER DOES NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF ANY FLEXIBLE CREDIT  
26 LOAN.

27                   ARTICLE 2. REQUIREMENTS FOR FLEXIBLE CREDIT LOANS

28          6-1831. Disclosures; civil penalty

29          A. TO THE EXTENT APPLICABLE, A LICENSEE SHALL COMPLY WITH THE  
30 DISCLOSURE REQUIREMENTS OF THE TRUTH IN LENDING ACT (P.L. 90-321, 82 STAT.  
31 146, 15 UNITED STATES CODE SECTIONS 1601 THROUGH 1667f).

1           B. IN ADDITION TO THE REQUIREMENTS PRESCRIBED BY SUBSECTION A OF THIS  
2 SECTION, A FLEXIBLE CREDIT LENDER SHALL CLEARLY LABEL ON ALL PAYMENT  
3 STATEMENTS THE TOTAL PRINCIPAL BALANCE REMAINING AND THE TOTAL SCHEDULED  
4 INTEREST REMAINING. THE PAYMENT STATEMENTS SHALL ALSO CLEARLY STATE THAT THE  
5 PAYMENT OF AN ADDITIONAL AMOUNT EACH MONTH WILL LOWER THE TOTAL REMAINING  
6 BALANCE AND THAT THE CONSUMER CAN PAY THE LOAN IN FULL AT ANY TIME WITHOUT  
7 ANY PREPAYMENT PENALTIES.

8           C. EACH NOTE OR AGREEMENT EVIDENCING A FLEXIBLE CREDIT LOAN SHALL  
9 CONTAIN THE FOLLOWING DISCLOSURE STATEMENT IN AT LEAST TEN-POINT TYPE THAT IS  
10 IN ENGLISH AND, ON THE CUSTOMER'S REQUEST, IN SPANISH AND IN CLOSE PROXIMITY  
11 TO THE CONSUMER'S SIGNATURE LINE OR, ALTERNATIVELY, A LICENSEE MAY PROVIDE  
12 THE BORROWER WITH THE DISCLOSURES REQUIRED BY THIS SECTION IN A MOBILE OR  
13 OTHER ELECTRONIC APPLICATION ON WHICH THE SIZE OF THE TYPEFACE OF THE  
14 DISCLOSURE CAN BE MANUALLY MODIFIED BY A PROSPECTIVE BORROWER, IF THE  
15 PROSPECTIVE BORROWER IS GIVEN THE OPTION TO PRINT THE DISCLOSURE IN A  
16 TYPEFACE OF AT LEAST TWELVE-POINT SIZE OR IS PROVIDED BY THE LICENSEE WITH A  
17 HARD COPY OF THE DISCLOSURE IN A TYPEFACE OF AT LEAST TWELVE-POINT SIZE  
18 BEFORE THE LOAN IS CONSUMMATED:

19           NOTICE: YOU MAY REQUEST THAT THE INITIAL DISCLOSURES PRESCRIBED  
20 IN THE TRUTH IN LENDING ACT (15 UNITED STATES CODE SECTIONS 1601  
21 THROUGH 1667f) BE PROVIDED IN SPANISH BEFORE SIGNING ANY LOAN  
22 DOCUMENTS.

23           D. A LICENSEE SHALL CONTINUOUSLY AND CONSPICUOUSLY DISPLAY THE NOTICE  
24 PRESCRIBED BY SUBSECTION C OF THIS SECTION AND THE FOLLOWING NOTICE ON A SIGN  
25 PRINTED IN AT LEAST TWELVE-POINT BOLD TYPE AT EACH DESK AT WHICH FLEXIBLE  
26 CREDIT LOANS ARE USUALLY AND NORMALLY CLOSED OR ON A SIGN PROMINENTLY  
27 DISPLAYED IN EACH LICENSED OFFICE OR BRANCH OFFICE:

28           NOTICE: BEFORE SIGNING ANY LOAN DOCUMENTS OR OTHERWISE  
29 COMMITTING TO A LOAN, YOU MAY TAKE COPIES OF THOSE DOCUMENTS AWAY  
30 FROM THE FLEXIBLE CREDIT LENDER'S PLACE OF BUSINESS FOR REVIEW.

