

State of Arizona
House of Representatives
Forty-third Legislature
Second Regular Session
1998

HOUSE BILL 2390

AN ACT

AMENDING SECTIONS 6-601, 6-609, 6-613, 6-632, 6-633, 6-636, 6-637, 28-4301 AND 44-1621, ARIZONA REVISED STATUTES; AMENDING TITLE 6, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 6-639; RELATING TO CONSUMER TITLE LOANS.

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

2 Section 1. Section 6-601, Arizona Revised Statutes, is amended to
3 read:

4 6-601. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Actuarial method" means the method of allocating each payment
7 between finance charges and principal pursuant to which the payment is
8 applied first to finance charges computed on the unpaid balance of principal
9 for the time the balance is outstanding, and the remainder of the payment is
10 subtracted from the unpaid principal amount.

11 2. "Amount financed" means the amount of credit extended to a consumer
12 on a consumer loan OR A CONSUMER TITLE LOAN determined in accordance with the
13 truth in lending act.

14 3. "Annual percentage rate" means the measure of the cost of credit,
15 expressed as a yearly rate, that relates the amount and timing of value
16 received by the consumer to the amount and timing of payments made,
17 determined in accordance with the truth in lending act.

18 4. "Consumer" means an individual who obtains a consumer lender loan
19 OR A CONSUMER TITLE LOAN for personal, family or household purposes.

20 5. "Consumer lender" means a person that advertises to make or
21 procure, solicits or holds itself out to make or procure, or makes or

1 procures consumer lender loans OR CONSUMER TITLE LOANS to consumers in this
2 state.

3 6. "Consumer lender loans" means consumer loans, consumer revolving
4 loans, CONSUMER TITLE LOANS and home equity revolving loans.

5 7. "Consumer loan" means the direct closed end loan of money in an
6 amount of ten thousand dollars or less that is subject to a finance charge.
7 For the purpose of determining whether a consumer loan is ten thousand
8 dollars or less only the principal amount of the loan shall be considered and
9 not any finance charges or other fees allowed pursuant to section 6-635.

10 8. "Consumer revolving loan" means an open end revolving loan that is
11 established pursuant to an agreement with an agreed on credit limit that does
12 not exceed ten thousand dollars, that the consumer may pay in full at any
13 time but has the privilege of paying in installments and that contemplates
14 or provides that advances may be obtained from time to time by the consumer,
15 through checks, drafts, items, credit access devices, orders for the payment
16 of money, evidences of debt or similar means, whether or not negotiable.

17 9. "CONSUMER TITLE LOAN" MEANS THE DIRECT CLOSED END LOAN OF MONEY IN
18 AN AMOUNT OF FIVE THOUSAND DOLLARS OR LESS THAT IS SUBJECT TO A CONSUMER
19 TITLE LOAN AGREEMENT AND A FINANCE CHARGE.

20 10. "CONSUMER TITLE LOAN AGREEMENT" MEANS AN AGREEMENT PURSUANT TO
21 SECTION 6-639.

22 ~~9~~ 11. "Educational loan" means ~~a~~ ANY loan or other aid or
23 assistance for the purpose of furthering the education of a consumer or a
24 relative of a consumer at an accredited or approved university, college,
25 community college, junior college, technical, vocational or professional
26 school, or similar institution.

27 ~~10~~ 12. "Finance charge" means the amount payable by a consumer
28 incident to or as a condition of the extension of a consumer lender loan but
29 does not include other fees allowed pursuant to section 6-635.

30 ~~11~~ 13. "Home equity revolving loan" means an open end revolving loan
31 that is made pursuant to an agreement with an agreed on credit limit that is
32 more than ten thousand dollars but not more than twenty-five thousand
33 dollars, that is secured by the consumer's principal residence and that
34 provides that advances may be obtained from time to time by the consumer
35 through checks, drafts, items, credit access devices, orders for the payment
36 of money, evidences of debt or similar means, whether or not negotiable.

37 ~~12~~ 14. "License" means a license issued under the authority of this
38 chapter to make consumer lender loans in accordance with this chapter.

39 ~~13~~ 15. "Licensee" means a person licensed pursuant to this chapter.

40 ~~14~~ 16. "Precomputed consumer loan" means a consumer loan that is
41 payable in substantially equal, consecutive monthly installments that are
42 applied to the unpaid balance of the principal and precomputed finance
43 charges combined, subject to provisions for refund or credit in the event of

1 prepayment and for deferral or default charges in the event of deferral or
2 default.

3 ~~15.~~ 17. "Truth in lending act" means title I of the consumer credit
4 protection act (15 United States Code sections 1601 through 1666j), as
5 amended, and the regulations promulgated under that act (12 Code of Federal
6 Regulations part 226), as amended.

7 Sec. 2. Section 6-609, Arizona Revised Statutes, is amended to read:

8 6-609. Reporting rates; change in rates; quarterly report of
9 superintendent

10 A. At the time of making its annual report to the superintendent, each
11 licensee shall report the licensee's standard annual percentage rate or range
12 of annual percentage rates in effect at that time on the following types of
13 loans:

14 1. A five hundred dollar unsecured consumer loan, payable in twelve
15 equal monthly installments.

16 2. A two thousand five hundred dollar consumer loan secured by a motor
17 vehicle, payable in thirty-six equal monthly installments.

18 3. A nine thousand dollar consumer loan secured in full by real
19 property, payable in one hundred twenty equal monthly installments.

20 4. A consumer revolving loan with an agreed on credit limit of three
21 thousand dollars.

22 5. A home equity revolving loan with an agreed on credit limit of
23 fifteen thousand dollars.

