

REFERENCE TITLE: consumer lending; licensure; regulation

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

SB 1447

Introduced by
Senator Kavanagh; Representatives Mesnard, Montenegro; Senator Lesko;
Representatives Gowan, Livingston, Weninger

AN ACT

AMENDING SECTIONS 6-125 AND 6-126, ARIZONA REVISED STATUTES; AMENDING TITLE 6, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 18; RELATING TO CONSUMER LOANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 6-125, 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.
27 7. ANY EXAMINATION OF A FLEXIBLE CREDIT LENDER.
28 C. For a financial institution or enterprise maintaining an office
29 outside this state, in addition to the annual assessment or examination
30 assessment, the superintendent shall make an assessment equal to the travel
31 and subsistence expense incurred in the examination of the office in the
32 foreign state or country. Notwithstanding any other limitation prescribed by
33 law, examiners engaged in examination of a foreign office shall be reimbursed
34 for their necessary travel and subsistence expenses. Reimbursement for
35 examiners' expenses shall be credited to the appropriation account of the
36 department.
37 D. Assessments under this section are due and payable to the
38 department within thirty days after notice of the assessment is mailed by the
39 department. The superintendent shall assess a penalty of fifty dollars for
40 each day after the thirty-day period that the financial institution or
41 enterprise fails to remit the assessment, unless, ~~upon~~ ON good cause shown, a
42 written request for an extension is approved by the superintendent prior to
43 the expiration of the specified time. In no event shall the total penalty
44 exceed the examination assessment.

1 E. The superintendent shall set the amount of the annual assessment to
2 be charged to banks and credit unions. In setting the annual assessment ~~upon~~
3 ~~ON~~ banks, the superintendent shall consider the annual assessment set by the
4 comptroller of currency for national banks. In setting the annual assessment
5 ~~upon~~ ~~ON~~ credit unions the superintendent shall consider the annual assessment
6 set by the national credit union administration for federal credit unions.

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

8 6-126. Application fees for financial institutions and
9 enterprises

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

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

- 1 18. To apply for a branch office of an escrow agent, consumer lender,
2 FLEXIBLE CREDIT LENDER, commercial mortgage banker, mortgage banker, trust
3 company, money transmitter, collection agency or deferred presentment
4 company, five hundred dollars.
- 5 19. To apply for a branch office of a mortgage broker, commercial
6 mortgage broker, debt management company or sales finance company, two
7 hundred fifty dollars.
- 8 20. To apply for approval of the articles of incorporation of a
9 business development corporation, five hundred dollars.
- 10 21. To apply for approval for the merger or consolidation of two or
11 more financial institutions, five thousand dollars per institution.
- 12 22. To apply for approval to convert from a national bank or federal
13 savings and loan charter to a state chartered institution, five thousand
14 dollars.
- 15 23. To apply for approval to convert from a federal credit union to a
16 state chartered credit union, one thousand dollars.
- 17 24. To apply for approval to merge or consolidate two or more credit
18 unions, five hundred dollars per credit union.
- 19 25. To move an established office of an enterprise to other than an
20 established office, fifty dollars.
- 21 26. To issue a duplicate or replace a lost enterprise's license, one
22 hundred dollars.
- 23 27. To change a responsible person on a mortgage broker's, commercial
24 mortgage broker's, commercial mortgage banker's or a mortgage banker's
25 license, two hundred fifty dollars.
- 26 28. To change an active manager on a collection agency license or a
27 manager of a money transmitter branch office license, two hundred fifty
28 dollars.
- 29 29. To change the licensee name on a financial institution or
30 enterprise license, not more than two hundred fifty dollars.
- 31 30. To apply for a money transmitter license, one thousand five
32 hundred dollars plus twenty-five dollars for each branch office and
33 authorized delegate to a maximum of four thousand five hundred dollars.
- 34 31. To acquire control of any money transmitter or controlling person
35 pursuant to chapter 12 of this title, two thousand five hundred dollars.
- 36 32. To receive the following publications:
- 37 (a) Quarterly bank and savings and loan statement of condition, not
38 more than ten dollars per copy.
- 39 (b) Monthly summary of actions report, not more than five dollars per
40 copy.
- 41 (c) A list of licensees, a monthly pending actions report and all
42 other in-house prepared reports or listings made available to the public, not
43 more than one dollar per page.
- 44 33. To apply for a loan originator license, an amount to be determined
45 by the superintendent.