31           E. IF A LICENSEE IS PROVIDING ELECTRONIC LOANS, THE LICENSEE MUST  
32 CONSPICUOUSLY DISPLAY THE FOLLOWING DISCLOSURE ON ITS WEBSITE:

1 NOTICE: BEFORE SIGNING ANY LOAN DOCUMENTS OR OTHERWISE  
2 COMMITTING TO A LOAN, PLEASE READ OUR TERMS AND CONDITIONS  
3 CAREFULLY.

4 F. IF THE LICENSEE FAILS TO MAKE THE DISCLOSURE STATEMENT PRESCRIBED  
5 IN SUBSECTION C OF THIS SECTION, THE SUPERINTENDENT SHALL ASSESS THE LICENSEE  
6 A ONE-TIME CIVIL PENALTY OF UP TO THREE HUNDRED DOLLARS FOR EVERY VIOLATION.

7 6-1832. Finance charges

8 A. A LICENSEE MAY CONTRACT FOR AND RECEIVE FINANCE CHARGES ON A  
9 FLEXIBLE CREDIT LOAN THAT DOES NOT EXCEED THE FOLLOWING IF THE ORIGINAL  
10 PRINCIPAL AMOUNT OF THE FLEXIBLE CREDIT LOAN IS AT LEAST FIVE HUNDRED DOLLARS  
11 BUT NOT MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS:

12 1. A RATE OF SEVENTEEN PERCENT PER MONTH IF UNSECURED.

13 2. A RATE OF FIFTEEN PERCENT PER MONTH IF SECURED WITH PERSONAL  
14 PROPERTY.

15 B. A LICENSEE MAY NOT COMPOUND FINANCE CHARGES.

16 6-1833. Other allowable fees: annual reporting

17 A. IN ADDITION TO THE FINANCE CHARGES AUTHORIZED BY SECTION 6-1832, A  
18 LICENSEE MAY CONTRACT FOR AND RECEIVE AND COLLECT FINANCE CHARGES ON THE  
19 FOLLOWING FEES:

20 1. A DELINQUENCY CHARGE IN AN AMOUNT EQUAL TO FIVE PERCENT OF THE  
21 AMOUNT OF ANY INSTALLMENT NOT PAID IN FULL WITHIN SEVEN DAYS AFTER ITS DUE  
22 DATE.

23 2. COURT COSTS.

24 3. REASONABLE ATTORNEY FEES IF THE FLEXIBLE CREDIT LOAN IS REFERRED  
25 FOR COLLECTION TO AN ATTORNEY OTHER THAN A SALARIED EMPLOYEE OF THE LICENSEE.

26 B. A LICENSEE MAY COLLECT ACTUAL FEES FOR THE ACQUISITION, PROCESSING  
27 AND HANDLING OF PERSONAL PROPERTY THAT SECURES THE FLEXIBLE CREDIT LOAN.

28 C. IN ADDITION TO THE FINANCE CHARGES AND FEES PROVIDED IN THIS  
29 ARTICLE, THE LICENSEE MAY NOT DIRECTLY OR INDIRECTLY CHARGE, CONTRACT FOR OR  
30 RECEIVE ANY FURTHER OR OTHER AMOUNT IN CONNECTION WITH A FLEXIBLE CREDIT  
31 LOAN.

1 D. IN CONJUNCTION WITH THE REPORTING REQUIREMENTS PRESCRIBED IN  
2 SECTION 6-1809, ON OR BEFORE OCTOBER 1 EACH YEAR, A LICENSEE SHALL REPORT TO  
3 THE SUPERINTENDENT THE NUMBER OF FLEXIBLE CREDIT LOANS MADE IN THE PRIOR TWO  
4 YEARS.

