

Chapter 516 Small Dollar Installment Loan Comparison Chart 2018

	Subject	HB 747 (Santiago) SB 640 (Rouson) [Insikt]	Current Florida Law – Chapter 516
1.	Type	Pilot Program (“Program”) – Added as part of Chapter 516.	Chapter 516
2.	Loan Amount	Principal of \$300 to \$10,000	Principal up to \$25,000
3.	Additional Regulator Approval	Required	Ongoing
4.	Collateral	Unsecured	Secured and unsecured
5.	Minimum/Maximum Loan Term	120 days minimum/60 month maximum	None
6.	Prepayment Penalty	Not allowed	Not addressed. Sec. 516.15 provides for payment prior to maturity but does not specifically ban a prepayment penalty.
7.	Payments	Substantially equal weekly, biweekly, semimonthly or monthly	Monthly installments
8.	Right to Rescind	One business day. Must disclose to the borrower.	Only with certain secured loans under TILA
9.	Interest Rate Maximum	-up to \$3000 – 36% -\$3000 to \$4000 – 30% -Over \$4000 – 24% all per annum	-up to \$3000 – 30% -\$3000 to \$4000 – 24% -Over \$4000 – 18% all per annum
10.	Subsequent Loan terms	Licensee must reduce the interest rate by at least 1/12 of 1% on each subsequent program loan that is (a) made no more than 180 days after satisfaction of the prior loan, (b) if the borrower was never more than 15 days late on the prior loan, and (c) if the prior loan was outstanding for at least half of its original term before satisfaction.	Not addressed
11.	Number of Loans	Lender may not “induce or permit” borrower to have more than one “program loan” with the same lender.	Lender may not obligate a person or family to more than one contract at the same time to obtain a greater financing charge. Sec. 516.031(4)
12.	Refinancing	At the time of the loan application, the following applies to the existing loan: (a) the principal may not include more than 60 days’ interest on the existing loan, (b) if loan is up to 25 months, at least 60% of the principal has been paid; if over 25 month	If consideration for a new loan is all or part of the unpaid principal of a prior loan with licensee, new loan may include no more than 60 days unpaid interest accrued prior to loan. Sec. 516.031(5)

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		loan term, current at least 9 months on existing loan, (c) the loan is current, (d) new loan is underwritten.	
13.	Payment Receipts	Licensee or referral partner must provide an electronic or paper receipt when payments are made.	Give borrower a receipt at time payment is made or furnish to borrower and annual statement; but for cash, must give receipt if requested in writing by borrower. Sec. 516.15(2)
14.	Foreign Language	The loan contract and disclosures may be provided in a foreign language (instead of English) if the loan was negotiated in that language.	Contracts delivered in the English language. Sec. 516.15(1)
15.	Origination Fee	The lesser of \$75 or 6% of the principal (exclusive of the fee). May be capitalized or deducted from the principal. Cannot charge more than twice in any 12-monthly period. Non refundable after loan made.	\$25 to reimburse costs for credit check. Sec. 516.031(3)(a)1
16.	Nonsufficient Funds Fee	\$20	\$20 or an amount equal to the actual charge made to the lender by the bank. Sec. 516.031(3)(a)9(b)
17.	Late Fee	\$15 for any payment in default for at least 10 days. Appears multiple late fees could be charged in a month on loans payable every two weeks or bimonthly.	Late fee of \$15 for any payment in default for 10 days or more. Sec. 516.031(3)(a)9
18.	Debt Sale Restrictions	Cannot sell or assign the debt to an independent third party for collection purposes unless the debt has been delinquent for at least 30 days.	Not addressed
19.	Credit Education	Before disbursement, either (a) direct the borrower to the consumer credit counseling services offered at no cost by an independent third party, or (b) provide a no-cost credit education program or seminar to the borrower. The borrower's participation is optional.	Establishes requirement for OFR to promote consumer credit counseling service at Section 516.32.
20.	Credit Reporting	Payment performance must be reported to at least one nationwide consumer reporting agency (CRA). Before approval	Not addressed though most Chapter 516 lenders do report to credit reporting agency

