

1 HB406  
2 157014-1  
3 By Representatives Scott, Buskey, McClurkin, Ball, Faust,  
4 Williams (J), Brown, Beech, Drake, McCampbell, Coleman-Evans,  
5 Treadaway, Nordgren, Collins, Johnson (K), Givan, Bandy,  
6 Hammon, England, Burdine, Robinson (J), Ison, Harper, Knight,  
7 Morrow, Chesteen, Hall, Boyd, Davis, Warren, McMillan,  
8 Sessions, Sanderford, Melton, Shiver, Farley, Baker, Polizos,  
9 Tuggle, Mitchell, Patterson, Williams (D), Johnson (R),  
10 Johnson (W), Todd, Forte, Wallace, Boman, Howard, Moore (M),  
11 Baughn, Grimsley, Clarke and Bracy  
12 RFD: Financial Services  
13 First Read: 04-FEB-14

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8 SYNOPSIS: This bill would further license and regulate  
9 the title loan business.

10 This bill would provide definitions.

11 This bill would require licensure of title  
12 loan lenders and offices.

13 This bill would provide for charges,  
14 interest, and fees concerning title loans.

15 This bill would provide for fines,  
16 penalties, and enforcement for violations.

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

1 funds, or provides a local source of revenue, to  
2 the entity for the purpose.

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

10  
11 A BILL  
12 TO BE ENTITLED  
13 AN ACT  
14

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

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. This act shall be known and may be cited  
2 as the "Alabama Title Loan Act."

3           Section 2. (a) The Legislature finds that the making  
4 of title loans vitally affects the general economy of this  
5 state and the public interest and welfare of its citizens. It  
6 is the policy of this state and the purpose of this act to:

7                   (1) Ensure a sound system of making title loans  
8 through statewide licensing of title loan lenders by the  
9 Alabama State Banking Department.

10                   (2) Establish licensing requirements.

11                   (3) Provide for the examination and regulation of  
12 title lenders by the Alabama State Banking Department.

13                   (4) Ensure financial responsibility to the public by  
14 setting a reasonable interest rate that correctly reflects the  
15 risk incurred by lenders on these secure loans and by  
16 requiring consideration of borrowers' ability to repay these  
17 loans.

18           (b) It is the intent of the Legislature that title  
19 loans shall be regulated under this act. This act shall  
20 supersede other state laws affecting title loans to the extent  
21 of any conflict.

22           Section 3. As used in this act, the following words  
23 and phrases shall have the following meanings:

24                   (1) BORROWER. The owner of any titled personal  
25 property who pledges the property to a title lender pursuant  
26 to a title loan agreement.

1           (2) COMMERCIALLY REASONABLE. Has the same meaning as  
2 Article 9A, Part 6, Title 7, commencing with Section 7-9A-601,  
3 Code of Alabama 1975. In addition, nonpublic sales or disposal  
4 of personal property between a title loan lender and any  
5 business affiliates of a title loan lender or a member of the  
6 family of a title loan lender are presumed not to be made in a  
7 commercially reasonable manner.

8           (3) DEPARTMENT. The State Banking Department.

9           (4) EXECUTIVE OFFICER. The president, chief  
10 executive officer, chief financial officer, chief operating  
11 officer, executive vice president, senior vice president,  
12 secretary, and treasurer.

13           (5) IDENTIFICATION. A government-issued photographic  
14 identification.

15           (6) INTEREST. The cost of obtaining a title loan and  
16 includes any profit or advantage of any kind whatsoever that a  
17 title loan lender may charge, contract for, collect, receive,  
18 or in any way obtain as a result of a title loan.

19           (7) LICENSE. A permit issued pursuant to this act to  
20 make or service title loans at a single title loan office in  
21 accordance with this act.

22           (8) LICENSEE. A person who is licensed as a title  
23 loan lender under this act.

24           (9) MOTOR VEHICLE. An automobile, motorcycle, mobile  
25 home, truck, trailer, semitrailer, truck tractor, and  
26 semitrailer combination, or any other vehicle operated on the  
27 public highways and streets of this state, used to transport

1 persons or property, and propelled by power other than  
2 muscular power, but excluding a vehicle which runs only upon a  
3 track and a mobile home that is the primary residence of the  
4 owner.

5 (10) PERSON. One or more individuals, corporations,  
6 partnerships, associations, or other legal entities.

7 (11) PRINCIPAL BALANCE. The balance due and owed  
8 exclusive of any interest, service charges, or other  
9 loan-related charges.

10 (12) SECONDHAND DEALER. Any person, corporation, or  
11 other business organization or entity that is not an  
12 automotive dismantler and part recycler and which is engaged  
13 in the business of purchasing, consigning, or pawning  
14 secondhand goods or entering into title loan transactions  
15 including, but not limited to, pawnbrokers, jewelers, precious  
16 metals dealers, garage sale operators, secondhand stores, and  
17 consignment shops.

18 (13) TITLE LOAN AGREEMENT. A written agreement  
19 whereby a title loan lender agrees to make a loan of money to  
20 a borrower, and the borrower agrees to deposit the certificate  
21 of title to the titled property with the lender as security.

22 (14) TITLE LOAN LENDER or LENDER. Any person engaged  
23 in the business of making, offering, or brokering title loan  
24 agreements. The term does not include a bank that is regulated  
25 by the State Banking Department, the Comptroller of the  
26 Currency of the United States, the Federal Deposit Insurance  
27 Corporation, the Board of Governors of the Federal Reserve

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

5 (15) TITLE LOAN OFFICE. The location at which, or  
6 premises from which, a title loan lender regularly conducts  
7 business under this act or any other location that is held out  
8 to the public as a location at which a lender makes or  
9 services title loans.

