

By Representative Livingston

1                                   A bill to be entitled  
2           An act relating to secondhand dealers; amending  
3           ss. 516.02, 538.03, 538.15, and 538.16, F.S.;  
4           removing the authority of secondhand dealers to  
5           engage in title loan transactions; repealing s.  
6           538.06(5), F.S., relating to title loan  
7           transactions by secondhand dealers; providing  
8           for the application of the act; providing an  
9           effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13           Section 1. Subsection (4) of section 516.02, Florida  
14 Statutes, is amended to read:

15           516.02 Loans; lines of credit; rate of interest;  
16 license.--

17           (4) This chapter does not apply to any person who does  
18 business under, and as permitted by, any law of this state or  
19 of the United States relating to banks, savings banks, trust  
20 companies, building and loan associations, credit unions, or  
21 industrial loan and investment companies or to any bona fide  
22 pawnbroking business transacted under a pawnbroker's license.

23 ~~This chapter also does not apply to title loans as defined in~~  
24 ~~s. 538.03(1)(i) or pawns as defined in s. 538.03(1)(d).A~~  
25 pawnbroker may not be licensed to transact business under this  
26 chapter.

27           Section 2. Paragraphs (a), (h), and (i) of subsection  
28 (1) and paragraph (1) of subsection (2) of section 538.03,  
29 Florida Statutes, are amended to read:

30           538.03 Definitions; applicability.--

31           (1) As used in this part, the term:

1           (a) "Secondhand dealer" means any person, corporation,  
2 or other business organization or entity which is not a  
3 secondary metals recycler subject to part II and which is  
4 engaged in the business of purchasing, consigning, or pawning  
5 secondhand goods ~~or entering into title loan transactions.~~  
6 However, secondhand dealers are not limited to dealing only in  
7 items defined as secondhand goods in paragraph (g). Except as  
8 provided in subsection (2), the term means pawnbrokers,  
9 jewelers, precious metals dealers, garage sale operators,  
10 secondhand stores, and consignment shops.

11           (h) "Transaction" means any ~~title loan,~~ purchase,  
12 consignment, or pawn of secondhand goods by a secondhand  
13 dealer.

14           ~~(i) "Title loan" means a loan of money secured by  
15 bailment of a certificate of title to a motor vehicle. A title  
16 loan is not a pawn if the secondhand dealer does not maintain  
17 physical possession of the vehicle throughout the term of the  
18 transaction.~~

19           (2) This chapter does not apply to:

20           (1) Any auction business as defined in s. 468.382(1)  
21 unless the business deals in secondhand goods.

22           Section 3. Subsections (4) and (5) of section 538.15,  
23 Florida Statutes, are amended to read:

24           538.15 Certain acts and practices prohibited.--It is  
25 unlawful for a secondhand dealer or any employee thereof to do  
26 or allow any of the following acts:

27           (4) Engage in ~~both pawn transactions and title loan~~  
28 ~~transactions from the same secondhand dealer location.~~

29           ~~(5) Use the word "pawn" or "pawnbroker" in any~~  
30 ~~transaction, documentation, advertising or promotional~~  
31 ~~materials, signs, displays, banners, or other materials of any~~

1 ~~nature relating to the secondhand dealer's business if the~~  
2 ~~secondhand dealer engages in title loan transactions.~~

3 Section 4. Section 538.16, Florida Statutes, is  
4 amended to read:

5 538.16 Secondhand dealers; disposal of property.--  
6 (1) Any personal property pawned with a pawnbroker,  
7 whether the pawn is a loan of money or a buy-sell agreement ~~or~~  
8 ~~a motor vehicle which is security for a title loan~~, is subject  
9 to sale or disposal if the pawn is a loan of money and the  
10 property has not been redeemed or there has been no payment on  
11 account made for a period of 90 days, or if the pawn is a  
12 buy-sell agreement ~~or if it is a title loan~~ and the property  
13 has not been repurchased from the pawnbroker ~~or the title~~  
14 ~~redeemed from the title lender~~ or there has been no payment  
15 made on account within 60 days.

16 (2) Every pawn ticket and receipt for such pawn shall  
17 have printed thereon notice of the provisions of subsection  
18 (1), notice of sale or disposal, notice of intention to sell  
19 or dispose of the property without further notice, and consent  
20 to sale or disposal. Any such sale or disposal shall  
21 terminate all liability of the pawnbroker and shall vest in  
22 the purchaser the right, title, and interest of the seller or  
23 borrower and the pawnbroker.

24 Section 5. Subsection (5) of section 538.06, Florida  
25 Statutes, is repealed.

26 Section 6. This bill does not in any way impair title  
27 loan contracts executed under the provisions of this chapter  
28 prior to July 1, 1997. Any title loan contracts executed  
29 prior to July 1, 1997, shall be governed as provided by  
30 chapter 95-287, Laws of Florida.

31 Section 7. This act shall take effect July 1, 1998.

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LEGISLATIVE SUMMARY

Removes the authority of secondhand dealers to enter into title loan transactions. See bill for details.