

Senate Bill 593

By: Senator Robertson of the 29th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 7 of the Official Code of Georgia Annotated, relating to banking and finance,  
2 so as to enact the "Motor Vehicle Title Loan Act"; to require the Department of Banking and  
3 Finance to license and regulate title lenders; to establish licensing and regulatory procedures  
4 and requirements; to provide for applications and surety bonds; to provide for powers and  
5 duties of the department; to provide for fee, record-keeping, bond, and reporting  
6 requirements; to require approval for additional locations and certain licensee changes; to  
7 require the investigation and examination of applicants and licensees; to establish procedures  
8 for unauthorized activities; to provide for subpoenas; to provide for denial and revocation of  
9 licenses; to provide for criminal penalties and civil liability; to provide for procedures,  
10 conditions, and limitations relative to title loans; to provide for terms, interest, and charges;  
11 to provide for loan agreements; to provide for rights and requirements of lenders and  
12 borrowers in case of default; to provide for prohibitions; to allow certain legal actions; to  
13 provide for a short title; to provide for definitions; to make conforming changes; to amend  
14 Chapter 47 of Title 43 of the Official Code of Georgia Annotated, relating to used motor  
15 vehicle and used motor vehicle parts dealers, so as to change references from pawnbrokers  
16 to title lenders; to amend Part 5 of Article 3 of Chapter 12 of Title 44 of the Official Code  
17 of Georgia Annotated, relating to pawnbrokers, so as to remove provisions relative to the  
18 pawning of motor vehicles; to amend Article 8 of Chapter 14 of Title 44 of the Official Code

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19 of Georgia Annotated, relating to liens, so as to remove provisions relating to liens of  
20 pawnbrokers regarding motor vehicles or their titles; to make conforming changes; to provide  
21 for related matters; to provide for an effective date and applicability; to repeal conflicting  
22 laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

24 **SECTION 1.**

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

27 "CHAPTER 3A

28 ARTICLE 1

29 7-3A-1.

30 This chapter shall be known and may be cited as the 'Motor Vehicle Title Loan Act.'

31 7-3A-2.

32 As used in this chapter, the term:

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

35 (2) 'Covered employee' means any employee of a licensee engaged in any function  
36 related to making title loans.

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

38 (4) 'Executive officer' means an individual who performs significant managerial,  
39 supervisory, or policy-making functions on behalf of an organization, including, but not

40 limited to, the chief executive officer, president, chief financial officer, chief operating  
41 officer, secretary, and treasurer.

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

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

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

45 (8) 'Loan agreement' means a written document that sets out the terms and conditions of  
46 the title loan.

47 (9) 'Misrepresentation' means a false statement of a substantive fact or to engage in any  
48 conduct which leads to a false belief which is material to the transaction.

49 (10) 'Motor vehicle' means every self-propelled vehicle intended primarily for use and  
50 operation on the public highways; provided, however, that such term shall not include a  
51 mobile home as such term is defined in Code Section 8-2-160.

52 (11) 'Nationwide Multistate Licensing System and Registry' or 'NMLS' means a licensing  
53 system developed and maintained by the Conference of State Bank Supervisors and the  
54 American Association of Residential Mortgage Regulators for the licensing and  
55 registration of certain persons engaged in nondepository activities.

56 (12) 'Owner' means a person that:

57 (A) Owns, directly or indirectly, a 10 percent or more interest in a corporation or any  
58 other form of business organization;

59 (B) Owns, directly or indirectly, 10 percent or more of the voting shares of any  
60 corporation or any other form of business organization; or

61 (C) Possesses, either directly or indirectly, the power to direct or cause the direction  
62 of the management or policies of a corporation or any other form of business  
63 organization, regardless of whether such person owns or controls such interest through  
64 one or more individuals or one or more proxies, powers of attorney, nominees,  
65 corporations, associations, limited liability companies, partnerships, trusts, joint stock  
66 companies, other entities or devices, or any combination thereof.

67 (13) 'Person' means any individual, sole proprietorship, corporation, limited liability  
68 company, partnership, trust, or any other group of individuals, however organized.

69 (14) 'Title' or 'title loan' means a loan secured by the title to a motor vehicle and includes  
70 any extension or continuation of such a loan, but shall not include extensions of credit for  
71 the purpose of financing the purchase of a motor vehicle or of refinancing a purchase  
72 money loan that is secured by a lien on a motor vehicle.

73 (15) 'Title lender' means any person that engages in the business of making title loans.

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

76 7-3A-3.

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

80 (b) The chapter shall not apply to:

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

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

87 7-3A-4.

88 (a) Any title loan made by a person without a license, unless such loan is made by a person  
89 exempt from licensure, shall be void, and any right to collect any money in connection with  
90 such loan shall be forfeited. The person making a loan voided pursuant to this Code

91 section shall promptly refund any money paid and return to the borrower the motor vehicle  
92 title and, if applicable, the motor vehicle or its fair market value.

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

96 (1) Making loans disguised as a personal property, sale, or leaseback transaction;

97 (2) Disguising loan proceeds as a cash rebate for the pretextual installment sale of goods  
98 or services; and

99 (3) Making, offering, guaranteeing, assisting with, or arranging for a borrower to obtain  
100 a loan with a greater rate of interest than is permitted by this chapter through any method.

101 (c) Any borrower injured by a violation of this Code section may bring a civil action,  
102 within three years of discovering the violation, in a court of competent jurisdiction to  
103 recover the motor vehicle title, the motor vehicle or its fair market value, all amounts paid,  
104 and reasonable attorney's fees.

105 ARTICLE 2

106 7-3A-10.

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

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

110 (2) Furnish to NMLS the following information:

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

112 (B) The names and residence and business addresses of each owner and executive  
113 officer of the applicant;

114 (C) The address of each location where the applicant will engage in the business of  
115 making title loans in this state;

- 116 (D) Any name, subject to approval by the department, under which the applicant will  
117 engage in the business of making title loans in this state; and  
118 (E) The name and address of the initial registered agent and registered office for  
119 service of process in this state;  
120 (3) Submit such other data, financial statements, and pertinent information as the  
121 department may require with respect to the applicant or its owners or executive officers;  
122 and  
123 (4) Pay a nonrefundable application and supervision fee as prescribed by rule or  
124 regulation of the department.

125 7-3A-11.

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

129 (b) The bond shall:

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

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

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

135 (4) Require a licensee to pay any and all money for the benefit of any person damaged  
136 by noncompliance of the licensee with this chapter, with rules, regulations, or orders  
137 issued by the department pursuant to this chapter, or with any condition of the bond; and

138 (5) Require a licensee to pay any and all money that may become due and owing to any  
139 creditor of or claimant against the licensee arising out of the licensee's business of making  
140 title loans.

141 (c) Payments due under the bond shall include money owed to the department for fees for  
142 investigation or examination or fines or penalties for noncompliance of the licensee with  
143 this chapter or rules, regulations, or orders issued pursuant to this chapter.

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

145 (e) In no event shall the aggregate liability of the surety exceed the principal sum of the  
146 face amount of the bond.

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

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

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

153 (g) A bond shall not be canceled by either the licensee or the corporate surety except upon  
154 notice to the department electronically through NMLS, and such cancellation shall be  
155 effective no sooner than 30 days after receipt by the department of such notice and only  
156 with respect to any breach of condition occurring after the effective date of such  
157 cancellation.

158 7-3A-12.

159 (a) The department shall conduct an investigation of every applicant for licensure as it may  
160 deem necessary. The department shall exercise discretion in its consideration of an  
161 applicant pursuant to this chapter; provided, however, that the department shall not approve  
162 an application unless it has satisfactorily ascertained that:

163 (1) The applicant is financially sound and responsible and able to engage in the business  
164 of making title loans in an honest, fair, and efficient manner and with the confidence and  
165 trust of the community; and

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

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

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

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

171 7-3A-13.

172 (a) The department is authorized to:

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

175 (2) Enter into operating agreements, information sharing agreements, interstate  
176 cooperative agreements, and other contracts necessary for the department's participation  
177 in NMLS;

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

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

183 (5) Prescribe by rule and regulation requirements for participation by applicants and  
184 licensees in NMLS upon the department's determination that each requirement is  
185 consistent with both the public interest and the purposes of this chapter.

