

HOUSE BILL No. 2235

By Committee on Commerce and Economic Development

2-8

1 AN ACT regulating vehicle title loans.

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3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. (a) Except as provided in subsection (b), a consumer loan
5 transaction, including a loan made pursuant to K.S.A. 16-706 et seq., and
6 amendments thereto, secured by a vehicle shall be considered a title loan
7 subject to the provisions of sections 1 through 6, and amendments
8 thereto.

9 (b) The provisions of sections 2 through 6, and amendments thereto,
10 shall not apply to a purchase money consumer loan or to a loan made
11 pursuant to subsection (2) of K.S.A. 16a-2-401, and amendments thereto.

12 (c) For the purposes of sections 1 through 6, and amendments
13 thereto:

14 (1) "Vehicle" means every device in, upon or by which any person
15 or property is or may be transported or drawn upon a public highway and
16 the ownership of which is evidenced by a certificate of title; and

17 (2) "related interest" shall have the same meaning as "person
18 related to" in K.S.A. 16a-1-301, and amendments thereto.

19 Sec. 2. (a) Prior to entering into any title loan, the title loan lender
20 and the borrower shall execute a written title loan agreement, which shall
21 be legibly typed in indelible ink and completed as to all essential
22 provisions prior to execution by the borrower and the title loan lender.
23 The title loan agreement shall include the following information:

24 (1) A detailed description of the vehicle to which the title loan
25 agreement relates;

26 (2) the vehicle identification number, or other comparable
27 identification number, along with the license plate number, if applicable,
28 of the vehicle to which the title loan agreement relates;

29 (3) the name, residential address, date of birth, physical description
30 and social security number of the borrower. The title loan lender shall
31 note the identification number and the type of identification, including the
32 issuing agency, accepted from the borrower;

33 (4) the date the title loan agreement is executed by the title loan
34 lender and the borrower;

35 (5) a statement of the borrower's right of rescission, which shall
36 provide that a borrower may rescind the title loan without cost not later

1 than the end of the second business day immediately following the day on
2 which the title loan transaction was made. To rescind the transaction, the
3 borrower shall inform the title loan lender that the borrower wants to
4 rescind the transaction, the borrower shall return the cash amount of the
5 principal of the title loan transaction and the title loan lender shall return
6 any fees that have been collected in association with the title loan;

7 (6) the amount of money advanced, designated as the amount
8 financed;

9 (7) the maturity date of the title loan agreement, which shall be 30
10 days after the date the title loan agreement is executed by the title loan
11 lender and the borrower;

12 (8) the total title loan interest payable on the maturity date,
13 designated as the finance charge;

14 (9) the amount financed plus finance charge, which must be paid on
15 the maturity date, designated as the total amount of all payments;

16 (10) the interest rate, computed in accordance with the regulations
17 adopted by the federal reserve board pursuant to the federal truth in
18 lending act, designated as the annual percentage rate;

19 (11) a statement that the borrower is not liable for any deficiency
20 balance; and

21 (12) a blank line for the signature of the borrower and the title loan
22 lender or the title loan lender's agent. All owners of the vehicle must sign
23 the title loan agreement.

24 (b) The following information shall also be printed on all title loan
25 agreements:

26 (1) The name and physical address of the title loan office;

27 (2) the name and address of the office of the state bank
28 commissioner as well as a telephone number to which consumers may
29 address questions or complaints; and

30 (3) the following statement in not less than 14-point type:

31 (A) This loan is not intended to meet long-term financial needs;

32 (B) this loan should only be used to meet short-term cash needs;

33 (C) you will be required to pay additional interest if you renew this
34 loan rather than pay the debt in full when due;

35 (D) this is a high interest loan. You should consider what other lower
36 cost loans or options may be available to you;

37 (E) if you do not repay this loan, your motor vehicle may be taken
38 from you to repay the loan; and

39 (F) if you enter into this title loan, you have a legal right of
40 rescission. This means you may change your mind and cancel the loan at
41 no cost to you by returning the money you borrowed before the end of the
42 second business day after the day you received your loan.

43 (c) At the time of the transaction, the title loan lender shall deliver to

1 the borrower an exact copy of the executed title loan agreement.

2 (d) When the title loan is repaid in full, the title loan lender shall
3 commence action to release any security interest in the motor vehicle. A
4 title loan lender shall not require a borrower to provide any additional
5 security or guaranty as a condition to entering into a title loan agreement.

6 Sec. 3. (a) The maximum amount of a title loan shall be \$2,500.

7 (b) A title loan lender may charge a maximum interest rate of 36%
8 per annum.

9 (c) The interest rate charge shall be computed as simple interest by
10 dividing the interest rate by 365 and the resulting daily interest rate
11 multiplied by the outstanding principal amount and the actual number of
12 days in the computational period. No insurance charges or any other type
13 of charges shall be permitted.

