

1 HB681  
2 140565-1  
3 By Representative Todd  
4 RFD: Financial Services  
5 First Read: 12-APR-12

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8 SYNOPSIS: Under existing law, title pawns and loans  
9 are regulated under the Alabama Pawnshop Act.

10 This bill would create the Alabama Title  
11 Pledge Act to regulate the title loan business.

12 This bill would require the Supervisor of  
13 the Bureau of Loans of the State Banking Department  
14 to establish a title pledge transaction form for  
15 the purpose of recording certain information  
16 concerning a title pledge agreement.

17 This bill would require the title pledge  
18 lender to maintain records of all transactions  
19 concerning pledged property.

20 This bill would allow the pledgor the right  
21 to redeem pledged property and provide the lenders  
22 right to the property if the pledgor fails to  
23 redeem.

24 This bill would limit the service charge a  
25 lender may receive for a title pledge service.

26 This bill would establish rules for title  
27 pledge lenders, require licensure of lenders and

1 offices, provide grounds for suspension, and  
2 provide for license, fees, and penalties.

3 This bill would allow the Banking Department  
4 to adopt further rules.

5 Amendment 621 of the Constitution of Alabama  
6 of 1901, now appearing as Section 111.05 of the  
7 Official Recompilation of the Constitution of  
8 Alabama of 1901, as amended, prohibits a general  
9 law whose purpose or effect would be to require a  
10 new or increased expenditure of local funds from  
11 becoming effective with regard to a local  
12 governmental entity without enactment by a 2/3 vote  
13 unless: it comes within one of a number of  
14 specified exceptions; it is approved by the  
15 affected entity; or the Legislature appropriates  
16 funds, or provides a local source of revenue, to  
17 the entity for the purpose.

18 The purpose or effect of this bill would be  
19 to require a new or increased expenditure of local  
20 funds within the meaning of the amendment. However,  
21 the bill does not require approval of a local  
22 governmental entity or enactment by a 2/3 vote to  
23 become effective because it comes within one of the  
24 specified exceptions contained in the amendment.

25  
26 A BILL  
27 TO BE ENTITLED

1 AN ACT

2  
3 To license and regulate the title loan business; to  
4 provide definitions; to require licensure of title pledge  
5 lenders and offices and to provide for charges, interest, and  
6 fees concerning title pledge loans; to provide for fines,  
7 penalties, and enforcement for violations; and in connection  
8 therewith would have as its purpose or effect the requirement  
9 of a new or increased expenditure of local funds within the  
10 meaning of Amendment 621 of the Constitution of Alabama of  
11 1901, now appearing as Section 111.05 of the Official  
12 Recompilation of the Constitution of Alabama of 1901, as  
13 amended.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. This act shall be known and may be cited  
16 as the "Alabama Title Pledge Act."

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

19 (1) APPROPRIATE LAW ENFORCEMENT AGENCY. The sheriff  
20 of each county in which a title pledge lender maintains an  
21 office, or the police chief of the municipality or law  
22 enforcement officers of the Department of Public Safety in  
23 which a title pledge lender maintains an office.

24 (2) ATTORNEY GENERAL. The Attorney General of the  
25 State of Alabama.

26 (3) DOCUMENTS. Any item in hard copy or produced in  
27 a format of storage commonly described as electronic, imaged,

1 magnetic, microphotographic or otherwise, and any reproduction  
2 so made shall have the same force and effect as the original  
3 thereof and be admitted in evidence equally with the original.

4 (4) IDENTIFICATION. A government-issued photographic  
5 identification.

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

8 (6) PLEDGED PROPERTY. Any personal property  
9 certificate of title that is deposited with a title pledge  
10 lender in the course of the title pledge lender's business and  
11 is the subject of a title pledge agreement.

12 (7) PLEDGOR. The person to whom the property is  
13 titled.

14 (8) RECORDS. Any item in hard copy or produced in a  
15 format of storage commonly described as electronic, imaged,  
16 magnetic, microphotographic, or otherwise, and any  
17 reproduction so made shall have the same force and effect as  
18 the original thereof and be admitted in evidence equally with  
19 the original.

