

COMMITTEE ON WAYS AND MEANS
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.

24 5. Any examination of a financial institution holding company or
25 international banking facility.

26 6. Any examination of a consumer lender.

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

1 company, money transmitter, collection agency or deferred presentment
2 company, five hundred dollars.

3 19. To apply for a branch office of a mortgage broker, commercial
4 mortgage broker, debt management company or sales finance company, two
5 hundred fifty dollars.

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

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

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

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

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

17 25. To move an established office of an enterprise to other than an
18 established office, fifty dollars.

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

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

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

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

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

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

3 32. To receive the following publications:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 7. For a commercial mortgage banker, one thousand two hundred fifty
10 dollars. In addition, a commercial mortgage banker shall pay two hundred
11 fifty dollars for each branch office.

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

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

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

24 11. For a deferred presentment company, four hundred dollars. In
25 addition, a deferred presentment company shall pay two hundred dollars for
26 each branch office.

27 12. For a loan originator, an amount to be determined by the
28 superintendent.

29 13. For an inactive status loan originator, an amount to be determined
30 by the superintendent.

31 D. The license, renewal or branch office permit fee for a premium
32 finance company for each calendar year or part thereof shall not be less than

1 one hundred dollars or more than three hundred dollars as set by the
2 superintendent. If the license is issued or the branch office is opened
3 after June 30 in any year, the fees shall not be less than fifty dollars or
4 more than one hundred fifty dollars for that year.

5 Sec. 3. Title 6, Arizona Revised Statutes, is amended by adding
6 chapter 18, to read:

7 CHAPTER 18

8 FLEXIBLE CREDIT LOANS

9 ARTICLE 1. GENERAL PROVISIONS

10 6-1801. Definitions

11 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

12 1. "AMOUNT FINANCED" MEANS THE AMOUNT OF CREDIT EXTENDED TO A CONSUMER
13 ON A FLEXIBLE CREDIT LOAN DETERMINED PURSUANT TO THE TRUTH IN LENDING ACT
14 (P.L. 90-321, 82 STAT. 146; 15 UNITED STATES CODE SECTIONS 1601 THROUGH
15 1667f).

16 2. "ANNUAL PERCENTAGE RATE" MEANS THE MEASURE OF THE COST OF CREDIT,
17 EXPRESSED AS A YEARLY RATE, THAT RELATES THE AMOUNT AND TIMING OF VALUE
18 RECEIVED BY THE CONSUMER TO THE AMOUNT AND TIMING OF PAYMENTS MADE,
19 DETERMINED PURSUANT TO THE TRUTH IN LENDING ACT (P.L. 90-321, 82 STAT. 146;
20 15 UNITED STATES CODE SECTIONS 1601 THROUGH 1667f).

21 3. "CONSUMER" MEANS AN INDIVIDUAL WHO OBTAINS A FLEXIBLE CREDIT LOAN
22 FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES.

23 4. "FINANCE CHARGE" MEANS THE AMOUNT PAYABLE BY A CONSUMER INCIDENT TO
24 OR AS A CONDITION OF THE EXTENSION OF A FLEXIBLE CREDIT LOAN BUT DOES NOT
25 INCLUDE OTHER FEES ALLOWED PURSUANT TO SECTION 6-1833.

26 5. "FLEXIBLE CREDIT LENDER" MEANS A PERSON THAT ADVERTISES TO MAKE,
27 SOLICITS OR HOLDS ITSELF OUT TO MAKE OR MAKES FLEXIBLE CREDIT LOANS TO
28 CONSUMERS IN THIS STATE.

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

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

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

4 (c) IS UNSECURED OR IS SECURED BY PERSONAL PROPERTY NOT INCLUDING REAL
5 ESTATE.

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

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

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

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

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

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

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

17 6-1802. Exemptions

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

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

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

28 3. IS NOT REGULARLY ENGAGED IN THE BUSINESS OF MAKING FLEXIBLE CREDIT
29 LOANS.

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

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

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

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

5 3. FLEXIBLE CREDIT LOANS THAT ARE LAWFULLY MADE TO NONRESIDENTS OF
6 THIS STATE PURSUANT TO A FLEXIBLE CREDIT LOAN LAW OF ANOTHER STATE SIMILAR IN
7 PRINCIPLE TO THIS CHAPTER.