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

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

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

7 B. On issuance of a license or permit for a financial institution or
8 enterprise, the superintendent shall collect the first year's annual
9 assessment or renewal fee for the financial institution or enterprise
10 prorated according to the number of quarters remaining until the date of the
11 next annual assessment or renewal.

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

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

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

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

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

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

22 6. For a mortgage banker that negotiates or closes in the aggregate
23 one hundred loans or less in the immediately preceding calendar year, seven
24 hundred fifty dollars, and for a mortgage banker that negotiates or closes in
25 the aggregate over one hundred loans in the immediately preceding calendar
26 year, one thousand two hundred fifty dollars. In addition, a mortgage banker
27 shall pay two hundred fifty dollars for each branch office.

28 7. For a commercial mortgage banker, one thousand two hundred fifty
29 dollars. In addition, a commercial mortgage banker shall pay two hundred
30 fifty dollars for each branch office.

31 8. For a mortgage broker or commercial mortgage broker that negotiates
32 or closes in the aggregate fifty loans or less in the immediately preceding
33 calendar year, two hundred fifty dollars and for a mortgage broker or
34 commercial mortgage broker that negotiates or closes in the aggregate more
35 than fifty loans in the immediately preceding calendar year, five hundred
36 dollars. In addition, a mortgage broker or commercial mortgage broker shall
37 pay two hundred dollars for each branch office.

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

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

43 11. For a deferred presentment company, four hundred dollars. In
44 addition, a deferred presentment company shall pay two hundred dollars for
45 each branch office.

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

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

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

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

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

9 6-1802. Exemptions

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

11 1. DOES BUSINESS UNDER ANY OTHER LAW OF THIS STATE, OR ANY OTHER STATE
12 WHILE REGULATED BY A STATE AGENCY OF THAT OTHER STATE, OR OF THE UNITED
13 STATES, RELATING TO BANKS, SAVINGS BANKS, TRUST COMPANIES, SAVINGS AND LOAN
14 ASSOCIATIONS, PROFIT SHARING AND PENSION TRUSTS, CREDIT UNIONS, INSURANCE
15 COMPANIES OR RECEIVERSHIPS IF THE FLEXIBLE CREDIT LOAN TRANSACTIONS ARE
16 REGULATED BY THE OTHER LAW OR ARE UNDER THE JURISDICTION OF A COURT.

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

20 3. IS NOT REGULARLY ENGAGED IN THE BUSINESS OF MAKING FLEXIBLE CREDIT
21 LOANS.

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

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

26 1. CLOSED-END LOANS OF MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS.

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

28 3. FLEXIBLE CREDIT LOANS THAT ARE LAWFULLY MADE TO NONRESIDENTS OF
29 THIS STATE PURSUANT TO A FLEXIBLE CREDIT LOAN LAW OF ANOTHER STATE SIMILAR IN
30 PRINCIPLE TO THIS CHAPTER.

31 4. EDUCATIONAL LOANS THAT ARE EITHER:

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

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

37 5. SECONDARY MOTOR VEHICLE FINANCE TRANSACTIONS AS DEFINED IN SECTION
38 44-281.

39 6-1803. License; applicability; contents of application; fees;
40 nontransferable

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

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

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

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

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

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

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

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

19 3. HAS FAILED TO PAY THE LICENSE FEE.

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

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

32 6-1804. Issuance of license; license year; requirements

33 A. IF THE SUPERINTENDENT FINDS NO GROUNDS FOR DENIAL OF A LICENSE,
34 WITHIN ONE HUNDRED TWENTY DAYS AFTER RECEIVING A COMPLETE APPLICATION, THE
35 SUPERINTENDENT SHALL GRANT THE APPLICATION AND ISSUE A LICENSE TO THE
36 APPLICANT.

37 B. THE LICENSE YEAR FOR A LICENSEE BEGINS ON JULY 1 AND ENDS ON JUNE
38 30 OF EACH YEAR. A FLEXIBLE CREDIT LENDER SHALL APPLY FOR RENEWAL AS
39 PRESCRIBED BY THE SUPERINTENDENT NOT LATER THAN JUNE 30 OF EACH YEAR. A
40 LICENSE FOR WHICH A RENEWAL APPLICATION IS NOT RECEIVED BY THE SUPERINTENDENT
41 BY JUNE 30 IS SUSPENDED AND THE FLEXIBLE CREDIT LENDER MAY NOT ACT AS A
42 FLEXIBLE CREDIT LENDER UNTIL THE LICENSE IS RENEWED OR A NEW LICENSE IS
43 ISSUED PURSUANT TO THIS ARTICLE. THE LICENSE OF A FLEXIBLE CREDIT LENDER
44 THAT HAS NOT FILED A RENEWAL APPLICATION AND PAID THE RENEWAL FEE BY JULY 31
45 EXPIRES.