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

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



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

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

197 ARTICLE 3

198 7-3A-20.

199 (a) Each licensee shall:

200 (1) Conspicuously post a copy of its license in each location where the licensee engages  
201 in the business of making title loans;

202 (2) Submit to NMLS timely reports of condition, which shall be in such form and shall  
203 contain such information as the department may require;

204 (3) Clearly label all advertisements and any other documents required by rule or  
205 regulation of the department with its unique identifier;

206 (4) Make, keep, and use in its business such books, accounts, and records as the  
207 department may require to enforce the provisions of this chapter and the rules and  
208 regulations promulgated under it; and

209 (5) Make available to the department, upon request, any books, accounts, records, files,  
210 documents, evidence, or other information relating to the business of making title loans.

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

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

- 217 (1) In photographic, electronic, or other similar form; and  
218 (2) At a location outside of this state so long as such records are transmitted to a location  
219 designated by the department within ten days of a written request by the department.

220 7-3A-21.

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

222 (1) Any knowledge or discovery of an act prohibited by Code Section 7-3A-45;

223 (2) Any knowledge or discovery of the discharge of a covered employee for actual or  
224 suspected misrepresentation or dishonest or fraudulent acts;

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

228 (4) The filing of a petition by or against the licensee under the United States Bankruptcy  
229 Code, 11 U.S.C. Sections 101 through 110, for bankruptcy reorganization or the filing of  
230 a petition by or against the licensee for receivership or the making of a general  
231 assignment for the benefit of its creditors;

232 (5) Any knowledge or discovery that any of the licensee's owners, executive officers,  
233 directors, trustees, agents, or covered employees has been convicted of a felony as  
234 described in subsection (a) of Code section 7-3A-32; and

235 (6) Any knowledge or discovery of a criminal action initiated by any governmental entity  
236 for misrepresentations, dishonest acts, or fraudulent acts against any owner, executive  
237 officer, director, trustee, agent, or covered employee of a licensee.

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

239 (1) The commencement of any action brought against it relating to the business of  
240 making title loans;

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

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

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

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

249 (d) Any notice sent pursuant to this Code section shall be sent by registered or certified  
250 mail or statutory overnight delivery and shall include sufficient details to enable the  
251 department to identify any relevant creditor or claimant, claim, cause of action, judgment,  
252 payment, or prohibited act.

253 7-3A-22.

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

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

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

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

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

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

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

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

274 (c) Each manager of a licensee's location in this state shall be approved in writing by the  
275 department. A licensee may allow an individual to begin working as a new location  
276 manager prior to such approval, provided that the licensee submits an application for  
277 approval within 15 days of the new location manager beginning work as a location  
278 manager. If the department denies approval of such new location manager, the licensee  
279 shall immediately remove the individual upon notice of such denial.

280 (d) The department may, by rule or regulation, prescribe additional requirements for  
281 approval of an application submitted pursuant to this Code section.

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

287 ARTICLE 4

288 7-3A-30.

289 (a) The department shall investigate and examine the affairs, businesses, premises, and  
290 records of any applicant, licensee, or any other title lender as often as it deems necessary  
291 to carry out the purposes of this chapter, regardless of whether such applicant, licensee, or  
292 other title lender acts or claims to act under any other licensing or registration requirement  
293 of this state.

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

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

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

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

306 (2) Access, receive, and use any books, accounts, records, files, documents, evidence,  
307 or other information, including, but not limited to:

308 (A) Criminal, civil, and administrative history information, including information  
309 related to charges that did not result in a conviction;

310 (B) Personal history and experience information, including, but not limited to,  
311 independent credit reports obtained from a consumer reporting agency defined in 15  
312 U.S.C. Section 1681a; and

313 (C) Any other documents, information, or evidence the department deems relevant to  
314 the investigation or examination, regardless of the location, possession, control, or  
315 custody of such documents, information, or evidence;

316 (3) Enter into agreements or relationships with other government officials or regulatory  
317 authorities to improve efficiencies and reduce regulatory burden by sharing resources,  
318 documents, records, information, or evidence or by utilizing standardized or uniform  
319 methods or procedures;

320 (4) Accept and rely on investigation or examination reports made by other government  
321 officials or regulatory authorities within or outside this state, provided that such reports  
322 provide information necessary to fulfill the responsibilities of the department under this  
323 chapter;

324 (5) Accept and incorporate in any report of the department audit reports or portions of  
325 audit reports made by an independent certified public accountant on behalf of an  
326 applicant or licensee;

327 (6) Require or permit any person to file a statement in writing as to all the facts and  
328 circumstances concerning any matter to be investigated pursuant to this chapter;

329 (7) Request any financial data relevant to the business of making title loans;

330 (8) Administer oaths, call any party to testify under oath, and require the attendance of  
331 witnesses;

332 (9) Require the production of books, accounts, records, files, documents, and papers;

333 (10) Take the depositions of witnesses; and

334 (11) Issue subpoenas for any witness or for the production of documentary evidence.

335 (e) Each licensee or person subject to this chapter shall make available to the department,  
336 upon request, any books, accounts, records, files, documents, evidence, or other  
337 information relating to the activities of engaging in the business of making title loans.

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

342 7-3A-31.

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

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

346 (2) Examiners appointed by the department; or  
347 (3) The sheriff of the county where such witness resides or is found or where the person  
348 in custody of any books, accounts, records, files, documents, or papers resides or is  
349 found.

350 (b) The department may issue and apply to enforce subpoenas in this state at the request  
351 of any governmental agency, department, organization, or entity regulating the making of  
352 title loans in another state if the activities constituting the alleged violation for which the  
353 information is sought would be a violation of this chapter if the alleged activities had  
354 occurred in this state.

355 (c) If any person refuses to obey a subpoena issued under this chapter, a superior court of  
356 appropriate jurisdiction, upon application by the department, may issue to the person an  
357 order requiring such person to appear before the court to show cause why such person  
358 should not be held in contempt for refusal to obey the subpoena. Failure to obey a  
359 subpoena may be punished as contempt by the court.

360 7-3A-32.

361 (a) The department shall not issue a license and may revoke a license if it finds that the  
362 applicant or licensee or any owner, executive officer, or covered employee of the applicant  
363 or licensee has been convicted of a felony in any jurisdiction or of a crime which, if  
364 committed within this state, would constitute a felony under the laws of this state. For the  
365 purposes of this article, a person shall be deemed to have been convicted of a crime if such  
366 person shall have pleaded guilty or nolo contendere to a charge thereof before a court or  
367 federal magistrate or shall have been found guilty thereof by the decision or judgment of  
368 a court or federal magistrate or by the verdict of a jury, irrespective of the pronouncement  
369 of sentence or the suspension thereof and regardless of whether first offender treatment  
370 without adjudication of guilt pursuant to the charge was entered or an adjudication or  
371 sentence was otherwise withheld or not entered on that charge, unless and until such plea

372 of guilty or such decision, judgment, or verdict shall have been set aside, reversed, or  
373 otherwise abrogated by lawful judicial process or until probation, sentence, or both  
374 probation and sentence of a first offender have been successfully completed and  
375 documented or unless the person convicted of the crime shall have received a pardon  
376 therefor from the President of the United States or the governor or other pardoning  
377 authority in the jurisdiction where the conviction occurred or shall have received an official  
378 certification of pardon granted by the state's pardoning body where the conviction occurred  
379 which removes the legal disabilities resulting from such conviction and restores civil and  
380 political rights.

381 (b) The department shall be authorized to obtain conviction data with respect to any  
382 applicant or licensee or any owner, executive officer, or covered employee of the applicant  
383 or licensee. The department may submit directly to the Georgia Crime Information Center  
384 two complete sets of fingerprints of such person, together with the required records search  
385 fees and such other information as may be required. Fees for background checks that the  
386 department administers shall be sent to the department by applicants and licensees together  
387 with the fingerprints.

