

Bill No. SB 898
Amendment No. ____

Senate CHAMBER ACTION House

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Senator Childers moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

Section 2. Definitions.--As used in this act, the
term:

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

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

(3) "Executive officer" means the president, chief
executive officer, chief financial officer, chief operating
officer, executive vice president, senior vice president,

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1 secretary, or treasurer.

2 (4) "Identification" means a government issued
3 photographic identification.

4 (5) "Licensee" means a person who is licensed under
5 this act.

6 (6) "Loan property" means any personal property
7 certificate of title that is deposited with a title loan
8 lender in the course of the title loan lender's business and
9 is the subject of a title loan agreement.

10 (7) "Title loan agreement" means a written agreement
11 whereby a title loan lender agrees to make a loan of a
12 specific sum of money to a pledgor, and the pledgor agrees to
13 give the title loan lender a security interest in unencumbered
14 titled personal property, except by a title loan agreement,
15 owned by the pledgor.

16 (8) "Title loan lender" means any person who is
17 engaged in the business of making title loans or engaging in
18 title loan agreements with pledgors, except such laws made
19 pursuant to licensees under chapter 516, chapter 520, or
20 chapter 655.

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

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

27 (11) "Titled personal property" means any personal
28 property that has as evidence of ownership a state-issued
29 certificate of title, except for a mobile home that is the
30 primary residence of the pledgor.

31 (12) "Ultimate equitable owner" means a natural person

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1 who, directly or indirectly, owns or controls an ownership
2 interest in a corporation, a foreign corporation, an alien
3 business organization, or any other form of business
4 organization, regardless of whether the person owns or
5 controls such ownership interest through one or more natural
6 persons or one or more proxies, powers of attorney, nominees,
7 corporations, associations, partnerships, trusts, joint stock
8 companies, or other entities or devices, or any combination
9 thereof.

10 Section 3. License required; license fees.--

11 (1) A person may not engage in business as a title
12 loan lender without a valid license issued by the department.
13 A separate license is required for each physical location of a
14 title loan office. The department shall issue more than one
15 license to a person who complies with the requirements of this
16 act for each license.

17 (2) An application for a license must be submitted to
18 the department on forms prescribed by departmental rule. If
19 the department determines that an application should be
20 granted, it shall issue the license for a period not to exceed
21 1 year. A nonrefundable license fee of \$1,500 and a
22 nonrefundable investigation fee of \$250 must accompany an
23 initial application for each title loan location. The revenue
24 from these fees is intended to reasonably reflect the actual
25 cost of regulation. However, in no event shall the initial
26 license fees payable by a single title loan lender with
27 multiple title loan offices exceed \$15,000 in the aggregate.

28 (3) A license must be renewed annually and must be
29 accompanied by a nonrefundable fee of \$1,500. However, in no
30 event shall the renewal fees payable by a single title loan
31 lender with multiple title loan offices exceed \$15,000 in the

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1 aggregate. A license that is not renewed by its expiration
2 date automatically reverts to inactive status. A license may
3 be reactivated within 3 months after it becomes inactive, upon
4 submission of a completed reactivation form and payment of a
5 reactivation fee. A license may not be reactivated more than 3
6 months after it becomes inactive.

7 (4) Each license must specify the location for which
8 it is issued and must be conspicuously displayed at that
9 location. In order to move a title loan office to another
10 location, a licensee must give 30 days prior written notice to
11 the department by certified or registered mail, return receipt
12 requested, and the department shall then amend the license
13 accordingly. A license is not transferable or assignable.

14 (5) The department may deny an initial application for
15 a license if the applicant or any person with power to direct
16 the management or policies of the applicant is the subject of
17 a pending criminal prosecution or governmental civil
18 enforcement action in any jurisdiction until the conclusion of
19 the criminal prosecution or enforcement action.

20 (6) A licensee must designate and maintain an agent in
21 this state for service of process.

22 (7) A person must apply to the department for a new
23 license upon the change of any person owning 25 percent or
24 greater interest in any title loan office and must pay the
25 nonrefundable license and investigation fees, up to a maximum
26 of \$10,000.

27 (8) All moneys collected by the department under this
28 act shall be deposited into the State Treasury to be placed in
29 the General Inspection Trust Fund for the sole purpose of
30 implementing this act.

31 Section 4. Eligibility for license.--

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1 (1) To be eligible for a title loan lending license,
2 an applicant must:

3 (a) Be of good moral character and not have been found
4 guilty of a crime of moral turpitude.

