

AN ORDINANCE OF FRANKLIN COUNTY,
FLORIDA, REGULATING MOTOR VEHICLE TITLE LOANS;
ESTABLISHING A MAXIMUM INTEREST RATE CHARGEABLE
BY THE LENDER; PROVIDING FOR DISCLOSURES; PROVIDING
FOR INSPECTING RECORDS AND PREMISES; PROVIDING
FOR PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING
FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Section 538.17, Florida Statutes permits political subdivisions of the State of Florida to enact laws more restrictive than the provisions of Chapter 538, Part I, Florida Statutes; and

WHEREAS, Franklin County, Florida finds that consumers within its jurisdiction are in need of greater consumer protection for motor vehicle title loan transactions than are provided in Chapter 538, Part I, Florida Statutes, and has also determined that more restrictive provisions are necessary for the protection of Franklin County's consumers;

BE IT ORDAINED by the Board of County Commissioners of Franklin County, Florida, that:

1. Definitions:

(a) "Title Loan Agreement" means a written agreement whereby a secondhand dealer agrees to make a loan of a specific sum of money to the owner of a motor vehicle, and the owner of the motor vehicle agrees to give the secondhand dealer a security interest in a motor vehicle certificate of title owned by the borrower and encumbered only by a title loan agreement.

(b) "Secondhand dealer" has the same meaning as used in Section 538.03 (1) (a), Florida Statutes, as it may be amended from time to time.

2. Motor vehicle title loan transactions.

A secondhand dealer registered under Chapter 538, Part I, Florida Statutes, may engage in motor vehicle title loan transactions, as that term is used in Chapter 538, Part I, Florida Statutes, if

the following conditions are met:

(a) The secondhand dealer maintains physical possession of the motor vehicle certificate of title; and

(b) The borrower maintains possession of, or control over, the motor vehicle throughout the term of the loan; and

(c) The borrower is not required to pay rent or any other charge for the use of the motor vehicle; and

(d) The secondhand dealer delivers to the borrower, at the time a loan is made, a statement showing the loan amount, origination date, maturity date, finance charges, a description of the security, the name and address of the borrower and the secondhand dealer, the rate of interest expressed in terms of annual percentage rate, the total number of payments required, and the total amount required to be paid over the life of the loan. In the event the borrower has a right to renew the loan, the secondhand dealer must deliver a statement with the information required herein for each renewal; and

(e) The title loan agreement contains the following statement printed in not less than 14 point type:

(i) "Your vehicle has been pledged as security for this loan and if you do not repay this loan in full, including the finance charge, **YOU WILL LOSE YOUR VEHICLE.**

(ii) You are encouraged to repay this loan at the end of the 30 day period. The lender may not be required to extend or renew your loan. It is important that you plan your finances so that you can repay this loan as soon as possible.

(iii) **THIS LOAN HAS A VERY HIGH INTEREST RATE. DO NOT**

COMPLETE THIS LOAN TRANSACTION IF YOU HAVE THE ABILITY TO BORROW FROM ANOTHER SOURCE AT A RATE LOWER THAN 2 1/2% PER MONTH OR AN ANNUAL PERCENTAGE RATE OF 30%.

(iv) The borrower represents and warrants that the motor vehicle and the certificate of title is not stolen, it has no liens or encumbrances against it, the borrower has the right to enter into this transaction, and the borrower will not attempt to sell the motor vehicle or apply for a duplicate certificate of title while the title loan agreement is in effect, and that doing so will be a violation of law.

(v) If you are a member of the Armed Forces of the United State of America, you may be eligible for financial assistance. You are urged to explore these options with a representative of your commanding officer.

(vi) Immediately above the signature of the borrower the statement that "I, the borrower declare that the information I have provided is true and correct and I have read and understand the foregoing document."

(vii) A blank line for the signature of the borrower.

