

Senate Bill 452

By: Senators Dolezal of the 27th, Harbison of the 15th, Gooch of the 51st, Albers of the 56th,
Beach of the 21st and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 7 and 44 of the Official Code of Georgia Annotated, relating to banking and
2 finance and property respectively, so as to provide for regulations of motor vehicle title pawn
3 transactions; to provide for applicability; to provide for legislative construction; to require
4 the Department of Banking and Finance to license and regulate title pawnbrokers; to provide
5 that motor vehicle title pawn transactions made by unlicensed title pawnbrokers are void; to
6 provide for civil remedies; to establish licensing and regulatory procedures and requirements;
7 to provide for applications and surety bonds; to provide for powers and duties of the
8 department; to provide for record-keeping, bond, and reporting requirements; to require
9 approval for additional locations and certain licensee changes; to require the investigation
10 and examination of applicants and licensees; to establish procedures for unauthorized
11 activities; to provide for subpoenas; to provide for denial and revocation of licenses; to
12 provide for civil penalties; to provide for fees that may be charged in connection with motor
13 vehicle title pawn transactions; to provide record-keeping requirements with respect to such
14 transactions; to prohibit local governments from adopting conflicting or more restrictive
15 regulations relating to pawn transactions; to prohibit motor vehicle title pawn transactions
16 without a license; to prohibit motor vehicle title pawn transactions involving certain members
17 of the military or their dependents; to require certain disclosures with respect to motor

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18 vehicle title pawn transactions; to provide for related matters; to provide for an effective date
19 and applicability; to repeal conflicting laws; and for other purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 SECTION 1.

22 Title 7 of the Official Code of Georgia Annotated, relating to banking and finance, is
23 amended by adding a new chapter to read as follows:

24 CHAPTER 3A

25 ARTICLE 1

26 7-3A-1.

27 As used in this chapter, the term:

28 (1) 'Control' means the direct or indirect possession of the power to direct or cause the
29 direction of the management or policies of a person.

30 (2) 'Covered employee' means any employee of a licensee engaged in any function
31 related to making title pawns.

32 (3) 'Department' means the Department of Banking and Finance.

33 (4) 'Executive officer' means an individual who performs significant managerial,
34 supervisory, or policy-making functions on behalf of a person, including, but not limited
35 to, the chief executive officer, president, chief financial officer, and chief operating
36 officer.

37 (5) 'Individual' means a natural person.

38 (6) 'License' means a license issued by the department under this chapter.

39 (7) 'Licensee' means a person that has obtained a license under this chapter.

- 40 (8) 'Misrepresentation' means a false statement of a substantive fact or to engage in any
41 conduct which leads to a false belief which is material to the transaction.
- 42 (9) 'Motor vehicle' means every self-propelled vehicle intended primarily for use and
43 operation on the public highways; provided, however, that such term shall not include a
44 mobile home as such term is defined in Code Section 8-2-160.
- 45 (10) 'Nationwide Multistate Licensing System and Registry' or 'NMLS' means a licensing
46 system developed and maintained by the Conference of State Bank Supervisors and the
47 American Association of Residential Mortgage Regulators for the licensing and
48 registration of certain persons engaged in nondepository activities.
- 49 (11) 'Owner' means a person that:
- 50 (A) Owns, directly or indirectly, a 10 percent or more interest in a corporation or any
51 other form of business organization;
- 52 (B) Owns, directly or indirectly, 10 percent or more of the voting shares of any
53 corporation or any other form of business organization; or
- 54 (C) Possesses, either directly or indirectly, the power to direct or cause the direction
55 of the management or policies of a corporation or any other form of business
56 organization, regardless of whether such person owns or controls such interest through
57 one or more individuals or one or more proxies, powers of attorney, nominees,
58 corporations, associations, limited liability companies, partnerships, trusts, joint stock
59 companies, other entities or devices, or any combination thereof.
- 60 (12) 'Person' means any individual, sole proprietorship, corporation, limited liability
61 company, partnership, trust, or any other group of individuals, however organized.
- 62 (13) 'Pledgor' means an individual who pledges a motor vehicle certificate of title as
63 security for a title pawn.
- 64 (14) 'Title pawn' means a transaction in which a person advances a sum of money to a
65 pledgor which is secured by a motor vehicle certificate of title and includes any extension
66 or continuation of such a transaction, but shall not include extensions of credit for the

67 purpose of financing the purchase of a motor vehicle or of refinancing a purchase money
68 loan that is secured by a lien on a motor vehicle.

69 (15) 'Title pawnbroker' means any person that engages in the business of making title
70 pawns.

71 (16) 'Unique identifier' means a number or other identifier assigned by protocols
72 established by NMLS.

73 7-3A-2.

74 (a) No person shall engage in the business of making title pawns in Georgia unless such
75 person is licensed by the department in accordance with this chapter or exempt from
76 licensure as provided in this Code section.

77 (b) This chapter shall not apply to:

78 (1) Any state or federally chartered bank, credit union, savings and loan association, or
79 savings bank with deposits that are federally insured; or

80 (2) An individual employed by a licensee or any person exempt from the licensing
81 requirements of this chapter when acting within the scope of employment and under the
82 supervision of the licensee or exempted person as an employee and not as an independent
83 contractor.

84 7-3A-3.

85 Without limiting the power conferred by Chapter 1 of this title, the department may
86 promulgate reasonable rules and regulations, not inconsistent with law, for the
87 interpretation and enforcement of this chapter.

88 7-3A-4.

89 (a) Any title pawn made by a person without a license, unless such title pawn is made by
90 a person exempt from the licensure requirements of this chapter, shall be void, and any

91 right to collect any money in connection with such title pawn shall be forfeited. The person
92 making a title pawn voided pursuant to this Code section shall promptly refund any money
93 paid and return to the pledgor the motor vehicle certificate of title and, if applicable, the
94 motor vehicle or its fair market value.

95 (b) Regardless of whether the person has a physical location in this state, no person shall
96 engage in any device, subterfuge, or pretense to evade the requirements of this chapter
97 through any method, including, but not limited to:

98 (1) Making title pawns disguised as a personal property, sale, or leaseback transaction;

99 (2) Disguising title pawn proceeds as a cash rebate for the pretextual installment sale of
100 goods or services; and

101 (3) Making, offering, guaranteeing, assisting with, or arranging for a pledgor to obtain
102 a title pawn with a greater rate of interest than is permitted by law or with charges that
103 are prohibited by law through any method.

104 (c) Any pledgor injured by a violation of this Code section may within three years of
105 discovering the violation, bring a civil action against the person or persons engaged in such
106 violation in a court of competent jurisdiction to recover the motor vehicle certificate title,
107 the motor vehicle or its fair market value, all amounts paid, and reasonable attorney's fees.

