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1 A bill to be entitled
2 An act relating to title loans; amending s. 494.00797,
3 F.S.; exempting certain persons from specified financial
4 and lending regulations adopted by counties and
5 municipalities; amending s. 537.001, F.S.; conforming a
6 short title; amending s. 537.002, F.S.; revising
7 legislative intent; providing that regulation of title
8 loans is preempted to the state; amending s. 537.003,
9 F.S.; revising and providing definitions; transferring
10 regulation of title loans from the Office of Financial
11 Regulation to the Department of Agriculture and Consumer
12 Services; amending s. 537.004, F.S.; prohibiting certain
13 activities at or within a certain proximity of title loan
14 offices; providing for deposit of certain moneys in the
15 General Inspection Trust Fund; amending s. 537.005, F.S.;
16 conforming provisions; amending s. 537.006, F.S.; revising
17 the grounds for disciplinary action against title loan
18 lenders; amending s. 537.007, F.S.; conforming provisions;
19 amending s. 537.008, F.S.; revising requirements for title
20 loan agreements, for transferring possession of the motor
21 vehicle's certificate of title, and for the recording and
22 releasing of liens against the motor vehicle; amending s.
23 537.009, F.S.; conforming provisions; amending s. 537.011,
24 F.S.; revising requirements for the accrual of interest on
25 title loans; prohibiting the extension, renewal, and
26 refinancing of title loans; authorizing certain fees and
27 charges associated with title loans; amending s. 537.012,
28 F.S.; revising requirements for the repossession and sale

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29 of motor vehicles to satisfy unpaid title loans and for
 30 the disbursement of excess proceeds from such sales to the
 31 borrowers; limiting the liability of borrowers for unpaid
 32 title loans; authorizing a title loan lender to seek money
 33 damages against a borrower under certain circumstances;
 34 amending s. 537.013, F.S.; revising and providing
 35 additional prohibited acts by title loan lenders or any
 36 agents or employees thereof, to which penalties apply;
 37 amending s. 537.014, F.S.; revising requirements for
 38 rescission of a title loan agreement; deleting procedures
 39 for lost, destroyed, or stolen tile loan agreements;
 40 deleting a provision prohibiting a title loan lender from
 41 imposing a fee for providing the borrower with a copy of
 42 the title loan agreement; amending ss. 537.015, 537.016,
 43 and 537.017, F.S.; conforming provisions; repealing s.
 44 537.018, F.S., relating to the authority of counties and
 45 municipalities to adopt more restrictive ordinances
 46 regulating title loans; providing an effective date.

47
 48 Be It Enacted by the Legislature of the State of Florida:

49
 50 Section 1. Subsection (1) of section 494.00797, Florida
 51 Statutes, is amended to read:

52 494.00797 General rule.—All counties and municipalities of
 53 this state are prohibited from enacting and enforcing
 54 ordinances, resolutions, and rules regulating financial or
 55 lending activities, including ordinances, resolutions, and rules
 56 disqualifying persons from doing business with a city, county,

57 or municipality based upon lending interest rates or imposing
 58 reporting requirements or any other obligations upon persons
 59 regarding financial services or lending practices of persons or
 60 entities, and any subsidiaries or affiliates thereof, who:

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

65
 66 Proof of noncompliance with this act can be used by a city,
 67 county, or municipality of this state to disqualify a vendor or
 68 contractor from doing business with a city, county, or
 69 municipality of this state.

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

72 537.001 Short title.—This chapter act may be cited as the
 73 "Florida Title Loan Act."

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

76 537.002 Legislative intent; application; preemption.—

77 (1) It is the intent of the Legislature in the creation of
 78 this chapter that title loans to consumers be regulated by ~~the~~
 79 ~~provisions of this chapter act~~. ~~The provisions of This chapter~~
 80 ~~supersedes act supersede~~ any provision other provisions of state
 81 law affecting title loans to the extent of any conflict.

82 (2) The regulation of all aspects of the business of
 83 offering title loans as provided in this chapter is preempted to
 84 the state. Any such regulation adopted by a county or

85 municipality, regardless of when adopted, is void.

86 Section 4. Section 537.003, Florida Statutes, is amended
87 to read:

88 537.003 Definitions.—As used in this chapter ~~act~~, the term
89 ~~unless the context otherwise requires:~~

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

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

97 (2)(3) "Consumer" means an individual borrowing money for
98 personal, family, or household purposes.