10 (16) TITLED PERSONAL PROPERTY. A motor vehicle,  
11 which has as evidence of ownership a state-issued certificate  
12 of title, whose certificate of title is given to the lender as  
13 security for the title loan. The titled property may not be  
14 the subject of more than one title loan at any time or be  
15 encumbered at the time the agreement is made, but the title  
16 loan lender may encumber the title as part of the title loan  
17 transaction by perfecting its security interest in the titled  
18 property.

19 (17) ULTIMATE EQUITABLE OWNER. A person who,  
20 directly or indirectly, owns or controls an ownership interest  
21 in a corporation, a foreign corporation, an alien business  
22 organization, or any other form of business organization,  
23 regardless of whether the person owns or controls the  
24 ownership interest through one or more persons or one or more  
25 proxies, powers of attorney, nominees, corporations,  
26 associations, partnerships, trusts, joint stock companies, or  
27 other entities or devices, or any combination thereof.

1           Section 4. (a) A person may not act as a title loan  
2 lender, or own or operate a title loan office unless the  
3 person has an active title loan lender license issued by the  
4 department under this act. A title loan lender may not own or  
5 operate more than one title loan office unless the lender  
6 obtains a separate title loan lender license for each title  
7 loan office. This includes offering or agreeing to enter a  
8 title loan agreement with a borrower, or brokering or acting  
9 as an agent for a third party in such a transaction,  
10 regardless of whether approval, acceptance, or ratification is  
11 necessary to create a legal obligation for the third party.  
12 Actions, transactions and agreements entered into with  
13 borrowers in the State of Alabama include transactions  
14 conducted through the Internet, facsimile, telephone, kiosk,  
15 or other means.

16           (b) (1) A person applying for licensure as a title  
17 loan lender shall file with the department all of the  
18 following:

19           a. A written application on a form prescribed by the  
20 department.

21           b. The bond required by subsection (c) of Section 5.

22           c. A nonrefundable application fee of one thousand  
23 two hundred dollars (\$1,200).

24           d. A nonrefundable investigation fee of two hundred  
25 dollars (\$200).

26           e. A complete set of fingerprints from each owner  
27 and officer taken by an authorized law enforcement officer.



1           (2) The department shall submit the fingerprints to  
2 the Department of Public Safety for state processing and it  
3 shall forward the fingerprints to the Federal Bureau of  
4 Investigation for national processing.

5           (c) If the department determines that an application  
6 should be approved, the department shall issue a license for a  
7 period not to exceed one year.

8           (d) A license shall be renewed annually by filing a  
9 renewal form and a nonrefundable renewal fee of one thousand  
10 two hundred dollars (\$1,200). A license that is not renewed by  
11 the end of the annual period shall automatically revert to  
12 inactive status. An inactive license may be reactivated within  
13 six months after becoming inactive by filing a reactivation  
14 form, payment of the nonrefundable one thousand two hundred  
15 dollars (\$1,200) renewal fee, and payment of a nonrefundable  
16 reactivation fee of one hundred dollars (\$100). A license that  
17 is not reactivated within six months after becoming inactive  
18 shall not be reactivated and automatically expires. The  
19 department shall establish by rule the procedures for renewal  
20 and reactivation of a license and adopt a renewal form and a  
21 reactivation form.

22           (e) Each license shall be conspicuously displayed at  
23 the title loan office. When a licensee wishes to move a title  
24 loan office to another location, the licensee shall provide  
25 prior written notice to the department.

26           (f) A license issued pursuant to this act is not  
27 transferable or assignable.

1 (g) Each licensee shall designate and maintain in  
2 this state a registered agent for service of process.

3 (h) Whenever a person or a group of persons,  
4 directly or indirectly or acting by or through one or more  
5 persons, proposes to purchase or acquire a 50 percent or more  
6 interest in a licensee, the person or group shall submit an  
7 initial application for licensure pursuant to this act prior  
8 to the purchase or acquisition.

9 (i) All moneys collected by the department pursuant  
10 to this act shall be used by the department to regulate all  
11 entities covered by this act, nominees, corporations,  
12 associations, partnerships, trusts, joint stock companies, or  
13 other entities or devices, or any combination thereof.

14 Section 5. (a) A verified application for licensure  
15 pursuant to this act, in a form prescribed by this act, shall  
16 contain all of the following:

17 (1) The name and the residence and business  
18 addresses of the applicant. If the applicant is other than a  
19 natural person, the application shall contain the name and the  
20 residence and business address of each ultimate equitable  
21 owner of 10 percent or more of the entity and each director,  
22 general partner, and executive officer of the entity.

23 (2) A statement whether any individual identified in  
24 subdivision (1) has, within the last 10 years, pleaded guilty  
25 to, or has been convicted of a felony, regardless of whether  
26 adjudication was withheld or was acting as beneficial owner

1 for someone who has been convicted of a felony in the last 10  
2 years.

3 (3) The county and municipality with the street and  
4 number or location where the business is to be conducted.

5 (4) Additional information as the department  
6 determines by rule to be necessary to ensure compliance with  
7 this act.

8 (b) Notwithstanding subsection (a), the application  
9 need not state the full name and address of each officer,  
10 director, and shareholder if the applicant is owned directly  
11 or beneficially by a person who as an issuer has a class of  
12 securities registered pursuant to Section 12 of the Securities  
13 Exchange Act of 1934 or, pursuant to Section 13 or Section 15  
14 of that act, is an issuer of securities that is required to  
15 file reports with the Securities and Exchange Commission, if  
16 the person files with the department any information,  
17 documents, and reports required by this act to be filed with  
18 the Securities and Exchange Commission.

