

1 A bill to be entitled

2 An act relating to title loan lenders; amending s.  
3 494.00797, F.S.; including title loan lenders within a  
4 prohibition against counties and municipalities regulating  
5 certain entities subject to the jurisdiction of the Office  
6 of Financial Regulation of the Financial Services  
7 Commission; amending s. 537.008, F.S.; specifying  
8 information to be printed in title loan agreements;  
9 amending s. 537.011, F.S.; revising maximum interest rates  
10 chargeable on title loans; providing alternative  
11 requirements for title loans made to certain military  
12 personnel; providing limitations; requiring the commission  
13 to establish rules for rates; providing payment  
14 requirements for title loan borrowers; providing interest  
15 and fee calculation methodologies; providing criteria and  
16 limitations for deferring required principal payments;  
17 amending s. 537.012, F.S.; providing for tolling certain  
18 title loan payment time requirements for certain military  
19 personnel; amending s. 537.013, F.S.; specifying an  
20 additional prohibited activity by a title loan lender;  
21 prohibiting certain activities by a title loan lender  
22 relating to military personnel; providing penalties;  
23 creating s. 537.019, F.S.; prohibiting title loan lenders  
24 from engaging in certain business activities; repealing s.  
25 537.018, F.S., relating to preserving authority for more  
26 restrictive county or municipal ordinances; providing an  
27 effective date.  
28

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

30

31 Section 1. Subsection (1) of section 494.00797, Florida  
 32 Statutes, is amended to read:

33 494.00797 General rule.--All counties and municipalities  
 34 of this state are prohibited from enacting and enforcing  
 35 ordinances, resolutions, and rules regulating financial or  
 36 lending activities, including ordinances, resolutions, and rules  
 37 disqualifying persons from doing business with a city, county,  
 38 or municipality based upon lending interest rates or imposing  
 39 reporting requirements or any other obligations upon persons  
 40 regarding financial services or lending practices of persons or  
 41 entities, and any subsidiaries or affiliates thereof, who:

42 (1) Are subject to the jurisdiction of the office,  
 43 including for activities subject to this chapter, ~~except~~  
 44 ~~entities licensed under s. 537.004;~~

45

46 Proof of noncompliance with this act can be used by a city,  
 47 county, or municipality of this state to disqualify a vendor or  
 48 contractor from doing business with a city, county, or  
 49 municipality of this state.

50 Section 2. Paragraph (c) of subsection (2) of section  
 51 537.008, Florida Statutes, is amended to read:

52 537.008 Title loan agreement.--

53 (2) The following information shall also be printed on all  
 54 title loan agreements:

55 (c)1. The following statement in not less than 12-point  
 56 type that:

HB 1109

2006

57 ~~a.1.~~ If the borrower fails to repay the full amount of the  
58 title loan on or before the end of the maturity date or any  
59 extension of the maturity date and fails to make a payment on  
60 the title loan within 30 days after the end of the maturity date  
61 or any extension of the maturity date, whichever is later, the  
62 title loan lender may take possession of the borrower's motor  
63 vehicle and sell the vehicle in the manner provided by law. If  
64 the vehicle is sold, the borrower is entitled to any proceeds of  
65 the sale in excess of the amount owed on the title loan and the  
66 reasonable expenses of repossession and sale.

67 ~~b.2.~~ If the title loan agreement is lost, destroyed, or  
68 stolen, the borrower should immediately so advise the issuing  
69 title loan lender in writing.

70 2. The following statements in not less than 14-point bold  
71 type:

72 a. This loan is not intended to meet long-term financial  
73 needs.

74 b. You should use this loan only to meet short-term cash  
75 needs.

76 c. You will be required to pay additional interest and  
77 fees if you renew this loan rather than pay the debt in full  
78 when due.

79 d. This loan is a higher interest loan. You should  
80 consider lower cost loans which may be available to you.

81 e. You are placing at risk your continued ownership of the  
82 personal property the title for which you are pledging for this  
83 loan.

