

1 HB400
2 164835-1
3 By Representatives Scott, Melton, Hammon, Sanderford, Boyd,
4 Brown, Beech, Drake, Wadsworth, Morrow, Hall, Williams (JW),
5 Coleman-Evans, Alexander, Buskey, Todd, Treadaway, Bracy,
6 Faust, Ball, England, Wilcox, Tuggle, Patterson, Howard,
7 Davis, Chesteen, Baker, Daniels, Rowe, South, Jackson,
8 Garrett, McMillan, Forte, Knight, Moore (M), Shiver, Pringle,
9 Sessions, Johnson (R), Warren, McCampbell, Nordgren, Collins,
10 Butler, Drummond, Hanes, Whorton (R), Harper, Grimsley,
11 Clarke, Martin, Fincher, Whorton (I), Ledbetter, Givan, Sells,
12 Lawrence, Williams (P), Lindsey, Faulkner, Shedd, Poole,
13 McCutcheon, Weaver and Bandy
14 RFD: Financial Services
15 First Read: 02-APR-15

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8 SYNOPSIS: This bill would provide for the Alabama
9 Title Pledge Act to license and regulate the title
10 loan business; would provide or charges, interest,
11 and fees for loans; and to provide for the
12 enforcement of the act by fines and criminal
13 penalties.

14 Amendment 621 of the Constitution of Alabama
15 of 1901, now appearing as Section 111.05 of the
16 Official Recompilation of the Constitution of
17 Alabama of 1901, as amended, prohibits a general
18 law whose purpose or effect would be to require a
19 new or increased expenditure of local funds from
20 becoming effective with regard to a local
21 governmental entity without enactment by a 2/3 vote
22 unless: it comes within one of a number of
23 specified exceptions; it is approved by the
24 affected entity; or the Legislature appropriates
25 funds, or provides a local source of revenue, to
26 the entity for the purpose.

1 The purpose or effect of this bill would be
2 to require a new or increased expenditure of local
3 funds within the meaning of the amendment. However,
4 the bill does not require approval of a local
5 governmental entity or enactment by a 2/3 vote to
6 become effective because it comes within one of the
7 specified exceptions contained in the amendment.
8

9 A BILL
10 TO BE ENTITLED
11 AN ACT
12

13 To license and regulate the title loan business; to
14 provide definitions; to require licensure of title pledge
15 lenders and offices and to provide for charges, interest, and
16 fees concerning title pledge loans; to provide for fines,
17 penalties, and enforcement for violations; and in connection
18 therewith would have as its purpose or effect the requirement
19 of a new or increased expenditure of local funds within the
20 meaning of Amendment 621 of the Constitution of Alabama of
21 1901, now appearing as Section 111.05 of the Official
22 Recompilation of the Constitution of Alabama of 1901, as
23 amended.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. This act shall be known and may be cited
26 as the Alabama Title Pledge Act.

1 Section 2. As used in this act, the following words
2 and phrases shall have the following meanings:

3 (1) APPROPRIATE LAW ENFORCEMENT AGENCY. The sheriff
4 of each county in which a title pledge lender maintains an
5 office, the police chief of the municipality in which a title
6 pledge lender maintains an office, or law enforcement officers
7 of the Department of Public Safety.

8 (2) ATTORNEY GENERAL. The Attorney General of the
9 State of Alabama.

10 (3) DOCUMENTS. Any item in hard copy or produced in
11 a format of storage commonly described as electronic, imaged,
12 magnetic, microphotographic, or otherwise. Any reproduction of
13 a document shall have the same force and effect as the
14 original thereof and be admitted in evidence equally with the
15 original.

16 (4) IDENTIFICATION. A government issued photographic
17 identification.

18 (5) PERSON. An individual, partnership, corporation,
19 joint venture, trust, association, or other legal entity.

20 (6) PLEDGED PROPERTY. Any personal property
21 certificate of title that is deposited with a title pledge
22 lender in the course of the title pledge lender's business and
23 is the subject of a title pledge agreement.

24 (7) PLEDGOR. The person to whom the property is
25 titled.

1 (8) PRINCIPAL BALANCE. The balance due and owed
2 exclusive of any interest, service charges, or other
3 loan-related charges.

4 (9) RECORDS. Any item in hard copy or produced in a
5 format of storage commonly described as electronic, imaged,
6 magnetic, microphotographic, or otherwise. Any reproduction of
7 a record shall have the same force and effect as the original
8 thereof and be admitted in evidence equally with the original.

9 (10) SUPERVISOR. The Supervisor of the Bureau of
10 Loans of the State Banking Department.

11 (11) TITLE PLEDGE AGREEMENT. A written agreement
12 that complies with the requirements of this act whereby a
13 title pledge lender agrees to make a loan of money to a
14 pledgor, and the pledgor agrees to give the title pledge
15 lender a security interest in unencumbered titled personal
16 property owned by the pledgor.

