

Bill No. SB 1634

Barcode 350748

CHAMBER ACTION

Senate

House

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The Committee on Banking and Insurance (Baker) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

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

(1) Are subject to the jurisdiction of the office, including for activities subject to this chapter, ~~except~~

Bill No. SB 1634

Barcode 350748

1 ~~entities licensed under s. 537.004;~~

2

3 Proof of noncompliance with this act can be used by a city,
4 county, or municipality of this state to disqualify a vendor
5 or contractor from doing business with a city, county, or
6 municipality of this state.

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

9 537.004 License required; license fees.--

10 (3) If the office determines that an application
11 should be approved, the office shall issue a license for a
12 period not to exceed 2 years. Upon being notified that the
13 license application has been approved, and prior to the
14 license being issued by the office, a licensee shall pay to
15 the office a licensee fee of \$10,000 for the first licensed
16 location and \$2,500 for each additional location.

17 (4) A license shall be renewed biennially by filing a
18 renewal form and a nonrefundable renewal fee of \$10,000 for
19 the first licensed location and \$2,500 for each additional
20 location ~~\$1,200~~. A license that is not renewed by the end of
21 the biennial period shall automatically revert to inactive
22 status. An inactive license may be reactivated within 6 months
23 after becoming inactive by filing a reactivation form, payment
24 of the nonrefundable ~~\$1,200~~ renewal fee of \$10,000 for the
25 first licensed location and \$2,500 for each additional
26 location, and payment of a nonrefundable reactivation fee of
27 \$5,000 ~~\$600~~. A license that is not reactivated within 6 months
28 after becoming inactive may not be reactivated and shall
29 automatically expire. The commission shall establish by rule
30 the procedures for renewal and reactivation of a license and
31 shall adopt a renewal form and a reactivation form.

Bill No. SB 1634

Barcode 350748

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

3 537.008 Title loan agreement.--

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

6 (c)1. The following statement in not less than
7 12-point type that:

8 ~~a.1.~~ If the borrower fails to repay the full amount of
9 the title loan on or before the end of the maturity date or
10 any extension of the maturity date and fails to make a payment
11 on the title loan within 30 days after the end of the maturity
12 date or any extension of the maturity date, whichever is
13 later, the title loan lender may take possession of the
14 borrower's motor vehicle and sell the vehicle in the manner
15 provided by law. If the vehicle is sold, the borrower is
16 entitled to any proceeds of the sale in excess of the amount
17 owed on the title loan and the reasonable expenses of
18 repossession and sale.

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

22 2. The following statements in not less than 14-point
23 bold type:

24 a. This loan is not intended to meet long-term
25 financial needs.

26 b. You should use this loan only to meet short-term
27 cash needs.

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

31 d. This loan is a higher interest loan. You should

Bill No. SB 1634

Barcode 350748

1 consider lower cost loans which may be available to you.

2 e. You are placing at risk your continued ownership of
3 the personal property the title for which you are pledging for
4 this loan.

5 f. If you fail to repay the full amount of this loan
6 on or before the end of the maturity date or renewal of the
7 loan, the title pledge lender may take possession of the
8 property the title for which is pledged and sell the property
9 in the manner provided by law.

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

14
15 All owners of the titled personal property must sign the title
16 loan agreement.

17 Section 4. Subsections (1), (2), and (3) of section
18 537.011, Florida Statutes, are amended, and subsections (6)
19 and (7) are added to that section, to read:

20 537.011 Title loan charges.--

21 (1) Except as provided in paragraph (6)(a), a title
22 loan lender may charge a maximum interest rate of ~~22~~ 30
23 percent per ~~month~~ ~~annum~~ computed on the first \$2,000 of the
24 principal amount, ~~and 20~~ 24 percent per ~~month~~ ~~annum~~ on that
25 part of the principal amount exceeding \$2,000 and not
26 exceeding \$3,000, ~~and 18 percent per annum on that part of the~~
27 ~~principal amount exceeding \$3,000.~~ The original principal
28 amount is the same amount as the amount financed, as defined
29 by the federal Truth in Lending Act and Regulation Z of the
30 Board of Governors of the Federal Reserve System. In
31 determining compliance with the statutory maximum interest,

