

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Commerce Committee

BILL: SB 874

INTRODUCER: Senator Fasano

SUBJECT: Title Loans

DATE: March 18, 2008

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Johnson | Deffenbaugh | BI | Favorable |
| 2. | Rogers | Cooper | CM | Favorable |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

In 2000, the Legislature enacted the Florida Title Loan Act (act), which established a regulatory framework for title loan transactions. A title loan is a transaction where a loan of money is made with the title to a motor vehicle offered as security. Physical possession of the motor vehicle is maintained by the borrower, and the motor vehicle title is held by the lender. This legislation was in response to title loan lenders making high interest loans to consumers.

In recent years, litigation has arisen regarding the application of the Florida Title Loan Act to commercial transactions, such as financing floor planning, or inventory purchases, for independent used car dealers. This bill amends the scope of the act by providing that this act applies to the regulation of title loans made to consumers. The term “consumer” is defined to mean an individual borrowing money for personal, family, or household purposes.

This bill substantially amends the following sections of the Florida Statutes: 537.002 and 537.003.

II. Present Situation:

The Office of Financial Regulation is responsible for the regulation of title loan transactions under the provisions of ch. 537, F.S. The act includes licensure standards, interest fee caps for such transactions, loan agreement disclosure requirements, and enforcement authority.

According to proponents of this bill, a number of commercial lenders provide financing to independent used car dealers in Florida through short-term “floor plan” arrangements. In this type of arrangement, a dealer acquires a vehicle at auction and the vehicle is simultaneously paid

for by the finance company (commercial lender) who takes possession of the title as security. The dealer agrees to pay the loan on a short-term basis along with a processing fee and interest. The processing fee, ranging between \$75-\$100, is the cost for the finance company to handle the title and perform other administrative services necessary to ensure the vehicle is properly maintained by the dealer until the loan is paid. The dealer's goal is to sell the vehicle and repay the loan as soon as possible. Typically, these types of loans have a term of 30 to 90 days. This commercial transaction provides funding for the dealer to obtain inventory on a wholesale basis and resell it at retail.

Recently, litigation has arisen regarding the application of the Florida Title Loan Act to commercial transactions, such as financing floor planning, or inventory purchases, for used car dealers. These types of commercial transactions could, in some instances, result in an annual interest rate which exceeds the limits prescribed under ch. 537, F.S. Section 537.011, F.S., allows a lender to charge a maximum of 30 percent per year computed on the first \$2,000 of the principal amount, 24 percent per year on that part of the principal exceeding \$2,000 and not exceeding \$3,000, and 18 percent per year on the principal amount exceeding \$3,000. Any amount of interest received by a title lender in excess of these amounts allowed under the act constitutes a violation of ch. 687, F.S., governing interest and usury.

III. Effect of Proposed Changes:

Section 1 amends s. 537.002, F.S., relating to legislative intent, to specify that the intent of the Florida Title Loan Act is to regulate title loans made to consumers.

Section 2 amends s. 537.003, F.S., to define the term "consumer" to mean an individual borrowing money for personal, family, or household purposes.

Section 3 provides that this act will take effect July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

By specifying that the Florida Title Loan Act applies to consumer transactions, the act would not apply to commercial transactions and will prevent future litigation on this issue.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.