84 f. If you fail to repay the full amount of this loan on or

85 before the end of the maturity date or renewal of the loan, the  
 86 title pledge lender may take possession of the property the  
 87 title for which is pledged and sell the property in the manner  
 88 provided by law.

89 g. If you enter into a title pledge agreement, you have a  
 90 legal right of rescission. This means you may cancel your  
 91 contract at no cost to you by returning the money you borrowed  
 92 by the next business day after the date of your loan.

93  
 94 All owners of the titled personal property must sign the title  
 95 loan agreement.

96 Section 3. Subsections (1) and (2) of section 537.011,  
 97 Florida Statutes, are amended, and subsections (6) and (7) are  
 98 added to that section, to read:

99 537.011 Title loan charges.--

100 (1) Except as provided in paragraph (6) (a), a title loan  
 101 lender may charge a maximum interest rate of 22 ~~30~~ percent per  
 102 month ~~annum~~ computed on the first \$2,000 of the principal  
 103 amount, 20 ~~24~~ percent per month ~~annum~~ on that part of the  
 104 principal amount exceeding \$2,000 and not exceeding \$3,000, and  
 105 18 percent per month ~~annum~~ on that part of the principal amount  
 106 exceeding \$3,000. The original principal amount is the same  
 107 amount as the amount financed, as defined by the federal Truth  
 108 in Lending Act and Regulation Z of the Board of Governors of the  
 109 Federal Reserve System. In determining compliance with the  
 110 statutory maximum interest, the computations must be simple  
 111 interest and not add-on interest or any other computations. When  
 112 two or more interest rates are to be applied to the principal

113 amount, the lender may charge interest at that single monthly  
 114 ~~annual~~ percentage rate which, if applied according to the  
 115 actuarial method to each of the scheduled periodic balances of  
 116 principal, would produce at maturity the same total amount of  
 117 interest as would result from the application of the two or more  
 118 rates otherwise permitted, based upon the assumption that all  
 119 payments are made as agreed.

120 (2) The annual percentage rate that may be charged for a  
 121 title loan may equal, but not exceed, the annual percentage rate  
 122 that must be computed and disclosed as required by the federal  
 123 Truth in Lending Act and Regulation Z of the Board of Governors  
 124 of the Federal Reserve System. The maximum annual percentage  
 125 rate of interest that may be charged is 12 times the maximum  
 126 monthly rate, ~~and the maximum monthly rate must be computed on~~  
 127 ~~the basis of one-twelfth of the annual rate for each full month.~~  
 128 The commission shall establish by rule the rate for each day in  
 129 a fraction of a month when the period for which the charge is  
 130 computed is more or less than 1 month.

131 (6) (a) The title loan lender shall determine whether the  
 132 borrower is a member of the military services of the United  
 133 States. If the borrower is a member of the military services of  
 134 the United States or the spouse of a member of the military  
 135 services of the United States, a title loan lender may charge a  
 136 maximum interest rate of 30 percent per annum computed on the  
 137 first \$2,000 of the original principal amount, 24 percent per  
 138 annum on that part of the original principal amount exceeding  
 139 \$2,000 and not exceeding \$3,000, and 18 percent per annum on  
 140 that part of the original principal amount exceeding \$3,000. The

HB 1109

2006

141 original principal amount is the same amount as the amount  
142 financed, as defined by the federal Truth in Lending Act and  
143 Regulation Z of the Board of Governors of the Federal Reserve  
144 System. In determining compliance with the maximum interest  
145 specified by this subsection, the computations must be simple  
146 interest. Add-on interest or any other computations may not be  
147 used. When two or more interest rates are to be applied to the  
148 original principal amount, the lender may charge interest at  
149 that single annual percentage rate which, if applied according  
150 to the actuarial method to each of the scheduled periodic  
151 balances of principal, would produce at maturity the same total  
152 amount of interest as would result from the application of the  
153 two or more rates otherwise permitted, based upon the assumption  
154 that all payments are made as agreed.

