

HB 1109

2006  
CS

## CHAMBER ACTION

1 The State Administration Appropriations Committee recommends the  
2 following:

3  
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to title loan lenders; amending s.  
8 494.00797, F.S.; including title loan lenders within a  
9 prohibition against counties and municipalities regulating  
10 certain entities subject to the jurisdiction of the Office  
11 of Financial Regulation of the Financial Services  
12 Commission; amending s. 537.004, F.S.; requiring payment  
13 of a license fee prior to being issued a license;  
14 increasing the amount of certain license renewal fees;  
15 amending s. 537.008, F.S.; specifying information to be  
16 printed in title loan agreements; amending s. 537.011,  
17 F.S.; revising maximum interest rates chargeable on title  
18 loans; revising title loan agreement extension provisions;  
19 providing requirements and limitations on extension  
20 agreements; providing alternative requirements for title  
21 loans made to certain military personnel; providing  
22 limitations; requiring the commission to establish rules  
23 for rates; providing payment requirements for title loan

Page 1 of 16

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1109-01-c1

HB 1109

2006  
CS

24 | borrowers; providing interest and fee calculation  
25 | methodologies; providing criteria and limitations for  
26 | deferring required principal payments; amending s.  
27 | 537.012, F.S.; providing for tolling certain title loan  
28 | payment time requirements for certain military personnel;  
29 | amending s. 537.013, F.S.; specifying an additional  
30 | prohibited activity by a title loan lender; prohibiting  
31 | title loans in excess of a certain amount; prohibiting  
32 | certain activities by a title loan lender relating to  
33 | military personnel; providing penalties; creating s.  
34 | 537.019, F.S.; prohibiting title loan lenders from  
35 | engaging in certain business activities; creating s.  
36 | 537.020, F.S.; providing for credit counseling services  
37 | for borrowers under certain circumstances; providing for a  
38 | grace period extending a title loan agreement for credit  
39 | counseling purposes; providing requirements, procedures,  
40 | and limitations on the provision of such grace periods;  
41 | providing requirements for title loan lenders; providing  
42 | for title loan repayment plans; providing criteria and  
43 | requirements for repayment plans; requiring the Office of  
44 | Financial Regulation to prepare a list of approved credit  
45 | counseling agencies; providing list requirements;  
46 | specifying a required notice; requiring a title loan  
47 | lender to pay a certain amount to a credit counseling  
48 | agency under certain circumstances; providing an  
49 | additional specified notice requirement; repealing s.  
50 | 537.018, F.S., relating to preserving authority for more  
51 | restrictive county or municipal ordinances; providing

Page 2 of 16

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1109-01-c1

HB 1109

2006  
CS

52 | appropriations; authorizing additional positions and  
53 | providing a salary rate; providing an effective date.

54 |

55 | Be It Enacted by the Legislature of the State of Florida:

56 |

57 | Section 1. Subsection (1) of section 494.00797, Florida  
58 | Statutes, is amended to read:

59 | 494.00797 General rule.--All counties and municipalities  
60 | of this state are prohibited from enacting and enforcing  
61 | ordinances, resolutions, and rules regulating financial or  
62 | lending activities, including ordinances, resolutions, and rules  
63 | disqualifying persons from doing business with a city, county,  
64 | or municipality based upon lending interest rates or imposing  
65 | reporting requirements or any other obligations upon persons  
66 | regarding financial services or lending practices of persons or  
67 | entities, and any subsidiaries or affiliates thereof, who:

68 | (1) Are subject to the jurisdiction of the office,  
69 | including for activities subject to this chapter,~~except~~  
70 | ~~entities licensed under s. 537.004;~~

71 |

72 | Proof of noncompliance with this act can be used by a city,  
73 | county, or municipality of this state to disqualify a vendor or  
74 | contractor from doing business with a city, county, or  
75 | municipality of this state.

76 | Section 2. Subsections (3) and (4) of section 537.004,  
77 | Florida Statutes, are amended to read:

78 | 537.004 License required; license fees.--

HB 1109

2006  
CS

79 (3) If the office determines that an application should be  
 80 approved, the office shall issue a license for a period not to  
 81 exceed 2 years. Upon being notified that the license application  
 82 has been approved, and prior to the license being issued by the  
 83 office, a licensee shall pay to the office a licensee fee of  
 84 \$10,000 for the first licensed location and \$2,500 for each  
 85 additional location.

