

By Representative Healey

1                                   A bill to be entitled  
2           An act relating to title loan transactions;  
3           creating the "Florida Title Loan Act";  
4           providing definitions; requiring licensure by  
5           the Division of Consumer Services of the  
6           Department of Agriculture and Consumer Services  
7           to be in the business as a title loan lender;  
8           providing for eligibility for licensure;  
9           providing for application; providing for  
10          suspension or revocation of license; providing  
11          a net worth requirement; providing for a title  
12          loan transaction form; providing for  
13          recordkeeping and reporting and safekeeping of  
14          property; providing for title loan charges;  
15          providing a holding period when there is a  
16          failure to redeem; providing for attempts at  
17          collection; providing for the disposal of  
18          pledged property; providing for disposition of  
19          excess proceeds; prohibiting certain acts;  
20          providing for the right to redeem; providing  
21          for lost title loan transaction forms;  
22          providing for a title loan lenders lien;  
23          providing for criminal penalties; providing for  
24          certain records from the Department of Law  
25          Enforcement; providing for subpoenas,  
26          enforcement of actions, and rules; providing a  
27          fine; providing for investigations and  
28          complaints; providing an appropriation;  
29          providing legislative intent; providing an  
30          effective date.  
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1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Short title.--This act may be cited as the  
4 "Florida Title Loan Act."

5 Section 2. Definitions.--As used in this act, unless  
6 the context otherwise requires:

7 (1) "Division" means the Division of Consumer Services  
8 of the Department of Agriculture and Consumer Services.

9 (2) "Commercially reasonable" means a sale or disposal  
10 which occurs and can be construed as an arms length  
11 transaction. Nonpublic sales or disposal of personal property  
12 between licensees and business affiliates or family members  
13 are sales and disposal which are presumed not to be in a  
14 commercially reasonable fashion.

15 (3) "Identification" means a government issued  
16 photographic identification.

17 (4) "Licensee" means a person who is licensed pursuant  
18 to the provisions of this act.

19 (5) "Loan property" means any personal property  
20 certificate of title that is deposited with a title loan  
21 lender in the course of the title loan lender's business and  
22 is the subject of a title loan agreement.

23 (6) "Net worth" means total assets less total  
24 liabilities calculated in accordance with generally accepted  
25 accounting principles.

26 (7) "Title loan agreement" means a 30-day-written  
27 agreement whereby a title loan lender agrees to make a loan of  
28 a specific sum of money to a pledgor, and the pledgor agrees  
29 to give the title loan lender a security interest in  
30 unencumbered titled personal property owned by the pledgor.  
31 The pledgor shall agree for the title loan lender to keep

1 possession of the certificate of title. The pledgor shall have  
2 the exclusive right to redeem the certificate of title by  
3 repaying the loan of money in full and by complying with the  
4 title loan agreement. When the certificate of title is  
5 redeemed, the title loan lender shall release the security  
6 interest in the titled personal property and return the  
7 personal property certificate of title to the pledgor. The  
8 title loan agreement shall provide that upon failure by the  
9 pledgor to redeem the certificate of title at the end of the  
10 original 30-day-agreement period, or at the end of any 30-day  
11 extension thereof, the title loan lender shall be allowed to  
12 take possession of the titled personal property. The title  
13 loan lender shall retain physical possession of the  
14 certificate of title for the entire length of the title loan  
15 agreement, but shall not be required to retain physical  
16 possession of the titled personal property at any time. A  
17 title loan lender may only hold unencumbered certificates of  
18 title for loan.

19 (8) "Title loan lender" means any person licensed in  
20 accordance with this act and who is engaged in the business of  
21 making title loans or engaging in title loan agreements with  
22 pledgors.

23 (9) "Title loan office" means the location at which,  
24 or premises from which, a title loan lender regularly conducts  
25 business.

26 (10) "Title loan transaction form" means the  
27 instrument on which a title loan lender records title loan  
28 agreements.

29 (11) "Titled personal property" means any personal  
30 property that has as evidence of ownership a state-issued  
31 certificate of title.

1           Section 3. License required.--

2           (1) A person may not engage in business as a title  
3 loan lender unless the person has a valid license issued by  
4 the division authorizing engagement in the business. A  
5 separate license is required for each physical location of a  
6 title loan office. The division shall issue more than one  
7 license to a person if that person complies with the  
8 requirements of this act for each license.

9           (2) An application for a license pursuant to this act  
10 must be submitted to the division on such form as the division  
11 may prescribe by rule. If the division determines that an  
12 application should be granted, it shall issue the license for  
13 a period not to exceed 2 years. A nonrefundable application  
14 and license fee not exceeding \$750 shall be set by rule and  
15 accompany an initial application for each title loan office.

