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## **TITLE PLEDGE ACT**

### **§ 75-67-401. Title.**

This article shall be known and may be cited as the "Mississippi Title Pledge Act."

Sources: Laws, 1997, ch. 610, § 2, eff from and after passage (approved April 22, 1997).

### **§ 75-67-403. Definitions.**

The following words and phrases shall have the following meanings:

(a) "Appropriate law enforcement agency" means the sheriff of each county in which the title pledge lender maintains an office, or the police chief of the municipality or law enforcement officers of the Department of Public Safety in which the title pledge lender maintains an office.

(b) "Attorney General" means the Attorney General of the State of Mississippi.

(c) "Commissioner" means the Commissioner of Banking and Consumer Finance of the State of Mississippi, or his designee, as the designated official for the purpose of enforcing this article.

(d) "Identification" means a government issued photographic identification.

(e) "Person" means an individual, partnership, corporation, joint venture, trust, association or other legal entity.

(f) "Pledged property" means any personal property certificate of title that is deposited with a title pledge lender in the course of the title pledge lender's business and is the subject of a title pledge agreement.

(g) "Pledgor" means the person to whom the property is titled.

(h) "Title pledge agreement" means a thirty-day written agreement whereby a title pledge lender agrees to make a loan of money to a pledgor, and the pledgor agrees to give the title pledge lender a security interest in unencumbered titled personal property owned by the pledgor. The pledgor shall agree that the title pledge lender keep possession of the certificate of title. The pledgor shall have the exclusive right to redeem the certificate of title by repaying the loan of money in full and by complying with the title pledge agreement. When the certificate of title is redeemed, the title pledge lender shall release the security interest in the titled personal property and return the personal property certificate of title to the pledgor. The title pledge agreement shall provide that upon

failure by the pledgor to redeem the certificate of title at the end of the original thirty-day agreement period, or at the end of any extension(s) thereof, the title pledge lender shall be allowed to take possession of the titled personal property. The title pledge agreement shall contain a power of attorney which authorizes the title pledge lender to transfer title to the pledged property from the pledgor to the title pledge lender upon failure to redeem the pledged property on or before the maturity date of the title pledge agreement, or any extension thereof. The title pledge lender shall take physical possession of the certificate of title for the entire length of the title pledge agreement, but shall not be required to take physical possession of the titled personal property at any time. A title pledge lender may only take unencumbered certificates of title for pledge, but may encumber the title as part of the title pledge transaction by perfecting its security interest in the titled property.

(i) "Title pledge lender" means any person engaged in the business of making title pledge agreements with pledgors; provided, however, that the following are exempt from the definition of "title pledge lender" and from the provisions of this article: any bank which is regulated by the Department of Banking and Consumer Finance, the Comptroller of the Currency of the United States, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System or any other federal or state authority and all affiliates of such bank, and additionally any bank or savings and loan association whose deposits or accounts are eligible for insurance by the Bank Insurance Fund or the Savings Association Insurance Fund or other fund administered by the Federal Deposit Insurance Corporation or any successor thereto, and all affiliates of such banks and savings and loan associations, any state or federally chartered credit union and finance company subject to licensing and regulation by the Department of Banking and Consumer Finance.

(j) "Title pledge office" means the location at which, or premises in which, a title pledge lender regularly conducts business. No business other than title pledge business shall be conducted at a title pledge office.

(k) "Title pledge service charge" means a charge for investigating the title, appraising the titled personal property to which the pledged property relates, documenting and closing the title pledge agreement transaction, making required reports to appropriate law enforcement officials, and for all of the services provided by the title pledge lender.

(l) "Title pledge transaction form" means the instrument on which a title pledge lender records title pledge agreements pursuant to this article.

(m) "Titled personal property" means any personal property the ownership of which is evidenced and delineated by a state-issued certificate of title.

(n) "Records" or "documents" means any item in hard copy or produced in a format of storage commonly described as electronic, imaged, magnetic, microphotographic or otherwise, and any reproduction so made shall have the same force and effect as the original thereof and be admitted in evidence equally with the original.

Sources: Laws, 1997, ch. 610, § 3; Laws, 2000, ch. 621, § 20, eff from and after passage (approved May 23, 2000.)

