A bill to be entitled
An act relating to motor vehicle title loans;
providing a directive to the Division of Statutory
Revision; repealing s. 537.001, F.S., relating to a
short title; amending s. 537.002, F.S.; preempting the
regulation of motor vehicle title loans to the state;
amending s. 537.003, F.S.; revising definitions;
providing that title loans are secured by a
nonpurchase money security interest in a motor
vehicle; amending s. 537.004, F.S.; prohibiting a
title loan lender from also providing deferred
presentment transactions; amending ss. 537.005,
537.006, and 537.007, F.S.; conforming provisions to
changes made by the act; amending s. 537.008, F.S.;
revising the information that must be in a title loan
agreement; specifying the maturity timeframe for a
title loan; requiring that a statement relating to the
cost of the loan be included in the title loan
agreement; revising provisions relating to the title
loan lender’s actions upon executing an agreement;
creating s. 537.0085, F.S.; allowing a borrower to
rescind a loan under certain circumstances; amending
s. 537.009, F.S.; revising provisions relating to
recordkeeping; conforming provisions to changes made
by the act; amending s. 537.011, F.S.; revising
provisions relating to title loan charges; prohibiting
a title loan from being extended; amending s. 537.012,
F.S.; revising provisions relating to the repossession
of a motor vehicle for loan default; requiring prior
notice to the borrower; prohibiting a title loan lender from seeking a money judgment against a borrower except in certain circumstances; amending s. 537.013, F.S.; revising prohibited acts; requiring a lender to return a certificate of title 3 days after regaining possession of it; prohibiting a lender from loaning a principal amount that exceeds 50 percent of the fair market value of the motor vehicle; repealing s. 537.014, F.S., relating to the right to reclaim the loan property; amending ss. 537.015, 537.016, and 537.017, F.S.; conforming provisions to changes made by the act; repealing s. 537.018, F.S., relating to authorization for county and municipal ordinances; amending s. 494.00797, F.S.; conforming provisions to changes made by the act; transferring activities relating to title loans from the Department of Financial Services to the Department of Agriculture and Consumer Services by a type two transfer; providing an effective date.

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

Section 1. The Division of Statutory Revision is requested to rename chapter 537, Florida Statutes, as “MOTOR VEHICLE TITLE LOANS.”

Section 2. Section 537.001, Florida Statutes, is repealed.

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

537.002 Preemption; legislative intent.—The regulation of
the business of offering motor vehicle title loans is preempted to the state. It is the intent of the Legislature in the creation of this chapter that all title loans to consumers in this state, secured by a nonpurchase money security interest in a motor vehicle, be regulated under this chapter, which shall by the provisions of this act. The provisions of this act supersede any other provisions of state law affecting such title loans to the extent of any conflict.

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 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.

(2) “Department” means the Department of Agriculture and Consumer Services.

(3) “Division” means the Division of Consumer Services of the department.

(4) “Office” means the Office of Financial Regulation of the commission.

(4) “Executive officer” means the president, chief executive officer, chief financial officer, chief operating officer, and equivalent officials.
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officer, executive vice president, senior vice president, secretary, and treasurer.

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

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

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

(8) "Licensee" means a person who is licensed as a title loan lender under this chapter.

(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.

(9) "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.

(10) "Title loan" or "loan" means a loan of money to a consumer secured by a non-purchase-money security interest in bailment of a certificate of title to a motor vehicle. The term does not include a 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.

(11) “Title loan agreement” or “agreement” means a written agreement in which a title loan lender agrees to make a title loan to a borrower.

(12) “Title loan lender” or “lender” means any person who engages in the business of making or servicing title loans.

(13) “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.

(14) “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.

(15) “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 act.

(a) A person may not act as a title loan lender from any office where deferred presentment transactions, as defined in s. 560.402, are offered or made, or within 1,000 feet of another office where title loans or deferred presentment transactions are offered or made if that office is operated by a common ultimate equitable owner.

(b) 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.

(2) A person applying for licensure as a title loan lender shall file with the division office an application as provided under s. 537.005(1) and (2), 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 applicant satisfies the requirements of this chapter an application should be approved, the division office shall issue a license for up to a period not to exceed 2 years.

(4) A license 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 the applicant must apply for a new license shall automatically expire. The department commission shall adopt by rule the procedures for application, renewal, and reactivation of a license and the application, shall adopt a renewal form and a reactivation forms form.

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

(6) A license issued pursuant to this act is not transferable or assignable.

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

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

(9) The department commission may adopt rules 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 division’s General Inspection Regulatory Trust Fund of the office.