5 (b) File with the department a bond in the amount of
6 \$100,000 for each license with a surety company qualified to
7 do business in this state. However, in no event shall the
8 aggregate amount of the bond required for a single title loan
9 lender exceed \$1 million. In lieu of the bond, the applicant
10 may provide proof to the department that it has a net worth in
11 excess of \$1 million; the applicant may provide to the
12 department a current audited financial statement that
13 documents that the applicant's net worth is in excess of \$1
14 million; or the applicant may establish a certificate of
15 deposit or an irrevocable letter of credit in a Florida
16 financial institution, as defined in chapter 655.005, Florida
17 Statutes, in the amount of the bond. The original bond,
18 certificate of deposit, or letter of credit must be filed with
19 the department, and the department must be the beneficiary of
20 the document. The bond, certificate of deposit, or letter of
21 credit must be in favor of the department for the use and
22 benefit of any consumer who is injured pursuant to a title
23 loan transaction by the fraud, misrepresentation, breach of
24 contract, financial failure, or violation of any provision of
25 this act by the title loan lender. The liability may be
26 enforced by an administrative action or lawsuit in a court of
27 competent jurisdiction. However, in a lawsuit, the bond,
28 certificate of deposit, or letter of credit posted with the
29 department is not subject to any judgment or other legal
30 process issuing out of or from such court in connection with
31 the lawsuit, but the bond, certificate of deposit, or letter

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1 of credit is enforceable only by administrative proceedings
2 before the department. It is the intent of the Legislature
3 that such bond, certificate of deposit, or letter of credit
4 shall be applicable and liable only for the payment of claims
5 duly adjudicated by the department. The bond, certificate of
6 deposit, or letter of credit shall be payable on a pro rata
7 basis as determined by the department, but the aggregate
8 amount may not exceed the amount of the bond, certificate of
9 deposit, or letter of credit.

10 (c) Not have been convicted of a felony within the
11 last 10 years or be acting on behalf of an ultimate equitable
12 owner who has been convicted of a felony within the last 10
13 years.

14 (d) Not have been convicted, and not be acting as an
15 ultimate equitable owner for someone who has been convicted,
16 of a crime that the department finds directly relates to the
17 duties and responsibilities of a title loan lender within the
18 last 10 years.

19 (2) An applicant for a title loan lending license may
20 not be a motor vehicle dealer licensed under chapter 320 or be
21 related to a licensed motor vehicle dealer by common officers,
22 directors, principals, stockholders, agents, family, or
23 employees.

24 (3) If an applicant for a title loan lending license
25 is other than a corporation or limited liability company, the
26 eligibility requirements of this section apply to each direct
27 or ultimate equitable owner.

28 (4) If an applicant for a title loan lending license
29 is a corporation or limited liability company, the eligibility
30 requirements of this section apply to each direct or ultimate
31 equitable owner of at least 25 percent of the outstanding

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1 equity interest of such corporation and to each director and
2 executive officer.

3 Section 5. Application for license.--

4 (1) An application for a license to make title loans
5 must be in writing, under oath, and in the form prescribed by
6 departmental rule, and must contain the name and residence and
7 business addresses of the applicant, and, if the applicant is
8 a partnership or association, of every member thereof, and, if
9 a corporation, of each executive officer and director and
10 ultimate equitable owner of at least 25 percent thereof; must
11 state whether any of the above has been arrested within the
12 last 10 years for, convicted of, or is under indictment or
13 information for, a felony or crime that directly relates to
14 the duties and responsibilities of a title loan lender, and,
15 if so, the nature thereof; must specify the county and
16 municipality, with the street and number or location, where
17 the business is to be conducted; and must provide such further
18 relevant information as the department requires by rule. At
19 the time of application, the applicant must pay the
20 nonrefundable license fees specified in section 3.

21 Applications, except for applications to renew or reactivate a
22 license, must be accompanied by a nonrefundable investigation
23 fee of \$250.

24 (2) Notwithstanding the foregoing, the application
25 need not state the full name and address of each officer,
26 director, and shareholder if the applicant is owned directly
27 or beneficially by a person who as an issuer has a class of
28 securities registered pursuant to Section 12 of the Securities
29 Exchange Act of 1934, or pursuant to Section 15 (d) thereof is
30 an issuer of securities which is required to file reports with
31 the Securities and Exchange Commission, if the person files

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1 with the department any information, documents, and reports
2 required by that act to be filed with the Securities and
3 Exchange Commission.

