

SENATE BILL 1766

By Marrero B

AN ACT to amend Tennessee Code Annotated, Title 45,
Chapter 15, relative to title pledges.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 45-15-102, is amended by adding the following language as a new, appropriately numbered subdivision:

(5) Prohibit abusive or predatory practices by title pledge lenders.

SECTION 2. Tennessee Code Annotated, Section 45-15-104(b), is amended by deleting the final sentence.

SECTION 3. Tennessee Code Annotated, Section 45-15-107(c), is amended by adding the following language to the end of the subsection:

Any person or entity filling a complaint with the department of financial institutions concerning a title pledge lender shall be provided written notice of the hearing and shall be provided the opportunity to participate in the hearing and present evidence related to the title pledge lender's fitness to maintain its license.

SECTION 4. Tennessee Code Annotated, Section 45-15-109(b), is amended by inserting the following language immediately after subdivision (5) and by renumbering subsequent subdivisions accordingly:

(6) Institution of any civil action against the title pledge lender alleging fraud, misrepresentation, deceit, or other misconduct related to the operation of any title pledge business located within or outside this state;

SECTION 5. Tennessee Code Annotated, Section 45-15-109(c)(4), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(4) The information submitted by title pledge lenders pursuant to this subsection (c) shall be available to any member of the public upon written request, in any form prescribed by the commissioner, within ninety (90) calendar days of submission of such request;

SECTION 6. Tennessee Code Annotated, Section 45-15-111(a), is amended by deleting the following language:

, or of the total unpaid balance due at the inception of any renewal of such agreement. Such interest and fees shall be deemed to be earned, due and owing as of the date of the title pledge agreement or property pledge agreement and a like sum shall be deemed earned, due and owing on the same day of each subsequent thirty-day period.

and by substituting instead the following:

. This fee may be charged as a one-time fee in conjunction with the making of the title pledge or property pledge agreement, but cannot be charged in conjunction with any subsequent renewals.

SECTION 7. Tennessee Code Annotated, Section 45-15-113(b)(1), is amended by deleting the following language:

Except as provided in subdivision (b)(2), where the statement required by this subsection (b) is hand delivered at the time of renewal, each

and by substituting instead the following:

Each

SECTION 8. Tennessee Code Annotated, Section 45-15-113(b)(2), is amended by deleting the following sentence:

The statement shall be sent to the pledgor by first class mail, postage prepaid, within five (5) days of the end of the title pledge agreement or hand delivered at the time of renewal, pending any renewal of the title pledge agreement.

and by substituting instead the following sentence:

The statement shall be sent to the pledgor by first class mail, postage prepaid, within five (5) days of the end of the title pledge agreement.

SECTION 9. Tennessee Code Annotated, Section 45-15-113(d), is amended by deleting the subsection in its entirety and by substituting instead the following:

(d) Notwithstanding any provision of this chapter to the contrary, beginning with the third renewal or continuation and at each successive renewal or continuation thereafter, the pledgor shall be required to make a payment of at least ten percent (10%) of the original principal amount of the title pledge transaction, in addition to interest and fees authorized by this chapter. Interest authorized by this chapter at each successive renewal or continuation shall be calculated on the outstanding principal balance. Principal payments in excess of the ten percent (10%) required principal reduction shall be credited to the outstanding principal on the day received.

SECTION 10. Tennessee Code Annotated, Section 45-15-119, is amended by deleting the section in its entirety and by substituting instead the following:

(a) In addition to the administrative remedies provided in § 45-15-118, any title pledge borrower aggrieved by a violation of this chapter by a title pledge lender shall be entitled to bring a civil lawsuit against such title pledge lender in a court of competent jurisdiction within two (2) years of the reasonable date discovery of such violation. Any violation on the part of a title pledge lender shall be deemed a violation of the Tennessee Consumer Protection Act of 1977, compiled in, title 47, chapter 18, part 1, and an aggrieved pledgor shall have all remedies available under that Act, including treble damages for willful violations of the act and attorney's fees, and costs associated with the bringing of such action. In addition to those remedies provided in the Tennessee Consumer Protection Act of 1977, a person injured by a violation of this chapter may

recover a quarter of the actual or treble damages or statutory penalty of two thousand dollars (\$2,000). In addition, a court at its discretion, may award punitive damages separate and apart from treble damages, for violations that are not adequately addressed by an award of treble damages.

(b) No incorporated municipality, city or taxing, district in this state shall enact an ordinance or resolution or promulgate any rules or regulations relating to this chapter. The provisions of any ordinance or resolution or rules or regulations of any municipality, city or taxing district relative to title pledge lending are superseded by the provisions of this chapter.

SECTION 11. This act shall take effect July 1, 2009, the public welfare requiring it.