

Regular Session, 2014

HOUSE BILL NO. 766

BY REPRESENTATIVE PONTI

1 AN ACT

2 To amend and reenact R.S. 9:3557(B), 3560(A)(8), 3561(A), 3561.1(G)(1), 3578.4(A)(2),  
3 and 3578.7, to enact R.S. 9:3518.4, 3561.2, and 3578.4.1, and to repeal R.S.  
4 9:3560(A)(9), relative to record maintenance for and licensees of consumer credit  
5 transactions; to nullify certain consumer transactions and deferred presentment  
6 transactions; to provide relative to the location of offices of makers of consumer  
7 loans; to provide relative to records retention of makers of consumer loans; to  
8 provide relative to makers of consumer loans registration with the secretary of state;  
9 to permit certain licensees to offer extended payment plans prior to default of certain  
10 consumer credit or deferred presentment transactions; to provide relative to notice  
11 requirements for certain consumer credit or deferred presentment transactions; to  
12 provide for an effective date; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 9:3557(B), 3560(A)(8), 3561(A), 3561.1(G)(1), and 3578.4(A)(2)  
15 and 3578.7 are hereby amended and reenacted and R.S. 9:3518.4, 3561.2, and 3578.4.1 are  
16 hereby enacted to read as follows:

17 §3518.4. Contract validity; consumer credit transactions; deferred presentment  
18 transactions

19 A.(1) A consumer credit transaction as defined by R.S. 9:3516(13) or  
20 deferred presentment transaction as defined by R.S. 9:3578.3(2) shall be null, void,  
21 unenforceable, and uncollectible as being contrary to the policy of this state if the  
22 creditor has not obtained a license, if required by this Chapter or R.S. 9:3578.1 et  
23 seq., at the time the transaction is made.



1 the commissioner has not objected, and such creditor promptly applies for a license  
2 and his application has not been denied.

3 \* \* \*

4 §3560. Licenses not required

5 A. Notwithstanding R.S. 9:3557, the following persons shall be exempt from  
6 the consumer loan licensing requirements under this Part:

7 \* \* \*

8 (8) ~~A creditor having no office within this state offering credit to Louisiana~~  
9 ~~consumers through the mails and other means of interstate commerce.~~

10 (9) Unless otherwise provided by rule or regulation of the commissioner,  
11 persons whose lending activities pertain to federally related mortgage loans, and who  
12 are subject to licensing, supervision or auditing by the Federal National Mortgage  
13 Association, the Federal Home Loan Mortgage Corporation, the ~~Governmental~~  
14 Government National Mortgage Association, the ~~Veterans Administration~~ United  
15 States Department of Veterans Affairs, or the United States Department of Housing  
16 and Urban Development. Such lenders may also make loans secured by a second or  
17 junior lien or mortgage on owner-occupied one-to-four family residential immovable  
18 property made contemporaneously with federally related mortgage loans or as part  
19 of a mortgage revenue bond loan program, or sold on the secondary market to the  
20 Federal National Mortgage Association, the Federal Home Loan Mortgage  
21 Corporation, or the ~~Governmental~~ Government National Mortgage Association, and  
22 the entity sells ten or fewer of such loans over any calendar year.

23 \* \* \*

24 §3561. Single place of business; additional licenses

25 A. Each licensee ~~shall maintain a place of business in the state and, unless~~  
26 ~~otherwise provided by rule, making consumer loans to Louisiana residents~~ shall  
27 maintain records of its consumer loans at ~~that~~ the location stated on its license. Not  
28 more than one place of business shall be maintained under the same license, but the

1 commissioner shall issue additional licenses to the same licensed lender upon his  
2 compliance with all the provisions of this Part governing issuance of a license.

3 \* \* \*

4 §3561.1. License; examination; renewal fees; records

5 \* \* \*

6 G.(1) If the lender's records are located outside this state, the lender, at the  
7 commissioner's option, shall make them available in a format deemed by the  
8 commissioner to be acceptable to include physical reproductions and digital  
9 electronically imaged records. The lender shall make these available to the  
10 commissioner at a location within this state convenient to the commissioner, or via  
11 electronic transmittal or delivery of optical imaging disc containing electronic copies  
12 of the records, or pay the reasonable and necessary expenses for the commissioner  
13 or his representatives to examine them at the place where they are maintained. The  
14 method of examination and delivery of records will be at the sole discretion of the  
15 commissioner. The commissioner may designate representatives, including  
16 comparable officials of the state in which the records are located, to inspect them on  
17 his behalf.

18 \* \* \*

19 §3561.2. Registration of licensees with the secretary of state

20 Any person required to be licensed pursuant to this Chapter shall, prior to  
21 application for licensure, be duly registered with the Louisiana secretary of state and  
22 be in possession of a certificate of authority to transact business pursuant to R.S.  
23 12:304 or 1345 or R.S. 9:3422, as applicable.