24 6. A FIVE THOUSAND DOLLAR CONSUMER TITLE LOAN PAYABLE AT THE END OF
25 THIRTY DAYS.

26 B. The amount of each of the consumer loans described in subsection
27 A refers to the amount financed as computed in accordance with the truth in
28 lending act. The licensee shall also report the range of the percentage
29 amount of any prepaid finance charges charged in connection with a home
30 equity revolving loan described in subsection A, paragraph 5.

31 C. Within thirty days after effectuating a change in the standard rate
32 of charge for any of the types of loans described in subsection A, the
33 licensee shall report that change to the superintendent.

34 D. On at least a quarterly basis the superintendent shall compile a
35 report of the standard annual percentage rate or range of annual percentage
36 rates of each licensee for the types of loans described in subsection A. The
37 superintendent shall disseminate this report in a manner deemed appropriate
38 by the superintendent, and the superintendent shall make the report available
39 to the public for inspection and copying.

40 Sec. 3. Section 6-613, Arizona Revised Statutes, is amended to read:

41 6-613. Restrictions; voidable loans

42 A. Except as the result of an accidental or bona fide error, if the
43 licensee charges, contracts for or receives any amount in excess of the

1 finance charges and other fees permitted by this chapter the following
2 restrictions apply:

3 1. If the original principal amount of a consumer loan OR CONSUMER
4 TITLE LOAN is five thousand dollars or less, that consumer loan OR CONSUMER
5 TITLE LOAN is voidable and the licensee has no right to collect or receive
6 any principal, finance charges or other fees in connection with that consumer
7 loan OR CONSUMER TITLE LOAN.

8 2. If the original principal amount of a consumer loan is more than
9 five thousand dollars, the licensee has no right to collect or receive any
10 finance charges in connection with that consumer loan.

11 3. If the aggregate amount of advances borrowed on a consumer
12 revolving loan or home equity revolving loan is five thousand dollars or
13 less, that consumer revolving loan or home equity revolving loan is voidable
14 and the licensee has no right to collect or receive any principal, finance
15 charges or other fees in connection with that consumer revolving loan or home
16 equity revolving loan.

17 4. If the aggregate amount of advances borrowed on a consumer
18 revolving loan or home equity revolving loan is more than five thousand
19 dollars, the licensee has no right to collect or receive any finance charges
20 in connection with that consumer revolving loan or home equity revolving
21 loan.

22 B. Any consumer lender loan that is made by a person who is required
23 to be licensed pursuant to this chapter but who is not licensed is void, and
24 the person making that consumer lender loan has no right to collect, receive
25 or retain any principal, finance charges or other fees in connection with
26 that consumer lender loan.

27 Sec. 4. Section 6-632, Arizona Revised Statutes, is amended to read:
28 6-632. Finance charges

29 A. A licensee may contract for and receive finance charges on consumer
30 loans that are not more than the following amounts:

31 1. On a consumer loan in an original principal amount of one thousand
32 dollars or less, an annual percentage rate of thirty-six per cent.

33 2. On a consumer loan in an original principal amount of more than one
34 thousand dollars either:

35 (a) An annual percentage rate of thirty-six per cent on the initial
36 five hundred dollars of the original principal amount, and an annual
37 percentage rate of twenty-four per cent on that part of the principal amount
38 greater than five hundred dollars.

39 (b) The single blended annual percentage rate that results from the
40 total amount of finance charges that the licensee would receive through the
41 scheduled maturity of the consumer loan at the annual percentage rates that
42 otherwise would be applicable pursuant to subdivision (a) of this paragraph

1 to the different portions of the unpaid principal balance, assuming that the
2 consumer loan will be paid according to its agreed terms.

3 B. A licensee may contract for and receive periodic finance charges
4 on consumer revolving loans and home equity revolving loans that are not more
5 than the following amounts:

6 1. On consumer revolving loans with credit limits of one thousand
7 dollars or less, a periodic rate corresponding to an annual percentage rate
8 of thirty-six per cent on the outstanding balance each monthly billing cycle.

9 2. On consumer revolving loans with credit limits of more than one
10 thousand dollars and home equity revolving loans either:

11 (a) A periodic rate corresponding to an annual percentage rate of
12 thirty-six per cent on that portion of the outstanding balance each monthly
13 billing cycle that is not more than five hundred dollars and a periodic rate
14 corresponding to an annual percentage rate of twenty-four per cent on that
15 portion of the outstanding balance each monthly billing cycle that is more
16 than five hundred dollars.

17 (b) A periodic rate corresponding to the single blended annual
18 percentage rate that would result in a periodic finance charge during a
19 monthly billing cycle that is not more than the finance charges that result
20 from the application of the multiple periodic rates authorized by subdivision
21 (a) of this paragraph.

22 C. A licensee may charge a fixed or variable rate of periodic finance
23 charges on a consumer revolving loan or a home equity revolving loan, as
24 provided by the agreement that establishes the consumer revolving loan or
25 home equity revolving loan. The licensee shall not base a variable rate of
26 periodic finance charges on an index that is under the control of the
27 licensee. Unless the consumer can readily verify the index on which an
28 adjustment in the rate of periodic finance charges is based, the licensee
29 shall provide conspicuous notice of the rate adjustment at least one monthly
30 billing cycle before the effective date of the rate adjustment. The licensee
31 may include a rate adjustment notice on or with a periodic statement to the
32 consumer. The corresponding annual percentage rate of periodic finance
33 charges may not increase or decrease more than three percentage points in any
34 period of twelve consecutive months and the corresponding annual percentage
35 rate of periodic finance charges may not increase or decrease more than seven
36 percentage points above or below the initial annual percentage rate of
37 periodic finance charges at the time the consumer revolving loan or home
38 equity revolving loan is established.