17 (12) TITLED PERSONAL PROPERTY. Any personal property
18 the ownership of which is evidenced and delineated by a
19 state-issued certificate of title, except manufactured
20 housing.

21 (13) TITLE PLEDGE LENDER. Any person engaged in the
22 business of making, offering, or brokering title pledge
23 agreements with pledgors. The term does not include a bank
24 that is regulated by the State Banking Department, the
25 Comptroller of the Currency of the United States, the Federal
26 Deposit Insurance Corporation, the Board of Governors of the
27 Federal Reserve System, or any other federal or state

1 authority and all affiliates of such bank, any state or
2 federally chartered credit union, and any finance company
3 subject to licensing and regulation by the State Banking
4 Department.

5 (14) TITLE PLEDGE OFFICE. The location at which, or
6 premises in which, a title pledge lender regularly conducts
7 business. No business other than title pledge business shall
8 be conducted at a title pledge office without the prior
9 written approval of the supervisor.

10 (15) TITLE PLEDGE SERVICE CHARGE. A charge for
11 investigating the title, appraising the titled personal
12 property to which the pledged property relates, documenting
13 and closing the title pledge agreement transaction, making
14 required reports to appropriate law enforcement officials, and
15 for all of the services provided by the title pledge lender.

16 (16) TITLE PLEDGE TRANSACTION FORM. The instrument
17 on which a title pledge lender records title pledge agreements
18 pursuant to this act.

19 Section 3. At the time a title pledge lender enters
20 into each title pledge agreement, the title pledge lender
21 shall complete a consecutively numbered title pledge
22 transaction form for the transaction, and the pledgor shall
23 sign the completed form. The supervisor shall approve the
24 design and format of the title pledge transaction form, which
25 shall elicit the information required under this section. In
26 completing the title pledge transaction form, the title pledge

1 lender shall type or write indelibly and legibly in English,
2 the following information:

3 (1) The make, model, and year of the titled personal
4 property to which the pledged property relates.

5 (2) The vehicle identification number, or other
6 comparable identification number, along with the license plate
7 number, if applicable, of the titled personal property to
8 which the pledged property relates.

9 (3) The name, address, date of birth, physical
10 description, Social Security number of the pledgor, and one
11 photo identification.

12 (4) The date of the transaction.

13 (5) The identification number and type of
14 identification, including the issuing agency, accepted from
15 the pledgor.

16 (6) The amount of money advanced, which shall be
17 designated as the amount financed.

18 (7) The maturity date of the title pledge agreement,
19 which shall be no less than 180 days or more than one year
20 after the date of the transaction.

21 (8) The total title pledge service charge payable
22 over the loan term, designated as the finance charge.

23 (9) The total amount, amount financed, plus finance
24 charge, which must be paid to redeem the pledged property on
25 the maturity date, designated as the total of payments.

26 (10) The amount that pledgor must pay in each
27 installment, designated as the installment payments, and the

1 date that each installment payment is due, designated as
2 installment due dates.

3 (11) The annual percentage rate, no greater than 36
4 percent, computed in accordance with the regulations adopted
5 by the Federal Reserve Board pursuant to the Federal
6 Truth-in-Lending Act.

7 (12) Any late charge that the title pledge lender
8 will charge the pledgor, and an explanation of when it will be
9 imposed, designated as late fee.

10 Section 4. (a) The following information shall also
11 be printed on all title pledge transaction forms:

12 (1) The name and address of the title pledge office.

13 (2) The following statements, in at least 14-point
14 bold type immediately above the pledgor's signature and the
15 statement required by subdivision (4) of this subsection:

16 a. The pledgor is not obligated to redeem the
17 pledged certificate of title.

18 b. There shall be no penalty for early payment of
19 any amount owed before the installment date or maturity date.
20 The lender must accept payments of any amount at any time.

21 c. If the pledgor does not make the installment
22 payment and pay any late charge by 30 days after the due date,
23 the title pledge lender may take possession of the titled
24 personal property to which the certificate of title relates.

25 d. If the pledgor does not redeem the pledged
26 property within 15 days after the repossession by paying all
27 outstanding principal, interest, and other fees, then the

1 pledgor forfeits all right, title, and interest in titled
2 personal property, other than the interest in the sale
3 proceeds, to the title pledge lender, who shall thereby
4 acquire an absolute right of title and ownership to the titled
5 personal property.

6 e. If the personal property is sold due to the
7 pledgor's default, the pledgor is entitled to any surplus
8 obtained at such sale beyond the remaining principal and
9 interest owed on the title pledge transaction.

10 f. The pledgor shall retain the completed title
11 pledge transaction form for the duration of the loan term. If
12 the title pledge transaction form is lost, destroyed, or
13 stolen, the pledgor shall immediately advise the issuing title
14 pledge lender and may be required to pay a fee of five dollars
15 (\$5) to obtain a new form. The title pledge lender may allow
16 any person with the title pledge transaction form to redeem
17 the pledged property.

