**South Carolina General Assembly**

124th Session, 2021-2022

**S. 59**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Malloy

Document Path: l:\s-res\gm\024supe.sp.gm.docx

Introduced in the Senate on January 12, 2021

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

Summary: Supervised loans

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/9/2020 Senate Prefiled

12/9/2020 Senate Referred to Committee on **Banking and Insurance**

1/12/2021 Senate Introduced and read first time ([Senate Journal‑page 152](file:///h:\sj\20210112.docx))

1/12/2021 Senate Referred to Committee on **Banking and Insurance** ([Senate Journal‑page 152](file:///h:\sj\20210112.docx))

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**VERSIONS OF THIS BILL**

[12/9/2020](file:///p:\pprever\2021-22\59_20201209.docx)

**A** **BILL**

TO AMEND SECTION 37-3-501(1) OF THE 1976 CODE, RELATING TO SUPERVISED LOANS, TO PROVIDE THAT SHORT-TERM VEHICLE SECURED LOANS ARE NOT SUPERVISED LOANS; TO AMEND ARTICLE 1, CHAPTER 5, TITLE 39 OF THE 1976 CODE, RELATING TO UNFAIR TRADE PRACTICES, BY ADDING SECTION 39-5-45, TO PROVIDE THAT IT IS AN UNFAIR TRADE PRACTICE FOR SUPERVISED LENDERS TO PROVIDE SHORT-TERM VEHICLE SECURED LOANS; TO AMEND SECOND 37-3-413 OF THE 1976 CODE, RELATING TO SHORT-TERM VEHICLE SECURED LOANS, TO CAP THE LOAN INTEREST RATE FOR SPECIFIC LOAN AMOUNTS; TO AMEND CHAPTER 3, TITLE 37 OF THE 1976 CODE, RELATING TO LOANS, BY ADDING SECTIONS 37-3-414 AND 37-3-415, TO PROVIDE FOR A DATABASE TO PREVENT A PERSON FROM HAVING A SHORT-TERM VEHICLE SECURED LOAN THAT EXCEEDS A CERTAIN LIMIT AND TO TRACK LOAN TRANSACTIONS IN GENERAL, AND TO PROVIDE THAT ALL SHORT-TERM VEHICLE SECURED LOANS MAY ONLY BE MADE BY A LICENSEE; AND TO DEFINE NECESSARY TERMS.

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

SECTION 1. Section 37-3-501(1) of the 1976 Code is amended by adding:

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

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 pursuant to Section 39‑5‑20 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 licensee may charge and collect interest on a short‑term vehicle secured loan at rates not to exceed the following:

(a) twenty‑two percent effective annual percentage rate on the portion of the principal that does not exceed seven hundred dollars;

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

(c) fifteen percent effective annual percentage rate 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 co‑borrower’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 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)~~(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. Chapter 3, Title 37 of the 1976 Code is amended by adding:

“Section 37-3-414. (A) In order to prevent a person from having a short‑term vehicle secured loan that exceeds the limit 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, as provided in this subsection. The board shall enter into a contract with a single-source private vendor to develop and operate the database. A short-term vehicle secured loan lender shall submit the borrower’s data to the database provider both before entering into a short-term vehicle secured loan transaction and once the transaction has been paid in full, in a format the board requires by regulation, including the borrower’s name, Social Security number or employment authorization alien number, address, and driver’s license number; amount of the transaction; date of the transaction; date that the transaction closed; and additional information required by the board. The board may adopt procedures to administer and enforce the provisions of this section and to ensure that the database is used by licensees in accordance with this section.

(B) Use of the information provided in the database is limited to determining if a customer is eligible or ineligible to enter into a new short‑term vehicle loan transaction and describing the reason for the determination of eligibility or ineligibility.

Section 37‑3‑415. Short‑term vehicle secured loans as defined in this chapter may only be made by a licensee.”

SECTION 5. By no later than January 1, 2021, the database pursuant to Section 37-3-414, as added by this act, must be accessible to the State Board of Financial Institutions and the lenders to meet the requirements of SECTION 4 of this act in verifying if a short-term vehicle secured loan transaction is outstanding for a particular person.

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

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