388 (c) Upon request by the department, each applicant or licensee or any owner, executive  
389 officer, or covered employee of the applicant or licensee shall submit to the department two  
390 complete sets of fingerprints, the required records search fees, and such other information  
391 as may be required. Fees for background checks that the department administers shall be  
392 submitted to the department by applicants or licensees together with two complete sets of  
393 fingerprints. Upon receipt of fingerprints, fees, and other required information, the Georgia  
394 Crime Information Center shall promptly transmit one set of fingerprints to the Federal  
395 Bureau of Investigation for a search of bureau records and an appropriate report and shall  
396 retain the other set and promptly conduct a search of its own records and records to which  
397 it has access. The Georgia Crime Information Center shall notify the department in writing  
398 of any derogatory finding, including, but not limited to, any conviction data regarding the



399 fingerprint records check, or if there is no such finding. All conviction data received by  
400 the department or by the applicant or licensee shall be used by the party requesting such  
401 data for the exclusive purpose of carrying out the responsibilities of this article, shall not  
402 be a public record, shall be confidential, and shall not be disclosed to any other person or  
403 agency except to any person or agency which otherwise has a legal right to inspect such  
404 data. All such records shall be maintained by the department and the applicant or licensee  
405 pursuant to laws regarding such records and the rules and regulations of the Federal Bureau  
406 of Investigation and the Georgia Crime Information Center, as applicable. As used in this  
407 Code section, 'conviction data' means a record of a finding, verdict, or plea of guilty or plea  
408 of nolo contendere with regard to any crime, regardless of whether an appeal of the  
409 conviction has been sought.

410 (d) Every applicant and licensee shall be authorized and required to obtain and maintain  
411 the results of background checks on covered employees. Such background checks shall be  
412 handled by the Georgia Crime Information Center pursuant to Code Section 35-3-34 and  
413 the rules and regulations of the Georgia Crime Information Center. Applicants and  
414 licensees shall be responsible for any applicable fees charged by the Georgia Crime  
415 Information Center. An applicant or licensee may only employ a person whose  
416 background data has been checked and has been found to be in compliance with all lawful  
417 requirements prior to the initial date of hire. This provision does not apply to owners,  
418 executive officers, or covered employees of applicants or licensees, whose background  
419 shall have been investigated through the department before taking office, beginning  
420 employment, or securing ownership. Upon receipt of information from the Georgia Crime  
421 Information Center that is incomplete or that indicates a covered employee has a criminal  
422 record in any state other than Georgia, the employer shall submit to the department two  
423 complete sets of fingerprint cards for such person, together with the applicable fees and any  
424 other required information. The department shall submit such fingerprints as provided in  
425 subsection (c) of this Code section.

426 (e) Upon request by the department, an applicant or licensee shall take all steps necessary  
427 to have an international criminal history background check performed on any owners,  
428 executive officers, and covered employees of applicants and licensees. The results of such  
429 international criminal history background check shall be provided to the department.

430 (f) Applicants and licensees shall have the primary responsibility for obtaining background  
431 checks on covered employees. The department shall be entitled to review the files of any  
432 applicant or licensee to determine whether the required background checks have been run  
433 and whether all covered employees are qualified. The department shall be authorized to  
434 discuss the status of employee background checks with applicants, licensees, and  
435 authorized agents. Notwithstanding any other provisions in this article, the department  
436 shall retain the right to obtain conviction data on covered employees of applicants and  
437 licensees.

438 7-3A-33.

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

443 (1) Committed any fraud, engaged in any dishonest activities, or made any  
444 misrepresentation;

445 (2) Violated any provision of this chapter, any rule, regulation, or order issued by the  
446 department pursuant to this chapter, or any other law in the course of its business of  
447 making title loans;

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

449 (4) Demonstrated incompetency or untrustworthiness to act as a title lender;

450 (5) Failed to pay within 30 days after it became final a judgment recovered in any court  
451 in an action arising out of the licensee's business of making title loans;

452 (6) Purposely withheld, deleted, destroyed, or altered information requested by the  
453 department or made misrepresentations to the department; or

454 (7) Operated in an unsafe or unsound manner.

455 (b) The department shall not issue a license and shall revoke a license if it determines that  
456 the applicant or licensee is not financially sound or responsible or not able to engage in the  
457 business of making title loans in an honest, fair, and efficient manner and with the  
458 confidence and trust of the community.

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

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

469 7-3A-34.

470 (a) Notice of the department's intention to enter an order denying an application or  
471 revoking a license shall be sent to the applicant or licensee in writing by registered or  
472 certified mail or statutory overnight delivery addressed to the principal office of such  
473 applicant or licensee. If a person refuses to accept service of such notice, the notice shall  
474 be served by the department under any other method of lawful service, and the person shall  
475 be liable to the department for a sum equal to the actual costs incurred to serve the notice.  
476 Such liability shall be paid upon notice and demand by the department and shall be

477 assessed and collected in the same manner as other fees or fines administered by the  
478 department.

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

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

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

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

496 7-3A-35.

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

499 (1) Except as provided in paragraphs (2) and (3) of this subsection, a person has violated  
500 any law of this state or any rule, regulation, or order of the department. Such cease and  
501 desist order shall be final 20 days from the date of issuance unless the person to whom  
502 it is issued requests a hearing in writing within such 20 day period;

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

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

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

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

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

527 (e) Judicial review of a final decision of the department issued pursuant to paragraph (2)  
528 or (3) of subsection (a) of this Code section shall be in accordance with Code Section

529 7-1-90, except that judicial review shall be available solely in the superior court of the  
530 county of domicile of the department.

531 7-3A-36.

532 (a) Whenever a person fails to comply with the terms of a final order or decision of the  
533 department issued pursuant to this chapter, the department may, through the Attorney  
534 General, petition any superior court of this state having jurisdiction over one or more  
535 defendants for an order directing such person to obey the order of the department within  
536 a period of time as shall be fixed by the court. Upon the filing of such petition, the court  
537 shall allow a motion to show cause why it should not be granted. After a hearing upon the  
538 merits or after failure of such person to appear when ordered, the court shall grant the  
539 petition of the department upon a finding that the order of the department was properly  
540 issued.

541 (b) Any person who violates the terms of any final order or decision issued pursuant to this  
542 chapter shall be liable for a civil penalty not to exceed \$1,000.00. Each day the violation  
543 continues shall constitute a separate offense. In determining the amount of the penalty, the  
544 department shall take into account the appropriateness of the penalty relative to the size of  
545 the financial resources of such person, the good faith efforts of such person to comply with  
546 the order, the gravity of the violation, the history of previous violations by such person, and  
547 such other factors or circumstances that contributed to the violation. The department may  
548 reduce any penalty which is subject to imposition or has been imposed pursuant to this  
549 Code section. Such penalty shall be final except as to judicial review as provided in Code  
550 Section 7-1-90, except that judicial review shall be available solely in the superior court  
551 of the county of domicile of the department.

552 (c) The department may bring an appropriate civil action to enforce any provision of this  
553 chapter or rule, regulation, decision, or order issued pursuant to this chapter, whether by

554 injunction or otherwise, in the superior court of this state having jurisdiction over one or  
555 more of the defendants.

556 (d) The department may prescribe by rule or regulation administrative fines for violations  
557 of this chapter or rules, regulations, decisions, or orders issued pursuant to this chapter.

558 7-3A-37.

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

562 (b) In addition to the exceptions set forth in subsection (b) of Code Section 7-1-70, the  
563 department is authorized to share information obtained under this chapter with other  
564 regulatory or law enforcement authorities. In the case of such sharing, the safeguards to  
565 confidentiality already in place within such agencies or authorities shall be deemed  
566 adequate. A designated employee or agent of the department may disclose such  
567 information as is necessary to conduct a civil or administrative investigation or proceeding  
568 related to the business of making title loans.

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

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

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

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

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

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

579 (6) Information concerning any violation of this chapter or any rule, regulation, or order  
580 issued pursuant to this chapter, provided that such information is derived from a final  
581 order of the department;

582 (7) The imposition of an administrative fine or penalty under this chapter; and

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

584 7-3A-38.

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

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

591 (2) For any such information furnished to or received from other persons subject to the  
592 provisions of this chapter; or

593 (3) For any information furnished in complaints filed with the department.

594 (b) Neither the department nor its employees or agents shall be subject to civil liability,  
595 and no civil cause of action of any nature shall exist against the department or its  
596 employees or agents arising out of the performance of activities or duties pursuant to this  
597 chapter.

598 ARTICLE 5

599 7-3A-40.