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

15 (4) A license that is not renewed by its expiration
16 date shall automatically revert to inactive status. An
17 inactive license may be reactivated upon submission of a
18 completed reactivation application, payment of the annual
19 license fee, and payment of a reactivation fee of \$250. A
20 license expires on the date at which it has been inactive for
21 3 months.

22 (5) A licensee may not change the place of business
23 maintained under a license without giving prior written notice
24 to the department.

25 (6) A licensee may make loans within a place of
26 business in which other business is solicited or engaged in,
27 unless the department finds that the conduct of the other
28 business by the licensee results in the evasion of this act or
29 combining such other business activities results in practices
30 that are detrimental, misleading, or unfair to consumers. Upon
31 such a finding, the department shall order the licensee to

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1 desist from such evasion or other business activities. A
2 license may not be granted to or renewed for any person or
3 organization engaged in the pawnbroking business.

4 (7) Licenses are not transferable or assignable. A
5 licensee may invalidate any license by delivering it to the
6 department with written notice of its surrender by certified
7 or registered mail, return receipt requested, but such
8 delivery does not affect any civil or criminal liability or
9 the authority to enforce this act for acts committed in
10 violation thereof.

11 Section 6. Suspension, revocation of license.--

12 (1) The following acts are violations of this act and
13 constitute grounds for the disciplinary actions specified in
14 subsection (2):

15 (a) Failure to comply with any provision of this act,
16 any rule or order adopted under this act, or any written
17 agreement entered into with the department;

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

21 (c) Fraudulent misrepresentation, circumvention, or
22 concealment of any matter required to be stated or furnished
23 to a pledgor under this act, regardless of reliance by or
24 damage to the pledgor;

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

27 (e) False, deceptive, or misleading advertising by a
28 title loan lender;

29 (f) Failure to maintain, preserve, and make available
30 for examination, all books, accounts, or other documents
31 required by this act, by any rule or order adopted under this

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1 act, or by any agreement entered into with the department;

2 (g) Aiding, abetting, or conspiring with another
3 person to circumvent or violate this act;

4 (h) Refusal to permit inspection of books and records
5 in an investigation or examination by the department or
6 refusal to comply with a subpoena issued by the department; or

7 (i) Criminal conduct in the course of a person's
8 business as a title loan lender.

9 (2) Upon a finding by the department that a person has
10 committed an act prohibited by subsection (1), the department
11 may:

12 (a) Issue a notice of noncompliance pursuant to
13 section 120.695, Florida Statutes;

14 (b) Deny an application for a license;

15 (c) Revoke or suspend a license;

16 (d) Place a licensee or an applicant on probation for
17 a period of time and subject to such conditions as the
18 department specifies;

19 (e) Place permanent restrictions or conditions upon
20 issuance or maintenance of a license;

21 (f) Issue a reprimand; or

22 (g) Impose an administrative fine not to exceed \$5,000
23 for each act or violation.

24 (3) In addition to the acts prohibited by subsection
25 (1), the following acts are grounds for denial of a license or
26 for revocation, suspension, or restriction of a license:

27 (a) Making a material misstatement of fact in an
28 initial or renewal application for a license;

29 (b) Having a license, registration, or the equivalent,
30 to practice any profession or occupation denied, suspended,
31 revoked, or otherwise acted against by a licensing authority

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1 in any jurisdiction for fraud, dishonest dealing, or any act
2 of moral turpitude;

3 (c) Having been convicted or found guilty of a crime
4 involving fraud, dishonest dealing, or any act of moral
5 turpitude;

6 (d) Being insolvent or having demonstrated a lack of
7 honesty or financial responsibility; or

8 (e) The existence of a fact or condition that, if it
9 had existed or had been known to exist at the time of the
10 original issuance of the license, would have justified the
11 department in refusing a license.

12 (4) The department may take any action specified in
13 subsection (2) as to any partnership, corporation, or
14 association if the department finds grounds for such action as
15 to any member of the partnership, as to any executive officer
16 or director of the corporation or association, or as to any
17 person who has power to direct the management or policies of
18 the partnership, corporation, or association.

19 (5) A licensee is responsible for the acts of its
20 employees and agents if, with actual knowledge of such acts,
21 it retained profits, benefits, or advantages accruing from
22 such acts or ratified the conduct of the employee or agent as
23 a matter of law or fact.

24 (6) The manner of giving notice and conducting a
25 hearing is governed by chapter 120, Florida Statutes.

26 (7) Any title loan agreement made by an unlicensed
27 person is voidable, in which case the person forfeits the
28 right to collect any moneys, including principal and finance
29 charges, from the pledgor in connection with the agreement and
30 must return to the pledgor the loan property in connection
31 with the agreement or the fair market value of the property.