**§ 75-67-405. Title pledge transaction form.**

At the time the title pledge lender enters into each title pledge agreement, the title pledge lender shall complete a consecutively numbered title pledge transaction form for such transaction, and the pledgor shall sign the completed form. The commissioner shall approve the design and format of the title pledge transaction form, which shall elicit the information required under this section. In completing the title pledge transaction form, the title pledge lender shall record the following information, which shall be typed or written indelibly and legibly in English:

- (a) The make, model and year of the titled personal property to which the pledged property relates.
- (b) The vehicle identification number, or other comparable identification number, along with the license plate number, if applicable, of the titled personal property to which the pledged property relates.
- (c) The name, address, date of birth, physical description, Social Security number of the pledgor and one (1) photo identification.
- (d) The date of the transaction.
- (e) The identification number and the type of identification (including the issuing agency) accepted from the pledgor.
- (f) The amount of money advanced, which shall be designated as the "amount financed."
- (g) The maturity date of the title pledge agreement, which shall be thirty (30) days after the date of the transaction.
- (h) The total title pledge service charge payable on the maturity date, designated as the "finance charge."
- (i) The total amount (amount financed plus finance charge) which must be paid to redeem the pledged property on the maturity date, designated as the "total of payments."
- (j) The annual percentage rate, computed in accordance with the regulations adopted by the Federal Reserve Board pursuant to the Federal Truth-in-Lending Act.

Sources: Laws, 1997, ch. 610, § 4, eff from and after passage (approved April 22, 1997).

**§ 75-67-407. Information to be included on title pledge transaction forms.**

(1) The following information shall also be printed on all title pledge transaction forms:

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

(b) The statement that:

(i) The pledgor is not obligated to redeem the pledged certificate of title;

(ii) If the pledgor does not redeem the pledged certificate of title on or before the maturity date of the title pledge agreement, the title pledge lender may take possession of the titled personal property to which the certificate of title relates;

(iii) If the pledgor does not redeem the pledged property within thirty (30) days of the maturity date by paying all outstanding principal, interest and other fees, then the pledgor forfeits all right, title and interest in and to the titled personal property and the pledged property to the title pledge lender, who shall thereby acquire an absolute right of title and ownership to the titled personal property; and

(iv) If this title pledge transaction form is lost, destroyed or stolen, the pledgor shall immediately advise the issuing title pledge lender.

(c) The statement that "The pledgor represents and warrants that the titled personal property to which the pledged property relates is not stolen, it has no liens or encumbrances against it, and the pledgor has the right to enter into this transaction."

(d) Immediately above the signature of the pledgor or seller, the statement that "I, the pledgor declare under penalty of perjury that I have read the foregoing document and that, to the best of my knowledge and belief, the facts contained in it are true and correct."

(e) A blank line for the signature of the pledgor.

(2) At the time of the transaction, the title pledge lender shall deliver to the pledgor a copy of the completed title pledge transaction form.

Sources: Laws, 1997, ch. 610, § 5, eff from and after passage (approved April 22, 1997).

**§ 75-67-409. Verification statement; record of transactions of pledged property.**

(1) The pledgor shall sign a statement verifying that the pledgor is the rightful owner of the pledged property and is entitled to pledge it. The pledgor shall receive an exact copy

of the title pledge agreement which shall be signed by the title pledge lender or any employee of the title pledge lender.

(2) The title pledge lender shall maintain a record of all transactions of pledged property on the premises for a period of two (2) years. A title pledge lender upon request shall provide to the appropriate law enforcement agency a complete record of all transactions. These records shall be a correct copy of the entries made of the title pledge transaction, except as to the amount of cash advanced for the pledged property and the monthly title pledge charge.

(3) The title pledge lender shall maintain records that contain a complete payment history of each customer evidencing all principal payments, service charge and/or other charges. Those records also shall reflect any unpaid principal balance as well as a payoff balance that includes the accrued service charges.

Sources: Laws, 1997, ch. 610, § 6; Laws, 2000, ch. 621, § 21, eff from and after passage (approved May 23, 2000.)

