

SENATE BILL No. 216

By Senator Betts

1-29

9 AN ACT regulating vehicle title loans.

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11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. (1) Except as provided in subsection (2), a consumer loan
13 transaction, including a loan made pursuant to K.S.A. 16-706 et seq., and
14 amendments thereto, secured by a vehicle shall be considered a title loan
15 subject to the provisions of sections 1 through 6, and amendments
16 thereto.

17 (2) The provisions of sections 2 through 6, and amendments thereto,
18 shall not apply to a purchase money consumer loan or to a loan made
19 pursuant to subsection (2) of K.S.A. 16a-2-401, and amendments thereto.

20 (3) For the purposes of sections 1 through 6, and amendments
21 thereto:

22 (a) "Vehicle" means every device in, upon or by which any person or
23 property is or may be transported or drawn upon a public highway and
24 the ownership of which is evidenced by a certificate of title;

25 (b) "related interest" shall have the same meaning as "person related
26 to" in K.S.A. 16a-1-301, and amendments thereto.

27 Sec. 2. (1) Prior to entering into any title loan, the title loan lender
28 and the borrower shall execute a written title loan agreement, which shall
29 be legibly typed in indelible ink and completed as to all essential provi-
30 sions prior to execution by the borrower and the title loan lender. The
31 title loan agreement shall include the following information:

32 (a) A detailed description of the vehicle to which the title loan agree-
33 ment relates;

34 (b) the vehicle identification number, or other comparable identifi-
35 cation number, along with the license plate number, if applicable, of the
36 vehicle to which the title loan agreement relates;

37 (c) the name, residential address, date of birth, physical description
38 and social security number of the borrower. The title loan lender shall
39 note the identification number and the type of identification, including
40 the issuing agency, accepted from the borrower;

41 (d) the date the title loan agreement is executed by the title loan
42 lender and the borrower;

43 (e) a statement of the borrower's right of rescission, which shall pro-

1 vide that a borrower may rescind the title loan without cost not later than
2 the end of the second business day immediately following the day on
3 which the title loan transaction was made. To rescind the transaction, the
4 borrower shall inform the title loan lender that the borrower wants to
5 rescind the transaction, the borrower shall return the cash amount of the
6 principal of the title loan transaction and the title loan lender shall return
7 any fees that have been collected in association with the title loan;

8 (f) the amount of money advanced, designated as the amount
9 financed;

10 (g) the maturity date of the title loan agreement, which shall be 30
11 days after the date the title loan agreement is executed by the title loan
12 lender and the borrower;

13 (h) the total title loan interest payable on the maturity date, desig-
14 nated as the finance charge;

15 (i) the amount financed plus finance charge, which must be paid on
16 the maturity date, designated as the total amount of all payments;

17 (j) the interest rate, computed in accordance with the regulations
18 adopted by the federal reserve board pursuant to the federal truth in
19 lending act, designated as the annual percentage rate;

20 (k) a statement that the borrower is not liable for any deficiency bal-
21 ance; and

22 (l) a blank line for the signature of the borrower and the title loan
23 lender or the title loan lender's agent. All owners of the vehicle must sign
24 the title loan agreement.

25 (2) The following information shall also be printed on all title loan
26 agreements:

27 (a) The name and physical address of the title loan office;

28 (b) the name and address of the office of the state bank commissioner
29 as well as a telephone number to which consumers may address questions
30 or complaints; and

31 (c) the following statement in not less than 14-point type:

32 (i) This loan is not intended to meet long-term financial needs;

33 (ii) this loan should only be used to meet short-term cash needs;

34 (iii) you will be required to pay additional interest if you renew this
35 loan rather than pay the debt in full when due;

36 (iv) this is a high interest loan. You should consider what other lower
37 cost loans or options may be available to you;

38 (v) if you do not repay this loan, your motor vehicle may be taken
39 from you to repay the loan; and

40 (vi) if you enter into this title loan, you have a legal right of rescission.
41 This means you may change your mind and cancel the loan at no cost to
42 you by returning the money you borrowed before the end of the second
43 business day after the day you received your loan.