600 (a) Any title loan shall be for a 30 day period but may be extended or continued in 30 day  
601 increments, provided that any such agreement is evidenced in writing.



602 (b)(1) During the first 90 days of any title loan a title lender may, for each 30 day period,  
603 charge interest and title loan charges, which together equal no more than 25 percent of  
604 the principal amount advanced, with a minimum charge of up to \$10.00 per 30 day  
605 period.

606 (2) For any title loan which is continued or extended beyond 90 days a title lender may,  
607 for each 30 day period, charge interest and title loan charges, which together equal no  
608 more than 12.5 percent of the principal amount advanced, with a minimum charge of up  
609 to \$5.00 per 30 day period.

610 (3) For a motor vehicle redeemed by the borrower during the grace period pursuant to  
611 subsection (c) of Code Section 7-3A-42, a title lender may charge an additional interest  
612 charge not to exceed 12.5 percent of the principal.

613 (4) A title lender also may charge the following title loan charges:

614 (A) A fee equal to no more than any fee imposed by the appropriate state to register a  
615 lien upon a motor vehicle title, but only if the title lender actually registers such a lien;

616 (B) No more than \$5.00 per day in storage fees, but only if an actual repossession  
617 pursuant to a default takes place on a vehicle which was not already in the title lender's  
618 possession and only for each day the title lender must actually retain possession of the  
619 motor vehicle;

620 (C) A repossession fee of \$50.00 for a repossession within 50 miles of the office where  
621 the title loan originated, \$100.00 for a repossession within 51 to 100 miles, \$150.00 for  
622 a repossession within 101 to 300 miles, or \$250.00 for a repossession beyond 300  
623 miles, but only if an actual repossession pursuant to a default takes place on a vehicle  
624 which was not already in the title lender's possession; and

625 (D) A fee of up to \$2.00 for a loan agreement lost or destroyed by the borrower.

626 (5) No other charge or fee of any kind by whatever name denominated, including, but  
627 not limited to, any other storage fee or fee for insurance, shall be made by a title lender  
628 except as provided for in this subsection.

629 (6) No fee or charge provided for in this Code section may be imposed unless a  
630 disclosure regarding that fee or charge has been properly made as provided for in Code  
631 Section 7-3A-41.

632 (7) Any attempt to circumvent the interest rates or charges as specified in this Code  
633 section shall be null and void.

634 7-3A-41.

635 (a) Each title lender in each title loan transaction shall present the borrower with a loan  
636 agreement in at least nine-point type, appropriately completed, with no other written or  
637 pictorial matter except as provided in subsection (b) of this Code section, containing the  
638 following information:

639 (1) The name and address of the title lender;

640 (2) A disclosure stating:

641 'This is a loan agreement. Failure to make your payment as described in this document  
642 can result in the loss of your motor vehicle. The title lender can also charge you certain  
643 fees if he or she actually repossesses the motor vehicle.';

644 (3) The length of the title loan transaction is 30 days and that it can only be renewed with  
645 the agreement of both parties and only for 30 day incremental periods;

646 (4) The annual percentage rate, computed in accordance with the federal Truth in  
647 Lending Act and regulations promulgated thereunder, for the first 30 days of the  
648 transaction, computed as if all interest and title loan charges were considered to be  
649 interest;

650 (5) The annual percentage rate, computed in accordance with the federal Truth in  
651 Lending Act and regulations promulgated thereunder, for each 30 day period for which  
652 the title loan transaction might be continued or extended, shall be computed as if all  
653 interest and title loan charges were considered to be interest. For purposes of identifying  
654 the annual percentage rate after a second continuation or extension, a single statement

655 which identifies an annual percentage rate for each possible 30 day period thereafter shall  
656 meet the requirements of this Code section;  
657 (6) The dollar amount it would cost the borrower to redeem the motor vehicle in the first  
658 30 day period of the agreement;  
659 (7) The dollar amount it would cost the borrower to redeem the motor vehicle in any 30  
660 day period after the first 30 day period of the loan agreement, provided that all fees and  
661 charges have been kept current;  
662 (8) The specific maturity date of the loan agreement;  
663 (9) The length of the grace period during which the motor vehicle may be redeemed after  
664 the specific maturity date and the dollar amount which would be required to redeem the  
665 motor vehicle after the specific maturity date;  
666 (10) After the grace period, the motor vehicle will become the property of the title  
667 lender;  
668 (11) The title lender may not charge a storage fee for the motor vehicle unless the title  
669 lender repossesses the motor vehicle pursuant to a default; and  
670 (12) The title lender may charge:  
671 (A) A storage fee for a repossessed motor vehicle not to exceed \$5.00 per day, but only  
672 if the pawnbroker actually repossesses and actually must store the motor vehicle;  
673 (B) A repossession fee but only if the title lender actually repossesses the motor  
674 vehicle;  
675 (C) A fee to register a lien upon the motor vehicle certificate of title, not to exceed any  
676 fee actually charged by the appropriate state to register a lien upon a motor vehicle  
677 certificate of title, but only if the title lender actually places such a lien upon the motor  
678 vehicle certificate of title; and  
679 (D) A fee of up to \$2.00 can be charged for each loan agreement lost or destroyed by  
680 the borrower.

681 (b) In addition to the information required by subsection (a) of this Code section, the title  
682 lender may include the following information in the loan agreement, provided that such  
683 information is not used to obscure or obfuscate the information required by subsection (a)  
684 of this Code section:

685 (1) Information identifying the borrower;

686 (2) Any logo which the title lender may legally use;

687 (3) Any numbers or characters used by the title lender to identify the motor vehicle  
688 involved in the loan agreement;

689 (4) Any other information required to be disclosed to consumers by any other law, rule,  
690 or regulation of the United States or of the State of Georgia;

691 (5) Information identifying or describing the motor vehicle;

692 (6) Information which is only for the internal business use of the title lender;

693 (7) The hours of operation of the title lender;

694 (8) The time of day of the transaction; and

695 (9) Any agreement between the borrower and the title lender which does not controvert  
696 the provisions of this chapter, Part 5 of Article 8 of Chapter 14 of Title 44, or of Part 2  
697 of Article 15 of Chapter 1 of Title 10.

698 (c) The title lender shall have the borrower sign the loan agreement and shall furnish a  
699 completed copy to the borrower. The title lender shall maintain a completed and signed  
700 copy of the loan agreement on file for five years subsequent to the maturity date of the  
701 transaction. Failure to maintain such a copy shall be conclusive proof that the title lender  
702 did not furnish such loan agreement to the borrower.

703 7-3A-42.

704 (a) Any motor vehicle certificate of title which has come into the possession of a title  
705 lender through a loan agreement made in accordance with this chapter shall be conclusively  
706 deemed to be possession of the motor vehicle, and the pawnbroker shall retain physical

707 possession of the motor vehicle certificate of title for the entire length of the title loan but  
708 shall not be required in any way to retain physical possession of the motor vehicle at any  
709 time.

710 (b) A title lender shall have a lien on the pledged motor vehicle for the money advanced,  
711 interest, and title loan charges owed. The title lender may retain possession of the motor  
712 vehicle certificate of title, until the lien is satisfied and may have a right of action against  
713 anyone interfering therewith.

714 (c)(1) There shall be a minimum grace period of 30 calendar days on all title loan  
715 transactions. The title lender shall not sell the motor vehicle during the grace period.

716 (2) The grace period shall begin on the first day following the maturity date of the loan  
717 agreement or on the first day following the expiration of any extension or continuation  
718 of the loan agreement, whichever occurs later. In the event that the last day of the grace  
719 period falls on a day the title lender is not open for business, the grace period shall be  
720 extended through the first day following upon which the title lender is open for business.

721 (3) Motor vehicles may be redeemed by the borrower within the grace period by the  
722 payment of any unpaid accrued interest and title loan charges, the repayment of the  
723 principal, and the payment of an additional interest charge not to exceed 12.5 percent of  
724 the principal.

725 (4) A motor vehicle not redeemed within the grace period shall be automatically forfeited  
726 to the title lender by operation of this Code section, and any ownership interest of the  
727 borrower shall automatically be extinguished.

728 (d) Unless otherwise agreed, a title lender has upon default the right to take physical  
729 possession of the motor vehicle. In taking physical possession of the motor vehicle, the  
730 title lender or its agent may proceed by legal action or without judicial process, provided  
731 that such repossession shall be done without breach of the peace.