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

537.005 License application for license.—

(1) A verified license application for licensure under this act, in the form prescribed by department commission rule, must:

(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 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 a bond with the division office, 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 and file 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 division original bond, certificate of deposit, or letter of credit shall be filed with the office, and the office shall be the beneficiary to that document. The bond, certificate of deposit, or letter of credit shall be in favor of the office 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 is 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 is such bond.
262 certificate of deposit, or letter of credit shall be amenable to
263 and enforceable only by and through administrative proceedings
264 before the division office. It is the intent of the Legislature
265 that such bond, certificate of deposit, or letter of credit
266 shall be applicable and liable only for the payment of claims
267 duly adjudicated by order of the division office. The bond,
268 certificate of deposit, or letter of credit is shall be payable
269 on a pro rata basis as determined by the division office, but
270 the aggregate amount may not exceed the amount of the bond,
271 certificate of deposit, or letter of credit.

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

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

537.006 Denial, suspension, or revocation of license.—
277 (1) The following acts are violations of this chapter act
278 and constitute grounds for the disciplinary actions specified in
279 subsection (2):

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

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

(c) Fraudulent misrepresentation, circumvention, or
287 concealment of any matter required to be stated or furnished to
288 a borrower pursuant to this chapter act, regardless of reliance
289 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, by any rule or order adopted pursuant to this chapter, 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.

(h) Refusal to provide information upon request of the 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 pled 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 license 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

CODING: Words \textcolor{red}{stricken} are deletions; words \textcolor{blue}{underlined} are additions.
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 by s. 537.005(3).

(m) Failing to timely pay any fee, charge, or fine imposed or assessed 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
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 of up to not to exceed $5,000 for each separate act or violation.

(3) If a person seeking licensure is not 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 act 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, and 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 the title loan such agreement. The person making the void title loan must shall return to the borrower the certificate of title serving as collateral for the loan with the lender’s lien released 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 the certificate of title and any from the person making the title loan the loan property, the titled personal property, or the principal and interest paid by the borrower from the person making the void title loan.

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

537.008 Title loan agreement.—
(1) At the time a title loan lender makes a title loan, the lender and the borrower shall execute a title loan agreement, which must shall 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
will serve as collateral for the loan 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 will serve as collateral for the loan 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 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.

(e) The maturity date of the title loan agreement, which must be at least 120 days but no later than 1 year after the date the title loan agreement is executed.

(f) The amount financed, finance charge, total number of payments, and annual percentage rate, computed and disclosed in accordance with the federal Truth in Lending Act and applicable regulations.

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

(g) The maturity date of the title loan agreement, which shall be 30 days after the date 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.”

(j) The interest rate, computed in accordance with the regulations adopted by the Federal Reserve Board pursuant to the federal Truth in Lending Act, designated as the “annual percentage rate.”

(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 department of Financial Services as well as a telephone number to which consumers may address complaints.

(c) The following statement immediately above the borrower’s signature in at least not less than 12-point type:

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

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

IF YOU DECIDE TO ACCEPT THIS LOAN, YOU SHOULD REQUEST THE MINIMUM AMOUNT REQUIRED TO MEET YOUR IMMEDIATE CASH 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 EACH MONTH TO PAY EVEN MORE TOWARD YOUR PRINCIPAL BALANCE. DOING SO WILL SAVE YOU MONEY BY REDUCING THE AMOUNT OF INTEREST OWED.

YOU MAY RESCIND THIS LOAN WITHOUT COST OR FURTHER OBLIGATION IF YOU RETURN THE LOAN PROCEEDS, IN CASH OR THE ORIGINAL LOAN CHECK, BEFORE THE CLOSE OF BUSINESS ON THE NEXT BUSINESS DAY IMMEDIATELY FOLLOWING THE EXECUTION OF THIS AGREEMENT.

YOU ARE PLEDGING YOUR MOTOR VEHICLE AS COLLATERAL FOR THIS LOAN. IF YOU FAIL TO REPAY THE LOAN PURSUANT 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 WHICH IS ALREADY SUBJECT TO AN UNDISCLOSED 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 ON THIS LOAN, YOU ARE ENTITLED TO ANY SURPLUS OBTAINED AT SUCH SALE LESS WHAT IS OWED PURSUANT TO THIS AGREEMENT AND ANY REASONABLE COSTS OF RECOVERY, STORAGE, AND
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.

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

(d) The statement that "The borrower represents and warrants that the motor vehicle serving as collateral for the title loan titled personal property to which the loan property relates is not stolen and has no liens or encumbrances against it, the borrower has the right to enter into this transaction, and the borrower will not apply for a duplicate certificate of title while the title loan agreement is in effect."