16           (3) A renewal fee not exceeding \$500 shall be set by  
17 rule. Biennial licensure periods and procedures for renewal of  
18 licenses may also be established by the division by rule. A  
19 license that is not renewed at the end of the biennium  
20 established by the division shall automatically expire and  
21 revert to inactive status. Such inactive license may be  
22 reactivated within 3 months after the expiration date upon  
23 submission of a completed reactivation form and payment of a  
24 reactivation fee. A license that is not reactivated within 3  
25 months after becoming inactive may not be reactivated.

26           (4) Each license must specify the location for which  
27 it is issued and must be conspicuously displayed at that  
28 location. When a licensee wishes to move a title loan office  
29 to another location, the licensee shall give 30 days prior  
30 written notice to the agency by certified or registered mail,  
31 return receipt requested, and the division shall then amend

1 the license accordingly. A license issued pursuant to this act  
2 is not transferable or assignable.

3 (5) The division may deny an initial application for a  
4 license if the applicant or any person with power to direct  
5 the management or policies of the applicant is the subject of  
6 a pending criminal prosecution or governmental civil  
7 enforcement action, in any jurisdiction, until conclusion of  
8 such criminal prosecution or enforcement action.

9 (6) Each licensee shall designate and maintain an  
10 agent in this state for service of process.

11 (7) A person must apply to the division for a new  
12 license upon any change of any natural person owning 25  
13 percent or greater interest in any title loan office. An  
14 application for a license or an application to transfer an  
15 existing license is not required upon any change, directly or  
16 beneficially, in the ownership of a title loan office if one  
17 or more of the holders of at least 75 percent of the  
18 outstanding equity interest in the title loan office before  
19 the change in ownership continued to hold at least 75 percent  
20 of the outstanding equity interest after the change in  
21 ownership.

22 Section 4. Eligibility for license.--

23 (1) To be eligible for a title loan lending license,  
24 an applicant shall:

25 (a) Be of good moral character.

26 (b) Have audited financial statements, which documents  
27 disclose that the applicant has a net worth of at least  
28 \$200,000 or file with the division a bond in the amount of  
29 \$100,000 for each license with a surety company qualified to  
30 do business in this state. In lieu of the bond or the net  
31 worth requirement, the applicant may establish a certificate

1 of deposit or an irrevocable letter of credit in a Florida  
2 financial institution in the amount of the bond. The original  
3 bond, certificate of deposit, or letter of credit shall be  
4 filed with the division, and the division shall be the  
5 beneficiary to said document. The bond, certificate of  
6 deposit, or letter of credit shall be in favor of the division  
7 for the use and benefit of any consumer who is injured  
8 pursuant to a title loan transaction by the fraud,  
9 misrepresentation, breach of contract, financial failure, or  
10 violation of any provision of this act by the title loan  
11 lender. Such liability may be enforced either by proceeding in  
12 an administrative action or by filing a judicial suit at law  
13 in a court of competent jurisdiction. However, in such court  
14 suit, the bond, certificate of deposit, or letter of credit  
15 posted with the division shall not be amenable or subject to  
16 any judgment or other legal process issuing out of or from  
17 such court in connection with such lawsuit; but such bond,  
18 certificate of deposit, or letter of credit shall be amenable  
19 to and enforceable only by and through administrative  
20 proceedings before the division. It is the intent of the  
21 Legislature that such bond, certificate of deposit, or letter  
22 of credit shall be applicable and liable only for the payment  
23 of claims duly adjudicated by order of the division. The bond,  
24 certificate of deposit, or letter of credit shall be payable  
25 on a pro rata basis as determined by the division, but the  
26 aggregate amount may not exceed the amount of the bond,  
27 certificate of deposit, or letter of credit.

28 (c) Not have been convicted of a felony within the  
29 last 10 years or be acting as a beneficial owner for someone  
30 who has been convicted of a felony within the last 10 years.

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1       (d) Not have been convicted, and not be acting as a  
2 beneficial owner for someone who has been convicted, of a  
3 crime that the agency finds directly relates to the duties and  
4 responsibilities of a title loan lender within the last 10  
5 years.

6       (2) If an applicant for a title loan lending license  
7 is an entity, the eligibility requirements of this section  
8 apply to each direct or beneficial owner of at least 25  
9 percent of the outstanding equity interest of such entity and,  
10 as to a corporation, to each executive officer and director.

