**South Carolina General Assembly**

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**S. 111**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Malloy

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Introduced in the Senate on January 13, 2009

Currently residing in the Senate Committee on **Banking and Insurance**

Summary: Loans

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/10/2008 Senate Prefiled

12/10/2008 Senate Referred to Committee on **Banking and Insurance**

1/13/2009 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑121

1/13/2009 Senate Referred to Committee on **Banking and Insurance** [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑121

**VERSIONS OF THIS BILL**

[12/10/2008](file:///p:\pprever\2009-10\111_20081210.docx)

**A** **BILL**

TO AMEND SECTION 37‑3‑413 OF THE 1976 CODE, RELATING TO SHORT‑TERM VEHICLE SECURED LOANS, TO AMEND THE DEFINITION OF SHORT‑TERM VEHICLE SECURED LOAN TO INCLUDE ALL LENDERS THAT MAKE NONPURCHASE MONEY VEHICLE SECURED LOANS, TO INCLUDE ALL NONPURCHASE MONEY VEHICLE SECURED LOANS REGARDLESS OF THE TERM OF THE LOAN, AND TO CHANGE THE TERMINOLOGY FROM SHORT‑TERM VEHICLE SECURED LOAN TO TITLE LOAN; TO PROVIDE THAT A LOAN MAY BE EXTENDED FOR NO MORE THAN ONE HUNDRED EIGHTY DAYS; TO PROVIDE THAT THE PRINCIPAL OF THE LOAN CANNOT EXCEED EIGHTY‑FIVE PERCENT OF THE FAIR MARKET RETAIL VALUE OF THE VEHICLE SECURING THE LOAN; TO INCREASE THE RESCISSION PERIOD FROM ONE TO THREE DAYS; TO PROVIDE THAT THE CONSUMER MUST BE GIVEN A CONSPICUOUS NOTICE OF HIS RIGHT OF RESCISSION; AND TO PROVIDE THAT THE LENDER MAY CHARGE UP TO FORTY‑EIGHT PERCENT ANNUAL INTEREST FOR THE LOAN.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 37‑3‑413 of the 1976 Code is amended to read:

“Section 37‑3‑413. ~~(1)~~(A) A ‘~~short‑term vehicle secured~~ title loan’ means a nonpurchase money consumer loan ~~with an original repayment term of less than one hundred and twenty days and~~ secured by a motor vehicle. ~~It does not include a loan made by a supervised financial organization.~~

~~(2)~~(B) A ~~short‑term vehicle secured~~ title loan must be for an original period of at least one month. A lender may allow the loan to be ~~renewed~~ extended at the option of the borrower for no more than ~~six additional periods, not to exceed two hundred forty~~ one hundred eighty days~~, with each period equal to the length of the original period~~. A ~~short‑term~~ title ~~vehicle secured~~ loan may not accrue interest after ~~the~~ maturity of the original term of the loan and any ~~sixth renewal~~ extension period. After ~~the~~ maturity of the original term of the loan and any extension period ~~of the final renewal period~~, the borrower may repay the remaining principal, without additional interest, in six equal monthly installments. ~~For the purposes of this section, a renewal is an extension of a short‑term vehicle secured loan for an additional period without changes in the terms of the loan other than a reduction in its principal.~~ Accrued interest must not be capitalized or added to the principal of the loan at the time of ~~a renewal~~ an extension. Fees must not be charged, other than the lien recording fee in the exact amount of the governmental entity’s charge.

~~(3)~~(C) Before making a ~~short‑term vehicle secured~~ title loan, a lender shall form a good faith belief that the borrower has the ability to repay the loan, considering the borrower’s, and any co‑borrower’s, employment, monthly income, and other monthly expenses compared to the loan’s repayment obligation for the original term and permitted ~~renewals~~ extensions. The lender is considered to comply with this subsection if the lender obtains from the borrower, on a form separate from the loan agreement, a signed statement that the information the borrower has provided regarding employment, income, and expenses is true and correct and that, given the information, the borrower believes he has the ability to repay the loan.

~~(4)~~(D) A lender may not make a s~~hort‑term vehicle secured~~ title loan in a principal amount greater than eighty‑five percent of the fair market retail value of the motor vehicle securing the loan, as determined by common industry appraisal guides. If the motor vehicle securing the loan is not listed in common appraisal guides, the lender shall use his best judgment to determine the value.

~~(5)~~(E) Except in the event of fraud by the borrower, if a borrower defaults in the repayment of a ~~short‑term vehicle secured~~ title loan, the lender’s sole remedy is to seek possession and sale of the motor vehicle securing the loan and the lender may not pursue the borrower personally in an action for repayment of the loan or for any deficiency after sale. Notwithstanding this section, the lender must return to the borrower any surplus obtained after sale in excess of the amount owed on the loan and reasonable expenses of repossession and sale in accordance with Title 36, Chapter 9.

~~(6)~~(F) In a ~~short‑term vehicle secured~~ title loan agreement, the lender shall provide a:

~~(a)~~(1) notice, placed conspicuously above the borrower’s signature and in at least fourteen point bold type, as follows:

‘THIS IS A HIGHER INTEREST LOAN. YOU SHOULD GO TO ANOTHER SOURCE IF YOU HAVE THE ABILITY TO BORROW AT A LOWER RATE OF INTEREST. YOU ARE PLACING YOUR VEHICLE AT RISK IF YOU DEFAULT ON THIS LOAN.; and

~~(b)~~(2) right of rescission provision entitling the borrower to repay the principal amount borrowed without interest or other cost at any time until the close of business on the third business day following the date the original loan was executed. The right of rescission provision must be placed conspicuously immediately above the borrower’s signature and in at least fourteen point bold type, as follows:

‘YOU HAVE THE RIGHT TO CANCEL THIS CONTRACT WITH NO PENALTY IF YOU RETURN THE FULL AMOUNT OF THE LOAN WITHIN THREE BUSINESS DAYS OF THE DATE THAT YOU SIGNED THIS CONTRACT.’

~~(7)~~(8) Notwithstanding any provision of law to the contrary a ~~A~~ lender making ~~short‑term vehicle secured~~ title loans may ~~not advertise or offer a rate of interest that is lower in the original period of the loan if that rate increases in later renewals~~ contract for and receive a finance charge, calculated according the actuarial method, not exceeding forty eight percent per year.”

SECTION 2. This act takes effect July 1, 2009.

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