(f) The secondhand dealer must display, in a prominent place in the title loan premises, for customer viewing, a sign no smaller than three feet by five feet with the following message written in letters no less than two inches high:

"IF YOU RECEIVE A TITLE LOAN, YOUR VEHICLE WILL BE PLEDGED AS SECURITY FOR THE LOAN. IF YOU DO NOT REPAY THIS LOAN IN FULL, INCLUDING ALL FINANCE CHARGES, YOU WILL LOSE YOUR VEHICLE. THIS LOAN HAS A VERY HIGH INTEREST RATE. DO NOT COMPLETE A

TITLE LOAN TRANSACTION IF YOU HAVE THE ABILITY TO BORROW MONEY FROM ANOTHER SOURCE AT AN INTEREST RATE LOWER THAN 2 ½ % PER MONTH OR AN ANNUAL PERCENTAGE RATE OF 30%. MEMBERS OF THE UNITED STATES ARMED SERVICES MAY BE ELIGIBLE FOR FINANCIAL ASSISTANCE AND THEY ARE URGED TO EXPLORE ALL OPTIONS WITH REPRESENTATIVE OF THEIR COMMANDING OFFICER."

3. Maximum Interest Rate.

Maximum interest rate. A secondhand dealer who engages in title loan transactions may not exceed the following interest rates:

(a) A secondhand dealer may charge an interest rate not to exceed 2 ½ percent per 30-day period the title loan agreement remains outstanding and unsatisfied. In determining compliance with the maximum interest and finance charges, the computation must be simple interest and not add-on interest or any other interest computation.

(b) The annual percentage rate that may be charged in a motor vehicle title loan may equal, but not exceed, the annual percentage rate that must be computed and disclosed as required by the Federal Truth in Lending Act and Regulation Z of the Board of Governors of the Federal Reserve System. When the period for which the charge is computed on a basis of 1/30 the applicable monthly interest rate, multiplied by the number of days of the period.

(c) Any transaction involving a borrowers' s delivery of a motor vehicle certificate of title in exchange for the advancement of funds on the condition that the borrower shall or may redeem or repurchase the certificate of title upon the payment of a sum of money, whether the transaction be characterized as a "buy-sell agreement," "sale-leaseback agreement," or otherwise, shall be deemed

a violation of this ordinance if such sum exceeds the amount that a secondhand dealer may collect in a title loan agreement under this ordinance or if the terms of the transaction otherwise conflict with the permitted terms and conditions of a title loan agreement under this ordinance.

(d) Any fees or taxes paid to a state agency and directly related to an individual title loan transaction may be collected from the borrower and shall be in addition to the permitted finance and interest charge.

(e) No charges, including interest, in excess of the combined total of all charges permitted by this section shall be allowed.

4. Transaction Satisfaction and Default.

(a) When the title loan has been paid in full, the secondhand dealer shall deliver to the borrower a certificate of title clear of all encumbrances placed upon the title by the secondhand dealer within 30 days of such payment in full.

(b) A secondhand dealer who engages in title loan transactions may take possession of the motor vehicle upon the borrowers default under the title loan agreement. Unless the borrower voluntarily surrenders the motor vehicle, the secondhand dealer may only take possession of a motor vehicle through an agent licensed by the State of Florida to repossess motor vehicles.

(c) A secondhand dealer who takes possession of a motor vehicle pursuant to this section shall comply with the applicable requirements of Chapter 679, Part V, Florida Statutes, as is amended from time to time.

(d) Disposition of the collateral or motor vehicle may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parts and at any time and place and on any terms, but every aspect of the disposition including the

method, manner, time, place and terms including surplus of the debt must be commercially reasonable.

5. Licenses.

(a) No secondhand dealer may engage in business in Franklin County as a title loan lender after the effective date of this ordinance unless the secondhand dealer has a valid license issued by Franklin County. Separate licenses will be required for each physical location of title loan business. The County shall issue more than one license to an applicant if that applicant complies with the requirements for each license.

