

FEB 1 2006
COMMERCE, REGULATION & LABOR

HOUSE FILE 2221
BY MCCARTHY

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to consumer loans secured by a certificate of
2 title to a motor vehicle by creating the crime of
3 loansharking, providing for a maximum finance charge,
4 providing for criminal penalties, making penalties applicable,
5 and providing an effective date.

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

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HF-2221

1 Section 1. Section 537.2401, subsection 1, Code 2005, is
2 amended to read as follows:

3 1. Except as provided with respect to a finance charge for
4 loans pursuant to open end credit under section 537.2402 and
5 loans secured by a certificate of title of a motor vehicle
6 under section 537.2403, a lender may contract for and receive
7 a finance charge not exceeding the maximum charge permitted by
8 the laws of this state or of the United States for similar
9 lenders, and, in addition, with respect to a consumer loan, a
10 supervised financial organization or a mortgage lender may
11 contract for and receive a finance charge, calculated
12 according to the actuarial method, not exceeding twenty-one
13 percent per year on the unpaid balance of the amount financed.
14 ~~This~~ Except as provided in section 537.2403, this subsection
15 does not prohibit a lender from contracting for and receiving
16 a finance charge exceeding twenty-one percent per year on the
17 unpaid balance of the amount financed on consumer loans if
18 authorized by other provisions of the law.

19 Sec. 2. Section 537.2402, subsection 1, Code 2005, is
20 amended to read as follows:

21 1. If authorized to make supervised loans, a creditor may
22 contract for and receive a finance charge without limitation
23 as to amount or rate with respect to a loan pursuant to open-
24 end credit as permitted in this section except as provided in
25 section 537.2403.

26 Sec. 3. NEW SECTION. 537.2403 FINANCE CHARGE FOR
27 CONSUMER LOANS SECURED BY A MOTOR VEHICLE.

28 1. A lender shall not contract for or receive a finance
29 charge exceeding twenty-one percent per year on the unpaid
30 balance of the amount financed for a loan of money secured by
31 a certificate of title to a motor vehicle used for personal,
32 family, or household purpose except as authorized under
33 chapter 536 or 536A. A consumer who is charged a finance
34 charge in excess of the limitation in this section may seek
35 any remedies available pursuant to this chapter for an excess

1 charge.

2 2. It shall be a violation of this section and an unlawful
3 practice under section 714.16 to attempt to avoid application
4 of this section by structuring a loan of money secured by
5 certificate of title to a motor vehicle as a sale, sale and
6 repurchase, sale and lease, pawn, rental purchase, lease, or
7 other type of transaction with the intent to avoid application
8 of this section or any other applicable provision of this
9 chapter.

10 Sec. 4. NEW SECTION. 714.27 LOANSHARKING INVOLVING A
11 MOTOR VEHICLE AS SECURITY.

12 A person commits the crime of loansharking by contracting
13 for and receiving a finance charge in violation of section
14 537.2403. Loansharking is a serious misdemeanor.

15 Sec. 5. EFFECTIVE DATE. This Act, being deemed of
16 immediate importance, takes effect upon enactment.

17 EXPLANATION

18 This bill relates to consumer loans secured by a
19 certificate of title to a motor vehicle. The bill prohibits a
20 lender from contracting for or receiving a finance charge
21 which exceeds 21 percent per year on the unpaid balance of a
22 loan for money which is secured by a certificate of title to a
23 motor vehicle. The remedies under Code chapter 537 for excess
24 charges are available to consumers who are charged a finance
25 charge in excess of 21 percent per year for such a consumer
26 loan. The bill provides that an attempt to avoid application
27 of the maximum finance charge on a loan secured by a
28 certificate of title to a motor vehicle by structuring the
29 transaction as a sale, sale and repurchase, sale and lease,
30 pawn, rental purchase, or lease with the intent to avoid the
31 maximum finance charge shall be considered a violation of the
32 maximum finance charge and shall be considered a consumer
33 fraud subject to civil penalties and enforcement pursuant to
34 Code section 714.16.

35 Under current law, a consumer is not obligated to pay an

1 excess charge and is entitled to a refund of any excess charge
2 paid. If a consumer entitled to a refund is refused the
3 refund, the consumer may recover from the creditor or other
4 person liable in a civil action the excess charge and a
5 penalty of not less than \$100 or more than \$1,000. Under
6 current law, a person who willfully and knowingly makes an
7 excess charge is guilty of a serious misdemeanor. A serious
8 misdemeanor is punishable by confinement for no more than one
9 year and a fine of at least \$250 but not more than \$1,500.

10 The bill creates the crime of loansharking. Loansharking
11 is committed by a person who contracts for and receives a
12 finance charge in violation of new Code section 537.2403
13 relating to consumer loans secured by a certificate of title.
14 A person who commits the crime of loansharking is guilty of a
15 serious misdemeanor. A serious misdemeanor is punishable by
16 confinement for no more than one year and a fine of at least
17 \$250 but not more than \$1,500.

18 The bill takes effect upon enactment.

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