18 (3) The statement that "The pledgor represents and
19 warrants that the titled personal property to which the
20 pledged property relates is not stolen, it has no liens or
21 encumbrances against it, and the pledgor has the right to
22 enter into this transaction."

23 (4) Immediately above the signature of the pledgor
24 or seller, the statement that "I, the pledgor declare under
25 penalty of perjury that I have read the foregoing document and
26 that, to the best of my knowledge and belief, the facts
27 contained in it are true and correct."

1 (5) A blank line for the signature of the pledgor.

2 (b) At the time of the transaction, the title pledge
3 lender shall deliver to the pledgor a copy of the completed
4 title pledge transaction form.

5 (c) At the time of the transaction, the title pledge
6 lender shall also provide each pledgor with a pamphlet, in a
7 form consistent with regulations adopted by the supervisor,
8 explaining in plain language the rights and responsibilities
9 of the borrower and providing a toll free number at the State
10 Banking Department for assistance with complaints.

11 Section 5. (a) The pledgor shall sign a statement
12 verifying that the pledgor is the rightful owner of the
13 pledged property and is entitled to pledge it. The pledgor
14 shall receive an exact copy of the title pledge agreement
15 which shall be signed by the title pledge lender or any
16 employee of the title pledge lender.

17 (b) The title pledge lender shall maintain a record
18 of all transactions of pledged property on the premises for a
19 period of two years. Upon request, a title pledge lender shall
20 provide to the appropriate law enforcement agency a complete
21 record of all transactions. These records shall be a correct
22 copy of the entries made of the title pledge transaction.

23 (c) The title pledge lender shall maintain records
24 that contain a complete payment history of each pledgor
25 evidencing all installment payments and other charges and
26 payments. Those records also shall reflect any unpaid

1 principal balance as well as a payoff balance that includes
2 the accrued service charges.

3 Section 6. (a) A pledgor shall have no obligation to
4 redeem pledged property or make any payment on a title pledge
5 transaction.

6 (b) A title pledge lender may pay all proceeds for a
7 title pledge transaction in cash directly to the pledgor or
8 electronic funds transfer directly to the pledgor or pledgor's
9 account. The period of the title pledge transaction shall not
10 begin until the funds are received by the pledgor. There shall
11 be no additional charge related to the payment of the proceeds
12 of any title pledge transaction.

13 (c) The title pledge lender shall not impose a
14 penalty for early payment of any amount owed before the
15 installment date or maturity date. The lender must accept
16 payments of any amount at any time.

17 (d) When a scheduled payment is in default or
18 delinquent for five or more days, the title pledge lender may
19 charge a late fee not to exceed the greater of eighteen
20 dollars (\$18) or five percent of the amount of the scheduled
21 payment in default. Each of the late charges permitted under
22 this subsection may be collected only once on any scheduled
23 installment payment, regardless of the period during which the
24 payment remains in default or is delinquent, and may only be
25 collected on or after the fifth day after the due date. The
26 late fee may be imposed only if the rate or amount was
27 explained in the title pledge form.

1 (e) If the pledgor does not make the late
2 installment payment and pay any late charge by 30 days after
3 the installment due date, the title pledge lender may take
4 possession of the titled personal property to which the
5 certificate of title relates. In taking possession, the title
6 pledge lender or his or her agency may proceed without
7 judicial process if this can be done without breach of the
8 peace or, if necessary, may proceed by action to obtain
9 judicial process. At least 15 days before this due date, the
10 lender must provide the pledgor with notice of the amount of
11 the overdue installment payment, any late charge, and the
12 deadline to make these payments. The notice must also inform
13 the pledgor that the property may be repossessed on this
14 deadline if full payment is not received. This notice must be
15 in writing, personally served or sent by certified or
16 registered mail, return receipt requested.

17 (f) If, within 15 days after the title pledge lender
18 obtains possession of the personal property, the pledgor
19 redeems the pledged property by paying all outstanding
20 principal and applicable service charges, late charges, and
21 the actual cost of repossession, the pledgor shall be given
22 possession of the titled personal property and the pledged
23 property without further delay. At the time of possession or
24 within five days thereafter, the lender must provide the
25 pledgor with notice of this right of redemption, the deadline
26 to redeem, and any actual costs incurred in repossessing the
27 property. This notice must be in writing, personally served or

1 sent by certified or registered mail, return receipt
2 requested.

3 (g) If the pledgor fails to redeem the pledged
4 property during the 15-day period provided in subsection (f)
5 and has received notice of the right to redeem according to
6 subsection (e), then the pledgor shall thereby forfeit all
7 right, title, and interest in and to the titled personal
8 property, other than the interest in the sale proceeds
9 specified in Section (6) (g), to the title pledge lender who
10 shall thereby acquire an absolute right of title and ownership
11 to the titled personal property. The title pledge lender shall
12 then have the sole right and authority to sell or dispose of
13 the titled personal property.