732 (e) Within 30 days of the sale of a motor vehicle, the licensee shall remit to the borrower  
733 all proceeds from the sale which were in excess of the remaining principal, interest, and

734 title loan charges owed, as provided for in Code Section 7-3A-40. With the remission of  
735 funds to the borrower, the licensee shall include a detailed receipt.

736 7-3A-43.

737 (a) The licensee's security interest in a motor vehicle shall be promptly released when the  
738 borrower's obligations under the loan agreement are satisfied in full. When releasing the  
739 security interest in a motor vehicle, the licensee shall:

740 (1) Mark the original loan agreement with the word 'paid' or 'canceled,' return it to the  
741 borrower, and retain a copy in its records;

742 (2) Take any action necessary to reflect the termination of its lien on the motor vehicle's  
743 certificate of title; and

744 (3) Return the certificate of title to the borrower.

745 (b) The borrower shall be authorized to prepay the title loan prior to the maturity date by  
746 paying the outstanding balance at any time without penalty.

747 (c) The borrower shall also be authorized to make partial payments on a title loan without  
748 charge at any time prior to the date such amounts would otherwise be due, and the licensee  
749 shall provide the borrower with signed, dated receipts for any cash payment made in  
750 person.

751 7-3A-44.

752 (a) In an action of law in any superior court of appropriate jurisdiction, a borrower may  
753 recover:

754 (1) Any interest or title loan charges collected which are undisclosed, improperly  
755 disclosed, or in excess of that allowed by Code Section 7-3A-40; and

756 (2) Any proceeds from the sale of a motor vehicle which are in excess of the remaining  
757 principal, interest, and charges owed and not returned to the borrow as required by  
758 subsection (e) of Code Section 7-3A-42.

759 (b)(1) Except as provided in paragraph (2) of this subsection, in any such action in which  
760 the borrower prevails, the court shall also award reasonable attorney's fees, court costs,  
761 and any expenses of litigation to the borrower.

762 (2) Before filing an action under subsection (a) of this Code section, the borrower shall  
763 provide the title lender with a written notice by certified mail or statutory overnight  
764 delivery, return receipt requested, that such an action is contemplated, identifying any  
765 interest or charges which the borrower contends are undisclosed, improperly disclosed,  
766 or in excess of the interest or charges allowed by this chapter. If the court finds that  
767 during the 30 days following receipt of such notice the title lender made a good faith  
768 effort to return any undisclosed, improperly disclosed or excess interest and charges, the  
769 court shall award reasonable attorney's fees, court costs, and expenses of litigation to the  
770 title lender.

771 (c) No action shall be brought under subsection (a) of this Code section more than two  
772 years after the borrower knew or should have known of the undisclosed, improperly  
773 disclosed, or excess interest, fees, and charges.

774 7-3A-45.

775 (a) A person shall not offer or make a tile loan in or from this state:

776 (1) Based on false or missing material matter in a loan agreement;

777 (2) To an individual under the age of 18 years or who appears to be under the influence  
778 of drugs or alcohol;

779 (3) That requires personal liability of the borrower or waives any provisions of this  
780 chapter;

781 (4) That includes a charge for any type of insurance in connection with a loan agreement;

782 (5) Under any name other than those authorized by the department in writing;

783 (6) Based upon any misrepresentation or any false statement or document likely to  
784 influence, persuade, or induce a potential borrower to take a title loan;

785 (7) Which is a misrepresentation of or conceals any factors, terms, or conditions; or

786 (8) Which is fraudulent or not based in good faith or fair dealing.

787 (b) Any person who makes a title loan in or from this state shall:

788 (1) Securely store motor vehicles and motor vehicle titles in its possession pursuant to  
789 a loan agreement;

790 (2) Disburse funds in accordance with a loan agreement;

791 (3) Account for or deliver to any person any personal property obtained in connection  
792 with a title loan which has come into the possession of a licensee and which is not the  
793 property of a licensee, or which the licensee is not legally entitled to retain;

794 (4) Be prohibited from collecting a debt by extortionate means;

795 (5) Be prohibited from improperly taking physical possession or attempting to  
796 improperly take physical possession of a motor vehicle;

797 (6) Be prohibited from knowingly withholding, deleting, destroying, or altering any  
798 books, accounts, records, files, documents, evidence, or other information requested by  
799 the department; and

800 (7) Be prohibited from making false statements or misrepresentations to the department  
801 or NMLS or in connection with any investigation and examination conducted by the  
802 department or another governmental agency.

803 7-3A-46.

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



807 7-3A-47.

808 (a) Any person who willfully engages in the business of making title loans without a  
809 license or exemption shall be guilty of a felony punishable as provided in Code Section  
810 7-1-845.

811 (b) Any person who violates any provisions of this chapter shall be guilty of a  
812 misdemeanor, which shall be punishable by imprisonment for not more than one year or  
813 a fine of not more than \$1,000.00, or both.

814 7-3A-48.

815 Nothing in this chapter shall limit:

816 (1) Any statutory or common law right of any person to bring any action in any court for  
817 any act involved in the making of title loans;

818 (2) The right of the state to punish any person for any violation of law in relation to title  
819 loans; or

820 (3) The authority of the Attorney General to take action pursuant to Part 2 of Article 15  
821 of Chapter 1 of Title 10, the 'Fair Business Practices Act of 1975,' or any other applicable  
822 law, in relation to title loans."

823

## **SECTION 2.**

824 Said title is further amended by revising subsection (a) of Code Section 7-1-845, relating to  
825 miscellaneous felonies and when punished as misdemeanors, as follows:

826 "(a) Any person or corporation, including any financial institution or its directors, officers,  
827 agents, or employees, who shall perform the following acts or deeds shall be guilty of a  
828 felony:

829 (1) Publishes or causes to be published any false statement, expressed either by printing  
830 or writing or by signs, pictures, or the like, of or concerning any financial institution as  
831 to the assets or liabilities of such financial institution or as to its solvency or ability to

832 meet its obligations or as to its soundness or who shall publish or cause to be published  
833 any other false statement so expressed, calculated to affect the credit or standing of such  
834 financial institution or to cast suspicion upon its solvency, soundness, or ability to meet  
835 its deposits or other obligations in due course;

836 (2) Falsely circulates any report or makes any false oral statement as to the assets or  
837 liabilities of a financial institution or as to its solvency or ability to meet its obligations  
838 or as to its soundness or who shall make any other false oral statement calculated to affect  
839 the credit or standing of such financial institution or to cast suspicion upon its solvency,  
840 soundness, or ability to meet its deposits or other obligations in due course;

841 (3) Willfully engages in the business of:

842 (A) A bank in violation of Code Section 7-1-241;

843 (B) A trust company in violation of Code Section 7-1-242;

844 (C) A credit union in violation of Code Section 7-1-633;

845 (D) Selling payment instruments before receiving a license as required by Code  
846 Section 7-1-681;

847 (E) An international bank agency before receiving the license required by Code Section  
848 7-1-713;

849 (F) A business development corporation before approval of the department is granted  
850 under Code Section 7-1-743;

851 (G) Transacting business either directly or indirectly as a mortgage loan originator,  
852 mortgage broker, or mortgage lender unless licensed by the department or exempt from  
853 licensing pursuant to Code Section 7-1-1001; ~~or~~

854 (H) Making installment loans unless licensed by the department or exempt from  
855 licensing requirements pursuant to Code Section 7-3-4; or

856 (I) Making title loans unless licensed by the department or exempt from licensing  
857 requirements pursuant to Code Section 7-3A-3; or

858 (4) Being an agent of a licensee or such agent's employee who is authorized to sell or  
859 issue payment instruments on behalf of a licensee, issues payment instruments directly  
860 or indirectly to or for his or her own benefit, or sells or issues payment instruments  
861 without accepting funds therefor or sells or issues payment instruments and willfully fails  
862 to remit to the licensee the proceeds from the sale or issuance of such payment  
863 instruments within five business days from the date of such sale or issuance."