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		for participating in the program will be granted, the licensee must be accepted as a data furnisher by a CRA. The licensee must disclose to the borrower the names of the CRA's to which it will report payment history.	
21.	Underwriting - DTI	Total monthly debt service payments may not exceed 35% of borrower's gross monthly income at time of the loan origination.	Not addressed though most Chapter 516 lenders engage in proprietary loan underwriting.
22.	Underwriting - Debt Verification	Must seek information and documentation regarding all outstanding debt, including self-reported debt. Lender then must verify debt through a credit report. Not required to consider loans from friends and family.	Not addressed though most Chapter 516 lenders engage in proprietary loan underwriting.
23.	Underwriting – Income Verification	Must verify income using (a) reliable electronic means or service, or (b) W-2, tax returns, payroll receipts, bank statements or other reliable third-party evidence.	Not addressed though most Chapter 516 lenders engage in proprietary loan underwriting.
24.	Pre-dispute Arbitration Agreements	Cannot require waiver of any legal right, penalty, remedy, forum or procedure, including the right to pursue a civil action or complaint with a government entity.	Not addressed
25.	Choice of Law/Forum Selection	Cannot require agreement to another state's law or to another state's jurisdiction.	Not addressed
26.	Waivers of Other Rights	Cannot require a borrower to waive any other legal right, penalty, <i>etc.</i> , as a condition of obtaining the loan. Cannot discriminate against a borrower because s/he has refused to waive a legal right, penalty, <i>etc.</i> , or has exercised such rights. Does not prohibit agreement to arbitrate after the dispute has arisen.	Not addressed
27.	Electronic Payments	Not addressed	Not addressed
27a	Sales of Ancillary Products	Allowed	Allowed

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28.	Referral Partners	<p>Provides for use of multiple referral partners. Requires a written agreement between the licensee and the referral partner, and the Office must have access to the referral partner's records.</p> <p>The referral partner may perform the following services for a licensee at the partners' physical location: (a) distributing brochures, <i>etc.</i>, pre-approved by the licensee; (b) providing factual written information about loan terms, qualifications, <i>etc.</i>, pre-approved by the licensee; (c) notifying applicants of information needed to complete an application; (d) entering borrower-provided information on an application form or computer database; (e) assembling credit applications; (f) contacting the licensee to check the status of the application; (g) returning a response to the applicant that is returned by the licensee's automated underwriting system; (h) obtaining the borrower's signature on documents prepared by the licensee and delivering final copies to the borrower; (i) disbursing loan proceeds to a borrower; (j) receiving loan payments on the licensee's behalf; and (k) operating an electronic access point through which a prospective borrower can access the licensee's website to apply for a loan.</p>	Provides that paying money to any person as compensation for referring loan applicants to licensee is allowed if the amount is not charged directly or indirectly to the borrower. Sec. 516.07(1)(k)
29.	Loan Payments Received by Referral Partners	Requirements for loan payments received by a referral partner, e.g., timely application of the payment to the loan, delivery of a receipt. Referral partner must retain for two years, records of all payments received and loan disbursements.	Not addressed
30.	Prohibit Activities by Referral Partners	A referral partner is prohibited from: (a)	Not addressed

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		counseling or advising the borrower or prospective borrower regarding any loan term; (b) providing loan related marketing materials that have not been pre-approved by the licensee; (c) negotiating a loan term between the licensee and the prospective borrower; (d) offering information about a single prospective borrower to more than one licensee, unless a licensee has declined the prospective borrower; (e) requiring the borrower to pay any fees or charges not permitted under the Pilot Program.	
31.	Referral Partner Disclosures	The referral partner must disclose the referral arrangement to the prospective partner at the time of the loan application. The referral partner must make a good faith effort to assist the applicant in making direct contact with the licensee.	Not addressed
32.	Referral Partner Compensation	Licensee may compensate the referral partner (a) only for loans that have been consummated, (b) compensation cannot be based on the principal loan amount, cannot be directly or indirectly passed on to the borrower, and cannot exceed \$60 per loan on average assessed annually and \$2 per loan payment received by the referral partner.	Amount paid for referring loan applicant to licensee cannot be charged directly or indirectly to the borrower. Sec. 516.07(1)(k)
33.	Notification of Referral Partner	Licensee must notify the Office if it uses a referral partner and that the licensee has conducted due diligence on the referral partner related to bankruptcy proceedings, license revocation/suspension proceedings, and criminal activity.	Not addressed
34.	Liability for referral Partner's Acts	Licensee is responsible for referral partner's acts that violate this chapter.	Not addressed
35.	Examinations	Requires the Office to examine each licensee to determine compliance with the	Not addressed

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		Program at least every 24 months, beginning January 1, 2019. The licensee must pay for the examination costs.	
36.	Disciplinary Action	Provides for disciplinary action by the Office against a licensee who violates, or against a licensee if a referral partner violates provisions of the Program, and against a referral partner who violates provisions of the Program.	Not addressed
37.	Annual Reports	<p>Licensees must file with the Office annual reports regarding Program loans made, on March 15. Beginning January 1, 2021, the Office must post a report on its website summarizing use of the program based on annual report data received. The data must be aggregated so as not to identify a specific licensee.</p> <p>Based on the data to be included in the annual report, a licensee must ask applicants for or otherwise obtain the following information: (a) the purpose of the loan, and (b) whether the borrower has a bank account. Additional data required to be reported.</p>	Not addressed
38.	Effective Date	October 1, 2018	NA
40.	Sunset Provision	December 31, 2022	NA