

REFERENCE TITLE: consumer loan finance charges

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1236

Introduced by
Senator Livingston

AN ACT

AMENDING SECTIONS 6-601, 6-602 AND 6-632, 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 6-601, 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
9 principal for the time the balance is outstanding, and the remainder of
10 the payment is subtracted from the unpaid principal amount.

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

14 3. "Annual percentage rate" means the measure of the cost of
15 credit, expressed as a yearly rate, that relates the amount and timing of
16 value 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
19 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
22 procures consumer lender loans to consumers in this state.

23 6. "Consumer lender loans" means consumer loans, consumer revolving
24 loans and home equity revolving loans.

25 7. "Consumer loan" means the direct closed end loan of money,
26 whether unsecured or secured by personal or real property, in an amount of
27 ~~\$10,000~~ \$50,000 or less that is subject to a finance charge in which only
28 the principal amount of the loan is considered, and not any finance
29 charges or other fees allowed pursuant to section 6-635, for the purpose
30 of determining whether the consumer loan is ~~\$10,000~~ \$50,000 or less.

31 8. "Consumer loan rate" means the periodic rate of finance charges
32 that applies to the outstanding principal balance of a consumer loan and
33 that remains unpaid. Consumer loan rate does not include any prepaid
34 finance charges pursuant to section 6-632, subsection E or any fees
35 pursuant to section 6-635.

36 9. "Consumer revolving loan" means an open end revolving loan that
37 is established pursuant to an agreement with an agreed on credit limit
38 that does not exceed ~~\$10,000~~ \$50,000, that the consumer may pay in full at
39 any time but has the privilege of paying in installments and that
40 contemplates or provides that advances may be obtained from time to time
41 by the consumer, through checks, drafts, items, credit access devices,
42 orders for the payment of money, evidences of debt or similar means,
43 whether or not negotiable.

44 10. "Educational loan" means any loan or other aid or assistance
45 for the purpose of furthering the education of a consumer or a relative of

1 a consumer at an accredited or approved university, college, community
2 college, junior college, technical, vocational or professional school, or
3 similar institution.

4 11. "Finance charge" means the amount payable by a consumer
5 incident to or as a condition of the extension of a consumer lender loan
6 but does not include other fees allowed pursuant to section 6-635.

7 12. "Home equity revolving loan" means an open end revolving loan
8 that is made pursuant to an agreement with an agreed on credit limit that
9 is not more than ~~\$10,000~~ \$50,000, that is secured by the consumer's
10 principal residence and that provides that advances may be obtained from
11 time to time by the consumer through checks, drafts, items, credit access
12 devices, orders for the payment of money, evidences of debt or similar
13 means, whether or not negotiable.

14 13. "License" means a license issued under the authority of this
15 chapter to make consumer lender loans in accordance with this chapter.

16 14. "Licensee" means a person licensed pursuant to this chapter.

17 15. "Precomputed consumer loan" means a consumer loan that is
18 payable in substantially equal, consecutive monthly installments that are
19 applied to the unpaid balance of the principal and precomputed finance
20 charges combined, subject to provisions for refund or credit in the event
21 of prepayment and for deferral or default charges in the event of deferral
22 or default.

23 16. "Regularly engaged in the business" means either:

24 (a) Advertising to or any other solicitation of a resident of this
25 state that offers a consumer loan and that occurs within this state.

26 (b) Making three or more consumer loans within a calendar year to
27 residents of this state.

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

32 Sec. 2. Section 6-602, Arizona Revised Statutes, is amended to
33 read:

34 6-602. Exemptions

35 A. This chapter does not apply to:

36 1. A person who does business under any other law of this state, or
37 any other state while regulated by a state agency of that other state, or
38 of the United States, relating to banks, savings banks, trust companies,
39 savings and loan associations, profit sharing and pension trusts, credit
40 unions, insurance companies or receiverships if the consumer lender loan
41 transactions are regulated by the other law or are under the jurisdiction
42 of a court.

43 2. A person who is licensed as a pawnbroker pursuant to title 44,
44 chapter 11, article 3 to the extent that the person's activities are
45 governed by that article.

1 3. A person who is not regularly engaged in the business of making
2 consumer lender loans.

3 4. A person who is licensed pursuant to chapter 9 of this title to
4 the extent that the person's activities are governed by that chapter.

5 B. The requirements of this chapter do not apply to:

6 1. Closed end loans of more than ~~\$10,000~~ \$50,000.

7 2. Advances on open end revolving loans that are not secured by the
8 consumer's principal residence with an agreed on credit limit of more than
9 ~~\$10,000~~ \$50,000, regardless of the amount of any advances on these
10 revolving loans.