864

### SECTION 3.

865 Said title is further amended by revising subsection (c) of Code Section 7-4-2, relating to  
866 legal rate of interest, maximum rate of interest generally, and certain items not considered  
867 interest, as follows:

868 "(c) Nothing contained in this Code section shall be construed to amend or modify the  
869 provisions of Chapter 3 of this title, the 'Georgia Installment Loan Act,' Chapter 3A of this  
870 title, the 'Motor Vehicle Title Loan Act,' Article 1 of Chapter 1 of Title 10, the 'Retail  
871 Installment and Home Solicitation Sales Act,' Chapter 5 of this title, 'The Credit Card and  
872 Credit Card Bank Act,' Chapter 22 of Title 33, the 'Insurance Premium Finance Company  
873 Act,' Part 5 of Article 3 of Chapter 12 of Title 44, relating to pawnbrokers, and, except as  
874 provided in Code Section 7-4-3, Article 2 of Chapter 1 of Title 10, the 'Motor Vehicle Sales  
875 Finance Act.'"

876

### SECTION 4.

877 Chapter 47 of Title 43 of the Official Code of Georgia Annotated, relating to used motor  
878 vehicle and used motor vehicle parts dealers, is amended by revising paragraphs (4) and (17)  
879 of Code Section 43-47-2, relating to definitions, as follows:

880 "(4) 'Financial institution' means a finance company or a banking institution or any  
881 subsidiary of a finance company or banking institution which engages solely in the  
882 financing or leasing of motor vehicles. Such term shall not mean a ~~pawnbroker as such~~

883 ~~term is defined in Code Section 44-12-130~~ title lender, as defined in Code Section  
884 7-3A-2."

885 "(17)(A) 'Used motor vehicle dealer,' 'used car dealer,' or 'licensee' means any person  
886 who, for commission or with intent to make a profit or gain of money or other thing of  
887 value, sells, exchanges, rents with option to purchase, offers, or attempts to negotiate  
888 a sale or exchange of an interest in used motor vehicles or who is engaged wholly or  
889 in part in the business of selling used motor vehicles, whether or not such motor  
890 vehicles are owned by such person. A motor vehicle wholesaler and a motor vehicle  
891 broker shall be deemed to be a used motor vehicle dealer or a used car dealer for the  
892 purposes of this chapter. Any independent motor vehicle leasing agency which sells  
893 or offers for sale used motor vehicles shall be deemed to be a used motor vehicle dealer  
894 or a used car dealer for the purposes of this chapter. Any motor vehicle auction  
895 company selling or offering for sale used motor vehicles to independent motor vehicle  
896 dealers or to individual consumers shall be deemed to be a used motor vehicle dealer  
897 or used car dealer for the purposes of this chapter except as otherwise provided in  
898 division (x) of subparagraph (B) of this paragraph. Without limiting any of the  
899 foregoing, the sale of five or more used motor vehicles in any one calendar year shall  
900 be prima-facie evidence that a person is engaged in the business of selling used motor  
901 vehicles. A ~~pawnbroker~~ title lender, as defined in Code Section 7-3A-2, who disposes  
902 of all repossessed motor vehicles by selling or exchanging his or her interest in such  
903 motor vehicles only to licensees under this chapter shall not be considered a used motor  
904 vehicle dealer under this chapter as so long as such ~~pawnbroker~~ title lender does not  
905 otherwise engage in activities which would bring ~~him or her~~ such lender under the  
906 licensing requirements of this chapter.

907 (B) Used motor vehicle dealer or used car dealer does not include:

- 908 (i) Franchised motor vehicle dealers and their wholly owned and controlled  
909 subsidiaries operating in the county in which their franchise is located or operating  
910 as a direct dealer of a manufacturer;
- 911 (ii) Receivers, trustees, administrators, executors, guardians, or other persons  
912 appointed by or acting under the judgment or order of any court;
- 913 (iii) Public officers while performing their official duties;
- 914 (iv) Persons disposing of motor vehicles acquired for their own use when the same  
915 shall have been acquired and used in good faith and not for the purpose of avoiding  
916 the provisions of this chapter. Evidence of good faith, as provided in this division,  
917 shall consist of the fact that the vehicle is properly titled and registered in the name  
918 of the transferor;
- 919 (v) Financial institutions when the financial institution sells its repossessed or leased  
920 motor vehicles. Finance companies, for purposes of this chapter, shall not include a  
921 ~~pawnbroker as defined in Code Section 44-12-130~~ title lender, as defined in Code  
922 Section 7-3A-2;
- 923 (vi) Insurance companies ~~who~~ that sell motor vehicles to which they have taken title  
924 as an incident of payments made under policies of insurance;
- 925 (vii) Persons, firms, or corporations who act as agents for insurance companies for  
926 the purpose of soliciting insurance for motor vehicles;
- 927 (viii) Persons, firms, or corporations engaged in a business other than as a used car  
928 dealer, as defined in divisions (i) through (vii) of this subparagraph, who sell motor  
929 vehicles traded in as a part of the purchase price of an article other than a motor  
930 vehicle and which have not been acquired by direct purchase for cash, and which  
931 business is not for the purpose of violating this chapter;
- 932 (ix) Persons, firms, or corporations which sell only vehicles which will not be used  
933 primarily for transportation purposes, including, but not limited to, antique  
934 automobiles, classic automobiles, and automobiles sold solely as speculative

935 investments. In determining whether a vehicle or vehicles will not be used primarily  
 936 for transportation purposes, the board may rely on the representations, written or oral,  
 937 made regarding the vehicles, but may also look at any other relevant evidence; or  
 938 (x) Persons licensed or companies registered under Chapter 6 of this title, relating to  
 939 auctioneers, when auctioning used motor vehicles which are being disposed of under  
 940 administration of an estate or when auctioning used motor vehicles and real property  
 941 at the same sale when such vehicles and property are owned by a common owner."

942

### SECTION 5.

943 Said chapter is further amended by revising Code Section 43-47-3, relating to creation of the  
 944 State Board of Registration of Used Motor Vehicle Dealers and Used Motor Vehicle Parts  
 945 Dealers, composition, terms of office, vacancies, election of chairperson, and divisions, as  
 946 follows:

947 "43-47-3.

948 (a) There is created a State Board of Registration of Used Motor Vehicle Dealers and Used  
 949 Motor Vehicle Parts Dealers. The board shall be ~~comprised~~ composed of ~~14~~ 13 members:

950 (1) Three members shall be independent used car dealers;

951 (2) Three members shall be appointed from the public at large and shall have no  
 952 connection whatsoever with the sale of used cars or parts;

953 (3) The state revenue commissioner, or a designated agent, shall be a permanent ex  
 954 officio member and shall be authorized to vote on all matters before the board;

955 ~~(4) Reserved;~~

956 ~~(5)~~(4) One member shall be a representative of the automobile auction industry;

957 ~~(6)~~(5) One member shall be an auto salvage pool operator;

958 ~~(7)~~(6) Two members shall be used motor vehicle parts dealers who are not rebuilders;

959 ~~(8)~~(7) One member shall be a rebuilder;

960 ~~(9) One member shall be a pawnbroker as defined in Code Section 44-12-130 who is in~~  
961 ~~the business of pawning automobile titles and is licensed as a used car dealer; and~~  
962 ~~(10)~~(8) One member shall be a representative of the automobile insurance industry.  
963 (b) The members of the board referred to in paragraphs (1), (2), (4), (5), (6), (7), and (8);  
964 ~~(9), and (10)~~ of subsection (a) of this Code section shall be appointed by the Governor and  
965 shall take office on July 1, 1995, or as soon thereafter as appointed. The initial terms of  
966 those 13 appointed members shall expire as follows: three on June 30, 1996; three on June  
967 30, 1997; three on June 30, 1998; and four on June 30, 1999. Thereafter, the appointed  
968 members of the board shall serve terms of four years. All members shall be residents of  
969 this state. No more than two of the appointed members shall be from the same  
970 congressional district. The terms of the two ex officio members shall be coextensive with  
971 their terms of office.  
972 (c) Any vacancies on the board shall be filled by the Governor for the remainder of the  
973 unexpired term. The members of the board shall annually elect one of their number to  
974 serve as chairperson for a term of two years. The board chairperson shall not also serve  
975 contemporaneously as the chairperson of either division under this chapter. The first term  
976 as chairperson of the board shall be served by a member or members elected from either  
977 division under this chapter; thereafter, the chairperson for each succeeding term shall not  
978 be elected from the same division as that of the chairperson from the immediately  
979 preceding term. In the event a chairperson of the board is unable to complete his or her  
980 term, his or her successor for the remainder of the term shall be elected from the same  
981 division as was the chairperson who is unable to complete the term. The chairperson of the  
982 board shall be an ex officio member of both divisions under this chapter; however, the  
983 chairperson of the board shall not be counted for purposes of determining whether a  
984 quorum is present in the division meeting for the division in which he or she is not a  
985 regular member.