**§ 75-67-411. Right to redeem pledged property; failure to redeem.**

(1) A pledgor shall have no obligation to redeem pledged property or make any payment on a title pledge transaction. Upon the pledgor's failure to redeem the pledged property on or before the maturity date of the title pledge agreement or any extension or continuation thereof, the title pledge lender has the right to take possession of the titled personal property and to exercise a power of attorney to transfer title to the pledged property. In taking possession, the title pledge lender or his agent may proceed without judicial process if this can be done without breach of the peace; or, if necessary, may proceed by action to obtain judicial process.

(2) If, within thirty (30) days after the maturity date, the pledgor redeems the pledged property by paying all outstanding principal, interest and other customary fees, the pledgor shall be given possession of the titled personal property and the pledged property without further charge.

(3) If the pledgor fails to redeem the pledged property during the thirty-day period provided in subsection (2) of this section, then the pledgor shall thereby forfeit all right, title and interest in and to the titled personal property and the pledged property to the title pledge lender who shall thereby acquire an absolute right of title and ownership to the titled personal property. The title pledge lender shall then have the sole right and authority to sell or dispose of the titled personal property.

(4) Notwithstanding anything in the preceding subsections of this section, the pledgor shall have three (3) business days after the title pledge lender has taken possession of the titled personal property to redeem the property by paying the amount of the unpaid principal balance, the delinquent service charge and the actual cost of the repossession.

The cost of repossession shall include towing charges, storage charges paid to a third party and repairs made to the property to render it operable.

(5) If the property is sold after the three-business-day period, the title pledge lender shall return to the pledgor eighty-five percent (85%) of the amount received from the sale above the amount of the unpaid principal balance, the delinquent service charge, the actual cost of the repossession and a sales fee of One Hundred Dollars (\$100.00). However, any titled personal property that is deemed to be salvage by the title pledge lender may be sold or otherwise disposed of immediately upon repossession.

(6) The title pledge transaction form shall contain a provision written in boldface type of at least fourteen (14) point size that notifies the pledgor that the titled personal property is subject to sale at any time after the three-business-day period has expired, unless the property is deemed to be salvage by the title pledge lender, in which case the property may be sold or otherwise disposed of immediately. The transaction form shall have a space located near that provision that the pledgor must initial.

Sources: Laws, 1997, ch. 610, § 7; Laws, 2000, ch. 621, § 22, eff from and after passage (approved May 23, 2000.)

**§ 75-67-413. Title pledge service charge; extension of title pledge transaction period; additional payments on same pledged property to be evidenced by separate title pledge agreement.**

(1) A title pledge lender may contract for and receive a title pledge service charge in lieu of interest or other charges for all services, expenses, cost and losses of every nature not to exceed twenty-five percent (25%) of the principal amount, per month, advanced in the title pledge transaction.

(2) Any interest, charge or fees contracted for or received, directly or indirectly, in excess of the amount permitted under subsection (1) of this section shall be uncollectible and the title pledge transaction shall be void. The title pledge service charge allowed under subsection (1) of this section shall be deemed earned, due and owing as of the date of the title pledge transaction and a like sum shall be deemed earned, due and owing on the thirty-first day from the date of the transaction and on every thirtieth day thereafter.

(3) By agreement of the parties, the maturity date of the title pledge transaction may be extended or continued for thirty-day periods, provided that the service charges as specified in subsection (1) are not exceeded for any extensions. All extensions or continuations of the title pledge transaction shall be evidenced in writing. No accrued interest or service charge shall be capitalized or added to the original principal of the title pledge transaction during any extension or continuation. Beginning with the first extension or continuation and at each successive extension or continuation thereafter, the pledgor shall be required to reduce the principal amount financed by at least ten percent (10%) of the original principal amount of the title pledge transaction. Notwithstanding any provision in this article to the contrary, if the pledgor fails to pay at least ten percent

(10%) of the original principal amount at any such extension or continuation, the title pledge lender may, at its option, either (a) declare the outstanding principal and any service charges to be immediately due and payable, or (b) allow the transaction to be extended or continued, provided that the title pledge lender shall reduce the principal amount of the loan by ten percent (10%) of the original principal amount solely for the purposes of calculating its service charge. This reduction in principal shall continue to be owing by the pledgor in accordance with the title pledge transaction, but that amount shall not be entitled to accrue interest or service charges thereafter.

