

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

CHAPTER 96

HOUSE BILL 2526

AN ACT

AMENDING SECTIONS 6-611, 6-632 AND 6-635, ARIZONA REVISED STATUTES; AMENDING
TITLE 6, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION
6-639; RELATING TO CONSUMER LENDER LOANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 6-611. Prohibited acts

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

12 B. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, a licensee shall
13 not pay a fee, commission or bonus or give anything of value to any merchant,
14 dealer, consumer or other person ~~for the purpose of attracting applications~~
15 ~~for consumer lender loans or as consideration~~ for referring consumer lender
16 loan business, other than the fees permitted pursuant to the real estate
17 settlement procedures act (12 United States Code sections 2601 through 2617),
18 as amended, and the regulations promulgated under that act (24 Code of
19 Federal Regulations part 3500), as amended, or ~~to~~ persons exempt from
20 licensing pursuant to section 6-602 in connection with any consumer loan or
21 consumer revolving loan that is secured by the consumer's principal residence
22 or any home equity revolving loan. A LICENSEE MAY NOT GIVE A CONSUMER ANY
23 PRIZE, GOOD, WARE, MERCHANDISE OR TANGIBLE PROPERTY OF AN AGGREGATE VALUE OF
24 MORE THAN TWENTY-FIVE DOLLARS.

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

26 6-632. Finance charges

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

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

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

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

37 (b) The single blended consumer loan rate that results from the total
38 amount of finance charges that the licensee would receive through the
39 scheduled maturity of the consumer loan at the consumer loan rates that
40 otherwise would be applicable pursuant to subdivision (a) of this paragraph
41 to the different portions of the unpaid principal balance, assuming that the
42 consumer loan will be paid according to its agreed terms.

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

1 1. On consumer revolving loans with credit limits of ~~one~~ THREE
2 thousand dollars or less, a periodic rate corresponding to an annual
3 percentage rate of thirty-six per cent on the outstanding balance each
4 monthly billing cycle.

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

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

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

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

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

37 E. In addition to the finance charges authorized in subsections A, B
38 and C OF THIS SECTION, a licensee may contract for and receive, and collect
39 finance charges on, nonrefundable prepaid finance charges or fees commonly
40 referred to as points in an amount of not more than:

41 1. Four per cent of the original principal amount of a consumer loan
42 of at least five thousand dollars secured by the consumer's principal
43 residence.

44 2. Four per cent of the agreed on credit limit of a home equity
45 revolving loan.

1 F. IF A CONSUMER LOAN, CONSUMER REVOLVING LOAN OR HOME EQUITY
2 REVOLVING LOAN IS IN EXISTENCE BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO
3 THIS SECTION AND IS MODIFIED OR RESTRUCTURED AFTER THE EFFECTIVE DATE OF THIS
4 AMENDMENT TO THIS SECTION AND THE TOTAL NEW CASH ADVANCES DO NOT EXCEED ONE
5 HUNDRED DOLLARS, A LICENSEE MAY NOT CONTRACT FOR AND RECEIVE PERIODIC FINANCE
6 CHARGES AT AN ANNUAL PERCENTAGE RATE THAT IS HIGHER THAN THE ANNUAL
7 PERCENTAGE RATE THAT EXISTED BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO
8 THIS SECTION.

9 Sec. 3. Section 6-635, Arizona Revised Statutes, is amended to read:

10 6-635. Other allowable fees: annual reporting

11 A. In addition to the finance charges authorized by section 6-632, a
12 licensee may contract for and receive, and collect finance charges on, the
13 following fees:

14 1. A delinquency charge in an amount equal to five per cent of the
15 amount of any installment not paid in full within seven days after its due
16 date.

17 2. The actual costs of charges that are paid to a third party who is
18 not an employee of the licensee and that are incurred in making consumer
19 lender loans secured in whole or in part by real property, including the
20 charges for a preliminary title search, title examination and report, title
21 insurance premiums, property survey and appraisal fees.