108 ARTICLE 2

109 7-3A-10.

110 Each applicant for an original or renewal license under this chapter shall:

111 (1) Submit an application in writing, under oath, and in such form as the department may
112 prescribe;

113 (2) Furnish to NMLS the following information:

114 (A) The legal name and principal office address of the applicant;

- 115 (B) The names and residence and business addresses of each owner and executive
116 officer of the applicant;
- 117 (C) The address of each location where the applicant will engage in the business of
118 making title pawns in this state;
- 119 (D) Any name, subject to the requirements of Code Section 7-1-243, under which the
120 applicant will engage in the business of making title pawns in this state; and
- 121 (E) The name and address of the initial registered agent and registered office for
122 service of process in this state;
- 123 (3) Submit such other data, financial statements, and pertinent information as the
124 department may require with respect to the applicant or its owners or executive officers;
125 and
- 126 (4) Pay a nonrefundable application, investigation, and supervision fee as prescribed by
127 rule or regulation of the department.

128 7-3A-11.

129 (a) An applicant shall provide with its application a corporate surety bond issued by a
130 bonding company or insurance company authorized to do business in this state and
131 approved by the department.

132 (b) The bond shall:

133 (1) Be in a form satisfactory to the department;

134 (2) Be in the aggregate amount of \$25,000.00 for the primary location to be operated by
135 a licensee plus \$5,000.00 for each additional location to be operated by such licensee;

136 (3) Run to the State of Georgia for the benefit of the department or any claimant or
137 creditor against a licensee arising out of the licensee's business of making title pawns;

138 (4) Require a licensee to pay any and all money for the benefit of any person adjudicated
139 as damaged under a court order as a result of noncompliance of the licensee with the

140 provisions of this chapter, with the rules, regulations, or orders issued by the department
141 pursuant to this chapter, or with any condition of the bond;

142 (5) Require a licensee to pay any and all money that may become due and owing to any
143 creditor of or claimant against the licensee arising out of the licensee's business of making
144 title pawns, provided that the entitlement to such money shall be stated in an order or
145 judgment entered against the licensee or in a stipulation or agreement entered into by the
146 licensee and the creditor or claimant; and

147 (6) Require a licensee to pay all money owed to the department for fees for investigation
148 or examination or fines or penalties, due after issuance, agreement, or adjudication, for
149 noncompliance of the licensee with the provisions of this chapter or the rules, regulations,
150 or orders issued by the department pursuant to this chapter.

151 (c) Claimants or creditors against the licensee may bring an action directly on the bond.

152 (d) In no event shall the aggregate liability of the surety exceed the principal sum of the
153 face amount of the bond.

154 (e) In the event that the principal sum of the bond is reduced by one or more recoveries or
155 payments thereon, a licensee shall:

156 (1) Provide a new or additional bond so that the total or aggregate principal sum of such
157 bond or bonds equals the sum required under subsection (b) of this Code section; or

158 (2) Provide an endorsement duly executed by the corporate surety reinstating the bond
159 to the required principal sum thereof.

160 (f) A bond shall not be canceled by either the licensee or the corporate surety except upon
161 notice to the department electronically through NMLS, and such cancellation shall be
162 effective no sooner than 30 days after submission in NMLS of such notice. Any corporate
163 surety will not be responsible for a claim against a licensee based on activities that occurred
164 after the effective date of such cancellation.

165 7-3A-12.

166 (a) The department shall conduct an investigation of every applicant for licensure to
167 determine the financial responsibility, experience, character, and general fitness of such
168 applicant. The department may issue the applicant a license to make title pawns if the
169 department determines to its general satisfaction that:

170 (1) The applicant is financially sound and responsible and able to make title pawns in an
171 honest, fair, and efficient manner and with the confidence and trust of the community;

172 and

173 (2) All conditions for licensure set forth in this chapter and in the rules and regulations
174 of the department have been satisfied.

175 (b) No license shall be transferable or assignable.

176 (c) Each license shall expire on December 31 of each year.

177 (d) Application for renewal shall be made annually on or before December 1 of each year.

178 7-3A-13.

179 (a) The department is authorized to:

180 (1) Participate in NMLS to facilitate the sharing of information and standardization of
181 the licensing and application processes for persons subject to this chapter;

182 (2) Enter into agreements and contracts necessary for the department's participation in
183 NMLS;

184 (3) Disclose or cause to be disclosed without liability, via NMLS, applicant and licensee
185 information, including, but not limited to, violations of this chapter and enforcement
186 actions, to facilitate regulatory oversight;

187 (4) Request that NMLS adopt an appropriate privacy, data security, and security breach
188 notification policy that is in full compliance with existing state and federal law; and

189 (5) Prescribe by rule and regulation requirements for participation by applicants and
190 licensees in NMLS.

191 (b) The department shall issue rules and regulations establishing a process whereby
192 licensees may challenge information entered by the department into NMLS.

193 (c) Regardless of its participation in NMLS, the department shall retain full and exclusive
194 authority over determinations of whether to grant, renew, or revoke licenses under this
195 chapter. Nothing in this Code section shall be construed to reduce or otherwise limit such
196 authority.

197 (d) Applicants and licensees shall pay the charges associated with their utilization of
198 NMLS.

199 (e) All information disclosed through NMLS is deemed to be disclosed directly to the
200 department and subject to Code Section 7-1-70. Such information shall not be disclosed
201 to the public and shall remain privileged and confidential pursuant to Code Section 7-1-70.

202 ARTICLE 3

203 7-3A-20.

204 (a) Each licensee shall:

205 (1) Comply with the provisions of Part 5 of Article 3 of Chapter 12 of Title 44;

206 (2) Conspicuously post a copy of its license in each location where the licensee engages
207 in the business of making title pawns;

208 (3) Submit, not more frequently than quarterly, reports of condition containing
209 information required by the department;

210 (4) Clearly label all advertisements and any other documents required by rule or
211 regulation of the department with its NMLS unique identifier;

212 (5) Make, keep, and use in its business such books, accounts, and records as the
213 department may require to enforce the provisions of this chapter and the rules and
214 regulations promulgated under it; and

215 (6) Make available to the department, upon request, any books, accounts, records, files,
216 documents, evidence, or other information relating to the business of making title pawns.

217 (b) Each licensee shall preserve any books, accounts, and records required to be made,
218 kept, or used pursuant to this Code section or rule or regulation of the department for five
219 years or such greater period of time as prescribed in the rules and regulations of the
220 department.

221 (c) A licensee may maintain any books, accounts, and records required to be made, kept,
222 or used pursuant to this Code section:

223 (1) In photographic, electronic, or other similar form; and

224 (2) At a location outside of this state so long as such records are transmitted to a location
225 designated by the department within ten days of a written request by the department.

226 7-3A-21.