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

22 (10) TITLE PLEDGE AGREEMENT. A 30-day written  
23 agreement whereby a title pledge lender agrees to make a loan  
24 of money to a pledgor, and the pledgor agrees to give the  
25 title pledge lender a security interest in unencumbered titled  
26 personal property owned by the pledgor. The pledgor shall  
27 agree that the title pledge lender keep possession of the

1 certificate of title. The pledgor shall have the right to  
2 redeem the certificate of title by repaying the loan of money  
3 in full and by complying with the title pledge agreement. When  
4 the certificate of title is redeemed, the title pledge lender  
5 shall release the security interest in the titled personal  
6 property and return the personal property certificate of title  
7 to the pledgor. The title pledge agreement shall provide that  
8 upon failure by the pledgor to redeem the certificate of title  
9 at the end of the original 30-day agreement period, or at the  
10 end of any extensions thereof, the title pledge lender shall  
11 be allowed to take possession of the titled personal property.  
12 The title pledge agreement shall contain a power of attorney  
13 which authorizes the title pledge lender to transfer title to  
14 the pledged property from the pledgor to the title pledge  
15 lender upon failure to redeem the pledged property on or  
16 before the maturity date of the title pledge agreement, or any  
17 extension thereof. The title pledge lender shall take physical  
18 possession of the certificate of title for the entire length  
19 of the title pledge agreement, but shall not be required to  
20 take physical possession of the titled personal property at  
21 any time. A title pledge lender may only take unencumbered  
22 certificates of title for pledge, but may encumber the title  
23 as part of the title pledge transaction by perfecting its  
24 security interest in the titled property.

25 (11) TITLED PERSONAL PROPERTY. Any personal property  
26 the ownership of which is evidenced and delineated by a

1 state-issued certificate of title, except manufactured  
2 housing.

3 (12) TITLE PLEDGE LENDER. Any person engaged in the  
4 business of making title pledge agreements with pledgors;  
5 provided, however, that the following are exempt from the  
6 definition of "title pledge lender" and from the provisions of  
7 this act: Any bank which is regulated by the State Banking  
8 Department, the Comptroller of the Currency of the United  
9 States, the Federal Deposit Insurance Corporation, the Board  
10 of Governors of the Federal Reserve System, or any other  
11 federal or state authority and all affiliates of such bank,  
12 any state or federally chartered credit union and any finance  
13 company subject to licensing and regulation by the State  
14 Banking Department.

15 (13) TITLE PLEDGE OFFICE. The location at which, or  
16 premises in which, a title pledge lender regularly conducts  
17 business. No business other than title pledge business shall  
18 be conducted at a title pledge office without the prior  
19 written approval of the supervisor.

20 (14) TITLE PLEDGE SERVICE CHARGE. A charge for  
21 investigating the title, appraising the titled personal  
22 property to which the pledged property relates, documenting  
23 and closing the title pledge agreement transaction, making  
24 required reports to appropriate law enforcement officials, and  
25 for all of the services provided by the title pledge lender.

1           (15) TITLE PLEDGE TRANSACTION FORM. The instrument  
2 on which a title pledge lender records title pledge agreements  
3 pursuant to this act.

4           Section 3. (a) At the time the title pledge lender  
5 enters into each title pledge agreement, the title pledge  
6 lender shall complete a consecutively numbered title pledge  
7 transaction form for the transaction, and the pledgor shall  
8 sign the completed form. The supervisor shall approve the  
9 design and format of the title pledge transaction form, which  
10 shall elicit the information required under this section. In  
11 completing the title pledge transaction form, the title pledge  
12 lender shall type or write indelibly and legibly in English,  
13 the following information:

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

16           (2) The vehicle identification number, or other  
17 comparable identification number, along with the license plate  
18 number, if applicable, of the titled personal property to  
19 which the pledged property relates.

20           (3) The name, address, date of birth, physical  
21 description, Social Security number of the pledgor, and one  
22 photo identification.

23           (4) The date of the transaction.

24           (5) The identification number and type of  
25 identification, including the issuing agency accepted from the  
26 pledgor.



