A bill to be entitled
An act relating to title loans; amending s. 494.00797, F.S.; exempting certain persons from specified financial and lending regulations adopted by counties and municipalities; amending s. 537.001, F.S.; conforming a short title; amending s. 537.002, F.S.; revising legislative intent; providing that regulation of title loans is preempted to the state; amending s. 537.003, F.S.; revising and providing definitions; transferring regulation of title loans from the Office of Financial Regulation to the Department of Agriculture and Consumer Services; amending s. 537.004, F.S.; prohibiting certain activities at or within a certain proximity of title loan offices; providing for deposit of certain moneys in the General Inspection Trust Fund; amending s. 537.005, F.S.; conforming provisions; amending s. 537.006, F.S.; revising the grounds for disciplinary action against title loan lenders; amending s. 537.007, F.S.; conforming provisions; amending s. 537.008, F.S.; revising requirements for title loan agreements, for transferring possession of the motor vehicle's certificate of title, and for the recording and releasing of liens against the motor vehicle; amending s. 537.009, F.S.; conforming provisions; amending s. 537.011, F.S.; revising requirements for the accrual of interest on title loans; prohibiting the extension, renewal, and refinancing of title loans; authorizing certain fees and charges associated with title loans; amending s. 537.012, F.S.; revising requirements for the repossession and sale of motor vehicles.
of motor vehicles to satisfy unpaid title loans and for
the disbursement of excess proceeds from such sales to the
borrowers; limiting the liability of borrowers for unpaid
title loans; authorizing a title loan lender to seek money
damages against a borrower under certain circumstances;
amending s. 537.013, F.S.; revising and providing
additional prohibited acts by title loan lenders or any
agents or employees thereof, to which penalties apply;
amending s. 537.014, F.S.; revising requirements for
rescission of a title loan agreement; deleting procedures
for lost, destroyed, or stolen title loan agreements;
deleting a provision prohibiting a title loan lender from
imposing a fee for providing the borrower with a copy of
the title loan agreement; amending ss. 537.015, 537.016,
and 537.017, F.S.; conforming provisions; repealing s.
537.018, F.S., relating to the authority of counties and
municipalities to adopt more restrictive ordinances
regulating title loans; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 494.00797, Florida
Statutes, is amended to read:

494.00797 General rule.—All counties and municipalities of
this state are prohibited from enacting and enforcing
ordinances, resolutions, and rules regulating financial or
lending activities, including ordinances, resolutions, and rules
disqualifying persons from doing business with a city, county,
or municipality based upon lending interest rates or imposing reporting requirements or any other obligations upon persons regarding financial services or lending practices of persons or entities, and any subsidiaries or affiliates thereof, who:

(1) Are subject to the jurisdiction of the office or the Department of Agriculture and Consumer Services, including for activities subject to this chapter, except entities licensed under s. 537.004;

Proof of noncompliance with this act can be used by a city, county, or municipality of this state to disqualify a vendor or contractor from doing business with a city, county, or municipality of this state.

Section 2. Section 537.001, Florida Statutes, is amended to read:

537.001 Short title.—This chapter act may be cited as the "Florida Title Loan Act."

Section 3. Section 537.002, Florida Statutes, is amended to read:

537.002 Legislative intent; application; preemption.—
(1) It is the intent of the Legislature in the creation of this chapter that title loans to consumers be regulated by the provisions of this chapter act. The provisions of This chapter act supersede any provision other provisions of state law affecting title loans to the extent of any conflict.

(2) The regulation of all aspects of the business of offering title loans as provided in this chapter is preempted to the state. Any such regulation adopted by a county or
Section 4. Section 537.003, Florida Statutes, is amended to read:

537.003 Definitions.—As used in this chapter act, the term unless the context otherwise requires:

(1) "Commercially reasonable" has the same meaning as used in part VI part V of chapter 679. In addition, nonpublic sales or disposal of personal property between a title loan lender and any business affiliates of a title loan lender or a member of a title loan lender's family are presumed not to be made in a commercially reasonable manner.

(2) "Commission" means the Financial Services Commission.

(3) "Consumer" means an individual borrowing money for personal, family, or household purposes.

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

(4) "Division" means the Division of Consumer Services of the department.

(4) "Office" means the Office of Financial Regulation of the commission.

(5) "Executive officer" means the president, chief executive officer, chief financial officer, chief operating officer, executive vice president, senior vice president, secretary, and treasurer.

(6) "Identification" means a government-issued photographic identification.

(7) "Interest" means the cost of obtaining a title loan and includes any profit or advantage of any kind whatsoever that
a title loan lender may charge, contract for, collect, receive, or in any way obtain as a result of a title loan.