Bill No. SB 1634

Barcode 350748

1 the computations must be simple interest and not add-on
 2 interest or any other computations. When two or more interest
 3 rates are to be applied to the principal amount, the lender
 4 may charge interest at that single monthly ~~annual~~ percentage
 5 rate which, if applied according to the actuarial method to
 6 each of the scheduled periodic balances of principal, would
 7 produce at maturity the same total amount of interest as would
 8 result from the application of the two or more rates otherwise
 9 permitted, based upon the assumption that all payments are
 10 made as agreed.

11 (2) The annual percentage rate that may be charged for
 12 a title loan may equal, but not exceed, the annual percentage
 13 rate that must be computed and disclosed as required by the
 14 federal Truth in Lending Act and Regulation Z of the Board of
 15 Governors of the Federal Reserve System. The maximum annual
 16 percentage rate of interest that may be charged is 12 times
 17 the maximum monthly rate, ~~and the maximum monthly rate must be~~
 18 ~~computed on the basis of one-twelfth of the annual rate for~~
 19 ~~each full month.~~ The commission shall establish by rule the
 20 rate for each day in a fraction of a month when the period for
 21 which the charge is computed is more or less than 1 month.

22 (3) A title loan agreement may be extended for up to
 23 five additional ~~one or more~~ 30-day periods by mutual consent
 24 of the title loan lender and the borrower. Each extension of a
 25 title loan agreement shall be executed in a separate extension
 26 agreement, each of which shall comply with the requirements
 27 for executing a title loan agreement as provided in this act.
 28 The interest rate charged in any title loan extension
 29 agreement shall not exceed the interest rate charged in the
 30 original ~~related~~ title loan agreement. A title loan lender may
 31 not capitalize in any title loan extension agreement any

Bill No. SB 1634

Barcode 350748

1 unpaid interest due on the original ~~related~~ title loan
2 agreement or any subsequent extensions to that title loan
3 agreement. Extension agreements may be executed between the
4 parties after the commencement date of the extension period to
5 allow continuity of terms. Under no circumstance shall a title
6 lender assess further interest or any other finance charge
7 after 180 days after the execution date of the original title
8 loan agreement. At the conclusion of the 180 days, the title
9 loan lender must offer the borrower the option of repaying any
10 unpaid principal in no less than four equal monthly
11 installments without any additional interest or other charge.
12 A title loan lender may not make a new original title loan to
13 a borrower if the borrower had a title loan, an extension
14 thereof, or an interest-free principal repayment of such loan
15 outstanding in the previous 24 hours.

16 (6)(a) The title loan lender shall determine whether
17 the borrower is a member of the military services of the
18 United States. If the borrower is a member of the military
19 services of the United States or the spouse of a member of the
20 military services of the United States, a title loan lender
21 may charge a maximum interest rate of 30 percent per annum
22 computed on the first \$2,000 of the original principal amount,
23 24 percent per annum on that part of the original principal
24 amount exceeding \$2,000 and not exceeding \$3,000, and 18
25 percent per annum on that part of the original principal
26 amount exceeding \$3,000. The original principal amount is the
27 same amount as the amount financed, as defined by the federal
28 Truth in Lending Act and Regulation Z of the Board of
29 Governors of the Federal Reserve System. In determining
30 compliance with the maximum interest specified by this
31 subsection, the computations must be simple interest. Add-on

Bill No. SB 1634

Barcode 350748

1 interest or any other computations may not be used. When two
2 or more interest rates are to be applied to the original
3 principal amount, the lender may charge interest at that
4 single annual percentage rate which, if applied according to
5 the actuarial method to each of the scheduled periodic
6 balances of principal, would produce at maturity the same
7 total amount of interest as would result from the application
8 of the two or more rates otherwise permitted, based upon the
9 assumption that all payments are made as agreed.