39 D. Except as permitted by subsection E, prepaid finance charges
40 commonly referred to as points are prohibited.

41 E. In addition to the finance charges authorized in subsections A, B
42 and C, a licensee may contract for and receive, and collect finance charges
43 on, nonrefundable prepaid finance charges or fees commonly referred to as
44 points in an amount of not more than:

1 1. Four per cent of the original principal amount of a consumer loan
2 of at least five thousand dollars secured by the consumer's principal
3 residence.

4 2. Four per cent of the agreed on credit limit of a home equity
5 revolving loan.

6 F. THE RATE OF FINANCE CHARGES ON A CONSUMER TITLE LOAN IS WHATEVER
7 RATE THE LICENSEE AND THE CONSUMER AGREE ON BUT NOT TO EXCEED TWENTY-FIVE PER
8 CENT OF THE PRINCIPAL AMOUNT OF THE LOAN PER MONTH, AND THAT RATE SHALL BE
9 INCLUDED IN THE CONSUMER TITLE LOAN AGREEMENT PURSUANT TO SECTION 6-639.

10 Sec. 5. Section 6-633, Arizona Revised Statutes, is amended to read:
11 6-633. Computation of finance charges

12 A. A licensee shall compute and measure finance charges on consumer
13 loans AND CONSUMER TITLE LOANS on unpaid balances outstanding from time to
14 time. A licensee may also precompute finance charges on consumer loans on
15 scheduled unpaid principal balances as provided in section 6-634. For the
16 purposes of computing finance charges on consumer loans OR CONSUMER TITLE
17 LOANS that are not precomputed, a licensee may calculate the finance charges
18 on an annual basis of twelve months of thirty days each month or on a daily
19 basis if a day is counted either as 1/360th, 1/365th or 1/366th of a year,
20 as the licensee and consumer may agree in writing.

21 B. A licensee shall compute periodic finance charges on consumer
22 revolving loans or home equity revolving loans on the unpaid balance of the
23 consumer revolving loan or home equity revolving loan by either of the
24 following methods:

25 1. By multiplying the daily periodic rate by the actual unpaid balance
26 of the consumer revolving loan or home equity revolving loan each day during
27 the billing cycle period. The daily periodic rate shall be determined by
28 dividing the annual percentage rate by three hundred sixty-five.

29 2. By multiplying the monthly periodic rate by the average daily
30 balance of the consumer revolving loan or home equity revolving loan during
31 the billing cycle. The average daily balance is the sum of the unpaid
32 balances of the consumer revolving loan or home equity revolving loan each
33 day during the billing cycle period divided by the number of days in the
34 billing cycle period. The monthly periodic rate is determined by dividing
35 the annual percentage rate by twelve. The unpaid balance on any day is
36 determined by adding to any balance unpaid as of the beginning of that day
37 all advances and allowed additional fees and deducting all payments and other
38 credits to the consumer revolving loan or home equity revolving loan that
39 day.

40 C. A licensee may compute finance charges only on the unpaid principal
41 balance, allowed additional fees and prepaid finance charges. A licensee
42 shall not compound finance charges. Precomputation of the finance charges
43 on a consumer loan does not constitute compounding of finance charges.

1 D. If part or all of the principal of a consumer loan is the unpaid
2 principal balance of a prior precomputed consumer loan, the principal amount
3 payable under such consumer loan may include any unpaid finance charges on
4 the prior loan that have accrued within sixty days before the making of that
5 consumer loan.

6 Sec. 6. Section 6-636, Arizona Revised Statutes, is amended to read:
7 6-636. Insurance securing loan; cancellation; notice

8 A. The following types of insurance may be sold to the consumer in
9 connection with a consumer lender loan:

10 1. Property insurance covering any property securing a consumer lender
11 loan.

12 2. Life insurance insuring the life of one or more consumers obligated
13 on a consumer lender loan.

14 3. Credit disability insurance that provides indemnity for payments
15 due on a consumer lender loan while the consumer is disabled.

16 4. Credit involuntary unemployment insurance that provides indemnity
17 for payments due on a consumer lender loan while one or more consumers are
18 involuntarily unemployed.

19 B. Any insurance purchased by a consumer from or through a licensee,
20 except insurance on property securing a consumer lender loan, is optional,
21 and a licensee shall not refuse to make a consumer lender loan based on the
22 consumer's refusal to purchase the insurance. The consumer may cancel any
23 insurance purchased in connection with a consumer lender loan for any reason
24 at any time within thirty days after the consumer lender loan is made and
25 shall mail or deliver a written notice of the cancellation to the licensee's
26 place of business. If the consumer cancels the insurance pursuant to this
27 subsection, the consumer is entitled to a full refund of any premiums paid
28 for the insurance. Before executing the note or agreement evidencing a
29 consumer lender loan that includes a premium for insurance, the licensee
30 shall give the consumer the disclosures required to exclude those insurance
31 premiums from the finance charge in accordance with the truth in lending act.

32 C. At the time the insurance is sold the licensee shall mail or
33 deliver a written receipt or binder to the consumer. Within thirty days
34 after mailing or delivering the written receipt or binder, the licensee shall
35 deliver to the consumer, or if more than one, to any one of them, a policy
36 or certificate of insurance covering any insurance purchased by or through
37 the licensee or any employee or affiliate of the licensee in connection with
38 the consumer lender loan that sets forth the amount of any premium that the
39 consumer has paid or is obligated to pay, the amount of insurance, the term
40 of insurance and a description of the coverage. The policy or certificate
41 may contain a mortgagee clause or other appropriate provisions to protect the
42 insurable interest of the licensee.

