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COMMERCE, REGULATION & LABOR

HOUSE FILE 307

BY VAN ENGELENHOVEN

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act regulating title loans and title loan lenders, including  
2 the establishment of licensing requirements, disclosure  
3 requirements, title loan agreement provision requirements,  
4 limitations on interest and fees charged, recordkeeping  
5 requirements, and providing for fees and penalties.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 307

1 Section 1. NEW SECTION. 536B.1 DEFINITIONS.

2 As used in chapter, unless the context otherwise requires:

3 1. "Borrower" means a person who borrows money pursuant to  
4 a title loan agreement.

5 2. "Capital" means the assets of a person less the  
6 liabilities of that person as measured according to generally  
7 accepted accounting principles.

8 3. "Certificate of title" means a certificate of title or  
9 certificate of ownership issued by the state for personal  
10 property.

11 4. "Person" means the same as defined in section 4.1.

12 5. "Pledged property" means personal property, ownership  
13 of which is evidenced and delineated by a certificate of  
14 title.

15 6. "Superintendent" means the superintendent of banking  
16 within the banking division of the department of commerce.

17 7. "Title lender" means a person who engages in the  
18 business of making or servicing a title loan.

19 8. "Title loan" means a loan of money secured by a  
20 certificate of title to titled personal property.

21 9. "Title loan agreement" means a written agreement  
22 between a borrower and a title lender for a title loan in a  
23 form which complies with the requirements of this chapter.

24 10. "Title loan office" means the location in this state  
25 at which a title lender regularly conducts business under this  
26 chapter or any other location held out to the public as a  
27 location at which a lender makes or services title loans.

28 11. "Titled personal property" means personal property,  
29 excluding property qualified to be a personal dwelling, the  
30 ownership of which is evidenced by a certificate of title.

31 Sec. 2. NEW SECTION. 536B.2 REGULATION OF TITLE LENDERS  
32 -- RULES.

33 1. The superintendent shall administer and regulate this  
34 chapter.

35 2. An employee of the division of banking shall not have

1 an ownership or interest in any title loan business or receive  
2 directly or indirectly any payment or gratuity from any such  
3 entity.

4 3. The superintendent shall adopt rules necessary to  
5 implement this chapter.

6 Sec. 3. NEW SECTION. 536B.3 LICENSING REQUIREMENTS --  
7 APPLICATION -- FEE.

8 1. A person shall not act as a title lender without a  
9 title loan license issued pursuant to this chapter.

10 2. An applicant for a title loan license shall have and  
11 maintain capital of at least seventy-five thousand dollars at  
12 all times.

13 3. The license application shall be in writing, under  
14 oath, and in a form prescribed by the superintendent. The  
15 application shall contain all of the following information:

16 a. The name of the applicant and the name and residential  
17 address of the owners, partners, directors, trustees, and  
18 principal officers of the applicant.

19 b. The date of formation of the applicant's business  
20 entity and the address of each of the applicant's title loan  
21 offices operated or sought to be operated in this state.

22 c. Any other information required by the superintendent.

23 4. A surety bond in the principal sum of twenty thousand  
24 dollars per title loan office shall accompany each license  
25 application filed with the superintendent. The bond shall be  
26 in a form satisfactory to the superintendent and shall be  
27 issued by a bonding company or insurance company authorized to  
28 do business in this state. The bond shall cover the  
29 performance of the obligations of the applicant and the  
30 applicant's agents in connection with title loan activities.

31 An applicant or licensee may, in lieu of filing a bond,  
32 provide the superintendent with an irrevocable letter of  
33 credit in the amount of twenty thousand dollars per title loan  
34 office, issued by any bank, trust company, savings and loan  
35 association, or credit union operating in this state in a form

1 acceptable to the superintendent.

2 5. The applicant shall include with the application a  
3 nonrefundable application fee of one thousand dollars per  
4 title loan office or proposed title loan office. A licensee  
5 shall pay an annual renewal fee of one thousand dollars for  
6 each licensed title loan office to the superintendent. All  
7 fees collected shall be deposited in the general fund of the  
8 state.

