

HOUSE BILL 1551

By Turner J

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

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 as a new subdivision (5):

(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 second sentence in its entirety.

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

Any person or entity that has made a complaint to the department of financial institutions about a title pledge lender shall be provided with written notice of the hearing and shall be provided with 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 adding the following as a new subdivision (6) and by redesignating the existing subdivision (6) as subdivision (7):

(6) The institution of any civil lawsuit against the title pledge lender alleging fraud, misrepresentation, deceit, or any other misconduct related to the operation of title pledge businesses either in 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) days of the making of such request.

SECTION 6. Tennessee Code Annotated, Section 45-15-111(a), is amended by deleting the subsection in its entirety and by substituting instead the following:

(a) A title pledge lender shall contract for and receive an effective rate of interest not to exceed two percent (2%) per month; additionally, the title pledge lender may charge, contract for, and receive a customary fee to defray the ordinary costs of operating a title pledge office, including, but not limited to, investigating the title, appraising the titled personal property, insuring the personal property when in the physical possession of the title pledge lender, documenting and closing the title or property pledge transaction, making required reports to local law enforcement officials, for all other services provided by the title pledge lender, advertising, for losses on title pledge or property pledge transactions, salaries, and for all other expenses incurred by the title pledge lender except those in subsection (b). The fee shall not be deemed interest for any purpose of law, and the fee may equal no more than one fifth (1/5) of the original principal amount of the title pledge agreement or property pledge agreement. 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 subsequent renewals.

SECTION 7. Tennessee Code Annotated, Section 45-15-113(b), is amended by deleting the subsection in its entirety and by substituting instead the following:

(b) Each title pledge lender shall furnish the pledgor with a statement at least five (5) days prior to the beginning of any period of renewal of the title pledge agreement. Such statement shall include the agreement number, the annual percentage rate, the monthly rate of interest, the monthly fee rate, the original principal balance of

the loan, the current payoff balance of the loan, the amount of all renewal fees, and the amount of any interest, fees or other reimbursements allowed pursuant to § 45-15-111(b) that have accrued since the last statement required by this subsection was issued to the pledgor. The statement shall also include the payment amount required to pay off the title pledge loan in full if such payment is made with cash or certified funds by the end of the title pledge agreement or any renewal thereof, and the exact date through which that payoff balance will be honored. Further, if the title pledge loan is past due, the statement shall also include the number of days past due as of the statement date, the minimum payment required and the exact date by which such minimum payment must be received in order to reinstate the account to current status. Such statement shall also include the telephone number, the normal business hours of operation, and the primary contact person at the office of the title pledge lender. Such 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 8. 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 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 9. Tennessee Code Annotated, Title 45, Chapter 15, is amended by adding

the following as a new § 45-15-119, and by redesignating the existing sections accordingly:

45-15-119.

In addition to the administrative remedies provided in the preceding section, any title pledge borrower aggrieved by a violation of any of this title 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 the violation. Any violation of this chapter on the part of a title pledge lender shall be deemed a violation of the Tennessee Consumer Protection Act, compiled in title 47, chapter 18, 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 the action. In addition to those remedies provided in the Tennessee Consumer Protection Act, 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.

SECTION 10. This act shall take effect July 1, 2011, the public welfare requiring it.