11       Section 5. Application for license.--

12       (1) Application for a license to make title loans  
13 under this act shall be in writing, under oath, and in the  
14 form prescribed by division rule, and shall contain the name,  
15 residence and business addresses of the applicant and, if the  
16 applicant is a partnership or association, of every member  
17 thereof and, if a corporation, of each officer and director  
18 and beneficial owner of at least 25 percent thereof, also the  
19 county and municipality with the street and number or  
20 approximate location where the business is to be conducted,  
21 and such further relevant information as the division may  
22 require pursuant to division rule. At the time of making such  
23 application the applicant shall pay to the division a biennial  
24 license fee not to exceed \$500 which shall be set by rule.  
25 Applications, except for applications to renew or reactivate a  
26 license, must be accompanied by a nonrefundable investigation  
27 fee not to exceed \$250 which shall be set by rule.

28       (2) Notwithstanding the foregoing, the application  
29 need not state the full name and address of each officer,  
30 director, and shareholder if the applicant is owned directly  
31 or beneficially by a person who as an issuer has a class of

1 securities registered pursuant to Section 12 of the Securities  
2 Exchange Act of 1934, or pursuant to Section 15 (d) thereof is  
3 an issuer of securities which is required to file reports with  
4 the Securities and Exchange Commission, if the person files  
5 with the division any information, documents, and reports  
6 required by that act to be filed with the Securities and  
7 Exchange Commission.

8 (3) Upon the filing of an application for a license  
9 and payment of all applicable fees, the division shall, unless  
10 the application is to renew or reactivate an existing license,  
11 make an investigation of the facts concerning the applicant's  
12 proposed activities. The division shall investigate the facts  
13 and shall approve an application and issue to the applicant a  
14 license that will evidence the authority to do business under  
15 the provisions of this act if the division finds that the  
16 eligibility requirements for the license are satisfied. The  
17 license must be prominently displayed at the front desk or  
18 counter at the title loan office.

19 (4) If the division determines that a license should  
20 be granted, it shall issue the license for a period not to  
21 exceed 2 years. Biennial licensure periods and procedures for  
22 renewal of licenses shall be established by the rule of the  
23 division. If the division determines that grounds exist under  
24 this act for denial of an application other than an  
25 application to renew a license, it shall deny such  
26 application, return to the applicant the sum paid as a license  
27 fee, and retain the investigation fee.

28 (5) A license that is not renewed at the end of the  
29 biennium established by the division shall automatically  
30 revert to inactive status. An inactive license may be  
31 reactivated upon submission of a completed reactivation



1 application, payment of the biennial license fee, and payment  
2 of a reactivation fee not to exceed \$250 shall be set by rule.  
3 A license expires on the date at which it has been inactive  
4 for 3 months.

5 (6) Only one place of business for the purpose of  
6 making loans under this act may be maintained under one  
7 license, but the division may issue additional licenses to a  
8 licensee upon compliance with all the provisions of this act  
9 governing issuance of a single license.

10 (7) A licensee may not change the place of business  
11 maintained under a license without prior notice to the  
12 division. When a licensee wishes to change a place of  
13 business, the licensee shall give written notice thereof to  
14 the division.

15 (8) A licensee may conduct the business of making  
16 loans under this act within a place of business in which other  
17 business is solicited or engaged in, unless the division finds  
18 that the conduct of such other business by the licensee  
19 results in either the evasion of this act or combining such  
20 other business activities results in practices which are  
21 detrimental, misleading, or unfair to consumers. Upon such a  
22 finding, the division shall order the licensee to desist from  
23 such evasion or other business activities. However, no license  
24 shall be granted to or renewed for any person or organization  
25 engaged in the pawnbroker business.

26 (9) Licenses are not transferable or assignable. A  
27 licensee may invalidate any license by delivering it to the  
28 division with written notice of its surrender by certified or  
29 registered mail, return receipt requested, but such delivery  
30 does not affect any civil or criminal liability or the  
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1 authority to enforce this act for acts committed in violation  
2 thereof.