1           (6) The amount of money advanced, which shall be  
2 designated as the "amount financed."

3           (7) The maturity date of the title pledge agreement,  
4 which shall be 30 days after the date of the transaction.

5           (8) The total title pledge service charge payable on  
6 the maturity date, designated as the "finance charge."

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

10          (10) The annual percentage rate, computed in  
11 accordance with the regulations adopted by the Federal Reserve  
12 Board pursuant to the Federal Truth-in-Lending Act.

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

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

16           (2) The following statements:

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

19           b. If the pledgor does not redeem the pledged  
20 certificate of title on or before the maturity date of the  
21 title pledge agreement, the title pledge lender may take  
22 possession of the titled personal property to which the  
23 certificate of title relates.

24           c. If the pledgor does not redeem the pledged  
25 property within 30 days after the maturity date by paying all  
26 outstanding principal, interest, and other fees, then the  
27 pledgor forfeits all right, title, and interest in titled

1 personal property to the title pledge lender, who shall  
2 thereby acquire an absolute right of title and ownership to  
3 the titled personal property.

4 d. If this title pledge transaction form is lost,  
5 destroyed, or stolen, the pledgor shall immediately advise the  
6 issuing title pledge lender.

7 (3) The statement that "The pledgor represents and  
8 warrants that the titled personal property to which the  
9 pledged property relates is not stolen, it has no liens or  
10 encumbrances against it, and the pledgor has the right to  
11 enter into this transaction."

12 (4) Immediately above the signature of the pledgor  
13 or seller, the statement that "I, the pledgor declare under  
14 penalty of perjury that I have read the foregoing document and  
15 that, to the best of my knowledge and belief, the facts  
16 contained in it are true and correct."

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

18 (b) At the time of the transaction, the title pledge  
19 lender shall deliver to the pledgor a copy of the completed  
20 title pledge transaction form.

21 Section 5. (a) The pledgor shall sign a statement  
22 verifying that the pledgor is the rightful owner of the  
23 pledged property and is entitled to pledge it. The pledgor  
24 shall receive an exact copy of the title pledge agreement  
25 which shall be signed by the title pledge lender or any  
26 employee of the title pledge lender.

1           (b) The title pledge lender shall maintain a record  
2 of all transactions of pledged property on the premises for a  
3 period of two years. Upon request, a title pledge lender shall  
4 provide to the appropriate law enforcement agency a complete  
5 record of all transactions. These records shall be a correct  
6 copy of the entries made of the title pledge transaction.

7           (c) The title pledge lender shall maintain records  
8 that contain a complete payment history of each pledgor  
9 evidencing all principal payments, service charges, and other  
10 charges. Those records also shall reflect any unpaid principal  
11 balance as well as a payoff balance that includes the accrued  
12 service charges.

13           Section 6. (a) A pledgor shall have no obligation to  
14 redeem pledged property or make any payment on a title pledge  
15 transaction. Upon the pledgor's failure to redeem the pledged  
16 property on or before the maturity date of the title pledge  
17 agreement or any extension or continuation thereof, the title  
18 pledge lender has the right to take possession of the titled  
19 personal property. In taking possession, the title pledge  
20 lender or his or her agent may proceed without judicial  
21 process if this can be done without breach of the peace; or,  
22 if necessary, may proceed by action to obtain judicial  
23 process.

24           (b) If, within 30 days after the maturity date, the  
25 pledgor redeems the pledged property by paying all outstanding  
26 principal and applicable service charges, the pledgor shall be

1 given possession of the titled personal property and the  
2 pledged property without further delay.

3 (c) If the pledgor fails to redeem the pledged  
4 property during the 30-day period provided in subsection (b),  
5 then the pledgor shall thereby forfeit all right, title, and  
6 interest in and to the titled personal property and the  
7 pledged property to the title pledge lender who shall thereby  
8 acquire an absolute right of title and ownership to the titled  
9 personal property. The title pledge lender shall then have the  
10 sole right and authority to sell or dispose of the titled  
11 personal property.