14 (h) If the property is sold after the 15-day period,
15 the title pledge lender shall return to the pledgor the amount
16 received from the sale less the amount of the unpaid principal
17 balance and service charge, any outstanding late charge, and
18 the reasonable and necessary actual costs of the repossession
19 and sale. The cost of repossession shall include reasonable
20 towing charges, storage charges paid to a third party, and
21 repairs made to the property to render it operable. Even if
22 the lender believes that no money is due to the pledgor under
23 this subsection, it must provide the pledgor with a written
24 statement documenting each of these amounts, including the
25 amount and a short description of each individual charge
26 incurred in repossession.

1 Section 7. (a) A title pledge lender may contract
2 for and receive a title pledge service charge in lieu of
3 interest or other charges for all services, expenses, costs,
4 and losses of every nature not to exceed a rate equal to 36
5 percent annual percentage rate of the principal amount
6 advanced in the title pledge transaction. The provisions of
7 Section 8-8-5, Code of Alabama 1975, do not apply to any title
8 pledge agreements made under this act. This service charge may
9 be imposed only if disclosed in full at the time the contract
10 is created, and cannot be modified. No additional fees may be
11 imposed on the pledgor, except a late charge if it is
12 specified in the title pledge form, and the actual costs
13 expended on repossession and sale.

14 (b) Any interest, charge, or fees contracted for or
15 received, directly or indirectly, in excess of the amount
16 permitted under subsection (a) shall be uncollectible and the
17 title pledge transaction shall be void.

18 (c) When the title pledge transaction is paid in
19 full one month or more before the final installment date, the
20 title pledge lender shall refund or credit the borrower with
21 that portion of the total charges which shall be due the
22 borrower as determined by schedules prepared under the rule of
23 seventy-eighths or sum of the digits principle as follows: The
24 amount of the refund or credit shall be as great a proportion
25 of the total service charge originally contracted for as the
26 sum of the periodic time balances of the agreement scheduled
27 to follow the date of prepayment bears to the sum of all the

1 periodic time balances of the contract, both sums to be
2 determined according to the installment payment schedule
3 contained in the title pledge agreement.

4 Section 8. (a) Each licensee under this act shall
5 annually, on or before December 1, file a written report with
6 the supervisor containing such information as the supervisor
7 may require concerning his or her business and operations
8 during the preceding calendar year as to each approved office.
9 Reports shall be made under oath and shall be in the form
10 prescribed by the supervisor.

11 (b) Using the information reported to the supervisor
12 under subsection (a) and the information contained in the
13 database, the supervisor shall make and publish annually an
14 analysis and recapitulation of such reports regarding the
15 utilization of title pledge transactions.

16 Section 9. A title pledge lender, or any agent or
17 employee of a title pledge lender, shall not do any of the
18 following:

19 (1) Falsify or intentionally fail to make an entry
20 of any material matter in a title pledge lender transaction
21 form.

22 (2) Refuse to allow the supervisor, an appropriate
23 law enforcement official, the Attorney General, or any of
24 their designated representatives having appropriate
25 jurisdiction, to inspect completed title pledge transaction
26 forms or pledged property during the ordinary hours of the

1 pledge lender's business or other times acceptable to both
2 parties.

3 (3) Enter into a title pledge agreement with a
4 person under the age of 19 years.

5 (4) Make any agreement requiring or allowing the
6 personal liability of a pledgor or the waiver of any
7 provisions of this act.

8 (5) Knowingly enter into a title pledge agreement
9 with any person who is under the influence of drugs or alcohol
10 when such condition is visible or apparent, or with any person
11 using a name other than his or her own name or the registered
12 name of his or her business.

13 (6) Enter into a title pledge agreement in which the
14 amount financed in consideration of the pledge of any single
15 certificate of title exceeds two thousand five hundred dollars
16 (\$2,500).

17 (7) Fail to exercise reasonable care in the
18 safekeeping of pledged property or of titled personal property
19 repossessed pursuant to this act.

20 (8) Fail to return pledged property or repossessed
21 or forfeited titled personal property to a pledgor, with any
22 and all of the title pledge lender's liens on the property
23 properly released, upon payment of the full amount due the
24 title pledge lender, unless the property has been seized or
25 impounded by an authorized law enforcement agency, taken into
26 custody by a court, or otherwise disposed of by court order.

1 (9) Refuse or fail to return to the pledgor all
2 personal items contained in the vehicle at the time of
3 repossession and not considered part of the vehicle.

4 (10) Sell or otherwise charge for insurance in
5 connection with a title pledge agreement, including motor club
6 memberships.