43 D. All property insurance sold pursuant to this section shall bear a
44 reasonable bona fide relation to the existing hazard or risk of loss and

1 shall be written by an agent licensed in this state and by an insurance
2 company authorized to conduct property insurance business in this state. A
3 licensee shall not require the purchase of property insurance from the
4 licensee or any employee, affiliate or associate of the licensee as a
5 condition precedent to the making of a consumer lender loan. The licensee
6 may otherwise designate the company in which the insurance shall be placed
7 as long as the insurance company is authorized to conduct business in this
8 state.

9 E. Property insurance, if sold by a licensee in connection with a
10 consumer loan **OR CONSUMER TITLE LOAN**, is at the option of the consumer in an
11 amount not exceeding the greater of the reasonable value of the property
12 insured as designated in writing by the consumer or the approximate amount
13 of the consumer loan **OR CONSUMER TITLE LOAN** and shall be for a term not
14 exceeding the approximate term of the consumer loan **OR CONSUMER TITLE LOAN**.
15 However, the amount of this property insurance may not exceed the designated
16 value of the property insured.

17 F. If a licensee sells property insurance in connection with a
18 consumer revolving loan or a home equity revolving loan, the amount of the
19 property insurance shall not exceed the greater of the reasonable value of
20 the property insured as designated in writing by the consumer or the agreed
21 on credit limit. However, the amount of property insurance shall not exceed
22 the designated value of the insured property. The licensee may sell property
23 insurance for renewable terms of not more than two years. Alternatively, the
24 amount of property insurance may be equal to the balance outstanding on a
25 consumer revolving loan or a home equity revolving loan from time to time
26 with the premiums calculated on the basis of the actual daily unpaid balance
27 or the average daily balance of the account during each billing cycle period.
28 Premiums for property insurance may be charged as an advance on a consumer
29 revolving loan or a home equity revolving loan.

30 G. If the licensee sells the consumer property insurance for a
31 renewable term, the licensee shall mail a notice to the consumer at least
32 thirty days before the renewal date that states all of the following:

- 33 1. The consumer's property insurance is about to expire.
- 34 2. The consumer may obtain property insurance from any source chosen
35 by the consumer subject to the licensee's right to reasonably reject the
36 insurer chosen by the consumer by providing written notice to the consumer
37 of ~~those~~ **THE** reasons for **THAT** rejection.
- 38 3. The term, coverage and premium for the renewal of property
39 insurance.
- 40 4. The property insurance will be renewed on expiration unless the
41 consumer provides the licensee before the expiration date with evidence that
42 the consumer has obtained other property insurance.

1 H. Notwithstanding any other provision of this chapter, any advantage,
2 commission, dividend, gain or identifiable charge for insurance authorized
3 by this section, or otherwise, to the licensee or any employee or affiliate
4 of the licensee from that insurance or its sale is not an additional finance
5 charge or other allowed fee in connection with the consumer lender loan. If
6 the licensee provides a new consumer lender loan or renews a contract of a
7 consumer lender loan and the licensee sells the consumer new insurance, the
8 licensee shall apply the insurance provided for in this section to the new
9 loan or renewal, or the licensee shall cancel the prior insurance and provide
10 the consumer with a refund or credit of the unearned premium or identifiable
11 charge before selling the new insurance to the consumer.

12 I. The licensee shall determine the refund of unearned premiums for
13 credit life insurance and credit disability insurance on prepayment in full
14 according to title 20, chapter 6, article 10.

15 J. Except as otherwise specifically provided in this chapter,
16 insurance transactions pursuant to this chapter are subject in all respects
17 to the applicable laws pertaining to that insurance pursuant to title 20 and
18 to the applicable rules adopted pursuant to title 20.

19 Sec. 7. Section 6-637, Arizona Revised Statutes, is amended to read:
20 6-637. Term; payments

21 A. The scheduled term of a consumer loan shall not be longer than the
22 following:

23 1. Twenty-four months and fifteen days from the date of making a
24 consumer loan of one thousand dollars or less.

25 2. Thirty-six months and fifteen days from the date of making a
26 consumer loan of more than one thousand dollars but not more than two
27 thousand five hundred dollars.

28 3. Forty-eight months and fifteen days from the date of making a
29 consumer loan of more than two thousand five hundred dollars but not more
30 than four thousand dollars.

31 4. Sixty months and fifteen days from the date of making a consumer
32 loan of more than four thousand dollars but not more than six thousand
33 dollars.

34 5. Any agreed on time period for a consumer loan of more than six
35 thousand dollars.

36 B. The note evidencing a consumer loan shall provide for the scheduled
37 repayment of principal and finance charges in approximately equal periodic
38 installments.

39 C. Pursuant to the provisions of 12 United States Code section 3804,
40 subsections A and B of this section shall not be superseded by the provisions
41 of 12 United States Code section 3803.

42 D. Balloon payments, prepayment penalties, call options and other
43 contract provisions that permit a consumer lender to accelerate payment of
44 a consumer revolving loan or home equity revolving loan for any reason other

1 than the consumer's default as provided in the agreement evidencing the
2 consumer revolving loan or home equity revolving loan are prohibited, except
3 that a licensee may include a call option to be exercised at least fifteen
4 years after the date of the agreement. If the licensee exercises this call
5 option and the consumer revolving loan or home equity revolving loan is not
6 in default, the licensee shall amortize the amount due on the account over
7 at least sixty monthly installments.