9 6. Each license shall specify the location of the title  
10 loan office and shall be conspicuously displayed in the title  
11 loan office. Before any title loan office may relocate, the  
12 superintendent shall approve the relocation and mail the  
13 licensee a new license without charge.

14 7. If the superintendent determines that all requirements  
15 for licensure under this chapter have been met, the  
16 superintendent shall issue a license for a period of not more  
17 than two years.

18 8. Each license shall be uniquely numbered and shall not  
19 be transferred or assigned. Prior to the sale of more than  
20 fifty percent of a title lender, the proposed purchaser shall  
21 submit an initial license application to the superintendent  
22 and comply with all requirements of this chapter.

23 Sec. 4. NEW SECTION. 536B.4 DENIAL, SUSPENSION, OR  
24 REVOCATION OF LICENSE.

25 1. The following acts are violations for which a license  
26 may be denied, suspended, or revoked:

27 a. Failure to comply with any provision of this chapter,  
28 any rule adopted pursuant to this chapter, any written  
29 agreement entered into with the superintendent, or an order  
30 issued by the superintendent.

31 b. Fraud, misrepresentation, deceit, or gross negligence  
32 in any title loan transaction, regardless of reliance by or  
33 damage to the borrower.

34 c. Fraudulent misrepresentation, circumvention, or  
35 concealment of any matter required to be stated or furnished

1 to a borrower pursuant to this chapter, regardless of reliance  
2 by or damage to the borrower.

3 d. False, deceptive, or misleading advertising by a title  
4 lender.

5 e. Aiding, abetting, or conspiring by a title lender with  
6 a person to circumvent or violate any of the requirements of  
7 this chapter.

8 f. Refusal to provide information upon request of the  
9 superintendent or refusal to permit inspection of books and  
10 records in an investigation or examination by the  
11 superintendent.

12 g. Pleading nolo contendere to or having been convicted or  
13 found guilty, regardless of whether a judgment was deferred,  
14 of a crime involving fraud, dishonest dealing, or any act of  
15 moral turpitude, or acting as an ultimate equitable owner of  
16 ten percent or more of a title lender who has pled nolo  
17 contendere to or has been convicted or found guilty,  
18 regardless of whether a judgment was deferred, of a crime  
19 involving fraud, dishonest dealing, or any act of moral  
20 turpitude.

21 h. Making or having made a material misstatement of fact  
22 in an initial or renewal application for a license under this  
23 chapter.

24 i. Having been the subject of any decision, finding,  
25 injunction, suspension, prohibition, revocation, denial,  
26 judgment, or administrative order by any court or  
27 administrative law judge, or by any state or federal agency,  
28 involving a violation of any federal or state law relating to  
29 title loans or any rule or regulation adopted under such law,  
30 or having been the subject of any injunction or adverse  
31 administrative order by a state or federal agency regulating  
32 banking, insurance, finance or small loan companies, real  
33 estate, mortgage brokers, or other related or similar  
34 industries for acts involving fraud, dishonest dealing, or any  
35 act of moral turpitude.

1 j. Failing to continuously maintain the bond or letter of  
2 credit required by section 536B.3.

3 k. Failing to timely pay any fee, charge, or fine imposed  
4 or assessed pursuant to this chapter or rules adopted under  
5 this chapter.

6 1. Having a license or registration, or the equivalent  
7 thereof, to practice any profession or occupation denied,  
8 suspended, revoked, or otherwise acted against by a licensing  
9 authority in any jurisdiction for fraud, dishonest dealing, or  
10 any act of moral turpitude.

11 m. Having demonstrated unworthiness, as defined by rule,  
12 to transact the business of a title lender.

13 2. If an applicant or licensee is an entity other than a  
14 natural person, the provisions of this section apply to each  
15 direct or ultimate equitable owner of ten percent or more of  
16 the outstanding equity interest of such entity and to each  
17 director, general partner, and executive officer.

