

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HOUSE BILL 2611

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 FLEX LOAN 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, ten 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, one thousand five hundred
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, ten 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 hundred
40 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 dollars.
- 44 18. To apply for a branch office of an escrow agent, consumer lender,
45 **FLEX LOAN LENDER**, commercial mortgage banker, mortgage banker, trust company,

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

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

3 36. TO APPLY FOR A FLEX LOAN LENDER LICENSE, AN AMOUNT TO BE DETERMINED
4 BY THE SUPERINTENDENT.

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

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

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

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

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

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

18 5. For an inactive mortgage broker or commercial mortgage broker, two
19 hundred fifty dollars.

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

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

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

36 9. For a consumer lender OR A FLEX LOAN LENDER, one thousand dollars
37 plus two hundred dollars for each branch office.

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

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

44 12. For a loan originator, an amount to be determined by the
45 superintendent.

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

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

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

11 CHAPTER 18

12 FLEX LOANS

13 ARTICLE 1. GENERAL PROVISIONS

14 6-1801. Definitions

15 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

16 1. "AMOUNT FINANCED" MEANS THE AMOUNT OF CREDIT EXTENDED TO A CONSUMER
17 ON A FLEX LOAN DETERMINED PURSUANT TO THE TRUTH IN LENDING ACT (P.L. 90-321,
18 82 STAT. 146; 15 UNITED STATES CODE SECTIONS 1601 THROUGH 1667f).

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

24 3. "CONSUMER" MEANS AN INDIVIDUAL WHO OBTAINS A FLEX LOAN FOR
25 PERSONAL, FAMILY OR HOUSEHOLD PURPOSES.

26 4. "FINANCE CHARGE" MEANS THE AMOUNT PAYABLE BY A CONSUMER INCIDENT TO
27 OR AS A CONDITION OF THE EXTENSION OF A FLEX LOAN BUT DOES NOT INCLUDE OTHER
28 FEES ALLOWED PURSUANT TO SECTION 6-1835.

29 5. "FLEX LOAN" MEANS A LOAN MADE PURSUANT TO A FLEX LOAN PLAN.

30 6. "FLEX LOAN LENDER" MEANS A PERSON THAT ADVERTISES TO MAKE, SOLICITS
31 OR HOLDS ITSELF OUT TO MAKE OR MAKES FLEX LOANS TO CONSUMERS IN THIS STATE.

32 7. "FLEX LOAN PLAN" MEANS A WRITTEN AGREEMENT SUBJECT TO THIS CHAPTER
33 BETWEEN A LICENSEE AND A CONSUMER ESTABLISHING AN OPEN-END CREDIT PLAN UNDER
34 WHICH THE LICENSEE MAKES CREDIT AVAILABLE UP TO THE ESTABLISHED LOAN LIMIT
35 FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES THAT:

36 (a) IS UNSECURED.

37 (b) MAY BE WITHOUT FIXED MATURITIES OR LIMITATION AS TO THE LENGTH OF
38 TERM.

39 (c) ARE SUBJECT TO PREPAYMENT IN WHOLE OR IN PART AT ANY TIME WITHOUT
40 PENALTY.

41 8. "LICENSEE" MEANS A PERSON LICENSED PURSUANT TO THIS CHAPTER.

42 9. "REGULARLY ENGAGED IN THE BUSINESS" MEANS EITHER:

43 (a) ADVERTISING TO OR ANY OTHER SOLICITATION OF A RESIDENT OF THIS
44 STATE THAT OFFERS A FLEX LOAN AND THAT OCCURS WITHIN THIS STATE.

1 (b) MAKING THREE OR MORE FLEX LOANS WITHIN A CALENDAR YEAR TO
2 RESIDENTS OF THIS STATE.

3 6-1802. Exemptions

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

5 1. DOES BUSINESS UNDER ANY OTHER LAW OF THIS STATE OR ANY OTHER STATE
6 WHILE REGULATED BY A STATE AGENCY OF THAT OTHER STATE OR OF THE UNITED STATES
7 RELATING TO BANKS, SAVINGS BANKS, TRUST COMPANIES, SAVINGS AND LOAN
8 ASSOCIATIONS, PROFIT SHARING AND PENSION TRUSTS, CREDIT UNIONS, INSURANCE
9 COMPANIES OR RECEIVERSHIPS IF THE FLEX LOAN TRANSACTIONS ARE REGULATED BY THE
10 OTHER LAW OR ARE UNDER THE JURISDICTION OF A COURT.