227 (a) A licensee shall send written notice to the department within ten days of the following:

228 (1) Any knowledge or discovery of an act prohibited by this chapter;

229 (2) Any knowledge or discovery of the discharge of a covered employee for actual or
230 suspected misrepresentation, as defined in Code Section 7-3A-1, or dishonest or
231 fraudulent acts;

232 (3) Any knowledge or discovery of an administrative, civil, or criminal action initiated
233 by any governmental entity against the licensee or any owner, executive officer, or
234 covered employee;

235 (4) The filing of a petition by or against the licensee under the United States Bankruptcy
236 Code for bankruptcy reorganization or the filing of a petition by or against the licensee
237 for receivership or the making of a general assignment for the benefit of its creditors;

238 (5) Any knowledge or discovery that any of the licensee's owners, executive officers,
239 directors or covered employees has been convicted of a felony as described in
240 subsection (a) of Code Section 7-3A-32; and

241 (6) Any knowledge or discovery of a criminal action initiated by any governmental entity
242 for misrepresentations, dishonest acts, or fraudulent acts against any owner, executive
243 officer, director, or covered employee of a licensee.

244 (b) A licensee shall send written notice to the department within 30 days of the following:

245 (1) The commencement of any action brought against it by a consumer relating to the
246 business of making title pawns;

247 (2) The commencement of any action involving a claim against the bond filed with the
248 department pursuant to Code Section 7-3A-11;

249 (3) The entry of any judgment against the licensee; and

250 (4) Any change in the address of its principal place of business in this state.

251 (c) The corporate surety that issued a licensee a bond pursuant to Code Section 7-3A-11
252 shall send written notice to the department via registered or certified mail or statutory
253 overnight delivery within ten days of paying any claim or judgment to any creditor or
254 claimant with details sufficient to identify the claimant and the claim or judgment so paid.

255 7-3A-22.

256 (a) A licensee shall not engage in the business of making title pawns at a location in this
257 state that was not included in the licensee's original or renewal application unless the
258 licensee has first received written approval from the department. To obtain such approval,
259 the licensee shall:

260 (1) Submit an application to the department in such form as the department may
261 prescribe;

262 (2) Provide such other information as the department may require concerning the
263 location; and

264 (3) Pay a nonrefundable application fee as prescribed by rule or regulation of the
265 department.

266 (b) A location, including a personal residence, shall be considered a location of a licensee
267 requiring approval if any of the following conditions are met:

268 (1) The location address is printed on or contained in the licensee's letterheads, business
269 cards, announcements, advertisements, solicitations for business, flyers, brochures, or the
270 like;

271 (2) Georgia consumers are received by the licensee at the location or are directed by the
272 licensee to deliver any information by any means to the location;

273 (3) Title pawn transaction files or any other books and records of the licensee required
274 to be maintained by law or the department's rules and regulations are located at the
275 location; or

276 (4) The licensee directly or indirectly pays for rent, utility bills, or other expenses
277 incurred for use of the location.

278 (c) Notwithstanding subsection (b) of this Code section, a location, including a personal
279 residence, shall not be considered a location of a licensee and shall be deemed an
280 independent entity requiring a license to operate as a title pawnbroker if:

281 (1) It is maintained pursuant to a franchise arrangement with the licensee;

282 (2) It is an independent business or title pawn operation which is not under the direct
283 control, management, supervision and responsibility of the licensee;

284 (3) The licensee is not the lessee or owner of the location and the location is not under
285 the direct and daily ownership, control, management, and supervision of the licensee;

286 (4) All employees, including the location manager, do not meet the requirements for
287 exemption from licensure provided in paragraph (2) of subsection (b) of Code
288 Section 7-3A-2 and the rules and regulations of the department;

289 (5) All assets and liabilities of the location are not assets and liabilities of the licensee
290 and the income and expenses of the location are not the income and expenses of the
291 licensee and are not properly accounted for in the financial records and tax returns of the
292 licensee; or

293 (6) All practices, policies, and procedures, including, but not limited to, those relating
294 to employment and operations, are not originated and established by the licensee.

295 (d) An unstaffed storage facility shall not constitute a location of a licensee.

296 (e) No person shall become an owner of any licensee through acquisition or other change
297 in control unless the person has first received written approval from the department. To
298 obtain such approval, such person shall:

299 (1) Submit an application to the department in such form as the department may
300 prescribe;

301 (2) Provide such other information as the department may require concerning the
302 financial responsibility, background, experience, and activities of the applicant or its
303 owners and executive officers; and

304 (3) Pay a nonrefundable application fee as prescribed by rule or regulation of the
305 department.

306 (f)(1) Each location manager of a licensee in this state shall be approved in writing by
307 the department.

308 (2) A licensee may allow an individual to begin working as a new location manager prior
309 to such approval, provided that the licensee submits an application for approval within 15
310 days of the new location manager beginning work as a location manager. If the
311 department denies approval of such new location manager, the licensee shall immediately
312 remove the individual upon notice of such denial.

313 (3) The department shall permit a regional supervisor of a licensee to serve as an interim
314 location manager at one or more individual locations for up to 90 days at each individual
315 location while the licensee searches for a permanent qualified location manager for such
316 location or locations. Prior to a regional supervisor of a licensee serving as a location
317 manager at any particular location, the previous location manager of such location shall
318 be removed from the Nationwide Multistate Licensing System and Registry within ten
319 business days of no longer serving in such role and the regional supervisor shall apply to

320 be a location manager for such location in NMLS, submit all the documentation required
321 as part of such application, and upload a document titled 'Interim Location Manager' in
322 NMLS under the document uploads category titled 'Additional Requirements' indicating
323 that such individual is a regional supervisor of a licensee applying to be a location
324 manager of such location on an interim basis.

325 (g) The department shall conduct a criminal background check and require such other
326 pertinent information to satisfy itself that the location manager will operate the location
327 responsibly and in compliance with the laws and rules of this state.

328 (h) Notwithstanding any approval of the location manager by the department, the licensee
329 shall have full and direct financial responsibility for the lending activities of each location
330 manager and full and direct responsibility for the training and supervision of the location
331 manager. The licensee shall supervise the location and location manager on an ongoing
332 and regular basis and shall be accountable for the lending activities of the location and
333 location manager. Any violation of this chapter, Part 5 of Article 3 of Chapter 12 of
334 Title 44, or the rules and regulations of the department by a location manager shall be
335 deemed to be a violation by both the licensee and the location manager.

336 (i) The department shall approve an application properly submitted pursuant to
337 subsection (e) of this Code section if it finds that the applicant has the financial
338 responsibility, character, reputation, experience, and general fitness to warrant a belief that
339 the business will be operated efficiently and fairly, in the public interest, and in accordance
340 with the law.