99 (3) "Department" means the Department of Agriculture and
100 Consumer Services.

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

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

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

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

111 (7) "Interest" means the cost of obtaining a title loan
112 and includes any profit or advantage of any kind whatsoever that

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113 a title loan lender may charge, contract for, collect, receive,
 114 or in any way obtain as a result of a title loan.

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

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

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

124 (10)~~(11)~~ "Motor vehicle" means an automobile, motorcycle,
 125 mobile home, truck, trailer, semitrailer, truck tractor and
 126 semitrailer combination, or any other vehicle operated on the
 127 public highways and streets of this state, used to transport
 128 persons or property, and propelled by power other than muscular
 129 power, but excluding a vehicle which runs only upon a track and
 130 a mobile home that is the primary residence of the owner.

131 (11)~~(12)~~ "Title loan" or "loan" means a loan of money to a
 132 consumer secured by a nonpurchase money security interest in
 133 ~~bailment of a certificate of title to a motor vehicle, except~~
 134 such loan made by a person licensed under chapter 516, chapter
 135 520, chapter 655, chapter 657, chapter 658, chapter 660, chapter
 136 663, chapter 665, or chapter 667 or a person who complies with
 137 s. 687.03.

138 (12)~~(13)~~ "Title loan agreement" or "agreement" means a
 139 written agreement in which a title loan lender agrees to make a
 140 title loan to a borrower.

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141 (13)~~(14)~~ "Title loan lender" or "lender" means any person
 142 who engages in the business of making or servicing title loans.

143 (14)~~(15)~~ "Title loan office" means the location at which,
 144 or premises from which, a title loan lender regularly conducts
 145 business under this chapter or any other location that is held
 146 out to the public as a location at which a lender makes or
 147 services title loans.

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

152 (15)~~(17)~~ "Ultimate equitable owner" means a person who,
 153 directly or indirectly, owns or controls an ownership interest
 154 in a corporation, a foreign corporation, an alien business
 155 organization, or any other form of business organization,
 156 regardless of whether such person owns or controls such
 157 ownership interest through one or more persons or one or more
 158 proxies, powers of attorney, nominees, corporations,
 159 associations, partnerships, trusts, joint stock companies, or
 160 other entities or devices, or any combination thereof.

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

163 537.004 License required; license fees.—

164 (1) A person may not act as a title loan lender or own or
 165 operate a title loan office unless such person has an active
 166 title loan lender license issued by the division ~~office~~ under
 167 this chapter ~~act~~. A title loan lender may not own or operate
 168 more than one title loan office unless the lender obtains a

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169 separate title loan lender license for each title loan office. A
 170 title loan lender may not own or operate a title loan office
 171 that:

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

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

179 (2) A person applying for licensure as a title loan lender
 180 shall file with the division ~~office~~ an application, the bond
 181 required by s. 537.005(3), a nonrefundable application fee of
 182 \$1,200, a nonrefundable investigation fee of \$200, and a
 183 complete set of fingerprints taken by an authorized law
 184 enforcement officer. The division ~~office~~ shall submit such
 185 fingerprints to the Department of Law Enforcement for state
 186 processing, and the Department of Law Enforcement shall forward
 187 the fingerprints to the Federal Bureau of Investigation for
 188 national processing.

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

192 (4) A license must ~~shall~~ be renewed biennially by filing a
 193 renewal form and a nonrefundable renewal fee of \$1,200. A
 194 license that is not renewed by the end of the biennial period
 195 ~~shall~~ automatically reverts ~~revert~~ to inactive status. An
 196 inactive license may be reactivated within 6 months after

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197 becoming inactive by filing a reactivation form, payment of the
 198 nonrefundable \$1,200 renewal fee, and payment of a nonrefundable
 199 reactivation fee of \$600. A license that is not reactivated
 200 within 6 months after becoming inactive may not be reactivated
 201 and ~~shall automatically expires~~ expire. The department
 202 ~~commission~~ shall adopt rules establishing ~~establish by rule the~~
 203 procedures for the renewal and reactivation of a license and
 204 prescribing ~~shall adopt~~ a renewal form and a reactivation form.

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

210 (6) A license issued under ~~pursuant to~~ this chapter act is
 211 not transferable or assignable.

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

214 (8) ~~Whenever~~ A person or a group of persons who, directly
 215 or indirectly, or acting by or through one or more persons,
 216 purchases ~~proposes to purchase~~ or acquires ~~acquire~~ a 50-percent
 217 ~~50-percent~~ or more interest in a licensee, must ~~such person or~~
 218 ~~group shall~~ submit an initial application for licensure under
 219 this chapter before act ~~prior to~~ such purchase or acquisition.