24 \* \* \*

25 §3578.4. Finance charge and fees

26 A.

27 \* \* \*

28 (2) ~~However, if~~ If the loan remains unpaid at contractual maturity, the  
29 licensee may charge ~~one of the following:~~



1           (a) Allow the consumer to repay the outstanding deferred presentment  
2           transaction or small loan, including any fees due prior to entering into the plan, in at  
3           least four substantially equal installments.

4           (b) Allow the consumer to prepay sums due pursuant to an extended  
5           payment plan in full at any time without penalty.

6           (c) Prohibit the licensee from charging the consumer any interest, or  
7           additional charges or fees during the term of the plan.

8           (d) Require that the first plan installment shall be due no sooner than thirty  
9           days following the execution of the plan, unless a shorter period of time is agreed to  
10          by the consumer and licensee based on when the consumer receives income. The  
11          dollar amount of each installment shall be substantially the same and the installment  
12          due dates shall be spread out substantially evenly over the term of the extended  
13          payment plan.

14          (2) The terms of the extended payment plan may permit the licensee to do  
15          either of the following:

16               (a) With each payment under the plan by a consumer, provide for the return  
17               of the consumer's previously held check and require a new check for the remaining  
18               balance under the plan.

19               (b) Require the consumer to provide multiple checks, one for each of the  
20               installments in the amounts of each installment at the time the plan is executed.

21               D. A licensee shall immediately provide consumer receipts, signed and dated  
22               by the licensee, for any payments made in connection with the extended payment  
23               plan. The receipts shall also state the balance due under the extended payment plan  
24               after each payment.

25               E.(1) If the consumer fails to pay any extended payment plan installment  
26               when due, the consumer shall be in default of the extended payment plan, and the  
27               licensee may immediately accelerate payment on only the remaining balance of the  
28               extended payment plan.

29               (2) Upon default, the licensee may take action to collect only the amount  
30               outstanding on the extended payment plan. A licensee is prohibited from collecting

1           any amount on an extended payment plan other than what the consumer owes  
2           pursuant to the plan on the date of default.

3           F. If a consumer enters into an extended payment plan, the consumer and  
4           licensee are prohibited from entering into a subsequent deferred presentment  
5           transaction or small loan until repayment in full of the extended payment plan.

6           G.(1) At each licensed location or on the homepage of a licensee's website,  
7           the licensee shall prominently post a notice visible to the public and all those visiting  
8           the website stating that if a consumer is unable to repay either a deferred presentment  
9           transaction or small loan when due, the consumer may enter into one extended  
10          payment plan for either a deferred presentment transaction or small loan if he notifies  
11          the licensee as required by Paragraph (B)(1) of this Section before the payment is  
12          due of his inability to make payment.

13          (2)(a) A licensee shall also notify a person of his right to enter into an  
14          extended payment plan by including the following statement, in at least sixteen point  
15          bold type, on the first page of each deferred presentment or small loan agreement:  
16          "IF YOU CANNOT MAKE PAYMENT WHEN DUE, YOU CAN ASK TO ENTER  
17          INTO AN EXTENDED PAYMENT PLAN ONCE IN A TWELVE-MONTH  
18          PERIOD, BUT THE REQUEST MUST BE MADE BEFORE PAYMENT IS DUE.  
19          SHOULD YOUR LENDER (LICENSEE) REFUSE TO ENTER INTO AN  
20          EXTENDED PAYMENT PLAN UPON YOUR REQUEST BEFORE THE DUE  
21          DATE, CONTACT THE OFFICE OF FINANCIAL INSTITUTIONS AT 1-888-  
22          525-9414."

23          (b) In addition, a consumer shall sign the following statement acknowledging  
24          that he has been informed of the extended payment plan. The statement shall be in  
25          at least twelve point bold type, on the first page of each deferred presentment  
26          transaction or small loan agreement below the statement required by Subparagraph  
27          (a) of this Paragraph:

28          "I acknowledge that I understand that I may be eligible to enter into an  
29          extended payment plan if I cannot make payment when due. In order to be  
30          potentially eligible for an extended payment plan, I understand that it is my

1           responsibility to notify my lender that I cannot make payment before payment is due.  
 2           I have asked any questions I have about the extended payment plan and my lender  
 3           (licensee) answered all questions to my satisfaction."

4                               [SIGNATURE BLOCK]

5                               [DATE]

6   \*       \*       \*

7           §3578.7. Posting of notice; toll-free number

8                               The commissioner may provide a notice, which includes a toll-free number  
 9           to the commissioner's office, which shall be posted, along with the fees as allowed  
 10          under this Chapter, in a conspicuous place and manner by the licensee at the lending  
 11          location or on the homepage of the website of the licensee, or both if the licensee has  
 12          a physical location in the state and a website.

13   \*       \*       \*

14          Section 2. R.S. 9:3560(A)(9) is hereby repealed in its entirety.

15          Section 3. This Act shall become effective on January 1, 2015.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_