**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 3242**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Thigpen, Cobb‑Hunter and Cogswell

Document Path: l:\council\bills\nbd\11057cz19.docx

Introduced in the House on January 8, 2019

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

Summary: Short-term vehicle-secured loans

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/18/2018 House Prefiled

12/18/2018 House Referred to Committee on **Labor, Commerce and Industry**

1/8/2019 House Introduced and read first time ([House Journal‑page 139](file:///h:\hj\20190108.docx))

1/8/2019 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 139](file:///h:\hj\20190108.docx))

1/24/2019 House Member(s) request name added as sponsor: Cogswell

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**VERSIONS OF THIS BILL**

[12/18/2018](file:///p:\pprever\2019-20\3242_20181218.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 37‑3‑414 SO AS TO ESTABLISH CERTAIN REQUIREMENTS FOR SHORT‑TERM VEHICLE‑SECURED LOANS; BY ADDING SECTION 39‑5‑45 SO AS TO PROVIDE THAT IT IS AN UNFAIR TRADE PRACTICE FOR A SUPERVISED LENDER TO MAKE A SHORT‑TERM VEHICLE‑SECURED LOAN; TO AMEND SECTION 37‑3‑413, RELATING TO SHORT‑TERM VEHICLE‑SECURED LOANS, SO AS TO PROVIDE THE MAXIMUM INTEREST RATES A LENDER MAY CHARGE ON A SHORT‑TERM VEHICLE‑SECURED LOAN; AND TO AMEND SECTION 37‑3‑501, RELATING TO THE DEFINITIONS, SO AS TO INCLUDE “SHORT‑TERM VEHICLE‑SECURED LOAN” IN THE DEFINITION OF “SUPERVISED LOAN”.

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

SECTION 1. Part 4, Chapter 3, Title 37 of the 1976 Code is amended by adding:

“Section 37‑3‑414. (A) In order to prevent a borrower from agreeing to accept a short‑term vehicle‑secured loan that exceeds the interest rate limit provided in Section 37‑3‑413(2), the Consumer Finance Division of the Board of Financial Institutions shall implement a common database with real‑time access through an Internet connection for short‑term vehicle‑secured loan lenders. The board shall enter into a contract with a single source private vendor to develop and operate the database. Short‑term vehicle‑secured loan lenders shall submit the person’s data to the database provider before entering into a transaction and once the transaction has been paid in full in a format the board requires by regulation. The data must include the borrower’s name, social security number or employment authorization alien number, address, driver’s license number, amount of the transaction, date of the transaction, date of the closing of the transaction, and additional information that the board may require. The board may adopt procedures to administer and enforce the provisions of this section and to ensure that the database is used by licensed lenders in accordance with this section.

(B) Use of the information provided in the database is limited to the initial determination of a potential borrower’s eligibility to enter into a new short‑term vehicle loan transaction and providing the reason for the final eligibility determination.

(C) Short‑term vehicle‑secured loans, as defined in this chapter, only may be made by a lender licensed pursuant to Section 37‑3‑503.”

SECTION 2. Article 1, Chapter 5, Title 39 of the 1976 Code is amended by adding:

“Section 39‑5‑45. It is an unfair trade practice for a supervised lender, as defined in Section 37‑3‑501, to make a short‑term vehicle‑secured loan, as defined in Section 37‑3‑413.”

SECTION 3. 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 and~~ secured by a motor vehicle. It does not include a loan made by a supervised financial organization as defined in Section 37‑1‑301(27).

(2) A licensed lender may charge and collect interest on a short‑term vehicle‑secured loan at rates not to exceed:

(a) twenty‑two percent each year on the portion of principal that does not exceed seven hundred dollars;

(b) eighteen percent each year on the portion of the principal that exceeds seven hundred dollars but does not exceed one thousand four hundred dollars; and

(c) fifteen percent each year on the portion of the principal that exceeds one thousand four hundred dollars.

(3) A short‑term vehicle‑secured loan must be for an original period of at least one month. A lender may allow the loan to be renewed no more than six additional periods, not to exceed two hundred forty days, with each period equal to the length of the original period. 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)~~(4) Before making a short‑term vehicle‑secured 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 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.

~~(4)~~(5) 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)~~(6) 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~~ shall 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)~~(7) 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~~ VERY HIGH 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) 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 following the date the original loan was executed.

~~(7)~~(8) 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 4. Section 37‑3‑501(1) is amended by adding a subitem at the end after the undesignated paragraph to read:

“(c) a short‑term vehicle‑secured loan as defined in Section 37‑3‑413.”

SECTION 5. The database established by Section 37‑3‑414 as added by SECTION 1 of this act must be accessible to the board and lenders by January 1, 2020.

SECTION 6. This act takes effect upon approval by the Governor.

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