18 3. A license may be denied, suspended, or revoked for an  
19 act described in this section of an employee, agent, officer,  
20 or director of the title lender if the title lender knew or  
21 should have known about such act.

22 4. A license may be denied, suspended, or revoked if an  
23 applicant or licensee is charged, in a pending enforcement  
24 action or pending criminal prosecution, with any conduct that  
25 would authorize denial, suspension, or revocation under this  
26 section.

27 5. A title lender may have its license suspended or  
28 revoked pursuant to this section by order of the  
29 superintendent after a hearing is held before the  
30 superintendent pursuant to chapter 17A on an order of the  
31 superintendent to show cause why such order of suspension or  
32 revocation should not be entered. The order to show cause  
33 shall specify the grounds for suspension or revocation and  
34 shall be served on the title lender at least ten days prior to  
35 the hearing. A hearing is not required for denial of a

1 license unless requested by the applicant in writing to the  
2 superintendent within ten days after the denial is issued.

3 Sec. 5. NEW SECTION. 536B.5 NOTICE TO BORROWER PRIOR TO  
4 EXECUTION OF TITLE LOAN AGREEMENT.

5 1. Before executing a title loan agreement for a title  
6 loan secured by a motor vehicle, a title lender shall provide  
7 the borrower the following notice in at least ten point bold  
8 type and receipt thereof shall be acknowledged by signature of  
9 the borrower:

10 "(Name of Lender) NOTICE TO BORROWER

11 (1) Your motor vehicle title will be pledged as security  
12 for the loan. If the loan is not repaid in full, including  
13 all finance charges, you may lose your motor vehicle.

14 (2) This lender offers short-term loans.

15 Please read and understand the terms of the loan agreement  
16 before signing.

17 I have read the above "NOTICE TO BORROWER" and I understand  
18 that if I do not repay this loan that I may lose my motor  
19 vehicle.

20 \_\_\_\_\_ Borrower \_\_\_\_\_ Date"

21 2. If a title loan is secured by titled personal property  
22 other than a motor vehicle, the title lender shall either  
23 provide a notice in the form provided in subsection 1 with the  
24 proper description of the property securing the loan or use  
25 the notice described in subsection 1, or strike the word  
26 "motor vehicle" from where it appears, write or print in the  
27 type of titled personal property serving as security, and have  
28 the customer initial each place.

29 3. The title lender shall post in a conspicuous location  
30 in each title loan office, in at least fourteen point bold  
31 type, the maximum rates that such title lender charges on  
32 title loans made by the title lender and the following  
33 statement:

34 "NOTICE TO CUSTOMERS:

35 Borrowing from this lender places your motor vehicle at

1 risk. If this loan is not repaid in full, including all  
2 finance charges, you may lose your motor vehicle. This lender  
3 offers short-term loans. Please read and understand the terms  
4 of the loan agreement before signing."

5 Sec. 6. NEW SECTION. 536B.6 TITLE LOAN AGREEMENTS --  
6 DISCLOSURE REQUIREMENTS.

7 1. A title loan, and each extension or renewal of a title  
8 loan, shall be in writing, signed by the borrower and the  
9 title lender, and shall provide for all of the following:

10 a. That the title lender agrees to make a loan to the  
11 borrower, and the borrower agrees to give the title lender a  
12 security interest in unencumbered titled personal property.

13 b. Whether the borrower consents to the title lender  
14 keeping possession of the certificate of title to the titled  
15 personal property.

16 c. That the borrower shall have the right to redeem the  
17 certificate of title by repaying the loan in full and by  
18 complying with the title loan agreement which may be for any  
19 agreed period of time not less than thirty days.

20 d. That the title lender shall extend or renew the title  
21 loan agreement upon the borrower's written request and the  
22 payment by the borrower of any interest due at the time of  
23 such extension or renewal. However, upon the third extension  
24 or renewal of any title loan agreement, and any subsequent  
25 extension or renewal, the borrower shall reduce the principal  
26 of the title loan by ten percent until such loan is paid in  
27 full.