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

223 (10) All moneys collected by the division ~~office~~ under
 224 this chapter act shall be deposited into the General Inspection

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225 ~~Regulatory~~ Trust Fund of the department ~~office~~.

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

228 537.005 Application for license.—

229 (1) A verified application for licensure under this
230 chapter act, in the form prescribed by department ~~commission~~
231 rule, must ~~shall~~:

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

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

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

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

247 (2) Notwithstanding subsection (1), the application need
248 not state the full name and address of each officer, director,
249 and shareholder if the applicant is owned directly or
250 beneficially by a person who as an issuer has a class of
251 securities registered pursuant to s. 12 of the Securities
252 Exchange Act of 1934 or, pursuant to s. 13 or s. 15(d) of such

253 | act, is an issuer of securities which is required to file
 254 | reports with the Securities and Exchange Commission, if the
 255 | person files with the division ~~office~~ any information,
 256 | documents, and reports required by such act to be filed with the
 257 | Securities and Exchange Commission.

258 | (3) An applicant for licensure shall file with the
 259 | division ~~office~~ a bond, in the amount of \$100,000 for each
 260 | license, with a surety company qualified to do business in this
 261 | state. However, ~~in no event shall~~ the aggregate amount of the
 262 | bond required for a single title loan lender may not exceed \$1
 263 | million. In lieu of the bond, the applicant may establish a
 264 | certificate of deposit or an irrevocable letter of credit in a
 265 | financial institution, as defined in s. 655.005, in the amount
 266 | of the bond. The original bond, certificate of deposit, or
 267 | letter of credit must ~~shall~~ be filed with the division ~~office~~,
 268 | and the department ~~must~~ ~~office~~ ~~shall~~ be the beneficiary to that
 269 | document. The bond, certificate of deposit, or letter of credit
 270 | must ~~shall~~ be in favor of the department ~~office~~ for the use and
 271 | benefit of any consumer who is injured pursuant to a title loan
 272 | transaction by the fraud, misrepresentation, breach of contract,
 273 | financial failure, or violation of ~~any provision of this chapter~~
 274 | ~~act~~ by the title loan lender. Such liability may be enforced
 275 | either by proceeding in an administrative action or by filing a
 276 | judicial suit at law in a court of competent jurisdiction.
 277 | However, in such court suit, the bond, certificate of deposit,
 278 | or letter of credit posted with the division ~~is~~ ~~office~~ ~~shall~~ not
 279 | ~~be~~ amenable or subject to any judgment or other legal process
 280 | issuing out of or from such court in connection with such

281 lawsuit, but such bond, certificate of deposit, or letter of
 282 credit is ~~shall be~~ amenable to and enforceable only by and
 283 through administrative proceedings before the division ~~office~~.
 284 It is the intent of the Legislature that such bond, certificate
 285 of deposit, or letter of credit ~~shall~~ be applicable and liable
 286 only for the payment of claims duly adjudicated by order of the
 287 division ~~office~~. The bond, certificate of deposit, or letter of
 288 credit shall be payable on a pro rata basis as determined by the
 289 division ~~office~~, but the aggregate amount may not exceed the
 290 amount of the bond, certificate of deposit, or letter of credit.

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

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

296 537.006 Denial, suspension, or revocation of license.—

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

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

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

307 (c) Fraudulent misrepresentation, circumvention, or
 308 concealment of any matter required to be stated or furnished to

309 a borrower under ~~pursuant to~~ this chapter act, regardless of
 310 reliance by or damage to the borrower.

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

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

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

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

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

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

335 (j) Making or having made material misstatement of fact in
 336 an initial or renewal application for a license.

337 (k) Having been the subject of any decision, finding,
 338 injunction, suspension, prohibition, revocation, denial,
 339 judgment, or administrative order by any court of competent
 340 jurisdiction or administrative law judge, or by any state or
 341 federal agency, involving a violation of any federal or state
 342 law relating to title loans or any rule or regulation adopted
 343 under such law, or has been the subject of any injunction or
 344 adverse administrative order by a state or federal agency
 345 regulating banking, insurance, finance or small loan companies,
 346 real estate, mortgage brokers, or other related or similar
 347 industries for acts involving fraud, dishonest dealing, or any
 348 act of moral turpitude.