12 (d) Notwithstanding anything in the preceding  
13 subsections, the pledgor shall have three business days after  
14 the title pledge lender has taken possession of the titled  
15 personal property to redeem the property by paying the amount  
16 of the unpaid principal balance, the delinquent service  
17 charge, and the actual cost of the repossession. The cost of  
18 repossession shall include reasonable towing charges, storage  
19 charges paid to a third party, and repairs made to the  
20 property to render it operable.

21 (e) If the property is sold after the three business  
22 day period, the title pledge lender shall return to the  
23 pledgor 85 percent of the amount received from the sale less  
24 the amount of the unpaid principal balance, the delinquent  
25 service charge, the actual cost of the repossession, and a  
26 sales fee of one hundred dollars (\$100). However, any titled  
27 personal property that is deemed to be salvaged by the title

1 pledge lender may be sold or otherwise disposed of three  
2 business days after taking possession.

3 Section 7. (a) A title pledge lender may contract  
4 for and receive a title pledge service charge in lieu of  
5 interest or other charges for all services, expenses, costs,  
6 and losses of every nature not to exceed 25 percent per month  
7 of the principal amount advanced in the title pledge  
8 transaction.

9 (b) Any interest, charge, or fees contracted for or  
10 received, directly or indirectly, in excess of the amount  
11 permitted under subsection (a) shall be uncollectible and the  
12 title pledge transaction shall be void. The title pledge  
13 service charge allowed under subsection (a) shall be deemed  
14 earned, due, and owing as of the date of the title pledge  
15 transaction and a like sum shall be deemed earned, due, and  
16 owing on the thirty-first day from the date of the transaction  
17 and on every thirtieth day thereafter.

18 (c) By agreement of the parties, the maturity date  
19 of the title pledge transaction may be extended or continued  
20 for 30-day periods, provided that the service charges as  
21 specified in subsection (a) are not exceeded for any  
22 extensions. All extensions or continuations of the title  
23 pledge transaction shall be evidenced in writing. No accrued  
24 interest or service charge shall be capitalized or added to  
25 the original principal of the title pledge transaction during  
26 any extension or continuation. Beginning with the first  
27 extension or continuation and at each successive extension or

1 continuation thereafter, the pledgor shall be required to  
2 reduce the principal amount financed by at least 10 percent of  
3 the original principal amount of the title pledge transaction.  
4 Notwithstanding any provision in this act to the contrary, if  
5 the pledgor fails to pay at least 10 percent of the original  
6 principal amount at any such extension or continuation, the  
7 title pledge lender, at its option, may do either of the  
8 following:

9 (1) Declare the outstanding principal and any  
10 service charges to be immediately due and payable.

11 (2) Allow the transaction to be extended or  
12 continued, provided that the title pledge lender shall reduce  
13 the principal amount of the loan by 10 percent of the original  
14 principal amount solely for the purposes of calculating its  
15 service charge. This reduction in principal shall continue to  
16 be owing by the pledgor in accordance with the title pledge  
17 transaction, but that amount shall not be entitled to accrue  
18 interest or service charges thereafter.

19 (d) Any additional payment funds on the same pledged  
20 property must be evidenced by a separate title pledge  
21 agreement. A title pledge lender shall not advance funds to a  
22 pledgor to pay off an existing title pledge agreement.

23 Section 8. A title pledge lender, or any agent or  
24 employee of a title pledge lender, shall not do any of the  
25 following:

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

4           (2) Refuse to allow the supervisor, the appropriate  
5 law enforcement official, state Attorney General, or any of  
6 their designated representatives having appropriate  
7 jurisdiction, to inspect completed title pledge transaction  
8 forms or pledged property during the ordinary hours of the  
9 title pledge lender's business or other times acceptable to  
10 both parties.

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

13           (4) Make any agreement requiring or allowing the  
14 personal liability of a pledgor or the waiver of any provision  
15 of this act.

16           (5) Knowingly enter into a title pledge agreement  
17 with any person who is under the influence of drugs or alcohol  
18 when such condition is visible or apparent, or with any person  
19 using a name other than his or her own name or the registered  
20 name of his or her business.