341 ARTICLE 4

342 7-3A-30.

343 (a) The department shall investigate and examine the affairs, businesses, premises, and
344 records of any applicant, licensee, or any other title pawnbroker as often as it deems

345 necessary to carry out the purposes of this chapter, regardless of whether such applicant,
346 licensee, or other title pawnbroker acts or claims to act under any other licensing or
347 registration requirement of this state.

348 (b) The department may conduct an investigation or examination pursuant to this Code
349 section at least once every 60 months; provided, however, that department may alter the
350 frequency or scope of investigations or examinations through rules or regulations or waive
351 an investigation or examination if it determines that, based on records submitted to the
352 department and the past history of operations in this state, such investigation or
353 examination is unnecessary.

354 (c) An applicant, licensee, or other title pawnbroker shall pay a fee as prescribed by rule
355 or regulation of the department to cover the cost of an investigation or examination.

356 (d) In carrying out an investigation or examination pursuant to this Code section, the
357 department shall be authorized to:

358 (1) Conduct an on-site examination of any applicant, licensee, or other title pawnbroker
359 at any location without prior notice to the applicant, licensee, or other title pawnbroker;

360 (2) Enter into agreements or relationships with other government officials or regulatory
361 authorities to improve efficiencies and reduce regulatory burden by sharing resources,
362 documents, records, information, or evidence or by utilizing standardized or uniform
363 methods or procedures;

364 (3) Accept and rely on investigation or examination reports made by other government
365 officials or regulatory authorities within or outside this state, provided that such reports
366 provide information necessary to fulfill the responsibilities of the department under this
367 chapter;

368 (4) Accept and incorporate in any report of the department audit reports or portions of
369 audit reports made by an independent certified public accountant on behalf of an
370 applicant or licensee;

371 (5) Require a licensee to respond substantively in writing at the outset of any
372 examination or investigation, during the course of any examination or investigation, or
373 to any report of examination or investigation of such licensee pursuant to this chapter;

374 (6) Request any financial data relevant to the business of making title pawns; and

375 (7) Issue subpoenas to any person that is not licensed to make title pawns to testify under
376 oath and produce books, accounts, records, files, papers, and other documents.

377 (e) Each licensee or person subject to this chapter shall make available to the department,
378 upon request, any books, accounts, records, files, documents, evidence, or other
379 information relating to the activities of engaging in the business of making title pawns
380 regardless of the location, possession, control, or custody of such books, accounts, records,
381 files, documents, evidence or other information. This includes, but is not limited to:

382 (1) Criminal, civil, and administrative history information, including information related
383 to charges that did not result in a conviction; and

384 (2) Personal history and experience information, including independent credit reports
385 obtained from a consumer reporting agency as defined in 15 U.S.C. Section 1681a.

386 (f) No licensee or person subject to investigation or examination under this chapter shall
387 knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, accounts,
388 records, files, documents, evidence, or other information relative to such investigation or
389 examination.

390 7-3A-31.

391 (a) A subpoena issued pursuant to Code Section 7-3A-30 may be served by:

392 (1) Registered or certified mail or statutory overnight delivery, return receipt requested,
393 to the addressee's business or personal mailing address;

394 (2) Examiners appointed by the department; or

395 (3) The sheriff of the county where such witness resides or is found or where the person
396 in custody of any books, accounts, records, files, documents, or papers resides or is
397 found.

398 (b) If any person refuses to obey a subpoena issued under this chapter, a superior court of
399 appropriate jurisdiction, upon application by the department and opportunity for such
400 person to show cause and object, may issue to the person an order requiring such person
401 to comply with the subpoena. Failure to obey a subpoena may be punished as contempt
402 by the court.

403 7-3A-32.

404 (a) The department shall not issue a license and may revoke a license if it finds that the
405 applicant or licensee or any director, owner, executive officer, or covered employee of the
406 applicant or licensee has been convicted of a felony in any jurisdiction or of a crime which,
407 if committed within this state, would constitute a felony under the laws of this state. For
408 the purposes of this chapter, a person shall be deemed to have been convicted of a crime
409 if such person shall have pleaded guilty or nolo contendere to a charge thereof before a
410 court or federal magistrate or shall have been found guilty thereof by the decision or
411 judgment of a court or federal magistrate or by the verdict of a jury, irrespective of the
412 pronouncement of sentence or the suspension thereof and regardless of whether first
413 offender treatment without adjudication of guilt pursuant to the charge was entered or an
414 adjudication or sentence was otherwise withheld or not entered on that charge, unless and
415 until such plea of guilty or nolo contendere or such decision, judgment, or verdict shall
416 have been set aside, reversed, or otherwise abrogated by lawful judicial process or until
417 probation, sentence, or both probation and sentence of a first offender without adjudication
418 of guilt have been successfully completed and documented or unless the person convicted
419 of the crime shall have received a pardon therefor from the President of the United States

420 or the governor or other pardoning authority in the jurisdiction where the conviction
421 occurred.

422 (b) The department shall be authorized to obtain criminal history record checks with
423 respect to any applicant or licensee, any owner of the applicant or licensee, and any
424 individual who is a director, executive officer, or covered employee of the applicant or
425 licensee. To conduct such criminal history record checks, the department shall require that
426 such individuals furnish to the department a full set of fingerprints to enable a criminal
427 background investigation to be conducted. The department shall submit the fingerprints
428 to the Georgia Crime Information Center. If no disqualifying record is identified at the
429 state level, the department or the Georgia Crime Information Center is authorized to submit
430 the fingerprints to the Federal Bureau of Investigation for a national criminal history record
431 check. Upon completion of such criminal history record check by the Georgia Crime
432 Information Center and, if applicable, the Federal Bureau of Investigation, the Georgia
433 Crime Information Center shall notify the department in writing of any finding of criminal
434 records or if there are no such findings. In connection with an application under this
435 chapter, the department may use the Nationwide Multistate Licensing System and Registry
436 as a channeling agent for the submission of fingerprints to the Federal Bureau of
437 Investigation and any governmental agency or entity authorized to receive such information
438 for a state and national criminal history record check and the receipt of such checks by the
439 department. All fees required for a criminal history record check by the Georgia Crime
440 Information Center or the Federal Bureau of Investigation shall be paid by the applicant or
441 licensee.

442 (c) All criminal history record checks received by the department shall be used by the
443 department for the exclusive purpose of carrying out the responsibilities of this article, shall
444 not be a public record, shall be confidential and privileged, and shall not be disclosed to
445 any other person or agency except to any person or agency which otherwise has a legal
446 right to inspect such records. All such records received by the department shall be

447 maintained in conformity with the requirements of the Georgia Crime Information Center
448 and the Federal Bureau of Investigation, as applicable.