(8) "License" means a permit issued under this chapter to make or service title loans in accordance with this chapter at a single title loan office.

(9) "Licensee" means a person who is licensed as a title loan lender.

(10) "Loan property" means any motor vehicle certificate of title that is deposited with a title loan lender as a security for a title loan in the course of the title loan lender's business.

(11) "Motor vehicle" means an automobile, motorcycle, mobile home, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on the public highways and streets of this state, used to transport persons or property, and propelled by power other than muscular power, but excluding a vehicle which runs only upon a track and a mobile home that is the primary residence of the owner.

(12) "Title loan" or "loan" means a loan of money to a consumer secured by a nonpurchase money security interest in bailment of a certificate of title to a motor vehicle, except such loan made by a person licensed under chapter 516, chapter 520, chapter 655, chapter 657, chapter 658, chapter 660, chapter 663, chapter 665, or chapter 667 or a person who complies with s. 687.03.

(13) "Title loan agreement" or "agreement" means a written agreement in which a title loan lender agrees to make a title loan to a borrower.
(13) "Title loan lender" or "lender" means any person who engages in the business of making or servicing title loans.

(14) "Title loan office" means the location at which, or premises from which, a title loan lender regularly conducts business under this chapter or any other location that is held out to the public as a location at which a lender makes or services title loans.

(16) "Titled personal property" means a motor vehicle that has as evidence of ownership a state-issued certificate of title except for a mobile home that is the primary residence of the borrower.

(17) "Ultimate equitable owner" means a person who, directly or indirectly, owns or controls an ownership interest in a corporation, a foreign corporation, an alien business organization, or any other form of business organization, regardless of whether such person owns or controls such ownership interest through one or more persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.

Section 5. Section 537.004, Florida Statutes, is amended to read:

537.004 License required; license fees.—

(1) A person may not act as a title loan lender or own or operate a title loan office unless such person has an active title loan lender license issued by the division office under this chapter act. A title loan lender may not own or operate more than one title loan office unless the lender obtains a
separate title loan lender license for each title loan office. A title loan lender may not own or operate a title loan office that:

(a) Offers or makes deferred presentment transactions as defined in s. 560.402; or

(b) Is located within 1,000 feet of any location owned or operated by a person who shares a common ultimate equitable ownership interest with the title loan lender, if title loans or deferred presentment transactions are offered or made at such location.

(2) A person applying for licensure as a title loan lender shall file with the division office an application, the bond required by s. 537.005(3), a nonrefundable application fee of $1,200, a nonrefundable investigation fee of $200, and a complete set of fingerprints taken by an authorized law enforcement officer. The division office shall submit such fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing.

(3) If the division office determines that an application should be approved, the division office shall issue a license for a period not to exceed 2 years.

(4) A license must shall be renewed biennially by filing a renewal form and a nonrefundable renewal fee of $1,200. A license that is not renewed by the end of the biennial period shall automatically revert to inactive status. An inactive license may be reactivated within 6 months after
becoming inactive by filing a reactivation form, payment of the nonrefundable $1,200 renewal fee, and payment of a nonrefundable reactivation fee of $600. A license that is not reactivated within 6 months after becoming inactive may not be reactivated and shall automatically expire. The department commission shall adopt rules establishing the procedures for the renewal and reactivation of a license and prescribing shall adopt a renewal form and a reactivation form.

(5) Each license must be conspicuously displayed at the title loan office. When a licensee must give the division written notice before moving wishes to move a title loan office to another location, the licensee shall provide prior written notice to the office.

(6) A license issued under this chapter act is not transferable or assignable.

(7) Each licensee must designate and maintain a registered agent in this state for service of process.

(8) Whenever a person or a group of persons, directly or indirectly, or acting by or through one or more persons, purchases proposes to purchase or acquires a 50-percent or more interest in a licensee, such person or group shall submit an initial application for licensure under this chapter act prior to such purchase or acquisition.

(9) The department commission may adopt rules authorizing the to allow for electronic filing of applications, fees, and forms required by this chapter act.

(10) All moneys collected by the division office under this chapter act shall be deposited into the General Inspection...
Regulatory Trust Fund of the department office.

Section 6. Section 537.005, Florida Statutes, is amended to read:

537.005 Application for license.—
(1) A verified application for licensure under this chapter act, in the form prescribed by department commission rule, must shall:

(a) Contain the name and the residence and business address of the applicant. If the applicant is other than a natural person, the application must shall contain the name and the residence and business address of each ultimate equitable owner of 10 percent or more of such entity and each director, general partner, and executive officer of such entity.

(b) State whether any individual identified in paragraph (a) has, within the last 10 years, pleaded nolo contendere to, or has been convicted or found guilty of, a felony, regardless of whether adjudication was withheld.