8 4. EDUCATIONAL LOANS THAT ARE EITHER:

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

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

14 5. SECONDARY MOTOR VEHICLE FINANCE TRANSACTIONS AS DEFINED IN SECTION
15 44-281.

16 6-1803. License; applicability; contents of application; fees;
17 nontransferable

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

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

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

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

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

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

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

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

8 3. HAS FAILED TO PAY THE LICENSE FEE.

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

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

21 6-1804. Issuance of license; license year; requirements

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

26 B. THE LICENSE YEAR FOR A LICENSEE BEGINS ON JULY 1 AND ENDS ON JUNE
27 30 OF EACH YEAR. A FLEXIBLE CREDIT LENDER SHALL APPLY FOR RENEWAL AS
28 PRESCRIBED BY THE SUPERINTENDENT NOT LATER THAN JUNE 30 OF EACH YEAR. A
29 LICENSE FOR WHICH A RENEWAL APPLICATION IS NOT RECEIVED BY THE SUPERINTENDENT
30 BY JUNE 30 IS SUSPENDED AND THE FLEXIBLE CREDIT LENDER MAY NOT ACT AS A
31 FLEXIBLE CREDIT LENDER UNTIL THE LICENSE IS RENEWED OR A NEW LICENSE IS
32 ISSUED PURSUANT TO THIS ARTICLE. THE LICENSE OF A FLEXIBLE CREDIT LENDER

1 THAT HAS NOT FILED A RENEWAL APPLICATION AND PAID THE RENEWAL FEE BY JULY 31
2 EXPIRES.

3 C. ALL LICENSES ISSUED REMAIN IN FULL FORCE UNTIL SURRENDERED, REVOKED
4 OR SUSPENDED.

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

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

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

21 6-1805. Denial of renewal; suspension; revocation

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

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

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

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

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

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

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

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

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

13 6-1806. Business limited to licensed locations; restrictions

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

19 B. A LICENSEE MAY:

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

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

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

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

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

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

14 6-1807. Books; accounts; records; access

15 A. A LICENSEE SHALL MAINTAIN BOOKS, ACCOUNTS AND RECORDS THAT ENABLE
16 THE SUPERINTENDENT TO DETERMINE WHETHER THE LICENSEE IS IN COMPLIANCE WITH
17 THIS CHAPTER.

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

24 C. EVERY LICENSEE SHALL OBSERVE GENERALLY ACCEPTED ACCOUNTING
25 PRINCIPLES AND PRACTICES.

26 D. A LICENSEE SHALL MAKE ANY BOOKS, ACCOUNTS AND RECORDS THAT ARE KEPT
27 OUTSIDE OF THIS STATE AVAILABLE TO THE SUPERINTENDENT IN THIS STATE NOT MORE
28 THAN THREE BUSINESS DAYS AFTER DEMAND IS MADE BY THE SUPERINTENDENT OR THE
29 SUPERINTENDENT MAY CHOOSE TO PERFORM THE EXAMINATION OR INVESTIGATION AT THE
30 OFFICE OF THE LICENSEE LOCATED OUTSIDE THIS STATE.

31 E. FOR THE PURPOSES OF THIS CHAPTER, THE SUPERINTENDENT OR THE
32 SUPERINTENDENT'S DULY AUTHORIZED REPRESENTATIVES SHALL HAVE ACCESS DURING

1 NORMAL BUSINESS HOURS TO THE OFFICES AND PLACES OF BUSINESS, FILES, SAFES AND
2 VAULTS OF ALL LICENSEES REGARDING THAT BUSINESS OR THE SUBJECT MATTER OF ANY
3 EXAMINATION, INVESTIGATION OR HEARING.