22 3. Lawful fees for the acknowledging, filing and recording, continuing
23 or releasing in any public office of any instrument or financing statement
24 evidencing or perfecting a lien or security interest in real or personal
25 property securing a consumer lender loan or the premiums paid for insurance
26 in lieu of filing or recording that shall not exceed the filing or recording
27 fee.

28 4. A loan origination fee of not more than five per cent of a closed
29 end consumer loan or the agreed credit limit of a consumer revolving loan but
30 in no event in an amount that is more than ~~seventy-five~~ ONE HUNDRED FIFTY
31 dollars. A licensee shall not charge a loan origination fee:

32 (a) For the refinancing of a closed end consumer loan or the
33 renegotiating of an agreed credit limit of a consumer revolving loan if the
34 refinancing or renegotiating occurs within one year of the collection of a
35 prior loan origination fee.

36 (b) If the licensee charges prepaid finance charges pursuant to
37 section 6-632, subsection E, paragraph 1.

38 5. Deferral fees authorized in section 6-634 for precomputed consumer
39 loans.

40 6. Insurance premiums as provided in section 6-636.

41 7. Court costs.

42 8. Reasonable attorney fees if the consumer lender loan is referred
43 for collection to an attorney other than a salaried employee of the licensee.

44 9. Costs, expenses and fees authorized in section 33-813, subsection B
45 for reinstatement of a deed of trust encumbering real property that secures a
46 consumer lender loan.

1 10. Costs and expenses of exercising the power of sale in a deed of
2 trust encumbering real property that secures a consumer lender loan and costs
3 and expenses of a sale that are included in a credit bid or that are applied
4 from the proceeds of a trustee's sale pursuant to section 33-812, including
5 the payment of trustee fees and reasonable attorney fees actually incurred.

6 11. Costs and expenses of retaking, holding, preparing for sale and
7 selling any personal property in accordance with title 47, chapter 9,
8 article 6.

9 B. If a licensee receives a check, draft, negotiable order of
10 withdrawal or similar instrument drawn on a depository institution that is
11 offered by a consumer in full or partial payment on a consumer lender loan
12 and the instrument is not paid or is dishonored by the depository
13 institution, the licensee may charge and collect from the consumer a
14 dishonored check service fee pursuant to section 44-6852.

15 C. In addition to the finance charges and fees provided in this
16 article, the licensee shall not directly or indirectly charge, contract for
17 or receive any further or other amount in connection with a consumer lender
18 loan.

19 D. In conjunction with the reporting requirements prescribed in
20 section 6-609, on or before October 1, ~~2003 and every~~ EACH year ~~thereafter~~, a
21 licensee shall report to the superintendent the number of closed end consumer
22 loans and consumer revolving loans under one thousand dollars made in the
23 prior two years.

24 Sec. 4. Title 6, chapter 5, article 2, Arizona Revised Statutes, is
25 amended by adding section 6-639, to read:

26 6-639. Loans from theft or fraud; consumer not responsible;
27 correction of credit information

28 A LICENSEE MAY NOT HOLD A PERSON RESPONSIBLE FOR ANY LOAN AMOUNT THAT
29 IS INCURRED AS A RESULT OF A VIOLATION OF SECTION 13-2008, 13-2009, 13-2010
30 OR 13-2310. WITHIN THIRTY DAYS AFTER A LICENSEE IS AWARE THAT A LOAN IS A
31 RESULT OF A VIOLATION OF SECTION 13-2008, 13-2009, 13-2010 OR 13-2310, THE
32 LICENSEE SHALL IMMEDIATELY CORRECT ANY DEROGATORY CREDIT INFORMATION THAT IS
33 REPORTED TO A CONSUMER REPORTING AGENCY AS DEFINED IN SECTION 44-1691 AND
34 THAT IS THE RESULT OF THE VIOLATION.

APPROVED BY THE GOVERNOR APRIL 17, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2014.