10 (b) The annual percentage rate that may be charged for
11 a title loan to a member of the military services of the
12 United States or the spouse of a member of the military
13 services of the United States may equal, but not exceed, the
14 annual percentage rate that must be computed and disclosed as
15 required by the federal Truth in Lending Act and Regulation Z
16 of the Board of Governors of the Federal Reserve System. The
17 maximum annual percentage rate of interest that may be charged
18 is 12 times the maximum monthly rate, and the maximum monthly
19 rate must be computed on the basis of one-twelfth of the
20 annual rate for each full month. The commission shall
21 establish by rule the rate for each day in a fraction of a
22 month when the period for which the charge is computed is more
23 or less than 1 month.

24 (7) Notwithstanding any other provision of this
25 chapter, beginning with the first renewal or continuation and
26 at each successive renewal or continuation thereafter, the
27 borrower shall make a payment of at least 5 percent of the
28 original principal amount of the title pledge transaction in
29 addition to interest and fees authorized by this chapter.
30 Interest and fees authorized by this chapter at each
31 successive renewal or continuation shall be calculated on the

Bill No. SB 1634

Barcode 350748

1 outstanding principal balance. Principal payments in excess of
 2 the required 5-percent principal reduction shall be credited
 3 to the outstanding principal on the day received. If, at the
 4 maturity of any renewal requiring a principal reduction, the
 5 borrower has not made previous principal reductions adequate
 6 to satisfy the current required principal reduction and the
 7 borrower cannot repay at least 5 percent of the original
 8 principal balance and any outstanding interest and fees
 9 authorized by this chapter, the title loan lender may, but is
 10 not obligated to, defer any required principal payment until
 11 the end of the title loan agreement. No further interest or
 12 fees may accrue on any such principal amount deferred.

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

15 537.012 Repossession, disposal of pledged property;
 16 excess proceeds.--

17 (8) If a borrower who is an active member of the
 18 military services of the United States has been deployed to a
 19 combat or combat support posting or is a member of the
 20 Reserves or National Guard and has been called to active duty,
 21 the time requirements set forth in subsections (1), (2), and
 22 (3) are tolled for the duration of the deployment or active
 23 duty service.

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

27 537.013 Prohibited acts.--

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

30 (o) Sue for deficiency balances if the sale of the
 31 titled personal property is less than the principal amount due

1 on the loan.

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

4 (3) If a title loan lender transacts a title loan with
5 a member of the military services of the United States, the
6 lender shall not:

7 (a) Take possession of a vehicle of the member or the
8 spouse of such member when the member has been deployed to a
9 combat or combat support posting or is a member of the
10 Reserves or National Guard and has been called to active duty
11 for the duration of the deployment or active duty service;

12 (b) Contact the commanding officer of a borrower who
13 is a member of the military services of the United States or
14 anyone in the borrower's chain of command in an effort to
15 collect on an obligation under a title loan transaction
16 entered into with the member or the member's spouse; or

17 (c) Enter into a title loan agreement with a member of
18 the military services of the United States if a military base
19 commander has declared that a specific location of the title
20 loan lender's business is off limits to military personnel and
21 has formally notified the title loan lender of such
22 declaration.

23 Section 7. Section 537.019, Florida Statutes, is
24 created to read:

25 537.019 Conducting business with another business.--A
26 title loan lender may not conduct the business of making title
27 loans under this act within any office, room, suite, or place
28 of business in which any other business is solicited or
29 engaged in, or in association or conjunction with such other
30 business, or share common areas or employees with any other
31 business.