4 6-1808. Annual report of licensee; civil penalty for failure to
5 file

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

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

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

23 6-1809. Report; average annual percentage rate; average loan
24 amount

25 A. AT THE TIME OF MAKING ITS ANNUAL REPORT TO THE SUPERINTENDENT, EACH
26 LICENSEE SHALL REPORT THE LICENSEE'S AVERAGE ANNUAL PERCENTAGE RATE AND
27 AVERAGE LOAN AMOUNT FOR THE PREVIOUS TWELVE MONTHS. THE AVERAGE ANNUAL
28 PERCENTAGE RATE DESCRIBED IN THIS SUBSECTION REFERS TO THE AMOUNT FINANCED AS
29 COMPUTED PURSUANT TO THE TRUTH IN LENDING ACT (P.L. 90-321, 82 STAT. 146,
30 15 UNITED STATES CODE SECTIONS 1601 THROUGH 1667f).

31 B. ON AT LEAST AN ANNUAL BASIS THE SUPERINTENDENT SHALL COMPILE A
32 REPORT OF THE AVERAGE ANNUAL PERCENTAGE RATE AND AVERAGE LOAN AMOUNT OF EACH

1 LICENSEE AS SUBMITTED PURSUANT TO SUBSECTION A OF THIS SECTION. THE
2 SUPERINTENDENT SHALL DISSEMINATE THIS REPORT IN A MANNER DEEMED APPROPRIATE
3 BY THE SUPERINTENDENT, AND THE SUPERINTENDENT SHALL MAKE THE REPORT AVAILABLE
4 TO THE PUBLIC FOR INSPECTION AND COPYING.

5 6-1810. Effect of revocation; suspension or surrender on
6 preexisting contract; impairment of contracts

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

9 1. THE OBLIGATION OF ANY PREEXISTING FLEXIBLE CREDIT LOAN BETWEEN THE
10 FLEXIBLE CREDIT LENDER AND ANY CONSUMER.

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

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

18 6-1811. Prohibited acts

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

27 B. A CONSUMER MAY NOT HAVE OUTSTANDING FLEXIBLE CREDIT LOANS TOTALING
28 MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS UNDER THIS CHAPTER AT ANY ONE
29 TIME. EACH LICENSEE SHALL INQUIRE OF ANY CONSUMER SEEKING A FLEXIBLE CREDIT
30 LOAN UNDER THIS CHAPTER REGARDING THE CONSUMER'S OUTSTANDING FLEXIBLE CREDIT
31 LOANS. IF THE LICENSEE DETERMINES THAT THE CONSUMER DOES NOT HAVE
32 OUTSTANDING FLEXIBLE CREDIT LOANS THAT EXCEED A TOTAL INDEBTEDNESS OF TWO

1 THOUSAND FIVE HUNDRED DOLLARS, A LICENSEE MAY OFFER THE CONSUMER A FLEXIBLE
2 CREDIT LOAN IN AN AMOUNT THAT DOES NOT TOTAL MORE THAN TWO THOUSAND FIVE
3 HUNDRED DOLLARS IN TOTAL FLEXIBLE CREDIT LOANS OUTSTANDING BY THE CONSUMER.
4 IF THE LICENSEE DETERMINES THAT THE CONSUMER HAS FLEXIBLE CREDIT LOANS THAT
5 TOTAL TWO THOUSAND FIVE HUNDRED DOLLARS, A LICENSEE MAY NOT OFFER A FLEXIBLE
6 CREDIT LOAN TO THE CONSUMER UNTIL THE LICENSEE DETERMINES THAT THE CONSUMER
7 QUALIFIES TO OPEN A NEW FLEXIBLE CREDIT LOAN PURSUANT TO THIS SUBSECTION. ON
8 ANY APPLICATION BEING MADE FOR A FLEXIBLE CREDIT LOAN, THE LICENSEE SHALL
9 DETERMINE IF THE CONSUMER HAS ANY OUTSTANDING FLEXIBLE CREDIT LOANS AS
10 FOLLOWS:

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

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

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

25 (b) UNTIL A PRIVATE DATABASE OR OTHER APPROVED MANNER OF OBTAINING THE
26 REQUIRED INFORMATION IS APPROVED BY THE SUPERINTENDENT OR IF THE PRIVATE
27 DATABASE IS NOT ACCESSIBLE, THE ATTESTATION AND THE LICENSEE'S OWN RECORDS,
28 INCLUDING BOTH RECORDS MAINTAINED AT THE LOCATION AT WHICH THE LOAN IS BEING
29 APPLIED AND RECORDS MAINTAINED AT OTHER LOCATIONS THAT ARE OWNED AND OPERATED
30 BY THE LICENSEE OR THE LICENSEE'S AFFILIATES.