28 e. That when the title loan is satisfied, the title lender  
29 shall release its lien and return the certificate of title to  
30 the borrower.

31 f. That if the borrower defaults, the title lender shall  
32 be allowed to take possession of and sell the titled personal  
33 property after compliance with chapter 554, article 9, part 6.

34 2. A title loan agreement shall disclose all of the  
35 following:

1 a. All disclosures required by this chapter, the federal  
2 Truth in Lending Act as defined in section 537.1302, and  
3 chapter 537.

4 b. That the transaction is a loan secured by the pledge of  
5 titled personal property and, in at least ten point bold type,  
6 that nonpayment of the loan may result in loss of the  
7 borrower's motor vehicle or other titled personal property.

8 c. The make, model, year, and identification number of the  
9 titled personal property used as security for the title loan,  
10 as applicable.

11 d. The name, business address, telephone number, and  
12 license number of the title lender, and the name and  
13 residential address of the borrower.

14 e. The amount of money advanced, designated as the "amount  
15 financed".

16 f. The maturity date of the title loan agreement.

17 g. The total title loan interest rate to be charged and  
18 payable on the maturity date, designated as the "finance  
19 charge".

20 h. The number of payments or the period of repayment.

21 i. The amount financed plus the finance charge, which must  
22 be paid to reclaim the property securing the loan on the  
23 maturity date, designated as the "total amount of all  
24 payments".

25 j. The interest rate, computed in accordance with  
26 regulations adopted by the federal reserve board pursuant to  
27 the federal Truth in Lending Act as defined in section  
28 537.1302, designated as the "annual percentage rate".

29 k. A statement which shall be in at least ten point bold  
30 type, separately acknowledged by the signature of the borrower  
31 and reading as follows:

32 "YOU MAY CANCEL THIS LOAN WITHOUT ANY COSTS BY RETURNING  
33 THE FULL PRINCIPAL AMOUNT TO THE LENDER BY THE CLOSE OF THE  
34 LENDER'S NEXT FULL BUSINESS DAY."

35 l. The location where the titled personal property may be

1 delivered if the loan is not paid and the hours such location  
2 is open for receiving such deliveries.

3 m. The name, address, and telephone number of the division  
4 of banking, to which consumers may address complaints.

5 n. Any additional disclosures deemed necessary by the  
6 superintendent or required by any other state or federal law.

7 3. The division of banking is directed to draft a sample  
8 form for a title loan agreement to be used in title loan  
9 transactions. Use of this form is not mandatory, but when  
10 properly completed, the form shall satisfy the disclosure  
11 provisions of this section.

12 Sec. 7. NEW SECTION. 536B.7 LIMITATIONS AND  
13 RESTRICTIONS.

14 1. A title lender shall not do any of the following:

15 a. Execute a title loan agreement with a person under  
16 eighteen years of age or with anyone who appears to be  
17 intoxicated.

18 b. Execute a title loan agreement for an amount which  
19 exceeds five thousand dollars.

20 c. Accept any waiver of any right or protection of a  
21 borrower.

22 d. Fail to exercise reasonable care to protect from loss  
23 or damage certificates of title or titled personal property in  
24 the physical possession of the title lender.

25 e. Purchase titled personal property in the operation of  
26 its business.

27 f. Except as provided in section 536B.8, execute a title  
28 loan agreement which requires or permits the personal  
29 liability of the borrower other than for titled personal  
30 property.

31 g. Execute a title loan agreement that contains a  
32 confession of judgment, a waiver of a right to jury trial, a  
33 mandatory arbitration clause, or an assignment of payment of  
34 wages.

35 h. Execute a title loan agreement unless the borrower

1 presents clear title at the time that the loan is made.

2 i. Sell or otherwise charge for any type of insurance in  
3 connection with a title loan agreement.

4 j. Refuse to accept partial payments toward satisfying any  
5 obligation owed under a title loan agreement.