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1 Section 7. Title loan transaction form.--

2 (1) At the time a 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 department 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 must 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
23 the pledgor.

24 (f) The amount of money advanced, which must be
25 designated as the "amount financed."

26 (g) The maturity date of the title loan agreement.

27 (h) The total title loan charge payable on the
28 maturity date, designated as the "finance charge."

29 (i) The total amount, amount financed plus finance
30 charge, which must be paid to redeem the loan property on the
31 maturity date, designated as the "total amount of all

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1 payments."

2 (j) The annual percentage rate, computed in accordance
3 with regulations adopted by the Federal Reserve Board pursuant
4 to the Federal Truth-in-Lending Act.

5 (2) The following information must also be printed on
6 title loan transaction forms:

7 (a) The name and address of the title loan office.

8 (b) The name and address of the department and a
9 telephone number that consumers may use to make complaints.

10 (c) A statement in not less than 12-point type that:

11 1. Your vehicle has been pledged as security for this
12 loan and if you do not repay this loan in full, including the
13 finance charge, YOU WILL LOSE YOUR VEHICLE.

14 2. You are encouraged to repay this loan at the end of
15 the term, The lender is not required to extend or renew your
16 loan. It is important that you plan your finances so that you
17 can repay this loan as soon as possible.

18 3. THIS LOAN HAS A VERY HIGH INTEREST RATE. DO NOT
19 COMPLETE THIS LOAN TRANSACTION IF YOU HAVE THE ABILITY TO
20 BORROW FROM ANOTHER SOURCE AT AN ANNUAL PERCENTAGE RATE LOWER
21 THAN THAT SHOWN ON THIS FORM.

22 (d) The statement that "The pledgor represents and
23 warrants that the titled personal property to which the loan
24 property relates is not stolen, that it has no liens or
25 encumbrances against it, that the pledgor has the right to
26 enter into this transaction, and that the pledgor will not
27 apply for a duplicate certificate of title while the title
28 loan agreement is in effect."

29 (e) Immediately above the signature of the pledgor,
30 the statement that "I, the pledgor, declare under penalty of
31 perjury that I have read the foregoing document and that to

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1 the best of my knowledge and belief the facts contained in it
 2 are true and correct."

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

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

7 (4) The pledgor shall agree for the title loan lender
 8 to keep possession of the certificate of title. The pledgor
 9 shall have the exclusive right to redeem the certificate of
 10 title by repaying the loan in full and by complying with the
 11 title loan agreement. When the certificate of title is
 12 redeemed, the title loan lender shall release the security
 13 interest in the titled personal property and shall return the
 14 personal property certificate of title to the pledgor. The
 15 title loan agreement shall provide that upon failure by the
 16 pledgor to redeem the certificate of title at the end of the
 17 original agreement period, or at the end of any extension
 18 thereof, the title loan lender may take possession of the
 19 property. The title loan lender shall retain physical
 20 possession of the certificate of title for the duration of the
 21 title loan agreement, but may not be required to retain
 22 physical possession of the titled personal property at any
 23 time. A title loan lender may hold only unencumbered
 24 certificates of title for loan.

25 Section 8. Recordkeeping; reporting; safekeeping of
 26 property.--

27 (1) A title loan lender shall maintain, at its
 28 principal place of business, such books, accounts, and records
 29 of the business conducted under the license issued for such
 30 place of business as will enable the department to determine
 31 the licensee's compliance with this act. The licensee shall

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1 make all such books, accounts, and records of business
2 conducted under the license available at a convenient location
3 in this state upon request of the department.

4 (2) The department may allow the maintenance of books,
5 accounts, and records at a location other than a principal
6 place of business and may require them to be produced and
7 available at a reasonable and convenient location in this
8 state within a reasonable period of time.

9 (3) The title loan lender shall maintain the original
10 copy of each completed title loan transaction form, and may
11 not obliterate, discard, or destroy any original copy, for at
12 least 2 years after making the final entry on any loan
13 recorded therein.

14 (4) All loan property, or property related to the
15 title loan transaction, which is delivered to a title loan
16 lender must be securely stored and maintained at the title
17 loan office unless the title document has been forwarded to
18 the appropriate state agency for the recording or deletion of
19 a lien.

20 (5) The department may prescribe the minimum
21 information to be shown in the books, accounts, and records of
22 licensees so that the department can determine compliance with
23 this act.

