**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 3652**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Pendarvis, Thigpen, Rivers and S. Williams

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Introduced in the House on January 17, 2019

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Short-term vehicle loans

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/17/2019 House Introduced and read first time ([House Journal‑page 5](file:///h:\hj\20190117.docx))

1/17/2019 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 5](file:///h:\hj\20190117.docx))

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**VERSIONS OF THIS BILL**

[1/17/2019](file:///p:\pprever\2019-20\3652_20190117.docx)

**A** **BILL**

TO AMEND SECTION 37‑3‑413, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SHORT‑TERM VEHICLE‑SECURED LOANS, SO AS TO ALTER CERTAIN SHORT‑TERM VEHICLE‑SECURED LOAN REQUIREMENTS INCLUDING EXTENDING THE REPAYMENT TERM AND SETTING CERTAIN RENEWAL REQUIREMENTS, TO ESTABLISH CERTAIN REQUIREMENTS BEFORE A LENDER MAY MAKE A LOAN AND TO PROVIDE THAT FAILURE TO MEET THESE REQUIREMENTS RENDERS THE LOAN VOID, AND TO UPDATE NOTICE REQUIREMENTS FOR THE LOAN AGREEMENT.

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 ‘short‑term vehicle‑secured loan’ means a nonpurchase money consumer loan with an original repayment term of less than ~~one hundred and twenty days~~ twenty‑four months and secured by a motor vehicle. It does not include a loan made by a supervised financial organization.

(2) A short‑term vehicle‑secured loan must be for an original period of at least ~~one month~~ six months. A lender may allow the loan to be renewed no more than ~~six~~ one additional ~~periods~~ period, not to exceed ~~two hundred forty days, with each period equal to the length of the original period~~ one hundred and eighty days. A short‑term vehicle‑secured loan may not accrue interest after the maturity of the sixth renewal period. After the maturity 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. Fees must not be charged, other than the lien recording fee in the exact amount of the governmental entity’s charge.

(3) Before making a short‑term vehicle‑secured loan, a lender shall ~~form a good faith belief that the borrower has the ability to~~ determine based on the information gathered from a credit report and documentation providing the borrower’s income and total monthly payment obligations that the borrower has sufficient income to repay the loan, considering the borrower’s, and any coborrower’s, employment, monthly income, and other monthly expenses compared to the loan’s repayment obligation for the original term and permitted renewals. 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~~ a copy of the borrower’s credit report and written or electronic verification of employment, income, and expenses. A loan made by a lender in violation of this section is void.

(4) A lender may not make a short‑term vehicle‑secured loan in a principal amount greater than 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) Except in the event of fraud by the borrower, if a borrower defaults in the repayment of a short‑term vehicle‑secured 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 Chapter 9, Title 36.

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

(a) notice, placed conspicuously above the borrower’s signature and in at least fourteen point 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. IF YOU ARE MADE A LOAN THAT YOU DO NOT HAVE SUFFICIENT INCOME TO PAY, THIS LOAN WAS MADE IN VIOLATION OF THE LAW AND THEREFORE VOID.’; and

(b) 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 business day~~ three business days following the date the original loan was executed.

(7) A lender making short‑term vehicle‑secured 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.”

SECTION 2. This act takes effect upon approval by the Governor.

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