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

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

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

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

1. Upon ON banks, the annual assessment set by the superintendent.
2. Upon ON savings and loan associations, a charge not to exceed the annual assessment set for state banks under paragraph 1 of this subsection.
3. Upon ON credit unions, the annual assessment set by the superintendent.

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

1. Any examination of a trust company.
2. Any examination of the trust operation of a bank or a savings and loan association.
3. Any examination of a financial institution ordered by the superintendent in addition to the regular examination required under section 6-122.
4. Any examination of an enterprise ordered by the superintendent.
5. Any examination of a financial institution holding company or international banking facility.
6. Any examination of a consumer lender.
7. ANY EXAMINATION OF A FLEXIBLE CREDIT LENDER.

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

D. Assessments under this section are due and payable to the department within thirty days after notice of the assessment is mailed by the department. The superintendent shall assess a penalty of fifty dollars for each day after the thirty-day period that the financial institution or enterprise fails to remit the assessment, unless, upon ON good cause shown, a written request for an extension is approved by the superintendent prior to the expiration of the specified time. In no event shall the total penalty exceed the examination assessment.
E. The superintendent shall set the amount of the annual assessment to be charged to banks and credit unions. In setting the annual assessment upon banks, the superintendent shall consider the annual assessment set by the comptroller of currency for national banks. In setting the annual assessment upon credit unions the superintendent shall consider the annual assessment set by the national credit union administration for federal credit unions.

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

6-126. Application fees for financial institutions and enterprises

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32. To receive the following publications:
   (a) Quarterly bank and savings and loan statement of condition, not more than ten dollars per copy.
   (b) Monthly summary of actions report, not more than five dollars per copy.
   (c) A list of licensees, a monthly pending actions report and all other in-house prepared reports or listings made available to the public, not more than one dollar per page.

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

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

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

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

C. The following annual renewal fees shall be paid each year:
   1. For an escrow agent, or trust company, one thousand dollars plus two hundred fifty dollars for each branch office.
   2. For a debt management company or sales finance company, five hundred dollars plus two hundred dollars for each branch office.
   3. For a collection agency, six hundred dollars plus two hundred dollars for each branch office.
   4. For a motor vehicle dealer, one hundred fifty dollars.
   5. For an inactive mortgage broker or commercial mortgage broker, two hundred fifty dollars.
   6. For a mortgage banker that negotiates or closes in the aggregate one hundred loans or less in the immediately preceding calendar year, seven hundred fifty dollars, and for a mortgage banker that negotiates or closes in the aggregate over one hundred loans in the immediately preceding calendar year, one thousand two hundred fifty dollars. In addition, a mortgage banker shall pay two hundred fifty dollars for each branch office.
   7. For a commercial mortgage banker, one thousand two hundred fifty dollars. In addition, a commercial mortgage banker shall pay two hundred fifty dollars for each branch office.
   8. For a mortgage broker or commercial mortgage broker that negotiates or closes in the aggregate fifty loans or less in the immediately preceding calendar year, two hundred fifty dollars and for a mortgage broker or commercial mortgage broker that negotiates or closes in the aggregate more than fifty loans in the immediately preceding calendar year, five hundred dollars. In addition, a mortgage broker or commercial mortgage broker shall pay two hundred dollars for each branch office.
   9. For a consumer lender OR A FLEXIBLE CREDIT LENDER, one thousand dollars plus two hundred dollars for each branch office.
   10. For a money transmitter, five hundred dollars plus twenty-five dollars for each branch office and each authorized delegate to a maximum of two thousand five hundred dollars.
   11. For a deferred presentment company, four hundred dollars. In addition, a deferred presentment company shall pay two hundred dollars for each branch office.
12. For a loan originator, an amount to be determined by the superintendent.

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

D. The license, renewal or branch office permit fee for a premium finance company for each calendar year or part thereof shall not be less than one hundred dollars or more than three hundred dollars as set by the superintendent. If the license is issued or the branch office is opened after June 30 in any year, the fees shall not be less than fifty dollars or more than one hundred fifty dollars for that year.