19 (c) An applicant for licensure shall file with the  
20 department a bond, in the amount of fifty thousand dollars  
21 (\$50,000) for each license, with a surety company qualified to  
22 do business in this state. However, in no event shall the  
23 aggregate amount of the bond required for a single title loan  
24 lender exceed two hundred fifty thousand dollars (\$250,000).  
25 In lieu of the bond, the applicant may establish a certificate  
26 of deposit or an irrevocable letter of credit in a financial  
27 institution, regulated or licensed by the department in the

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

23 (d) It is the intent of the Legislature that the  
24 bond, certificate of deposit, or letter of credit shall be  
25 applicable and liable only for the payment of claims duly  
26 adjudicated by order of the department.

1 (e) The department shall approve an application and  
2 issue a license if the department determines that the  
3 applicant satisfies the requirements of this act.

4 Section 6. (a) The department may invoke  
5 disciplinary action as outlined in subsection (b) of this  
6 section, whenever it is to the satisfaction of the department,  
7 after notice and a hearing, that any person has been guilty of  
8 any of the following:

9 (1) Failure to comply with this act, any rule or  
10 rules adopted pursuant to this act, or any written agreement  
11 entered into with the department.

12 (2) Fraud, misrepresentation, deceit, or gross  
13 negligence in any title loan transaction, regardless of  
14 reliance by or damage to the borrower.

15 (3) False, deceptive, or misleading advertising by  
16 a title loan lender.

17 (4) Aiding, abetting, or conspiring by a title loan  
18 lender with a person to circumvent or violate any of the  
19 requirements of this act.

20 (5) Failure to maintain, preserve, and keep  
21 available for examination all books, accounts, or other  
22 documents required by this act, by any rule or order adopted  
23 pursuant to this act, or by any agreement entered into with  
24 the department.

25 (6) Refusal to provide information upon request of  
26 the department, to permit inspection of books and records in

1 an investigation or examination by the department, or to  
2 comply with a subpoena issued by the department.

3 (7) Pleading guilty to or having been convicted or  
4 found guilty, regardless of whether adjudication was withheld,  
5 of a crime involving fraud, dishonest dealing, or any act of  
6 moral turpitude or acting as an ultimate equitable owner of 10  
7 percent or more of a licensee who has pled guilty to or has  
8 been convicted or found guilty, regardless of whether  
9 adjudication was withheld, of a crime involving fraud,  
10 dishonest dealing, or any act of moral turpitude.

11 (8) Making or having made a material misstatement of  
12 fact in an initial or renewal application for a license.

13 (9) Having been the subject of any decision,  
14 finding, injunction, suspension, prohibition, revocation,  
15 denial, judgment, or administrative order by any court of  
16 competent jurisdiction or administrative law judge, or by any  
17 state or federal agency, involving a violation of any federal  
18 or state law relating to title loans or any rule or regulation  
19 adopted under the law, or has been the subject of any  
20 injunction or adverse administrative order by a state or  
21 federal agency regulating banking, insurance, finance or small  
22 loan companies, real estate, mortgage brokers, or other  
23 related or similar industries for acts involving fraud,  
24 dishonest dealing, or any act of moral turpitude.

25 (10) Failing to continuously maintain the bond,  
26 certificate of deposit, or letter of credit as required by  
27 subsection (c) of Section 5.

1           (11) Failing to timely pay any fee, charge, or fine  
2 imposed or assessed pursuant to this act or rules adopted  
3 pursuant to this act.

4           (12) Having a license or registration, or the  
5 equivalent, to practice any profession or occupation denied,  
6 suspended, revoked, or otherwise acted against by a licensing  
7 authority in any jurisdiction for fraud, dishonest dealing, or  
8 any act of moral turpitude.

9           (13) Having demonstrated unworthiness, as defined by  
10 department rule, to transact the business of a title loan  
11 lender.

12           (b) Upon a finding by the department that any person  
13 has committed any of the acts set forth in subsection (a) of  
14 this section, the department may enter an order taking one or  
15 more of the following actions:

16           (1) Denying an application for licensure under this  
17 act.

18           (2) Revoking or suspending a license previously  
19 granted pursuant to this act.

20           (3) Placing a licensee or an applicant for a license  
21 on probation for a period of time and subject to the  
22 conditions as the department specifies.

23           (4) Issuing a reprimand.

24           (5) Imposing an administrative fine not to exceed  
25 five thousand dollars (\$5,000) for each separate act or  
26 violation.

1 (c) If a person seeking licensure is an entity other  
2 than a natural person, the eligibility requirements of this  
3 section apply to each direct or ultimate equitable owner of 10  
4 percent or more of the outstanding equity interest of the  
5 entity and to each director, general partner, and executive  
6 officer.

7 (d) It is sufficient cause for the department to  
8 take any of the actions specified in subsection (b) of this  
9 section, as to any entity other than a natural person, if the  
10 department finds grounds for the action as to any member of  
11 the entity, as to any executive officer or director of the  
12 entity, or as to any person with power to direct the  
13 management or policies of the entity.

14 (e) Each licensee is subject to the provisions of  
15 subsection (b) of this section for the acts of employees and  
16 agents of the licensee if the licensee knew or should have  
17 known about the acts.

18 (f) Licensure under this act may be denied or any  
19 license issued under this act may be suspended or restricted  
20 if an applicant or licensee is charged, in a pending  
21 enforcement action or pending criminal prosecution, with any  
22 conduct that would authorize denial or revocation under this  
23 section.