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

14 3. IS NOT REGULARLY ENGAGED IN THE BUSINESS OF MAKING FLEX LOANS.

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

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

19 1. OPEN-END LOANS OF MORE THAN THREE THOUSAND DOLLARS.

20 2. ADVANCES ON OPEN-END REVOLVING LOANS THAT ARE NOT SECURED BY THE
21 CONSUMER'S PRINCIPAL RESIDENCE WITH AN AGREED ON CREDIT LIMIT OF MORE THAN
22 THREE THOUSAND DOLLARS, REGARDLESS OF THE AMOUNT OF ANY ADVANCES ON THESE
23 REVOLVING LOANS.

24 3. CONSUMER LOANS MADE UNDER CHAPTER 5 OF THIS TITLE.

25 4. FLEX LOANS THAT ARE LAWFULLY MADE TO NONRESIDENTS OF THIS STATE
26 PURSUANT TO A FLEX LOAN LAW OF ANOTHER STATE SIMILAR IN PRINCIPLE TO THIS
27 CHAPTER.

28 5. EDUCATIONAL LOANS THAT ARE EITHER:

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

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

34 6-1803. License; applicability; contents of application; fees;
35 nontransferable

36 A. UNLESS EXEMPT UNDER SECTION 6-1802, A PERSON, WHETHER LOCATED IN
37 THIS STATE OR IN ANOTHER STATE, MAY NOT ENGAGE IN THE BUSINESS OF A FLEX LOAN
38 WITHOUT FIRST BEING LICENSED AS A FLEX LOAN LENDER BY THE SUPERINTENDENT.

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

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

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

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

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

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

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

13 3. HAS FAILED TO PAY THE LICENSE FEE.

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

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

26 6-1804. Issuance of license; license year; requirements

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

31 B. THE LICENSE YEAR FOR A LICENSEE BEGINS ON JULY 1 AND ENDS ON JUNE
32 30 OF EACH YEAR. A FLEX LOAN LENDER SHALL APPLY FOR RENEWAL AS PRESCRIBED BY
33 THE SUPERINTENDENT NOT LATER THAN JUNE 30 OF EACH YEAR. A LICENSE FOR WHICH
34 A RENEWAL APPLICATION IS NOT RECEIVED BY THE SUPERINTENDENT BY JUNE 30 IS
35 SUSPENDED AND THE FLEX LOAN LENDER MAY NOT ACT AS A FLEX LOAN LENDER UNTIL
36 THE LICENSE IS RENEWED OR A NEW LICENSE IS ISSUED PURSUANT TO THIS ARTICLE.
37 THE LICENSE OF A FLEX LOAN LENDER THAT HAS NOT FILED A RENEWAL APPLICATION
38 AND PAID THE RENEWAL FEE BY JULY 31 EXPIRES.

39 C. ALL LICENSES ISSUED REMAIN IN FULL FORCE UNTIL SURRENDERED, REVOKED
40 OR SUSPENDED.

41 D. A LICENSE REMAINS THE PROPERTY OF THIS STATE. ON TERMINATION AT
42 THE REQUEST OF THE LICENSEE OR REVOCATION BY THE SUPERINTENDENT, THE LICENSEE
43 SHALL IMMEDIATELY DELIVER THE LICENSE TO THE SUPERINTENDENT. TERMINATION OF
44 THE LICENSE DOES NOT AFFECT ANY OTHER LIABILITY OF THE LICENSEE.

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

10 F. A LICENSEE SHALL PROMINENTLY DISPLAY THE FLEX LOAN LICENSE IN THE
11 OFFICE OF THE FLEX LOAN LENDER AND ANY BRANCH OFFICE LICENSE IN THAT BRANCH
12 OFFICE.

