

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2895

By: Weaver

AS INTRODUCED

An Act relating to professions and occupations;
enacting the Oklahoma Title Pledge Act; providing
short title; defining terms; requiring the
completion of title pledge transaction form prior
to entering certain agreements; requiring the
providing of certain information; requiring other
information be printed on certain form; requiring
the lender to deliver to the pledgor a copy of
certain completed form; requiring a certain signed
statement; requiring the lender to maintain record
of all transactions for certain time period for
certain purposes; providing that pledgor have no
obligations for certain pledge transactions;
providing for certain rights; providing for certain
possession of title; providing for redemption of
certain property and failure to redeem such
property; authorizing and limiting certain
transactions; providing for interest and certain
charges and fees; providing for the extension and
continuation of certain transactions; prohibiting
certain acts; providing for identification and
redemption of certain property and procedure
related thereto; requiring certain notification and
procedures related thereto; prohibiting certain

acts; requiring notice related to moving offices;
requiring certain license fee; authorizing
temporary license; authorizing transfers of
licenses; requiring certain qualifications to be
eligible for a title pledge lender license;
providing for ineligibility; providing for
application and procedures related thereto;
providing for certain bond and payment of certain
fees; providing for nonissuance of a license, a
hearing and procedures related thereto; authorizing
the Commissioner to grant or deny certain license
under certain conditions; authorizing the
Commissioner to revoke certain license under
certain conditions; providing for certain hearing
and procedures related thereto; authorizing
licensees to surrender their license; prohibiting
the impairment of any contract because of actions
of the licensee; authorizing the reinstatement or
issuance of new licenses and certain suspended
licenses; providing for certificates of good
standing; providing no pledged property can be
confiscated without certain action having been
accomplished; authorizing a hold on certain
property; authorizing the return of confiscated
property under certain conditions; authorizing the
adoption, amendment and repeal of rules;
authorizing the Commissioner to enforce the Act;
prohibiting certain acts; providing penalties;
providing for voiding certain transactions;
providing for procedures related thereto; providing
for failure to disclose certain information;
providing penalties; providing for court costs and

attorney fees; providing for liability in certain criminal procedures; authorizing certain prosecution; authorizing municipalities to enact ordinances under certain conditions; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 16 of this act shall be known and may be cited as the "Oklahoma Title Pledge Act."

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.2 of Title 59, unless there is created a duplication in numbering, reads as follows:

The following words and phrases shall have the following meanings:

1. "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;

2. "Attorney General" means the Attorney General of the State of Oklahoma;

3. "Commissioner" means the Commissioner of Banking and Consumer Finance of the State of Oklahoma, or designee, as the designated official for the purpose of enforcing this act;

4. "Identification" means a government-issued photographic identification;

5. "Person" means an individual, partnership, corporation, joint venture, trust, association or other legal entity;

6. "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;

7. "Pledgor" means the person to whom the property is titled;

8. "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. 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 hold unencumbered certificates of title for pledge;

9. "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 act: 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;

10. "Title pledge office" means the location at which, or premises in which, a title pledge lender regularly conducts business;

11. "Title pledge acquisition 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;

12. "Title pledge transaction form" means the instrument on which a title pledge lender records title pledge agreements pursuant to Sections 1 through 16 of this act; and

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

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.3 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 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:

1. The make, model and year of the titled personal property to which the pledged property relates;

2. 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;

3. The name, address, date of birth, physical description, Social Security number of the pledgor and one photo identification;

4. The date of the transaction;

5. The identification number and the type of identification, including the issuing agency, accepted from the pledgor;

6. The amount of money advanced, which shall be designated as the "amount financed";

7. The maturity date of the title pledge agreement, which shall be thirty (30) days after the date of the transaction;

8. The total title pledge service charge payable on the maturity date;

9. 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"; and

10. The annual percentage rate, computed in accordance with the regulations adopted by the Federal Reserve Board pursuant to the Federal Truth-in-Lending Act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.4 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The following information shall also be printed on all title pledge transaction forms:

1. The name and address of the title pledge office;

2. The state that:

a. the pledgor is not obligated to redeem the pledged certificate of title,

b. 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,

c. 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

d. if this title pledge transaction form is lost, destroyed or stolen, the pledgor shall immediately advise the issuing title pledge lender;

3. 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.";

4. 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."; and

5. A blank line for the signature of the pledgor.

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

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.5 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 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.