24 (g) No revocation, suspension, or surrender of any  
25 license shall impart or affect the obligation of any  
26 preexisting lawful contract between the licensee and any  
27 borrower.



1           (h) The department may reinstate suspended licenses  
2 or issue new licenses to a person whose license or licenses  
3 have been revoked if no fact or condition then exists that  
4 clearly would have justified the department in originally  
5 refusing to issue a license under this act.

6           Section 7. Any title loan made without benefit of a  
7 license is void, in which case the person making the title  
8 loan forfeits the right to collect any moneys, including  
9 principal and interest charged on the title loan, from the  
10 borrower in connection with the agreement. The person making  
11 the title loan shall return to the borrower the certificate of  
12 title, the titled personal property or the fair market value  
13 of the titled personal property, and all principal and  
14 interest paid by the borrower. The borrower is entitled to  
15 receive reasonable attorney's fees and costs in any action  
16 brought by the borrower to recover from the person making the  
17 title loan the certificate of title, the titled personal  
18 property, or the principal and interest paid by the borrower.

19           Section 8. (a) At the time a title loan lender makes  
20 a title loan, the lender and the borrower shall execute a  
21 title loan agreement, which shall be legibly typed and  
22 completed as to all essential provisions prior to execution by  
23 the borrower and lender. The title loan agreement shall  
24 include all of the following:

25           (1) The make, model, and year of the titled personal  
26 property.

1           (2) The vehicle identification number, or other  
2 comparable identification number, along with the license plate  
3 number, if applicable, of the titled personal property.

4           (3) The name, residential address, date of birth,  
5 physical description, and Social Security number of the  
6 borrower.

7           (4) The date the title loan agreement is executed by  
8 the title loan lender and the borrower.

9           (5) The identification number and the type of  
10 identification, including the issuing agency, accepted from  
11 the borrower.

12           (6) The amount of money advanced, designated as the  
13 "amount financed."

14           (7) The maturity date of the title loan agreement,  
15 which shall be no less than 180 days after the date the title  
16 loan agreement is executed by the title loan lender and the  
17 borrower.

18           (8) The total title loan interest payable over the  
19 loan term, designated as the "finance charge."

20           (9) The amount financed plus the finance charge,  
21 which shall be paid to reclaim the certificate of title on the  
22 maturity date, designated as the "total amount of all  
23 payments."

24           (10) The amount that the borrower shall pay in each  
25 installment, designated as the "installment payments," and the  
26 date that each installment payment is due, designated as

1 "installment due dates." The installments shall be  
2 substantially equal amounts due at equal periodic intervals.

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

6 (12) Any late charge that the title loan lender will  
7 charge the borrower, and an explanation of when it will be  
8 imposed, designated as "late fee."

9 (b) The following information shall also be printed  
10 on all title loan agreements:

11 (1) The name and physical address of the title loan  
12 office.

13 (2) The name and address of the department as well  
14 as a telephone number to which consumers may address  
15 complaints.

16 (3) The following statement in not less than  
17 14-point bold type immediately above the borrower's signature  
18 that shall contain all of the following:

19 "I understand that there is no penalty for early  
20 payments, and that I am entitled to receive a partial refund  
21 of the interest paid if my loan is repaid before the maturity  
22 date. I am required, at a minimum, to make each payment on the  
23 day it is due. If I miss a payment, I may be charged a late  
24 fee if one is agreed upon in this contract. If I do not pay  
25 the payment plus a late fee within 30 days after the payment's  
26 original due date, I will be in default and the lender will  
27 repossess my vehicle. I have 15 days after repossession to

1 reclaim my vehicle by paying all money owed, including  
2 principal, interest and other fees. Otherwise, I will lose any  
3 right to the vehicle and it will be sold to pay off this debt.  
4 I do have a right to the surplus amount from the sale of the  
5 vehicle, which is any amount remaining after the principal,  
6 interest and actual costs of sale are paid to the lender.

7 "I certify that, to the best of my knowledge, I have  
8 a right to enter into this transaction. The vehicle I am using  
9 as collateral for this loan is not stolen and no other  
10 creditor has a claim to or lien against it. I will not apply  
11 for a duplicate certificate of title while the loan agreement  
12 is in effect.

13 "I have read this document and that, to the best of  
14 my knowledge and belief, the facts contained in it are true  
15 and correct."

16 (4) A blank line for the signature of the borrower  
17 and the title loan lender or the lender's agent. All owners of  
18 the titled personal property shall sign the title loan  
19 agreement.

20 (c) At the time of the transaction, the title loan  
21 lender shall deliver to the borrower an exact copy of the  
22 executed title loan agreement. The title loan lender shall  
23 also provide the borrower with a pamphlet, in a form  
24 consistent with regulations adopted by the department,  
25 explaining in plain language the rights and responsibilities  
26 of the borrower and providing a toll free number of the  
27 department for assistance with complaints.

1 (d) Upon execution of a title loan agreement, the  
2 title loan lender may take possession of the certificate of  
3 title and retain possession of it until it is redeemed. The  
4 borrower shall have the exclusive right to redeem the  
5 certificate of title by repaying all amounts legally due under  
6 the agreement. When the certificate of title is redeemed, the  
7 lender shall immediately return the certificate of title and  
8 commence action to release any security interest in the titled  
9 personal property. During the term of the agreement or any  
10 extension of the agreement, a title loan lender may retain  
11 physical possession of the certificate of title only. A title  
12 loan lender shall not take additional security or guaranty as  
13 a condition to entering into a title loan transaction.

14 Section 9. (a) Every title loan lender shall  
15 maintain, at the title loan office of the lender, the books,  
16 accounts, and records of the business conducted under the  
17 license issued for the place of business as will enable the  
18 department to determine the compliance of the licensee with  
19 this act.