21           (6) Enter into a title pledge agreement in which the  
22 amount financed in consideration of the pledge of any single  
23 certificate of title exceeds two thousand five hundred dollars  
24 (\$2,500).

25           (7) Fail to exercise reasonable care in the  
26 safekeeping of pledged property or of titled personal property  
27 repossessed pursuant to this act.

1           (8) Fail to return pledged property or repossessed  
2 or forfeited titled personal property to a pledgor, with any  
3 and all of the title pledge lender's liens on the property  
4 properly released, upon payment of the full amount due the  
5 title pledge lender, unless the property has been seized or  
6 impounded by an authorized law enforcement agency, taken into  
7 custody by a court, or otherwise disposed of by court order.

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

11           (10) Sell or otherwise charge for insurance in  
12 connection with a title pledge agreement, including motor club  
13 memberships.

14           Section 9. (a) Any person presenting identification  
15 of himself or herself and presenting the pledgor's copy of the  
16 title pledge transaction form to the title pledge lender is  
17 presumed to be entitled to redeem the pledged property  
18 described in the title pledge lender transaction form;  
19 provided, however, that if the title pledge lender determines  
20 that the person is not the original pledgor, the title pledge  
21 lender is not required to allow the redemption of the pledged  
22 property by that person. The person redeeming the pledged  
23 property must sign the pledgor's copy of the title pledge  
24 transaction form, which the title pledge lender may retain to  
25 evidence the person's receipt of the pledged property. If the  
26 person redeeming the pledged property is not the original  
27 pledgor, that person must show photo identification to the



1 title pledge lender, and the title pledge lender shall record  
2 the person's name and address on the title pledge transaction  
3 form retained by the title pledge lender. The title pledge  
4 lender shall not be liable to the original pledgor for having  
5 allowed the redemption of the pledged property by another  
6 person pursuant to this subsection.

7 (b) If the pledgor's copy of the title pledge  
8 transaction form is lost, destroyed, or stolen, the pledgor  
9 must notify the title pledge lender in writing by certified or  
10 registered mail, return receipt requested, or in person  
11 evidenced by a signed receipt, and receipt of this notice  
12 shall invalidate the title pledge transaction form if the  
13 pledged property has not previously been redeemed. Before  
14 delivering the pledged property or issuing a new title pledge  
15 transaction form, the title pledge lender shall require the  
16 pledgor to make a written statement of the loss, destruction,  
17 or theft of the pledgor's copy of the title pledge transaction  
18 form. The title pledge lender shall record on the written  
19 statement the type of identification and the identification  
20 number accepted from the pledgor, the date the statement is  
21 given and the number of the title pledge transaction form  
22 lost, destroyed, or stolen. The statement shall be signed by  
23 the title pledge lender or the title pledge office employee  
24 who accepts the statement from the pledgor. A title pledge  
25 lender is entitled to a fee not to exceed five dollars (\$5) in  
26 connection with each lost, destroyed, or stolen title pledge

1 transaction form and the taking of a properly prepared written  
2 statement.

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

6 Section 10. (a) A person may not engage in business  
7 as a title pledge lender or otherwise portray himself or  
8 herself as a title pledge lender unless the person has a valid  
9 license authorizing engagement in the business. A separate  
10 license is required for each place of business under this act.  
11 The supervisor may issue more than one license to a person if  
12 that person complies with this act for each license. A new  
13 license or application to transfer an existing license is  
14 required upon a change, directly or beneficially, in the  
15 ownership of any licensed title pledge office and an  
16 application shall be made to the supervisor in accordance with  
17 this act.

18 (b) When a licensee wishes to move a title pledge  
19 office to another location, the licensee shall give 30 days'  
20 prior written notice to the supervisor who shall amend the  
21 license accordingly.

