Fiscal Note & Local Impact Statement

123 rd General Assembly of Ohio

BILL:	**H.B. 206**	DATE:	**March 17, 1999**
STATUS:	**As Introduced**	SPONSOR:	**Rep. Stapleton**

LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**

CONTENTS: **Establishes a new type of lender, the Title Pledge Lender, to offer loans secured by a security interest in a motor vehicle**

State Fiscal Highlights

STATE FUND	FY 1999	FY 2000	FUTURE YEARS
Fund 553 Consumer Finance			
Revenues	- 0 -	Increase in fee revenue dependent upon number of title pledge offices operated	Increase in fee revenue dependent upon number of title pledge offices operated
Expenditures	- 0 -	Increase between $85,000-$95,000 in personnel costs plus additional administrative costs	Increase between $85,000-$95,000 in personnel costs plus additional administrative costs

Note: The state fiscal year is July 1 through June 30. For example, FY 2000 is July 1, 1999 – June 30, 2000.

- It is estimated that 1.5 positions (1.5 full-time equivalents or FTEs) will be needed for enforcement and regulation of title pledge lenders by the Consumer Finance section in the Division of Financial Institutions in the Department of Commerce.

- Consumer Finance will realize an increase in fee revenues for the application and registration of title pledge lenders. Based on the fees permitted in the bill and depending on the number of title pledge lender offices opened, revenues may not offset expenditures.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1999	FY 2000	FUTURE YEARS
Counties and Municipalities			
Revenues	Potential minimal gain	Potential minimal gain	Potential minimal gain
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- County and municipal courts may realize an increase in workload due to violations of various provisions of the bill. When viewed in respect to the current volume of cases handled in these courts, the amount of cases involving these violations will probably have a negligible effect overall.

- Common pleas courts may realize an increase in workload due to violations of the bill's provisions dealing with registration with the Division of Financial Institutions (a fifth degree felony). When viewed in respect to the current volume of cases handled in these courts, the amount of cases involving these violations will probably have a negligible effect overall.

Detailed Fiscal Analysis

Provisions of the Bill

The bill creates a new category of lender, the title pledge lender, to offer loans secured by an interest in a motor vehicle. The term "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code and can include automobiles, manufactured homes and recreational vehicles. A title loan is a small loan of $2,500 or less and can be written for no longer than thirty days, although by agreement of the pledgor and the title pledge lender, the maturity date of the title pledge agreement may be extended or continued for thirty day periods. These extensions or continuations must be evidenced in writing and no accrued interest can be capitalized or added to the original principal of the title pledge agreement during this time.[1] In lieu of interest and other charges, the title pledge lender may contract for and receive a title pledge service charge for all services, expenses, costs, and losses. Such service charge, however may not exceed twenty-five percent of the original principal of the title pledge agreement.

The bill designates the Division of Financial Institutions (DFI) as the sole regulator of persons engaged in the business as title pledge lenders.[2] The Division will control the design and format of title pledge transaction forms to ensure that the forms contain information such as the identification of the motor vehicle, the identity of the pledgor, the location of the title pledge office and the interest rate, maturity date, finance charge, and total amount payable for the loan.

Any individual seeking to either engage in business as a title pledge lender, or advertise, transact, or solicit business as a title pledge lender must obtain a certificate of registration from the Division of Financial Institutions. A separate certificate of registration must be obtained for each title pledge office operated by a title pledge lender. Each application for a certificate of registration must include an application fee, a fee for the first year's operation in the amount of three hundred dollars, and a fee to cover the Division's cost for investigating the applicant. The amount of the application fee is set by the Division, but must not exceed fifty dollars. Prior to the thirtieth day of June of each year thereafter, title pledge lenders must submit a renewal fee to DFI. The renewal fee is also set by the Division but cannot exceed $250 for each certificate of registration held.

Title pledge lenders are prohibited from committing the following acts: 1) falsifying or failing to enter any material matter in a title pledge transaction form; 2) falsifying any application, document, or record required to be submitted; 3) refusal to allow DFI to inspect title pledge transaction forms or pledged certificates of title during ordinary business hours or other times acceptable to both parties; 4) intentionally defrauding pledgors; 5) refusal or failure to produce any document or record or to disclose any information required to be produced or disclosed pursuant to sections 1321.87 to 1321.97 of the Revised Code; 6) enter into a title pledge agreement with a person under the age of eighteen years; 7) subjecting a pledgor to personal liability under the title pledge agreement; 8) enter into a title pledge agreement with any

[1] Interest charged in excess of 25% of the original principal is deemed uncollectible.

[2] However, the annual percentage rate computed and charged by title pledge lenders is subject to regulations adopted by the Federal Reserve Board pursuant to the Truth in Lending Act.

person who is under the influence of drugs or alcohol, when such condition is visible or apparent; 9) enter into a title pledge agreement exceeding twenty-five hundred dollars; 10) failure to exercise reasonable care in the safekeeping of a pledged certificate or title, or a repossessed motor vehicle; 11) failure to return a pledged certificate of title or motor vehicle repossessed after payment of the full amount due has been made; and 12) sell or otherwise charge for insurance in connection with a title pledge agreement. Should a title pledge lender violate or operate in violation of any provisions of the Revised Code or rules adopted thereunder, the Division of Financial Institutions may enter an order imposing either an administrative fine not to exceed five thousand dollars and/or a cease and desist order. The Division may also suspend or revoke a certificate of registration, place a certificate holder on probation and in some cases may enter into a supervisory agreement with the title pledge lender.

Fiscal Effects

The Consumer Finance section in the Division of Financial Institutions estimates that it will require 1.5 FTE positions in order to fulfill its enforcement and regulatory responsibilities contained in the bill. Compensation for these positions is estimated to run between $85,000 and $95,000 each year. Given that the entire Department of Commerce is self-funded, the Division would have to receive applications for 258 offices in the first year in order to cover operating costs.[3] Since the renewal fee is $50 less in subsequent years, applications for additional offices and hence additional fee revenue would need to be generated to cover expenses.

The bill also provides for civil penalties for certain violations of the law pertaining to title pledge lenders. A title pledge lender who fails to display a certificate of registration in a conspicuous place, transacts business at a location other than at a title pledge office named in the certificate of registration, fails to post a bond or a certificate of deposit or irrevocable letter of credit in lieu of bond, or fails to follow the requirements listed in sections 1321.92, 1321.93 and 1321.85 of the Revised Code is guilty of a third degree misdemeanor on the first offense and a second degree misdemeanor on each subsequent offense. Any individual who engages in business as a title pledge lender, or who advertises, transacts, or solicits business as a title pledge lender without obtaining a certificate of registration from the Division of Financial Institutions is guilty of a fifth degree felony. County, municipal and common pleas courts may realize an increase in workload due to violations of these provisions; however, when viewed in respect to the current volume of cases handled in these courts, the amount of cases involved will probably have a negligible effect overall.

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[3] Assuming that the maximum application fee would be charged, in the first year each applicant wold submit a total of $350 for each office. Further assuming that the costs to the department would run $90,000, 258 offices would need to be opened to cover these costs (350X = $90,000; X=257.14 or 258).