B. 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.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.6 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 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 the lender's 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.

B. 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.

C. If the pledgor fails to redeem the pledged property during the thirty-day period provided in subsection B 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.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.7 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. A title pledge lender may contract for and receive a title pledge acquisition charge not in excess of one-tenth (0.10) of the value of the title loan transaction;

2. On transactions of up to Seven Hundred Fifty Dollars (\$750.00), a title pledge lender may charge for and receive an

amount up to One Dollar and fifty cents (\$1.50) per Ten Dollars (\$10.00) advanced as a title pledge handling charge;

3. On transactions which exceed Seven Hundred Fifty-one Dollars (\$751.00) but not more than One Thousand Dollars (\$1000.00), a title pledge lender may charge and receive an amount up to One Dollar and twenty-five cents (\$1.25) per Ten Dollars (\$10.00) advanced as a title pledge handling charge; and

4. On transactions over One Thousand One Dollars (\$1001.00), a title pledge lender may charge and receive an amount up to One Dollar (\$1.00) per Ten Dollars (\$10.00) advanced as a title pledge handling charge.

B. Any interest, charge or fees contracted for or received, directly or indirectly, in excess of the amount permitted under this section shall be uncollectible, and the title pledge transaction shall be void. The charge allowed under 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.

C. 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 charges as specified in this section are not exceeded for any extensions. All extensions or continuations of the title pledge transaction shall be evidenced in writing. No charges shall be capitalized or added to the original principal of the title pledge transaction during any extension or continuation. Beginning with the third extension or continuation, the principal amount financed shall be reduced by at least ten percent (10%) of the original principal amount for each successive extension or continuation. Failure by the pledgor to pay at least ten percent (10%) of the original principal amount of the title pledge transaction at the maturity date of each such successive extension

or continuation shall cause the remaining principal and any charges or fees to become immediately due and payable.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.8 of Title 59, unless there is created a duplication in numbering, reads as follows:

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

1. Falsify or intentionally fail to make an entry of any material matter in a title pledge lender transaction form;

2. 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;

3. Enter into a title pledge agreement with a person under the age of eighteen (18) years;

4. Make any agreement requiring or allowing the personal liability of a pledgor or the waiver of any of the provisions of Sections 1 through 16 of this act;

5. 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 the person's own name or the registered name of the person's business;

6. 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);

7. Fail to exercise reasonable care in the safekeeping of pledged property or of titled personal property repossessed pursuant to Sections 1 through 16 of this act;

8. Fail to return pledged property or repossessed title 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; or

9. Sell or otherwise charge for insurance in connection with a title pledge agreement.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.9 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Any person presenting identification of such person 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.

B. 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.

C. No sales tax shall be deemed due or collectible in connection with the redemption of pledged property under Sections 1 through 16 of this act.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.10 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A person may not engage in business as a title pledge lender or otherwise oneself 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 Sections 1 through 16 of this act. The Commissioner may issue more than one license to a person if that person complies with Sections 1 through 16 of this act 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 Sections 1 through 16 of this act.

B. 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.

C. Each license shall remain in full force and effect until relinquished, suspended, revoked or expired. Every licensee, on or before each June 1, shall pay the Commissioner One Hundred Dollars (\$100.00) for each license held by the licensee as an annual fee for the succeeding calendar year. If the annual fee remains unpaid thirty (30) days after written notice of delinquency has been given to the licensee by the Commissioner, the license shall thereupon expire, but not before June 30 of any year for which the annual fee has been paid. All licensing fees shall be paid into a special fund within the State Treasury.