13 6-1805. Denial of renewal; suspension; revocation

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

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

32 B. THE SUPERINTENDENT MAY ALSO DENY RENEWAL OF A LICENSE OR SUSPEND OR
33 REVOKE A LICENSE IF THE SUPERINTENDENT FINDS THAT ANY FACT OR CONDITION
34 EXISTS THAT, IF IT HAD EXISTED AT THE TIME OF THE ORIGINAL APPLICATION FOR
35 THE LICENSE, WOULD HAVE CLEARLY WARRANTED THE SUPERINTENDENT TO REFUSE TO
36 ISSUE THE LICENSE.

37 6-1806. Business limited to licensed locations; restrictions

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

42 B. A LICENSEE MAY:

- 43 1. MAKE FLEX LOANS BY MAIL OR ELECTRONIC MEANS.
- 44 2. ON REQUEST, MAKE ACCOMMODATIONS TO CONSUMERS AT ANY LOCATION
45 REQUESTED BY THE CONSUMER.

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

4 C. ON APPROVAL BY THE SUPERINTENDENT, THE LICENSEE MAY CONDUCT ANY OF
5 THE ACTIVITIES LISTED IN SUBSECTION B OF THIS SECTION OUTSIDE OF THIS STATE.

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

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

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

26 6-1807. Books; accounts; records; access

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

30 B. A LICENSEE SHALL PRESERVE ITS BOOKS, ACCOUNTS AND RECORDS OF FLEX
31 LOANS FOR AT LEAST TWO YEARS AFTER MAKING THE FINAL ENTRY FOR ANY FLEX LOAN.
32 A LICENSEE THAT USES AN ELECTRONIC RECORDKEEPING SYSTEM IS NOT REQUIRED TO
33 KEEP A WRITTEN COPY OF THE ACCOUNTS AND RECORDS IF THE LICENSEE IS ABLE TO
34 GENERATE ALL OF THE INFORMATION REQUIRED BY THIS SECTION IN A TIMELY MANNER
35 FOR EXAMINATION OR OTHER PURPOSES.

36 C. EVERY LICENSEE SHALL OBSERVE GENERALLY ACCEPTED ACCOUNTING
37 PRINCIPLES AND PRACTICES.

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

43 E. FOR THE PURPOSES OF THIS CHAPTER, THE SUPERINTENDENT OR THE
44 SUPERINTENDENT'S DULY AUTHORIZED REPRESENTATIVES SHALL HAVE ACCESS DURING
45 NORMAL BUSINESS HOURS TO THE OFFICES AND PLACES OF BUSINESS, FILES, SAFES AND

1 VAULTS OF ALL LICENSEES REGARDING THAT BUSINESS OR THE SUBJECT MATTER OF ANY
2 EXAMINATION, INVESTIGATION OR HEARING.

3 6-1808. Annual report of licensee; civil penalty for failure to
4 file

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

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

15 C. IF A LICENSEE FAILS TO FILE THE ANNUAL REPORT WITHIN THE SPECIFIED
16 TIME, THE SUPERINTENDENT MAY ASSESS A CIVIL PENALTY FOR THE FAILURE TO FILE
17 THE ANNUAL REPORT UNLESS AN EXTENSION OF TIME IS GRANTED BY THE
18 SUPERINTENDENT IN WRITING BEFORE THE DUE DATE OF THE ANNUAL REPORT. THE
19 SUPERINTENDENT MAY NOT ASSESS A PENALTY OF MORE THAN FIVE DOLLARS PER DAY.
20 THE LICENSEE SHALL PAY THE PENALTY TO THE SUPERINTENDENT WITHIN THIRTY DAYS
21 AFTER THE ASSESSMENT.

22 6-1809. Reporting rates; change in rates; report of
23 superintendent

24 A. AT THE TIME OF MAKING ITS ANNUAL REPORT TO THE SUPERINTENDENT, EACH
25 LICENSEE SHALL REPORT THE LICENSEE'S STANDARD ANNUAL PERCENTAGE RATE OR RANGE
26 OF ANNUAL PERCENTAGE RATES IN EFFECT AT THAT TIME ON THE FOLLOWING TYPES OF
27 LOANS:

28 1. A FIVE HUNDRED DOLLAR UNSECURED FLEX LOAN, AMORTIZED SHOWING THE
29 MINIMUM PAYMENTS PERMITTED BY STATUTE.

