

REFERENCE TITLE: **consumer lender loans**

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2526

Introduced by
Representatives Shope, Gowan, Senator Tovar: Representatives Cardenas,
Contreras, Escamilla, Gallego, Livingston, Mesnard, Miranda, Senators
Shooter, Yarbrough

AN ACT

**AMENDING SECTIONS 6-611, 6-632 AND 6-635, ARIZONA REVISED STATUTES; RELATING
TO CONSUMER LENDER LOANS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 6-611, Arizona Revised Statutes, is amended to
3 read:

4 6-611. Prohibited acts

5 A. A licensee shall not knowingly advertise, display, distribute,
6 broadcast or televise, or cause or permit to be advertised, displayed,
7 distributed, broadcast or televised, in any manner, any false, misleading or
8 deceptive statement or representation with regard to the rates, terms or
9 conditions for a consumer lender loan. To the extent applicable, all
10 advertising shall comply with the advertising requirements of the truth in
11 lending act.

12 B. ~~A licensee shall not pay a fee, commission or bonus or give~~
13 ~~anything of value to any merchant, dealer, consumer or other person for the~~
14 ~~purpose of attracting applications for consumer lender loans or as~~
15 ~~consideration for referring consumer lender loan business.~~ Other than the
16 fees permitted pursuant to the real estate settlement procedures act (12
17 United States Code sections 2601 through 2617), as amended, and the
18 regulations promulgated under that act (24 Code of Federal Regulations part
19 3500), as amended, or ~~to~~ persons exempt from licensing pursuant to section
20 6-602 in connection with any consumer loan or consumer revolving loan that is
21 secured by the consumer's principal residence or any home equity revolving
22 loan, A LICENSEE MAY NOT DO EITHER OF THE FOLLOWING:

23 1. PAY A FEE, COMMISSION OR BONUS OR GIVE ANYTHING OF VALUE THAT
24 EXCEEDS ONE HUNDRED DOLLARS PER COMPLETED LOAN TO ANY MERCHANT, DEALER,
25 CONSUMER OR OTHER PERSON AS CONSIDERATION FOR REFERRING CONSUMER LENDER LOAN
26 BUSINESS.

27 2. GIVE A CONSUMER ANY PRIZE, GOOD, WARE, MERCHANDISE OR TANGIBLE
28 PROPERTY OF AN AGGREGATE VALUE OF MORE THAN TWENTY-FIVE DOLLARS.

29 Sec. 2. Section 6-632, Arizona Revised Statutes, is amended to read:

30 6-632. Finance charges

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

33 1. On a consumer loan in an original principal amount of ~~one~~ THREE
34 thousand dollars or less, a consumer loan rate of thirty-six per cent.

35 2. On a consumer loan in an original principal amount of more than ~~one~~
36 THREE thousand dollars, either:

37 (a) A consumer loan rate of thirty-six per cent on the initial ~~five~~
38 ~~hundred~~ THREE THOUSAND dollars of the original principal amount, and a
39 consumer loan rate of twenty-four per cent on that part of the principal
40 amount greater than ~~five hundred~~ THREE THOUSAND dollars.

41 (b) The single blended consumer loan rate that results from the total
42 amount of finance charges that the licensee would receive through the
43 scheduled maturity of the consumer loan at the consumer loan rates that
44 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 on
4 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~~ THREE
7 thousand dollars or less, a periodic rate corresponding to an annual
8 percentage rate of thirty-six per cent on the outstanding balance each
9 monthly billing cycle.

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

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

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

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

40 D. Except as permitted by subsection E OF THIS SECTION, prepaid
41 finance charges commonly referred to as points are prohibited.

42 E. In addition to the finance charges authorized in subsections A, B
43 and C OF THIS SECTION, a licensee may contract for and receive, and collect
44 finance charges on, nonrefundable prepaid finance charges or fees commonly
45 referred to as 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 Sec. 3. Section 6-635, Arizona Revised Statutes, is amended to read:
7 6-635. Other allowable fees: annual reporting
- 8 A. In addition to the finance charges authorized by section 6-632, a
9 licensee may contract for and receive, and collect finance charges on, the
10 following fees:
- 11 1. A delinquency charge in an amount equal to five per cent of the
12 amount of any installment not paid in full within seven days after its due
13 date.
- 14 2. The actual costs of charges that are paid to a third party who is
15 not an employee of the licensee and that are incurred in making consumer
16 lender loans secured in whole or in part by real property, including the
17 charges for a preliminary title search, title examination and report, title
18 insurance premiums, property survey and appraisal fees.
- 19 3. Lawful fees for the acknowledging, filing and recording, continuing
20 or releasing in any public office of any instrument or financing statement
21 evidencing or perfecting a lien or security interest in real or personal
22 property securing a consumer lender loan or the premiums paid for insurance
23 in lieu of filing or recording that shall not exceed the filing or recording
24 fee.
- 25 4. A loan origination fee of not more than five per cent of a closed
26 end consumer loan or the agreed credit limit of a consumer revolving loan but
27 in no event in an amount that is more than ~~seventy-five~~ ONE HUNDRED FIFTY
28 dollars. A licensee shall not charge a loan origination fee:
- 29 (a) For the refinancing of a closed end consumer loan or the
30 renegotiating of an agreed credit limit of a consumer revolving loan if the
31 refinancing or renegotiating occurs within one year of the collection of a
32 prior loan origination fee.
- 33 (b) If the licensee charges prepaid finance charges pursuant to
34 section 6-632, subsection E, paragraph 1.
- 35 5. Deferral fees authorized in section 6-634 for precomputed consumer
36 loans.
- 37 6. Insurance premiums as provided in section 6-636.
- 38 7. Court costs.
- 39 8. Reasonable attorney fees if the consumer lender loan is referred
40 for collection to an attorney other than a salaried employee of the licensee.
- 41 9. Costs, expenses and fees authorized in section 33-813, subsection B
42 for reinstatement of a deed of trust encumbering real property that secures a
43 consumer lender loan.
- 44 10. Costs and expenses of exercising the power of sale in a deed of
45 trust encumbering real property that secures a consumer lender loan and costs

1 and expenses of a sale that are included in a credit bid or that are applied
2 from the proceeds of a trustee's sale pursuant to section 33-812, including
3 the payment of trustee fees and reasonable attorney fees actually incurred.
4 11. Costs and expenses of retaking, holding, preparing for sale and
5 selling any personal property in accordance with title 47, chapter 9,
6 article 6.
7 B. If a licensee receives a check, draft, negotiable order of
8 withdrawal or similar instrument drawn on a depository institution that is
9 offered by a consumer in full or partial payment on a consumer lender loan
10 and the instrument is not paid or is dishonored by the depository
11 institution, the licensee may charge and collect from the consumer a
12 dishonored check service fee pursuant to section 44-6852.
13 C. In addition to the finance charges and fees provided in this
14 article, the licensee shall not directly or indirectly charge, contract for
15 or receive any further or other amount in connection with a consumer lender
16 loan.
17 D. In conjunction with the reporting requirements prescribed in
18 section 6-609, on or before October 1, ~~2003 and every~~ EACH year ~~thereafter~~, a
19 licensee shall report to the superintendent the number of closed end consumer
20 loans and consumer revolving loans under one thousand dollars made in the
21 prior two years.