(b) An application for a license must be submitted to the County on such form as the County may prescribe. If the County determines that an application should be granted, it shall issue the licenses for a period not to exceed two years. A non-refundable application and license fee not exceeding \$1,250.00 shall accompany an initial application for each title loan location.

(c) The County shall charge a biennial renewal fee of \$1,000.00. A license that is not renewed at the end of each two-year period shall automatically become inactive. An inactive license may be reactivated within 90 days after the date it became inactive upon the submission of a completed reactivation form and payment of a reactivation fee not exceeding \$200.00 and a biennial license fee of \$1,000.00. No inactive license may be reactivated after 90 days.

(d) Each license must specify the location for which it is issued and must be conspicuously displayed at that location. When a licensee wishes to move a title loan office to another location the licensee shall give 30 days prior written notice to the County by certified or registered mail, return receipt requested, and the County shall then amend the license accordingly. A license is not transferable or assignable.

(e) Books, accounts and records; maintenance and examinations by the County.

(f) Each licensee shall maintain, at the principal place of business designated on the license, all books, accounts, records, and documents necessary to determine the licensee's compliance with this Ordinance.

(g) The County may authorize maintenance of records at a location other than a principal place of business. The County may require books and records to be produced and available at a reasonable and convenient location with the County.

(h) All books, accounts, records, documents and receipts for expenses paid by the licensee on behalf of the borrower, including each contract signed by the borrower and expenses incurred by the licensee in event of foreclosure and property recovery, will be preserved and kept available for examination by the County for two (2) years after the date of original entry.

(i) The County may prescribe by rule the minimum information to be shown in the books, accounts, records, and documents of licensees so that such records will enable the County to determine the licensee's compliance with this Ordinance.

(j) Each licensee shall designate and maintain an agent in this state for service of process.

(k) A licensee must apply to the County for a new license upon a change in ownership of 25% or more by a natural person in any title loan location or office. No application for a license or an application for transfer of an existing license is required for any change, directly, or beneficially, in the ownership of a title loan location if one or more of the holders of at least 75 percent of the outstanding equity interest in the title loan location or office before the change in ownership continue to hold at least 75 percent of the outstanding equity interest in the title loan location or office after the change in ownership.

(l) To be eligible for a title loan lending license, an applicant shall:

(i) File with the County a bond in the amount of \$35,000.00 for each license with a surety company qualified to do business in this state. In lieu of the bond, the applicant may establish a certificate of deposit or an irrevocable letter of credit in a Florida financial institution in the amount of the bond. The original bond, certificate of deposit, or letter of credit shall be filed with the County and the County shall be the beneficiary of such instrument. The bond, certificate of deposit, or letter of credit shall be in favor of the County for the use and benefit of any consumer who is injured in the context of a title loan transaction by the fraud, misrepresentation, breach of contract, financial failure, unfair or deceptive trade practice, disclosure violation or violations or any provision of this Part by the licensee. Such liability shall be enforced by the filing of a suit in a court of competent jurisdiction.

(ii) Not have been convicted of a felony within the last ten years or be acting on behalf of a beneficial owner who has been convicted of a felony within the last ten years.

(iii) Not have been convicted, nor acting on behalf of a beneficial owner who has been convicted, of a crime that the County finds directly related to the duties and responsibilities of a title loan lender within the past ten years.

(m) The County shall determine the form of the license.

(n) No part of this ordinance may be construed to impair or affect the obligation of any title loan agreement which was lawfully entered into prior to the effective date of this ordinance.

(o) Licensees shall report changes in address, location of records, and any change of an executive officer within 30 days of the change.

6. Violations and Penalties.

(a) The following acts are violations of this Ordinance and shall constitute grounds for disciplinary action:

(i) Failure to comply with any provision of this Ordinance, rule adopted under this Part by the County or any written agreement entered into with the County.

(ii) Fraud, misrepresentation, deceit or gross negligence in any title loan transaction.

(iii) Fraudulent misrepresentation, circumvention, or concealment of any matter required to be stated or furnished to a consumer pursuant to this Ordinance.