(4) Any additional payment of funds on the same pledged property must be evidenced by a separate title pledge agreement. A title pledge lender shall not advance funds to a pledgor to pay off an existing title pledge agreement.

Sources: Laws, 1997, ch. 610, § 8; Laws, 2000, ch. 621, § 23, eff from and after passage (approved May 23, 2000.)

**§ 75-67-415. Prohibited actions of title pledge lender.**

A title pledge lender, or any agent or employee of such title pledge lender, shall not:

- (a) Falsify or intentionally fail to make an entry of any material matter in a title pledge lender transaction form.
- (b) Refuse to allow the commissioner, the appropriate law enforcement official, state attorney, or any of their designated representatives having appropriate jurisdiction, to inspect completed title pledge transaction forms or pledged property during the ordinary hours of the title pledge lender's business or other times acceptable to both parties.
- (c) Enter into a title pledge agreement with a person under the age of eighteen (18) years.
- (d) Make any agreement requiring or allowing the personal liability of a pledgor or the waiver of any of the provisions of this article.
- (e) Knowingly enter into a title pledge agreement with any person who is under the influence of drugs or alcohol when such condition is visible or apparent, or with any person using a name other than his own name or the registered name of his business.
- (f) Enter into a title pledge agreement in which the amount of money loaned in consideration of the pledge of any single certificate of title exceeds Two Thousand Five Hundred Dollars (\$2,500.00).
- (g) Fail to exercise reasonable care in the safekeeping of pledged property or of titled personal property repossessed pursuant to this article.
- (h) Fail to return pledged property or repossessed titled personal property to a pledgor, with any and all of the title pledge lender's liens on the property properly released, upon

payment of the full amount due the title pledge lender, unless the property has been seized or impounded by an authorized law enforcement agency, taken into custody by a court, or otherwise disposed of by court order.

(i) Sell or otherwise charge for insurance in connection with a title pledge agreement.

Sources: Laws, 1997, ch. 610, § 9, eff from and after passage (approved April 22, 1997).

**§ 75-67-417. Presentation of title pledge transaction form; lost, destroyed, or stolen forms.**

(1) Any person presenting identification of himself and presenting the pledgor's copy of the title pledge transaction form to the title pledge lender is presumed to be entitled to redeem the pledged property described in the title pledge lender transaction form; provided, however, that if the title pledge lender determines that the person is not the original pledgor, the title pledge lender is not required to allow the redemption of the pledged property by such person. The person redeeming the pledged property must sign the pledgor's copy of the title pledge transaction form, which the title pledge lender may retain to evidence such person's receipt of the pledged property. If the person redeeming the pledged property is not the original pledgor, that person must show identification to the title pledge lender, and the title pledge lender shall record the person's name and address on the title pledge transaction form retained by the title pledge lender. The title pledge lender shall not be liable to the original pledgor for having allowed the redemption of the pledged property by another person pursuant to this subsection (1).

(2) If the pledgor's copy of the title pledge transaction form is lost, destroyed or stolen, the pledgor must notify the title pledge lender in writing by certified or registered mail, return receipt requested, or in person evidenced by a signed receipt, and receipt of this notice shall invalidate such title pledge transaction form if the pledged property has not previously been redeemed. Before delivering the pledged property or issuing a new title pledge transaction form, the title pledge lender shall require the pledgor to make a written statement of the loss, destruction or theft of the pledgor's copy of the title pledge transaction form. The title pledge lender shall record on the written statement the type of identification and the identification number accepted from the pledgor, the date the statement is given and the number of the title pledge transaction form lost, destroyed or stolen. The statement shall be signed by the title pledge lender or the title pledge office employee who accepts the statement from the pledgor. A title pledge lender is entitled to a fee not to exceed Five Dollars (\$5.00) in connection with each such lost, destroyed or stolen title pledge transaction form and the taking of a properly prepared written statement.

(3) No sales tax shall be deemed due or collectible in connection with the redemption of pledged property under this article.

Sources: Laws, 1997, ch. 610, § 10, eff from and after passage (approved April 22, 1997).

