

REFERENCE TITLE: consumer credit; military; federal law

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2729

Introduced by
Representative Blattman

AN ACT

AMENDING SECTIONS 6-101 AND 6-122, ARIZONA REVISED STATUTES; AMENDING TITLE 6, CHAPTER 1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 6; AMENDING TITLE 6, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 6-640; AMENDING TITLE 6, CHAPTER 14, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 6-1420; AMENDING TITLE 44, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 32; RELATING TO CONSUMER CREDIT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 6-101, Arizona Revised Statutes, is amended to
3 read:
4 6-101. Definitions
5 In this title, unless the context otherwise requires:
6 1. "Automated teller machine" means an automated device that is
7 established by a bank, savings and loan association or credit union and
8 that facilitates customer-bank communications activities, including taking
9 deposits and disbursing cash drawn against a customer's deposit account or
10 a customer's preapproved loan account, at a location separate from the
11 home office or a branch.
12 2. "Bank" means a corporation that holds a banking permit issued
13 pursuant to chapter 2 of this title.
14 3. "Banking office":
15 (a) Means any place of business of the bank at which deposits are
16 received, checks are paid or money is loaned. ~~but~~
17 (b) Does not include the premises used for computer operations,
18 proofing, record keeping, accounting, storage, maintenance or other
19 administrative or service functions.
20 4. "Branch" means any banking office other than the principal
21 banking office.
22 5. "Department" means the department of insurance and financial
23 institutions.
24 6. "Deputy director" means the deputy director of the financial
25 institutions division of the department.
26 7. "Director" has the same meaning prescribed in section 20-102.
27 8. "Division" means the financial institutions division within the
28 department.
29 9. "Enterprise" means any person under the jurisdiction of the
30 department other than a financial institution.
31 10. "Federal deposit insurance corporation" includes any successor
32 to the corporation or other agency or instrumentality of the United States
33 that undertakes to discharge the purposes of the corporation.
34 11. "Financial institution" means banks, trust companies, savings
35 and loan associations, credit unions, consumer lenders, international
36 banking facilities and financial institution holding companies under the
37 jurisdiction of the department.
38 12. "Home state" means the state that has granted the bank its
39 charter, permit or license to operate.
40 13. "Host state" means the state in which a financial institution
41 is doing business and not the state that has granted the bank its charter,
42 permit or license to operate.

1 14. "In-state financial institution" means a state or federal bank,
2 savings bank, savings and loan association or holding company with its
3 home office located in this state.

4 15. "International banking facility" means a facility that is
5 represented by a set of asset and liability accounts segregated on the
6 books and records of a commercial bank, the principal office of which is
7 located in this state, and that is incorporated and doing business under
8 the laws of the United States or of this state, a United States branch or
9 agency of a foreign bank, an edge corporation organized under section
10 25(a) of the federal reserve act (12 United States Code sections 611
11 through 631) or an agreement corporation having an agreement or
12 undertaking with the board of governors of the federal reserve system
13 under section 25 of the federal reserve act (12 United States Code
14 sections 601 through 604(a)) that includes only international banking
15 facility time deposits and international banking facility extensions of
16 credit as defined in 12 Code of Federal Regulations part 204.

17 16. "National credit union administration" includes any successor
18 to the organization or other agency or instrumentality of the United
19 States that undertakes to discharge the purposes of the organization.

20 17. "Out-of-state bank" means a bank, savings bank or savings and
21 loan association that is approved by the deputy director pursuant to
22 section 6-322 and that has a charter, a permit or any other license to
23 operate that is issued by a state other than this state.

24 18. "Out-of-state financial institution" means a state or federal
25 bank, savings bank, savings and loan association or holding company with
26 its home office in a state other than this state.

27 19. "SAME-DAY LENDER" MEANS A LENDING COMPANY THAT LENDS \$3,000 OR
28 LESS FOR A SHORT PERIOD OF TIME WITH FINANCE CHARGES SET HIGHER THAN AS
29 PRESCRIBED IN SECTION 6-632.

30 ~~19.~~ 20. "Title" includes this title, title 32, chapters 9 and 36
31 and title 44, chapter 2.1.