14 (d) A title loan may be extended for a maximum of two additional
15 30-day periods by mutual consent of the title loan lender and the
16 borrower, and payment by the borrower of accrued interest to the date of
17 the extension. Each extension of the title loan shall be executed in a
18 separate extension agreement, each of which shall comply with the
19 requirements for executing a title loan agreement as provided in section 2,
20 and amendments thereto. Each extension of a title loan shall clearly
21 reference the inception date and loan number of the initial title loan. The
22 interest rate charged in any extension agreement shall not exceed the
23 interest rate charged in the initial title loan agreement. No accrued interest
24 or other charges shall be capitalized or added to the principal of the title
25 loan upon extension.

26 (e) After the maturity date and any extensions of the title loan, the
27 contract rate of interest shall not be more than 3% per month of the loan
28 proceeds.

29 (f) A title loan lender, or their related interest, shall not enter into a
30 new title loan agreement with the same borrower prior to the expiration of
31 60 calendar days following the payment in full of a previous title loan or
32 any subsequent extensions thereof.

33 (g) A title loan shall not be repaid by proceeds of another title loan
34 by the same lender or their related interest. The proceeds from a title loan
35 shall not be applied to any other title loan from the same lender or their
36 related interest.

37 (h) A borrower may prepay in full the unpaid balance of a title loan
38 at any time without penalty.

39 Sec. 4. (a) If a borrower fails to repay all amounts legally due under
40 a title loan agreement on or before the title loan's maturity date and after
41 all notices have been given, the title loan lender may take possession of
42 the vehicle.

43 (b) Prior to repossession, the title loan lender shall afford the

1 borrower an opportunity to make the vehicle available to the title loan
2 lender at a place, date and time reasonably convenient to the title loan
3 lender and the borrower. Upon taking possession of the vehicle the title
4 loan lender shall afford the borrower a reasonable opportunity to remove
5 from the vehicle any personal belongings without charge or additional
6 cost to the borrower. After taking possession of the vehicle, the title loan
7 lender may, at the title loan lender's sole expense and risk, authorize a
8 third party to retain physical possession of the vehicle.

9 (c) Upon taking possession of the vehicle, the title loan lender may
10 dispose of the vehicle in a commercially reasonable manner in
11 accordance with the uniform commercial code. Any such sale or disposal
12 shall vest in the purchaser the right, title and interest of the owner and the
13 title loan lender.

14 (d) Within 30 days after the sale of the vehicle, the borrower is
15 entitled to receive all proceeds from the sale of the motor vehicle in
16 excess of the principal amount due on the loan, interest accrued through
17 the date the title loan lender took possession of the vehicle and the actual
18 expenses incurred to date by the title loan lender in taking possession of,
19 preparing for sale and selling the vehicle which shall not exceed 15% of
20 the outstanding principal amount of the title loan. The borrower is entitled
21 to reasonable attorney's fees and costs incurred in any action brought to
22 recover such proceeds that results in the title loan lender being ordered to
23 return all or part of such amount.

24 Sec. 5. No person shall commit or cause to be committed any of the
25 following acts or practices in connection with a consumer loan
26 transaction subject to the provisions of sections 1 through 6, and
27 amendments thereto:

28 (a) Use any device or agreement that would have the effect of
29 charging or collecting more fees, charges or interest, or which results in
30 more fees, charges or interest being paid by the consumer, than allowed
31 by the provisions of section 3, and amendments thereto, including, but
32 not limited to:

33 (1) Entering into a different type of transaction with the consumer;
34 (2) entering into a sales/leaseback or rebate arrangement; or
35 (3) entering into any other transaction with the consumer or any
36 other person that is designed to evade the applicability of sections 1
37 through 6, and amendments thereto;

38 (b) take a security interest in a vehicle which is not evidenced by a
39 first position lien on the vehicle's certificate of title. If the person files a
40 lien against such vehicle that is not a first position lien, the resulting lien
41 shall be void;

42 (c) sell any other product or service of any kind in connection with
43 the making or collecting of the title loan;

- 1 (d) use, or threaten to use, the criminal process in any state to collect
- 2 on the title loan;
- 3 (e) include any of the following provisions in a title loan document:
- 4 (1) A hold harmless clause;
- 5 (2) a confession of judgment clause;
- 6 (3) a provision in which the consumer agrees not to assert a claim or
- 7 defense arising out of the contract; and
- 8 (f) delay, or cause to be delayed, the prompt filing of a security
- 9 interest or lien release; in connection with a consumer loan transaction
- 10 subject to the provisions of sections 1 through 6, and amendments
- 11 thereto.
- 12 Sec. 6. The provisions of sections 1 through 6, and amendments
- 13 thereto, shall be supplemental to and a part of the uniform consumer
- 14 credit code.
- 15 Sec. 7. This act shall take effect and be in force from and after its
- 16 publication in the statute book.
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