8 E. Except as provided in subsection D of this section, an agreement
9 evidencing a consumer revolving loan or home equity revolving loan shall
10 provide that on termination of the right to obtain advances the outstanding
11 principal balance and finance charges at the time of termination of the right
12 to obtain advances are repayable in installments if a consumer is not in
13 default as provided in the agreement. These installments shall provide for
14 the scheduled repayment of principal and finance charges in approximately
15 equal periodic installments except as a result of an adjustment in the index
16 on which a variable rate of periodic finance charges is based. These
17 installments are payable within the following time limits:

18 1. Twenty-four months and fifteen days from the date of termination
19 of the right to obtain advances for an outstanding principal balance on that
20 date of one thousand dollars or less.

21 2. Thirty-six months and fifteen days from the date of termination of
22 the right to obtain advances for an outstanding principal balance on that
23 date that is more than one thousand dollars but not more than two thousand
24 five hundred dollars.

25 3. Forty-eight months and fifteen days from the date of termination
26 of the right to obtain advances for an outstanding principal balance on that
27 date that is more than two thousand five hundred dollars but not more than
28 four thousand dollars.

29 4. Sixty months and fifteen days from the date of termination of the
30 right to obtain advances for an outstanding principal balance on that date
31 that is more than four thousand dollars but not more than six thousand
32 dollars.

33 5. Any agreed on time period for an outstanding principal balance that
34 is more than six thousand dollars on the date of termination of the right to
35 obtain advances.

36 F. A licensee shall permit a consumer to prepay any scheduled
37 installment or additional amount due on any consumer lender loan in advance
38 at any time during the licensee's regular business hours, but the licensee
39 may apply that prepayment first to all finance charges accrued through the
40 date of that prepayment.

41 G. On payment in full or renewal of a consumer lender loan, the
42 licensee shall provide written notice of payment and release to the consumer,
43 or if more than one consumer is obligated on the consumer lender loan, to any
44 one of the consumers. The notice of payment and release shall include the

1 date of the original note or agreement evidencing the consumer lender loan
2 and the date of payment in full. In lieu of the notice of payment and
3 release, the licensee may return the original note or agreement evidencing
4 the consumer lender loan marked paid or renewed, as applicable. The licensee
5 shall release any lien or security interest on property securing a consumer
6 lender loan that is paid in full as provided in section 33-707 for real
7 property and section 47-9404 for personal property. This subsection does not
8 apply to a consumer revolving loan or home equity revolving loan on which
9 there is no unpaid balance if the consumer's right to receive advances on the
10 account continues in effect.

11 H. EXCEPT AS PROVIDED IN SECTION 6-639, THE TERM OF A CONSUMER TITLE
12 LOAN IS THIRTY DAYS.

13 Sec. 8. Title 6, chapter 5, article 2, Arizona Revised Statutes, is
14 amended by adding section 6-639, to read:

15 6-639. Consumer title loans; definition

16 A. A CONSUMER TITLE LOAN AGREEMENT SHALL BE IN WRITING AND SHALL
17 CONTAIN ALL OF THE FOLLOWING:

18 1. A STATEMENT THAT ESTABLISHES THE RATE OF FINANCE CHARGES TO WHICH
19 THE LICENSEE AND THE CONSUMER AGREE.

20 2. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, A STATEMENT
21 THAT THE TERM OF THE AGREEMENT IS THIRTY DAYS.

22 3. A STATEMENT THAT THE LICENSEE AGREES TO MAKE A LOAN OF MONEY TO THE
23 CONSUMER IN A PRINCIPAL AMOUNT OF NOT MORE THAN FIVE THOUSAND DOLLARS AND THE
24 CONSUMER AGREES TO GIVE THE LICENSEE A SECURITY INTEREST IN THE TITLED AND
25 UNENCUMBERED MOTOR VEHICLE OWNED BY THE CONSUMER.

26 4. A STATEMENT THAT THE CONSUMER AGREES THAT THE LICENSEE WILL KEEP
27 POSSESSION OF THE MOTOR VEHICLE CERTIFICATE OF TITLE.

28 5. A STATEMENT THAT ON FAILURE BY THE CONSUMER TO COMPLY WITH THE
29 TERMS OF THE CONSUMER TITLE LOAN AGREEMENT AND ANY EXTENSION OF THAT
30 AGREEMENT THE LICENSEE MAY TAKE POSSESSION OF AND LIQUIDATE THE TITLED AND
31 UNENCUMBERED MOTOR VEHICLE. ON LIQUIDATION THE LICENSEE SHALL PROVIDE THE
32 CONSUMER WITH ALL EXCESS PROCEEDS OF THE LIQUIDATION AFTER THE LICENSEE
33 DEDUCTS THE PRINCIPAL AMOUNT OF THE LOAN, ACCRUED AND UNPAID FINANCE CHARGES
34 AND ANY OTHER FEES ALLOWED BY LAW.

35 6. A POWER OF ATTORNEY THAT AUTHORIZES THE LICENSEE TO TRANSFER THE
36 TITLE TO THE MOTOR VEHICLE FROM THE CONSUMER TO THE LICENSEE ON FAILURE BY
37 THE CONSUMER TO COMPLY WITH THE TERMS OF THE CONSUMER TITLE LOAN AGREEMENT
38 OR ANY EXTENSION OF THAT AGREEMENT.