449 (e) Every applicant and licensee shall be authorized and required to obtain and maintain
450 the results of criminal history record checks on covered employees. Such criminal
451 background checks shall be commercial background checks. Applicants and licensees shall
452 be responsible for any applicable fees charged by the company performing the criminal
453 background checks. An applicant or licensee may only employ an individual whose
454 criminal history has been checked and has been found to be in compliance with all lawful
455 requirements prior to the initial date of hire. This provision shall not apply to directors,
456 owners, executive officers, or location managers of applicants or licensees, whose
457 backgrounds shall have been investigated through the department before taking office,
458 beginning employment, or securing ownership. The department shall be entitled to review
459 the files of any applicant or licensee to determine whether the required commercial
460 background checks have been conducted and whether all covered employees are qualified.
461 Notwithstanding the requirement that applicants and licensees conduct such commercial
462 background checks, the department shall retain the right to obtain criminal history record
463 checks on covered employees of applicants and licensees pursuant to subsection (b) of this
464 Code section.

465 7-3A-33.

466 (a) The department may revoke a license if it finds that any grounds exist which would
467 require or warrant the denial of an application for the issuance or renewal of a license. The
468 department may deny an application or revoke a license upon a finding that an applicant
469 or a licensee has:

470 (1) Committed any fraud, engaged in any dishonest activities, or made any
471 misrepresentation, as defined in Code Section 7-3A-1;

472 (2) Violated any material provision of this chapter, any rule, regulation, or order issued
473 by the department pursuant to this chapter, or any other law in the course of its business
474 of making title pawns;

475 (3) Made a false statement or failed to give a true reply in an application;

476 (4) Demonstrated incompetency or untrustworthiness to act as a title pawnbroker;

477 (5) Failed to pay within 30 days after it became final and unappealable a judgment
478 recovered in any court in an action arising out of the licensee's business of making title
479 pawns; or

480 (6) Purposely withheld, deleted, destroyed, or altered information requested by the
481 department or made misrepresentations to the department.

482 (b) The department shall not issue a license and shall revoke a license if it determines that
483 the applicant or licensee is not financially sound or responsible or not able to engage in the
484 business of making title pawns in an honest and fair manner.

485 (c) The department shall not issue a license and may revoke a license if an applicant or
486 licensee was subject to, or employs any person subject to, a final cease and desist order or
487 license revocation under this chapter within the preceding five years. Each applicant or
488 licensee shall, before hiring an employee, examine the department's public records to
489 determine that such employee is not subject to such a cease and desist order or license
490 revocation.

491 (d) The department shall not issue a license and may revoke a license if it finds that any
492 owner or executive officer of the applicant or licensee has been an owner or executive
493 officer of a licensee whose application has been denied or license has been revoked within
494 the preceding five years.

495 7-3A-34.

496 (a) Notice of the department's intention to enter an order denying an application or
497 revoking a license shall be sent to the applicant or licensee in writing by registered or

498 certified mail or statutory overnight delivery addressed to the principal office of such
499 applicant or licensee. If a person refuses to accept service of such notice, the notice shall
500 be served by the department under any other method of lawful service, and the person shall
501 be liable to the department for a sum equal to the actual costs incurred to serve the notice.
502 Such liability shall be paid upon notice and demand by the department and shall be
503 assessed and collected in the same manner as other fees or fines administered by the
504 department.

505 (b) Within 20 days of the date of the notice issued pursuant to subsection (a) of this Code
506 section, the applicant or licensee may request in writing a hearing to contest the order. If
507 no such hearing is requested, the department shall enter a final order stating the grounds
508 for the denial or revocation. Such final order shall be effective on the date of issuance, and
509 the department shall send a copy thereof promptly by mail addressed to the principal office
510 of such applicant or licensee.

511 (c) A decision by the department denying an application for licensure or an order of the
512 department revoking a license shall be subject to review in accordance with Chapter 13 of
513 Title 50, the 'Georgia Administrative Procedure Act,' except that judicial review shall be
514 available solely in the superior court of the county of domicile of the department.

515 (d) The department may pursue any administrative action initiated under this chapter
516 against an applicant or a licensee to its conclusion, regardless of whether an applicant or
517 a licensee withdraws its application or whether a licensee does not renew or surrenders its
518 license.

519 (e) The revocation or expiration of a license shall not alter, ameliorate, or void the duties,
520 defenses, and liabilities of either a pledgor or licensee under any existing agreement or
521 contract entered into by the licensee prior to such revocation or expiration.

522 7-3A-35.

523 (a) The department may issue an order requiring a person to cease and desist immediately
524 from unauthorized activities whenever it shall appear to the department that:

525 (1) Except as provided in paragraphs (2) and (3) of this subsection, a person has violated
526 any material provision of this chapter or any rule, regulation, or order of the department.

527 This includes, but is not limited to, a person engaging in any activity that would subject
528 a licensee to suspension or revocation of its license, whether or not such person is
529 licensed. Such cease and desist order shall be final 20 days from the date of issuance
530 unless the person to whom it is issued requests a hearing in writing within such 20 day
531 period;

532 (2) A person without a license is engaging in or has engaged in activities requiring
533 licensure under this chapter. Such cease and desist order shall be final 30 days from the
534 date of issuance without the opportunity for an administrative hearing. If such person
535 obtains a license or submits to the department evidence of exemption from licensure
536 within the 30 day period, the department shall rescind the order; or

537 (3) A licensee has received a notice of bond cancellation under Code Section 7-3A-11.
538 Such cease and desist order shall be final 20 days from the date of issuance without the
539 opportunity for an administrative hearing. If the required bond is reinstated or replaced
540 and documentation evidencing such is submitted to the department within the 20 day
541 period, the department shall rescind the order. In the event such cease and desist order
542 becomes final, the license shall terminate.

543 (b) Any cease and desist order authorized by this Code section shall be in writing, sent by
544 registered or certified mail or statutory overnight delivery, and addressed to the person's
545 business address or, if the person is an individual, to either the business address or the
546 individual's personal address. Any cease and desist order sent to the person's address that
547 is returned to the department as refused or unclaimed shall be deemed as received and
548 lawfully served.

549 (c) Any hearing authorized under paragraph (1) of subsection (a) of this Code section shall
550 be conducted in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
551 Procedure Act.'

552 (d) Judicial review of a final decision of the department issued pursuant to paragraph (1)
553 of subsection (a) of this Code section shall be in accordance with Chapter 13 of Title 50,
554 the 'Georgia Administrative Procedure Act,' except that judicial review shall be available
555 solely in the superior court of the county of domicile of the department.

556 (e) Judicial review of a final decision of the department issued pursuant to paragraph (2)
557 or (3) of subsection (a) of this Code section shall be in accordance with Code
558 Section 7-1-90, except that judicial review shall be available solely in the superior court
559 of the county of domicile of the department.