(c) Identify the county and municipality with the street and number or location where the business is to be conducted.

(d) Contain additional information as the department commission determines by rule to be necessary to ensure compliance with this chapter act.

(2) Notwithstanding subsection (1), the application need not state the full name and address of each officer, director, and shareholder if the applicant is owned directly or beneficially by a person who as an issuer has a class of securities registered pursuant to s. 12 of the Securities Exchange Act of 1934 or, pursuant to s. 13 or s. 15(d) of such
act, is an issuer of securities which is required to file reports with the Securities and Exchange Commission, if the person files with the division office any information, documents, and reports required by such act to be filed with the Securities and Exchange Commission.

(3) An applicant for licensure shall file with the division office a bond, in the amount of $100,000 for each license, with a surety company qualified to do business in this state. However, in no event shall the aggregate amount of the bond required for a single title loan lender may not exceed $1 million. In lieu of the bond, the applicant may establish a certificate of deposit or an irrevocable letter of credit in a financial institution, as defined in s. 655.005, in the amount of the bond. The original bond, certificate of deposit, or letter of credit must be filed with the division office, and the department must be the beneficiary to that document. The bond, certificate of deposit, or letter of credit must be in favor of the department for the use and benefit of any consumer who is injured pursuant to a title loan transaction by the fraud, misrepresentation, breach of contract, financial failure, or violation of any provision of this chapter act by the title loan lender. Such liability may be enforced either by proceeding in an administrative action or by filing a judicial suit at law in a court of competent jurisdiction. However, in such court suit, the bond, certificate of deposit, or letter of credit posted with the division office shall not be amenable or subject to any judgment or other legal process issuing out of or from such court in connection with such
lawsuit, but such bond, certificate of deposit, or letter of credit is shall be amenable to and enforceable only by and through administrative proceedings before the division office. It is the intent of the Legislature that such bond, certificate of deposit, or letter of credit shall be applicable and liable only for the payment of claims duly adjudicated by order of the division office. The bond, certificate of deposit, or letter of credit shall be payable on a pro rata basis as determined by the division office, but the aggregate amount may not exceed the amount of the bond, certificate of deposit, or letter of credit.

(4) The division office shall approve an application and issue a license if the division office determines that the applicant satisfies the requirements of this chapter act.

Section 7. Section 537.006, Florida Statutes, is amended to read:

537.006 Denial, suspension, or revocation of license.—

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

(a) Failure to comply with any provision of this chapter act, any rule or order adopted under pursuant to this chapter act, or any written agreement entered into with the division office.

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

(c) Fraudulent misrepresentation, circumvention, or concealment of any matter required to be stated or furnished to
a borrower under pursuant to this chapter act, regardless of reliance by or damage to the borrower.

(d) Imposition of illegal or unauthorized excessive charges in any title loan transaction.

(e) False, deceptive, or misleading advertising by a title loan lender.

(f) Failure to maintain, preserve, and keep available for examination all books, accounts, or other documents required by this chapter act, by any rule or order adopted under pursuant to this chapter act, or by any agreement entered into with the division office.

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

(h) Refusal to provide information upon request of the division office, to permit inspection of books and records in an investigation or examination by the division office, or to comply with a subpoena issued by the division office.

(i) Pleading nolo contendere to or having been convicted or found guilty, regardless of whether adjudication was withheld, of a crime involving fraud, dishonest dealing, or any act of moral turpitude or acting as an ultimate equitable owner of 10 percent or more of a licensee who has pleaded nolo contendere to or has been convicted or found guilty, regardless of whether adjudication was withheld, of a crime involving fraud, dishonest dealing, or any act of moral turpitude.

(j) Making or having made material misstatement of fact in an initial or renewal application for a license.
(k) Having been the subject of any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, or administrative order by any court of competent jurisdiction or administrative law judge, or by any state or federal agency, involving a violation of any federal or state law relating to title loans or any rule or regulation adopted under such law, or has been the subject of any injunction or adverse administrative order by a state or federal agency regulating banking, insurance, finance or small loan companies, real estate, mortgage brokers, or other related or similar industries for acts involving fraud, dishonest dealing, or any act of moral turpitude.

(l) Failing to continuously maintain the bond, certificate of deposit, or letter of credit required under s. 537.005(3).

(m) Failing to timely pay any fee, charge, or fine imposed or assessed under pursuant to this chapter act or rules adopted under this chapter act.

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

(o) Having demonstrated unworthiness, as defined by department commission rule, to transact the business of a title loan lender.

(2) Upon a finding by the division office that any person has committed any of the acts set forth in subsection (1), the division office may enter an order taking one or more of the
following actions:

(a) Denying an application for licensure under this chapter act.