20 (b) The department may authorize the maintenance of  
21 books, accounts, and records at a location other than the  
22 title loan office of the lender. The department may require  
23 books, accounts, and records to be produced and available at a  
24 reasonable and convenient location in this state within a  
25 reasonable period of time after the request.

26 (c) The title loan lender shall maintain the  
27 original copy of each completed title loan agreement on the

1 title loan office premises, and shall not obliterate, discard,  
2 or destroy any of the original copy for a period of at least  
3 two years after making the final entry on any loan recorded in  
4 the office or after a department examination, whichever is  
5 later.

6 (d) A certificate of title that is delivered to a  
7 title loan lender shall be securely stored and maintained at  
8 the title loan office unless the certificate of title has been  
9 forwarded to the appropriate state agency for the purpose of  
10 having a lien recorded or deleted.

11 (e) The department may prescribe by rule the books,  
12 accounts, and records, and the minimum information to be shown  
13 in the books, accounts, and records, of licensees so that the  
14 records will enable the department to determine compliance  
15 with this act.

16 Section 10. (a) A title loan lender may contract for  
17 and receive an interest rate not to exceed 36 percent per  
18 annum computed on the first two thousand dollars (\$2,000) of  
19 the principal amount, 24 percent per annum on that part of the  
20 principal amount exceeding two thousand dollars (\$2,000) and  
21 not exceeding three thousand dollars (\$3,000) and 18 percent  
22 per annum on that part of the principal amount exceeding three  
23 thousand dollars (\$3,000). In determining compliance with the  
24 statutory maximum interest, the computations shall be simple  
25 interest and not add-on interest or any other computations.  
26 Such charges shall be computed in advance at the agreed rate  
27 on scheduled unpaid principal balances of the cash advance on

1 the assumption that all scheduled payments will be made when  
2 due. No other interest arrangement, including the provisions  
3 of Section 8-8-5, Code of Alabama 1975, shall apply to any  
4 title loan agreements under this act. This rate may be imposed  
5 only if disclosed in full at the time the contract is created,  
6 and cannot be modified. No additional fees may be imposed on  
7 the borrower, except a late charge if it is specified in the  
8 title loan agreement and the actual costs expended on  
9 repossession and sale as described in this act.

10 (b) Any interest, charge, or fees contracted for or  
11 received, directly or indirectly, in excess of the amount  
12 permitted under subsection (a) shall be uncollectible and the  
13 title loan agreement shall be void.

14 (c) The annual percentage rate that may be charged  
15 for a title loan may equal, but not exceed, the annual  
16 percentage rate that shall be computed and disclosed as  
17 required by the Federal Truth-in-Lending Act and Regulation Z  
18 of the Board of Governors of the Federal Reserve System. The  
19 department shall establish by rule the rate for each day in a  
20 fraction of a month when the period for which the charge is  
21 computed is more or less than one month.

22 (d) (1) Any interest contracted for or received,  
23 directly or indirectly, by a title loan lender, or an agent of  
24 the title loan lender, in excess of the amounts authorized  
25 under this act is prohibited and may not be collected by the  
26 title loan lender or an agent of the title loan lender.

1           (2) If the excess interest resulted from a bona fide  
2 error by the title loan lender, or an agent of the title loan  
3 lender, the title loan agreement shall be voidable and the  
4 lender shall refund the excess interest to the borrower within  
5 20 days after discovery by the lender or borrower of the bona  
6 fide error, whichever occurs first.

7           (3) If the excess interest resulted from an act by  
8 the title loan lender, or an agent of the title loan lender,  
9 to circumvent the maximum title loan interest allowed by this  
10 act, the title loan agreement is void. The lender shall refund  
11 to the borrower any interest paid on the title loan and return  
12 to the borrower the certificate of title. The title loan  
13 lender forfeits the right of the lender to collect any  
14 principal owed by the borrower on the title loan.

15           (4) The department may order a title loan lender, or  
16 an agent of the title loan lender, to comply with the  
17 provisions of subdivisions (2) and (3).

18           Section 11. (a) A borrower shall have no obligation  
19 to redeem the certificate of title or make any payment on a  
20 title loan transaction.

21           (b) A title loan lender may pay all proceeds for a  
22 title loan transaction either in cash directly to the borrower  
23 or through an electronic funds transfer directly to the  
24 borrower or borrower's account. The period of the title loan  
25 transaction shall not begin until the funds are received by  
26 the borrower. There shall be no additional charge related to  
27 the payment of the proceeds of any title loan transaction.



1           (c) The title loan lender shall not impose a penalty  
2 for early payment of any amount owed before the installment  
3 due date or maturity date. The lender shall accept payments of  
4 any amount at any time. If the loan is prepaid prior to the  
5 maturity of the loan term, the lender shall refund to the  
6 consumer a pro rata portion of the finance charge based upon  
7 the ratio of time left before maturity to the loan term.

8           (d) When a scheduled installment payment is in  
9 default or delinquent for five or more days, the title loan  
10 lender may charge a late fee not to exceed the greater of  
11 eighteen dollars (\$18) or five percent of the amount of the  
12 scheduled payment in default. Each of the late charges  
13 permitted under this subsection may be collected only once on  
14 any scheduled payment, regardless of the period during which  
15 the payment remains in default or is delinquent, and may only  
16 be collected on or after the fifth day after the due date. The  
17 late fee may be imposed only if the rate or amount was  
18 explained in the title loan contract signed by the borrower.