22 (c) Each license shall remain in full force and  
23 effect until relinquished, suspended, revoked, or expired.  
24 With each initial application for a license, the applicant  
25 shall pay the supervisor at the time of making the application  
26 a license fee of six hundred dollars (\$600), and on or before  
27 December 1 of each year thereafter, an annual renewal fee of

1 five hundred dollars (\$500). If the annual fee remains unpaid  
2 31 days after December 1, the license shall thereupon expire.  
3 If any person engages in business as provided for in this act  
4 without paying the license fee provided for in this act before  
5 commencing business or before the expiration of the person's  
6 current license, as the case may be, then the person shall be  
7 liable for the full amount of the license fee, plus a penalty  
8 in an amount not to exceed twenty-five dollars (\$25) for each  
9 day that the person has engaged in the business without a  
10 license or after the expiration of a license. All licensing  
11 fees and penalties shall be paid into the special fund of the  
12 State Banking Department.

13 Section 11. (a) To be eligible for a title pledge  
14 lender license, an applicant shall meet all of the following  
15 criteria:

16 (1) Operate lawfully and fairly within the purposes  
17 of this act.

18 (2) Not have been convicted of a felony in the last  
19 10 years or be active as a beneficial owner for someone who  
20 has been convicted of a felony in the last 10 years.

21 (3) File with the supervisor a bond with good  
22 security in the penal sum of fifty thousand dollars (\$50,000)  
23 for each location at which the applicant proposes to engage in  
24 the business of title pledge lending, but in no event shall  
25 the aggregate amount of the bond for all locations per  
26 applicant exceed two hundred fifty thousand dollars (\$250,000)  
27 and no more than fifty thousand dollars (\$50,000) shall be

1 payable or recoverable on the bond for each location; the bond  
2 shall be payable to the State of Alabama for the faithful  
3 performance by the licensee of the duties and obligations  
4 pertaining to the business so licensed and the prompt payment  
5 of any judgment which may be recovered against the licensee on  
6 account of damages or other claims arising directly or  
7 collaterally from any violation of the provisions of this act;  
8 the bond shall not be valid until it is approved by the  
9 supervisor; the applicant may file, in lieu thereof, cash, a  
10 certificate of deposit, or government bonds in the amount of  
11 twenty-five thousand dollars (\$25,000) for each location at  
12 which the applicant proposes to engage in the business of  
13 title pledge lending, but in no event shall the aggregate  
14 amount of the cash, certificate of deposit, or government  
15 bonds for all locations per applicant exceed two hundred fifty  
16 thousand dollars (\$250,000) and no more than twenty-five  
17 thousand dollars (\$25,000) shall be payable or recoverable on  
18 the cash, certificate of deposit, or government bonds for each  
19 location; the deposit of the cash, certificate of deposit, or  
20 government bonds shall be filed with the supervisor and is  
21 subject to the same terms and conditions as are provided for  
22 in the surety bond required herein; any interest or earnings  
23 on the deposits are payable to the depositor.

24 (4) File with the supervisor an application  
25 accompanied by a set of fingerprints for each owner and  
26 officer from any local law enforcement agency and the initial  
27 license fee required in this act. In order to determine the

1 applicant's suitability for license, the supervisor may  
2 forward the fingerprints to the appropriate state agency and  
3 forwarded by that agency to the Federal Bureau of  
4 Investigation for a national criminal history record check.

5 (b) Upon the filing of an application in a form  
6 prescribed by the supervisor, accompanied by the fee and  
7 documents required in this act, the department shall  
8 investigate to ascertain whether the qualifications prescribed  
9 by this act have been satisfied. If the supervisor finds that  
10 the qualifications have been satisfied and, if he or she  
11 approves the documents so filed by the applicant, a license  
12 shall be issued to the applicant to engage in the business of  
13 title pledge lending in this state.

14 (c) Complete and file with the supervisor an annual  
15 renewal application accompanied by the renewal fee required in  
16 this act.

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

19 Section 12. (a) The supervisor, after notice and  
20 hearing, may suspend or revoke any license if he or she finds  
21 that any of the following occurred:

22 (1) The licensee, either knowing, or without the  
23 exercise of due care to prevent the same, has violated any  
24 provision of this act.

25 (2) Any fact or condition exists which, if it had  
26 existed or had been known to exist at the time of the original

1 application for the license, clearly would have justified the  
2 supervisor in refusing the license.

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

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

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

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

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

19 (e) No revocation, suspension, or surrender of any  
20 license shall impair or affect the obligation of any  
21 preexisting lawful contract between the licensee and any  
22 pledgor. Any title pledge transaction made without a license  
23 is void.