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

CHAPTER 18
FLEXIBLE CREDIT LOANS
ARTICLE 1. GENERAL PROVISIONS

6-1801. Definitions
IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:
1. "AMOUNT FINANCED" MEANS THE AMOUNT OF CREDIT EXTENDED TO A CONSUMER ON A FLEXIBLE CREDIT LOAN DETERMINED PURSUANT TO THE TRUTH IN LENDING ACT (P.L. 90-321, 82 STAT. 146; 15 UNITED STATES CODE SECTIONS 1601 THROUGH 1667f).

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

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

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

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

6. "FLEXIBLE CREDIT LOAN" MEANS A WRITTEN AGREEMENT SUBJECT TO THIS CHAPTER BETWEEN A LICENSEE AND A CONSUMER ESTABLISHING A DIRECT CLOSED-END LOAN THAT SATISFIES ALL OF THE FOLLOWING:
(a) HAS AN ORIGINAL PRINCIPAL AMOUNT THAT IS NOT LESS THAN FIVE HUNDRED DOLLARS AND NOT MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS.
(b) IS FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES.
(c) IS UNSECURED OR IS SECURED BY PERSONAL PROPERTY.
(d) HAS A MAXIMUM TERM OF TWENTY-FOUR MONTHS.
(e) IS PAYABLE IN SUBSTANTIALLY EQUAL INSTALLMENTS OF PRINCIPAL AND INTEREST FOR THE TERM OF THE LOAN.
(f) IS SUBJECT TO PREPAYMENT IN WHOLE OR IN PART AT ANY TIME WITHOUT PENALTY.

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

8. "REGULARLY ENGAGED IN THE BUSINESS" MEANS EITHER:
   (a) ADVERTISING TO OR ANY OTHER SOLICITATION OF A RESIDENT OF THIS STATE THAT OFFERS A FLEXIBLE CREDIT LOAN AND THAT OCCURS WITHIN THIS STATE.
   (b) MAKING THREE OR MORE FLEXIBLE CREDIT LOANS WITHIN A CALENDAR YEAR TO RESIDENTS OF THIS STATE.

6-1802. Exemptions

A. THIS CHAPTER DOES NOT APPLY TO A PERSON THAT:
   1. DOES BUSINESS UNDER ANY OTHER LAW OF THIS STATE, OR ANY OTHER STATE WHILE REGULATED BY A STATE AGENCY OF THAT OTHER STATE, OR OF THE UNITED STATES, RELATING TO BANKS, SAVINGS BANKS, TRUST COMPANIES, SAVINGS AND LOAN ASSOCIATIONS, PROFIT SHARING AND PENSION TRUSTS, CREDIT UNIONS, INSURANCE COMPANIES OR RECEIVERSHIPS IF THE FLEXIBLE CREDIT LOAN TRANSACTIONS ARE REGULATED BY THE OTHER LAW OR ARE UNDER THE JURISDICTION OF A COURT.
   2. IS LICENSED AS A PAWNBROKER PURSUANT TO TITLE 44, CHAPTER 11, ARTICLE 3 TO THE EXTENT THAT THE PERSON'S ACTIVITIES ARE GOVERNED BY THAT ARTICLE.
   3. IS NOT REGULARLY ENGAGED IN THE BUSINESS OF MAKING FLEXIBLE CREDIT LOANS.
   4. IS LICENSED PURSUANT TO CHAPTER 5 OF THIS TITLE OR ACTING PURSUANT TO TITLE 44, CHAPTER 2.1 TO THE EXTENT THAT THE PERSON'S ACTIVITIES ARE GOVERNED BY THAT CHAPTER.

B. THE REQUIREMENTS OF THIS CHAPTER DO NOT APPLY TO:
   1. CLOSED-END LOANS OF MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS.
   2. CONSUMER LOANS MADE UNDER CHAPTER 5 OF THIS TITLE.
   3. FLEXIBLE CREDIT LOANS THAT ARE LAWFULLY MADE TO NONRESIDENTS OF THIS STATE PURSUANT TO A FLEXIBLE CREDIT LOAN LAW OF ANOTHER STATE SIMILAR IN PRINCIPLE TO THIS CHAPTER.
   4. EDUCATIONAL LOANS THAT ARE EITHER:
      (a) MADE, INSURED OR GUARANTEED PURSUANT TO A PROGRAM AUTHORIZED BY THE UNITED STATES, THIS STATE OR ANY OTHER STATE.
      (b) MADE BY A NONPROFIT ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE TO STUDENTS WHO ATTEND POSTSECONDARY EDUCATIONAL INSTITUTIONS IN THIS STATE.
   5. SECONDARY MOTOR VEHICLE FINANCE TRANSACTIONS AS DEFINED IN SECTION 44-281.