24 Section 9. Title loan charges.--

25 (1) In a title loan agreement, a title lender may
26 contract for and receive a finance charge. The finance charge
27 under a title loan agreement may not exceed 63 percent simple
28 interest during the first year that the agreement is in effect
29 nor may the amount of interest charged exceed 18 percent in
30 any of the first 3 months or 1 percent in any of the remaining
31 9 months. In addition, a title loan lender may charge the

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1 borrower an application fee of \$22 or 10 percent of the loan
2 amount, whichever is less.

3 (2) Any extension must be executed in writing and must
4 clearly specify the new maturity date, the title loan finance
5 charges paid for the extension, and title loan finance charges
6 owed on the new maturity date, and a copy must be supplied to
7 the pledgor. A title loan lender may not capitalize any unpaid
8 finance charge as part of the amount financed in a subsequent
9 title loan transaction.

10 (3) Payment by a title loan borrower may not be
11 considered late unless it is received more than 7 working days
12 after the date the payment is due. If a late fee is charged by
13 the title loan lender, the total amount of the late fee may
14 not exceed 10 percent of the amount of the payment that is
15 late.

16 (4) If a title loan agreement is not satisfied within
17 1 year after its inception, the title loan lender may receive
18 a finance charge on the outstanding principal balance at a
19 rate not to exceed 18 percent per annum for the period of time
20 that the loan remains outstanding beyond 1 year.

21 (5) Interest on a Title loan may be charged only on
22 the principal amount of the loan and may not be compounded.

23 (6) Any finance charge contracted for or received,
24 directly or indirectly, in excess of the amounts authorized
25 under this section are prohibited, may not be collected, and
26 render the title loan agreement voidable, in which case the
27 title loan lender shall forfeit the right to collect any
28 interest or finance charges. Upon the pledgor's written
29 request delivered to the title loan lender by certified mail,
30 return receipt requested, within 30 days after the maturity
31 date, the title loan lender must return to the pledgor the

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1 loan property delivered to the title loan lender upon payment
2 of the balance of the principal remaining due; there is no
3 penalty for a violation resulting from an accidental and bona
4 fide error that is corrected upon discovery. Any action to
5 circumvent the limitation on title loan interest or any other
6 amounts collectible under this act is voidable. Any
7 transaction involving a person's delivery of a personal
8 property certificate of title in exchange for the advancement
9 of funds on the condition that the person shall or may redeem
10 or repurchase the certificate of title upon the payment of a
11 sum of money, whether the transaction is characterized as a
12 "buy-sell agreement," "sale-leaseback agreement," or
13 otherwise, is a violation of this act if the sum exceeds the
14 amount that a title loan lender may collect in a title loan
15 agreement or if the terms of the transaction otherwise
16 conflict with the permitted terms and conditions of a title
17 loan agreement.

18 (7) Any fees or taxes paid to a governmental agency
19 and directly related to a particular title loan transaction
20 may be collected from the pledgor, in addition to the
21 permitted finance charge.

22 (8) The title loan lender must require a borrower who
23 is in active military service to sign an affidavit informing
24 the borrower that the borrower has 10 days within which to
25 rescind the contract and repay only the principal without
26 penalty or interest, and the title loan lender shall retain a
27 copy of the affidavit and give a copy to the borrower to take
28 to the military legal officer. However, the lender also is
29 responsible for informing the military legal office or of the
30 loan and rescision agreement.

31 Section 10. Failure to redeem; default.--

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1 (1) Upon a pledgor's default under the title loan
2 agreement or failure to redeem the pledged property on or
3 before the maturity date of the title loan agreement, the
4 title loan lender may take possession of the titled personal
5 property.

6 (2) A title loan lender who takes possession of the
7 titled personal property must comply with the applicable
8 requirements of part V of chapter 679.

9 Section 11. Prohibited acts.--A title loan lender, or
10 agent or employee of a title loan lender, may not:

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

13 (2) Refuse to allow the department to inspect
14 completed title loan transaction forms or loan property during
15 the ordinary hours of the title loan lender's business or at
16 other times acceptable to both parties.

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

19 (4) Make any agreement requiring or allowing for the
20 personal liability of a pledgor or the waiver of any provision
21 of this act.

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

27 (6) Fail to exercise reasonable care in the
28 safekeeping of loan property or titled personal property
29 repossessed under this act.

30 (7) Fail to return loan property or repossessed titled
31 personal property to a pledgor, with the title loan lender's

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1 liens on the property properly released, upon payment of the
2 full amount due the title loan lender, unless the property has
3 been seized or impounded by an authorized law enforcement
4 agency, taken into custody by a court, or otherwise disposed
5 of by court order.