D. Notwithstanding other provisions of Sections 1 through 16 of this act, 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.

E. Notwithstanding other provisions of Sections 1 through 16 of this act, 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 titled 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 the licensee deems reasonable and appropriate concerning the officers and directors of the corporation and persons owning in excess of twenty-five percent (25%) of the outstanding shares of the corporation.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.11 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. To be eligible for a title pledge lender license, an applicant shall:

1. Be of good moral character;
2. Have net assets of at least Twenty-five Thousand Dollars (\$25,000.00); and
3. Show that the title pledge operation will be operated lawfully and fairly within the purpose of the Oklahoma Title Pledge Act.

B. The Commissioner shall find ineligible an applicant who has a felony conviction which directly relates to the duties and responsibilities of the occupation of title pledge lender.

C. If the Commissioner is unable to verify that the applicant meets the net assets requirement for a title pledge operation license, the Commissioner may require a finding, including the presentation of a current balance sheet, by an accounting firm or individual holding a permit to practice public accounting in this state, that the accountant has reviewed the books and records of the applicant and that the applicant meets the net assets requirement.

D. Applications for a title pledge license shall be under oath and shall state the full name and place of residence of the applicant. If the applicant is a partnership, the full name and place of residence of each member thereof shall be stated. If the applicant is a corporation, the full name and place of residence of each officer or major stockholder thereof shall be stated. The application shall give the approximate location from which the

business is to be conducted and shall contain such relevant information as the Commissioner may require.

E. Each applicant for a title pledge license at the time of filing the application shall file with the Commissioner a bond satisfactory to him and in the amount of Five Thousand Dollars (\$5,000.00) for each license with a surety company qualified to do business in this state. The said bond shall run to the state for the use of the state and of any person or persons who may have cause of action against the obligor of said bond under the provisions of this act. Such bond shall be conditioned that the obligor will comply with the provisions of this act and of all rules lawfully made to the Commissioner hereunder, and will pay to the state and to any such person or persons any and all amounts of money that may become due or owing to the state or to such person or persons from said obligor under and by virtue of the provisions of this act during the time such bond is in effect.

F. Each licensee shall maintain on file with the Commissioner a written appointment of a resident of this state as the licensee's agent for service of all judicial or other process or legal notice, unless the licensee has appointed an agent under another statute of this state. In case of noncompliance, such service may be made on the Commissioner.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.12 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Upon the filing of an application and bond and payment of the annual license fee of One Hundred Dollars (\$100.00) and an investigation fee of One Hundred Twenty-five Dollars (\$125.00), the Commissioner shall conduct an investigation. If the Commissioner finds that the financial responsibility, experience, character and general fitness of the applicant are such as to warrant belief that the business will be operated lawfully and fairly, within the

purposes of this title, and the applicant meets the eligibility requirements of Section 11 of this act, the Commissioner shall grant the application and issue to the business a title pledge operation license.

B. If the Commissioner does not find facts sufficient to warrant issuance of a license, the Commissioner shall notify the applicant. If within thirty (30) days of such notification the applicant requests a hearing on the application, a hearing shall be held within sixty (60) days after the day of the request. In the event of the denial of a license, the investigation fee shall be retained by the Commissioner, but the annual license fee shall be returned to the applicant.

C. The Commissioner shall grant or deny each application for license within sixty (60) days from its filing with the required fees, or from the hearing thereon, if any, unless the period is extended by written agreement between the applicant and the Commissioner.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.13 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner may, after notice and hearing, suspend or revoke any license if the Commissioner finds that:

1. The licensee has failed to pay any fee or charge properly imposed by the Commissioner under the authority of this act;

2. The licensee, either knowingly or without the exercise of due care to prevent the same, has violated any provision of this act or any regulation or order lawfully made pursuant to and within the authority of this act; or

3. Any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for a license, clearly would have justified the Commissioner in refusing the license.