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

A. UNLESS EXEMPT UNDER SECTION 6-1802, A PERSON, WHETHER LOCATED IN THIS STATE OR IN ANOTHER STATE, MAY NOT ENGAGE IN THE BUSINESS OF MAKING A FLEXIBLE CREDIT LOAN TO A RESIDENT OF THIS STATE WITHOUT FIRST BEING LICENSED AS A FLEXIBLE CREDIT LENDER BY THE SUPERINTENDENT.
B. THIS CHAPTER APPLIES TO ANY PERSON THAT SEEKS TO AVOID ITS
APPLICATION BY ANY DEVICE, SUBTERFUGE OR PRETENSE.

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

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

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

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

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

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

3. HAS FAILED TO PAY THE LICENSE FEE.

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

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

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

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

B. THE LICENSE YEAR FOR A LICENSEE BEGINS ON JULY 1 AND ENDS ON JUNE
30 OF EACH YEAR. A FLEXIBLE CREDIT LENDER SHALL APPLY FOR RENEWAL AS
PRESCRIBED BY THE SUPERINTENDENT NOT LATER THAN JUNE 30 OF EACH YEAR. A
LICENSE FOR WHICH A RENEWAL APPLICATION IS NOT RECEIVED BY THE SUPERINTENDENT
BY JUNE 30 IS SUSPENDED AND THE FLEXIBLE CREDIT LENDER MAY NOT ACT AS A
FLEXIBLE CREDIT LENDER UNTIL THE LICENSE IS RENEWED OR A NEW LICENSE IS
ISSUED PURSUANT TO THIS ARTICLE. THE LICENSE OF A FLEXIBLE CREDIT LENDER
THAT HAS NOT FILED A RENEWAL APPLICATION AND PAID THE RENEWAL FEE BY JULY 31
EXPIRES.
C. All licenses issued remain in full force until surrendered, revoked or suspended.

D. A license remains the property of this State. On termination at the request of the licensee or revocation by the superintendent, the licensee shall immediately deliver the license to the superintendent. Termination of the license does not affect any other liability of the licensee.

E. The licensee shall designate the principal location of the licensed office within or outside this State. If a licensee wishes to maintain more than one office location, the licensee shall first obtain a branch office license from the superintendent for each branch office. The licensee shall submit an application in the form prescribed by the superintendent and pay the fee prescribed in Section 6-126 for each branch office license. If the superintendent determines that the applicant is qualified, the superintendent shall issue a branch office license indicating the address of the branch office.

F. A licensee shall prominently display the flexible credit lender license in the office of the flexible credit lender and any branch office license in that branch office where loan transactions are conducted.

6-1805. Denial of renewal; suspension; revocation

A. The superintendent may deny renewal of a license or suspend or revoke a license if the superintendent finds that a licensee:

1. Is insolvent as defined in Section 47-1201.

2. Has shown that the licensee is not a person of honesty, truthfulness and good character.

3. Has failed to pay the annual renewal fees.

4. Has failed to file an annual report when due or within any extension of time granted by the superintendent for good cause.

5. Has failed to have or maintain at least twenty-five thousand dollars in assets used or readily available for use in the conduct of the business of each licensed office and branch office.

6. Either knowingly or without the exercise of due care to prevent a violation, has violated any provision of this title or any rule or order adopted or made pursuant to this title.

7. Has failed to operate the business of making flexible credit loans for a continuous period of twelve months or more, except that the superintendent, on good cause shown, may extend the time for operating that business for a single fixed period of not more than twelve months.