(b) Revoking or suspending a license previously granted under pursuant to this chapter act.

(c) Placing a licensee or an applicant for a license on probation for a period of time and subject to such conditions as the division office specifies.

(d) Issuing a reprimand.

(e) Imposing an administrative fine not to exceed $5,000 for each separate act or violation.

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

(4) It is sufficient cause for the division office to take any of the actions specified in subsection (2), as to any entity other than a natural person, if the division office finds grounds for such action as to any member of such entity, as to any executive officer or director of the entity, or as to any person with power to direct the management or policies of the entity.

(5) Each licensee is subject to the provisions of subsection (2) for the acts of employees and agents of the licensee if the licensee knew or should have known about such acts.

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

Section 8. Section 537.007, Florida Statutes, is amended
to read:

537.007 Remedies for title loans made without licensure.—
Any title loan made without benefit of a license is void, in
which case the person making the title loan forfeits the right
to collect any moneys, including principal and interest charged
on the title loan, from the borrower in connection with such
agreement. The person making the title loan must return to
the borrower the loan property, the titled personal property
pledged or the fair market value of such titled personal
property, and all principal and interest paid by the borrower.
The borrower is entitled to receive reasonable attorney's fees
and costs in any action brought by the borrower to recover from
the person making the title loan the loan property, the titled
personal property, or the principal and interest paid by the
borrower.

Section 9. Section 537.008, Florida Statutes, is amended
to read:

537.008 Title loan agreement.—
(1) When a title loan lender makes a title
loan, the lender and the borrower shall execute a title loan
agreement, which must be legibly typed or written in
indelible ink and completed as to all essential provisions
before prior to execution by the borrower and lender. The title
loan agreement must shall include the following information:

(a) The make, model, and year of the motor vehicle that
serves as collateral for titled personal property to which the
loan property relates.

(b) The vehicle identification number, or other comparable
identification number, along with the license plate number, if
applicable, of the motor vehicle that serves as collateral for
titled personal property to which the loan property relates.

(c) The name, residential address, date of birth, physical
description, and social security number of the borrower.

(d) The date upon which the title loan agreement is
executed by the title loan lender and the borrower.

(e) The identification number and the type of
identification, including the issuing agency, accepted from the
borrower.

(f) The amount of money advanced, designated as the
"amount financed."

(f)(g) The maturity date of the title loan agreement,
which must shall be at least 120 30 days, but not more than 1
year, after the date upon which the title loan agreement is
executed by the title loan lender and the borrower.

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

(i) The amount financed plus finance charge, which must be
paid to reclaim the loan property on the maturity date,
designated as the "total amount of all payments."

(g)(j) The "amount financed," "finance charge," "total of
(2) The following information must also be printed on all title loan agreements:

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

   (b) The name and address of the division Department of Financial Services as well as a telephone number to which consumers may address complaints.

   (c) The following statement in at least 12-point, boldface type, immediately above the borrower's signature:

   THE INTEREST RATE ON THIS LOAN IS HIGH. YOU SHOULD CONSIDER WHETHER THERE ARE OTHER LOWER COST LOANS AVAILABLE TO YOU.

   THIS IS A MOTOR VEHICLE TITLE LOAN AGREEMENT. IT ALLOWS YOU TO RECEIVE LOAN PROCEEDS TO MEET YOUR IMMEDIATE CASH NEEDS. IT IS NOT INTENDED TO MEET YOUR LONG-TERM FINANCIAL NEEDS.

   WHEN USING THIS LOAN, YOU SHOULD REQUEST THE MINIMUM AMOUNT REQUIRED TO MEET YOUR IMMEDIATE NEEDS AND REPAY THE LOAN AS QUICKLY AS POSSIBLE TO REDUCE THE AMOUNT OF
INTEREST YOU ARE CHARGED.

YOU WILL BE REQUIRED TO PAY THE PRINCIPAL AND INTEREST ON
THE LOAN IN SUBSTANTIALLY EQUAL MONTHLY INSTALLMENTS. YOU
SHOULD TRY TO PAY EVEN MORE TOWARD YOUR PRINCIPAL BALANCE
EACH MONTH. DOING SO WILL SAVE YOU MONEY.

YOU MAY RESCIND THIS LOAN WITHOUT COST OR FURTHER
OBLIGATION IF YOU RETURN THE LOAN PROCEEDS IN CASH OR
RETURN THE ORIGINAL LOAN CHECK BEFORE THE CLOSE OF
BUSINESS ON THE BUSINESS DAY IMMEDIATELY FOLLOWING THE
DATE UPON WHICH THIS AGREEMENT IS EXECUTED.