**§ 75-67-419. License requirements for title pledge lender; annual fees; temporary license.**

(1) A person may not engage in business as a title pledge lender or otherwise portray himself as a title pledge lender unless the person has a valid license authorizing engagement in the business. A separate license is required for each place of business under this article. The commissioner may issue more than one (1) license to a person if that person complies with this article for each license. A new license or application to transfer an existing license is required upon a change, directly or beneficially, in the ownership of any licensed title pledge office and an application shall be made to the commissioner in accordance with this article.

(2) When a licensee wishes to move a title pledge office to another location, the licensee shall give thirty (30) days prior written notice to the commissioner who shall amend the license accordingly.

(3) Each license shall remain in full force and effect until relinquished, suspended, revoked or expired. With each initial application for a license, the applicant shall pay the commissioner at the time of making the application a license fee of Seven Hundred Fifty Dollars (\$750.00), and on or before June 1 of each year thereafter, an annual renewal fee of Four Hundred Seventy-five Dollars (\$475.00). If the annual fee remains unpaid thirty (30) days after June 1, the license shall thereupon expire, but not before June 30 of any year for which the annual fee has been paid. If any person engages in business as provided for in this article without paying the license fee provided for in this article before commencing business or before the expiration of such person's current license, as the case may be, then the person shall be liable for the full amount of the license fee, plus a penalty in an amount not to exceed Twenty-five Dollars (\$25.00) for each day that the person has engaged in the business without a license or after the expiration of a license. All licensing fees and penalties shall be paid into the Consumer Finance Fund of the Department of Banking and Consumer Finance.

(4) Notwithstanding other provisions of this article, the commissioner may issue a temporary license authorizing the operation of a title pledge office on the receipt of an application to transfer a license from one person to another or on the receipt of an application for a license involving principals and owners that are substantially identical to those of an existing licensed title pledge office. The temporary license is effective until the permanent license is issued or denied.

(5) Notwithstanding other provisions of this article, neither a new license nor an application to transfer an existing license shall be required upon any change, directly or beneficially, in the ownership of any licensed title pledge office incorporated under the laws of this state or any other state so long as the licensee continues to operate as a corporation doing a title pledge business under the license. The commissioner may,

however, require the licensee to provide such information as he deems reasonable and appropriate concerning the officer and directors of the corporation and persons owning in excess of twenty-five percent (25%) of the outstanding shares of the corporation.

Sources: Laws, 1997, ch. 610, § 11; Laws, 2000, ch. 621, § 24, eff from and after passage (approved May 23, 2000.)

**§ 75-67-421. Eligibility requirements for title pledge lender license.**

(1) To be eligible for a title pledge lender license, an applicant shall:

(a) Operate lawfully and fairly within the purposes of this article;

(b) Not have been convicted of a felony in the last ten (10) years or be active as a beneficial owner for someone who has been convicted of a felony in the last ten (10) years;

(c) File with the commissioner a bond with good security in the penal sum of Fifty Thousand Dollars (\$50,000.00) for each location at which the applicant proposes to engage in the business of title pledge lending, but in no event shall the aggregate amount of the bond for all locations per applicant exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) and no more than Fifty Thousand Dollars (\$50,000.00) shall be payable or recoverable on the bond for each location; the bond shall be payable to the State of Mississippi for the faithful performance by the licensee of the duties and obligations pertaining to the business so licensed and the prompt payment of any judgment which may be recovered against the licensee on account of damages or other claim arising directly or collaterally from any violation of the provisions of this article; the bond shall not be valid until it is approved by the commissioner; the applicant may file, in lieu thereof, cash, a certificate of deposit, or government bonds in the amount of Twenty-five Thousand Dollars (\$25,000.00) for each location at which the applicant proposes to engage in the business of title pledge lending, but in no event shall the aggregate amount of cash, certificate of deposit or government bonds for all locations per applicant exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) and no more than Twenty-five Thousand Dollars (\$25,000.00) shall be payable or recoverable on the cash, certificate of deposit or government bonds for each location; the deposit of the cash, certificate of deposit or government bonds shall be filed with the commissioner and is subject to the same terms and conditions as are provided for in the surety bond required herein; any interest or earnings on such deposits are payable to the depositor.