3 Section 6. Suspension, revocation of license; net  
4 worth requirement.--

5 (1) The following acts are violations of this act and  
6 constitute grounds for the disciplinary actions specified in  
7 subsection (2):

8 (a) Failure to comply with any provision of this act,  
9 any rule or order adopted pursuant to this act, or any written  
10 agreement entered into with the division;

11 (b) Fraud, misrepresentation, deceit, or gross  
12 negligence in any title loan transaction, regardless of  
13 reliance by or damage to the pledgor;

14 (c) Fraudulent misrepresentation, circumvention, or  
15 concealment of any matter required to be stated or furnished  
16 to a pledgor pursuant to this act, regardless of reliance by  
17 or damage to the pledgor;

18 (d) Willful imposition of illegal or excessive charges  
19 in any title loan transaction;

20 (e) False, deceptive, or misleading advertising by a  
21 title loan lender;

22 (f) Failure to maintain, preserve, and keep available  
23 for examination, all books, accounts, or other documents  
24 required by this act, by any rule or order adopted pursuant to  
25 this act, or by any agreement entered into with the division;

26 (g) The title loan lender has aided, abetted, or  
27 conspired with an individual or person to circumvent or  
28 violate any of the requirements of this act;

29 (h) Refusal to permit inspection of books and records  
30 in an investigation or examination by the division or refusal  
31 to comply with a subpoena issued by the division; or

1           (i) Criminal conduct in the course of a person's  
2 business as a title loan lender.  
3           (2) Upon a finding by the division that any person has  
4 committed any of the acts set forth in subsection (1), the  
5 division may enter an order taking one or more of the  
6 following actions:  
7           (a) Denying an application for a license pursuant to  
8 this act;  
9           (b) Revoking or suspending a license previously  
10 granted pursuant to this act;  
11           (c) Placing a licensee or an applicant for a license  
12 on probation for a period of time and subject to such  
13 conditions as the division may specify;  
14           (d) Placing permanent restrictions or conditions upon  
15 issuance or maintenance of a license pursuant to this act;  
16           (e) Issuing a reprimand; or  
17           (f) Imposing an administrative fine not to exceed  
18 \$5,000 for each such act or violation.  
19           (3) In addition to the acts specified in subsection  
20 (1), the following shall be grounds for denial of a license  
21 pursuant to this act, or for revocation, suspension, or  
22 restriction of a license previously granted:  
23           (a) A material misstatement of fact in an initial or  
24 renewal application for a license;  
25           (b) Having a license, registration, or the equivalent,  
26 to practice any profession or occupation denied, suspended,  
27 revoked, or otherwise acted against by a licensing authority  
28 in any jurisdiction for fraud, dishonest dealing, or any act  
29 of moral turpitude;  
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1       (c) Having been convicted or found guilty of a crime  
2 involving fraud, dishonest dealing, or any act of moral  
3 turpitude;

4       (d) Being insolvent or having demonstrated a lack of  
5 honesty or financial responsibility; or

6       (e) A fact or condition exists which, if it had  
7 existed or had been known to exist at the time of the original  
8 issuance of the license, would have justified the division in  
9 refusing a license.

10       (4) It is sufficient cause for the division to take  
11 any of the actions specified in subsection (2) as to any  
12 partnership, corporation, or association, if the division  
13 finds grounds for such action as to any member of the  
14 partnership, as to any executive officer or director of the  
15 corporation or association, or as to any person with power to  
16 direct the management or policies of the partnership,  
17 corporation, or association.

18       (5) Each licensee licensed pursuant to this act is  
19 responsible for the acts of its employees and agents, if, with  
20 actual knowledge of such acts, it retained profits, benefits,  
21 or advantages accruing from such acts.

22       (6) The manner of giving notice and conducting a  
23 hearing shall be as is required by chapter 120, Florida  
24 Statutes.

25       (7) Any title loan agreement made without benefit of a  
26 license is voidable, in which case the person forfeits the  
27 right to collect any moneys, including principal and any  
28 charges, from the pledgor in connection with such agreement  
29 and shall return to the pledgor the loan property in  
30 connection with such agreement or the fair market value of  
31 such property thereof.

1           Section 7. Title loan transaction form.--  
2           (1) At the time the title loan lender enters into each  
3 title loan agreement, the title loan lender shall complete a  
4 title loan transaction form for such transaction, and the  
5 pledgor shall sign such completed form. The division shall  
6 approve the design and format of the title loan transaction  
7 form, which shall elicit the information required under this  
8 section. In completing the title loan transaction form, the  
9 title loan lender shall record the following information,  
10 which shall be typed or written indelibly and legibly in  
11 English.  
12           (a) The make, model, and year of the titled personal  
13 property to which the loan property relates.  
14           (b) The vehicle identification number, or other  
15 comparable identification number, along with the license plate  
16 number, if applicable, of the titled personal property to  
17 which the loan property relates.  
18           (c) The name, address, date of birth, physical  
19 description, and social security number of the pledgor.  
20           (d) The date of the transaction.  
21           (e) The identification number and the type of  
22 identification, including the issuing agency accepted from the  
23 pledgor.  
24           (f) The amount of money advanced, which shall be  
25 designated as the "amount financed."  
26           (g) The maturity date of the title loan agreement,  
27 which shall be 30 days after the date of the transaction.  
28           (h) The total title loan interest charge payable on  
29 the maturity date, designated as the "finance charge."  
30           (i) The total amount, amount financed plus finance  
31 charge, which must be paid to redeem the loan property on the

