



NEW YORK STATE SENATOR

Jeffrey D. Klein

IDC: It's time to put the brakes on predatory, subprime auto lending

JEFFREY D. KLEIN March 20, 2017

| ISSUE: **CONSUMER PROTECTION, BANKS, PREDATORY LENDING**

Senators Jeff Klein, Diane Savino & Jesse Hamilton introduce bills to stop New Yorkers from getting ripped off when buying used cars

Albany, NY - Independent Democratic Conference Leader Senator Jeff Klein (D-Bronx/Westchester), Senator Diane Savino (D-Staten Island/Brooklyn), Committee on Consumer Protection Chair Senator David Carlucci (D-Rockland/Westchester) and Senator Jesse Hamilton (D-Brooklyn) introduced a legislative package on Monday to protect consumers from predatory and subprime auto lending.

The issue is a new subprime lending crisis waiting to happen, a practice that HBO host John Oliver blasted over the summer for offering the working-poor, with little or no credit, rates too good to pass up which ultimately leave individuals paying astronomical amounts for used vehicles.

“Theoretically, it is a good thing that car dealers lend money to people who can’t get financing elsewhere, but in practice, these dealerships can trap people with few options into paying vastly more than a car is worth,” Oliver said. “It’s just one of many ways in which when you are poor everything can be more expensive.”

The IDC worked to put the brakes on bad practices in the subprime auto industry to protect consumers, some of whom are stuck paying the price of a new car for a junker because of the terms of the loan.

“We cannot allow our working-class consumers to be taken for a ride. Unscrupulous auto dealerships often engage in lending practices that mirror the subprime mortgage crisis, and we need to take action now to protect our most vulnerable residents from being hurt by these deceptive practices,” **said Senator Klein.**

“It is simply unconscionable to green-light a loan, knowing that a person could never afford to repay it. The legislature needs to take the wheel because our working-class constituents are getting hurt by these too-good-to-be-true offers made at auto dealerships, and in the end are stuck with outrageous debt,” **said Senator Savino.**

“As the chair of the Senate Committee on Banks, I take seriously these predatory practices that impact working class citizens who have already suffered through the subprime mortgage crisis. We must take action now to avoid a future crisis in the subprime auto lending industry that preys on those who could least afford it,” **said Senator Hamilton, Chair, Senate Committee on Banks.**

“Our consumer friendly legislative package keeps used car buyers in the driver’s seat both at the negotiating table and of their own cars. Consumers need to have information given to them as clearly as possible when making auto-purchases and the solutions we are putting forward will help fight subprime auto lending by empowering consumers. As the Chair of the Consumer Protection Committee, I look forward to advancing this package,” **said Senator Carlucci, Chair, Senate Committee on Consumer Protection.**

The bills introduced by the IDC include:

- **Limiting Dealer Mark-Up Discretion** - Dealers can add-on anywhere from 0-3% to the financing APR of a vehicle without a consumer's knowledge, and studies have found widespread racially discriminatory practices at play. Senator Klein's **S.5276** would require disclosure of a dealer mark-up at the time of sale, and would also request the Department of Financial Services to conduct a study on the issue of mark-ups to determine how dire this discrimination problem is, and how we can work to remedy it.
- **Regulating Dealer Advertising** - Dealers and subprime financiers often target customers with bad credit or no credit through internet advertisements promising a 100% approval rating. Many times these ads deceive those collecting SSI and SSD. Senator Klein's **S.5277** would authorize the State's Division of Consumer Protection to regulate used auto dealership advertising and ban dealerships from misrepresenting that SSI and SSD are sufficient income sources for loans.
- **Transparency Reform** - A uniform loan form for used car financing would be created by the State's Department of Financial Services. Senator Savino's **S.5274** would allow DFS to create a form disclosing all costs and warning consumers that add-on costs are not required to obtain loans and what the loan to value ratio is upon financing. This legislation would also ban all conditional deliveries.
- **Require a Cooling Off Period** - Most major retail purchases provide a buyer with a window to cancel a transaction, but car purchases have no cooling off period. Senator Savino's **S.5275** would require a three-day cooling off period for used car purchases, giving consumers the opportunity to review lengthy financial documents and return a used automobile within three days. It would also create the same opportunity for new car transactions, although a car must remain in a lot for the duration of the cooling off period since a new vehicle automatically loses value as soon as it's driven off a lot.