7 (11) Use or threaten force or violence against any
8 pledgor, nor may any licensee threaten criminal prosecution.
9 No licensee shall trespass on a pledgor's property, other than
10 taking possession without a breach of the peace as specified
11 in Section (6) (e), use printed materials that resemble legal
12 process, make collection attempts at unreasonable hours of the
13 night, or deny the pledgor use of personal property not
14 secured by the loan.

15 (12) Directly or indirectly employ any scheme,
16 device, or artifice to defraud or mislead any pledgor, to
17 defraud or mislead any lender, or to defraud or mislead any
18 person, which shall render any title pledge agreement between
19 the two parties void.

20 (13) Enter into a title pledge agreement with any
21 member of the military services of the United States, or such
22 a member's spouse or dependent, at a rate of above 36 percent
23 annual percentage rate. Any such agreement shall be void.

24 Section 10. (a) Any person presenting identification
25 of himself or herself and presenting the pledgor's copy of the
26 title pledge transaction form to the title pledge lender is
27 presumed to be entitled to redeem the pledged property

1 described in the title pledge lender transaction form;
2 provided, however, that if the title pledge lender determines
3 that the person is not the original pledgor, the title pledge
4 lender is not required to allow the redemption of the pledged
5 property by that person. The person redeeming the pledged
6 property must sign the pledgor's copy of the title pledge
7 transaction form, which the title pledge lender may retain to
8 evidence the person's receipt of the pledged property. If the
9 person redeeming the pledged property is not the original
10 pledgor, that person must show photo identification to the
11 title pledge lender, and the title pledge lender shall record
12 the person's name and address on the title pledge transaction
13 form retained by the title pledge lender. The title pledge
14 lender shall not be liable to the original pledgor for having
15 allowed the redemption of the pledged property by another
16 person pursuant to this subsection, unless the pledgor has
17 reported the form as lost or stolen pursuant to subsection
18 (b).

19 (b) If the pledgor's copy of the title pledge
20 transaction form is lost, destroyed, or stolen, the pledgor
21 must notify the title pledge lender in writing by certified or
22 registered mail, return receipt requested, or in person
23 evidenced by a signed receipt, and receipt of this notice
24 shall invalidate the title pledge transaction form if the
25 pledged property has not previously been redeemed. Before
26 delivering the pledged property or issuing a new title pledge
27 transaction form, the title pledge lender shall require the

1 pledgor to make a written statement of the loss, destruction,
2 or theft of the pledgor's copy of the title pledge transaction
3 form. The title pledge lender shall record on the written
4 statement the type of identification and the identification
5 number accepted from the pledgor, the date the statement is
6 given and the number of the title pledge transaction form
7 lost, destroyed, or stolen. The statement shall be signed by
8 the title pledge lender or the title pledge office employee
9 who accepts the statement from the pledgor. A title pledge
10 lender is entitled to a fee not to exceed five dollars (\$5) in
11 connection with each lost, destroyed, or stolen title pledge
12 transaction form and the taking of a properly prepared written
13 statement.

14 (c) No sales tax shall be deemed due or collectible
15 in connection with the redemption of pledged property under
16 this act.

17 Section 11. (a) A person may not engage in business
18 as a title pledge lender or otherwise portray himself or
19 herself as a title pledge lender in the State of Alabama
20 unless the person has a valid license authorizing engagement
21 in the business. This includes offering or agreeing to enter a
22 title pledge transaction with a pledgor, or brokering or
23 acting as an agent for a third party in such a transaction,
24 regardless of whether approval, acceptance, or ratification is
25 necessary to create a legal obligation for the third party.
26 Actions and transactions in the State of Alabama, including
27 transactions conducted through the use of the Internet,

1 facsimile, telephone, kiosk, or other means. A separate
2 license is required for each place of business under this act.
3 The supervisor may issue more than one license to a person if
4 that person complies with this act for each license. A new
5 license or application to transfer an existing license is
6 required upon a change, directly or beneficially, in the
7 ownership of any licensed title pledge office and an
8 application shall be made to the supervisor in accordance with
9 this act.

10 (b) When a licensee wishes to move a title pledge
11 office to another location, the licensee shall give 30 days'
12 prior notice to the supervisor, who shall amend the license
13 accordingly.

14 (c) Each license shall remain in full force and
15 effect until relinquished, suspended, revoked, or expired.
16 With each initial application for a license, the applicant
17 shall pay the supervisor at the time of making the application
18 a license fee of six hundred dollars (\$600), and on or before
19 December 1 of each year thereafter, an annual renewal fee of
20 five hundred dollars (\$500). If the annual fee remains unpaid
21 31 days after December 1, the license shall expire. If any
22 person engages in business as provided for in this act without
23 paying the license fee provided for in this act before
24 commencing business or before the expiration of the person's
25 current license, as the case may be, then the person shall be
26 liable for the full amount of the license fee, plus a penalty
27 in an amount not to exceed twenty-five dollars (\$25) for each

1 day that the person has engaged in the business without a
2 license or after the expiration of a license. All licensing
3 fees and penalties shall be paid into the special fund of the
4 State Banking Department.