1 maturity date, designated as the "total amount of all  
2 payments."  
3 (j) The annual percentage rate, computed in accordance  
4 with the regulations adopted by the Federal Reserve Board  
5 pursuant to the Federal Truth-in-Lending Act.  
6 (2) The following information shall also be printed on  
7 all title loan transaction forms:  
8 (a) The name and address of the title loan office.  
9 (b) The name and address of the regulatory agency as  
10 well as a telephone number upon which consumers may address  
11 complaints.  
12 (c) The following statement in not less than 12 point  
13 type that:  
14 1. The pledgor is not obligated to redeem the subject  
15 certificate of title.  
16 2. If the pledgor does not redeem the certificate of  
17 title before the maturity date of the title loan agreement,  
18 the title loan lender may repossess the titled personal  
19 property to which the certificate of title relates.  
20 3. If this title loan transaction form is lost,  
21 destroyed, or stolen, the pledgor should immediately so advise  
22 the issuing title loan lender in writing.  
23 (d) The statement that "The pledgor represents and  
24 warrants that the titled personal property to which the loan  
25 property relates is not stolen, it has no liens or  
26 encumbrances against it, the pledgor has the right to enter  
27 into this transaction, and the pledgor will not apply for a  
28 duplicate certificate of title while the title loan agreement  
29 is in effect."  
30 (e) Immediately above the signature of the pledgor,  
31 the statement that "I, the pledgor declare under penalty of

1 perjury that I have read the foregoing document and that, to  
2 the best of my knowledge and belief, the facts contained in it  
3 are true and correct."

4 (f) A blank line for the signature of the pledgor.

5 (3) At the time of the transaction, the title loan  
6 lender shall deliver to the pledgor an exact copy of the  
7 completed title loan transaction form.

8 Section 8. Recordkeeping; reporting; safekeeping of  
9 property.--

10 (1) Every title loan lender shall maintain, at the  
11 principal place of business, such books, accounts, and records  
12 of the business conducted under the license issued for such  
13 place of business as will enable the division to determine the  
14 licensee's compliance with this act. The licensee shall make  
15 all such books, accounts, and records of business conducted  
16 under the license available at a convenient location in this  
17 state upon request of the division.

18 (2) The division may authorize maintenance of books,  
19 accounts, and records at a location other than a principal  
20 place of business. The division may require books, accounts,  
21 and records to be produced and available at a reasonable and  
22 convenient location in this state within a reasonable period  
23 of time after such a request.

24 (3) The title loan lender shall maintain the original  
25 copy of each completed title loan transaction form on the  
26 title loan office premises, and shall not obliterate, discard,  
27 or destroy any such original copy, for a period of at least 2  
28 years after making the final entry on any loan recorded  
29 therein.

30 (4) All loan property, or property related to the  
31 title loan transaction, which is delivered to a title loan

1 lender shall be securely stored and maintained at the title  
2 loan office unless the title document has been forwarded to  
3 the appropriate state agency for the purpose of having a lien  
4 recorded or deleted.

5 (5) The division is hereby authorized and empowered to  
6 prescribe the minimum information to be shown in the books,  
7 accounts, and records of licensees so that such records will  
8 enable the division to determine compliance with the  
9 provisions of this act.

10 Section 9. Title loan charges.--

11 (1) In a title loan agreement, a title lender may  
12 contract for and receive a finance charge. The title lender  
13 may charge any amount as a finance charge, so long as the  
14 total amount does not exceed 3 percent less than the total  
15 amount which is permitted in s. 539.001(11)(a), Florida  
16 Statutes, except that the title loan lender is entitled to  
17 receive a minimum finance service charge of \$25 for each such  
18 30-day period.

19 (2) Any extension must be done in writing, clearly  
20 specify the new maturity date, the title loan finance charges  
21 paid for the extension, and title loan finance charges owed on  
22 the new maturity date, and a copy must be supplied to the  
23 pledgor. In this event, the daily title loan finance charge  
24 for the extension shall be equal to the title loan finance  
25 charge for the original 30-day period divided by 30 days,  
26 one-thirtieth of the original total title loan finance charge.  
27 A title loan lender is not permitted to capitalize any unpaid  
28 finance charge as part of the amount financed in a subsequent  
29 title loan transaction.