560 7-3A-36.

561 (a) Whenever a person fails to comply with the terms of a final order or decision of the
562 department issued pursuant to this chapter that is not subject to a stay and has not been
563 reversed, the department may, through the Attorney General, petition any superior court
564 of this state having jurisdiction over one or more defendants for an order directing such
565 person to obey the order of the department within a period of time as shall be fixed by the
566 court. Upon the filing of such petition, the court shall allow a motion to show cause why
567 it should not be granted. After a hearing upon the merits or after failure of such person to
568 appear when ordered, the court shall grant the petition of the department upon a finding
569 that the order of the department was properly issued.

570 (b) Any person who violates the terms of any final order or decision issued pursuant to this
571 chapter shall be liable for a civil penalty not to exceed \$1,000.00. Each day the violation
572 continues shall constitute a separate offense. In determining the amount of the penalty, the
573 department shall take into account the appropriateness of the penalty relative to the size of
574 the financial resources of such person, the good faith efforts of such person to comply with

575 the order, the gravity of the violation, the history of previous violations by such person, and
576 such other factors or circumstances that contributed to the violation. The department may
577 reduce any penalty which is subject to imposition or has been imposed pursuant to this
578 Code section. Such penalty shall be final except as to judicial review as provided in Code
579 Section 7-1-90, except that judicial review shall be available solely in the superior court
580 of the county of domicile of the department.

581 (c) The department may bring an appropriate civil action to enforce any provision of this
582 chapter or rule, regulation, decision, or order issued pursuant to this chapter, whether by
583 injunction or otherwise, in the superior court of this state having jurisdiction over one or
584 more of the defendants.

585 (d) The department may prescribe by rule or regulation administrative fines for violations
586 of this chapter or rules, regulations, decisions, or orders issued pursuant to this chapter. In
587 imposing any such fines, the department shall take into consideration the financial
588 resources of the licensee; the gravity of the violation; the remediation efforts, if any, of the
589 licensee; history of previous violations; and such other facts and circumstances deemed
590 appropriate by the department.

591 7-3A-37.

592 (a) Except as provided in this Code section, information obtained by the department
593 pursuant to this chapter, which shall include any information disclosed through NMLS, is
594 confidential as provided in Code Section 7-1-70.

595 (b) In addition to the exceptions set forth in subsection (b) of Code Section 7-1-70, the
596 department is authorized to share information obtained under this chapter with other
597 regulatory or law enforcement authorities. In the case of such sharing, the safeguards to
598 confidentiality already in place within such agencies or authorities shall be deemed
599 adequate. A designated employee or agent of the department may disclose such

600 information as is necessary to conduct a civil or administrative investigation or proceeding
601 related to the business of making title pawns.

602 (c) The department is authorized to make the following information available to the public
603 on the department's public website, upon receipt by the department of a written request, or
604 in NMLS:

605 (1) The name, business address, telephone number, facsimile number, and unique
606 identifier of a licensee;

607 (2) The names and titles of the executive officers of a licensee;

608 (3) The names of the owners of a licensee;

609 (4) The name, business address, telephone number, and facsimile number of all locations
610 of a licensee;

611 (5) The terms of or a copy of any bond submitted by a licensee;

612 (6) Information concerning any violation of this chapter or any rule, regulation, or order
613 issued pursuant to this chapter, provided that such information is derived from a copy of
614 a final order or issuance by the department;

615 (7) An issuance by the department imposing an administrative fine or penalty under this
616 chapter; and

617 (8) The address of a licensee's registered agent for service of process in this state.

618 7-3A-38.

619 (a) Except in the case of malice, fraud, or bad faith, no person shall be subject to civil
620 liability arising out of furnishing the department with information required pursuant to this
621 chapter. No civil cause of action of any nature shall arise against such person:

622 (1) For any information relating to suspected prohibited conduct furnished to or received
623 from law enforcement officials, their agents, or employees or to or from other regulatory
624 authorities;

625 (2) For any such information furnished to or received from other persons subject to the
626 provisions of this chapter; or
627 (3) For any information furnished in complaints filed with the department.
628 (b) Neither the department nor its employees or agents shall be subject to civil liability,
629 and no civil cause of action of any nature shall exist against the department or its
630 employees or agents arising out of the performance of activities or duties pursuant to this
631 chapter."

632

SECTION 2.

633 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended in Code
634 Section 44-12-130, relating to definitions relative to pawnbrokers, as follows:

635 "44-12-130.

636 As used in this part, the term:

637 (1) 'Month' means that period of time from one date in a calendar month to the
638 corresponding date in the following calendar month, but if there is no such corresponding
639 date, then the last day of such following month.

640 (2) 'Pawnbroker' means any person engaged in whole or in part in the business of lending
641 money on the security of pledged goods, or in the business of purchasing tangible
642 personal property on the condition that it may be redeemed or repurchased by the seller
643 for a fixed price within a fixed period of time, or in the business of purchasing tangible
644 personal property from persons or sources other than manufacturers or licensed dealers
645 as a part of or in conjunction with the business activities described in this paragraph.

646 (3) 'Pawn transaction' means any loan on the security of pledged goods or any purchase
647 of pledged goods on the condition that the pledged goods may be redeemed or
648 repurchased by the pledgor or seller for a fixed price within a fixed period of time.

649 (4) 'Person' means an individual, partnership, corporation, joint venture, trust,
650 association, or any other legal entity however organized.

651 (5) 'Pledged goods' means tangible personal property, including, without limitation, all
652 types of motor vehicles or any motor vehicle certificate of title, which property is
653 purchased by, deposited with, or otherwise actually delivered into the possession of a
654 pawnbroker in connection with a pawn transaction. However, for purposes of this Code
655 section, possession of any motor vehicle certificate of title which has come into the
656 possession of a pawnbroker through a pawn transaction made in accordance with law
657 shall be conclusively deemed to be possession of the motor vehicle, and the pawnbroker
658 shall retain physical possession of the motor vehicle certificate of title for the entire
659 length of the pawn transaction but shall not be required in any way to retain physical
660 possession of the motor vehicle at any time. ~~'Pledged goods'~~ Such term shall not include
661 choses in action, securities, or printed evidences of indebtedness.

662 (6) 'Title pawnbroker' means any pawnbroker who accepts a motor vehicle certificate of
663 title in connection with a pawn transaction.'

664

SECTION 3.

665 Said title is further amended by revising Code Section 44-12-131, relating to duration of
666 pawn transactions, lease-back of motor vehicles prohibited, taking possession of motor
667 vehicles, restrictions on interest, fees, or charges, action to recover excessive or undisclosed
668 charges, and consequences of excessive charges, as follows:

669 "44-12-131.