Bill No. SB 1634

Barcode 350748

1 Section 8. Section 537.0201, Florida Statutes, is
2 created to read:

3 537.0201 Credit counseling services; repayment plan.--

4 (1) Prior to the maturity date of an original title
5 loan agreement or the maturity date of any extension of the
6 title loan agreement, if the borrower notifies the title loan
7 lender in person that the borrower wishes to exercise his or
8 her right to seek consumer credit counseling, the title loan
9 lender shall offer the borrower the option of a grace period
10 extending the term of the agreement for an additional 4 months
11 from such notice, without any additional charge. As a
12 condition of providing such grace period, the lender shall
13 require that, within the first 7 days of the grace period, the
14 borrower must make an appointment and attend a meeting with a
15 consumer credit counseling agency and that such consumer
16 credit counseling agency notify the title loan lender that
17 such appointment and meeting occurred. The borrower may agree
18 to, comply with, and adhere to a repayment plan approved by
19 the credit counseling agency and, if such plan provides for
20 full repayment of the title loan lender in near equal
21 installments before the end of the grace period with the first
22 payment due no later than 30 days after the date the grace
23 period began, the title loan lender shall also comply with and
24 adhere to that repayment plan. The title loan lender may not
25 seek repossession of the borrower's motor vehicle during the
26 grace period unless the borrower fails to comply with this
27 section or fails to make payments in compliance with the
28 repayment plan. If the borrower fails to comply with this
29 section or fails to make payments in compliance with the
30 repayment plan, the title loan lender may seek possession of
31 the motor vehicle pursuant to the original terms of the title

Bill No. SB 1634

Barcode 350748

1 loan agreement. Before each title loan transaction, the title
 2 loan lender may verbally advise the borrower of the
 3 availability of the grace period consistent with the
 4 provisions of the written notice in subsection (4) and may not
 5 discourage the borrower from using the grace period. For the
 6 purposes of calculating the remaining balance to be repaid
 7 pursuant to the repayment plan, the plan must include the
 8 repayment of all unpaid principal plus unpaid interest accrued
 9 on a daily basis through the first day of the grace period,
 10 provided, if the borrower exercises his or her right to the
 11 grace period during the original term of the title loan
 12 agreement, the entire unpaid amount of the interest agreed to
 13 be paid for such initial term must be paid during period of
 14 the repayment plan.

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

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

19 (b) A list of approved consumer credit counseling
 20 agencies which shall be prepared by the office. The office
 21 list shall include nonprofit consumer credit counseling
 22 agencies affiliated with the National Foundation for Credit
 23 Counseling which provide credit counseling services to
 24 residents of this state in person, by telephone, or through
 25 the Internet. The office list must include phone numbers for
 26 the agencies, the counties served by the agencies, and
 27 indicate the agencies that provide telephone counseling and
 28 those that provide Internet counseling. The office shall
 29 update the list at least once each year.

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

Bill No. SB 1634

Barcode 350748

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AS A CONDITION OF OBTAINING A GRACE PERIOD EXTENDING THE TERM OF YOUR TITLE LOAN AGREEMENT FOR AN ADDITIONAL FOUR (4) MONTHS, UNTIL (DATE), WITHOUT ANY ADDITIONAL INTEREST, YOU MUST COMPLETE CONSUMER CREDIT COUNSELING PROVIDED BY AN AGENCY INCLUDED ON THE LIST THAT WILL BE PROVIDED TO YOU BY THIS LENDER. YOU MUST ALSO AGREE TO COMPLY WITH AND ADHERE TO A REPAYMENT PLAN APPROVED BY THE AGENCY THAT COMPLIES WITH THE FLORIDA TITLE LOAN ACT. THE COUNSELING MAY BE IN PERSON, BY TELEPHONE, OR THROUGH THE INTERNET. YOU MUST NOTIFY US WITHIN SEVEN (7) DAYS, BY (DATE), THAT YOU HAVE COMPLETED AN APPOINTMENT WITH SUCH A CONSUMER CREDIT COUNSELING AGENCY. WE MAY VERIFY THIS INFORMATION WITH THE AGENCY. IF YOU FAIL TO TIMELY PROVIDE CONFIRMATION OF YOUR COMPLETED APPOINTMENT OR IF YOU DO NOT COMPLY WITH THE REPAYMENT PLAN AGREED TO WITH SUCH AGENCY, WE MAY SEEK POSSESSION OF THE MOTOR VEHICLE PLEDGED AS COLLATERAL FOR YOUR TITLE LOAN AGREEMENT.