6 (8) Sell or otherwise charge for insurance in
7 connection with a title loan agreement, if the title loan
8 lender realizes a profit thereon.

9 (9) Charge or receive any finance charge, interest, or
10 fees which are not authorized by this act.

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

13 (11) Refuse to accept a partial repayment of the
14 amount financed, if all accrued finance charges have been
15 paid.

16 (12) Charge a prepayment penalty.

17 (13) Advertise using the words "interest free loans"
18 or "no finance charges."

19 Section 12. Right to redeem; lost title loan
20 transaction form.--

21 (1) Any person presenting identification as the
22 pledgor and presenting the pledgor's copy of the title loan
23 transaction form to the title loan lender is presumed to be
24 entitled to redeem the loan property described in the title
25 loan lender transaction form. However, if the title loan
26 lender determines that the person is not the pledgor, the
27 title loan lender is not required to allow the redemption of
28 the loan property by such person. The person redeeming the
29 loan property must sign the pledgor's copy of the title loan
30 transaction form, which the title loan lender may retain to
31 evidence such person's receipt of the loan property. A person

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1 redeeming the loan property who is not the pledgor must show
2 identification to the title loan lender and written
3 authorization from the pledgor, and the title loan lender must
4 record that person's name and address on the title loan
5 transaction form retained by the title loan lender. In such
6 case, the person redeeming the pledgor's copy of the title
7 loan transaction form must be given a copy of the signed form
8 as evidence of the concerned transaction.

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

27 Section 13. Title loan lender's lien.--

28 (1) The title loan lender may record its security
29 interest in the titled personal property to which the loan
30 property relates by noting the lien on the certificate of
31 title.

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1 (2) The title loan lender is, upon entering into a
2 title loan agreement and taking possession of the borrower's
3 certificate of title, a bona fide lienholder whose interest
4 has been perfected.

5 Section 14. Criminal penalties.--

6 (1) A person who engages in business as a title loan
7 lender without a license commits a felony of the third degree,
8 punishable as provided in section 775.082, Florida Statutes,
9 section 775.083, Florida Statutes, or section 775.084, Florida
10 Statutes.

11 (2) In addition to any other penalty, any person who
12 willfully violates this act or who willfully makes a false
13 entry in any record specifically required by this act commits
14 a misdemeanor of the first degree, punishable as provided in
15 section 775.082, Florida Statutes, or section 775.083, Florida
16 Statutes.

17 (3) The possession of a certificate of title by a
18 title loan lender pursuant to a title loan agreement shall not
19 be considered a bailment of the titled personal property.

20 Section 15. Records from the Department of Law
21 Enforcement.--The Department of Law Enforcement, on request,
22 shall supply to the department any arrest and conviction
23 records in its possession of an individual applying for or
24 holding a license under this act.

25 Section 16. Subpoenas; enforcement actions; rules.--

26 (1) The department may issue and serve subpoenas to
27 compel the attendance of witnesses and the production of
28 documents, papers, books, records, and other evidence before
29 it in any matter pertaining to this act. The department may
30 administer oaths and affirmations to any person whose
31 testimony is required. If a person refuses to testify, produce

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1 books, records, and documents, or otherwise refuses to obey a
2 subpoena issued under this section, the department may enforce
3 the subpoena in the same manner as subpoenas issued under the
4 Administrative Procedure Act. Witnesses are entitled to the
5 same fees and mileage as they are entitled to by law for
6 attending as witnesses in the circuit court, unless the
7 examination or investigation is held at the place of business
8 or residence of the witness.

9 (2) In addition to other powers to administer this
10 act, the department may:

11 (a) Bring an action in any court of competent
12 jurisdiction to enforce or administer this act, any rule or
13 order adopted under this act, or any written agreement entered
14 into with the department. In such action, the department may
15 seek any relief at law or equity, including a temporary or
16 permanent injunction, appointment of a receiver or
17 administrator, or an order of restitution.

18 (b) Issue and serve upon a person an order requiring
19 that person to cease and desist and take corrective action
20 whenever the department finds that such person is violating,
21 has violated, or is about to violate this act, any rule or
22 order adopted under this act, or any written agreement entered
23 into with the department.