5 6-1834. Consumer credit counseling; default provision

6 A. IF A CONSUMER IS UNABLE TO MEET THE PAYMENT SCHEDULE REQUIREMENTS  
7 ON THE FLEXIBLE CREDIT LOAN FOR THREE CONSECUTIVE MONTHS, THE CONSUMER MAY  
8 REQUEST WITHIN THIRTY DAYS AFTER THE THIRD MISSED SCHEDULED PAYMENT DATE A  
9 PAYMENT PLAN IF THE CONSUMER ENROLLS IN AND COMPLETES AN APPROVED CONSUMER  
10 CREDIT COUNSELING COURSE. IF A CONSUMER REQUESTS A PAYMENT PLAN PURSUANT TO  
11 THIS SUBSECTION, THE FLEXIBLE CREDIT LENDER SHALL PROVIDE THE PAYMENT PLAN TO  
12 THE CONSUMER.

13 B. THE PAYMENT PLAN SHALL START ON THE DATE THAT THE CONSUMER ENROLLS  
14 IN AN APPROVED CONSUMER CREDIT COUNSELING COURSE AND SHALL LAST NINETY DAYS.

15 C. WHILE THE CONSUMER IS PARTICIPATING IN THE PAYMENT PLAN, NO  
16 ADDITIONAL INTEREST OR FEES SHALL ACCRUE ON THE LOAN.

17 D. IF A CONSUMER FAILS TO COMPLETE AN APPROVED CONSUMER CREDIT  
18 COUNSELING COURSE WITHIN SIXTY DAYS AFTER ENROLLING IN THE COURSE, THE LOAN  
19 SHALL REVERT TO THE ORIGINAL TERMS OF THE CONTRACT.

20 Sec. 4. Short title

21 Title 6, chapter 18, Arizona Revised Statutes, as added by this act,  
22 may be cited as the "Arizona Flexible Loan Act".

23 Amend title to conform

J.D. MESNARD

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**ARIZONA HOUSE OF REPRESENTATIVES**  
**Fifty-second Legislature - Second Regular Session**

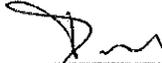
**ROLL CALL VOTE**

COMMITTEE ON WAYS AND MEANS BILL NO. SB 1316

DATE February 29, 2016 MOTION: DPAS/E

	PASS	AYE	NAY	PRESENT	ABSENT
Mr. Bolding	✓		✓		
Mr. Cardenas			✓		
Mr. Mesnard	✓	✓			
Mr. Olson		✓			
Ms. Ugenti-Rita		✓			
Mr. Weninger		✓			
Mr. Wheeler			✓		
Mr. Kern, Vice-Chairman		✓			
Mr. Mitchell, Chairman		✓			
		6	3	0	0

APPROVED:

  
 DARIN MITCHELL, Chairman  
 ANTHONY KERN, Vice-Chairman

  
 COMMITTEE SECRETARY

ATTACHMENT 5

**ARIZONA STATE LEGISLATURE**  
Fifty-second Legislature - Second Regular Session

**COMMITTEE ATTENDANCE RECORD**

COMMITTEE ON WAYS AND MEANS

CHAIRMAN: Darin Mitchell VICE-CHAIRMAN: Anthony Kern

DATE	1/25 /16	2/1 /16	2/8 /16	2/15 /16	2/29/16
CONVENED	2:09 pm	2:42 pm	3:26 pm	2:32 pm	5:16 pm
RECESSED				4:33 pm	
RECONVENED				4:53 pm	
ADJOURNED	2:53 pm	6:08 pm	5:30 pm	7:57 pm	7:25 pm
MEMBERS					
Mr. Bolding	✓	✓	✓	✓	✓
Mr. Cardenas	✓	✓	✓	✓	✓
Mr. Mesnard	✓	✓	✓	✓	✓
Mr. Olson	✓	✓	✓	✓	✓
Ms. Ugenti-Rita	✓	exc	✓	✓	✓
Mr. Weninger	✓	✓	✓	✓	✓
Mr. Wheeler	✓	✓	✓	✓	✓
Mr. Kern, Vice-Chairman	✓	✓	✓	✓	✓
Mr. Mitchell, Chairman	✓	✓	✓	✓	✓

✓ Present      --- Absent      exc Excused