- 986 (d)(1) The board shall be composed of two divisions, a used car division and a used parts  
987 division.
- 988 (2) The members of the used car division shall be the three independent used car dealers,  
989 two of the members from the public at large, the state revenue commissioner or a  
990 designated agent, and the representative of the automobile auction industry, ~~and the~~  
991 ~~pawnbroker~~. All powers and duties relating to used car dealers which are not specifically  
992 reserved to the board shall be assigned to the used car division. The used car division  
993 shall elect one of its members to serve as chairperson of the division for a period of one  
994 year.
- 995 (3) The members of the used parts division shall be the third member from the public at  
996 large, the state revenue commissioner or a designated agent, the auto salvage pool  
997 operator, the two used motor vehicle parts dealers who are not rebuilders, the rebuilder,  
998 and the representative of the automobile insurance industry. All powers and duties  
999 relating to used parts dealers which are not specifically reserved to the board shall be  
1000 assigned to the used parts division. The used parts division shall elect one of its members  
1001 to serve as chairperson of the division for a period of one year.
- 1002 (4) The chairperson of the board shall determine which of the two members from the  
1003 public at large will serve in the used car division and which ~~shall~~ will serve in the used  
1004 parts division."

1005

**SECTION 6.**

1006 Part 5 of Article 3 of Chapter 12 of Title 44 of the Official Code of Georgia Annotated,  
1007 relating to pawnbrokers, is amended by revising paragraph (5) of Code Section 44-12-130,  
1008 relating to definitions, as follows:

1009 "(5) 'Pledged goods' means tangible personal property, not including, ~~without limitation,~~  
1010 ~~all types of motor vehicles or any motor vehicle certificate of title, which property that~~  
1011 is purchased by, deposited with, or otherwise actually delivered into the possession of a



1012 pawnbroker in connection with a pawn transaction. ~~However, for purposes of this Code~~  
 1013 ~~section, possession of any motor vehicle certificate of title which has come into the~~  
 1014 ~~possession of a pawnbroker through a pawn transaction made in accordance with law~~  
 1015 ~~shall be conclusively deemed to be possession of the motor vehicle, and the pawnbroker~~  
 1016 ~~shall retain physical possession of the motor vehicle certificate of title for the entire~~  
 1017 ~~length of the pawn transaction but shall not be required in any way to retain physical~~  
 1018 ~~possession of the motor vehicle at any time. 'Pledged goods' shall not include choses in~~  
 1019 ~~action, securities, or printed evidences of indebtedness."~~

1020

### SECTION 7.

1021 Said part is further amended by revising subsection (a) of Code Section 44-12-131, relating  
 1022 to duration of pawn transactions, lease-back of motor vehicles prohibited, taking possession  
 1023 of motor vehicles, restrictions on interest, fees, or charges, action to recover excessive or  
 1024 undisclosed charges, and consequences of excessive charges, as follows:

1025 "(a)(1) All pawn transactions shall be for 30 day periods but may be extended or  
 1026 continued for additional 30 day periods.

1027 ~~(2) A pawnbroker shall not lease back to the seller or pledgor any motor vehicle during~~  
 1028 ~~a pawn transaction or during any extension or continuation of the pawn transaction.~~

1029 ~~(3) Unless otherwise agreed, a pawnbroker has upon default the right to take possession~~  
 1030 ~~of the motor vehicle. In taking possession, the pawnbroker or his agent may proceed~~  
 1031 ~~without judicial process if this can be done without breach of the peace or may proceed~~  
 1032 ~~by action.~~

1033 ~~(4)~~(2)(A) During the first 90 days of any pawn transaction or extension or continuation  
 1034 of the pawn transaction, a pawnbroker may charge for each 30 day period interest and  
 1035 pawnshop charges which together equal no more than 25 percent of the principal  
 1036 amount advanced, with a minimum charge of up to \$10.00 per 30 day period.

1037 (B) On any pawn transaction which is continued or extended beyond 90 days, a  
1038 pawnbroker may charge for each 30 day period interest and pawnshop charges which  
1039 together equal no more than 12.5 percent of the principal amount advanced, with a  
1040 minimum charge of up to \$5.00 per 30 day period.

1041 ~~(C) In addition to the charges provided for in subparagraphs (A) and (B) of this~~  
1042 ~~paragraph, in a pawn transaction or in any extension or continuation of a pawn~~  
1043 ~~transaction involving a motor vehicle or a motor vehicle certificate of title, a~~  
1044 ~~pawnbroker may charge the following:~~

1045 ~~(i) A fee equal to no more than any fee imposed by the appropriate state to register~~  
1046 ~~a lien upon a motor vehicle title, but only if the pawnbroker actually registers such a~~  
1047 ~~lien;~~

1048 ~~(ii) No more than \$5.00 per day in storage fees, but only if an actual repossession~~  
1049 ~~pursuant to a default takes place on a vehicle which was not already in the~~  
1050 ~~pawnbroker's possession and only for each day the pawnbroker must actually retain~~  
1051 ~~possession of the motor vehicle; and~~

1052 ~~(iii) A repossession fee of \$50.00 within 50 miles of the office where the pawn~~  
1053 ~~originated, \$100.00 within 51 to 100 miles, \$150.00 within 101 to 300 miles and a fee~~  
1054 ~~of \$250.00 beyond 300 miles, but only if an actual repossession pursuant to a default~~  
1055 ~~takes place on a vehicle which was not already in the pawnbroker's possession.~~

1056 ~~(D)~~(C) If a pledgor or seller requests that the pawnbroker mail or ship the pledged item  
1057 to the pledgor or seller, a pawnbroker may charge a fee for the actual shipping and  
1058 mailing costs, plus a handling fee equal to not more than 50 percent of the actual  
1059 shipping and mailing costs.

1060 ~~(E)~~(D) In the event the pledgor or seller has lost or destroyed the original pawn ticket,  
1061 a pawnbroker may, at the time of redemption, charge a fee equal to not more than  
1062 \$2.00.

1063 ~~(5)~~(3) No other charge or fee of any kind by whatever name denominated, ~~including but~~  
1064 ~~not limited to any other storage fee for a motor vehicle,~~ shall be made by a pawnbroker  
1065 except as set out in paragraph ~~(4)~~ (2) of this subsection.

1066 ~~(6)~~(4) No fee or charge provided for in this Code section may be imposed unless a  
1067 disclosure regarding that fee or charge has been properly made as provided for in Code  
1068 Section 44-12-138.

1069 ~~(7)~~(5)(A) Any interest, fees, or charges collected which are undisclosed, improperly  
1070 disclosed, or in excess of that allowed by this subsection may be recovered by the  
1071 pledgor or seller in an action at law in any superior court of appropriate jurisdiction.

1072 (B) In any such action in which the pledgor or seller prevails, the court shall also award  
1073 reasonable attorney's fees, court costs, and any expenses of litigation to the pledgor or  
1074 seller.

1075 (C) Before filing an action under this Code section, the pledgor or seller shall provide  
1076 the pawnbroker with a written notice by certified mail or statutory overnight delivery,  
1077 return receipt requested, that such an action is contemplated, identifying any fees or  
1078 charges which the pledgor or seller contends are undisclosed, improperly disclosed, or  
1079 in excess of the fees and charges allowed by this Code section. If the court finds that  
1080 during the 30 days following receipt of this notice the pawnbroker made a good faith  
1081 ~~offer~~ effort to return any excess, undisclosed, or improperly disclosed charges, the court  
1082 shall award reasonable attorney's fees, court costs, and expenses of litigation to the  
1083 pawnbroker.

1084 (D) No action shall be brought under this Code section more than two years after the  
1085 pledgor or seller knew or should have known of the excess, undisclosed, or improperly  
1086 disclosed charges."