5 Section 12. (a) To be eligible for a title pledge
6 lender license, an applicant shall meet all of the following
7 criteria:

8 (1) Operate lawfully and fairly within the purposes
9 of this act.

10 (2) Not have been convicted of a felony in the last
11 10 years or be active as a beneficial owner for someone who
12 has been convicted of a felony in the last 10 years.

13 (3) File with the supervisor a bond with good
14 security in the penal sum of fifty thousand dollars (\$50,000)
15 for each location at which the applicant proposes to engage in
16 the business of title pledge lending, but in no event shall
17 the aggregate amount of the bond for all locations per
18 applicant exceed two hundred fifty thousand dollars (\$250,000)
19 and no more than fifty thousand dollars (\$50,000) shall be
20 payable or recoverable on the bond for each location; the bond
21 shall be payable to the state for the faithful performance by
22 the licensee of the duties and obligations pertaining to the
23 business so licensed and the prompt payment of any judgment
24 which may be recovered against the licensee on account of
25 damages or other claims arising directly or collaterally from
26 any violation of this act; the bond shall not be valid until
27 it is approved by the supervisor; the applicant may file, in

1 lieu thereof, cash, a certificate of deposit, or government
2 bonds in the amount of twenty-five thousand dollars (\$25,000)
3 for each location at which the applicant proposes to engage in
4 the business of title pledge lending, but in no event shall
5 the aggregate amount of the cash, certificate of deposit, or
6 government bonds for all locations per applicant exceed two
7 hundred fifty thousand dollars (\$250,000) and no more than
8 twenty-five thousand dollars (\$25,000) shall be payable or
9 recoverable on the cash, certificate of deposit, or government
10 bonds for each location; the deposit of the cash, certificate
11 of deposit, or government bonds shall be filed with the
12 supervisor and is subject to the same terms and conditions as
13 are payable to the depositor.

14 (4) File with the supervisor an application
15 accompanied by a set of fingerprints for each owner and
16 officer from any local law enforcement agency and the initial
17 license fee required in this act. In order to determine the
18 applicant's suitability for license, the supervisor may
19 forward the fingerprints to the appropriate state agency and
20 forwarded by that agency to the Federal Bureau of
21 Investigation for a national criminal history record check.

22 (b) Upon the filing of an application in a form
23 prescribed by the supervisor, accompanied by the fee and
24 documents required in this act, the department shall
25 investigate to ascertain whether the qualifications prescribed
26 by this act have been satisfied. If the supervisor finds that
27 the qualifications have been satisfied and, if he or she

1 approves the documents so filed by the applicant, a license
2 shall be issued to the applicant to engage in the business of
3 title pledge lending in this state.

4 (c) Complete and file with the supervisor an annual
5 renewal application accompanied by the renewal fee required in
6 this act.

7 (d) The license shall be kept conspicuously posted
8 in the place of business of the licensee.

9 Section 13. (a) The supervisor, after notice and
10 hearing, may suspend or revoke any license if he or she finds
11 that any of the following occurred:

12 (1) The licensee, either knowingly, or without the
13 exercise of due care to prevent the same, has violated any
14 provision of this act.

15 (2) Any fact or condition exists which, if it had
16 existed or had been known to exist at the time of the original
17 application for the license, clearly would have justified the
18 supervisor in refusing the license.

19 (3) The licensee has aided, abetted, or conspired
20 with an individual or person to circumvent or violate the
21 requirements of this act.

22 (4) The licensee, or a legal or beneficial owner of
23 the license, has been convicted of a crime that the supervisor
24 finds directly relates to the duties and responsibilities of
25 the occupation of title pledge lender.

1 (b) The supervisor may conditionally license or
2 place on probation a person whose license has been suspended
3 or may reprimand a licensee for a violation of this act.

4 (c) A hearing shall be held on written notice given
5 at least 20 days prior to the date of the hearing.

6 (d) Any licensee may surrender any license by
7 delivering it to the supervisor with written notice of its
8 surrender, but such surrender shall not affect the licensee's
9 civil or criminal liability for acts committed prior thereto.

10 (e) No revocation, suspension, or surrender of any
11 license shall impair or affect the obligation of any
12 preexisting lawful contract between the licensee and any
13 pledgor. Any title pledge transaction made without a license
14 is void.

15 (f) The supervisor may reinstate suspended licenses
16 or issue new licenses to a person whose license or licenses
17 have been revoked if no fact or condition then exists that
18 clearly would have justified the supervisor in originally
19 refusing to issue a license under this act.

20 (g) The appropriate local law enforcement agency
21 shall be notified of any licensee who has his or her license
22 suspended or revoked as provided by this act.