155 (b) The annual percentage rate that may be charged for a  
156 title loan to a member of the military services of the United  
157 States or the spouse of a member of the military services of the  
158 United States may equal, but not exceed, the annual percentage  
159 rate that must be computed and disclosed as required by the  
160 federal Truth in Lending Act and Regulation Z of the Board of  
161 Governors of the Federal Reserve System. The maximum annual  
162 percentage rate of interest that may be charged is 12 times the  
163 maximum monthly rate, and the maximum monthly rate must be  
164 computed on the basis of one-twelfth of the annual rate for each  
165 full month. The commission shall establish by rule the rate for  
166 each day in a fraction of a month when the period for which the  
167 charge is computed is more or less than 1 month.

168 (7) Notwithstanding any other provision of this chapter,

HB 1109

2006

169 beginning with the first renewal or continuation and at each  
170 successive renewal or continuation thereafter, the borrower  
171 shall make a payment of at least 5 percent of the original  
172 principal amount of the title pledge transaction in addition to  
173 interest and fees authorized by this chapter. Interest and fees  
174 authorized by this chapter at each successive renewal or  
175 continuation shall be calculated on the outstanding principal  
176 balance. Principal payments in excess of the required 5-percent  
177 principal reduction shall be credited to the outstanding  
178 principal on the day received. If, at the maturity of any  
179 renewal requiring a principal reduction, the borrower has not  
180 made previous principal reductions adequate to satisfy the  
181 current required principal reduction and the borrower cannot  
182 repay at least 5 percent of the original principal balance and  
183 any outstanding interest and fees authorized by this chapter,  
184 the title loan lender may, but is not obligated to, defer any  
185 required principal payment until the end of the title loan  
186 agreement. No further interest or fees may accrue on any such  
187 principal amount deferred.

188 Section 4. Subsection (8) is added to section 537.012,  
189 Florida Statutes, to read:

190 537.012 Repossession, disposal of pledged property; excess  
191 proceeds.--

192 (8) If a borrower who is an active member of the military  
193 services of the United States has been deployed to a combat or  
194 combat support posting or is a member of the Reserves or  
195 National Guard and has been called to active duty, the time  
196 requirements set forth in subsections (1), (2), and (3) are

197 tolled for the duration of the deployment or active duty  
 198 service.

199 Section 5. Paragraph (o) is added to subsection (1) of  
 200 section 537.013, Florida Statutes, and subsection (3) is added  
 201 to that section, to read:

202 537.013 Prohibited acts.--

203 (1) A title loan lender, or any agent or employee of a  
 204 title loan lender, shall not:

205 (o) Sue for deficiency balances if the sale of the titled  
 206 personal property is less than the principal amount due on the  
 207 loan.

208 (3) If a title loan lender transacts a title loan with a  
 209 member of the military services of the United States, the lender  
 210 shall not:

211 (a) Take possession of a vehicle of the member or the  
 212 spouse of such member when the member has been deployed to a  
 213 combat or combat support posting or is a member of the Reserves  
 214 or National Guard and has been called to active duty for the  
 215 duration of the deployment or active duty service;

216 (b) Contact the commanding officer of a borrower who is a  
 217 member of the military services of the United States or anyone  
 218 in the borrower's chain of command in an effort to collect on an  
 219 obligation under a title loan transaction entered into with the  
 220 member or the member's spouse; or

221 (c) Enter into a title loan agreement with a member of the  
 222 military services of the United States if a military base  
 223 commander has declared that a specific location of the title



HB 1109

2006

224 loan lender's business is off limits to military personnel and  
225 has formally notified the title loan lender of such declaration.

226 Section 6. Section 537.019, Florida Statutes, is created  
227 to read:

228 537.019 Conducting business with another business.--A  
229 title loan lender may not conduct the business of making title  
230 loans under this act within any office, room, suite, or place of  
231 business in which any other business is solicited or engaged in,  
232 or in association or conjunction with such other business, or  
233 share common areas or employees with any other business.

234 Section 7. Section 537.018, Florida Statutes, is repealed.

235 Section 8. This act shall take effect July 1, 2006.