1087

**SECTION 8.**

1088 Said part is further amended by revising subsection (b) of Code Section 44-12-138, relating  
1089 to restrictions on advertising and disclosure tickets or statements, as follows:

1090 "(b) Every pawnbroker in every pawn transaction shall present the pledgor or seller with  
1091 a written disclosure ticket or statement in at least nine-point type, appropriately completed,  
1092 with no other written or pictorial matter except as provided in subsection (c) of this Code  
1093 section, containing the following information:

1094 (1) Information identifying the pawnbroker by name and address;

1095 (2) A statement as follows:

1096 "This is a pawn transaction. Failure to make your payments as described in this  
1097 document can result in the loss of the pawned item. The pawnbroker can sell or keep  
1098 the item if you have not made all payments by the specified maturity date.';

1099 ~~(3) If the pawned item is a motor vehicle or motor vehicle certificate of title, a statement~~  
1100 ~~as follows:~~

1101 ~~'Failure to make your payment as described in this document can result in the loss of~~  
1102 ~~your motor vehicle. The pawnbroker can also charge you certain fees if he or she~~  
1103 ~~actually repossesses the motor vehicle.';~~

1104 ~~(4)~~(3) A statement that the length of the pawn transaction is 30 days and that it can only  
1105 be renewed with the agreement of both parties and only for 30 day incremental periods;

1106 ~~(5)~~(4) The annual percentage rate, computed in accordance with the federal Truth in  
1107 Lending Act and regulations under the federal Truth in Lending Act, for the first 30 days  
1108 of the transaction, computed as if all interest and pawnshop charges were considered to  
1109 be interest;

1110 ~~(6)~~(5) The annual percentage rate, computed in accordance with the federal Truth in  
1111 Lending Act and regulations under the federal Truth in Lending Act, for each 30 day  
1112 period in which the pawn transaction might be continued or extended, computed as if all  
1113 interest and pawnshop charges were considered to be interest. For purposes of

1114 identifying the annual percentage rate after the second continuation or extension, a single  
1115 statement which identifies an annual percentage rate for each possible 30 day period  
1116 thereafter shall meet the requirements of this Code section;

1117 ~~(7)~~(6) A statement in dollar amounts of how much it will cost the ~~seller or pledgor or~~  
1118 seller to redeem the merchandise in the first 30 day period of the transaction;

1119 ~~(8)~~(7) A statement in dollar amounts of how much it will cost the ~~seller or pledgor or~~  
1120 seller to redeem the merchandise in any 30 day period after the first 30 day period of the  
1121 pawn transaction, provided that all fees and charges have been kept current;

1122 ~~(9)~~(8) A statement of the specific maturity date of the pawn transaction;

1123 ~~(10)~~(9) A statement of how long, the grace period, the pledged goods may be redeemed  
1124 after the specific maturity date and the dollar amount which will be required to redeem  
1125 the pledged goods after the specific maturity date;

1126 ~~(11)~~(10) A statement that after the grace period the pledged goods become the property  
1127 of the pawnbroker;

1128 ~~(12) If the pawn transaction involves a motor vehicle or motor vehicle certificate of title,~~  
1129 ~~a statement that the pawnbroker may not charge a storage fee for the motor vehicle unless~~  
1130 ~~the pawnbroker repossesses the motor vehicle pursuant to a default;~~

1131 ~~(13) If the pawn transaction involves a motor vehicle or motor vehicle certificate of title,~~  
1132 ~~a statement that the pawnbroker may charge a storage fee for a repossessed motor vehicle~~  
1133 ~~not to exceed \$5.00 per day, but only if the pawnbroker actually repossesses and actually~~  
1134 ~~must store the motor vehicle;~~

1135 ~~(14) If the pawn transaction involves a motor vehicle or motor vehicle certificate of title,~~  
1136 ~~a statement that the pawnbroker may charge a repossession fee, not to exceed \$50.00, but~~  
1137 ~~only if the pawnbroker actually repossesses the motor vehicle;~~

1138 ~~(15) If the pawn transaction involves a motor vehicle or motor vehicle certificate of title,~~  
1139 ~~a statement that the pawnbroker may charge a fee to register a lien upon the motor vehicle~~  
1140 ~~certificate of title, not to exceed any fee actually charged by the appropriate state to~~

1141 ~~register a lien upon a motor vehicle certificate of title, but only if the pawnbroker actually~~  
 1142 ~~places such a lien upon the motor vehicle certificate of title;~~  
 1143 ~~(16)(11)~~ A statement that any costs to ship the pledged items to the pledgor or seller can  
 1144 be charged to the pledgor or seller, along with a handling fee to equal no more than 50  
 1145 percent of the actual costs to ship the pledged items; and  
 1146 ~~(17)(12)~~ A statement that a fee of up to \$2.00 can be charged for each lost or destroyed  
 1147 pawn ticket."

1148

### SECTION 9.

1149 Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to  
 1150 liens, is amended by revising Code Section 44-14-403, relating to lien of pawnbroker, action  
 1151 for interference, grace period on pawn transactions, extension or continuation of maturity  
 1152 date, and redemption of goods after maturity date, as follows:

1153 "44-14-403.

1154 (a) A pawnbroker shall have a lien on the pledged goods pawned for the money advanced,  
 1155 interest, and pawnshop ~~charge~~ charges owed but not for other debts due to ~~him~~ the  
 1156 pawnbroker. ~~He~~ The pawnbroker may retain possession of the pledged goods until ~~his~~ the  
 1157 lien is satisfied and may have a right of action against anyone interfering therewith.

1158 (b)(1) There shall be a grace period of ten calendar days on all pawn transactions. ~~On~~  
 1159 ~~pawn transactions involving motor vehicles or motor vehicle certificates of title, the grace~~  
 1160 ~~period shall be 30 calendar days; on all other pawn transactions the grace period shall be~~  
 1161 ~~ten calendar days~~. In the event that the last day of the grace period falls on a day in  
 1162 which the pawnbroker is not open for business, the grace period shall be extended  
 1163 through the first day following upon which the pawnbroker is open for business. The  
 1164 pawnbroker shall not sell the pledged goods during the grace period.

1165 (2) By agreement of the parties, the maturity date of the pawn transaction may be  
 1166 extended or continued for 30 day periods, provided that the interest rates and charges as

1167 specified in Code Section 44-12-131 are not exceeded. The grace period shall begin  
 1168 running on the first day following the maturity date of the pawn transaction or on the first  
 1169 day following the expiration of any extension or continuation of the pawn transaction,  
 1170 whichever occurs later. All extensions or continuations of the pawn transaction shall be  
 1171 evidenced in writing.

1172 (3) Pledged goods may be redeemed by the pledgor or seller within the grace period by  
 1173 the payment of any unpaid accrued fees and charges, the repayment of the principal, and  
 1174 the payment of an additional interest charge not to exceed 12.5 percent of the principal.  
 1175 Pledged goods not redeemed within the grace period shall be automatically forfeited to  
 1176 the pawnbroker by operation of this Code section, and any ownership interest of the  
 1177 pledgor or seller shall automatically be extinguished as regards the pledged item.

1178 (4) Any attempt to circumvent the interest rates and charges as specified in Code Section  
 1179 44-12-131 shall be null and void. A pawn transaction shall be considered to have been  
 1180 extended or continued unless:

1181 (A) All charges, fees, and the principal have actually been paid or repaid on the  
 1182 previous pawn transaction;

1183 (B) The pledged goods in the previous transaction, ~~including but not limited to a motor~~  
 1184 ~~vehicle certificate of title,~~ have actually been restored to the possession of the pledgor  
 1185 or seller; and

1186 (C) The pledged goods in the previous transaction have been removed from the  
 1187 business premises of the pawnbroker ~~and, in the case of a motor vehicle certificate of~~  
 1188 ~~title, any lien on the motor vehicle certificate of title has been removed or released."~~

1189 **SECTION 10.**

1190 This Act shall become effective on, and shall apply to any loan agreement entered into on  
 1191 or after, the one hundred and eightieth day following the date funds are specifically

1192 appropriated for the purposes of this Act in an appropriations Act enacted by the General  
1193 Assembly and are available for expenditure.

1194

**SECTION 11.**

1195 All laws and parts of laws in conflict with this Act are repealed.