



# ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

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Superintendent of Financial Institutions

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## REGULATORY ALERT

SF-13-01

DATE: May 24, 2013

TO: Entities Licensed Under the Motor Vehicle Time Sales Disclosure Act that Conduct Secondary Motor Vehicle Finance Transactions (Auto Title Lenders)

FROM: Robert D. Charlton, Assistant Superintendent

RE: Allowable Charges for Auto Title Lenders and Document Preparation Fee Charges

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The purpose of this Alert is to notify Auto Title Lenders and their borrowers of the fact that, **effective July 1, 2013, document preparation fees shall no longer be allowed to be charged to consumers/borrowers by Auto Title Lenders.** This represents a change of position by the Attorney General's Office and by the Arizona Department of Financial Institutions ("DFI") relating to whether document preparation fees can be charged by Auto Title Lenders ("Lenders").

Secondary motor vehicle finance transactions, as defined at A.R.S. § 44-281(13), were established in 2000. Pursuant to A.R.S. § 44-291(H), Lenders may only charge fees "expressly permitted" by statute. It is clear that certain fees are expressly permitted by A.R.S. § 44-281 of Chapter 2.1.

These fees include a late payment/delinquency charge per A.R.S. § 44-291(C). Such a fee can be charged for each payment not paid in full on the 10th day after it is due, in an amount not to exceed five percent (5%) of the unpaid balance of the installment. Therefore, Lenders may impose a late or delinquent payment charge as expressly permitted by A.R.S. § 44-291(C).

A second allowable fee a Lender is able to charge is the cost of insurance sufficient to protect its own interest in the collateral. A.R.S. § 44-288(A) indicates the premium "shall not exceed the applicable premiums chargeable in accordance with the rates filed by the director of insurance of the Arizona corporation commission [sic]." Additional allowable fees are described under A.R.S. § 44-289(A) and A.R.S. § 44-289(C).

Document preparation fees **are not expressly allowed** anywhere in A.R.S. § 44-281, et seq. **Thus, per A.R.S. § 44-291(H), document preparation fees are not allowed to be charged by Lenders on or after July 1, 2013.** Other fees and charges mentioned in this Alert are allowed to be charged.

Due to this change of interpretation, DFI will begin enforcing the prohibition against charging document preparation fees on July 1st, 2013.

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To file a consumer complaint against a Lender engaging in transactions with Arizona consumers, and charging document preparation fees on or after July 1, 2013, please go to, <http://www.azdfi.gov/Consumers/Complaints/ConsumerComplaint.html> or send mail to: Arizona Department of Financial Institutions, 2910 N. 44th Street, Suite 310, Phoenix, AZ 85018.

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