8. The superintendent may also deny renewal of a license or suspend or revoke a license if the superintendent finds that any fact or condition exists that, if it had existed at the time of the original application for the license, would have clearly warranted the superintendent to refuse to issue the license.
6-1806. **Business limited to licensed locations; restrictions**

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

B. A LICENSEE MAY:

1. MAKE FLEXIBLE CREDIT LOANS BY MAIL OR ELECTRONIC MEANS.
2. ON REQUEST, MAKE ACCOMMODATIONS TO CONSUMERS AT ANY LOCATION REQUESTED BY THE CONSUMER.
3. CONDUCT ANY ADMINISTRATIVE, LOAN SERVICING OR RECORDKEEPING ACTIVITY AT ANY OTHER LOCATION NOT OPEN TO THE PUBLIC, IF THE SUPERINTENDENT IS NOTIFIED IN ADVANCE OF THAT ACTIVITY.

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

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

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

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

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

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

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

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

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


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

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

B. ON AT LEAST AN ANNUAL BASIS THE SUPERINTENDENT SHALL COMPILIE A REPORT OF THE AVERAGE ANNUAL PERCENTAGE RATE AND AVERAGE LOAN AMOUNT OF EACH LICENSEE AS SUBMITTED PURSUANT TO SUBSECTION A OF THIS SECTION. THE SUPERINTENDENT SHALL DISSEMINATE THIS REPORT IN A MANNER DEEMED APPROPRIATE BY THE SUPERINTENDENT, AND THE SUPERINTENDENT SHALL MAKE THE REPORT AVAILABLE TO THE PUBLIC FOR INSPECTION AND COPYING.
6-1810. **Effect of revocation; suspension or surrender on preexisting contract; impairment of contracts**

A. The revocation, suspension or surrender of a Flexible Credit Lender license does not impair or affect:

1. The obligation of any preexisting Flexible Credit Loan between the Flexible Credit Lender and any consumer.
2. The ability or right of the Flexible Credit Lender to service existing Flexible Credit Loans from outside this state.

B. If this chapter or any part of this chapter is modified, amended or repealed, resulting in a cancellation or alteration of any Flexible Credit Lender license or right of a licensee under this chapter, that cancellation or alteration does not impair or affect the obligation of any preexisting contract between a Flexible Credit Lender and any consumer.

6-1811. **Prohibited acts**

A. A licensee may not knowingly advertise, display, distribute, broadcast or televises, or cause or allow to be advertised, displayed, distributed, broadcast or televised, in any manner, any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions for a Flexible Credit Loan. To the extent applicable, all advertising shall comply with the advertising requirements of the Truth in Lending Act (P.L. 90-321, 82 Stat. 146, 15 United States Code sections 1601 through 1667f).

B. A consumer may not have outstanding Flexible Credit Loans totaling more than two thousand five hundred dollars under this chapter at any one time. Each licensee shall inquire of any consumer seeking a Flexible Credit Loan under this chapter regarding the consumer's outstanding Flexible Credit Loans. If the licensee determines that the consumer does not have outstanding Flexible Credit Loans that exceed a total indebtedness of two thousand five hundred dollars, a licensee may offer the consumer a Flexible Credit Loan in an amount that does not total more than two thousand five hundred dollars in total Flexible Credit Loans outstanding by the consumer. If the licensee determines that the consumer has Flexible Credit Loans that total two thousand five hundred dollars, a licensee may not offer a Flexible Credit Loan to the consumer until the licensee determines that the consumer qualifies to open a new Flexible Credit Loan pursuant to this subsection. On any application being made for a Flexible Credit Loan, the licensee shall determine if the consumer has any outstanding Flexible Credit Loans as follows:

1. The consumer shall sign an attestation stating whether the consumer has any Flexible Credit Loans outstanding with the licensee or any other Flexible Credit Lender as described in this subsection and if so, the status of each Loan.
2. The licensee shall verify the accuracy of the attestation through commercially reasonable means. A licensee's method of verification is in
COMPLIANCE WITH THIS SECTION ONLY IF THE VERIFICATION METHOD INCLUDES A
MANUAL INVESTIGATION OR AN ELECTRONIC QUERY OF EITHER OF THE FOLLOWING:
(a) ANY PRIVATE DATABASE APPROVED BY THE SUPERINTENDENT IF ALL
LICENSEES ARE REQUIRED TO SUBSCRIBE TO THE DATABASE OR OTHERWISE OBTAIN THE
REQUIRED INFORMATION IN A MANNER APPROVED BY THE SUPERINTENDENT ON OR BEFORE
JULY 1, 2017. THE LICENSEE MAY CHARGE THE CONSUMER A FEE FOR DATABASE
VERIFICATION NOT TO EXCEED THE ACTUAL FEE CHARGED TO THE LICENSEE BY THE
DATABASE PROVIDER.
(b) UNTIL A PRIVATE DATABASE OR OTHER APPROVED MANNER OF OBTAINING THE
REQUIRED INFORMATION IS APPROVED BY THE SUPERINTENDENT OR IF THE PRIVATE
DATABASE IS NOT ACCESSIBLE, THE ATTESTATION AND THE LICENSEE'S OWN RECORDS,
INCLUDING BOTH RECORDS MAINTAINED AT THE LOCATION AT WHICH THE LOAN IS BEING
APPLIED AND RECORDS MAINTAINED AT OTHER LOCATIONS THAT ARE OWNED AND OPERATED
BY THE LICENSEE OR THE LICENSEE'S AFFILIATES.
C. A LICENSEE MAY NOT MAKE A FLEXIBLE CREDIT LOAN HAVING AN ANNUAL
PERCENTAGE RATE GREATER THAN THAT SET FORTH IN FEDERAL LAW IN 10 UNITED
STATES CODE SECTION 987 (b) TO A PERSON WHO IS EITHER:
1. A MEMBER OF THE UNITED STATES ARMED FORCES WHO IS ON ACTIVE DUTY
UNDER A CALL OR ORDER THAT DOES NOT SPECIFY A PERIOD OF THIRTY DAYS OR LESS.
2. ON ACTIVE NATIONAL GUARD AND RESERVE DUTY.
3. A DEPENDENT, AS DEFINED IN THE JOHN WARNER NATIONAL DEFENSE
AUTHORIZATION ACT FOR FISCAL YEAR 2007 (P.L. 109-364; 120 STAT. 2083; 10
UNITED STATES CODE SECTION 987) OR ANY REGULATION ADOPTED PURSUANT TO THAT
ACT, INCLUDING 32 CODE OF FEDERAL REGULATIONS PART 232, OF A PERSON LISTED IN
PARAGRAPHS 1 AND 2 OF THIS SUBSECTION.
D. A LICENSEE MAY NOT MAKE A FLEXIBLE CREDIT LOAN TO A PERSON UNLESS
THAT PERSON HAS EITHER:
1. SIGNED AND PROVIDED TO THE LICENSEE AS PART OF THE LOAN A STATEMENT
ATTesting TO WHETHER OR NOT THE PERSON IS A MILITARY MEMBER OR DEPENDENT AS
DEFINED AS A COVERED MEMBER IN THE JOHN WARNER NATIONAL DEFENSE
AUTHORIZATION ACT FOR FISCAL YEAR 2007 (P.L. 109-364; 120 STAT. 2083). SUCH STATEMENT
SHALL BE IN THE FORM AS MAY BE SET BY THE SUPERINTENDENT BY RULE OR MAY
CONFORM WITH THAT PROVIDED BY FEDERAL LAW OR REGULATION REGARDING COVERED
MEMBERS BY THE UNITED STATES DEPARTMENT OF DEFENSE.
2. USED ANOTHER AUTHORIZED METHOD TO DETERMINE THE PERSON IS NOT A
COVERED MEMBER AS MAY BE SET OUT IN FEDERAL LAW OR BY UNITED STATES
DEPARTMENT OF DEFENSE REGULATIONS.
E. ANY LOAN MADE IN VIOLATION OF THE JOHN WARNER NATIONAL DEFENSE
AUTHORIZATION ACT FOR FISCAL YEAR 2007 (P.L. 109-364; 120 STAT. 2083) IS
VOID.
F. A LICENSEE MAY NOT CONDITION A FLEXIBLE CREDIT LOAN ON THE
CONSUMER'S AGREEMENT TO MAKE REPAYMENT BY RECURRING AUTOMATIC ELECTRONIC
FUNDS TRANSFERS FROM THE CONSUMER'S BANK ACCOUNT. THIS SUBSECTION DOES NOT
PRECLUDE THE CONSUMER FROM PROVIDING WRITTEN AUTHORIZATION TO MAKE REPAYMENTS
BY RECURRING AUTOMATIC ELECTRONIC FUNDS TRANSFERS FROM THE CONSUMER'S BANK ACCOUNT.