YOU ARE PLEDGING YOUR MOTOR VEHICLE AS COLLATERAL FOR THIS
LOAN. IF YOU FAIL TO REPAY THE LOAN ACCORDING TO THIS
AGREEMENT, WE MAY REPOSSESS YOUR MOTOR VEHICLE.

UNLESS YOU CONCEAL OR INTENTIONALLY DAMAGE THE MOTOR
VEHICLE OR OTHERWISE IMPAIR OUR SECURITY INTEREST BY
PLEDGING THE MOTOR VEHICLE TO A THIRD PARTY OR PLEDGING A
MOTOR VEHICLE TO US THAT IS ALREADY SUBJECT TO AN
UNDISCLOSED EXISTING LIEN, YOUR LIABILITY FOR DEFAULTING
UNDER THIS LOAN IS LIMITED TO THE LOSS OF THE MOTOR
VEHICLE.

IF YOUR MOTOR VEHICLE IS SOLD DUE TO YOUR DEFAULT, YOU ARE
ENTITLED TO ANY SURPLUS OBTAINED AT SUCH SALE BEYOND WHAT
IS OWED UNDER THIS AGREEMENT AND ANY REASONABLE COSTS OF
505 RECOVERY, STORAGE, AND SALE.

506 1. If the borrower fails to repay the full amount of the
title loan on or before the end of the maturity date or any
extension of the maturity date and fails to make a payment on
the title loan within 30 days after the end of the maturity date
or any extension of the maturity date, whichever is later, the
title loan lender may take possession of the borrower's motor
vehicle and sell the vehicle in the manner provided by law. If
the vehicle is sold, the borrower is entitled to any proceeds of
the sale in excess of the amount owed on the title loan and the
reasonable expenses of repossession and sale.

517 2. If the title loan agreement is lost, destroyed, or
stolen, the borrower should immediately so advise the issuing
title loan lender in writing.

520 (d) The statement that "The borrower represents and
warrants that the motor vehicle that serves as collateral for
titled personal property to which the title loan property
relates is not stolen and does not have any liens or
encumbrances against it, the borrower has the right to enter
into this transaction, and the borrower is prohibited from
applying will not apply for a duplicate certificate of title
while the title loan agreement is in effect."

528 (e) A blank line for the signature of the borrower and the
title loan lender or the lender's agent.

530 Each owner All owners of the motor vehicle that serves as
collateral for the title loan titled personal property must sign
the title loan agreement.

(3) At the time of the transaction, the title loan lender shall deliver to the borrower an exact copy of the executed title loan agreement.

(4) Upon execution of a title loan agreement, the title loan lender must take possession of the certificate of title of the motor vehicle that serves as collateral for the loan, and within 7 business days thereafter, record the lender's lien on such title as provided by law. The title loan lender subsequently retains property and retain possession of such certificate of title property until the title loan such property is repaid in full redeemed. The borrower shall have the exclusive right to redeem the loan property by repaying all amounts legally due under the agreement. When a title the loan property is repaid in full redeemed, the lender shall immediately release the lien on return the certificate of title loan property and return the certificate of title to the borrower commence action to release any security interest in the titled personal property. During the term of the agreement or any extension of the agreement, a title loan lender may retain physical possession of the loan property only. A title loan lender may shall not require a borrower to provide any additional collateral security or guaranty as a condition to entering into a title loan transaction. A title loan lender may not enter into a title loan agreement if the certificate of title of the motor vehicle that serves as collateral for the loan evidences that the motor vehicle is security for another loan or is otherwise encumbered by a lien.
Section 10. Section 537.009, Florida Statutes, is amended to read:

537.009 Recordkeeping; reporting; safekeeping of property.—

(1) Every title loan lender shall maintain, at the lender's title loan office, such books, accounts, and records of the business conducted under the license issued for such place of business as will enable the division office to determine the licensee's compliance with this chapter act.

(2) The division office may authorize the maintenance of books, accounts, and records at a location other than the lender's title loan office. The division office may require books, accounts, and records to be produced and available at a reasonable and convenient location in this state within a reasonable period of time after such a request.

(3) The title loan lender shall maintain the original copy of each completed title loan agreement on the premises of the title loan office, and may not obliterate, discard, or destroy any such original copy, for a period of at least 2 years after making the final entry on any loan recorded in such office or after an examination by the division Office of Financial Regulation, whichever is later.

(4) A certificate of title that is held by delivered to a title loan lender must shall be securely stored and maintained at the title loan office unless the certificate of title is loan property has been forwarded to the appropriate state agency for the purpose of having a lien recorded or deleted.
(5) The department commission may adopt rules prescribing the books, accounts, documents, and records, and the minimum information to be shown in the books, accounts, documents, and records, of licensees so that such records will enable the division office to determine compliance with the provisions of this chapter act. Such rules In addition, the commission may include prescribing requirements for the destruction of books, accounts, records, and documents retained by the licensee after completion of the time period specified in subsection (3).