(d) File with the commissioner an application accompanied by a set of fingerprints from any local law enforcement agency, and the initial license fee required in this article. In order to determine the applicant's suitability for license, the commissioner shall forward the fingerprints to the Department of Public Safety; and if no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety to the FBI for a national criminal history record check.

(2) Upon the filing of an application in a form prescribed by the commissioner, accompanied by the fee and documents required in this article, the department shall investigate to ascertain whether the qualifications prescribed by this article have been satisfied. If the commissioner finds that the qualifications have been satisfied and, if he approves the documents so filed by the applicant, he shall issue to the applicant a license to engage in the business of title pledge lending in this state.

(3) Complete and file with the commissioner an annual renewal application accompanied by the renewal fee required in this article.

(4) The license shall be kept conspicuously posted in the place of business of the licensee.

Sources: Laws, 1997, ch. 610, § 12; Laws, 2000, ch. 621, § 25; Laws, 2003, ch. 339, § 1, This act shall take effect and be in force from and after passage March 21, 2005.

**§ 75-67-423. Grounds for suspension of license; notice and hearing requirements.**

(1) The commissioner may, after notice and hearing, suspend or revoke any license if it finds that:

(a) The licensee, either knowingly, or without the exercise of due care to prevent the same, has violated any provision of this article;

(b) Any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for the license, clearly would have justified the commissioner in refusing the license;

(c) The licensee has aided, abetted or conspired with an individual or person to circumvent or violate the requirements of this article;

(d) The licensee, or a legal or beneficial owner of the license, has been convicted of a crime that the commissioner finds directly relates to the duties and responsibilities of the occupation of title pledge lender.

(2) The commissioner may conditionally license or place on probation a person whose license has been suspended or may reprimand a licensee for a violation of this article.

(3) The manner of giving notice and conducting a hearing as required by subsection (1) of this section shall be performed in accordance with Mississippi Administrative Procedures Law, Section 25-43-1 et seq., Mississippi Code of 1972.

(4) Any licensee may surrender any license by delivering it to the commissioner with written notice of its surrender, but such surrender shall not affect the licensee's civil or criminal liability for acts committed prior thereto.

(5) No revocation, suspension or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any pledgor. Any title pledge transaction made without benefit of license is void.

(6) The commissioner may reinstate suspended licenses or issue new licenses to a person whose license or licenses have been revoked if no fact or condition then exists that clearly would have justified the commissioner in refusing originally to issue a license under this article.

(7) The appropriate local law enforcement agency shall be notified of any licensee who has his license suspended or revoked as provided by this article.

(8) The Commissioner of Banking and Consumer Finance shall enforce the provisions of this section.

Sources: Laws, 1997, ch. 610, § 13, eff from and after passage (approved April 22, 1997).

**§ 75-67-425. Oath required for new or transferred license; application; contents of application.**

(1) An application for a new title pledge office license, the transfer of an existing title pledge office license or the approval of a change in the ownership of a licensed title pledge office shall be under oath and shall state the full name and place of residence of the applicant, the place where the business is to be conducted and other relevant information required by the commissioner. If the applicant is a partnership, the application shall state the full name of each partner. If the applicant is a corporation, the application shall state the full name and address of each officer, shareholder and director.

(2) Notwithstanding the provisions of this section, the application need not state the full name and address of each shareholder, if the applicant is owned directly or beneficially by a person which as an issuer has a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934 or is an issuer of securities which is required to file reports with the Securities and Exchange Commission pursuant to Section 15(d) of the Securities Exchange Act, provided that such person files with the commissioner such information, documents and reports as are required by the provision of the Securities Exchange Act to be filed by such issuer with the Securities and Exchange Commission.

Sources: Laws, 1997, ch. 610, § 14, eff from and after passage (approved April 22, 1997).

**§ 75-67-427. Prerequisites to confiscating pledged property.**

(1) No pledged property can be confiscated without the following actions having been accomplished:

- (a) A police report being made in a timely manner;
  - (b) A warrant sworn out for the person who pledged the property to the title pledge lender; and
  - (c) A theft report or a National Crime Information Center (NCIC) report identifying the pledged property to be confiscated along with a request for restitution, pursuant to law.
- (2) Pledged property can be put on a one-time seven-day hold by the authorized law enforcement authorities.
- (3) Confiscated pledged property shall be returned to the title pledge lender by the law enforcement authorities as soon as possible when determined that the pledged property has no rightful owner.