24 (f) The supervisor may reinstate suspended licenses  
25 or issue new licenses to a person whose license or licenses  
26 have been revoked if no fact or condition then exists that

1 clearly would have justified the supervisor in originally  
2 refusing to issue a license under this act.

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

6 (h) The supervisor shall enforce the provisions of  
7 this section.

8 Section 13. (a) An application for a new title  
9 pledge office license, the transfer of an existing title  
10 pledge office license, or the approval of a change in the  
11 ownership of a licensed title pledge office shall be under  
12 oath and shall state the full name and place of residence of  
13 the applicant, the place where the business is to be  
14 conducted, and other relevant information required by the  
15 superintendent. If the applicant is a partnership, the  
16 application shall state the full name of each partner. If the  
17 applicant is a corporation, the application shall state the  
18 full name and address of each officer, shareholder, and  
19 director.

20 (b) Notwithstanding the provisions of this section,  
21 the application need not state the full name and address of  
22 each shareholder, if the applicant is owned directly or  
23 beneficially by a person which as an issuer has a class of  
24 securities registered pursuant to Section 12 of the Securities  
25 Exchange Act of 1934 or is an issuer of securities which is  
26 required to file reports with the Securities and Exchange  
27 Commission pursuant to Section 15(d) of the Securities

1 Exchange Act, provided that the person files with the  
2 commissioner the information, documents, and reports as are  
3 required by the provision of the Securities Exchange Act to be  
4 filed by the issuer with the Securities and Exchange  
5 Commission.

6 Section 14. (a) No pledged property may be  
7 confiscated by local law enforcement without the following  
8 actions having been accomplished:

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

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

12 (b) Pledged property can be put on a onetime  
13 seven-day hold by the authorized law enforcement authorities.  
14 This request for a seven-day hold shall be made in writing by  
15 the authorized law enforcement authorities.

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

20 Section 15. Any person who engages in the business  
21 of operating a title pledge office without first securing a  
22 license prescribed by this act shall be guilty of a  
23 misdemeanor and, upon conviction thereof, shall be punishable  
24 by a fine not in excess of one thousand dollars (\$1,000) or by  
25 confinement in the county jail for not more than one year, or  
26 both.



1           Section 16. (a) In addition to any other penalty  
2 which may be applicable, any licensee or employee who  
3 willfully violates any provision of this act, or who willfully  
4 makes a false entry in any record specifically required by  
5 this act, shall be guilty of a misdemeanor and, upon  
6 conviction thereof, shall be punishable by a fine not in  
7 excess of one thousand dollars (\$1,000) per violation or false  
8 entry.

9           (b) In addition to any other penalty which may be  
10 applicable, any licensee or employee who fails to make a  
11 record of a title pledge transaction and subsequently sells or  
12 disposes of the pledged property from the transaction shall be  
13 punished as follows:

14           (1) For a first offense, the licensee or employee  
15 shall be guilty of a misdemeanor and, upon conviction thereof,  
16 shall be punishable by a fine not to exceed one thousand  
17 dollars (\$1,000) or by imprisonment in the county jail for not  
18 more than one year, or both fine and imprisonment.

19           (2) For a second offense, the licensee or employee  
20 shall be guilty of a felony and, upon conviction thereof,  
21 shall be punishable by a fine not to exceed five thousand  
22 dollars (\$5,000) or by imprisonment in the custody of the  
23 State Department of Corrections for a term not less than one  
24 year nor more than five years, or by both fine and  
25 imprisonment.

26           (c) Any licensee convicted in the manner provided in  
27 subsection (b) shall forfeit the surety bond or deposit

1 required and the amount of the bond or deposit shall be  
2 credited to the budget of the state or local agency which  
3 directly participated in the prosecution of the licensee for  
4 the specific purpose of increasing law enforcement resources  
5 for that specific state or local agency. Any proceeds of a  
6 forfeited bond or deposit shall be used to augment existing  
7 state and local law enforcement budgets and not to supplant  
8 them.