1 C. ALL LICENSES ISSUED REMAIN IN FULL FORCE UNTIL SURRENDERED, REVOKED
2 OR SUSPENDED.

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

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

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

19 6-1805. Denial of renewal; suspension; revocation

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

- 22 1. IS INSOLVENT AS DEFINED IN SECTION 47-1201.
- 23 2. HAS SHOWN THAT THE LICENSEE IS NOT A PERSON OF HONESTY,
24 TRUTHFULNESS AND GOOD CHARACTER.
- 25 3. HAS FAILED TO PAY THE ANNUAL RENEWAL FEES.
- 26 4. HAS FAILED TO FILE AN ANNUAL REPORT WHEN DUE OR WITHIN ANY
27 EXTENSION OF TIME GRANTED BY THE SUPERINTENDENT FOR GOOD CAUSE.
- 28 5. HAS FAILED TO HAVE OR MAINTAIN AT LEAST TWENTY-FIVE THOUSAND
29 DOLLARS IN ASSETS USED OR READILY AVAILABLE FOR USE IN THE CONDUCT OF THE
30 BUSINESS OF EACH LICENSED OFFICE AND BRANCH OFFICE.
- 31 6. EITHER KNOWINGLY OR WITHOUT THE EXERCISE OF DUE CARE TO PREVENT A
32 VIOLATION, HAS VIOLATED ANY PROVISION OF THIS TITLE OR ANY RULE OR ORDER
33 ADOPTED OR MADE PURSUANT TO THIS TITLE.
- 34 7. HAS FAILED TO OPERATE THE BUSINESS OF MAKING FLEXIBLE CREDIT LOANS
35 FOR A CONTINUOUS PERIOD OF TWELVE MONTHS OR MORE, EXCEPT THAT THE
36 SUPERINTENDENT, ON GOOD CAUSE SHOWN, MAY EXTEND THE TIME FOR OPERATING THAT
37 BUSINESS FOR A SINGLE FIXED PERIOD OF NOT MORE THAN TWELVE MONTHS.

38 B. THE SUPERINTENDENT MAY ALSO DENY RENEWAL OF A LICENSE OR SUSPEND OR
39 REVOKE A LICENSE IF THE SUPERINTENDENT FINDS THAT ANY FACT OR CONDITION
40 EXISTS THAT, IF IT HAD EXISTED AT THE TIME OF THE ORIGINAL APPLICATION FOR
41 THE LICENSE, WOULD HAVE CLEARLY WARRANTED THE SUPERINTENDENT TO REFUSE TO
42 ISSUE THE LICENSE.

1 6-1806. Business limited to licensed locations: restrictions

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

7 B. A LICENSEE MAY:

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

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

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

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

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

21 E. A LICENSEE MAY NOT CONDUCT THE BUSINESS OF MAKING FLEXIBLE CREDIT
22 LOANS PURSUANT TO THIS CHAPTER FROM WITHIN ANY LICENSED OFFICE OR BRANCH
23 OFFICE IN WHICH ANY OTHER BUSINESS NOT LICENSED PURSUANT TO THIS TITLE IS
24 SOLICITED OR ENGAGED IN, OR IN ASSOCIATION OR CONJUNCTION WITH ANY OTHER
25 BUSINESS NOT LICENSED PURSUANT TO THIS TITLE, WITHOUT GIVING PRIOR NOTICE TO
26 THE SUPERINTENDENT. IF IT APPEARS TO THE SUPERINTENDENT THAT THE OTHER
27 BUSINESS IS OF SUCH A NATURE OR IS BEING CONDUCTED IN SUCH A MANNER AS TO
28 CONCEAL AN EVASION OF THIS CHAPTER OR IS CONTRARY TO THE PUBLIC INTEREST OR
29 OTHERWISE BEING CONDUCTED IN AN UNLAWFUL MANNER, THE SUPERINTENDENT MAY ACT
30 PURSUANT TO SECTION 6-137 TO RESTRICT THE LICENSEE FROM CONDUCTING ITS
31 BUSINESS IN CONJUNCTION WITH THAT OTHER BUSINESS. FOR THE PURPOSES OF THIS
32 SUBSECTION, "PUBLIC INTEREST" MEANS THE LAWS OF THIS STATE OR OF THE UNITED
33 STATES OR RULES ADOPTED BY THE SUPERINTENDENT.