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

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

IF YOU INFORM THIS LENDER IN PERSON THAT YOU CANNOT REDEEM YOUR CERTIFICATE OF TITLE BY PAYING IN FULL THE AMOUNT OWING AT THE END OF THE TERM OF THIS AGREEMENT OR MAKE YOUR MINIMUM PAYMENT, YOU ARE ENTITLED TO A GRACE PERIOD EXTENDING THE TERM OF THIS AGREEMENT FOR AN ADDITIONAL FOUR (4) MONTHS, WITHOUT

Bill No. SB 1634

Barcode 350748

1 ANY ADDITIONAL CHARGE. THIS LENDER SHALL REQUIRE THAT YOU, AS
 2 A CONDITION OF OBTAINING THE GRACE PERIOD, COMPLETE CONSUMER
 3 CREDIT COUNSELING PROVIDED BY AN AGENCY INCLUDED ON THE LIST
 4 THAT WILL BE PROVIDED TO YOU BY THIS LENDER AND COMPLY WITH
 5 AND ADHERE TO A REPAYMENT PLAN APPROVED BY THAT AGENCY. IF YOU
 6 DO NOT COMPLY WITH AND ADHERE TO A REPAYMENT PLAN APPROVED BY
 7 THAT AGENCY, THIS LENDER MAY SEEK POSSESSION OF THE MOTOR
 8 VEHICLE PLEDGED AS COLLATERAL FOR THIS LOAN.

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

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

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

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 20
 21 ===== T I T L E A M E N D M E N T =====

22 And the title is amended as follows:

23 Delete everything before the enacting clause

24

25 and insert:

26 A bill to be entitled
 27 An act relating to title loan lenders; amending
 28 s. 494.00797, F.S.; including title loan
 29 lenders within a prohibition against counties
 30 and municipalities regulating certain entities
 31 subject to the jurisdiction of the Office of

Bill No. SB 1634

Barcode 350748

1 Financial Regulation of the Financial Services
2 Commission; amending s. 537.004, F.S.;
3 requiring payment of a license fee prior to
4 being issued a license; increasing the amount
5 of certain license renewal fees; amending s.
6 537.008, F.S.; specifying information to be
7 printed in title loan agreements; amending s.
8 537.011, F.S.; revising maximum interest rates
9 chargeable on title loans; revising title loan
10 agreement extension provisions; providing
11 requirements and limitations on extension
12 agreements; providing alternative requirements
13 for title loans made to certain military
14 personnel; providing limitations; requiring the
15 commission to establish rules for rates;
16 providing payment requirements for title loan
17 borrowers; providing interest and fee
18 calculation methodologies; providing criteria
19 and limitations for deferring required
20 principal payments; amending s. 537.012, F.S.;
21 providing for tolling certain title loan
22 payment time requirements for certain military
23 personnel; amending s. 537.013, F.S.;
24 specifying an additional prohibited activity by
25 a title loan lender; prohibiting title loans in
26 excess of a certain amount; prohibiting certain
27 activities by a title loan lender relating to
28 military personnel; providing penalties;
29 creating s. 537.019, F.S.; prohibiting title
30 loan lenders from engaging in certain business
31 activities; creating s. 537.0201, F.S.;

Bill No. SB 1634

Barcode 350748

1 providing for credit counseling services for
2 borrowers under certain circumstances;
3 providing for a grace period extending a title
4 loan agreement for credit counseling purposes;
5 providing requirements, procedures, and
6 limitations on the provision of such grace
7 periods; providing requirements for title loan
8 lenders; providing for title loan repayment
9 plans; providing criteria and requirements for
10 repayment plans; requiring the Office of
11 Financial Regulation to prepare a list of
12 approved credit counseling agencies; providing
13 list requirements; specifying a required
14 notice; requiring a title loan lender to pay a
15 certain amount to a credit counseling agency
16 under certain circumstances; providing an
17 additional specified notice requirement;
18 repealing s. 537.018, F.S., relating to
19 preserving authority for more restrictive
20 county or municipal ordinances; providing
21 appropriations; authorizing additional
22 positions and providing a salary rate;
23 providing an effective date.

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