30 2. A ONE THOUSAND FIVE HUNDRED DOLLAR FLEX LOAN, AMORTIZED SHOWING THE
31 MINIMUM PAYMENTS PERMITTED BY STATUTE.

32 3. A THREE THOUSAND DOLLAR FLEX LOAN, AMORTIZED SHOWING THE MINIMUM
33 PAYMENTS PERMITTED BY STATUTE.

34 B. THE AMOUNT OF EACH OF THE FLEX LOANS DESCRIBED IN SUBSECTION A OF
35 THIS SECTION REFERS TO THE AMOUNT FINANCED AS COMPUTED PURSUANT TO THE TRUTH
36 IN LENDING ACT (P.L. 90-321, 82 STAT. 146, 15 UNITED STATES CODE SECTIONS
37 1601 THROUGH 1667f).

38 C. ON AT LEAST AN ANNUAL BASIS THE SUPERINTENDENT SHALL COMPILE A
39 REPORT OF THE STANDARD ANNUAL PERCENTAGE RATE OR RANGE OF ANNUAL PERCENTAGE
40 RATES OF EACH LICENSEE FOR THE TYPES OF LOANS DESCRIBED IN SUBSECTION A OF
41 THIS SECTION. THE SUPERINTENDENT SHALL DISSEMINATE THIS REPORT IN A MANNER
42 DEEMED APPROPRIATE BY THE SUPERINTENDENT, AND THE SUPERINTENDENT SHALL MAKE
43 THE REPORT AVAILABLE TO THE PUBLIC FOR INSPECTION AND COPYING.

1 UNITED STATES CODE SECTION 987) OR ANY REGULATION ADOPTED PURSUANT TO THAT
2 ACT, INCLUDING 32 CODE OF FEDERAL REGULATIONS PART 232, OF A PERSON LISTED IN
3 PARAGRAPHS 1 AND 2 OF THIS SUBSECTION.

4 E. A LICENSEE MAY NOT MAKE A FLEX LOAN TO A PERSON UNLESS THAT PERSON
5 HAS EITHER:

6 1. SIGNED AND PROVIDED TO THE LICENSEE AS PART OF THE LOAN, A
7 STATEMENT ATTESTING TO WHETHER OR NOT THE PERSON IS A MILITARY MEMBER OR
8 DEPENDENT AS DEFINED AS A "COVERED BORROWER" IN THE JOHN WARNER DEFENSE
9 AUTHORIZATION ACT FOR FISCAL YEAR 2007. SUCH STATEMENT SHALL BE IN THE FORM
10 AS MAY BE SET BY THE SUPERINTENDENT BY RULE, OR MAY CONFORM WITH THAT
11 PROVIDED BY FEDERAL LAW OR REGULATION REGARDING COVERED BORROWERS BY THE
12 UNITED STATES DEPARTMENT OF DEFENSE.

13 2. USED ANOTHER AUTHORIZED METHOD TO DETERMINE THE PERSON IS NOT A
14 COVERED BORROWER AS MAY BE SET OUT IN FEDERAL LAW OR BY UNITED STATES DEFENSE
15 DEPARTMENT REGULATIONS.

16 F. ANY LOAN MADE IN VIOLATION OF THE JOHN WARNER NATIONAL DEFENSE
17 AUTHORIZATION ACT IS VOID.

18 6-1812. Rules

19 THE SUPERINTENDENT SHALL ADOPT RULES THAT ARE NECESSARY TO REGULATE THE
20 PROPER CONDUCT OF LICENSEES.

21 6-1813. Restriction; voidable loans

22 A. EXCEPT AS THE RESULT OF AN ACCIDENTAL OR BONA FIDE ERROR, IF THE
23 LICENSEE CHARGES, CONTRACTS FOR OR RECEIVES ANY AMOUNT IN EXCESS OF THE
24 FINANCE CHARGES AND OTHER FEES PERMITTED BY THIS CHAPTER, FAILS TO PROMPTLY
25 REFUND THE OVERCHARGES ON DISCOVERY AND THE LINE OF CREDIT PROVIDED TO A
26 CONSUMER ON A FLEX LOAN IS GREATER THAN THREE THOUSAND DOLLARS, THAT FLEX
27 LOAN IS VOIDABLE AND THE LICENSEE HAS NO RIGHT TO COLLECT OR RECEIVE ANY
28 PRINCIPAL, FINANCE CHARGES OR OTHER FEES IN CONNECTION WITH THAT FLEX LOAN.