670 (a)(1) All pawn transactions shall be for 30 day periods but may be extended or
671 continued for additional 30 day periods.

672 (2) A pawnbroker shall not lease back to the seller or pledgor any motor vehicle during
673 a pawn transaction or during any extension or continuation of the pawn transaction.

674 (3) Unless otherwise agreed, a pawnbroker has upon default the right to take possession
675 of the motor vehicle. In taking possession, the pawnbroker or his agent may proceed

676 without judicial process if this can be done without breach of the peace or may proceed
677 by action.

678 (4)(A) During the first 90 days of any pawn transaction or extension or continuation
679 of the pawn transaction, a pawnbroker may charge for each 30 day period interest and
680 pawnshop charges which together equal no more than 25 percent of the principal
681 amount advanced, with a minimum charge of up to \$10.00 per 30 day period.

682 (B) On any pawn transaction which is continued or extended beyond 90 days, a
683 pawnbroker may charge for each 30 day period interest and pawnshop charges which
684 together equal no more than 12.5 percent of the principal amount advanced, with a
685 minimum charge of up to \$5.00 per 30 day period.

686 (C) In addition to the charges provided for in subparagraphs (A) and (B) of this
687 paragraph, in a pawn transaction or in any extension or continuation of a pawn
688 transaction involving a motor vehicle or a motor vehicle certificate of title, a
689 pawnbroker may charge the following:

690 (i) A fee equal to no more than any fee imposed by the appropriate state to register
691 a lien upon a motor vehicle title, but only if the pawnbroker actually registers such a
692 lien;

693 (ii) ~~No more than \$5.00 per day in~~ Commercially reasonable storage fees, but only
694 if an actual repossession pursuant to a default takes place on a vehicle which was not
695 already in the pawnbroker's possession and only for each day the pawnbroker must
696 actually retain possession of the motor vehicle; and

697 ~~A repossession fee of \$50.00 within 50 miles of the office where the pawn~~
698 ~~originated, \$100.00 within 51 to 100 miles, \$150.00 within 101 to 300 miles and a fee~~
699 ~~of \$250.00 beyond 300 miles, but only if an actual repossession pursuant to a default~~
700 ~~takes place on a vehicle which was not already in the pawnbroker's possession~~ The
701 commercially reasonable expenses of retaking, holding, preparing for disposition,
702 processing and disposing of the motor vehicle after default, and, to the extent

703 provided for by agreement and not prohibited by law, reasonable attorney's fees and
704 legal expenses incurred by the secured party.

705 (D) If a pledgor or seller requests that the pawnbroker mail or ship the pledged item
706 to the pledgor or seller, a pawnbroker may charge a fee for the actual shipping and
707 mailing costs, plus a handling fee equal to not more than 50 percent of the actual
708 shipping and mailing costs.

709 (E) In the event the pledgor or seller has lost or destroyed the original pawn ticket, a
710 pawnbroker may, at the time of redemption, charge a fee equal to not more than \$2.00.

711 (5) No other charge or fee of any kind by whatever name denominated, including, but
712 not limited to, any other storage fee for a motor vehicle, shall be made by a pawnbroker
713 except as set out in paragraph (4) of this subsection.

714 (6) No fee or charge provided for in this Code section may be imposed unless a
715 disclosure regarding that fee or charge has been properly made as provided for in Code
716 Section 44-12-138.

717 (7)(A) Any interest, fees, or charges collected which are undisclosed, improperly
718 disclosed, or in excess of that allowed by this subsection may be recovered by the
719 pledgor or seller in an action at law in any superior court of appropriate jurisdiction.

720 (B) In any such action in which the pledgor or seller prevails, the court shall also award
721 reasonable attorneys' fees, court costs, and any expenses of litigation to the pledgor or
722 seller.

723 (C) Before filing an action under this Code section, the pledgor or seller shall provide
724 the pawnbroker with a written notice by certified mail or statutory overnight delivery,
725 return receipt requested, that such an action is contemplated, identifying any fees or
726 charges which the pledgor or seller contends are undisclosed, improperly disclosed, or
727 in excess of the fees and charges allowed by this Code section. If the court finds that
728 during the 30 days following receipt of this notice the pawnbroker made a good faith
729 offer to return any excess, undisclosed, or improperly disclosed charges, the court shall

730 award reasonable attorneys' fees, court costs, and expenses of litigation to the
731 pawnbroker.

732 (D) No action shall be brought under this Code section more than two years after the
733 pledgor or seller knew or should have known of the excess, undisclosed, or improperly
734 disclosed charges.

735 (b) Any interest, charge, or fees contracted for or received, directly or indirectly, in excess
736 of the amounts permitted under subsection (a) of this Code section shall be uncollectable
737 and the pawn transaction shall be void. All interest and the pawnshop ~~charge~~ charges
738 allowed under subsection (a) of this Code section shall be deemed earned, due, and owing
739 as of the date of the pawn transaction and a like sum shall be deemed earned, due, and
740 owing on the same day of the succeeding month."

741 **SECTION 4.**

742 Said title is further amended in Code Section 44-12-132, relating to permanent records
743 required and content, by revising paragraph (6) as follows:

744 "(6) The price paid or the amount ~~loaned~~ lent to the pledgor, or any amount paid to a
745 third party on behalf of the pledgor;"

746 **SECTION 5.**

747 Said title is further amended in Code Section 44-12-134, relating to maintenance of
748 permanent records for four years, as follows:

749 "44-12-134.

750 The record of each pawn or purchase transaction provided for in Code Sections 44-12-132
751 and 44-12-133 shall be maintained for a period of not less than ~~four~~ five years."

752 **SECTION 6.**

753 Said title is further amended in Code Section 44-12-135, relating to effect of part on local
754 laws, as follows:

755 "44-12-135.

756 ~~Nothing in this part shall supersede existing local laws nor relieve a pawnbroker from the~~
757 ~~necessity of complying with them. The requirements of local laws shall be construed as~~
758 ~~cumulative to this part~~ No county, municipal corporation, or consolidated government may
759 adopt or enforce an ordinance or resolution that conflicts with the provisions of this part
760 or that impose regulations that are more restrictive than the provisions of this part."

761 **SECTION 7.**

762 Said title is further amended in Code Section 44-12-136, relating to supervision of
763 pawnbrokers my municipalities, as follows:

764 "44-12-136.

765 ~~Municipal authorities may license pawnbrokers, define their powers and privileges by~~
766 ~~ordinance, impose taxes upon them, revoke their licenses, and exercise such general~~
767 ~~supervision as will ensure fair dealing between the pawnbroker and his customers~~

768 (a) No person shall engage in business as a title pawnbroker unless such person has a valid
769 license issued by the Department of Banking and Finance pursuant to Chapter 3A of Title 7
770 authorizing such person to engage in such business as a title pawnbroker. Any pawn
771 transaction involving a motor vehicle or a motor vehicle certificate of title that is made by
772 a person without such license shall be subject to the provisions of Code Section 7-3A-4.