39 B. BY AGREEMENT OF THE LICENSEE AND THE CONSUMER, THE LICENSEE MAY
40 EXTEND THE MATURITY DATE OF THE CONSUMER TITLE LOAN FOR ADDITIONAL THIRTY DAY
41 PERIODS. ALL EXTENSIONS OF THE CONSUMER TITLE LOAN AGREEMENT SHALL BE IN
42 WRITING. DURING ANY EXTENSION THE LICENSEE SHALL NOT CAPITALIZE OR ADD TO
43 THE ORIGINAL PRINCIPAL ANY ACCRUED FINANCE CHARGE OR OTHER ALLOWABLE FEE.
44 BEGINNING WITH THE THIRD EXTENSION AND FOR EVERY EXTENSION AFTER THE THIRD

1 EXTENSION, THE LICENSEE SHALL REDUCE THE ORIGINAL PRINCIPAL AMOUNT BY AT
2 LEAST TEN PER CENT. IF THE CONSUMER FAILS TO PAY AT LEAST TEN PER CENT OF
3 THE ORIGINAL PRINCIPAL AMOUNT AT THE MATURITY DATE OF EACH SUCCESSIVE
4 EXTENSION, THE REMAINING PRINCIPAL AND ALL FINANCE CHARGES OR ALLOWABLE FEES
5 ARE IMMEDIATELY DUE AND PAYABLE TO THE LICENSEE.

6 C. THE LICENSEE SHALL TAKE PHYSICAL POSSESSION OF THE CERTIFICATE OF
7 TITLE FOR THE ENTIRE LENGTH OF THE CONSUMER TITLE LOAN AGREEMENT AND ANY
8 EXTENSION OF THAT AGREEMENT. THE LICENSEE SHALL NOT TAKE PHYSICAL POSSESSION
9 OF AND SHALL NOT LIQUIDATE THE SECURITY UNTIL THE CONSUMER IS IN DEFAULT OF
10 THE CONSUMER TITLE LOAN AGREEMENT OR ANY EXTENSION OF THAT AGREEMENT.

11 D. THE CONSUMER HAS THE EXCLUSIVE RIGHT TO THE RETURN OF THE
12 CERTIFICATE OF TITLE FROM THE LICENSEE IF THE CONSUMER REPAYS THE LOAN IN
13 FULL AND COMPLIES WITH THE TERMS OF THE CONSUMER TITLE LOAN AGREEMENT AND ANY
14 EXTENSION OF THAT AGREEMENT. AFTER THE CONSUMER COMPLIES WITH THE TERMS OF
15 THE CONSUMER TITLE LOAN AGREEMENT AND ANY EXTENSION OF THAT AGREEMENT THE
16 LICENSEE SHALL RELEASE THE SECURITY INTEREST IN THE TITLED MOTOR VEHICLE AND
17 RETURN THE CERTIFICATE OF TITLE TO THE CONSUMER.

18 E. A LICENSEE MAY HOLD ONLY UNENCUMBERED CERTIFICATES OF TITLE AS
19 SECURITY.

20 F. FOR THE PURPOSES OF THIS SECTION, "MOTOR VEHICLE" HAS THE SAME
21 MEANING PRESCRIBED IN SECTION 28-4301.

22 Sec. 9. Section 28-4301, Arizona Revised Statutes, is amended to read:
23 28-4301. Definitions

24 In this chapter, unless the context otherwise requires:

25 1. "Automotive recycler" means a person who is engaged in the business
26 of buying or acquiring a motor vehicle solely for the purpose of dismantling,
27 selling or otherwise disposing of the parts or accessories and who dismantles
28 six or more vehicles in a calendar year.

29 2. "Branch license" means a license that is issued by the director to
30 a licensed motor vehicle dealer and that permits the licensee to sell motor
31 vehicles from an established place of business within the same county but
32 other than the original or principal place of business for which the license
33 was issued.

34 3. "Broker" means a person who for any fee, commission or other
35 valuable consideration offers to provide, provides or represents that the
36 person will provide a service of arranging or assisting in effecting the
37 purchase of a motor vehicle and who is not:

38 (a) A new motor vehicle dealer or an employee or agent of a new motor
39 vehicle dealer.

40 (b) A used motor vehicle dealer or an employee or agent of a used
41 motor vehicle dealer.

42 (c) A manufacturer or employee or agent of a manufacturer.

43 (d) An auctioneer or engaged in the auto auction business.

44 (e) A wholesale motor vehicle dealer.

1 4. "Community" means the relevant market area. For the purposes of
2 this paragraph, "relevant market area" means the incorporated city or town
3 in which the franchise is located.

4 5. "Distributor" means a person who either:

5 (a) Sells or distributes new motor vehicles to new motor vehicle
6 dealers in this state.

7 (b) Maintains distributor representatives in this state.

8 6. "Distributor branch" means a branch office maintained or availed
9 of by a distributor for either:

10 (a) The sale of new motor vehicles to new motor vehicle dealers in
11 this state.

12 (b) Directing or supervising its representatives in this state.

13 7. "Established place of business":

14 (a) Means a permanent enclosed building or structure that is owned
15 either in fee or leased with sufficient space to display two or more motor
16 vehicles of a kind and type that the dealer is licensed to sell and that is
17 devoted principally to the use of a motor vehicle dealer in the conduct of
18 the business of the dealer.

19 (b) In the case of a used motor vehicle dealer, trailer dealer or
20 semitrailer dealer:

21 (i) Need not be a permanent building or structure or part of a
22 permanent building or structure.

23 (ii) May be a vacant lot or part of a vacant lot.

24 (iii) Does not mean or include a residence, tent, temporary stand or
25 temporary quarters or permanent quarters occupied pursuant to a temporary
26 arrangement.