19           (e) If the borrower does not make the scheduled  
20 installment payment and pay any late charge by 30 days after  
21 the scheduled installment due date, the title loan lender may  
22 take possession of the titled personal property. In taking  
23 possession, the title loan lender or his or her agent may  
24 proceed without judicial process if this can be done without  
25 breach of the peace or, if necessary, may proceed by action to  
26 obtain judicial process. At least 15 days before this  
27 deadline, the lender shall provide the borrower with notice of

1 the amount of the overdue payment, any late charge, and the  
2 deadline to make these payments. The notice shall also inform  
3 the borrower that the property may be repossessed on this  
4 deadline if full payment is not received. This notice shall be  
5 in writing, personally served or sent by certified or  
6 registered mail, return receipt requested.

7 (f) If, within 15 days after the title loan lender  
8 obtains possession of the personal property, the borrower  
9 redeems the titled personal property by paying all outstanding  
10 principal and applicable interest, late charges, and the  
11 actual cost of repossession, the borrower shall be given  
12 possession of the titled personal property and the certificate  
13 of title without further delay. At the time of repossession or  
14 within five days thereafter, the lender shall provide the  
15 borrower with notice of his or her right of redemption, the  
16 deadline to redeem, and any actual costs incurred in  
17 repossessing the titled personal property. This notice shall  
18 be in writing, personally served or sent by certified or  
19 registered mail, return receipt requested.

20 (g) If the borrower fails to redeem the titled  
21 personal property and certificate of title during the 15-day  
22 period provided in subsection (f) and has received notice of  
23 the right to redeem according to subsection (f), then the  
24 borrower shall thereby forfeit all right, title, and interest  
25 in and to the titled personal property, other than his or her  
26 interest in the sale proceeds specified in subsection (h), to  
27 the title loan lender who shall thereby acquire an absolute

1 right of title and ownership to the titled personal property.  
2 The title loan lender shall then have the sole right and  
3 authority to sell or dispose of the titled personal property.

4 (h) If the property is sold after the 15-day period,  
5 the title loan lender shall return to the borrower within 15  
6 days the amount received from the sale less the amount of the  
7 unpaid principal balance and interest, any outstanding late  
8 charge, and the reasonable and necessary actual costs of the  
9 repossession and sale. The cost of repossession shall include  
10 reasonable towing charges, storage charges paid to a third  
11 party, and repairs made to the property to render it operable.  
12 Even if the lender believes that no money is due to the  
13 borrower under this subsection, it shall provide the borrower  
14 with a written statement documenting each of these costs,  
15 including the amount and a short description of each  
16 individual charge incurred in repossession.

17 (i) In taking possession and disposing of titled  
18 personal property by sale or otherwise, the title loan lender  
19 shall at all times proceed in a commercially reasonable  
20 manner.

21 Section 12. (a) Any person presenting identification  
22 of the person as the borrower and presenting a copy of the  
23 title loan agreement of the borrower to the title loan lender  
24 is presumed to be entitled to reclaim the certificate of title  
25 taken by the lender that corresponds to the titled personal  
26 property described in the title loan agreement. However, if  
27 the title loan lender determines that the person is not the

1 borrower, the title loan lender is not required to allow the  
2 redemption of the certificate of title by the person. The  
3 person reclaiming the certificate of title shall sign the copy  
4 of the title loan agreement of the borrower that the title  
5 loan lender may retain to evidence the receipt of the  
6 certificate of title of the person. A person reclaiming the  
7 certificate of title who is not the borrower shall show  
8 identification to the title loan lender, together with  
9 notarized written authorization from the borrower, and the  
10 title loan lender shall record the name and address of that  
11 person on the title loan agreement retained by the title loan  
12 lender. In that case, the person reclaiming the copy of the  
13 title loan agreement of the borrower shall be provided a copy  
14 of the signed form as evidence of the agreement.

15 (b) If the copy of the title loan agreement of the  
16 borrower is lost, destroyed, or stolen, the borrower shall  
17 notify the title loan lender in writing by certified or  
18 registered mail, return receipt requested, or in person  
19 evidenced by a signed receipt, and receipt of the notice shall  
20 invalidate the title loan agreement if the certificate of  
21 title has not previously been reclaimed. Before delivering the  
22 certificate of title or issuing a new title loan agreement,  
23 the title loan lender shall require the borrower to make a  
24 written statement of the loss, destruction, or theft of the  
25 copy of the title loan agreement of the borrower. The title  
26 loan lender shall record on the written statement the type of  
27 identification and the identification number accepted from the

1 borrower, the date the statement is given, and the number or  
2 date of the title loan agreement lost, destroyed, or stolen.  
3 The statement shall be signed by the title loan lender or the  
4 title loan office employee who accepts the statement from the  
5 borrower. The title loan lender shall not impose any type of  
6 fee for providing the borrower with a copy of the title loan  
7 agreement.

8 Section 13. (a) A title loan lender, or any agent or  
9 employee of a title loan lender, shall not do any of the  
10 following:

11 (1) Falsify or fail to make an entry of any material  
12 matter in a title loan agreement or any extension of the  
13 agreement.

14 (2) Refuse to allow the department to inspect  
15 completed title loan agreements, extensions of the agreements,  
16 or any certificates of title held during the ordinary  
17 operating hours of the business of the title loan lender or  
18 other times acceptable to both parties.

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

21 (4) Make any agreement requiring or allowing for the  
22 personal liability of a borrower or the waiver of any of the  
23 provisions of this act.

24 (5) Make any loan with a loan term of less than 180  
25 days.

26 (6) Knowingly enter into a title loan agreement with  
27 any person who is under the influence of drugs or alcohol when

1 the condition is visible or apparent, or with any person using  
2 a name other than the name of the person or the registered  
3 name of the business owned by the person.