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

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

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

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

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

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365 following actions:

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

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

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

373 (d) Issuing a reprimand.

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

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

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

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

392 (6) Licensure under this chapter act ~~act~~ may be denied or any

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393 license issued under this chapter ~~act~~ may be suspended or
 394 restricted if an applicant or licensee is charged, in a pending
 395 enforcement action or pending criminal prosecution, with any
 396 conduct that would authorize denial or revocation under this
 397 section.

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

400 537.007 Remedies for title loans made without licensure.—
 401 Any title loan made without benefit of a license is void, in
 402 which case the person making the title loan forfeits the right
 403 to collect any moneys, including principal and interest charged
 404 on the title loan, from the borrower in connection with such
 405 agreement. The person making the title loan must ~~shall~~ return to
 406 the borrower the loan property, the titled personal property
 407 pledged or the fair market value of such titled personal
 408 property, and all principal and interest paid by the borrower.
 409 The borrower is entitled to receive reasonable attorney's fees
 410 and costs in any action brought by the borrower to recover from
 411 the person making the title loan the loan property, the titled
 412 personal property, or the principal and interest paid by the
 413 borrower.

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

416 537.008 Title loan agreement.—

417 (1) When ~~At the time~~ a title loan lender makes a title
 418 loan, the lender and the borrower shall execute a title loan
 419 agreement, which must ~~shall~~ be legibly typed or written in
 420 indelible ink and completed as to all essential provisions

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421 ~~before~~ ~~prior to~~ execution by the borrower and lender. The title
422 loan agreement must ~~shall~~ include the following information:

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

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

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

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

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

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

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

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

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

448 (g)(j) The "amount financed," "finance charge," "total of

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449 payments," and "annual percentage rate" ~~interest rate,~~ computed
 450 and disclosed in accordance with the federal Truth in Lending
 451 Act and regulations adopted by the Federal Reserve Board under
 452 ~~pursuant to the federal Truth in Lending act.,~~ designated as the
 453 "annual percentage rate."

454 (2) The following information must ~~shall~~ also be printed
 455 on all title loan agreements:

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

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

461 (c) The following statement in at least not less than 12-
 462 point, boldface type, immediately above the borrower's signature
 463 that:

464
 465 THE INTEREST RATE ON THIS LOAN IS HIGH. YOU SHOULD
 466 CONSIDER WHETHER THERE ARE OTHER LOWER COST LOANS
 467 AVAILABLE TO YOU.

468
 469 THIS IS A MOTOR VEHICLE TITLE LOAN AGREEMENT. IT ALLOWS
 470 YOU TO RECEIVE LOAN PROCEEDS TO MEET YOUR IMMEDIATE CASH
 471 NEEDS. IT IS NOT INTENDED TO MEET YOUR LONG-TERM FINANCIAL
 472 NEEDS.

473
 474 WHEN USING THIS LOAN, YOU SHOULD REQUEST THE MINIMUM
 475 AMOUNT REQUIRED TO MEET YOUR IMMEDIATE NEEDS AND REPAY THE
 476 LOAN AS QUICKLY AS POSSIBLE TO REDUCE THE AMOUNT OF

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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

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

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

520 (d) The statement that "The borrower represents and
 521 warrants that the motor vehicle that serves as collateral for
 522 ~~titled personal property to which the title loan property~~
 523 ~~relates~~ is not stolen and does not have any ~~has no~~ liens or
 524 encumbrances against it, the borrower has the right to enter
 525 into this transaction, and the borrower is prohibited from
 526 applying ~~will not apply~~ for a duplicate certificate of title
 527 while the title loan agreement is in effect."

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

530

531 Each owner ~~All owners~~ of the motor vehicle that serves as
 532 collateral for the title loan ~~titled personal property~~ must sign

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533 the title loan agreement.