32 Sec. 2. Section 6-122, Arizona Revised Statutes, is amended to
33 read:

34 6-122. Deputy director; authority; duties

35 A. The deputy director has the authority and responsibility ~~for the~~
36 ~~TO~~ discharge ~~of~~ all duties imposed by law on the division.

37 B. The deputy director shall:

38 1. Examine or cause to be examined each financial institution
39 annually, except financial institution holding companies, banks, savings
40 and loan associations, credit unions and consumer lenders, and more
41 frequently if the deputy director considers it necessary.

42 2. Examine or cause to be examined each bank, credit union and
43 savings and loan association at the deputy director's discretion but at
44 least once in every ~~twenty-four month~~ TWENTY-FOUR-MONTH period.

1 3. EXCEPT AS PROVIDED IN PARAGRAPH 8 OF THIS SUBSECTION, examine or
2 cause to be examined the business and affairs of any enterprise and any
3 consumer lender for the purpose of administering and enforcing this title
4 at the deputy director's discretion.

5 4. Examine or cause to be examined financial institution holding
6 companies as frequently as the deputy director considers necessary to
7 administer and enforce this title.

8 5. Notwithstanding paragraph 3 of this subsection, examine or cause
9 to be examined the accounts held in trust by each escrow agent at least
10 once in every two-year period and examine or cause to be examined each
11 escrow agent at least once in every four-year period or more frequently if
12 the deputy director considers it necessary.

13 6. Publish a consumer information brochure that includes:

14 (a) The finance charges allowed by this state.

15 (b) The types of insurance that may be offered but that are not
16 required by law to be purchased with the granting of a loan.

17 (c) Interest rate limitations on all lenders including amounts that
18 may not be charged to borrowers.

19 (d) Consumer rights and means of recourse from unfair
20 practitioners.

21 7. Make it a priority to encourage the growth of state-chartered
22 financial institutions in this state and by February 1 of each calendar
23 year notify the governor, the president of the senate and the speaker of
24 the house of representatives if the total number of state-chartered banks
25 or state-chartered credit unions decreases during the prior calendar year.

26 8. EXAMINE OR CAUSE TO BE EXAMINED CONSUMER LENDERS AND SAME-DAY
27 LENDERS AT LEAST ONCE IN EVERY FIVE-YEAR PERIOD TO ENSURE COMPLIANCE WITH
28 10 UNITED STATES CODE SECTION 987 AND 32 CODE OF FEDERAL REGULATIONS
29 PART 232.

30 C. Notwithstanding subsection B, paragraph 5 of this section, an
31 escrow agent shall be examined within twelve months when an escrow agent's
32 license is transferred or assigned pursuant to section 6-813 or when
33 control of the license is otherwise acquired.

34 Sec. 3. Title 6, chapter 1, Arizona Revised Statutes, is amended by
35 adding article 6, to read:

36 ARTICLE 6. COMPLIANCE WITH FEDERAL LAW

37 6-171. Compliance with federal law; military lending;
38 enforcement by attorney general; definitions

39 A. AN ENTERPRISE THAT EXTENDS CONSUMER CREDIT TO A COVERED MEMBER
40 OR DEPENDENT OF A COVERED MEMBER SHALL COMPLY WITH 10 UNITED STATES CODE
41 SECTION 987 AND 32 CODE OF FEDERAL REGULATIONS PART 232.

42 B. IN ADDITION TO THE PENALTIES PRESCRIBED IN SECTION 6-132, ANY
43 VIOLATION OF THIS ARTICLE IS AN UNLAWFUL ACT OR PRACTICE PURSUANT TO

1 SECTION 44-1522. THE ATTORNEY GENERAL MAY INVESTIGATE THE ACT OR PRACTICE
2 AND TAKE APPROPRIATE ACTION PURSUANT TO TITLE 44, CHAPTER 10, ARTICLE 7.

3 C. FOR THE PURPOSES OF THIS SECTION, "CONSUMER CREDIT" AND "COVERED
4 MEMBER" HAVE THE SAME MEANINGS PRESCRIBED IN 32 CODE OF FEDERAL
5 REGULATIONS SECTION 232.3.