34 6-1807. Books: accounts: records: access

35 A. A LICENSEE SHALL MAINTAIN BOOKS, ACCOUNTS AND RECORDS THAT ENABLE
36 THE SUPERINTENDENT TO DETERMINE WHETHER THE LICENSEE IS IN COMPLIANCE WITH
37 THIS CHAPTER.

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

1 C. EVERY LICENSEE SHALL OBSERVE GENERALLY ACCEPTED ACCOUNTING
2 PRINCIPLES AND PRACTICES.

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

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

13 6-1808. Annual report of licensee; civil penalty for failure to
14 file

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

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

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

32 6-1809. Report; average annual percentage rate; average loan
33 amount

34 A. AT THE TIME OF MAKING ITS ANNUAL REPORT TO THE SUPERINTENDENT, EACH
35 LICENSEE SHALL REPORT THE LICENSEE'S AVERAGE ANNUAL PERCENTAGE RATE AND
36 AVERAGE LOAN AMOUNT FOR THE PREVIOUS TWELVE MONTHS. THE AVERAGE ANNUAL
37 PERCENTAGE RATE DESCRIBED IN THIS SUBSECTION REFERS TO THE AMOUNT FINANCED AS
38 COMPUTED PURSUANT TO THE TRUTH IN LENDING ACT (P.L. 90-321, 82 STAT. 146,
39 15 UNITED STATES CODE SECTIONS 1601 THROUGH 1667f).

40 B. ON AT LEAST AN ANNUAL BASIS THE SUPERINTENDENT SHALL COMPILE A
41 REPORT OF THE AVERAGE ANNUAL PERCENTAGE RATE AND AVERAGE LOAN AMOUNT OF EACH
42 LICENSEE AS SUBMITTED PURSUANT TO SUBSECTION A OF THIS SECTION. THE
43 SUPERINTENDENT SHALL DISSEMINATE THIS REPORT IN A MANNER DEEMED APPROPRIATE
44 BY THE SUPERINTENDENT, AND THE SUPERINTENDENT SHALL MAKE THE REPORT AVAILABLE
45 TO THE PUBLIC FOR INSPECTION AND COPYING.

1 COMPLIANCE WITH THIS SECTION ONLY IF THE VERIFICATION METHOD INCLUDES A
2 MANUAL INVESTIGATION OR AN ELECTRONIC QUERY OF EITHER OF THE FOLLOWING:

3 (a) ANY PRIVATE DATABASE APPROVED BY THE SUPERINTENDENT IF ALL
4 LICENSEES ARE REQUIRED TO SUBSCRIBE TO THE DATABASE OR OTHERWISE OBTAIN THE
5 REQUIRED INFORMATION IN A MANNER APPROVED BY THE SUPERINTENDENT ON OR BEFORE
6 JULY 1, 2017. THE LICENSEE MAY CHARGE THE CONSUMER A FEE FOR DATABASE
7 VERIFICATION NOT TO EXCEED THE ACTUAL FEE CHARGED TO THE LICENSEE BY THE
8 DATABASE PROVIDER.

9 (b) UNTIL A PRIVATE DATABASE OR OTHER APPROVED MANNER OF OBTAINING THE
10 REQUIRED INFORMATION IS APPROVED BY THE SUPERINTENDENT OR IF THE PRIVATE
11 DATABASE IS NOT ACCESSIBLE, THE ATTESTATION AND THE LICENSEE'S OWN RECORDS,
12 INCLUDING BOTH RECORDS MAINTAINED AT THE LOCATION AT WHICH THE LOAN IS BEING
13 APPLIED AND RECORDS MAINTAINED AT OTHER LOCATIONS THAT ARE OWNED AND OPERATED
14 BY THE LICENSEE OR THE LICENSEE'S AFFILIATES.

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

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

20 2. ON ACTIVE NATIONAL GUARD AND RESERVE DUTY.

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

26 D. A LICENSEE MAY NOT MAKE A FLEXIBLE CREDIT LOAN TO A PERSON UNLESS
27 THAT PERSON HAS EITHER:

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

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

38 E. ANY LOAN MADE IN VIOLATION OF THE JOHN WARNER NATIONAL DEFENSE
39 AUTHORIZATION ACT FOR FISCAL YEAR 2007 (P.L. 109-364; 120 STAT. 2083) IS
40 VOID.