6-1812. Rules
the superintendent shall adopt rules that are necessary to regulate the proper conduct of licensees.

6-1813. Restriction; voidable loans
A. except as the result of an accidental or bona fide error, if the licensee charges, contracts for or receives any amount in excess of the finance charges and other fees allowed by this chapter and the licensee fails to promptly refund the overcharges on discovery, that flexible credit loan is voidable.

B. any flexible credit loan that is made by a person that is required to be licensed pursuant to this chapter but that is not licensed is void and the person making that flexible credit loan has no right to collect, receive or retain any principal, finance charges or other fees in connection with that flexible credit loan.

C. the licensee may not collect or receive any principal, finance charges or other fees on any flexible credit loan that has been voided.

6-1814. Noncompliance
except as provided in section 6-1813, a failure to comply with this chapter does not affect the validity or enforceability of any flexible credit loan.

ARTICLE 2. REQUIREMENTS FOR FLEXIBLE CREDIT LOANS

6-1831. Disclosures; civil penalty
A. to the extent applicable, a licensee shall comply with the disclosure requirements of the truth in lending act (p.l. 90-321, 82 stat. 146, 15 united states code sections 1601 through 1667f).

B. each note or agreement evidencing a flexible credit loan shall contain the following disclosure statement in at least ten-point type that is in english and, on the customer's request, in spanish and in close proximity to the consumer's signature line or, alternatively, a licensee may provide the borrower with the disclosures required by this section in a mobile or other electronic application on which the size of the typeface of the disclosure can be manually modified by a prospective borrower, if the prospective borrower is given the option to print the disclosure in a typeface of at least twelve-point size or is provided by the licensee with a hard copy of the disclosure in a typeface of at least twelve-point size before the loan is consummated:

notice: you may request that the initial disclosures prescribed in the truth in lending act (15 united states code sections 1601 through 1667f) be provided in spanish before signing any loan documents.
C. A LICENSEE SHALL CONTINUOUSLY AND CONSPICUOUSLY DISPLAY THE NOTICE PRESCRIBED BY SUBSECTION B OF THIS SECTION AND THE FOLLOWING NOTICE ON A SIGN PRINTED IN AT LEAST TWELVE-POINT BOLD TYPE AT EACH DESK AT WHICH FLEXIBLE CREDIT LOANS ARE USUALLY AND NORMALLY CLOSED OR ON A SIGN PROMINENTLY DISPLAYED IN EACH LICENSED OFFICE OR BRANCH OFFICE:

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

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

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

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

6-1832. Finance charges
A. A LICENSEE MAY CONTRACT FOR AND RECEIVE FINANCE CHARGES ON A FLEXIBLE CREDIT LOAN THAT DOES NOT EXCEED THE FOLLOWING IF THE ORIGINAL PRINCIPAL AMOUNT OF THE FLEXIBLE CREDIT LOAN IS AT LEAST FIVE HUNDRED DOLLARS BUT NOT MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS:

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

B. A LICENSEE MAY NOT COMPOUND FINANCE CHARGES.

6-1833. Other allowable fees; annual reporting
A. IN ADDITION TO THE FINANCE CHARGES AUTHORIZED BY SECTION 6-1832, A LICENSEE MAY CONTRACT FOR AND RECEIVE AND COLLECT FINANCE CHARGES ON THE FOLLOWING FEES:

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

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

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

C. IN ADDITION TO THE FINANCE CHARGES AND FEES PROVIDED IN THIS ARTICLE, THE LICENSEE MAY NOT DIRECTLY OR INDIRECTLY CHARGE, CONTRACT FOR OR RECEIVE ANY FURTHER OR OTHER AMOUNT IN CONNECTION WITH A FLEXIBLE CREDIT LOAN.
D. IN CONJUNCTION WITH THE REPORTING REQUIREMENTS PRESCRIBED IN SECTION 6-1809, ON OR BEFORE OCTOBER 1 EACH YEAR, A LICENSEE SHALL REPORT TO THE SUPERINTENDENT THE NUMBER OF FLEXIBLE CREDIT LOANS MADE IN THE PRIOR TWO YEARS.

Sec. 4. Short title
Title 6, chapter 18, Arizona Revised Statutes, as added by this act, may be cited as the "Arizona Flexible Loan Act".