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

537 (4) Upon execution of a title loan agreement, the title
538 loan lender must ~~may~~ take possession of the certificate of title
539 of the motor vehicle that serves as collateral for the loan, and
540 within 7 business days thereafter, record the lender's lien on
541 such title as provided by law. The title loan lender
542 subsequently retains ~~property and retain~~ possession of such
543 certificate of title ~~property~~ until the title loan ~~such property~~
544 is repaid in full ~~redeemed. The borrower shall have the~~
545 ~~exclusive right to redeem the loan property by repaying all~~
546 ~~amounts legally due under the agreement. When a title the loan~~
547 ~~property is repaid in full redeemed, the lender shall~~
548 immediately release the lien on ~~return~~ the certificate of title
549 loan property and return the certificate of title to the
550 borrower ~~commence action to release any security interest in the~~
551 ~~titled personal property. During the term of the agreement or~~
552 ~~any extension of the agreement, a title loan lender may retain~~
553 ~~physical possession of the loan property only. A title loan~~
554 lender may ~~shall~~ not require a borrower to provide any
555 additional collateral ~~security~~ or guaranty as a condition to
556 entering into a title loan transaction. A title loan lender may
557 not enter into a title loan agreement if the certificate of
558 title of the motor vehicle that serves as collateral for the
559 loan evidences that the motor vehicle is security for another
560 loan or is otherwise encumbered by a lien.

561 Section 10. Section 537.009, Florida Statutes, is amended
 562 to read:

563 537.009 Recordkeeping; reporting; safekeeping of
 564 property.—

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

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

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

583 (4) A certificate of title that ~~Loan property which~~ is
 584 held by ~~delivered to~~ a title loan lender must ~~shall~~ be securely
 585 stored and maintained at the title loan office unless the
 586 certificate of title is ~~loan property has been~~ forwarded to the
 587 appropriate state agency for the purpose of having a lien
 588 recorded or deleted.

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589 (5) The department ~~commission~~ may adopt rules prescribing
590 ~~prescribe by rule~~ the books, accounts, documents, and records,
591 and the minimum information to be shown in the books, accounts,
592 documents, and records, of licensees so that such records will
593 enable the division ~~office~~ to determine compliance with ~~the~~
594 ~~provisions of this chapter act.~~ Such rules ~~In addition, the~~
595 ~~commission~~ may include ~~prescribe by rule~~ requirements for the
596 destruction of books, accounts, records, and documents retained
597 by the licensee after completion of the ~~time~~ period specified in
598 subsection (3).

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

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

603 537.011 Title loan charges.-

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

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

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

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

612 (2) Interest may be charged only upon principal balances
613 outstanding from time to time. Interest may not be charged on an
614 add-on basis and may not be compounded, paid, deducted, or
615 received in advance. For title loans that exceed \$700, a
616 licensee may accrue interest using a single blended interest

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617 rate, but the interest charged may not exceed the maximum charge
618 allowed under subsection (1).

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

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

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

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

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645 other monthly payments because of such odd first-payment period.

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

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

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

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

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

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

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

670 (10) If any excess interest or fee is charged by the title
671 loan lender or an agent of the title loan lender in an effort to
672 intentionally circumvent the maximum title loan interest and

673 fees allowed by this chapter:

674 (a) The title loan agreement is void.

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

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

680

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

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

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

687 537.012 Limited liability for default of title loan;
 688 repossession and disposal of pledged property; excess proceeds.—

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

697 (a) The licensee, at least 10 days before repossessing the
 698 motor vehicle, sends to the borrower, by first-class mail,
 699 written notice advising the borrower that the title loan is in
 700 default and stating that the motor vehicle may be repossessed

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701 unless the principal and interest owed under the loan agreement
 702 are paid; and

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

706
 707 A licensee may not repossess a motor vehicle securing a title
 708 loan before the date specified in the notice required under this
 709 subsection. Except as otherwise provided in subsection (5), a
 710 licensee may not seek or obtain a personal money judgment
 711 against a borrower for any amount owed under a loan agreement or
 712 any deficiency resulting after the sale of a motor vehicle. If
 713 the borrower voluntarily surrenders the motor vehicle, the
 714 notice requirements of this subsection do not apply.

715 (2) At least 15 days before the sale of a motor vehicle, a
 716 licensee must notify the borrower of the date and time after
 717 which the motor vehicle is subject to sale and provide the
 718 borrower with a written accounting of the principal amount due
 719 to the licensee, interest accrued through the date that the
 720 licensee took possession of the motor vehicle, and any
 721 reasonable expenses incurred to date by the licensee in taking
 722 possession of, preparing for sale of, storing, and selling the
 723 motor vehicle. At any time before such sale, the licensee must
 724 allow the borrower to redeem the motor vehicle by tendering cash
 725 or any other valid funds instrument for the amount owed.

726 (3) Within 60 days after the licensee's receipt of funds
 727 from the sale of a motor vehicle, the borrower is entitled to
 728 receive all proceeds from such sale of the motor vehicle in

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729 excess of the principal amount due to the licensee, interest
730 accrued through the date the licensee took possession, and the
731 reasonable expenses incurred by the licensee in taking
732 possession of, storing, preparing for sale of, and selling the
733 motor vehicle.

