

FILED FEB 24 2005

SENATE FILE 217 COMMERCE
BY BOLKCOM and KETTERING

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the maximum finance charge allowed for
2 consumer loans secured by a certificate of title to a motor
3 vehicle and making penalties applicable.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

SF 217
COMMERCE

1 Section 1. Section 537.2401, subsection 1, Code 2005, is
2 amended to read as follows:

3 1. Except as provided with respect to a finance charge for
4 loans pursuant to open end credit under section 537.2402 and
5 loans secured by a certificate of title of a motor vehicle
6 under section 537.2403, a lender may contract for and receive
7 a finance charge not exceeding the maximum charge permitted by
8 the laws of this state or of the United States for similar
9 lenders, and, in addition, with respect to a consumer loan, a
10 supervised financial organization or a mortgage lender may
11 contract for and receive a finance charge, calculated
12 according to the actuarial method, not exceeding twenty-one
13 percent per year on the unpaid balance of the amount financed.
14 This Except as provided in section 537.2403, this subsection
15 does not prohibit a lender from contracting for and receiving
16 a finance charge exceeding twenty-one percent per year on the
17 unpaid balance of the amount financed on consumer loans if
18 authorized by other provisions of the law.

19 Sec. 2. Section 537.2402, subsection 1, Code 2005, is
20 amended to read as follows:

21 1. If authorized to make supervised loans, a creditor may
22 contract for and receive a finance charge without limitation
23 as to amount or rate with respect to a loan pursuant to open-
24 end credit as permitted in this section except as provided in
25 section 537.2403.

26 Sec. 3. NEW SECTION. 537.2403 FINANCE CHARGE FOR
27 CONSUMER LOANS SECURED BY A MOTOR VEHICLE.

28 1. A lender shall not contract for or receive a finance
29 charge exceeding twenty-one percent per year on the unpaid
30 balance of the amount financed for a loan of money secured by
31 a certificate of title to a motor vehicle used for personal,
32 family, or household purpose except as authorized under
33 chapter 536 or 536A. A consumer who is charged a finance
34 charge in excess of the limitation in this section may seek
35 any remedies available pursuant to this chapter for an excess

1 charge.

2 2. It shall be a violation of this section and an unlawful
3 practice under section 714.16 to attempt to avoid application
4 of this section by structuring a loan of money secured by
5 certificate of title to a motor vehicle as a sale, sale and
6 repurchase, sale and lease, pawn, rental purchase, lease, or
7 other type of transaction with the intent to avoid application
8 of this section or any other applicable provision of this
9 chapter.

10

EXPLANATION

11 This bill relates to the maximum finance charge allowed for
12 consumer loans secured by a certificate of title to a motor
13 vehicle. The bill prohibits a lender from contracting for or
14 receiving a finance charge which exceeds 21 percent per year
15 on the unpaid balance of a loan for money which is secured by
16 a certificate of title to a motor vehicle. The remedies under
17 Code chapter 537 for excess charges are available to consumers
18 who are charged a finance charge in excess of 21 percent per
19 year for such a consumer loan. The bill provides that an
20 attempt to avoid application of the maximum finance charge on
21 a loan secured by a certificate of title to a motor vehicle by
22 structuring the transaction as a sale, sale and repurchase,
23 sale and lease, pawn, rental purchase, or lease with the
24 intent to avoid the maximum finance charge shall be considered
25 a violation of the maximum finance charge and shall be
26 considered a consumer fraud subject to civil penalties and
27 enforcement pursuant to Code section 714.16.

28 Under current law, a consumer is not obligated to pay an
29 excess charge and is entitled to a refund of any excess charge
30 paid. If a consumer entitled to a refund is refused the
31 refund, the consumer may recover from the creditor or other
32 person liable in a civil action the excess charge and a
33 penalty of not less than \$100 or more than \$1,000. Under
34 current law, a person who willfully and knowingly makes an
35 excess charge is guilty of a serious misdemeanor. A serious

1 misdemeanor is punishable by confinement for no more than one
2 year and a fine of at least \$250 but not more than \$1,500.

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35