30 (3) When a title loan agreement has not been satisfied  
31 within 120 days of its inception the title loan lender shall



1 be entitled to receive a finance charge on the outstanding  
2 principal balance at a rate not to exceed 18 percent per annum  
3 for that period of time the loan remains outstanding beyond  
4 120 days. However, the title loan lender may collect a finance  
5 charge as set forth in subsection (1) for the first 120 days  
6 the title loan agreement is in effect.

7 (4) Any finance charge or fees contracted for or  
8 received, directly or indirectly, in excess of the amounts  
9 authorized under this section are prohibited, may not be  
10 collected, and render the title loan agreement voidable, in  
11 which case the title loan lender shall forfeit the right to  
12 collect any interest or finance charges. Upon the pledgor's  
13 written request delivered to the title loan lender by  
14 certified mail return receipt requested within 30 days after  
15 the maturity date, the title loan lender shall be obligated to  
16 return to the pledgor the loan property delivered to the title  
17 loan lender in connection with the title loan agreement upon  
18 payment of the balance of the principal remaining due,  
19 provided that there shall be no penalty for a violation  
20 resulting from an accidental and bona fide error that is  
21 corrected upon discovery. Any action to circumvent the  
22 limitation on title loan interest or any other amounts  
23 collectible under this act is voidable. Any transaction  
24 involving a person's delivery of a personal property  
25 certificate of title in exchange for the advancement of funds  
26 on the condition that the person shall or may redeem or  
27 repurchase the certificate of title upon the payment of a sum  
28 of money, whether the transaction be characterized as a  
29 "buy-sell agreement," "sale-leaseback agreement," or  
30 otherwise, shall be deemed a violation of this act if such sum  
31 exceeds the amount that a title loan lender may collect in a

1 title loan agreement under this act or if the terms of the  
2 transaction otherwise conflict with the permitted terms and  
3 conditions of a title loan agreement under this act.

4 (5) Any fees or taxes paid to a governmental agency  
5 and directly related to a particular title loan transaction  
6 may be collected from the pledgor and shall be in addition to  
7 the permitted finance charge.

8 Section 10. Ten-day holding period; failure to redeem;  
9 attempts at collection.--

10 (1) Upon the pledgor's failure to redeem the pledged  
11 property on or before the maturity date of the title loan  
12 agreement, the title loan lender has the right to take  
13 possession of the titled personal property. Any repossession  
14 of a motor vehicle must be through an agent who is licensed by  
15 the state to repossess motor vehicles. After taking possession  
16 of the titled personal property, the title loan lender shall  
17 retain possession of the titled personal property and the  
18 certificate of title for a minimum 10-day holding period  
19 commencing on the date of repossession.

20 (2) If, during the 10-day holding period, the pledgor  
21 redeems the titled personal property and certificate of title  
22 by paying all outstanding principal and finance charges, the  
23 pledgor shall be given possession of the titled personal  
24 property and the certificate of title without further charge.

25 (3) If the pledgor fails to redeem the titled personal  
26 property and certificate of title during the 10-day holding  
27 period, then the pledgor shall thereby forfeit all right,  
28 title, and interest in and to the titled personal property and  
29 certificate of title, to the title loan lender, who shall  
30 thereby acquire an absolute right of title and ownership to  
31 the titled personal property. The title loan lender shall then

1 have the sole right and authority to sell or dispose of the  
2 unredeemed titled personal property.

3 (4) If the title loan lender, in attempting to collect  
4 moneys owed pursuant to a valid title pledge agreement,  
5 communicates with the pledgor no more than one time per day  
6 such communication shall not be considered harassment or abuse  
7 of the pledgor for purposes of s. 559.72, Florida Statutes.

8 Section 11. Disposal of pledged property; excess  
9 proceeds.--

10 (1) The title loan lender shall dispose of the pledged  
11 personal property within a reasonable length of time after the  
12 expiration of the 10-day holding period in a commercially  
13 reasonable fashion so as to produce the highest proceeds from  
14 such disposal. After the pledged personal property has been  
15 disposed of, the title loan lender shall deduct from said  
16 proceeds the outstanding principal balance and finance charges  
17 that have accrued up until the expiration of the 10-day  
18 holding period and the incurred repossession or storage  
19 charges which are actual and reasonable. Title loan lenders  
20 may only assess and collect, as reimbursement, a repossession  
21 or storage charge which does not exceed the actual amount  
22 charged by an independent and unaffiliated third-party company  
23 or contractor which was hired to repossess or store the titled  
24 personal property to which the loan property relates. The  
25 total amount of reimbursement that the title loan lender may  
26 receive as reimbursement, for any outstanding charges except  
27 the principal and finance charges, may not exceed \$350 for a  
28 motor vehicle repossessed within this state or \$500 for a  
29 motor vehicle repossessed outside this state.