31 C. THE DEPARTMENT SHALL INVESTIGATE ANY FINDING THAT A CONSUMER HAS
32 ILLEGALLY OBTAINED A FLEXIBLE CREDIT LOAN FROM A FLEXIBLE CREDIT LENDER IN

1 EXCESS OF THE MAXIMUM ALLOWABLE AMOUNT OF TWO THOUSAND FIVE HUNDRED DOLLARS
2 IN TOTAL FLEXIBLE CREDIT LOANS.

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

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

8 2. ON ACTIVE NATIONAL GUARD AND RESERVE DUTY.

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

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

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

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

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

29 G. A LICENSEE MAY NOT CONDITION A FLEXIBLE CREDIT LOAN ON THE
30 CONSUMER'S AGREEMENT TO MAKE REPAYMENT BY RECURRING AUTOMATIC ELECTRONIC
31 FUNDS TRANSFERS FROM THE CONSUMER'S BANK ACCOUNT. THIS SUBSECTION DOES NOT
32 PRECLUDE THE CONSUMER FROM PROVIDING WRITTEN AUTHORIZATION TO MAKE REPAYMENTS

1 BY RECURRING AUTOMATIC ELECTRONIC FUNDS TRANSFERS FROM THE CONSUMER'S BANK
2 ACCOUNT.

3 6-1812. Rules

4 THE SUPERINTENDENT SHALL ADOPT RULES THAT ARE NECESSARY TO REGULATE THE
5 PROPER CONDUCT OF LICENSEES.

6 6-1813. Restriction; voidable loans

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

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

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

19 6-1814. Noncompliance

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

23 ARTICLE 2. REQUIREMENTS FOR FLEXIBLE CREDIT LOANS

24 6-1831. Disclosures; civil penalty

25 A. TO THE EXTENT APPLICABLE, A LICENSEE SHALL COMPLY WITH THE
26 DISCLOSURE REQUIREMENTS OF THE TRUTH IN LENDING ACT (P.L. 90-321, 82 STAT.
27 146, 15 UNITED STATES CODE SECTIONS 1601 THROUGH 1667f).

28 B. IN ADDITION TO THE REQUIREMENTS PRESCRIBED BY SUBSECTION A OF THIS
29 SECTION, A FLEXIBLE CREDIT LENDER SHALL CLEARLY LABEL ON ALL PAYMENT
30 STATEMENTS THE TOTAL PRINCIPAL BALANCE REMAINING AND THE TOTAL SCHEDULED
31 INTEREST REMAINING. THE PAYMENT STATEMENTS SHALL ALSO CLEARLY STATE THAT THE
32 PAYMENT OF AN ADDITIONAL AMOUNT EACH MONTH WILL LOWER THE TOTAL REMAINING

1 BALANCE AND THAT THE CONSUMER CAN PAY THE LOAN IN FULL AT ANY TIME WITHOUT
2 ANY PREPAYMENT PENALTIES.

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

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

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

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

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

28 NOTICE: BEFORE SIGNING ANY LOAN DOCUMENTS OR OTHERWISE
29 COMMITTING TO A LOAN, PLEASE READ OUR TERMS AND CONDITIONS
30 CAREFULLY.

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

4 6-1832. Finance charges

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

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

10 2. A RATE OF FIFTEEN PERCENT PER MONTH IF SECURED WITH PERSONAL
11 PROPERTY.

12 B. A LICENSEE MAY NOT COMPOUND FINANCE CHARGES.

13 6-1833. Other allowable fees; annual reporting

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

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

20 2. COURT COSTS.

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

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

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

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

1 6-1834. Consumer credit counseling; default provision

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

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

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

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

16 Sec. 4. Short title

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

19 Amend title to conform

and, as so amended, it do pass

DARIN MITCHELL
CHAIRMAN

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