

1 HB421
2 149981-2
3 By Representatives Vance, Greer, Sanderford, Bridges, Buskey,
4 Robinson (O), Johnson (R), Hurst, Long, Butler and McClammy
5 RFD: Financial Services
6 First Read: 07-MAR-13

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, a motor vehicle title
9 may be pawned.

10 This bill would define the term "title
11 pawn."

12 This bill would require that certain pawn
13 transactions involving motor vehicles would have to
14 be printed on the pawn ticket and in a certain
15 size.

16 This bill would impose limits on
17 repossession fees.

18
19 A BILL

20 TO BE ENTITLED

21 AN ACT

22
23 To amend Section 5-19A-2 of the Code of Alabama
24 1975, to define the term "title pawn," and to add new Sections
25 5-19A-21, 5-19A-22, 5-19A-23, 5-19A-24, and 5-19A-25 to the
26 Code of Alabama 1975, to require that certain pawn
27 transactions involving motor vehicle would have to be printed

1 on the pawn ticket and in a certain size, and to impose limits
2 on repossession fees.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 5-19A-2 of the Code of Alabama
5 1975, is amended to read as follows:

6 "§5-19A-2.

7 "The following words and phrases shall have the
8 following meanings:

9 "(1) APPROPRIATE LAW ENFORCEMENT AGENCY. The sheriff
10 of each county in which the pawnbroker maintains an office, or
11 the police chief of the municipality in which the pawnbroker
12 maintains an office.

13 "(2) ATTORNEY GENERAL. The Attorney General of the
14 State of Alabama.

15 "(3) PAWN TRANSACTION. Any loan on the security of
16 pledged goods or any purchase of pledged goods on condition
17 that the pledged goods are left with the pawnbroker and may be
18 redeemed or repurchased by the seller for a fixed price within
19 a fixed period of time.

20 "(4) PAWNBROKER. Any person engaged in the business
21 of lending money on the security of pledged goods left in
22 pawn, or in the business of purchasing tangible personal
23 property to be left in pawn on the condition that it may be
24 redeemed or repurchased by the seller for a fixed price within
25 a fixed period of time. Notwithstanding the foregoing, the
26 following are exempt from the definition of the term
27 "pawnbroker" and from this chapter: any bank which is

1 regulated by the State Banking Department of Alabama; the
2 Comptroller of the Currency of the United States; the Federal
3 Deposit Insurance Corporation; the Board of Governors of the
4 Federal Reserve System or any other federal or state
5 authority; and all affiliates thereof and any bank or savings
6 and loan association whose deposits or accounts are eligible
7 for insurance by the Bank Insurance Fund or the Savings
8 Association Insurance Fund or other fund administered by the
9 Federal Deposit Insurance Corporation all affiliates thereof,
10 any state or federally chartered credit union, and any finance
11 company subject to licensing and regulation by the State
12 Banking Department pursuant to Sections 5-19-1 to 5-19-19,
13 inclusive.

14 "(5) PERSON. An individual, partnership,
15 corporation, joint venture, trust, association, or any legal
16 entity.

17 "(6) PLEDGED GOODS. Tangible personal property other
18 than choses in action, securities, or printed evidences of
19 indebtedness, which property is purchased by, deposited with,
20 or otherwise actually delivered into the possession of, a
21 pawnbroker in connection with a pawn transaction.

22 "(7) SUPERVISOR. The Supervisor of the Bureau of
23 Loans of the State Banking Department.

24 "(8) TITLE PAWN. A pawn transaction wherein the
25 pledgor pledges both his or her motor vehicle and the paper or
26 electronic, or other legal evidence of ownership, thereto for
27 security, while maintaining possession and use of the motor

1 vehicle during the term of the transaction. Title pawn
2 transaction shall not be allowed for manufactured homes. For
3 the purposes of this chapter, the term "motor vehicle" shall
4 include every automobile, motorcycle, mobile trailer,
5 semitrailer, truck trailer, trailer, marine vessel, and other
6 device that is self-propelled or drawn upon a public highway."

7 Section 2. Sections 5-19A-21 and 5-19A-22 are added
8 to Chapter 19A of Title 5 of the Code of Alabama 1975, to read
9 as follows:

10 §5-19A-21.

11 Any pawn transaction involving the pawn of a motor
12 vehicle title shall contain the following information which
13 shall be printed on the pawn ticket: In not less than 12-point
14 bold type, the name and address of the department, as well as
15 a telephone number to which pledgors may address complaints;
16 and the following notice:

17 "YOU SHOULD CONSIDER OTHER FORMS OF BORROWING THAT
18 MAY HAVE A LOWER COST. IF YOU FAIL TO MAKE A PAYMENT AS
19 REQUIRED BY THIS AGREEMENT, THE PAWNBROKER MAY TAKE POSSESSION
20 OF THE PLEDGED PROPERTY AND SELL IT IN ACCORDANCE WITH
21 APPLICABLE STATE LAWS AND REGULATIONS.

22 "YOU HAVE THE RIGHT TO RESCIND THIS PLEDGE AGREEMENT
23 BY RETURNING THE AMOUNT OF CASH ADVANCED BEFORE THE CLOSE OF
24 BUSINESS THE NEXT DAY AFTER THIS PAWN.