6 Sec. 4. Title 6, chapter 5, article 2, Arizona Revised Statutes, is
7 amended by adding section 6-640, to read:

8 6-640. Compliance with federal law; military lending;
9 enforcement by attorney general; definitions

10 A. A LICENSEE THAT EXTENDS CONSUMER CREDIT TO A COVERED MEMBER OR
11 DEPENDENT OF A COVERED MEMBER SHALL COMPLY WITH 10 UNITED STATES CODE
12 SECTION 987 AND 32 CODE OF FEDERAL REGULATIONS PART 232.

13 B. IN ADDITION TO THE PENALTIES PRESCRIBED IN SECTION 6-132, ANY
14 VIOLATION OF THIS ARTICLE IS AN UNLAWFUL ACT OR PRACTICE PURSUANT TO
15 SECTION 44-1522. THE ATTORNEY GENERAL MAY INVESTIGATE THE ACT OR PRACTICE
16 AND TAKE APPROPRIATE ACTION PURSUANT TO TITLE 44, CHAPTER 10, ARTICLE 7.

17 C. FOR THE PURPOSES OF THIS SECTION, "CONSUMER CREDIT" AND "COVERED
18 MEMBER" HAVE THE SAME MEANINGS PRESCRIBED IN 32 CODE OF FEDERAL
19 REGULATIONS SECTION 232.3.

20 Sec. 5. Title 6, chapter 14, article 1, Arizona Revised Statutes,
21 is amended by adding section 6-1420, to read:

22 6-1420. Compliance with federal law; military lending;
23 enforcement by attorney general; definitions

24 A. A PREMIUM FINANCE COMPANY THAT EXTENDS CONSUMER CREDIT TO A
25 COVERED MEMBER OR DEPENDENT OF A COVERED MEMBER SHALL COMPLY WITH 10
26 UNITED STATES CODE SECTION 987 AND 32 CODE OF FEDERAL REGULATIONS
27 PART 232.

28 B. IN ADDITION TO THE PENALTIES PRESCRIBED IN SECTION 6-132, ANY
29 VIOLATION OF THIS ARTICLE IS AN UNLAWFUL ACT OR PRACTICE PURSUANT TO
30 SECTION 44-1522. THE ATTORNEY GENERAL MAY INVESTIGATE THE ACT OR PRACTICE
31 AND TAKE APPROPRIATE ACTION PURSUANT TO TITLE 44, CHAPTER 10, ARTICLE 7.

32 C. FOR THE PURPOSES OF THIS SECTION, "CONSUMER CREDIT" AND "COVERED
33 MEMBER" HAVE THE SAME MEANINGS PRESCRIBED IN 32 CODE OF FEDERAL
34 REGULATIONS SECTION 232.3.

35 Sec. 6. Title 44, Arizona Revised Statutes, is amended by adding
36 chapter 32, to read:

37 CHAPTER 32

38 MILITARY LENDING

39 ARTICLE 1. GENERAL PROVISIONS

40 44-7501. Military lending; compliance with federal law;
41 enforcement by attorney general; definitions

42 A. A CREDITOR THAT EXTENDS CONSUMER CREDIT TO A COVERED MEMBER OR
43 DEPENDENT OF A COVERED MEMBER SHALL COMPLY WITH 10 UNITED STATES CODE
44 SECTION 987 AND 32 CODE OF FEDERAL REGULATIONS PART 232.

1 B. ANY VIOLATION OF THIS ARTICLE IS AN UNLAWFUL ACT OR PRACTICE
2 PURSUANT TO SECTION 44-1522. THE ATTORNEY GENERAL MAY INVESTIGATE THE ACT
3 OR PRACTICE AND TAKE APPROPRIATE ACTION PURSUANT TO CHAPTER 10, ARTICLE 7
4 OF THIS TITLE.
5 C. FOR THE PURPOSES OF THIS SECTION, "CONSUMER CREDIT", "COVERED
6 MEMBER" AND "CREDITOR" HAVE THE SAME MEANINGS PRESCRIBED IN 32 CODE OF
7 FEDERAL REGULATIONS SECTION 232.3.