6 k. Charge any fee or penalty not specifically permitted  
7 under this chapter.

8 l. Knowingly violate any provision of this chapter or any  
9 rule adopted pursuant to this chapter.

10 m. Violate any provision of chapter 537 or chapter 554,  
11 article 9, part 6.

12 n. Store repossessed titled personal property at a  
13 location more than fifteen miles from the office where the  
14 title loan agreement was executed.

15 o. Threaten to use or use the criminal process in this or  
16 any state to collect on the title loan.

17 2. When executing or negotiating a title loan, the title  
18 lender shall take into consideration in determining the amount  
19 of a title loan and duration of a loan contract the financial  
20 ability of the borrower to reasonably repay the loan in the  
21 time and manner specified in the loan contract.

22 3. If a title lender enters into a transaction contrary to  
23 this section, the loan and the security interest shall be  
24 void.

25 Sec. 8. NEW SECTION. 536B.8 LIABILITY OF BORROWER.

26 A borrower who obtains a title loan under false pretenses  
27 by knowingly hiding or not disclosing the existence of a valid  
28 prior lien or security interest affecting the titled personal  
29 property shall be personally liable to the title lender for  
30 the full amount stated in the title loan agreement.

31 Sec. 9. NEW SECTION. 536B.9 INTEREST AND FEES.

32 1. A title lender may contract for and receive a finance  
33 charge, calculated according to the actuarial method, not  
34 exceeding twenty-one percent per year on the unpaid balance of  
35 the amount financed. The title lender shall otherwise comply

1 with the provisions of section 537.2401 not in conflict with  
2 the provisions of this chapter, and shall be subject to  
3 applicable remedies and penalties provided in chapter 537,  
4 article 5.

5 2. The interest rate charged in any title loan extension  
6 or renewal agreement shall not exceed the interest rate  
7 charged in the original title loan agreement. A title lender  
8 may not capitalize in any title loan extension agreement any  
9 unpaid interest due on the related title loan or any  
10 subsequent extensions or renewals to that title loan  
11 agreement.

12 Sec. 10. NEW SECTION. 536B.10 REDEMPTION -- DEFAULT --  
13 LENDER REMEDIES.

14 1. A borrower shall be entitled to redeem the pledged  
15 certificate of title and titled personal property by timely  
16 satisfaction of the terms of the title loan agreement.

17 2. Upon default of a title loan agreement, the title  
18 lender may proceed against the titled personal property upon  
19 compliance with chapter 554, article 9, part 6. However,  
20 prior to repossessing the titled personal property, the title  
21 lender shall afford the borrower an opportunity to make the  
22 titled personal property available to the title lender at a  
23 place, date, and time reasonably convenient to the title  
24 lender and the borrower. After the title lender takes  
25 possession of the titled personal property, the title lender  
26 shall immediately return without charge any personal  
27 belongings left within the titled personal property to the  
28 borrower.

29 3. Within thirty days after the sale of the titled  
30 personal property, the borrower is entitled to receive all  
31 proceeds from the sale of the titled personal property in  
32 excess of the principal amount and finance charges incurred  
33 under the title loan agreement and reasonable expenses  
34 incurred by the title lender in taking possession of and  
35 selling the titled personal property.

1     Sec. 11. NEW SECTION. 536B.11 RECORDKEEPING  
2 REQUIREMENTS.

3     1. A title lender shall keep a consecutively numbered  
4 record of each title loan agreement executed, which number  
5 shall be placed on the corresponding title loan agreement  
6 document. The record shall include all of the following:

7     a. A clear and accurate description of the titled personal  
8 property, including its vehicle identification or serial  
9 number, registration plate number, year, make, model, type,  
10 and color, as applicable.

11    b. The date of the title loan agreement.

12    c. The amount of the title loan.

13    d. The date of maturity of the title loan.

14    e. The name, date of birth, social security number,  
15 residential address, and the type of photo identification of  
16 the borrower.