27 (c) In the case of an automotive recycler, means a permanent site or
28 location at which the business of an automotive recycler is or will be
29 conducted.

30 8. "Exhibitor" means a manufacturer of new motor homes that exhibits
31 new motor homes at a special event.

32 9. "Factory branch" means a branch office maintained or availed of by
33 a manufacturer for either:

34 (a) The sale of new motor vehicles to distributors or the sale of new
35 motor vehicles to new motor vehicle dealers in this state.

36 (b) Directing or supervising its representatives in this state.

37 10. "Financial institution" means a bank, trust company, savings and
38 loan association, credit union, consumer lender, international banking
39 facility or holding company that is licensed, regulated or insured by the
40 state banking department, the federal deposit insurance corporation, the
41 office of thrift supervision, the comptroller of the currency, the national
42 credit union share insurance fund or the national credit union
43 administration.

1 11. "Franchise" means a contract between two or more persons if all of
2 the following conditions are included:

3 (a) A commercial relationship of definite duration or continuing
4 indefinite duration is involved.

5 (b) The franchisee is granted the right to offer, sell and service in
6 this state new motor vehicles manufactured or distributed by the franchisor.

7 (c) The franchisee, as a separate business, constitutes a component
8 of the franchisor's distribution system.

9 (d) The operation of the franchisee's business is substantially
10 associated with the franchisor's trademark, service mark, trade name,
11 advertising or other commercial symbol designating the franchisor.

12 (e) The operation of the franchisee's business is substantially
13 reliant on the franchisor for the continued supply of new motor vehicles,
14 parts and accessories.

15 12. "Franchisee" means a person who both:

16 (a) Receives new motor vehicles from the franchisor under a franchise.

17 (b) Offers and sells to and services new motor vehicles for the
18 general public.

19 13. "Franchisor" means a person who both:

20 (a) Manufactures or distributes new motor vehicles.

21 (b) May enter into a franchise.

22 14. "Importer" means a person who transports or arranges for the
23 transportation of a foreign manufactured new motor vehicle into the United
24 States for sale in this state.

25 15. "Major component part" includes a motor vehicle or vehicle part
26 that the manufacturer has assigned any factory, motor, serial or other
27 identification number or mark.

28 16. "Manufacturer" means any person who either:

29 (a) Manufactures or assembles new motor vehicles.

30 (b) Manufactures or installs on previously assembled truck chassis
31 special bodies or equipment that when installed forms an integral part of the
32 new motor vehicle and that constitutes a major manufacturing alteration,
33 excluding the installation of a camper on a pickup truck.

34 17. "Mobile medical clinic" means a motor vehicle retrofitted for
35 exclusive use as a medical office or clinic for medical services regulated
36 under title 32.

37 18. "Motor home" means a motor vehicle that is primarily designed as
38 temporary living quarters and that:

39 (a) Is built onto as an integral part of, or is permanently attached
40 to, a motor vehicle chassis.

41 (b) Contains at least four of the following independent life support
42 systems if each is permanently installed and designed to be removed only for
43 purposes of repair or replacement:

44 (i) A cooking facility with an on board fuel source.

1 (ii) A gas or electric refrigerator.

2 (iii) A toilet with exterior evacuation.

3 (iv) A heating or air conditioning system with an on board power or
4 fuel source separate from the vehicle engine.

5 (v) A potable water supply system that includes at least a sink, a
6 faucet and a water tank with an exterior service supply connection.

7 (vi) A 110-125 volt electric power supply.

8 19. "Motor vehicle" means an automobile, motor bus, motorcycle, truck
9 or truck tractor or any other self-propelled vehicle, trailer or semitrailer.

10 20. "Motor vehicle dealer":

11 (a) Means a new motor vehicle dealer, a used motor vehicle dealer, a
12 broker or a wholesale motor vehicle auction dealer, excluding a person who
13 comes into possession of a motor vehicle as an incident to the person's
14 regular business and who sells or exchanges the motor vehicle.

15 (b) DOES NOT MEAN A CONSUMER LENDER WHO ENGAGES SOLELY IN THE BUSINESS
16 OF MAKING CONSUMER TITLE LOANS PURSUANT TO TITLE 6, CHAPTER 5.

17 21. "New house trailer dealer" means a person who buys, sells,
18 exchanges or offers or attempts to negotiate a sale or exchange of an
19 interest in, or who is engaged in the business of selling, new house trailers
20 or used house trailers taken in trade on new house trailers. For the
21 purposes of this paragraph, "house trailer" means a vehicle, other than a
22 motor vehicle, that is built on a chassis designed for being drawn on the
23 highways by a motor vehicle and that is designed for human habitation.

24 22. "New motor vehicle" means a motor vehicle, other than a used motor
25 vehicle, that is held either for:

26 (a) Sale by the franchisee who first acquired the vehicle from the
27 manufacturer or distributor of the vehicle.

28 (b) Sale by another franchisee of the same line-make.

29 23. "New motor vehicle dealer" means a person who buys, sells,
30 exchanges or offers or attempts to negotiate a sale or exchange of an
31 interest in, or who is engaged in the business of selling, new motor vehicles
32 or used motor vehicles taken in trade on new motor vehicles or used vehicles
33 purchased for resale.

34 24. "Off-premises display and sales" means a promotion or sale of motor
35 vehicles for a period of time as specified by the director that both:

36 (a) Is sponsored by a licensed motor vehicle dealer, the licensed
37 motor vehicle dealer's agents or the manufacturer.

38 (b) Takes place at a location within the same county but not at the
39 licensee's established place of business.