Sources: Laws, 1997, ch. 610, § 15, eff from and after passage (approved April 22, 1997).

**§ 75-67-429. Penalties for operating title pledge office without a license.**

Any person who engages in the business of operating a title pledge office without first securing a license prescribed by this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not in excess of One Thousand Dollars (\$1,000.00) or by confinement in the county jail for not more than one (1) year, or both.

Sources: Laws, 1997, ch. 610, § 16, eff from and after passage (approved April 22, 1997).

**§ 75-67-431. Penalties for violation of chapter.**

(1) In addition to any other penalty which may be applicable, any licensee or employee who willfully violates any provision of this article, or who willfully makes a false entry in any record specifically required by this article, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not in excess of One Thousand Dollars (\$1,000.00) per violation or false entry.

(2) (a) In addition to any other penalty which may be applicable, any licensee or employee who fails to make a record of a title pledge transaction and subsequently sells or disposes of the pledged property from such transaction shall be punished as follows:

- (i) For a first offense, the licensee or employee shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine not in excess of One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not more than one (1) year, or both fine and imprisonment;

(ii) For a second offense, the licensee or employee shall be guilty of a felony and, upon conviction thereof, shall be punishable by a fine not in excess of Five Thousand Dollars (\$5,000.00) or by imprisonment in the custody of the State Department of Corrections for a term not less than one (1) year nor more than five (5) years, or by both fine and imprisonment.

(b) Any licensee convicted in the manner provided in this subsection (2) shall forfeit the surety bond or deposit required in Section 75-67-421 and the amount of the bond or deposit shall be credited to the budget of the state or local agency, which directly participated in the prosecution of the licensee, for the specific purpose of increasing law enforcement resources for that specific state or local agency. Any proceeds of a forfeited bond or deposit shall be used to augment existing state and local law enforcement budgets and not to supplant them.

(3) Compliance with the criminal provisions of this article shall be enforced by the appropriate law enforcement agency who may exercise for that purpose any authority conferred upon the agency by law.

(4) When the commissioner has reasonable cause to believe that a person is violating any provision of this article, the commissioner, in addition to and without prejudice to the authority provided elsewhere in this article, may enter an order requiring the person to stop or to refrain from the violation. The commissioner may sue in any circuit court of the state having jurisdiction and venue to enjoin the person from engaging in or continuing the violation or from doing any act in furtherance of the violation. In such an action, the court may enter an order or judgment awarding a preliminary or permanent injunction.

(5) The commissioner may, after notice and hearing, impose a civil penalty against any licensee if the licensee or employee is adjudged by the commissioner to be in violation of the provisions of this article. Such civil penalty shall not exceed Five Hundred Dollars (\$500.00) per violation and shall be deposited into the Department of Banking Special Fund.

Sources: Laws, 1997, ch. 610, § 17, eff from and after passage (approved April 22, 1997).

#### **§ 75-67-433. Stolen pledged property.**

If any pledged property from a title pledge transaction is found to be stolen and is returned to the rightful owner by law enforcement authorities and if the licensee who accepted such pledged property has complied with all of the duties and responsibilities as specified in this article during such transaction, then the rightful owner of such pledged property shall be liable to the licensee for the pledged amount if the rightful owner fails to prosecute or cooperate in the criminal prosecution related to such title loan transaction, provided that the rightful owner can prove that the stolen goods are his. It shall also be the responsibility of the licensee to assist or cooperate in the criminal prosecution related

to such title pledge transaction. If the identity of a person who pawned stolen goods can be determined, the district attorney may prosecute such person for any applicable criminal violations.

Sources: Laws, 1997, ch. 610, § 18, eff from and after passage (approved April 22, 1997).

**§ 75-67-435. Administration of chapter; examination of books and records; report of commissioner [Repealed effective July 1, 2007].**

(1) The Commissioner of Banking and Consumer Finance shall develop and provide any necessary forms to carry out the provisions of this article.

(2) The department may adopt reasonable administrative regulations, not inconsistent with law, for the enforcement of this article.