17    2. A title lender shall photocopy the photo identification  
18 of the borrower or shall take an instant photograph of the  
19 borrower, and shall attach such photocopy or photograph to the  
20 lender's copy of the title loan agreement and all extensions  
21 and renewals.

22    3. A title lender shall provide the borrower an exact copy  
23 of the title loan agreement at the time of execution of the  
24 agreement. The title lender shall provide each customer with  
25 and retain a photocopy of the pledged title at the time the  
26 agreement is signed. If a borrower's copy of the title loan  
27 agreement is lost, destroyed, or stolen, the title lender  
28 shall provide the borrower another exact copy of the agreement  
29 upon receipt of a written request from the borrower at no  
30 charge.

31    4. A title lender shall keep the numbered records and  
32 copies of its title loan agreements, including a copy of the  
33 notice required pursuant to section 536B.5, subsection 1 or 2,  
34 for a period of no less than two years from the date of the  
35 closing of the last transaction reflected therein. A title

1 lender who ceases engaging in the business of making title  
2 loans shall keep these records for at least two years from the  
3 date the lender ceased engaging in the business. A title  
4 lender shall notify the superintendent to request an  
5 examination at least ten days before ceasing business.

6 5. The records required by this section shall be made  
7 available for inspection and copying by the borrower and by  
8 any employee of the division of banking upon request during  
9 ordinary business hours without warrant, subpoena, or court  
10 order at no charge.

11 Sec. 12. NEW SECTION. 536B.12 SAFEKEEPING OF  
12 CERTIFICATES OF TITLE -- LIABILITY INSURANCE -- LIABILITY OF  
13 TITLE LENDER.

14 1. A title lender shall maintain a fireproof place for  
15 pledged certificates of title and a safe place for pledged  
16 titled personal property delivered to or repossessed by the  
17 title lender.

18 2. A title lender shall maintain premises liability  
19 insurance in an amount of not less than one million dollars  
20 per occurrence for the benefit of customers and employees,  
21 which insurance shall provide coverage for, among other risks,  
22 injuries caused by the criminal acts of third parties.

23 3. A title lender shall not be liable for any loss or  
24 injury occasioned or caused by the use of pledged titled  
25 personal property unless the pledged property is actually in  
26 the title lender's possession.

27 4. A title lender shall be strictly liable to the borrower  
28 for any loss to pledged titled personal property in the title  
29 lender's possession.

30 Sec. 13. NEW SECTION. 536B.13 VIOLATIONS -- PENALTIES.

31 1. All title loan agreements entered into by a person who  
32 acts in violation of the requirements of this chapter, and all  
33 title pledges accepted by such person, shall be null and void.  
34 A borrower who enters into a title loan agreement with a  
35 person who acts in violation of the provisions of this chapter

1 shall not be bound by the agreement, and the title lender  
2 shall return to the borrower the titled personal property  
3 pledged or the fair market value of the titled property, and  
4 all principal, interest, fees, and other charges paid by the  
5 borrower. The borrower may commence a civil action to enforce  
6 this subsection in which the borrower is entitled to  
7 reasonable attorney fees, costs, and interest.

8 2. a. The attorney general may initiate an action against  
9 any person who acts as a title lender without a title loan  
10 license for civil and criminal penalties as provided in this  
11 section.

12 b. The attorney general may commence an action to impose a  
13 civil penalty for title lending without a title loan license  
14 in an amount not less than one thousand dollars and not more  
15 than five thousand dollars for each day that a person acts in  
16 violation of the licensing requirement. The action shall be  
17 commenced in the district court for any county in which the  
18 person executed any title loan agreement or any county in  
19 which any of the pledged titled personal property is normally  
20 kept. Civil penalties collected shall be deposited in the  
21 general fund of the state.

22 c. A first offense violation of the licensing requirement  
23 of this chapter is a simple misdemeanor. A second or  
24 subsequent offense is an aggravated misdemeanor. For purposes  
25 of jurisdiction and venue, the crime of unlawful title lending  
26 shall be deemed to have occurred in both the county in which  
27 an unlawful title loan agreement was executed and the county  
28 in which the pledged property is normally kept.