29 B. ANY FLEX LOAN THAT IS MADE BY A PERSON THAT IS REQUIRED TO BE
30 LICENSED PURSUANT TO THIS CHAPTER BUT THAT IS NOT LICENSED IS VOID AND THE
31 PERSON MAKING THAT FLEX LOAN HAS NO RIGHT TO COLLECT, RECEIVE OR RETAIN ANY
32 PRINCIPAL, FINANCE CHARGES OR OTHER FEES IN CONNECTION WITH THAT FLEX LOAN.

33 6-1814. Noncompliance

34 EXCEPT AS PROVIDED IN SECTION 6-1813, A FAILURE TO COMPLY WITH THIS
35 CHAPTER DOES NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF ANY FLEX LOAN.

36 ARTICLE 2. REQUIREMENTS FOR FLEX LOANS

37 6-1831. Disclosures; civil penalty

38 A. TO THE EXTENT APPLICABLE, A LICENSEE SHALL COMPLY WITH THE
39 DISCLOSURE REQUIREMENTS OF THE TRUTH IN LENDING ACT (P.L. 90-321, 82 STAT.
40 146, 15 UNITED STATES CODE SECTIONS 1601 THROUGH 1667f).

41 B. EACH NOTE OR AGREEMENT EVIDENCING A FLEX LOAN SHALL CONTAIN THE
42 FOLLOWING DISCLOSURE STATEMENT IN AT LEAST TEN-POINT TYPE THAT IS IN ENGLISH
43 AND IN SPANISH AND IN CLOSE PROXIMITY TO THE CONSUMER'S SIGNATURE LINE OR,
44 ALTERNATIVELY A LICENSEE MAY PROVIDE THE BORROWER WITH THE DISCLOSURES
45 REQUIRED BY THIS SECTION IN A MOBILE OR OTHER ELECTRONIC APPLICATION, ON

1 WHICH THE SIZE OF THE TYPE FACE OF THE DISCLOSURE CAN BE MANUALLY MODIFIED BY
2 A PROSPECTIVE BORROWER, IF THE PROSPECTIVE BORROWER IS GIVEN THE OPTION TO
3 PRINT THE DISCLOSURE IN A TYPE FACE OF AT LEAST TWELVE POINT SIZE OR IS
4 PROVIDED BY THE LICENSEE WITH A HARD COPY OF THE DISCLOSURE IN A TYPE FACE OF
5 AT LEAST TWELVE POINT SIZE BEFORE THE LOAN IS CONSUMMATED:

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

10 C. A LICENSEE SHALL CONTINUOUSLY AND CONSPICUOUSLY DISPLAY A SIGN
11 PRINTED IN AT LEAST TWELVE-POINT BOLD TYPE CONTAINING THE NOTICE PRESCRIBED
12 BY SUBSECTION B OF THIS SECTION AND THE FOLLOWING NOTICE AT EACH DESK IN EACH
13 LICENSED OFFICE OR BRANCH OFFICE AT WHICH FLEX LOANS ARE USUALLY AND NORMALLY
14 CLOSED:

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

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

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

23 E. A LICENSEE SHALL GIVE TO THE CONSUMER A RECEIPT OR ANOTHER WRITTEN
24 RECORD OF THE AMOUNT OF ANY PAYMENT MADE IN CURRENCY ON ANY FLEX LOAN, EITHER
25 AT THE TIME THE PAYMENT IS MADE OR WITHIN TEN DAYS AFTER THE PAYMENT IS MADE,
26 OR THE LICENSEE MAY REFLECT THE PAYMENT ON THE PERIODIC STATEMENT SENT TO THE
27 CONSUMER FOR THE BILLING PERIOD THAT INCLUDES THE DATE OF THAT PAYMENT.