86 (4) A license shall be renewed biennially by filing a  
 87 renewal form and a nonrefundable renewal fee of \$10,000 for the  
 88 first licensed location and \$2,500 for each additional location  
 89 ~~\$1,200~~. A license that is not renewed by the end of the biennial  
 90 period shall automatically revert to inactive status. An  
 91 inactive license may be reactivated within 6 months after  
 92 becoming inactive by filing a reactivation form, payment of the  
 93 nonrefundable ~~\$1,200~~ renewal fee of \$10,000 for the first  
 94 licensed location and \$2,500 for each additional location, and  
 95 payment of a nonrefundable reactivation fee of \$5,000 ~~\$600~~. A  
 96 license that is not reactivated within 6 months after becoming  
 97 inactive may not be reactivated and shall automatically expire.  
 98 The commission shall establish by rule the procedures for  
 99 renewal and reactivation of a license and shall adopt a renewal  
 100 form and a reactivation form.

101 Section 3. Paragraph (c) of subsection (2) of section  
 102 537.008, Florida Statutes, is amended to read:

103 537.008 Title loan agreement.--

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

HB 1109

2006  
CS

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

108 ~~a.1.~~ If the borrower fails to repay the full amount of the  
109 title loan on or before the end of the maturity date or any  
110 extension of the maturity date and fails to make a payment on  
111 the title loan within 30 days after the end of the maturity date  
112 or any extension of the maturity date, whichever is later, the  
113 title loan lender may take possession of the borrower's motor  
114 vehicle and sell the vehicle in the manner provided by law. If  
115 the vehicle is sold, the borrower is entitled to any proceeds of  
116 the sale in excess of the amount owed on the title loan and the  
117 reasonable expenses of repossession and sale.

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

121 2. The following statements in not less than 14-point bold  
122 type:

123 a. This loan is not intended to meet long-term financial  
124 needs.

125 b. You should use this loan only to meet short-term cash  
126 needs.

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

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

HB 1109

2006  
CS

132        e. You are placing at risk your continued ownership of the  
 133 personal property the title for which you are pledging for this  
 134 loan.

135        f. If you fail to repay the full amount of this loan on or  
 136 before the end of the maturity date or renewal of the loan, the  
 137 title pledge lender may take possession of the property the  
 138 title for which is pledged and sell the property in the manner  
 139 provided by law.

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

144  
 145 All owners of the titled personal property must sign the title  
 146 loan agreement.

147        Section 4. Subsections (1), (2), and (3) of section  
 148 537.011, Florida Statutes, are amended, and subsections (6) and  
 149 (7) are added to that section, to read:

150        537.011 Title loan charges.--

151        (1) Except as provided in paragraph (6) (a), a title loan  
 152 lender may charge a maximum interest rate of 22 ~~30~~ percent per  
 153 month ~~annum~~ computed on the first \$2,000 of the principal  
 154 amount, and 20 ~~24~~ percent per month ~~annum~~ on that part of the  
 155 principal amount exceeding \$2,000 and not exceeding \$3,000, ~~and~~  
 156 ~~18 percent per annum on that part of the principal amount~~  
 157 ~~exceeding \$3,000.~~ The original principal amount is the same  
 158 amount as the amount financed, as defined by the federal Truth  
 159 in Lending Act and Regulation Z of the Board of Governors of the

HB 1109

2006  
CS

160 Federal Reserve System. In determining compliance with the  
161 statutory maximum interest, the computations must be simple  
162 interest and not add-on interest or any other computations. When  
163 two or more interest rates are to be applied to the principal  
164 amount, the lender may charge interest at that single monthly  
165 ~~annual~~ percentage rate which, if applied according to the  
166 actuarial method to each of the scheduled periodic balances of  
167 principal, would produce at maturity the same total amount of  
168 interest as would result from the application of the two or more  
169 rates otherwise permitted, based upon the assumption that all  
170 payments are made as agreed.

171 (2) The annual percentage rate that may be charged for a  
172 title loan may equal, but not exceed, the annual percentage rate  
173 that must be computed and disclosed as required by the federal  
174 Truth in Lending Act and Regulation Z of the Board of Governors  
175 of the Federal Reserve System. The maximum annual percentage  
176 rate of interest that may be charged is 12 times the maximum  
177 ~~monthly rate, and the maximum monthly rate must be computed on~~  
178 ~~the basis of one twelfth of the annual rate for each full month.~~  
179 The commission shall establish by rule the rate for each day in  
180 a fraction of a month when the period for which the charge is  
181 computed is more or less than 1 month.