23 (h) The supervisor shall enforce the provisions of
24 this section.

25 Section 14. (a) An application for a new title
26 pledge office license, the transfer of an existing title
27 pledge office license, or the approval of a change in the

1 ownership of a licensed title pledge office shall be under
2 oath and shall state the full name and place of residence of
3 the applicant, the place where the business is to be
4 conducted, and other relevant information required by the
5 supervisor. If the applicant is a partnership, the application
6 shall state the full name of each partner. If the applicant is
7 a corporation, the application shall state the full name and
8 address of each officer, shareholder, and director.

9 (b) Notwithstanding the provisions of this section,
10 the application need not state the full name and address of
11 each shareholder, if the applicant is owned directly or
12 beneficially by a person which as an issuer has a class of
13 securities registered pursuant to Section 12 of the Securities
14 Exchange Act of 1934 or is an issuer of securities which is
15 required to file reports with the Securities and Exchange
16 Commission pursuant to Section 15(d) of the Securities
17 Exchange Act, provided that the person files with the
18 commissioner the information, documents, and reports as are
19 required by the provision of the Securities Exchange Act to be
20 filed by the issuer with the Securities and Exchange
21 Commission.

22 (b) Notwithstanding the provisions of this section,
23 the application need not state the full name and address of
24 each shareholder, if the applicant is owned directly or
25 beneficially by a person which as an issuer has a class of
26 securities registered pursuant to Section 12 of the Securities
27 Exchange Act of 1934 or is an issuer of securities which is

1 required to file reports with the Securities and Exchange
2 Commission pursuant to Section 15(d) of the Securities
3 Exchange Act, provided that the person files with the
4 commissioner the information, documents, and reports as are
5 required by the provision of the Securities Exchange Act to be
6 filed by the issuer with the Securities and Exchange
7 Commission.

8 Section 15. (a) No pledged property may be
9 confiscated by local law enforcement without the following
10 actions having been accomplished:

11 (1) A police report being made in a timely manner.

12 (2) A warrant sworn out for the person who pledged
13 the property to the title pledge lender.

14 (b) Pledged property may be put on a one-time
15 seven-day hold by the authorized law enforcement authorities.
16 This request for a seven-day hold shall be made in writing by
17 the authorized law enforcement authorities.

18 (c) Confiscated pledged property shall be returned
19 to the title pledge lender by the law enforcement authorities
20 as soon as possible when determined that the pledged property
21 has no rightful owner.

22 Section 16. Any person who engages in the business
23 of operating a title pledge office without first securing a
24 license prescribed by this act shall be guilty of a Class A
25 misdemeanor.

26 Section 17. (a) Any person aggrieved by the conduct
27 of a licensee under this act in connection with the regulated

1 activities of the licensee may file a written complaint with
2 the supervisor, who shall investigate the complaint.

3 (b) In the course of the investigation of the
4 complaint, the supervisor may do the following:

5 (1) Subpoena witnesses.

6 (2) Administer oaths.

7 (3) Examine any individual under oath.

8 (4) Compel the production of records, books, papers,
9 contracts, or other documents relevant to the investigation.

10 (c) If a person fails to comply with a subpoena of
11 the supervisor under this act or to testify concerning any
12 matter about which the person may be interrogated under this
13 act, the supervisor may petition any court of competent
14 jurisdiction for enforcement.

15 (d) The license of any licensee under this act who
16 fails to comply with a subpoena issued by the supervisor may
17 be suspended pending compliance with the subpoena.

18 Section 18. (a) In addition to any other penalty
19 which may be applicable, any licensee or employee who
20 willfully violates any provision of this act, or who willfully
21 makes a false entry in any record specifically required by
22 this act, shall be guilty of a Class A misdemeanor.

23 (b) In addition to any other penalty which may be
24 applicable, any licensee or employee who fails to make a
25 record of a title pledge transaction and subsequently sells or
26 disposes of the pledged property from the transaction shall be
27 punished as follows:

1 (1) For a first offense, the licensee or employee
2 shall be guilty of a Class A misdemeanor.

3 (2) For a second offense, the licensee or employee
4 shall be guilty of a Class C felony.

5 (c) Any licensee convicted in the manner provided in
6 subsection (b) shall forfeit the surety bond or deposit
7 required and the amount of the bond or deposit shall be
8 credited to the budget of the state or local agency which
9 directly participated in the prosecution of the licensee for
10 the specific purpose of increasing law enforcement resources
11 for that specific state or local agency. Any proceeds of a
12 forfeited bond or deposit shall be used to augment existing
13 state and local law enforcement budgets and not to supplant
14 them.

15 (d) Compliance with the criminal provisions of this
16 act shall be enforced by the appropriate law enforcement
17 agency which may exercise for that purpose any authority
18 conferred upon the agency by law.