30 (2) After such deductions, any remaining balances or  
31 surpluses, if any, shall be given to the pledgor within 10

1 days after such disposal. Under no circumstances, including  
2 the case where the sale or disposal proceeds fail to cover the  
3 loan amount, shall any deficiency be allowed to be attributed  
4 to any pledgor or borrower.

5 Section 12. Prohibited acts.--A title loan lender, or  
6 any agent or employee of such title loan lender, shall not:

7 (1) Falsify or fail to make an entry of any material  
8 matter in a title loan lender transaction form.

9 (2) Refuse to allow the division or any of their  
10 designated representatives having appropriate jurisdiction to  
11 inspect completed title loan transaction forms or loan  
12 property during the ordinary hours of the title loan lender's  
13 business or other times acceptable to both parties.

14 (3) Enter into a title loan agreement with a person  
15 under the age of 18 years.

16 (4) Make any agreement requiring or allowing for the  
17 personal liability of a pledgor or the waiver of any of the  
18 provisions of this act.

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

24 (6) Fail to exercise reasonable care in the  
25 safekeeping of loan property or of titled personal property  
26 repossessed pursuant to this act.

27 (7) Fail to return loan property or repossessed titled  
28 personal property to a pledgor, with any and all of the title  
29 loan lender's liens on the property properly released, upon  
30 payment of the full amount due the title loan lender, unless  
31 the property has been seized or impounded by an authorized law

1 enforcement agency, taken into custody by a court, or  
2 otherwise disposed of by court order.

3 (8) Sell or otherwise charge for insurance in  
4 connection with a title loan agreement.

5 (9) Charge or receive any finance charge, interest, or  
6 fees which are not authorized pursuant to this act.

7 (10) Engage in business as a title loan lender without  
8 first securing the license.

9 (11) Refuse to accept a partial repayment of the  
10 amount financed. provided all accrued finance charges have  
11 been paid.

12 (12) Charge a prepayment penalty.

13 Section 13. Right to redeem; lost title loan  
14 transaction form.--

15 (1) Any person presenting identification of himself,  
16 or herself, as the pledgor and presenting the pledgor's copy  
17 of the title loan transaction form to the title loan lender is  
18 presumed to be entitled to redeem the loan property described  
19 in the title loan lender transaction form. However, if the  
20 title loan lender determines that the person is not the  
21 pledgor, the title loan lender is not required to allow the  
22 redemption of the loan property by such person. The person  
23 redeeming the loan property must sign the pledgor's copy of  
24 the title loan transaction form, which the title loan lender  
25 may retain to evidence such person's receipt of the loan  
26 property. If the person redeeming the loan property is not the  
27 pledgor, that person must show identification to the title  
28 loan lender together with written authorization from the  
29 pledgor, and the title loan lender shall record the person's  
30 name and address on the title loan transaction form retained  
31 by the title loan lender. In any such case, the person

1 redeeming the pledgor's copy of the title loan transaction  
2 form shall be provided a copy of such signed form as evidence  
3 of the concerned transaction.

4 (2) If the pledgor's copy of the title loan  
5 transaction form is lost, destroyed, or stolen, the pledgor  
6 must notify the title loan lender in writing by certified or  
7 registered mail, return receipt requested, or in person  
8 evidenced by a signed receipt, and receipt of this notice  
9 shall invalidate such title loan transaction form if the loan  
10 property has not previously been redeemed. Before delivering  
11 the loan property or issuing a new title loan transaction  
12 form, the title loan lender shall require the pledgor to make  
13 a written statement of the loss, destruction, or theft of the  
14 pledgor's copy of the title loan transaction form. The title  
15 loan lender shall record on the written statement the type of  
16 identification and the identification number accepted from the  
17 pledgor, the date the statement is given, and the number or  
18 date of the title loan transaction form lost, destroyed, or  
19 stolen. The statement shall be signed by the title loan lender  
20 or the title loan office employee who accepts the statement  
21 from the pledgor.

22 Section 14. Title loan lender's lien.--

23 (1) The title loan lender may record its security  
24 interest in the titled personal property to which the loan  
25 property relates by noting the lien on the certificate of  
26 title.

27 (2) The title loan lender is, upon entering into a  
28 title loan agreement, considered a bona fide lienholder whose  
29 interest has been perfected.