182 (3) A title loan agreement may be extended for up to five  
183 additional ~~one or more~~ 30-day periods by mutual consent of the  
184 title loan lender and the borrower. Each extension of a title  
185 loan agreement shall be executed in a separate extension  
186 agreement, each of which shall comply with the requirements for  
187 executing a title loan agreement as provided in this act. The

HB 1109

2006  
CS

188 interest rate charged in any title loan extension agreement  
 189 shall not exceed the interest rate charged in the original  
 190 ~~related~~ title loan agreement. A title loan lender may not  
 191 capitalize in any title loan extension agreement any unpaid  
 192 interest due on the original ~~related~~ title loan agreement or any  
 193 subsequent extensions to that title loan agreement. Extension  
 194 agreements may be executed between the parties after the  
 195 commencement date of the extension period to allow continuity of  
 196 terms. Under no circumstance shall a title lender assess further  
 197 interest or any other finance charge after 180 days after the  
 198 execution date of the original title loan agreement. At the  
 199 conclusion of the 180 days, the title loan lender must offer the  
 200 borrower the option of repaying any unpaid principal in no less  
 201 than four equal monthly installments without any additional  
 202 interest or other charge. A title loan lender may not make a new  
 203 original title loan to a borrower if the borrower had a title  
 204 loan, an extension thereof, or an interest-free principal  
 205 repayment of such loan outstanding in the previous 24 hours.

206 (6) (a) The title loan lender shall determine whether the  
 207 borrower is a member of the military services of the United  
 208 States. If the borrower is a member of the military services of  
 209 the United States or the spouse of a member of the military  
 210 services of the United States, a title loan lender may charge a  
 211 maximum interest rate of 30 percent per annum computed on the  
 212 first \$2,000 of the original principal amount, 24 percent per  
 213 annum on that part of the original principal amount exceeding  
 214 \$2,000 and not exceeding \$3,000, and 18 percent per annum on  
 215 that part of the original principal amount exceeding \$3,000. The



HB 1109

2006  
CS

216 original principal amount is the same amount as the amount  
217 financed, as defined by the federal Truth in Lending Act and  
218 Regulation Z of the Board of Governors of the Federal Reserve  
219 System. In determining compliance with the maximum interest  
220 specified by this subsection, the computations must be simple  
221 interest. Add-on interest or any other computations may not be  
222 used. When two or more interest rates are to be applied to the  
223 original principal amount, the lender may charge interest at  
224 that single annual percentage rate which, if applied according  
225 to the actuarial method to each of the scheduled periodic  
226 balances of principal, would produce at maturity the same total  
227 amount of interest as would result from the application of the  
228 two or more rates otherwise permitted, based upon the assumption  
229 that all payments are made as agreed.

230 (b) The annual percentage rate that may be charged for a  
231 title loan to a member of the military services of the United  
232 States or the spouse of a member of the military services of the  
233 United States may equal, but not exceed, the annual percentage  
234 rate that must be computed and disclosed as required by the  
235 federal Truth in Lending Act and Regulation Z of the Board of  
236 Governors of the Federal Reserve System. The maximum annual  
237 percentage rate of interest that may be charged is 12 times the  
238 maximum monthly rate, and the maximum monthly rate must be  
239 computed on the basis of one-twelfth of the annual rate for each  
240 full month. The commission shall establish by rule the rate for  
241 each day in a fraction of a month when the period for which the  
242 charge is computed is more or less than 1 month.

HB 1109

2006  
CS

243        (7) Notwithstanding any other provision of this chapter,  
244 beginning with the first renewal or continuation and at each  
245 successive renewal or continuation thereafter, the borrower  
246 shall make a payment of at least 5 percent of the original  
247 principal amount of the title pledge transaction in addition to  
248 interest and fees authorized by this chapter. Interest and fees  
249 authorized by this chapter at each successive renewal or  
250 continuation shall be calculated on the outstanding principal  
251 balance. Principal payments in excess of the required 5-percent  
252 principal reduction shall be credited to the outstanding  
253 principal on the day received. If, at the maturity of any  
254 renewal requiring a principal reduction, the borrower has not  
255 made previous principal reductions adequate to satisfy the  
256 current required principal reduction and the borrower cannot  
257 repay at least 5 percent of the original principal balance and  
258 any outstanding interest and fees authorized by this chapter,  
259 the title loan lender may, but is not obligated to, defer any  
260 required principal payment until the end of the title loan  
261 agreement. No further interest or fees may accrue on any such  
262 principal amount deferred.

263        Section 5. Subsection (8) is added to section 537.012,  
264 Florida Statutes, to read:

265        537.012 Repossession, disposal of pledged property; excess  
266 proceeds.--

267        (8) If a borrower who is an active member of the military  
268 services of the United States has been deployed to a combat or  
269 combat support posting or is a member of the Reserves or  
270 National Guard and has been called to active duty, the time

HB 1109

2006  
CS

271 requirements set forth in subsections (1), (2), and (3) are  
 272 tolled for the duration of the deployment or active duty  
 273 service.

