

ORDINANCE 99-8689

AN ORDINANCE ADDING ARTICLE III TO CHAPTER 18 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES ESTABLISHING REQUIREMENTS FOR TITLE LOAN TRANSACTIONS IN ORDER TO PROVIDE A MAXIMUM INTEREST RATE CHARGEABLE BY SECONDHAND DEALERS ON MOTOR VEHICLE TITLE LOAN TRANSACTIONS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

WHEREAS, Chapter 538, Florida Statutes, permits secondhand dealers to engage in title loan transactions and charge a fee of up to twenty-two percent (22%) per month; and

WHEREAS, Section 538.17, Florida Statutes, specifically provides that municipalities may enact laws more restrictive than general law applicable to title loan transactions by secondhand dealers; and

WHEREAS, the City Council has determined that consumers who enter into title loan transactions on their motor vehicles are in need of greater consumer protection for title loan transactions than is provided by Chapter 538, Florida Statutes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF NAPLES, FLORIDA:

Section 1. That Article III is hereby added to Chapter 18 of the Code of Ordinances of the City of Naples which Article shall read as follows:

ARTICLE III. TITLE LOAN TRANSACTIONS.

Sec. 18-91. Definitions.

(1) The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *Title loan agreement* means an agreement whereby a secondhand dealer agrees to make a loan of a specific sum of money to the owner of a motor vehicle, and the owner of the motor vehicle agrees to give the secondhand dealer a security interest in a motor vehicle certificate of title owned by the borrower and encumbered only by a title loan agreement.

(b) *Secondhand dealer* shall have the same meaning as used in Section 538.03(1)(a), Florida Statutes, as it may be amended from time to time.

- (c) *Title loan* shall have the same meaning as used in Section 538.03(1)(i), Florida Statutes, as it may be amended from time to time.
- (d) *Interest* means the cost of obtaining a title loan and includes any profit or advantage of any kind whatsoever that a secondhand dealer may charge, contract for, collect, receive, or in any way obtain as a result of a title loan.

Sec. 18-92. Title Loan Transactions.

- (1) A secondhand dealer registered under Chapter 538, Part I, Florida Statutes and located in or operating with the City of Naples, may engage in a title loan transaction, only if the following conditions are met:
 - (a) The secondhand dealer maintains physical possession of the motor vehicle certificate of title; and
 - (b) The borrower maintains possession of, or control over, the motor vehicle throughout the term of the loan; and
 - (c) The secondhand dealer charges an interest rate not in excess of the maximum interest rate prescribed in Section 3 of this Ordinance; and
 - (d) The borrower is not required to pay rent or any other charge for the use of the motor vehicle; and
 - (e) The secondhand dealer delivers to the borrower, at the time a loan is made, a statement showing the loan amount, origination date, maturity date, finance charges, a description of the security, the name and address of the borrower and the secondhand dealer, the rate of interest expressed in terms of annual percentage rate, the total number of payments required, and the total amount required to be paid over the life of the loan. In the event the borrower has a right to renew the loan, the secondhand dealer must deliver a statement with the information required herein for each renewal; and
 - (f) The title loan agreement contains the following statement printed in not less than ten-point type:
 - (1) Your vehicle has been pledged as security for

this loan and if you do not repay this loan in full, including the finance charge, YOU WILL LOSE YOUR VEHICLE.

- (2) You are encouraged to repay this loan at the end of the thirty-day period. The lender is not required to extend or renew your loan. It is important that you plan your finances so that you can repay this loan as soon as possible.
- (3) This loan has a very high interest rate. Do not complete this loan transaction if you have the ability to borrow from another source at a rate lower than an annual percentage rate of eighteen (18) percent.
- (4) The borrower represents and warrants that the motor vehicle and the certificate of title is not stolen, it has no liens or encumbrances against it, the borrower has the right to enter into this transaction, and the borrower will not attempt to sell the motor vehicle or apply for a duplicate certificate of title while the title loan agreement is in effect, and that doing so will be a violation of law.
- (g) The title loan agreement contains the following statement immediately above the signature of the borrower: "I, the borrower declare that the information I have provided is true and correct and I have read and understand the foregoing document."
- (h) The secondhand dealer must display, in a prominent place in the title loan premises, for customer viewing, a sign no smaller than three (3) feet by five (5) feet with the following message written in letters no less than two (2) inches high:

IF YOU RECEIVE A TITLE LOAN, YOUR VEHICLE
WILL BE PLEDGED AS SECURITY FOR THE LOAN.

IF YOU DO NOT REPAY THIS LOAN IN FULL,
INCLUDING ALL FINANCE CHARGES, YOU WILL
LOSE YOUR VEHICLE. THIS LOAN HAS A VERY
HIGH INTEREST RATE. DO NOT COMPLETE A
TITLE LOAN TRANSACTION IF YOU HAVE THE
ABILITY TO BORROW MONEY FROM ANOTHER
SOURCE AT A RATE LOWER THAN AN ANNUAL
PERCENTAGE RATE OF 18%.

Sec. 18-93. Maximum interest rate.

- (1) A secondhand dealer may charge a maximum interest rate not to exceed eighteen percent (18%) per annum on the principal amount. The original principal amount is the same amount as the amount financed, as defined by the federal Truth in Lending Act and Regulation Z of the Board of Governors of the Federal Reserve System. In determining compliance with the maximum interest rate, the computation utilized shall be simple interest and not add-on interest or any other interest computation.
- (2) The annual percentage rate that may be charged in a motor vehicle title loan under this Ordinance may equal, but not exceed, the annual percentage rate that must be computed and disclosed as required by the federal Truth in Lending Act and Regulation Z of the Board of Governors of the Federal Reserve System. The maximum annual percentage rate of interest that may be charged is 12 times the maximum monthly rate, and the maximum monthly rate must be computed on the basis of one-twelfth of the annual rate for each full month. When the period for which the charge is computed is more or less than one month, the maximum rate for the period must be computed on a basis of 1/30 the applicable monthly interest rate, multiplied by the number of days of the period.
- (3) Any transaction involving a borrower's delivery of a motor vehicle certificate of title in exchange for the advancement of funds on the condition that the borrower shall or may redeem or repurchase the certificate of title upon the payment of a sum of money, whether the transaction be characterized as a "buy-sell agreement," "sale-leaseback agreement," or otherwise, shall be deemed a violation of this ordinance if such sum exceeds the amount that a secondhand dealer may collect in a title loan agreement under this ordinance or if the terms of the transaction otherwise conflict with the permitted terms and conditions of a title loan agreement under this ordinance.
- (4) Any fees or taxes paid to a state agency and directly related to an individual title loan transaction may be collected from the borrower and shall be in addition to the permitted finance and interest charge.
- (5) No charges, including interest charges, in excess of the combined total of all charges permitted by this section shall be allowed.

Section 2. If any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 3. That all sections or parts of sections of the Code of Municipal Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 4. This ordinance shall take effect immediately upon adoption at second reading.

APPROVED AT FIRST READING THIS 20TH DAY OF OCTOBER, 1999.

PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THIS 3RD DAY OF NOVEMBER, 1999.

Bill Barnett, Mayor

Attest:

Approved as to form and legality:

Tara A. Norman, City Clerk
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Kenneth B. Cuyler, City Attorney