29 d. If a violation of the licensing requirement is  
30 intentional or knowing, the person shall be barred from  
31 applying for a title loan license for a period of five years  
32 from the date of the last violation.

33 3. Whenever it appears to the superintendent that any  
34 title lender is failing, refusing, or neglecting to make a  
35 good faith effort to comply with the provisions of this

1 chapter, the superintendent may issue an order to cease and  
2 desist and may assess and collect a civil penalty of not more  
3 than one thousand dollars per day for each day that the  
4 neglect, failure, or refusal occurs or continues. In  
5 determining the amount of the penalty, the superintendent  
6 shall take into account the appropriateness of the penalty  
7 with respect to the gravity of the violation, the history of  
8 previous violations, and such other matters as justice may  
9 require. Civil penalties collected shall be deposited in the  
10 general fund of the state.

11 Sec. 14. NEW SECTION. 536B.14 PAWN OR PAWNBROKER TITLE  
12 PROHIBITED.

13 A business licensed pursuant to this chapter shall not use  
14 the terms "pawn" or "pawnbroker" in the lender's title,  
15 business name, or advertising.

16 EXPLANATION

17 This bill provides for the licensing and regulation of  
18 persons who engage in the business of making a loan of money  
19 secured by a certificate of title to personal property such as  
20 a motor vehicle.

21 The bill requires all persons making title loans to be  
22 licensed by the superintendent of banking of the division of  
23 banking of the department of commerce pursuant to the  
24 provisions of new Code chapter 536B. The bill restricts  
25 employees of the division of banking from owning or receiving  
26 payment from a title lender. To be licensed as a title  
27 lender, an application must be filed with the superintendent  
28 which contains certain information and includes a \$20,000  
29 surety bond or an irrevocable \$20,000 letter of credit to  
30 cover potential liabilities of the title lender. All  
31 application and renewal fees shall be deposited in the general  
32 fund of the state. The bill requires all issued licenses to  
33 be conspicuously displayed in each title loan office.  
34 Licenses are valid for no more than two years and are not  
35 transferable or assignable.

1 The superintendent may deny, suspend, or revoke a license  
2 for any violation of new Code chapter 536B, for certain acts  
3 of fraud or misrepresentation, certain criminal acts, failing  
4 to provide information to the superintendent, failing to  
5 maintain a bond or letter of credit, and failing to pay a fee  
6 or fine. The superintendent shall hold a hearing regarding a  
7 denial, suspension, or revocation of a title loan license  
8 after ten days' notice to the licensee or upon the request of  
9 an applicant.

10 The bill requires title lenders to provide certain notices  
11 and disclosures to borrowers regarding the consequences of not  
12 paying the loan in full. Title loan agreements are required  
13 to contain certain provisions regarding the transfer of  
14 possession of the certificate of title, the borrower's right  
15 of redemption, renewal of the agreement, and consequences of  
16 default. The title loan agreement must contain all required  
17 disclosures required under federal law and Code chapter 537,  
18 and language that default may result in the loss of the  
19 borrower's titled personal property pledged under the  
20 agreement. The agreement must provide a description of the  
21 titled personal property pledged, information regarding the  
22 title lender, the amount of money financed under the  
23 agreement, the maturity date, the total finance charge, the  
24 number of payments, the total amount of all payments, the  
25 annual percentage rate, a right of cancellation within one  
26 business day by the borrower, where the titled personal  
27 property may be delivered if default occurs, and contact  
28 information for the division of banking for complaints. The  
29 division of banking shall make available a sample title loan  
30 agreement.