28 F. A LICENSEE SHALL PROVIDE CUSTOMERS WITH A PERIODIC BILLING
29 STATEMENT IN COMPLIANCE WITH THE TRUTH IN LENDING ACT (P.L. 90-321, 82 STAT.
30 146, 15 UNITED STATES CODE SECTIONS 1601 THROUGH 1667f).

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

34 6-1832. Amount of loan; finance charges

35 A LICENSEE MAY OFFER A FLEX LOAN OF NOT MORE THAN THREE THOUSAND
36 DOLLARS. A LICENSEE MAY CONTRACT FOR AND RECEIVE FINANCE CHARGES ON FLEX
37 LOANS AT A RATE OF NOT MORE THAN THIRTY-SIX PERCENT PER ANNUM.

38 6-1833. Computation of finance charges

39 A. A LICENSEE SHALL COMPUTE PERIODIC FINANCE CHARGES ON FLEX LOANS ON
40 THE UNPAID PRINCIPAL BALANCE OF THE FLEX LOAN BY EITHER OF THE FOLLOWING
41 METHODS:

42 1. BY MULTIPLYING THE DAILY PERIODIC RATE BY THE ACTUAL UNPAID BALANCE
43 OF THE FLEX LOAN EACH DAY DURING THE BILLING CYCLE PERIOD. THE DAILY
44 PERIODIC RATE SHALL BE DETERMINED BY DIVIDING THE ANNUAL PERCENTAGE RATE BY
45 THREE HUNDRED SIXTY-FIVE.

1 2. BY MULTIPLYING THE MONTHLY PERIODIC RATE BY THE AVERAGE DAILY
2 BALANCE OF THE FLEX LOAN DURING THE BILLING CYCLE. THE AVERAGE DAILY BALANCE
3 IS THE SUM OF THE UNPAID BALANCES OF THE FLEX LOAN EACH DAY DURING THE
4 BILLING CYCLE PERIOD DIVIDED BY THE NUMBER OF DAYS IN THE BILLING CYCLE
5 PERIOD. THE MONTHLY PERIODIC RATE IS DETERMINED BY DIVIDING THE ANNUAL
6 PERCENTAGE RATE BY TWELVE. THE UNPAID BALANCE ON ANY DAY IS DETERMINED BY
7 ADDING TO ANY BALANCE UNPAID AS OF THE BEGINNING OF THAT DAY ALL ADVANCES AND
8 ALLOWED ADDITIONAL FEES AND DEDUCTING ALL PAYMENTS AND OTHER CREDITS TO THE
9 FLEX LOAN THAT DAY.

10 B. A LICENSEE MAY COMPUTE FINANCE CHARGES ONLY ON THE UNPAID PRINCIPAL
11 BALANCE. A LICENSEE MAY NOT COMPOUND FINANCE CHARGES.

12 6-1834. Repayment of flex loan

13 A FLEX LOAN SHALL REQUIRE MINIMUM PAYMENTS ON OR BEFORE THE DUE DATE OF
14 EACH BILLING CYCLE, INSTALLMENTS OF PRINCIPAL, FINANCE CHARGES AND FEES
15 COMBINED WITH A MINIMUM MONTHLY PAYMENT THAT REDUCES THE PRINCIPAL
16 OUTSTANDING LOAN BALANCE EACH MONTH BY NOT LESS THAN FIVE PERCENT. THE FIRST
17 BILLING CYCLE OF A FLEX LOAN IS DUE NOT LESS THAN FIFTEEN DAYS BUT NOT MORE
18 THAN FORTY-FIVE DAYS AFTER THE FLEX LOAN IS MADE.

19 6-1835. Other allowable fees; annual reporting

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

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

26 2. A CUSTOMARY FEE TO DEFRAY THE ORDINARY COSTS OF OPENING,
27 ADMINISTRATING AND TERMINATING A FLEX LOAN PLAN, INCLUDING COSTS ASSOCIATED
28 WITH:

- 29 (i) UNDERWRITING AND DOCUMENTING THE ACCOUNT.
- 30 (ii) SECURING AND MAINTAINING THE ACCOUNT INFORMATION.
- 31 (iii) VALIDATING CONSUMER INFORMATION.
- 32 (iv) OFFERING ELECTRONIC AND TELEPHONE ACCESS TO ACCOUNTS.
- 33 (v) PROCESSING ACCOUNT TRANSACTIONS.
- 34 (vi) RESPONDING TO CONSUMER INQUIRIES.
- 35 (vii) PROVIDING PERIODIC BILLING STATEMENTS.
- 36 (viii) ALL OTHER SERVICES OR ACTIVITIES CONDUCTED BY THE LICENSEE

37 UNDER THE FLEX LOAN PLAN.

38 3. COURT COSTS.