11 3. Advances on open end revolving loans that are secured by the
12 consumer's principal residence with an agreed on credit limit of more than
13 ~~\$10,000~~ \$50,000, regardless of the amount of any advances on these
14 revolving loans.

15 4. Consumer lender loans that are lawfully made to nonresidents of
16 the state in any other state under and in accordance with a regulatory
17 consumer lender law similar in principle to this chapter.

18 5. Educational loans that are either:

19 (a) Made, insured or guaranteed pursuant to a program authorized by
20 the United States, this state or any other state.

21 (b) Made by a nonprofit organization that is exempt from taxation
22 under section 501(c)(3) of the internal revenue code to students who
23 attend postsecondary educational institutions in this state.

24 C. A consumer loan made pursuant to a consumer lender license is
25 not a secondary motor vehicle finance transaction as defined in section
26 44-281.

27 Sec. 3. Section 6-632, Arizona Revised Statutes, is amended to
28 read:

29 6-632. Finance charges

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

32 1. On a consumer loan in an original principal amount of ~~three~~
33 ~~thousand dollars~~ \$10,000 or less, a consumer loan rate of thirty-six ~~per~~
34 ~~cent~~ PERCENT.

35 2. On a consumer loan in an original principal amount of more than
36 ~~three thousand dollars, either~~ \$10,000:

37 (a) A consumer loan rate of:

38 (i) Thirty-six ~~per cent~~ PERCENT on the initial ~~three thousand~~
39 ~~dollars~~ \$10,000 of the original principal amount. ~~, and a consumer loan~~
40 ~~rate of~~

41 (ii) Twenty-four ~~per cent~~ PERCENT on that part of the principal
42 amount ~~greater~~ OF MORE than ~~three thousand dollars~~ \$10,000 BUT NOT MORE
43 THAN \$50,000.

44 (b) The single blended consumer loan rate that results from the
45 total amount of finance charges that the licensee would receive through

1 the scheduled maturity of the consumer loan at the consumer loan rates
2 that otherwise would be applicable pursuant to subdivision (a) of this
3 paragraph to the different portions of the unpaid principal balance,
4 assuming that the consumer loan will be paid according to its agreed
5 terms.

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

9 1. On consumer revolving loans with credit limits of ~~three thousand~~
10 ~~dollars~~ \$10,000 or less, a periodic rate corresponding to an annual
11 percentage rate of thirty-six ~~per cent~~ PERCENT on the outstanding balance
12 each monthly billing cycle.

13 2. On consumer revolving loans with credit limits of more than
14 ~~three thousand dollars~~ \$10,000 and home equity revolving loans, ~~either~~:

15 (a) A periodic rate corresponding to an annual percentage rate of:

16 (i) Thirty-six ~~per cent~~ PERCENT on that portion of the outstanding
17 balance each monthly billing cycle that is not more than ~~three thousand~~
18 ~~dollars and a periodic rate corresponding to an annual percentage rate of~~
19 ~~\$10,000~~.

20 (ii) Twenty-four ~~per cent~~ PERCENT on that portion of the
21 outstanding balance each monthly billing cycle that is more than ~~three~~
22 ~~thousand dollars~~ \$10,000 BUT NOT MORE THAN \$50,000.

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

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

1 D. Except as ~~permitted~~ ALLOWED by subsection E of this section,
2 prepaid finance charges commonly referred to as points are prohibited.

3 E. In addition to the finance charges authorized in subsections A,
4 B and C of this section, a licensee may contract for and receive, and
5 collect finance charges on, nonrefundable prepaid finance charges or fees
6 commonly referred to as points in an amount of not more than:

7 1. Four ~~per cent~~ PERCENT of the original principal amount of a
8 consumer loan of at least ~~five thousand dollars~~ \$5,000 secured by the
9 consumer's principal residence.

10 2. Four ~~per cent~~ PERCENT of the agreed on credit limit of a home
11 equity revolving loan.

12 F. If a consumer loan, consumer revolving loan or home equity
13 revolving loan is in existence before ~~the effective date of this amendment~~
14 ~~to this section~~ JULY 24, 2014 and is modified or restructured after ~~the~~
15 ~~effective date of this amendment to this section~~ JULY 24, 2014 and the
16 total new cash advances do not exceed ~~one hundred dollars~~ \$100, a licensee
17 may not contract for and receive periodic finance charges at an annual
18 percentage rate that is higher than the annual percentage rate that
19 existed before ~~the effective date of this amendment to this section~~ JULY
20 24, 2014.