41 F. A LICENSEE MAY NOT CONDITION A FLEXIBLE CREDIT LOAN ON THE
42 CONSUMER'S AGREEMENT TO MAKE REPAYMENT BY RECURRING AUTOMATIC ELECTRONIC
43 FUNDS TRANSFERS FROM THE CONSUMER'S BANK ACCOUNT. THIS SUBSECTION DOES NOT
44 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. EACH NOTE OR AGREEMENT EVIDENCING A FLEXIBLE CREDIT LOAN SHALL
29 CONTAIN THE FOLLOWING DISCLOSURE STATEMENT IN AT LEAST TEN-POINT TYPE THAT IS
30 IN ENGLISH AND, ON THE CUSTOMER'S REQUEST, IN SPANISH AND IN CLOSE PROXIMITY
31 TO THE CONSUMER'S SIGNATURE LINE OR, ALTERNATIVELY, A LICENSEE MAY PROVIDE
32 THE BORROWER WITH THE DISCLOSURES REQUIRED BY THIS SECTION IN A MOBILE OR
33 OTHER ELECTRONIC APPLICATION ON WHICH THE SIZE OF THE TYPEFACE OF THE
34 DISCLOSURE CAN BE MANUALLY MODIFIED BY A PROSPECTIVE BORROWER, IF THE
35 PROSPECTIVE BORROWER IS GIVEN THE OPTION TO PRINT THE DISCLOSURE IN A
36 TYPEFACE OF AT LEAST TWELVE-POINT SIZE OR IS PROVIDED BY THE LICENSEE WITH A
37 HARD COPY OF THE DISCLOSURE IN A TYPEFACE OF AT LEAST TWELVE-POINT SIZE
38 BEFORE THE LOAN IS CONSUMMATED:

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

1 C. A LICENSEE SHALL CONTINUOUSLY AND CONSPICUOUSLY DISPLAY THE NOTICE
2 PRESCRIBED BY SUBSECTION B OF THIS SECTION AND THE FOLLOWING NOTICE ON A SIGN
3 PRINTED IN AT LEAST TWELVE-POINT BOLD TYPE AT EACH DESK AT WHICH FLEXIBLE
4 CREDIT LOANS ARE USUALLY AND NORMALLY CLOSED OR ON A SIGN PROMINENTLY
5 DISPLAYED IN EACH LICENSED OFFICE OR BRANCH OFFICE:

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

10 D. IF A LICENSEE IS PROVIDING ELECTRONIC LOANS, THE LICENSEE MUST
11 CONSPICUOUSLY DISPLAY THE FOLLOWING DISCLOSURE ON ITS WEBSITE:

12 NOTICE: BEFORE SIGNING ANY LOAN DOCUMENTS OR OTHERWISE
13 COMMITTING TO A LOAN, PLEASE READ OUR TERMS AND CONDITIONS
14 CAREFULLY.

15 E. IF THE LICENSEE FAILS TO MAKE THE DISCLOSURE STATEMENT PRESCRIBED
16 IN SUBSECTION B OF THIS SECTION, THE SUPERINTENDENT SHALL ASSESS THE LICENSEE
17 A ONE-TIME CIVIL PENALTY OF UP TO THREE HUNDRED DOLLARS FOR EVERY VIOLATION.

18 6-1832. Finance charges

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

- 23 1. A RATE OF SEVENTEEN PERCENT PER MONTH IF UNSECURED.
- 24 2. A RATE OF FIFTEEN PERCENT PER MONTH IF SECURED WITH PERSONAL
25 PROPERTY.

26 B. A LICENSEE MAY NOT COMPOUND FINANCE CHARGES.

27 6-1833. Other allowable fees: annual reporting

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

- 31 1. A DELINQUENCY CHARGE IN AN AMOUNT EQUAL TO FIVE PERCENT OF THE
32 AMOUNT OF ANY INSTALLMENT NOT PAID IN FULL WITHIN SEVEN DAYS AFTER ITS DUE
33 DATE.
- 34 2. COURT COSTS.
- 35 3. REASONABLE ATTORNEY FEES IF THE FLEXIBLE CREDIT LOAN IS REFERRED
36 FOR COLLECTION TO AN ATTORNEY OTHER THAN A SALARIED EMPLOYEE OF THE LICENSEE.

37 B. A LICENSEE MAY CONTRACT FOR AND RECEIVE REASONABLE FEES FOR ACTUAL
38 CHARGES THAT THE LICENSEE INCURS FOR THE PROCESSING AND HANDLING OF PERSONAL
39 PROPERTY THAT IS SECURED BY A FLEXIBLE CREDIT LOAN.

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

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

5 Sec. 4. Short title

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