25 "IF YOU SURRENDER THE PLEDGED PROPERTY TO THE
26 PAWNBROKER, YOU ARE NOT OBLIGATED TO REPAY ANY AMOUNT OWED

1 PURSUANT TO THIS TRANSACTION, AND THE PAWNBROKER CANNOT SEEK A
2 PERSONAL MONEY JUDGMENT AGAINST YOU FOR SUCH AMOUNT."

3 §5-19A-22.

4 (a) Subject to the limitations contained herein,
5 upon the pledgor's default under the terms of a title pawn
6 transaction, a licensee may seek possession of and sell the
7 motor vehicle securing the transaction in accordance with Part
8 6, Article 9A, of Title 7. A licensee may assess and collect
9 on a title pawn transaction, in addition to the fee permitted
10 by Section 5-19A-7, (1) a repossession charge not to exceed
11 the actual amount by an unrelated third-party to repossess the
12 pledged property and deliver the pledged property to the
13 storage facility or auction designated by the licensee; and
14 (2) the actual reasonable costs incurred by the licensee of
15 preparing to sell and selling the pledged property. In no
16 event shall a pledgor be liable for fees incurred in
17 connection with the storage of pledged property following the
18 repossession of the pledged property by the licensee or its
19 agent.

20 (b) Within 30 days of the licensee's receipt of
21 funds from the sale of a motor vehicle, the pledgor is
22 entitled to receive all proceeds from such sale of the motor
23 vehicle in excess of the principal amount and charges
24 authorized by this chapter due to the licensee.

25 §5-19A-23.

26 (a) Notwithstanding any provision of this chapter to
27 the contrary, a title pawn transaction may be structured as

1 either a single installment or a multiple installment
2 transaction in accordance with this section.

3 (b) The original term of a single-installment title
4 pawn transaction shall be one month. The single-installment
5 title pawn agreement may provide for renewals of the
6 transaction which may occur automatically if so agreed within
7 the title pawn agreement. The term of each renewal shall be
8 the same as the original term and each renewal period shall
9 commence immediately following the previous period. The
10 pawnshop charge permitted pursuant to Section 5-19A-7 shall be
11 assessed against the outstanding principal balance for each
12 monthly period that a balance is outstanding until the
13 licensee or its agent obtains possession of the pledged motor
14 vehicle. If the parties agree to any renewal of a
15 single-installment title pawn prior to the maturity of the
16 current period, the licensee shall prorate the pawnshop charge
17 based upon the number of days remaining to the original
18 maturity date. If a single-installment title pawn is renewed,
19 beginning with the first renewal and each successive renewal
20 thereafter, the pledgor shall be required to make a payment of
21 at least five percent of the original principal amount of the
22 title pawn, in addition to charges authorized by this chapter,
23 to reduce the principal balance outstanding. Charges
24 authorized by this chapter at each successive renewal shall be
25 calculated on the reduced outstanding principal balance. If,
26 at the maturity of any renewal, the pledgor has not made
27 previous principal reductions adequate to satisfy the current

1 required principal reduction, and if the pledgor cannot repay
2 at least five percent of the original principal balance as
3 well as any outstanding charges authorized by this chapter,
4 the licensee may, but shall not be obligated to, defer the
5 unpaid principal reduction payment until the end of the
6 agreement provided no further charges may accrue on an amount
7 deferred.

8 (c) A licensee may offer a fully amortized
9 multiple-installment title pawn agreement that allows the
10 amount advanced to be repaid in substantially equal monthly
11 installments. A multiple-installment title pawn agreement
12 shall have a term of not less than 12 months and not more than
13 24 months. Payments under a multiple-installment title pawn
14 transaction shall be due monthly and shall be substantially
15 equal amounts, except that the first payment may be larger or
16 smaller to accommodate a first installment that is up to 15
17 days shorter or 15 days longer than the remaining periods.
18 Pawnshop charges on a multiple-installment title pawn
19 transaction shall be calculated on the outstanding principal
20 balance at the daily rate of 1/30th of the monthly charge
21 permitted by Section 5-19A-7 for each day that a balance
22 remains outstanding until the licensee or its agent obtains
23 possession of the pledged motor vehicle.

24 (d) For the purposes of this section, a month may be
25 either a calendar month or a period of 30 days.

1 (e) For the purposes of this section, the pawnbroker
2 must accept and apply to the account all payments of at least
3 five dollars (\$5).

4 §5-19A-24.

5 A pledgor has the right to rescind a title pawn
6 until the close of the business of the day immediately
7 following the date the pledgor signs a title pawn. To rescind
8 the pledgor shall return the original loan proceeds check, or
9 cash in the same amount, to the location where the title pawn
10 was originated. For the purpose of this section, "business
11 day" means any day that the licensee's office is open for
12 business.

13 §5-19A-25.

14 A licensee may not make a title pawn transaction
15 without first verifying that the pledgor is the owner of the
16 motor vehicle being pledged by ensuring that the name of the
17 pledgor's identification coincides with the name of the owner
18 of the vehicle listed on the paper or electronic certificate
19 of title, or other legal evidence of ownership, and by
20 physically inspecting the motor vehicle at the licensee's
21 office in Alabama.

22 Section 3. The effective date of this act shall be
23 January 1, 2014.