B. The hearing shall be held upon twenty (20) days' notice in writing, setting forth the time and place thereof and a concise statement of the facts alleged to warrant suspension or revocation. At the conclusion of the hearing, the Commissioner shall prepare a written order setting forth the effective date of any suspension or revocation accompanied by findings of fact and a copy thereof shall be forthwith delivered to the licensee. Such order, findings and the evidence considered by the Commissioner shall be filed with the public records of the Commissioner.

C. 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.

D. No revocation, suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any customer.

E. 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 which clearly would have justified the Commissioner in refusing originally to issue such license under this act.

F. On application of any person and payment of the cost thereof, the Commissioner shall furnish under the Commissioner's seal and signature a certificate of good standing or a certified copy of any license.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.14 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. No pledged property can be confiscated without the following action having been accomplished:

1. A police report being made in a timely manner;

2. A warrant sworn out for the person who pledged the property to the title pledge lender; and

3. 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.

B. Pledged property can be put on a one-time, seven-day hold by the authorized law enforcement authorities.

C. 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.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.15 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner shall have the same authority to adopt, amend and repeal rules as is conferred upon the Commissioner by the Oklahoma Statutes. In addition, the Commissioner may adopt, amend and repeal such other rules as are necessary for the enforcement of the provisions of this act and consistent with all its provisions.

B. Compliance with the provisions of this act may be enforced by the Commissioner who may exercise, for such purpose, all the powers enumerated in the Oklahoma Statutes, in the same manner as in relation to consumer credit transactions under that act, as well as those powers conferred in this act.

C. 1. Any person who engages in the business of operating as title pledge lender without first securing the license prescribed by this act shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not in excess of One Thousand Dollars (\$1,000.00), by confinement in the county jail for not more than six (6) months or by both; and

2. Any person pledging property to a title pledge lender who uses false or altered identification or a false declaration of ownership as related to the provisions of Section 10 of this act

shall be guilty of a felony and, upon conviction, shall be punished by imprisonment in the State Penitentiary not to exceed five (5) years or in the county jail not to exceed one (1) year, or by a fine not to exceed Five Hundred Dollars (\$500.00), or by both such imprisonment and fine.

D. 1. If any person engages in the business of operating as title pledge lender without first securing the license prescribed by this act, or if any title pledge lender contracts for, charges or receives a charge in relation to a title pledge in excess of that authorized by this act, the transaction shall be void and the customer is not designated to pay either the amount financed or the finance charge in connection with the transaction, and upon the customer's demand, the title pledge lender shall be obligated to return to the customer, as a refund, all amounts paid in connection with the transaction by the customer and the pledged title delivered to the title pledge lender in connection with the transaction. If a customer is entitled to a refund under this section and a title pledge lender liable to the customer refuses to make the refund within a reasonable time after demand, the customer shall have an action against the title pledge lender and, in the case of a successful action to enforce such liability, the costs of the action together with attorney fees, as determined by the court, shall be awarded to the customer; and

2. A title pledge lender who fails to disclose information to a customer entitled to the information under this act is liable to that person in an amount equal to the sum of:

- a. twice the amount of the finance charge in connection with the transaction, or One Hundred Dollars (\$100.00), whichever is greater, and
- b. in the case of a successful action to enforce the liability under paragraph 1 of this subsection, the

costs of the action together with reasonable attorney fees as determined by the court.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.16 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 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 Sections 1 through 16 of this act 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 the owner's. It shall 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.

B. Municipalities may enact ordinances which are in compliance with but not more restrictive than the provisions of the Oklahoma Title Pledge Act. Any existing or future order, ordinance or regulation which conflicts with this section shall be null and void.

SECTION 17. This act shall become effective July 1, 1998.

SECTION 18. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