- 1 (3) At the time of the transaction, the title loan lender shall deliver
2 to the borrower an exact copy of the executed title loan agreement.
- 3 (4) When the title loan is repaid in full, the title loan lender shall
4 commence action to release any security interest in the motor vehicle. A
5 title loan lender shall not require a borrower to provide any additional
6 security or guaranty as a condition to entering into a title loan agreement.
- 7 Sec. 3. (1) The maximum amount of a title loan shall be \$2,500.
- 8 (2) A title loan lender may charge a maximum interest rate of 36%
9 per annum.
- 10 (3) The interest rate charge shall be computed as simple interest by
11 dividing the interest rate by 365 and the resulting daily interest rate mul-
12 tiplied by the outstanding principal amount and the actual number of
13 days in the computational period. No insurance charges or any other type
14 of charges shall be permitted.
- 15 (4) A title loan may be extended for a maximum of two additional 30-
16 day periods by mutual consent of the title loan lender and the borrower,
17 and payment by the borrower of accrued interest to the date of the ex-
18 tension. Each extension of the title loan shall be executed in a separate
19 extension agreement, each of which shall comply with the requirements
20 for executing a title loan agreement as provided in section 2, and amend-
21 ments thereto. Each extension of a title loan shall clearly reference the
22 inception date and loan number of the initial title loan. The interest rate
23 charged in any extension agreement shall not exceed the interest rate
24 charged in the initial title loan agreement. No accrued interest or other
25 charges shall be capitalized or added to the principal of the title loan upon
26 extension.
- 27 (5) After the maturity date and any extensions of the title loan, the
28 contract rate of interest shall not be more than 3% per month of the loan
29 proceeds.
- 30 (6) A title loan lender, or their related interest, shall not enter into a
31 new title loan agreement with the same borrower prior to the expiration
32 of 60 calendar days following the payment in full of a previous title loan
33 or any subsequent extensions thereof.
- 34 (7) A title loan shall not be repaid by proceeds of another title loan
35 by the same lender or their related interest. The proceeds from a title
36 loan shall not be applied to any other title loan from the same lender or
37 their related interest.
- 38 (8) A borrower may prepay in full the unpaid balance of a title loan
39 at any time without penalty.
- 40 Sec. 4. (1) If a borrower fails to repay all amounts legally due under
41 a title loan agreement on or before the title loan's maturity date and after
42 all notices have been given, the title loan lender may take possession of
43 the vehicle.

1 (2) Prior to repossession, the title loan lender shall afford the bor-
2 rower an opportunity to make the vehicle available to the title loan lender
3 at a place, date and time reasonably convenient to the title loan lender
4 and the borrower. Upon taking possession of the vehicle the title loan
5 lender shall afford the borrower a reasonable opportunity to remove from
6 the vehicle any personal belongings without charge or additional cost to
7 the borrower. After taking possession of the vehicle, the title loan lender
8 may, at the title loan lender's sole expense and risk, authorize a third
9 party to retain physical possession of the vehicle.

10 (3) Upon taking possession of the vehicle, the title loan lender may
11 dispose of the vehicle in a commercially reasonable manner in accordance
12 with the uniform commercial code. Any such sale or disposal shall vest
13 in the purchaser the right, title and interest of the owner and the title
14 loan lender.

15 (4) Within 30 days after the sale of the vehicle, the borrower is en-
16 titled to receive all proceeds from the sale of the motor vehicle in excess
17 of the principal amount due on the loan, interest accrued through the
18 date the title loan lender took possession of the vehicle and the actual
19 expenses incurred to date by the title loan lender in taking possession of,
20 preparing for sale and selling the vehicle which shall not exceed 15% of
21 the outstanding principal amount of the title loan. The borrower is enti-
22 tled to reasonable attorney's fees and costs incurred in any action brought
23 to recover such proceeds that results in the title loan lender being ordered
24 to return all or part of such amount.

25 Sec. 5. No person shall commit or cause to be committed any of the
26 following acts or practices in connection with a consumer loan transaction
27 subject to the provisions of sections 1 through 6, and amendments
28 thereto:

29 (1) Use any device or agreement that would have the effect of charg-
30 ing or collecting more fees, charges or interest, or which results in more
31 fees, charges or interest being paid by the consumer, than allowed by the
32 provisions of section 3, and amendments thereto, including, but not lim-
33 ited to:

34 (a) Entering into a different type of transaction with the consumer;
35 (b) entering into a sales/leaseback or rebate arrangement; or
36 (c) entering into any other transaction with the consumer or any other
37 person that is designed to evade the applicability of sections 1 through 6,
38 and amendments thereto;

39 (2) take a security interest in a vehicle which is not evidenced by a
40 first position lien on the vehicle's certificate of title. If the person files a
41 lien against such vehicle that is not a first position lien, the resulting lien
42 shall be void;

43 (3) sell any other product or service of any kind in connection with

- 1 the making or collecting of the title loan;
- 2 (4) use, or threaten to use, the criminal process in any state to collect
- 3 on the title loan;
- 4 (5) include any of the following provisions in a title loan document:
- 5 (a) A hold harmless clause;
- 6 (b) a confession of judgment clause;
- 7 (c) a provision in which the consumer agrees not to assert a claim or
- 8 defense arising out of the contract; and
- 9 (6) delay, or cause to be delayed, the prompt filing of a security in-
- 10 terest or lien release; in connection with a consumer loan transaction
- 11 subject to the provisions of sections 1 through 6, and amendments
- 12 thereto.
- 13 Sec. 6. The provisions of sections 1 through 6, and amendments
- 14 thereto, shall be supplemental to and a part of the uniform consumer
- 15 credit code.
- 16 Sec. 7. This act shall take effect and be in force from and after its
- 17 publication in the statute book.