- **License Financial managers at Dealerships** - The State's Department of Financial Services would license all financial managers who provide loans to customers at auto dealerships under Senator Hamilton's **S.5278**, and would require all dealerships who issue financing or facilitate financing to designate and license a finance manager.

In April 2015 the IDC released an investigative report, "*Road to Credit Danger: Predatory Subprime Auto Lending in New York*," that examined the deceptive practices used by car dealers to take advantage of consumers. The introduction of these bills is a continuation of the work that the IDC has done to shine light on this issue.

Last year, Senator Klein's bill S.5485A which requires increased surety bonds at used car dealerships was signed into law. Now, if the dealer sells more than 50 used cars annually, the surety bond, held as a consumer protection raised from \$10,000 to \$100,000. Smaller used car dealers can take out \$20,000 bonds if they sell fewer than 50 vehicles a year.

Senator Savino's bill S.5152, which passed the Senate, would grant courts the power to make the assignee of an auto loan pay reasonable attorney's fees if a consumer sues the assignee and wins, over and above the limitation on assignee liability that currently exists in statute. This bill responds to the reality that in auto loan transactions, while the dealer often technically originates the loan, the actual lender is termed the assignee for purposes of the transaction, despite the fact that the "assignee" often exercises a great degree of control over the terms of the transaction.

RELATED LEGISLATION

2017-S5276

- Introduced
- - In Committee Assembly
 - In Committee Senate
- - On Floor Calendar Assembly
 - On Floor Calendar Senate
- - Passed Assembly
 - Passed Senate
- Delivered to Governor
- Signed By Governor
-

Requires motor vehicle dealers to disclose price markups to the purchasers of motor vehicles

March 20, 2017

In Senate Committee [Transportation](#)

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Do you support this bill?

2017-S5277

-
- Introduced

 - ◦ In Committee Assembly
 - In Committee Senate

 - ◦ On Floor Calendar Assembly
 - On Floor Calendar Senate

 - ◦ Passed Assembly
 - Passed Senate

 - Delivered to Governor

 - Signed By Governor

 -

Authorizes the department of law to enforce regulations relating to motor vehicle dealer advertising and marketing

March 20, 2017

In Senate Committee **Finance**

Sponsored by **Jeffrey D. Klein**

Do you support this bill?

2017-S5274

-
- Introduced

 - - In Committee Assembly
 - In Committee Senate

 - - On Floor Calendar Assembly
 - On Floor Calendar Senate

 - - Passed Assembly
 - Passed Senate

 - Delivered to Governor

 - Signed By Governor

 -

Authorizes the superintendent of financial services to oversee and regulate car dealer transactions with consumers

March 20, 2017

In Senate Committee [Banks](#)

Sponsored by [Diane J. Savino](#)

Do you support this bill?

2017-S5275

-
- Introduced
 - ◦ In Committee Assembly
 - In Committee Senate
 - ◦ On Floor Calendar Assembly
 - On Floor Calendar Senate
 - ◦ Passed Assembly
 - Passed Senate
 - Delivered to Governor
 - Signed By Governor
 -

Establishes the automobile sales protection act

March 20, 2017

In Senate Committee [Judiciary](#)

Sponsored by [Diane J. Savino](#)

Do you support this bill?

2017-S5278

- Introduced
 - ◦ In Committee Assembly
 - In Committee Senate
 - ◦ On Floor Calendar Assembly
 - On Floor Calendar Senate
 - ◦ Passed Assembly
 - Passed Senate
- Delivered to Governor
- Signed By Governor
-

Grants the department of financial services jurisdiction over the financing of motor vehicles

March 20, 2017

In Senate Committee [Banks](#)

Sponsored by [Jesse Hamilton](#)

Do you support this bill?