Section 11. Section 537.011, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 537.011, F.S., for present text.)

537.011 Title loan charges.—

(1) A licensee may charge and collect interest on a title loan at rates not to exceed the following:

(a) Twenty-two percent per month on that portion of the principal which does not exceed $700.

(b) Eighteen percent per month on that portion of the principal which exceeds $700 but does not exceed $1,400.

(c) Fifteen percent per month on that portion of the principal which exceeds $1,400.

(2) Interest may be charged only upon principal balances outstanding from time to time. Interest may not be charged on an add-on basis and may not be compounded, paid, deducted, or received in advance. For title loans that exceed $700, a licensee may accrue interest using a single blended interest
rate, but the interest charged may not exceed the maximum charge allowed under subsection (1).

(3) Notwithstanding subsection (1) or any provision of a title loan agreement, interest may not accrue on the principal balance of a title loan after:

(a) The date upon which the motor vehicle that serves as collateral for the title loan is repossessed by the licensee making the loan. However, if the licensee allows the borrower to redeem the motor vehicle while any portion of the principal balance remains unpaid, interest accrual may resume upon the borrower's regaining possession of the motor vehicle; or

(b) The 60th day after the borrower fails to make a monthly payment on the title loan as required by the loan agreement, unless the borrower fails to surrender the motor vehicle and conceals, thereby preventing repossession of, the motor vehicle. However, after the 60th day following the borrower's failure to make a monthly payment but before the licensee repossesses the motor vehicle, upon the borrower's making all delinquent payments, interest accrual may resume and interest may be added to the borrower's principal balance for the period from the day that interest accrual ceased under this paragraph through the date on which the borrower made all delinquent payments.

(4) A title loan shall be a term loan providing for repayment of the principal and interest in substantially equal monthly installments of principal and interest. However, this section does not prohibit a loan agreement from providing for an odd first-payment period and an odd first payment greater than...
other monthly payments because of such odd first-payment period.

(5) A title loan agreement may not be extended, renewed, or refinanced.

(6) A licensee may impose a late charge for the borrower's failure to make timely payment of any amount due under the loan agreement, but such late charge may not exceed the amount allowed under s. 516.031(3).

(7) A licensee must credit payments on the date received.

(8) In addition to the loan principal, interest, and fees allowed under this section, a licensee may not directly or indirectly charge, contract for, collect, receive, recover, or require a borrower to pay any further or other fee, charge, or amount whatsoever, except for:

(a) A licensee's actual cost of perfecting its security interest in the motor vehicle that serves as collateral for the borrower's obligations under the title loan agreement.

(b) The licensee's reasonable and actual costs of repossession, storage, and sale of the motor vehicle, if the borrower defaults under the terms of the title loan agreement.

(9) If any excess interest or fee is charged and such charge resulted from a bona fide error by the title loan lender or an agent of the title loan lender, the lender shall refund the excess interest or fee to the borrower within 30 days after discovery by the lender of the error or within 30 days after notice of the error from the borrower, whichever occurs first.

(10) If any excess interest or fee is charged by the title loan lender or an agent of the title loan lender in an effort to intentionally circumvent the maximum title loan interest and
fees allowed by this chapter:

(a) The title loan agreement is void.

(b) The title loan lender must refund to the borrower any
interest paid on the title loan and return to the borrower the
certificate of title with the lender's lien released.

(c) The title loan lender forfeits the lender's right to
collect any principal owed by the borrower on the title loan.

The division may order a title loan lender or an agent of the
title loan lender to comply with this subsection.

Section 12. Section 537.012, Florida Statutes, is amended
to read:

(Substantial rewording of section. See
s. 537.012, F.S., for present text.)

537.012 Limited liability for default of title loan;
repossession and disposal of pledged property; excess proceeds.—

(1) Except as otherwise provided in subsection (5), a
licensee taking a security interest in a motor vehicle under
this chapter is limited, upon default by the borrower, to
seeking repossession of, preparing for sale of, and selling the
motor vehicle in accordance with Article 9 of the Uniform
Commercial Code as provided in chapter 679. The licensee may not
collect or charge the costs of repossessing and selling the
motor vehicle described in s. 537.011(8)(b) unless:

(a) The licensee, at least 10 days before repossessing the
motor vehicle, sends to the borrower, by first-class mail,
written notice advising the borrower that the title loan is in
default and stating that the motor vehicle may be repossessed
unless the principal and interest owed under the loan agreement are paid; and

(b) The borrower does not pay such principal and interest before the date that the motor vehicle is repossessed by, or at the direction of, the licensee.