24 (c) If the department finds that conduct described in
25 paragraph (b) presents an immediate danger to the public
26 health, safety, or welfare requiring an immediate final order,
27 issue an emergency cease and desist order reciting with
28 particularity the facts underlying such findings. The
29 emergency cease and desist order is effective immediately upon
30 service of a copy of the order on the respondent named therein
31 and remains effective for 90 days. If the department begins

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1 nonemergency proceedings under paragraph (b), the order
2 remains effective until the conclusion of the proceedings
3 under sections 120.569 and 120.57, Florida Statutes.

4 (d) Impose and collect an administrative fine against
5 any person found to have violated this act, any rule or order
6 adopted under this act, or any written agreement entered into
7 with the department, in an amount not to exceed \$5,000 for
8 each violation.

9 (3) The department may adopt rules to administer this
10 act.

11 Section 17. Investigations and complaints.--

12 (1) The department may, at intermittent periods, make
13 investigations and examinations of any licensee or other
14 person to determine compliance with this act. For such
15 purposes, it may examine the books, accounts, records, and
16 other documents or matters of any licensee or other person. It
17 may compel the production of all relevant books, records, and
18 other documents and materials relative to an examination or
19 investigation. Such investigations and examinations shall not
20 be made more often than once during any 12-month period unless
21 the department has good cause to believe that the licensee is
22 not complying with this act.

23 (2) Any person having reason to believe that this act
24 has been violated may file with the department a written
25 complaint setting forth the details of the alleged violations
26 and the department, upon receipt of the complaint, may inspect
27 the pertinent books, records, letters, and contracts of the
28 licensee and of the seller involved, relating to the
29 complaint.

30 Section 18. The sum of \$700,000 is appropriated from
31 the General Inspection Trust Fund to the Department of

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1 Agriculture and Consumer Services to administer this act and
2 to pay the salaries and other administrative expenses for nine
3 positions to implement this act during the 1999-2000 fiscal
4 year.

5 Section 19. Legislative intent.--It is the intent of
6 the Legislature that title loans shall be regulated by this
7 act. This act supersedes any other law affecting title loans
8 to the extent of the conflict.

9 Section 20. Subsection (1) of section 538.03, Florida
10 Statutes, is amended to read:

11 538.03 Definitions; applicability.--

12 (1) As used in this part, the term:

13 (a) "Secondhand dealer" means any person, corporation,
14 or other business organization or entity which is not a
15 secondary metals recycler subject to part II and which is
16 engaged in the business of purchasing, consigning, or pawning
17 secondhand goods ~~or entering into title loan transactions.~~

18 However, secondhand dealers are not limited to dealing only in
19 items defined as secondhand goods in paragraph (g). Except as
20 provided in subsection (2), the term means pawnbrokers,
21 jewelers, precious metals dealers, garage sale operators,
22 secondhand stores, and consignment shops.

23 (b) "Precious metals dealer" means a secondhand dealer
24 who normally or regularly engages in the business of buying
25 used precious metals for resale. The term does not include
26 those persons involved in the bulk sale of precious metals
27 from one secondhand or precious metals dealer to another.

28 (c) "Pawnbroker" means any person, corporation, or
29 other business organization or entity which is regularly
30 engaged in the business of making pawns but does not include a
31 financial institution as defined in s. 655.005 or any person

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1 who regularly loans money or any other thing of value on
2 stocks, bonds, or other securities.

3 (d) "Pawn" means either of the following transactions:

4 1. Loan of money.--A written or oral bailment of
5 personal property as security for an engagement or debt,
6 redeemable on certain terms and with the implied power of sale
7 on default.

8 2. Buy-sell agreement.--An agreement whereby a
9 purchaser agrees to hold property for a specified period of
10 time to allow the seller the exclusive right to repurchase the
11 property. A buy-sell agreement is not a loan of money.

12 (e) "Secondhand store" means the place or premises at
13 which a secondhand dealer is registered to conduct business as
14 a secondhand dealer, or conducts business, including pawn
15 shops.

16 (f) "Consignment shop" means a shop engaging in the
17 business of accepting for sale, on consignment, secondhand
18 goods which, having once been used or transferred from the
19 manufacturer to the dealer, are then received into the
20 possession of a third party.