30 Section 15. Criminal penalties.--

31

1       (1) Any person who engages in business as a title loan  
2 lender without first securing the license prescribed by this  
3 act commits a felony of the third degree, punishable as  
4 provided in s. 775.082, s. 775.083, or s. 775.084, Florida  
5 Statutes.

6       (2) In addition to any other penalty which may be  
7 applicable, any licensee who willfully violates this act or  
8 who willfully makes a false entry in any record specifically  
9 required by this act commits a misdemeanor of the first degree  
10 punishable as provided in s. 775.082 or s. 775.083, Florida  
11 Statutes.

12       Section 16. Records from the Department of Law  
13 Enforcement.--The Department of Law Enforcement, on request,  
14 shall supply to the division any arrest and conviction records  
15 in its possession of an individual applying for or holding a  
16 license under this act.

17       Section 17. Subpoenas; enforcement actions; rules.--

18       (1) The division may issue and serve subpoenas to  
19 compel the attendance of witnesses and the production of  
20 documents, papers, books, records, and other evidence before  
21 it in any matter pertaining to this act. The division may  
22 administer oaths and affirmations to any person whose  
23 testimony is required. If any person refuses to testify,  
24 produce books, records, and documents, or otherwise refuses to  
25 obey a subpoena issued under this section, the division may  
26 enforce the subpoena in the same manner as subpoenas issued  
27 under the Administrative Procedure Act are enforced. Witnesses  
28 are entitled to the same fees and mileage as they are entitled  
29 to by law for attending as witnesses in the circuit court,  
30 unless such examination or investigation is held at the place  
31 of business or residence of the witness.

1           (2) In addition to any other powers conferred upon it  
2 to enforce or administer this act, the division may:

3           (a) Bring an action in any court of competent  
4 jurisdiction to enforce or administer this act, any rule or  
5 order adopted under this act, or any written agreement entered  
6 into with the division. In such action, the division may seek  
7 any relief at law or equity including a temporary or permanent  
8 injunction, appointment of a receiver or administrator, or an  
9 order of restitution.

10           (b) Issue and serve upon a person an order requiring  
11 such person to cease and desist and take corrective action  
12 whenever the division finds that such person is violating, has  
13 violated, or is about to violate any provision of this act,  
14 any rule or order adopted under this act, or any written  
15 agreement entered into with the division.

16           (c) Whenever the division finds that conduct described  
17 in paragraph (b) presents an immediate danger to the public  
18 health, safety, or welfare requiring an immediate final order,  
19 issue an emergency cease and desist order reciting with  
20 particularity the facts underlying such findings. The  
21 emergency cease and desist order is effective immediately upon  
22 service of a copy of the order on the respondent named therein  
23 and remains effective for 90 days. If the division begins  
24 nonemergency proceedings under paragraph (b), the emergency  
25 cease and desist order remains effective until the conclusion  
26 of the proceedings under ss. 120.569 and 120.57, Florida  
27 Statutes.

28           (d) Impose and collect an administrative fine against  
29 any person found to have violated any provision of this act,  
30 any rule or order adopted under this act, or any written  
31



1 agreement entered into with the division, in an amount not to  
2 exceed \$5,000 for each violation.

3 (3) The division may adopt rules and perform such  
4 other acts as are necessary for the proper administration,  
5 enforcement, and interpretation of this act.

6 Section 18. Investigations and complaints.--

7 (1) The division or its agent may, at intermittent  
8 periods, make such investigations and examinations of any  
9 licensee or other person as it deems necessary to determine  
10 compliance with this act. For such purposes, it may examine  
11 the books, accounts, records, and other documents or matters  
12 of any licensee or other person. It shall have the power to  
13 compel the production of all relevant books, records, and  
14 other documents and materials relative to an examination or  
15 investigation. Such investigations and examinations shall not  
16 be made more often than once during any 12-month period unless  
17 the division has good cause to believe the licensee is not  
18 complying with the provisions of this act.

19 (2) Any person having reason to believe that the  
20 provisions of this act have been violated may file with the  
21 division a written complaint setting forth the details of such  
22 alleged violations and the division upon receipt of such  
23 complaint, may inspect the pertinent books, records, letters,  
24 and contracts of the licensee and of the seller involved,  
25 relating to such specific written complaint.

26 Section 19. There is hereby appropriated from the  
27 General Revenue Fund to the Division of Agriculture and  
28 Consumer Services, for fiscal year 1997-1998, the sum of  
29 \$ \_\_\_\_\_, and \_\_\_\_\_ positions for the purpose of administering  
30 and enforcing the provisions of this act.

31