A licensee may not repossess a motor vehicle securing a title loan before the date specified in the notice required under this subsection. Except as otherwise provided in subsection (5), a licensee may not seek or obtain a personal money judgment against a borrower for any amount owed under a loan agreement or any deficiency resulting after the sale of a motor vehicle. If the borrower voluntarily surrenders the motor vehicle, the notice requirements of this subsection do not apply.

(2) At least 15 days before the sale of a motor vehicle, a licensee must notify the borrower of the date and time after which the motor vehicle is subject to sale and provide the borrower with a written accounting of the principal amount due to the licensee, interest accrued through the date that the licensee took possession of, preparing for sale of, storing, and selling the motor vehicle. At any time before such sale, the licensee must allow the borrower to redeem the motor vehicle by tendering cash or any other valid funds instrument for the amount owed.

(3) Within 60 days after the licensee's receipt of funds from the sale of a motor vehicle, the borrower is entitled to receive all proceeds from such sale of the motor vehicle in
excess of the principal amount due to the licensee, interest
accrued through the date the licensee took possession, and the
reasonable expenses incurred by the licensee in taking
possession of, storing, preparing for sale of, and selling the
motor vehicle.

(4) Except in the case of fraud or a voluntary surrender
of the motor vehicle, a licensee may not take possession of a
motor vehicle until the borrower is in default under the loan
agreement. Except as otherwise provided in this chapter, the
repossession and sale of a motor vehicle is subject to Article 9
of the Uniform Commercial Code as provided in chapter 679.

(5) Notwithstanding any provision of law, upon default by
a borrower, a licensee may seek a personal money judgment
against the borrower for any amounts owed under the loan
agreement if the borrower impairs the licensee's security
interest by:

(a) Intentionally damaging or destroying the motor
vehicle;

(b) Intentionally concealing the motor vehicle;

(c) Giving the licensee a lien in a motor vehicle that is
already encumbered by an undisclosed prior lien; or

(d) Subsequently giving a security interest in, or
selling, the motor vehicle that serves as collateral for the
title loan to a third party without the licensee's written
consent.

Section 13. Section 537.013, Florida Statutes, is amended
to read:

537.013 Prohibited acts.—
A title loan lender, or any agent or employee of a title loan lender, may not:

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

(2) (b) Refuse to allow the division office to inspect completed title loan agreements and supporting documents, extensions of such agreements, or loan property during the ordinary operating hours of the title loan lender's business or other times acceptable to both parties.

(3) (c) Enter into a title loan agreement with a person younger than 18 years of age.

(4) (d) Make any agreement requiring or allowing for the personal liability of a borrower beyond the limits authorized in s. 537.012 or the waiver of any provision of the provisions of this chapter act.

(5) (e) Knowingly enter into a title loan agreement with any person who is under the influence of drugs or alcohol when such condition is visible or apparent, or with any person using a name other than such person's own name or the registered name of the person’s business.

(6) (f) Fail to exercise reasonable care, as defined by department commission rule, in the safekeeping of certificates of title loan property or of motor vehicles titled personal property repossessed under pursuant to this chapter act.

(7) (g) Fail to return the borrower's certificate of title and, if repossessed, the borrower's motor vehicle loan property or repossessed titled personal property to a borrower, with any
and all of the title loan lender's liens on the motor vehicle
property properly released, upon payment of the full amount due
the title loan lender, unless the motor vehicle property has
been seized or impounded by an authorized law enforcement
agency, taken into custody by a court, or otherwise disposed of
by court order. If, while a title loan lender is awaiting return
of a certificate of title pending the recording of the lender's
lien, the borrower repays the title loan in full, the lender
shall release its lien and return the certificate of title to
the borrower within 3 days after regaining possession thereof.

(8)(h) Sell or otherwise charge for any type of insurance
in connection with a title loan agreement.

(9)(i) Intentionally charge or receive any finance charge,
interest, or fees that which are not authorized under pursuant
to this chapter or fail to timely refund such unauthorized
finance charge, interest, or fees received due to a bona fide
error act.

(10)(j) Act as a title loan lender without an active
license issued under this chapter act.

(11)(k) Refuse to accept partial payments toward
satisfying any obligation owed under a title loan agreement or
extension of such agreement.

(12)(l) Charge a prepayment penalty.

(13)(m) Engage in the business of selling new or used
motor vehicles, or parts for motor vehicles.

(14)(n) Act as a title loan lender under this chapter act
within a place of business in which the licensee solicits or
engages in business outside the scope of this chapter act if the
division office determines that the licensee's operation of and conduct pertaining to such other business results in an evasion of this chapter act. Upon making such a determination, the division office shall order the licensee to cease and desist from such evasion. provided, no licensee shall engage in the pawnbroker business.