(3) To assure compliance with the provision of this article, the department may examine the books and records of any licensee without notice during normal business hours. The commissioner may charge the licensee an examination fee in an amount not less than Three Hundred Dollars (\$300.00) nor more than Six Hundred Dollars (\$600.00) for each office or location within the State of Mississippi, plus any actual expenses incurred while examining the licensee's records or books that are located outside the State of Mississippi. However, in no event shall a licensee be examined more than once in a two-year period unless for cause shown based upon consumer complaint and/or other exigent reasons as determined by the commissioner.

(4) On or before July 1, 2007, the commissioner shall file with the Chairman of the Senate Business and Financial Institutions Committee and the Chairman of the House Banking Committee a report containing the total number of examinations or audits of licensees conducted by the department for each year, the total cost of such examinations, the number of examinations grouped by range of costs, and any other information the commissioner deems relevant to substantiate the examination fee authorized in this section.

(5) This section shall stand repealed from and after July 1, 2007.

Sources: Laws, 1997, ch. 610, § 19; Laws, 2000, ch. 621, § 26; Laws, 2003, ch. 339, § 2, eff from and after July 1, 2003.

**§ 75-67-437. Time period for application for license.**

Title pledge lenders in operation as of the effective date of this chapter shall have until July 1, 1997, to apply for a license under this article.

Sources: Laws, 1997, ch. 610, § 20, eff from and after passage (approved April 22, 1997).

**§ 75-67-439. Complying or conflicting municipal ordinance.**

Municipalities in this state may enact ordinances which are in compliance with, but not more restrictive than, the provisions of this article. Any existing or future order, ordinance or regulation which conflicts with this provision shall be null and void.

Sources: Laws, 1997, ch. 610, § 21, eff from and after passage (approved April 22, 1997).

**§ 75-67-441. Severability.**

The provisions of this article are severable. If any part of this article is declared invalid or unconstitutional, such declaration shall not affect the parts which remain.

Sources: Laws, 1997, ch. 610, § 22, eff from and after passage (approved April 22, 1997).

**§ 75-67-443. Hiring of employees.**

The commissioner may employ additional necessary permanent full-time employees above the number of permanent full-time employees authorized for the department for fiscal year 1997 to carry out and enforce the provisions of this article.

Sources: Laws, 1997, ch. 610, § 23, eff from and after passage (approved April 22, 1997).

**§ 75-67-445. Advertising, displaying, or publishing false or misleading statements prohibited.**

A licensee shall not advertise, display or publish, or permit to be advertised, displayed or published, in any manner whatsoever, any statement or representation that is false, misleading or deceptive.

Sources: Laws, 2000, ch. 621, § 27, eff from and after passage (approved May 23, 2000.)

**§ 75-67-447. Commissioner authorized to examine persons suspected of conducting business requiring a license.**

The commissioner, or his duly authorized representative, for the purpose of discovering violations of this article and for the purpose of determining whether persons are subject to the provisions of this article, may examine persons licensed under this article and persons reasonably suspected by the commissioner of conducting business that requires a license under this article, including all relevant books, records and papers employed by those persons in the transaction of their business, and may summon witnesses and examine them under oath concerning matters relating to the business of those persons, or such

other matters as may be relevant to the discovery of violations of this article, including without limitation the conduct of business without a license as required under this article.

Sources: Laws, 2000, ch. 621, § 28, eff from and after passage (approved May 23, 2000.)

**§ 75-67-449. Liability of licensees.**

(1) A licensee under this article shall have no liability for any act or practice done or omitted in conformity with (a) any rule or regulation of the commissioner, or (b) any rule, regulation, interpretation or approval of any other state or federal agency or any opinion of the Attorney General, notwithstanding that after such act or omission has occurred the rule, regulation, interpretation, approval or opinion is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(2) A licensee under this article, acting in conformity with a written interpretation or approval by an official or employee of any state or federal agency or department, shall be presumed to have acted in accordance with applicable law, notwithstanding that after such act has occurred, the interpretation or approval is amended, rescinded, or determined by judicial or other authority to be incorrect or invalid for any reason.

Sources: Laws, 2000, ch. 621, § 29, eff from and after passage (approved May 23, 2000.)