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

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

745 (a) Intentionally damaging or destroying the motor
746 vehicle;

747 (b) Intentionally concealing the motor vehicle;

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

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

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

756 537.013 Prohibited acts.—

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

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

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

767 ~~(3)(c)~~ Enter into a title loan agreement with a person
768 younger than ~~under the age of~~ 18 years of age.

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

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

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

782 ~~(7)(g)~~ Fail to return the borrower's certificate of title
783 and, if repossessed, the borrower's motor vehicle loan property
784 ~~or repossessed titled personal property to a borrower,~~ with any

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785 and all of the title loan lender's liens on the motor vehicle
 786 ~~property~~ properly released, upon payment of the full amount due
 787 the title loan lender, unless the motor vehicle ~~property~~ has
 788 been seized or impounded by an authorized law enforcement
 789 agency, taken into custody by a court, or otherwise disposed of
 790 by court order. If, while a title loan lender is awaiting return
 791 of a certificate of title pending the recording of the lender's
 792 lien, the borrower repays the title loan in full, the lender
 793 shall release its lien and return the certificate of title to
 794 the borrower within 3 days after regaining possession thereof.

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

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

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

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

807 (12) ~~(l)~~ Charge a prepayment penalty.

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

810 (14) ~~(n)~~ Act as a title loan lender under this chapter ~~act~~
 811 within a place of business in which the licensee solicits or
 812 engages in business outside the scope of this chapter ~~act~~ if the

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813 division office determines that the licensee's operation of and
814 conduct pertaining to such other business results in an evasion
815 of this chapter act. Upon making such a determination, the
816 division office shall order the licensee to cease and desist
817 from such evasion; ~~provided, no licensee shall engage in the~~
818 ~~pawnbroker business.~~

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

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

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

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

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

834 537.014 Right of rescission.—A licensee shall allow a
835 borrower under a title loan agreement to rescind the title loan
836 without cost or further obligation if the borrower returns the
837 full amount of the loan proceeds in cash or returns the original
838 loan check before the close of business on the business day
839 immediately following the date on which the title loan agreement
840 is executed.

841 Section 15. Section 537.015, Florida Statutes, is amended
 842 to read:

843 537.015 Criminal penalties.—

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

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

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

855 537.016 Subpoenas; enforcement actions; rules.—

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

869 | at the place of business or residence of the witness.

870 | (2) In addition to any other powers conferred upon the
871 | division office to enforce or administer this chapter act, the
872 | division office may:

873 | (a) Bring an action in any court of competent jurisdiction
874 | to enforce or administer this chapter act, any rule or order
875 | adopted under this chapter act, or any written agreement entered
876 | into with the division office. In such action, the division
877 | office may seek any relief at law or equity, including a
878 | temporary or permanent injunction, appointment of a receiver or
879 | administrator, or an order of restitution.

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

886 | (c) Whenever the division office finds that conduct
887 | described in paragraph (b) presents an immediate danger to the
888 | public health, safety, or welfare requiring an immediate final
889 | order, the division office may issue an emergency cease and
890 | desist order reciting with particularity the facts underlying
891 | such findings. The emergency cease and desist order is effective
892 | immediately upon service of a copy of the order on the
893 | respondent named in the order and shall remain effective for 90
894 | days. If the division office begins nonemergency proceedings
895 | under paragraph (b), the emergency cease and desist order
896 | remains effective until the conclusion of the proceedings under

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897 ss. 120.569 and 120.57.

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

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

902 537.017 Investigations and complaints.—

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

915 (2) The division ~~office~~ shall conduct all examinations at
 916 a convenient location in this state unless the division ~~office~~
 917 determines that it is more effective or cost-efficient to
 918 perform an examination at the licensee's out-of-state location.
 919 For an examination performed at the licensee's out-of-state
 920 location, the licensee shall pay the travel expense and per diem
 921 subsistence at the rate provided by law for up to thirty 8-hour
 922 days per year for each of the division's examiners ~~office~~
 923 ~~examiner~~ who participates in such an examination. However, if
 924 the examination involves or reveals possible fraudulent conduct

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925 by the licensee, the licensee shall pay the travel expenses and
926 per diem subsistence provided by law, without limitation, for
927 each participating examiner.

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

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

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