773 (b) To further compliance with the provisions of this part and the provisions of Chapter 3A
774 of Title 7, the Department of Banking and Finance may examine the relevant business,
775 books, and records of any title pawnbroker in accordance with Code Section 7A-3A-30."

776

SECTION 8.

777 Said title is further amended in Code Section 44-12-137, relating to prohibited acts, penalties,
778 presumption as to pledgor, and replacement or damaged goods, by revising paragraph (5) of
779 subsection (a) and adding a new subsection to read as follows:

780 "(5) Fail to maintain a record of each pawn transaction for at least ~~four~~ five years;"

781 "(c)(1) As used in this subsection, the term 'covered borrower' shall have the same
782 meaning as provided in 32 C.F.R. Section 232.3.

783 (2) No pawnbroker shall conduct a title pawn transaction involving a motor vehicle or
784 a motor vehicle certificate of title with a covered borrower."

785

SECTION 9.

786 Said title is further amended in Code Section 44-12-138, relating to restrictions on
787 advertising and disclosure tickets or statements, by revising subsection (b) as follows:

788 "(b) Every pawnbroker in every pawn transaction shall present the pledgor or seller with
789 a written disclosure ticket or statement in at least nine-point type, appropriately completed,
790 with no other written or pictorial matter except as provided in subsection (c) of this Code
791 section, containing the following information:

792 (1) Information identifying the pawnbroker by name and address;

793 (2) A statement as follows:

794 'This is a pawn transaction. Failure to make your payments as described in this
795 document can result in the loss of the pawned item. The pawnbroker can sell or keep
796 the item if you have not made all payments by the specified maturity date.';

797 (3) If the pawned item is a motor vehicle or motor vehicle certificate of title, a statement
798 as follows:

799 'Failure to make your payment as described in this document can result in the loss of
800 your motor vehicle. The pawnbroker can also charge you certain fees if he or she
801 actually repossesses the motor vehicle.';

- 802 (4) A statement that the length of the pawn transaction is 30 days and that it can only be
803 ~~renewed~~ continued or extended with the agreement of both parties and only for 30 day
804 incremental periods;
- 805 (5) The annual percentage rate, computed in accordance with the federal Truth in
806 Lending Act and regulations under the federal Truth in Lending Act, for the first 30 days
807 of the transaction, computed as if all interest and pawnshop charges were considered to
808 be interest;
- 809 (6) The annual percentage rate, computed in accordance with the federal Truth in
810 Lending Act and regulations under the federal Truth in Lending Act, for each 30 day
811 period in which the pawn transaction might be continued or extended, computed as if all
812 interest and pawnshop charges were considered to be interest. For purposes of
813 identifying the annual percentage rate after the second ~~continuation or extension~~
814 extension or continuation, a single statement which identifies an annual percentage rate
815 for each possible 30 day period thereafter shall meet the requirements of this Code
816 section;
- 817 (7) A statement in dollar amounts of how much it will cost the seller or pledgor to
818 redeem the merchandise in the first 30 day period of the transaction;
- 819 (8) A statement in dollar amounts of how much it will cost the seller or pledgor to
820 redeem the merchandise in any 30 day period after the first 30 day period of the pawn
821 transaction, provided that all fees and charges have been kept current;
- 822 (9) A statement of the specific maturity date of the pawn transaction;
- 823 (10) A statement of how long, the grace period, the pledged goods may be redeemed
824 after the specific maturity date and the dollar amount which will be required to redeem
825 the pledged goods after the specific maturity date;
- 826 (11) A statement that after the grace period the pledged goods become the property of
827 the pawnbroker;

828 (12) If the pawn transaction involves a motor vehicle or motor vehicle certificate of title,
829 a statement that the pawnbroker may not charge a storage fee for the motor vehicle unless
830 the pawnbroker repossesses the motor vehicle pursuant to a default;

831 (13) If the pawn transaction involves a motor vehicle or motor vehicle certificate of title,
832 a statement that the pawnbroker may charge a commercially reasonable storage fee fees
833 for a repossessed motor vehicle not to exceed \$5.00 per day, but only if the pawnbroker
834 motor vehicle securing the pawn transaction is actually repossesses repossessed and
835 actually must store stored prior to the sale or redemption of the motor vehicle;

836 (14) If the pawn transaction involves a motor vehicle or motor vehicle certificate of title,
837 a statement that the pawnbroker may charge a ~~repossession fee, not to exceed \$50.00, but~~
838 ~~only if the pawnbroker actually repossesses the motor vehicle~~ reasonable fees for
839 expenses relating to the retaking, holding, preparing for disposition, processing, and
840 disposing of the motor vehicle and, to the extent provided by agreement and not
841 prohibited by law, reasonable attorney's fees that are incurred by the pawnbroker;

842 (15) If the pawn transaction involves a motor vehicle or motor vehicle certificate of title,
843 a statement that the pawnbroker may charge a fee to register a lien upon the motor vehicle
844 certificate of title, not to exceed any fee actually charged by the appropriate state to
845 register a lien upon a motor vehicle certificate of title, but only if the pawnbroker actually
846 places such a lien upon the motor vehicle certificate of title;

847 (16) If the pawn transaction involves a motor vehicle or motor vehicle certificate of title,
848 a statement that the proceeds of any commercially reasonable sale of the motor vehicle
849 shall be applied to the outstanding principal, interest and pawnshop charges, and fees,
850 including the actual direct costs of the retaking, holding, preparing for disposition,
851 processing, and disposing of the motor vehicle after default, and that any surplus
852 remaining from the proceeds thereafter shall be remitted to the pledgor after the sale and
853 shall not be retained by the title pawnbroker;

854 (17) A statement that any costs to ship the pledged items to the pledgor or seller can be
855 charged to the pledgor or seller, along with a handling fee to equal no more than 50
856 percent of the actual costs to ship the pledged items; and
857 ~~(17)~~(18) A statement that a fee of up to \$2.00 can be charged for each lost or destroyed
858 pawn ticket."

859

SECTION 10.

860 This Act shall become effective on, and shall apply to any title pawn agreement entered into
861 on or after, the one hundred and eightieth day following the date funds are specifically
862 appropriated for the purposes of this Act in an appropriations Act enacted by the General
863 Assembly and are available for expenditure. For the avoidance of doubt investigations and
864 examinations of licensees conducted pursuant to this Act, other than to determine whether
865 the provisions for licensure contained in Code Section 7-3A-12 are satisfied, shall apply only
866 to activity engaged in after the effective date of this Act.

867

SECTION 11.

868 All laws and parts of laws in conflict with this Act are repealed.