274 Section 6. Paragraphs (o) and (p) are added to subsection  
 275 (1) of section 537.013, Florida Statutes, and subsection (3) is  
 276 added to that section, to read:

277 537.013 Prohibited acts.--

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

280 (o) Sue for deficiency balances if the sale of the titled  
 281 personal property is less than the principal amount due on the  
 282 loan.

283 (p) Make a title loan with a principal amount in excess of  
 284 \$3,000.

285 (3) If a title loan lender transacts a title loan with a  
 286 member of the military services of the United States, the lender  
 287 shall not:

288 (a) Take possession of a vehicle of the member or the  
 289 spouse of such member when the member has been deployed to a  
 290 combat or combat support posting or is a member of the Reserves  
 291 or National Guard and has been called to active duty for the  
 292 duration of the deployment or active duty service;

293 (b) Contact the commanding officer of a borrower who is a  
 294 member of the military services of the United States or anyone  
 295 in the borrower's chain of command in an effort to collect on an  
 296 obligation under a title loan transaction entered into with the  
 297 member or the member's spouse; or

HB 1109

2006  
CS

298        (c) Enter into a title loan agreement with a member of the  
299 military services of the United States if a military base  
300 commander has declared that a specific location of the title  
301 loan lender's business is off limits to military personnel and  
302 has formally notified the title loan lender of such declaration.

303        Section 7. Section 537.019, Florida Statutes, is created  
304 to read:

305        537.019 Conducting business with another business.--A  
306 title loan lender may not conduct the business of making title  
307 loans under this act within any office, room, suite, or place of  
308 business in which any other business is solicited or engaged in,  
309 or in association or conjunction with such other business, or  
310 share common areas or employees with any other business.

311        Section 8. Section 537.020, Florida Statutes, is created  
312 to read:

313        537.020 Credit counseling services; repayment plan.--

314        (1) Prior to the maturity date of an original title loan  
315 agreement or the maturity date of any extension of the title  
316 loan agreement, if the borrower notifies the title loan lender  
317 in person that the borrower wishes to exercise his or her right  
318 to seek consumer credit counseling, the title loan lender shall  
319 offer the borrower the option of a grace period extending the  
320 term of the agreement for an additional 4 months from such  
321 notice, without any additional charge. As a condition of  
322 providing such grace period, the lender shall require that,  
323 within the first 7 days of the grace period, the borrower must  
324 make an appointment and attend a meeting with a consumer credit  
325 counseling agency and that such consumer credit counseling

HB 1109

2006  
CS

326 agency notify the title loan lender that such appointment and  
327 meeting occurred. The borrower may agree to, comply with, and  
328 adhere to a repayment plan approved by the credit counseling  
329 agency and, if such plan provides for full repayment of the  
330 title loan lender in near equal installments before the end of  
331 the grace period with the first payment due no later than 30  
332 days after the date the grace period began, the title loan  
333 lender shall also comply with and adhere to that repayment plan.  
334 The title loan lender may not seek repossession of the  
335 borrower's motor vehicle during the grace period unless the  
336 borrower fails to comply with this section or fails to make  
337 payments in compliance with the repayment plan. If the borrower  
338 fails to comply with this section or fails to make payments in  
339 compliance with the repayment plan, the title loan lender may  
340 seek possession of the motor vehicle pursuant to the original  
341 terms of the title loan agreement. Before each title loan  
342 transaction, the title loan lender may verbally advise the  
343 borrower of the availability of the grace period consistent with  
344 the provisions of the written notice in subsection (4) and may  
345 not discourage the borrower from using the grace period. For the  
346 purposes of calculating the remaining balance to be repaid  
347 pursuant to the repayment plan, the plan must include the  
348 repayment of all unpaid principal plus unpaid interest accrued  
349 on a daily basis through the first day of the grace period,  
350 provided, if the borrower exercises his or her right to the  
351 grace period during the original term of the title loan  
352 agreement, the entire unpaid amount of the interest agreed to be

HB 1109

2006  
CS

353 paid for such initial term must be paid during period of the  
354 repayment plan.

355 (2) At the commencement of the grace period, the title  
356 loan lender shall provide the borrower:

357 (a) A verbal notice of the availability of the grace  
358 period consistent with the written notice in subsection (4).