(e) A blank line for the signature of the borrower and the title loan lender or the lender’s agent. All owners of the motor vehicle 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 shall may take possession of the certificate of title to the motor vehicle serving as collateral for the loan, and within 7 business days record its lien on such title as provided by law. The title loan lender shall loan property and retain possession of the certificate of title such property until the title loan is fully repaid such property is redeemed. The borrower shall have the exclusive right to redeem the loan property by repaying all amounts legally due under the agreement. When the title loan property is fully repaid redeemed, the lender shall immediately release its lien on the certificate of title and return the certificate of title to the borrower loan property and 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 make a title loan if the certificate of title to the motor vehicle that will serve as collateral for the loan is security for another loan or is otherwise encumbered by a lien.

Section 10. Section 537.0085, Florida Statutes, is created to read:

537.0085 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 loan proceeds in cash or the original loan check before the close of
Section 11. 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 title loan office premises, 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 Office of Financial Regulation, whichever is later.

(4) Certificates of title that are held by loan property which is delivered to a title loan lender shall be securely stored and maintained at the title loan office unless the certificate of title 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 prescribe by rule the books, accounts, documents, and records, and the minimum information to be shown in the books, accounts, documents, and records, of licensees necessary so that such records will enable the division office to determine compliance with the provisions of this chapter act. In addition, the department commission may prescribe by rule 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 12. 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 up to the following amounts:

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

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

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

(2) The interest shall be charged only upon the outstanding principal balance. Interest may not be charged on an add-on basis and may not be compounded or paid, deducted, or received in advance. On title loans in excess of $700, a licensee may accrue interest using a single blended interest rate if the maximum charge allowed under subsection (1) is not exceeded.
(3) Notwithstanding subsection (1) or the title loan agreement, interest may not accrue on the principal balance of a title loan from and after:

(a) The date that the motor vehicle securing the title loan is repossessed by the licensee making the loan, unless the licensee allows the borrower to redeem the vehicle with a loan balance still owing, in which case interest accrual may restart upon the borrower regaining possession of the motor vehicle; or

(b) Sixty days after the borrower has failed to make a monthly payment on a title loan as required by the loan agreement, unless the borrower has not surrendered the motor vehicle and the borrower is concealing the motor vehicle. If the borrower cures the default after the 60th day but before the lender repossesses the motor vehicle, interest accrual may restart upon such cure and any missing days of interest may be added back to the account.

(4) Every title loan is a term loan providing for repayment of the principal and interest in substantially equal monthly installments of principal and interest. However, a loan agreement may provide 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 failure to make timely payment of any amount due under the loan agreement if such late charge does not exceed the amount permitted by s. 516.031(3).

(7) The licensee must credit payments on the date received.
(8) Other than the loan principal, and interest and fees permitted 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 except for the licensee’s:

(a) Actual cost of perfecting its security interest in the motor vehicle securing the borrower’s obligations under the title loan agreement; and

(b) 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 or borrower 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, the title loan agreement is void and the lender shall 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. In such event, the title loan lender forfeits the lender’s right to collect any principal owed by the borrower on the title loan.

(11) The division may require a title loan lender, or an agent of the title loan lender, to comply with subsections (9)
Section 13. Section 537.012, Florida Statutes, is amended to read:

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

537.012 Repossession.—Except as provided in subsection (5), a licensee taking a security interest in a motor vehicle pursuant to this chapter upon default by the borrower is limited to seeking repossession of, preparing for sale, and selling the motor vehicle securing the title loan in accordance with Article 9 of the Uniform Commercial Code.

(1) The licensee may not collect or charge the costs of repossessing and selling the motor vehicle as described in s. 537.011(8)(b) unless the licensee, at least 10 days before repossessing the motor vehicle, has sent to the borrower, by first-class mail, written notice advising the borrower that his or her title loan is in default and stating that the motor vehicle securing the borrower’s title loan may be repossessed unless the principal and interest owed under the loan agreement are paid, and 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 the motor vehicle before the date specified in the notice. Except as 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. The notice requirements of this subsection do not apply if the borrower voluntarily surrenders the motor vehicle.
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(2) At least 15 days before the sale of a motor vehicle, a licensee shall 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, interest accrued through the date that the licensee took possession of the motor vehicle, and any reasonable expenses incurred to date by the licensee in taking possession of, preparing for sale, storing, and selling the motor vehicle. At any time before such sale, the borrower may redeem the motor vehicle by tendering cash, a certified check, or money order for the amount owed to the licensee.

(3) Within 60 days after the licensee’s receipt of proceeds from the sale of a motor vehicle, the borrower is entitled to receive that portion of the proceeds which are 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, 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 a borrower is in default under the loan agreement.

(5) Notwithstanding any other provision of law, upon default by a borrower, a licensee may seek a personal money judgment against the borrower for any amounts owed under a loan agreement if the borrower impairs the licensee’s security interest by intentionally damaging or destroying the motor vehicle, intentionally concealing the motor vehicle, giving the licensee a lien in a motor vehicle that is already encumbered by an undisclosed prior lien, or subsequently giving a security
interest in, or selling, a motor vehicle that secures a title loan to a third party, without the licensee’s written consent.