4 (7) Knowingly enter into a title loan agreement in  
5 which the titled personal property is encumbered or subject to  
6 any lien.

7 (8) Fail to exercise reasonable care, as defined by  
8 department rule, in the safekeeping of certificates of title  
9 or of titled personal property repossessed pursuant to this  
10 act.

11 (9) Fail to return a certificate of title or  
12 repossessed titled personal property to a borrower, with any  
13 and all of the title loan lender's liens on the property  
14 properly released, upon payment of the full amount due the  
15 title loan lender, unless the property has been seized or  
16 impounded by an authorized law enforcement agency, taken into  
17 custody by a court, or otherwise disposed of by court order.

18 (10) Sell or otherwise charge for any type of  
19 insurance or other ancillary product such as club memberships  
20 in connection with a title loan agreement.

21 (11) Charge or receive any finance charge, interest,  
22 or fees which are not authorized pursuant to this act, or  
23 require the borrower to make installment payments that are not  
24 substantially equal amounts due at equal periodic intervals.

25 (12) Act as a title loan lender without an active  
26 license issued under this act.

1           (13) Refuse to accept partial payments toward  
2 satisfying any obligation owed under a title loan agreement or  
3 extension of the agreement.

4           (14) Charge a prepayment penalty or fail to refund  
5 the pro rata interest as required under this act for any loan  
6 that is prepaid.

7           (15) Act as a title loan lender under this act  
8 within a place of business in which the licensee solicits or  
9 engages in business outside the scope of this act if the  
10 department determines that the licensee's operation of and  
11 conduct pertaining to the other business results in an evasion  
12 of this act. Upon making the determination, the department  
13 shall order the licensee to cease and desist from the evasion,  
14 provided, no licensee shall engage in the pawnbroker business.

15           (16) Refuse or fail to return to the borrower all  
16 personal items contained in the vehicle, not reasonably  
17 considered part of the vehicle, at the time of repossession or  
18 otherwise deny the borrower use or access to personal property  
19 not secured by the loan.

20           (17) Use or threaten force or violence against any  
21 borrower, nor threaten criminal prosecution or use printed  
22 materials that resemble legal process. No licensee shall  
23 trespass on a borrower's property, other than taking  
24 possession without a breach of the peace, or make collection  
25 attempts at unreasonable hours of the night.

1           (18) Directly or indirectly employ any scheme,  
2 device, or artifice to defraud or mislead the borrower,  
3 another lender, or the department.

4           (19) Make any title loan without forming a good  
5 faith belief that the borrower has the ability to repay the  
6 title loan. In forming a good faith belief, the lender shall  
7 consider factors adopted by the department by rule. A lender  
8 that meets conditions adopted by the department by rule shall  
9 be deemed to be in compliance with this section.

10           (20) Enter into a title loan agreement with any  
11 member of the military services of the United States, or such  
12 a member's spouse or dependent, unless in compliance with  
13 Title 10 U.S.C. §987 or any regulation adopted pursuant to  
14 same.

15           (b) Title loan companies may not advertise using the  
16 words "interest free loans" or "no finance charges."

17           Section 14. (a) In addition to any other penalty  
18 which may be applicable, any licensee or employee who  
19 willfully violates any provision of this act, or who willfully  
20 makes a false entry in any record specifically required by  
21 this act, shall be guilty of a Class A misdemeanor for each  
22 violation, and the title loan agreement is rendered void.

23           (b) In addition to any other penalty which may be  
24 applicable, any licensee or employee who fails to make a  
25 record of a title loan transaction and subsequently sells or  
26 disposes of the titled personal property and/or certificate of



1 title that is the subject of the transaction shall be punished  
2 as follows:

3 (1) For a first offense, the licensee or employee  
4 shall be guilty of a misdemeanor and, upon conviction thereof,  
5 shall be guilty of a Class A misdemeanor.

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

8 Section 15. (a) The department may issue and serve  
9 subpoenas to compel the attendance of witnesses and the  
10 production of documents, papers, books, records, and other  
11 evidence before the department in any matter pertaining to  
12 this act. The department shall administer oaths and  
13 affirmations to any person whose testimony is required. If any  
14 person refuses to testify, produce books, records, and  
15 documents, or otherwise refuses to obey a subpoena issued  
16 under this section, the department may enforce the subpoena in  
17 the same manner that subpoenas issued under the Administrative  
18 Procedure Act are enforced. Witnesses are entitled to the same  
19 fees and mileage as they are entitled to by law for attending  
20 as witnesses in the circuit court, unless the examination or  
21 investigation is held at the place of business or residence of  
22 the witness.

23 (b) In addition to any other powers conferred upon  
24 the department to enforce or administer this act, the  
25 department may do any of the following:

26 (1) Bring an action in any court of competent  
27 jurisdiction to enforce or administer this act, any rule or

1 order adopted under this act, or any written agreement entered  
2 into with the department. In the action, the department may  
3 seek any relief at law or equity, including a temporary or  
4 permanent injunction, appointment of a receiver or  
5 administrator, or an order of restitution.

6 (2) Issue and serve upon a person an order requiring  
7 the person to cease and desist and take corrective action  
8 whenever the department finds that the person is violating,  
9 has violated, or is about to violate any provision of this  
10 act, any rule or order adopted under this act, or any written  
11 agreement entered into with the department.