40 25. "Off-premises exhibition" means the exhibition of a motor vehicle
41 for a period of time as specified by the director at a location within the
42 same county but not at the established place of business of a licensed motor
43 vehicle dealer and at which a solicitation or sale does not occur.

1 26. "Provisional automotive recycler's license" means a license that
2 both:

3 (a) Is issued by the department only in conjunction with an
4 application for an automotive recycler's license.

5 (b) Permits the applicant or applicants to conduct the business of an
6 automotive recycler regulated by this chapter pending completion of the
7 criminal history record check pursuant to section 28-4364.

8 27. "Provisional dealer's license" means a license that both:

9 (a) Is issued by the department only in conjunction with an
10 application for a dealer's license.

11 (b) Permits the applicant or applicants to conduct the business of a
12 motor vehicle dealer regulated by this chapter pending completion of the
13 criminal history record check pursuant to section 28-4364.

14 28. "Special event" means an exhibition of new motor homes by a motor
15 vehicle dealer licensed to sell new motor homes or an exhibitor for a period
16 of time specified by the director at a location in this state other than the
17 licensee's or exhibitor's established place of business.

18 29. "Used motor vehicle" means a motor vehicle that has been sold,
19 bargained, exchanged or given away or the title to the motor vehicle has been
20 transferred from the person who first acquired the vehicle from the
21 manufacturer, or importer, dealer or agent of the manufacturer or importer,
22 and that has been placed in bona fide consumer use. For the purposes of this
23 paragraph, "bona fide consumer use" means actual operation by an owner who
24 acquired a new motor vehicle both:

25 (a) For use in the owner's business or for pleasure or otherwise.

26 (b) For which a certificate of title has been issued or that has been
27 registered as provided by law.

28 30. "Used motor vehicle dealer" means a person, other than a new motor
29 vehicle dealer, who buys, sells, exchanges or offers or attempts to negotiate
30 a sale or exchange of an interest in, or who is engaged in the business of
31 selling, six or more used motor vehicles during a calendar year.

32 31. "Wholesale motor vehicle auction dealer" means a person who both:

33 (a) Is in the business of providing auction services solely in
34 wholesale transactions to motor vehicle dealers licensed by this state or any
35 other jurisdiction.

36 (b) Does not buy, sell or own the motor vehicles the auction dealer
37 auctions in the ordinary course of business.

38 32. "Wholesale motor vehicle dealer" means a person who sells used
39 motor vehicles only to licensed motor vehicle dealers.

40 33. "Zone" means the geographic marketing area or district designated
41 by the franchisor and serviced by the franchisor's factory or distributor
42 branch.

43 Sec. 10. Section 44-1621, Arizona Revised Statutes, is amended to
44 read:

1 44-1621. Definitions

2 In this article, unless the context otherwise requires:

3 1. "Designee" means a local law enforcement agency designated in
4 writing by a county sheriff to perform designated duties specified in this
5 article on behalf of the sheriff.

6 2. "Identification document" means a valid ~~driver's~~ DRIVER license,
7 a valid nonoperating identification license, a valid armed forces
8 identification card or any other valid government issued photo
9 identification.

10 3. "Loan" means advancing money on the security of pledged goods or
11 purchasing tangible personal property on the condition that it may be
12 redeemed or repurchased by the seller for a fixed or variable price within
13 a fixed or variable period of time.

14 4. "Local law enforcement agency" means the chief of police, the
15 police department or the town marshal, if applicable to a city or town, or
16 the county sheriff, his designee or the county sheriff's department, if
17 applicable to a county.

18 5. "Maturity date" means the date specified on the pawn ticket by
19 which the pledged goods must be redeemed or the pawn ticket must be renewed.

20 6. "Pawn ticket" means the actual executed document that records the
21 pawn transaction and describes the conditions of the loan agreement between
22 the pawnbroker and pledgor.

23 7. "Pawn transaction":

24 (a) Means either the act between the pawnbroker and a person pledging
25 tangible personal property or extending credit on the security of pledged
26 goods or the act of purchasing tangible personal property with an express or
27 implied agreement or understanding that it may be redeemed or repurchased by
28 the seller for a fixed or variable price within a fixed or variable period
29 of time, except that a good faith outright purchase of tangible personal
30 property is not a pawn transaction.

31 (b) DOES NOT MEAN A CONSUMER TITLE LOAN PURSUANT TO TITLE 6,
32 CHAPTER 5.

33 8. "Pawnbroker":

34 (a) Means a person who is engaged in the business of advancing money
35 on the security of pledged goods or is engaged in the business of purchasing
36 tangible personal property on the condition that it may be redeemed or
37 repurchased by the seller for a fixed or variable price within a fixed or
38 variable period of time.

39 (b) DOES NOT MEAN A CONSUMER LENDER WHO ENGAGES SOLELY IN THE BUSINESS
40 OF MAKING CONSUMER TITLE LOANS PURSUANT TO TITLE 6, CHAPTER 5.

41 9. "Pawnshop" means the location or premises at which a pawnbroker is
42 licensed to regularly conduct his business.

1 10. "Pledged goods" means tangible personal property which is deposited
2 with or otherwise actually delivered into the possession of a pawnbroker in
3 the course of his business in connection with the pawn transaction.

4 11. "Pledgor" means the person leaving the personal property with the
5 pawnbroker and executing the pawn ticket.

6 12. "Redeem" or "redemption" means the act of the pledgor or his agent
7 of retrieving and paying in full all charges and fees for the pledged goods
8 left with the pawnshop.

9 13. "Transaction date" means the initial date of the pawn transaction.