39 4. REASONABLE ATTORNEY FEES IF THE FLEX LOAN IS REFERRED FOR
40 COLLECTION TO AN ATTORNEY OTHER THAN A SALARIED EMPLOYEE OF THE LICENSEE.

41 B. THE CUSTOMARY FEE DESCRIBED IN SUBSECTION A, PARAGRAPH 2 OF THIS
42 SECTION IS NOT INTEREST AND MAY NOT EXCEED A DAILY RATE OF ONE-HALF OF ONE
43 PERCENT OF THE ACTUAL UNPAID DAILY PRINCIPAL BALANCE IN ANY BILLING CYCLE.
44 THE CUSTOMARY FEE IS A FINANCE CHARGE UNDER THE FEDERAL TRUTH IN LENDING ACT
45 AND MUST BE INCLUDED IN THE CALCULATION OF ANY ANNUAL PERCENTAGE RATE.

1 C. IF A LICENSEE RECEIVES A CHECK, DRAFT, NEGOTIABLE ORDER OF
2 WITHDRAWAL OR SIMILAR INSTRUMENT DRAWN ON A DEPOSITORY INSTITUTION THAT IS
3 OFFERED BY A CONSUMER IN FULL OR PARTIAL PAYMENT ON A FLEX LOAN AND THE
4 INSTRUMENT IS NOT PAID OR IS DISHONORED BY THE DEPOSITORY INSTITUTION, THE
5 LICENSEE MAY CHARGE AND COLLECT FROM THE CONSUMER A DISHONORED CHECK SERVICE
6 FEE EQUAL TO THE ACTUAL CHARGES ASSESSED BY THE FINANCIAL INSTITUTION OF THE
7 HOLDER OR PAYEE OR THE ASSIGNEE OF THE HOLDER OR PAYEE AS A RESULT OF THE
8 DISHONORED INSTRUMENT.

9 D. IN ADDITION TO THE FINANCE CHARGES AND FEES PROVIDED IN THIS
10 ARTICLE, THE LICENSEE MAY NOT DIRECTLY OR INDIRECTLY CHARGE, CONTRACT FOR OR
11 RECEIVE ANY FURTHER OR OTHER AMOUNT IN CONNECTION WITH A FLEX LOAN.

12 E. IN CONJUNCTION WITH THE REPORTING REQUIREMENTS PRESCRIBED IN
13 SECTION 6-1809, ON OR BEFORE OCTOBER 1 EACH YEAR, A LICENSEE SHALL REPORT TO
14 THE SUPERINTENDENT THE NUMBER OF FLEX LOANS UNDER ONE THOUSAND DOLLARS MADE
15 IN THE PRIOR TWO YEARS.

16 6-1836. Loans from theft or fraud; consumer not responsible;
17 correction of credit information

18 A LICENSEE MAY NOT HOLD A PERSON RESPONSIBLE FOR ANY LOAN AMOUNT THAT
19 IS INCURRED AS A RESULT OF A VIOLATION OF SECTION 13-2008, 13-2009, 13-2010
20 OR 13-2310. WITHIN THIRTY DAYS AFTER A LICENSEE IS AWARE THAT A LOAN IS A
21 RESULT OF A VIOLATION OF SECTION 13-2008, 13-2009, 13-2010 OR 13-2310, THE
22 LICENSEE SHALL IMMEDIATELY CORRECT ANY DEROGATORY CREDIT INFORMATION THAT IS
23 REPORTED TO A CONSUMER REPORTING AGENCY AS DEFINED IN SECTION 44-1691 AND
24 THAT IS THE RESULT OF THE VIOLATION.