
DIGEST

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Ponti

HB No. 766

Abstract: Provides relative to licensing and record maintenance pursuant to the Louisiana Consumer Credit Law and the Louisiana Deferred Presentment and Small Loan Act.

Proposed law provides that a consumer credit transaction as defined by present law (R.S. 9:3516(13)) or deferred presentment transaction as defined by present law (R.S. 9:3578(2)) shall be null, void, unenforceable, and uncollectible as being contrary to the policy of this state if the creditor has not obtained a license from the Office of Financial Institutions if required to do so.

Present law prohibits a creditor from taking assignments of and undertaking direct collection of payments from or enforcing rights against consumers arising from consumer loans without an office in this state and first having obtained a license from the commissioner of the office of financial institutions (OFI).

Proposed law retains present law and removes requirement that the creditor have an office in this state.

Present law provides that a creditor having no office within this state who offers credit to Louisiana consumers through the mail and other means of interstate commerce is not required to be licensed by OFI.

Proposed law removes present law.

Present law provides that each licensee shall maintain a place of business in the state and, unless otherwise provided by rule, shall maintain records of its consumer loans at that location.

Proposed law provides that each licensee making consumer loans to Louisiana residents, shall maintain records of its consumer loans at the location stated on its license.

Present law provides that if the lender's records are located outside this state, the lender, at the commissioner's option, shall make them available to the commissioner at a location within this state convenient to the commissioner, or, pay the reasonable and necessary expenses for the commissioner or his representatives to examine them at the place where they are maintained. The commissioner may designate representatives, including comparable officials of the state in which the records are located, to inspect them on his behalf.

Proposed law adds that if the lender's records are located outside this state, the lender, at the

commissioner's option, shall make them available in a format deemed by the commissioner to be acceptable to include physical reproductions and digital electronically imaged records, or via electronic transmittal or delivery of optical imaging disc containing electronic copies of the records. The method of examination and delivery of records will be at the sole discretion of the commissioner.

Proposed law provides that any person required to be licensed pursuant to this Chapter shall, prior to application for licensure, be duly registered with the Louisiana secretary of state and be in possession of a certificate of authority to transact business pursuant to present law (R.S. 12:304 or 1345, or R.S. 9:3422), as applicable.

Effective September 30, 2014.

(Amends R.S. 9:3557(B), 3560(A)(8) and (9), 3561(A), and 3561.1(G)(1); Adds R.S. 9:3518.4 and 3561.2)