(15) Engage in the pawnbroker business or deferred presentment business or allow another person to engage in such business at the licensee's title loan office.

(16) Cause a borrower to be obligated for a title loan for a principal amount that exceeds 50 percent of the fair market value of the motor vehicle in which the licensee is securing an interest, which value shall be determined by reference to the market value of similarly situated motor vehicles specified in a recognized pricing guide, if included in such pricing guide.

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

Section 14. Section 537.014, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 537.014, F.S., for present text.)

537.014 Right of rescission.—A licensee shall allow a borrower under a title loan agreement to rescind the title loan without cost or further obligation if the borrower returns the full amount of the loan proceeds in cash or returns the original loan check before the close of business on the business day immediately following the date on which the title loan agreement is executed.
Section 15. Section 537.015, Florida Statutes, is amended to read:

537.015 Criminal penalties.—

(1) Any person who acts as a title loan lender without first securing the license prescribed by this chapter act commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) In addition to any other applicable penalty, any person who willfully violates any provision of this chapter act or who willfully makes a false entry in any record specifically required by this chapter act commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 16. Section 537.016, Florida Statutes, is amended to read:

537.016 Subpoenas; enforcement actions; rules.—

(1) The division office may issue and serve subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records, and other evidence before the division office in any matter pertaining to this chapter act. The division office may administer oaths and affirmations to any person whose testimony is required. If any person refuses to testify or produce books, records, and documents or otherwise refuses to obey a subpoena issued under this section, the division office may enforce the subpoena in the same manner as subpoenas issued under the Administrative Procedure Act are enforced. Witnesses are entitled to the same fees and mileage as they are entitled to by law for attending as witnesses in the circuit court, unless such examination or investigation is held.

CODING: Words stricken are deletions; words underlined are additions.
869 at the place of business or residence of the witness.
870
871 (2) In addition to any other powers conferred upon the
872 division office to enforce or administer this chapter act, the
873 division office may:
874
875 (a) Bring an action in any court of competent jurisdiction
876 to enforce or administer this chapter act, any rule or order
877 adopted under this chapter act, or any written agreement entered
878 into with the division office. In such action, the division
879 office may seek any relief at law or equity, including a
880 temporary or permanent injunction, appointment of a receiver or
881 administrator, or an order of restitution.
882
883 (b) Issue and serve upon a person an order requiring such
884 person to cease and desist and take corrective action whenever
885 the division office finds that such person is violating, has
886 violated, or is about to violate any provision of this chapter
887 act, any rule or order adopted under this chapter act, or any
888 written agreement entered into with the division office.
889
890 (c) Whenever the division office finds that conduct
891 described in paragraph (b) presents an immediate danger to the
892 public health, safety, or welfare requiring an immediate final
893 order, the division office may issue an emergency cease and
894 desist order reciting with particularity the facts underlying
895 such findings. The emergency cease and desist order is effective
896 immediately upon service of a copy of the order on the
897 respondent named in the order and shall remain effective for 90
898 days. If the division office begins nonemergency proceedings
899 under paragraph (b), the emergency cease and desist order
900 remains effective until the conclusion of the proceedings under
ss. 120.569 and 120.57.

(3) The department commission may adopt rules to administer this chapter act.

Section 17. Section 537.017, Florida Statutes, is amended to read:

537.017 Investigations and complaints.—
(1) The division office may investigate make any investigation and examine examination of any licensee or other person whom the division office deems necessary to determine compliance with this chapter act. For such purposes, the division office may examine the books, accounts, records, and other documents or matters of any licensee or other person. The division office may compel the production of all relevant books, records, and other documents and materials relative to an examination or investigation. Examinations shall not be made more often than once during any 12-month period unless the division office has reason to believe the licensee is not complying with the provisions of this chapter act.

(2) The division office shall conduct all examinations at a convenient location in this state unless the division office determines that it is more effective or cost-efficient to perform an examination at the licensee's out-of-state location. For an examination performed at the licensee's out-of-state location, the licensee shall pay the travel expense and per diem subsistence at the rate provided by law for up to thirty 8-hour days per year for each of the division's examiners office examiner who participates in such an examination. However, if the examination involves or reveals possible fraudulent conduct
by the licensee, the licensee shall pay the travel expenses and per diem subsistence provided by law, without limitation, for each participating examiner.

(3) Any person having reason to believe that a violation of any provision of this chapter act has occurred may file with the department of Financial Services or the office a written complaint setting forth the details of such alleged violation, and the division office may investigate the such complaint.

Section 18. Section 537.018, Florida Statutes, is repealed.

Section 19. This act shall take effect July 1, 2011.