359 (b) A list of approved consumer credit counseling agencies  
360 which shall be prepared by the office. The office list shall  
361 include nonprofit consumer credit counseling agencies affiliated  
362 with the National Foundation for Credit Counseling which provide  
363 credit counseling services to residents of this state in person,  
364 by telephone, or through the Internet. The office list must  
365 include phone numbers for the agencies, the counties served by  
366 the agencies, and indicate the agencies that provide telephone  
367 counseling and those that provide Internet counseling. The  
368 office shall update the list at least once each year.

369 (c) The following notice in at least 14-point type in  
370 substantially the following form:

371  
372 AS A CONDITION OF OBTAINING A GRACE PERIOD EXTENDING THE  
373 TERM OF YOUR TITLE LOAN AGREEMENT FOR AN ADDITIONAL FOUR  
374 (4) MONTHS, UNTIL (DATE), WITHOUT ANY ADDITIONAL INTEREST,  
375 YOU MUST COMPLETE CONSUMER CREDIT COUNSELING PROVIDED BY  
376 AN AGENCY INCLUDED ON THE LIST THAT WILL BE PROVIDED TO  
377 YOU BY THIS LENDER. YOU MUST ALSO AGREE TO COMPLY WITH AND  
378 ADHERE TO A REPAYMENT PLAN APPROVED BY THE AGENCY THAT  
379 COMPLIES WITH THE FLORIDA TITLE LOAN ACT. THE COUNSELING  
380 MAY BE IN PERSON, BY TELEPHONE, OR THROUGH THE INTERNET.

381 YOU MUST NOTIFY US WITHIN SEVEN (7) DAYS, BY (DATE), THAT  
 382 YOU HAVE COMPLETED AN APPOINTMENT WITH SUCH A CONSUMER  
 383 CREDIT COUNSELING AGENCY. WE MAY VERIFY THIS INFORMATION  
 384 WITH THE AGENCY. IF YOU FAIL TO TIMELY PROVIDE  
 385 CONFIRMATION OF YOUR COMPLETED APPOINTMENT OR IF YOU DO  
 386 NOT COMPLY WITH THE REPAYMENT PLAN AGREED TO WITH SUCH  
 387 AGENCY, WE MAY SEEK POSSESSION OF THE MOTOR VEHICLE  
 388 PLEGGED AS COLLATERAL FOR YOUR TITLE LOAN AGREEMENT.

389  
 390 (3) If a borrower completes an approved payment plan, the  
 391 title loan lender shall pay \$25 to the consumer credit  
 392 counseling agency.

393 (4) In addition to all other disclosures required by this  
 394 section, the title loan lender shall provide the following  
 395 notice in at least 14-point type conspicuously within the title  
 396 loan agreement:

397  
 398 IF YOU INFORM THIS LENDER IN PERSON THAT YOU CANNOT REDEEM  
 399 YOUR CERTIFICATE OF TITLE BY PAYING IN FULL THE AMOUNT  
 400 OWING AT THE END OF THE TERM OF THIS AGREEMENT OR MAKE  
 401 YOUR MINIMUM PAYMENT, YOU ARE ENTITLED TO A GRACE PERIOD  
 402 EXTENDING THE TERM OF THIS AGREEMENT FOR AN ADDITIONAL  
 403 FOUR (4) MONTHS, WITHOUT ANY ADDITIONAL CHARGE. THIS  
 404 LENDER SHALL REQUIRE THAT YOU, AS A CONDITION OF OBTAINING  
 405 THE GRACE PERIOD, COMPLETE CONSUMER CREDIT COUNSELING  
 406 PROVIDED BY AN AGENCY INCLUDED ON THE LIST THAT WILL BE  
 407 PROVIDED TO YOU BY THIS LENDER AND COMPLY WITH AND ADHERE  
 408 TO A REPAYMENT PLAN APPROVED BY THAT AGENCY. IF YOU DO NOT

HB 1109

2006  
CS

409 COMPLY WITH AND ADHERE TO A REPAYMENT PLAN APPROVED BY  
 410 THAT AGENCY, THIS LENDER MAY SEEK POSSESSION OF THE MOTOR  
 411 VEHICLE PLEDGED AS COLLATERAL FOR THIS LOAN.

413 Section 9. Section 537.018, Florida Statutes, is repealed.

414 Section 10. The sums of \$648,945 in recurring funds and  
 415 \$57,830 in nonrecurring funds are appropriated from the  
 416 Regulatory Trust Fund in the Office of Financial Regulation  
 417 within the Department of Financial Services for the 2006-2007  
 418 fiscal year for the purpose of funding the provisions of this  
 419 act, and 10 full-time equivalent positions with 415,996 in  
 420 associated salary rate are authorized.

421 Section 11. This act shall take effect July 1, 2006.