12 (3) Whenever the department finds that conduct  
13 described in subdivision (2) of this section shall present an  
14 immediate danger to the public health, safety, or welfare  
15 requiring an immediate final order, the department may issue  
16 an emergency cease and desist order reciting with  
17 particularity the facts underlying the findings. The emergency  
18 cease and desist order is effective immediately upon service  
19 of a copy of the order on the respondent named in the order  
20 and shall remain effective for 90 days. If the department  
21 begins non-emergency proceedings under subdivision (2) of this  
22 section, the emergency cease and desist order remains  
23 effective until the conclusion of the proceedings.

24 Section 16. (a) The department may investigate and  
25 examine any licensee or other person the department deems  
26 necessary to determine compliance with this act. For this  
27 purpose, the department may examine the books, accounts,

1 records, and other documents or matters of any licensee or  
2 other person. The department may compel the production of all  
3 relevant books, records, and other documents and materials  
4 relative to an examination or investigation. Examinations  
5 shall not be made more often than once during any 12-month  
6 period unless the department has reason to believe the  
7 licensee is not complying with this act.

8 (b) The department shall conduct all examinations at  
9 a convenient location in this state unless the department  
10 determines that it is more effective or cost-efficient to  
11 perform an examination at the licensee's out-of-state  
12 location. For an examination performed at the licensee's  
13 out-of-state location, the licensee shall pay the travel  
14 expense and per diem subsistence at the rate provided by law  
15 for up to 30 eight-hour days per year for each department  
16 examiner who participates in the examination. However, if the  
17 examination involves or reveals possible fraudulent conduct by  
18 the licensee, the licensee shall pay the travel expenses and  
19 per diem subsistence provided by law, without limitation, for  
20 each participating examiner.

21 Section 17. (a) In addition to any other penalties  
22 or remedies which may be applicable, a title loan lender who  
23 fails to comply with any requirement imposed under this act in  
24 any title loan transaction shall also be liable to the  
25 borrower in an amount equal to the sum of the following:

26 (1) Any actual damage sustained by the borrower as a  
27 result of the violation.

1                   (2) Twice the amount of the finance charge stated in  
2 the title loan agreement.

3                   (b) Any person having reason to believe that this  
4 act has been violated may file with the department a written  
5 complaint setting forth the details of the alleged violation  
6 and the department shall investigate the complaint.

7                   (c) Any borrower shall be entitled to pursue a  
8 private right of action against a licensee for violation of  
9 the provisions set forth in this act. Any borrower who is  
10 successful in a claim under this subsection shall be entitled  
11 to attorneys' fees.

12                   (d) Any intentional violation of this section  
13 constitutes an unfair or deceptive trade practice under the  
14 Alabama Deceptive Trade Practices Act, commencing with Section  
15 8-19-1, Code of Alabama 1975.

16                   (e) The remedies provided in this section are not  
17 intended to be the exclusive remedies available to a consumer  
18 for a violation of this act.

19                   Section 18. If any titled personal property from a  
20 title loan transaction is found to be stolen and is returned  
21 to the rightful owner by law enforcement authorities and if  
22 the licensee who accepted the titled property has complied  
23 with all of the duties and responsibilities as specified in  
24 this act during the transaction, then the rightful owner of  
25 the titled personal property shall be liable to the licensee  
26 for the loan agreement amount if the rightful owner fails to  
27 prosecute or cooperate in the criminal prosecution related to

1 the title loan agreement. It shall also be the responsibility  
2 of the licensee to assist or cooperate in the criminal  
3 prosecution related to the title loan transaction. If the  
4 identity of a person who obtained a title loan using the  
5 stolen goods can be determined, the district attorney may  
6 prosecute the person for any applicable violations.

7 Section 19. Nothing in this act precludes a  
8 municipality from adopting ordinances more restrictive, in  
9 whole or in part, than the provisions of this act. This act  
10 shall not repeal or be construed to repeal any provision of  
11 the Uniform Commercial Code, Sections 7-1-101, Code of Alabama  
12 1975, et seq.

13 Section 20. To administer this act, the department  
14 may promulgate and enforce specific rules and regulations  
15 establishing criteria, guidelines, and specific procedures to  
16 be followed by persons affected by this act.

17 Section 21. (a) No titled personal property may be  
18 confiscated by local law enforcement without the following  
19 action having been accomplished:

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

21 (2) A warrant sworn out for the person who obtained  
22 a title loan using the titled personal property.

23 (b) Titled personal property may be put on a  
24 one-time seven-day hold by the authorized law enforcement  
25 authorities. This request for a seven-day hold shall be made  
26 in writing by the authorized law enforcement authorities.

1 (c) Confiscated titled property shall be returned to  
2 the title loan lender by the law enforcement authorities as  
3 soon as possible when determined that the titled personal  
4 property has no rightful owner

5 Section 22. (a) Each licensee under this act shall  
6 annually, on or before December 1, file a written report with  
7 the department containing such information as the department  
8 may require concerning his or her business and operations  
9 during the preceding calendar year as to each approved office.  
10 Reports shall be made under oath and shall be in the form  
11 prescribed by the department.

12 (b) Using the information reported to the department  
13 under subsection (a), the department shall make and publish  
14 annually an analysis and recapitulation of such reports  
15 regarding the utilization of title loans in Alabama.

16 Section 23. Each title loan lender in operation as  
17 of the effective date of this act shall have until January 1,  
18 2015, to apply for a license under this act.

19 Section 24. Although this bill would have as its  
20 purpose or effect the requirement of a new or increased  
21 expenditure of local funds, the bill is excluded from further  
22 requirements and application under Amendment 621 because the  
23 bill defines a new crime or amends the definition of an  
24 existing crime.

25 Section 25. The provisions of this act are  
26 severable. If any part of this act is declared invalid or

1       unconstitutional, that declaration shall not affect the part  
2       which remains.

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