9 (d) Compliance with the criminal provisions of this  
10 act shall be enforced by the appropriate law enforcement  
11 agency which may exercise for that purpose any authority  
12 conferred upon the agency by law.

13 (e) When the supervisor has reasonable cause to  
14 believe that a person is violating any provision of this act,  
15 the supervisor, in addition to and without prejudice to the  
16 authority provided elsewhere in this act, may enter an order  
17 requiring the person to cease and desist from the violation.  
18 The supervisor may sue in any circuit court of the state  
19 having jurisdiction and venue to enjoin the person from  
20 engaging in or continuing the violation or from doing any act  
21 in furtherance of the violation. In such an action, the court  
22 may enter an order or judgment awarding a preliminary or  
23 permanent injunction.

24 (f) The supervisor, after notice and hearing, may  
25 impose a civil penalty against any licensee if the licensee or  
26 employee is adjudged by the supervisor to be in violation of  
27 the provisions of this act. The civil penalty shall not exceed

1 five hundred dollars (\$500) per violation and shall be  
2 deposited into the special fund of the State Banking  
3 Department.

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

19 Section 18. (a) The supervisor shall develop and  
20 provide any necessary forms to carry out the provisions of  
21 this act.

22 (b) The department may adopt reasonable  
23 administrative rules, not inconsistent with law, for the  
24 enforcement of this act.

25 (c) To assure compliance with the provisions of this  
26 act, the department may examine the books and records of any  
27 licensee without notice during normal business hours. As cost

1 of examination, the licensee shall pay the supervisor an  
2 examination fee as provided by Section 5-2A-24, Code of  
3 Alabama 1975, which shall be collected and paid into the  
4 special fund provided and used in the supervision and  
5 examination of licensees.

6 Section 19. Title pledge lenders in operation as of  
7 the effective date of this act shall have until January 1,  
8 2013, to apply for a license under this act.

9 Section 20. Municipalities in this state may enact  
10 ordinances which are in compliance with, but not more  
11 restrictive than, the provisions of this act. Any existing or  
12 future order, ordinance, or regulation which conflicts with  
13 this provisions shall be null and void.

14 Section 21. A licensee shall not advertise, display,  
15 or publish, or permit to be advertised, displayed, or  
16 published, in any manner whatsoever, any statement or  
17 representation that is false, misleading, or deceptive.

18 Section 22. The supervisor, or his or her duly  
19 authorized representative, for the purpose of discovering  
20 violations of this act and for the purpose of determining  
21 whether persons are subject to the provisions of this act, may  
22 examine persons licensed under this act and persons reasonably  
23 suspected by the supervisor of conducting business that  
24 requires a license under this act, including all relevant  
25 books, records, and papers employed by those persons in the  
26 transaction of their business, and may summon witnesses and  
27 examine them under oath concerning matters relating to the

1 business of those persons, or other matters as may be relevant  
2 to the discovery of violations of this act, including, without  
3 limitation, the conduct of business without a license as  
4 required under this act.

5 Section 23. A licensee under this act shall have no  
6 liability for any act or practice done or omitted in  
7 conformity with either of the following:

8 (1) Any rule, regulation, or written interpretation  
9 of the supervisor.

10 (2) Any rule, regulation, interpretation, or any  
11 opinion of any other state or federal agency or any opinion of  
12 the Attorney General, notwithstanding that after the act or  
13 omission has occurred, the rule, regulation, interpretation,  
14 approval, or opinion is amended, rescinded, or determined by  
15 judicial or other authority to be invalid for any reason.

16 Section 24. Although this bill would have as its  
17 purpose or effect the requirement of a new or increased  
18 expenditure of local funds, the bill is excluded from further  
19 requirements and application under Amendment 621, now  
20 appearing as Section 111.05 of the Official Recompilation of  
21 the Constitution of Alabama of 1901, as amended, because the  
22 bill defines a new crime or amends the definition of an  
23 existing crime.

24 Section 25. The provisions of this act are  
25 severable. If any part of this act is declared invalid or  
26 unconstitutional, that declaration shall not affect the part  
27 which remains.

1                   Section 26. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.