31 The bill prohibits title lenders from certain actions  
32 including executing a title loan agreement with an underage or  
33 intoxicated person, for an amount greater than \$5,000,  
34 requiring a borrower to accept personal liability, or  
35 containing a confession of judgment, a waiver of a right to

1 jury trial, mandatory arbitration clause, assignment of  
2 payment of wages, or any other waiver of a right or protection  
3 of a borrower. The bill prohibits title lenders from failing  
4 to protect certificates of title or titled personal property  
5 in the lender's possession, purchasing titled personal  
6 property, selling insurance, refusing to accept partial  
7 payments, charging additional fees or penalties, storing  
8 titled personal property more than 15 miles from the title  
9 loan office, threatening or using the criminal process to  
10 collect on a title loan, or failing to ensure the borrower had  
11 clear title at the time of execution of the title loan. The  
12 bill provides that a borrower may be personally liable for a  
13 title loan agreement if the borrower fails to disclose a prior  
14 valid lien on the titled personal property pledged for the  
15 title loan.

16 The bill restricts the amount of interest a title lender  
17 may charge to 21 percent per year. The title lender must  
18 comply with the provisions of Code section 537.2401 regarding  
19 finance charges on consumer loans or be subject to remedies  
20 and penalties of Code chapter 537, article 5. A renewal of  
21 the title loan agreement shall not exceed the amount of  
22 interest charged in the original agreement and a lender may  
23 not capitalize unpaid interest in a renewal of the agreement.

24 The bill provides that the borrower shall redeem the  
25 pledged certificate of title upon satisfaction of the loan.  
26 The bill provides that upon default of the agreement, the  
27 title lender may proceed to repossess the titled personal  
28 property pursuant to the provisions related to repossession in  
29 Code chapter 554, article 9, part 6. Prior to repossession,  
30 the title lender must permit the borrower to voluntarily  
31 provide the titled personal property to the lender. After  
32 repossession, the title lender must return all personal  
33 property left within the titled personal property repossessed.  
34 The title lender must give all proceeds in excess of the  
35 amount owed under the agreement to the borrower within 30 days

1 after sale of the titled personal property.

2 The bill requires title lenders to keep certain records  
3 regarding executed title loan agreements including a  
4 description of the titled personal property, the date and  
5 amount of the title loan, the date of maturity, and  
6 information regarding the borrower. The title lender must  
7 maintain a photocopy of the photo identification of the  
8 borrower and provide the borrower an exact copy of the  
9 agreement and a copy of the pledged title. The title lender  
10 shall keep copies of title loan agreements for at least two  
11 years. The records required to be kept must be made available  
12 to the borrower and the superintendent.

13 The title lender is required to keep pledged certificates  
14 of title safe and must maintain at least \$1,000,000 in general  
15 liability insurance. A title lender is not liable for damage  
16 to pledged property not in the lender's possession but is  
17 strictly liable for losses of property in the lender's  
18 possession.

19 The bill provides that all title loan agreements executed  
20 in violation of any provision of Code chapter 536B are void  
21 and the borrower is entitled to the return of the titled  
22 personal property pledged, and all principal, interest, and  
23 fees paid by the borrower. The borrower may file a civil  
24 action to enforce return of the property and payments made.  
25 The attorney general may file an action for civil and criminal  
26 penalties against a person who acts as a title lender without  
27 a license. Civil penalties shall be no less than \$1,000 but  
28 not more than \$5,000 per day the person acts without a  
29 license. A first criminal offense is punishable as a simple  
30 misdemeanor. A simple misdemeanor is punishable by  
31 confinement for no more than 30 days or a fine of at least \$50  
32 but not more than \$500 or by both. A second or subsequent  
33 offense is punishable as an aggravated misdemeanor. An  
34 aggravated misdemeanor is punishable by confinement for no  
35 more than two years and a fine of at least \$500 but not more

1 than \$5,000. Persons intentionally acting as a title lender  
2 without a license are also barred from obtaining a license for  
3 five years. The superintendent may impose civil penalties  
4 between \$1,000 and \$5,000 for noncompliance with any provision  
5 of Code chapter 536B for each day of noncompliance. Civil  
6 penalties collected shall be deposited in the general fund.

7 The bill prohibits title lenders from using the term "pawn"  
8 or "pawnbroker" in the lender's business name or advertising.

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