Section 14. Section 537.013, Florida Statutes, is amended to read:

537.013 Prohibited acts.—

(1) A title loan lender, or any agent or employee of a title loan lender, may shall not:

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

(b) Refuse to allow the division office to inspect completed title loan agreements and supporting documentation, 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.

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

(d) Make any agreement requiring or allowing for the personal liability of a borrower beyond that allowed under s. 537.012 or the waiver of any provision of the provisions of this chapter act.

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

(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
(7)(g) Fail to return the borrower’s certificate of title and the borrower’s motor vehicle if it has been repossessed loan property or repossessed titled personal property to a borrower, with any and all of the title loan lender’s liens on the property properly released, upon payment of the full amount due the title loan lender, unless the 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 the borrower fully repays the loan and the certificate of title is not in the title loan lender’s possession because the lender sent the title to have the lender’s lien recorded and the title has not yet been returned, the lender must release its lien and return the title to the borrower within 3 days after regaining possession of the certificate.

(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 are not authorized pursuant to this chapter, or fail to timely refund any finance charge, interest, or fee not authorized pursuant to this chapter but received due to a bona fide error.

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

(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) Act as a title loan lender under this 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. A; provided, no licensee may not shall engage in the pawnbroker business or the deferred presentment business, or allow others to engage in such businesses from the licensee’s title loan office.

(15) Cause any borrower to be obligated on a title loan in a principal amount that exceeds 50 percent of the fair market value of the motor vehicle in which the licensee is taking a security interest, which value shall be determined by reference to the market value for the motor vehicle specified in a recognized pricing guide if the motor vehicle is included in a recognized pricing guide.

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

Section 15. Section 537.014, Florida Statutes, is repealed.

Section 16. 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 or who willfully makes a false entry in any record specifically required by this chapter commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 17. Section 537.016, Florida Statutes, is amended to read:

537.016 Subpoenas; enforcement actions; rules.—
(1) The division 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 in any matter pertaining to this chapter. The division may administer oaths and affirmations to any person whose testimony is required. If any person refuses to testify; produce books, records, and documents; or otherwise refuses to obey a subpoena issued under this section, the division 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 at the place of business or residence of the witness.

(2) In addition to any other powers conferred upon the division to enforce or administer this chapter, the division may:
   (a) Bring an action in any court of competent jurisdiction to enforce or administer this chapter, any rule or order adopted under this chapter, or any written agreement entered into with the division. In such action,
the division office may seek any relief at law or equity, including a temporary or permanent injunction, appointment of a receiver or administrator, or an order of restitution.

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

(c) If whenever the division office finds that conduct described in paragraph (b) presents an immediate danger to the public health, safety, or welfare requiring an immediate final order, the office may issue an emergency cease and desist order reciting with particularity the facts underlying such findings. The emergency cease and desist order is effective immediately upon service of a copy of the order on the respondent named in the order and remains shall remain effective for 90 days. If the division office begins nonemergency proceedings under paragraph (b), the emergency cease and desist order 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 18. Section 537.017, Florida Statutes, is amended to read:

537.017 Investigations and complaints.—

(1) The division office may make any investigation and examination of any licensee or other person 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 office may compel the production of all relevant books, records, and other documents and materials relative to an examination or investigation. Examinations may 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 division 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 any provision of this chapter act has been violated may file with the department of Financial Services or the division office a written complaint setting forth the details of the alleged violation, and the division office may investigate such complaint.
Section 19. Section 537.018, Florida Statutes, is repealed.

Section 20. 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 and the Department of Agriculture and Consumer Services, as applicable, for activities subject to this chapter, except entities licensed under s. 537.004;

(2) Are subject to the jurisdiction of the Office of Thrift Supervision, the Office of the Comptroller of the Currency, the National Credit Union Administration, the Federal Deposit Insurance Corporation, the Federal Trade Commission, or the United States Department of Housing and Urban Development;

(3) Originate, purchase, sell, assign, secure, or service property interests or obligations created by financial transactions or loans made, executed, or originated by persons referred to in subsection (1) or subsection (2) to assist or facilitate such transactions;

(4) Are chartered by the United States Congress to engage in secondary market mortgage transactions; or

(5) Are created by the Florida Housing Finance Corporation.
Proof of noncompliance with this part 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 21. All powers, duties, functions, records, offices, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds relating to the regulation of title loans under chapter 537, Florida Statutes, in the Department of Financial Services are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Department of Agriculture and Consumer Services.

Section 22. This act shall take effect July 1, 2011.