21 (g) "Secondhand goods" means personal property
22 previously owned or used, which is not regulated metals
23 property regulated under part II and which is purchased,
24 consigned, or pawned as used property. Such secondhand goods
25 shall be limited to watches; diamonds, gems, and other
26 precious stones; fishing rods, reels, and tackle; audio and
27 video electronic equipment, including television sets, compact
28 disc players, radios, amplifiers, receivers, turntables, tape
29 recorders; video tape recorders; speakers and citizens' band
30 radios; computer equipment; radar detectors; depth finders;
31 trolling motors; outboard motors; sterling silver flatware and

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1 serving pieces; photographic equipment, including cameras,
2 video and film cameras, lenses, electronic flashes, tripods,
3 and developing equipment; microwave ovens; animal fur coats;
4 marine equipment; video games and cartridges; power lawn and
5 landscape equipment; office equipment such as copiers, fax
6 machines, and postage machines but excluding furniture; sports
7 equipment; golf clubs; weapons, including knives, swords, and
8 air guns; telephones, including cellular and portable;
9 firearms; tools; calculators; musical instruments, excluding
10 pianos and organs; lawnmowers; bicycles; typewriters; motor
11 vehicles; gold, silver, platinum, and other precious metals
12 excluding coins; and jewelry, excluding costume jewelry.

13 (h) "Transaction" means any ~~title loan~~, purchase,
14 consignment, or pawn of secondhand goods by a secondhand
15 dealer.

16 ~~(i) "Title loan" means a loan of money secured by~~
17 ~~bailment of a certificate of title to a motor vehicle. A~~
18 ~~title loan is not a pawn if the secondhand dealer does not~~
19 ~~maintain physical possession of the vehicle throughout the~~
20 ~~term of the transaction.~~

21 ~~(i)(j)~~ "Precious metals" means any item containing any
22 gold, silver, or platinum, or any combination thereof,
23 excluding:

24 1. Any chemical or any automotive, photographic,
25 electrical, medical, or dental materials or electronic parts.

26 2. Any coin with an intrinsic value less than its
27 numismatic value.

28 3. Any gold bullion coin.

29 4. Any gold, silver, or platinum bullion that has been
30 assayed and is properly marked as to its weight and fineness.

31 5. Any coin which is mounted in a jewelry setting.

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1 (j)(k) "Department" means the Department of Revenue.

2 (k)(l) "Pledge" means pawn or buy-sell agreement.

3 Section 21. Subsection (1) of section 538.16, Florida
4 Statutes, is amended to read:

5 538.16 Pawnbrokers ~~Secondhand dealers~~; disposal of
6 property.--

7 (1) Any personal property pawned with a pawnbroker,
8 whether the pawn is a loan of money or a buy-sell agreement ~~or~~
9 ~~a motor vehicle which is security for a title loan~~, is subject
10 to sale or disposal if the pawn is a loan of money and the
11 property has not been redeemed or there has been no payment on
12 account made for a period of 90 days, or if the pawn is a
13 buy-sell agreement ~~or if it is a title loan~~ and the property
14 has not been repurchased from the pawnbroker ~~or the title~~
15 ~~redeemed from the title lender~~ or there has been no payment
16 made on account within 60 days.

17 Section 22. Subsection (5) of section 538.06, Florida
18 Statutes, and subsections (4) and (5) of section 538.15,
19 Florida Statutes, are repealed.

20 Section 23. There is established a task force to
21 review the current operation of the title loan industry in
22 this state and to make recommendations to the Florida
23 Legislature based on that review by January 1, 2000. The task
24 force shall consider, among other things, the rates charged by
25 title loan lenders, the duration of such loans, the default
26 rate on such loans, and the impact of such loaning practices
27 on consumers. The task force shall be comprised of 12 members,
28 six members appointed by the President of the Senate and six
29 members appointed by the Speaker of the House of
30 Representatives. Of the six appointments, two members shall be
31 members of the respective legislative house, two members of

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1 the title loan industry, and two members of the public. Such
2 appointments shall be made by June 15, 1999, and the
3 appointees shall meet within 15 days to conduct the first
4 meeting of the task force. At that meeting, the task force
5 shall select by majority vote a chair from its members. The
6 task force shall then meet at the call of its chairman or upon
7 a request of the majority of its members. Members shall be
8 reimbursed for travel and lodging costs in accordance with the
9 provisions of section 112.061, Florida Statutes, with such
10 costs being reimbursed from funds collected by the Department
11 of Agriculture and Consumer Services under section 3 or
12 appropriated under section 18 of this act. The department
13 shall provide necessary staffing for the task force.

14 Section 24. This act shall take effect October 1,
15 1999, except that this section and section 23 shall take
16 effect upon becoming a law and section 18 shall take effect
17 July 1, 1999.

18
19

20 ===== T I T L E A M E N D M E N T =====

21 And the title is amended as follows:

22 On page 1, line 30, following the semicolon

23

24 insert:

25 providing for a study committee and a report;

26
27
28
29
30
31