19 (e) When the supervisor has reasonable cause to
20 believe that a person is violating any provision of this act,
21 the supervisor, in addition to and without prejudice to the
22 authority provided elsewhere in this act, may enter an order
23 requiring the person to cease and desist from the violation
24 and requiring the person to refund any fees collected in
25 violation of this act. The supervisor may sue in any circuit
26 court of the state having jurisdiction and venue to enjoin the
27 person from engaging in or continuing the violation or from

1 doing any act in furtherance of the violation. In such an
2 action, the court may enter an order or judgment awarding a
3 preliminary or permanent injunction.

4 (f) The supervisor, after notice and hearing, may
5 impose a civil penalty against any licensee if the licensee or
6 employee is adjudged by the supervisor to be in violation of
7 the provisions of this act. The civil penalty shall not exceed
8 five hundred dollars (\$500) per violation and shall be
9 deposited into the special fund of the State Banking
10 Department.

11 Section 19. If any pledged property from a title
12 pledge transaction is found to be stolen and is returned to
13 the rightful owner by law enforcement authorities and if the
14 licensee who accepted the pledged property has complied with
15 all of the duties and responsibilities as specified in this
16 act during the transaction, then the rightful owner of the
17 pledged property shall be liable to the licensee for the
18 pledged amount if the rightful owner fails to prosecute or
19 cooperate in the criminal prosecution related to the title
20 pledge transaction. It shall also be the responsibility of the
21 licensee to assist or cooperate in the criminal prosecution
22 related to the title pledge transaction. If the identity of a
23 person who pledged stolen goods can be determined, the
24 district attorney may prosecute the person for any applicable
25 criminal violations.

1 Section 20. (a) The supervisor shall develop and
2 provide any necessary forms to carry out the provisions of
3 this act.

4 (b) The department may adopt reasonable
5 administrative rules, not inconsistent with law, for the
6 enforcement of this act.

7 (c) To assure compliance with the provisions of this
8 act, the department may examine the books and records of any
9 licensee without notice during normal business hours. As cost
10 of examination, the licensee shall pay the supervisor an
11 examination fee as provided by Section 5-2A-24, Code of
12 Alabama 1975, which shall be collected and paid into the
13 special fund provided and used in the supervision and
14 examination of licensees.

15 Section 21. Title pledge lenders in operation as of
16 the effective date of this act shall have until January 1,
17 2014, to apply for a license under this act.

18 Section 22. Municipalities in this state may enact
19 ordinances which are more restrictive than this act, but no
20 municipality, county, or local government may enact local laws
21 or ordinances that require the payment of any fee or tax
22 related to a title pledge transaction or the reporting of any
23 such transaction. Any existing or future order, ordinance, or
24 regulation that conflicts with this provision shall be null
25 and void.

26 Section 23. A licensee shall not advertise, display,
27 or publish, or permit to be advertised, displayed, or

1 published, in any manner whatsoever, any statement or
2 representation that is false, misleading, or deceptive. A
3 licensee also shall not make any false, misleading, or
4 deceptive oral statements or misrepresent the terms of the
5 contract to a pledgor.

6 Section 24. The supervisor, or his or her duly
7 authorized representative, for the purpose of discovering
8 violations of this act and for the purpose of determining
9 whether persons are subject to the provisions of this act, may
10 examine persons licensed under this act and persons reasonably
11 suspected by the supervisor of conducting business that
12 requires a license under this act, including all relevant
13 books, records, and papers employed by those persons in the
14 transaction of their business, and may summon witnesses and
15 examine them under oath concerning matters relating to the
16 business of those persons, or other matters as may be relevant
17 to the discovery of violations of this act, including, without
18 limitation, the conduct of business without a license as
19 required under this act.

20 Section 25. A licensee under this act shall have no
21 liability for any act or practice done or omitted in
22 conformity with either of the following:

23 (1) Any rule, regulation, or written interpretation
24 of the supervisor.

25 (2) Any rule, regulation, interpretation, or any
26 opinion of any other state or federal agency or any opinion of
27 the Attorney General, notwithstanding that after the act or

1 omission has occurred, the rule, regulation, interpretation,
2 approval, or opinion is amended, rescinded, or determined by
3 judicial or other authority to be invalid for any reason.

4 Section 26. Although this bill would have as its
5 purpose or effect the requirement of a new or increased
6 expenditure of local funds, the bill is excluded from further
7 requirements and application under Amendment 621, now
8 appearing as Section 111.05 of the Official Recompilation of
9 the Constitution of Alabama of 1901, as amended, because the
10 bill defines a new crime or amends the definition of an
11 existing crime.

12 Section 27. The provisions of this act are
13 severable. If any part of this act is declared invalid or
14 unconstitutional, that declaration shall not affect the part
15 which remains.

16 Section 28. This act shall become effective on the
17 first day of the third month following its passage and
18 approval by the Governor, or its otherwise becoming law.