(iv) Willful imposition of illegal charges on any title loan transaction.

(v) False, deceptive, or misleading advertising by a licensee.

(vi) Failure to maintain, preserve and keep available for examination, all books, accounts, or other documents required by this Ordinance, state or federal law, or by any agreement entered into with the County.

(vii) Aiding, abetting, or conspiring with an individual to circumvent or violate any of the requirements of this Ordinance or state or federal law, relating to title loan agreements.

(viii) Refusal to permit inspection of books or records in an investigation or examination by the County or refusal to comply with a subpoena issued by the County.

(ix) Criminal conduct in the course of a licensee's business as a title lender.

(x) Knowingly entering into a title loan agreement with a person under the age of 18 years.

(xi) Making any agreement requiring or allowing for the personal liability of a pledgor or the waiver of any of the provisions of this Ordinance.

(xii) Knowingly entering into a title loan 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.

(xiii) Entering into a title loan agreement in which the amount of money advanced in consideration for the loan secured by any single certificate of title exceeds one third of the value of the motor vehicle. The County, shall determine the method of assessing the value of the pledged property.

(xiv) Failure to exercise reasonable care in the safekeeping of the certificate of title or motor vehicle repossessed pursuant to this Ordinance.

(xv) Failure to return the certificate of title or motor vehicle taken into possession to a borrower, with any and all of the title lender's liens on the property properly released, within 30 days of the payment of the full amount due, 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.

(xvi) Charging or receiving any finance charge, interest cost, or fee which is not permitted by this Ordinance.

(xvii) Engaging in business as a title lender without first securing the required license.

(xviii) Refusing to accept partial repayment of the amount financed when all accrued finance charges have been paid.

(xix) Charging a prepayment penalty.

(xx) Capitalizing any unpaid finance charge as part of the amount financed in the renewal of a title loan agreement.

(xxi) Acting as a title loan lender in Franklin County after the effective date of this ordinance without a current, active license issued by the County pursuant to this Ordinance.

(xxii) Engaging in any practice or transaction or course of business relating to the making of a title loan, negotiation, promotion, advertisement or hypothecation of a title loan transaction, directly or indirectly, and to knowingly or willingly employ any devise, scheme or article to defraud, or to engage in any transaction, practice or course of business which operates as a fraud upon any person in connection with the purchase or sale of any title loan, or to obtain property by fraud, willful misrepresentation of a future act or false promise.

(xxiii) In any manner within the jurisdiction of the County, to knowingly and willfully falsify, conceal or cover up by a trick, scheme or devise a material fact, make any false or fraudulent statement or representation, or make or use any false writing or document, knowing the same to contain any false or fraudulent statement or entry.

(xxiv) Commission of fraud, misrepresentation, concealment, dishonest dealing by trick, scheme or device, culpable negligence, or breach of trust in any title loan transaction which is within the jurisdiction of this County; or aiding, assisting, or conspiring with any other person engaged in any such misconduct and in furtherance thereof.

7. Violation.

Upon a finding by the County that the licensee or applicant has committed any of the acts set forth in Section 6 hereof, the County may enter an order and take one or more of the following actions:

- (a) Deny the application for a license pursuant to this ordinance.
- (b) Revoke or suspend a license previously granted pursuant to this Ordinance.
- (c) Place a licensee or applicant for a license on probation for a period of time and subject to such conditions as the County may specify.

- (d) Issue a letter of concern or reprimand.
- (e) Place permanent restrictions or conditions upon issuance or maintenance of a license pursuant to this ordinance.
- (f) Impose an administrative fine not to exceed \$2,500.00 for each violation of this Ordinance.
- (g) The County shall be entitled to a reasonable attorney's fee, including appellate fees and costs, in an action successfully enforcing any fine imposed under this Ordinance.
- (h) When the County has reasonable cause to believe that a licensee is operating in violation of this Ordinance, it may bring a civil action in any court of competent jurisdiction to enforce or administer this Part including a temporary or permanent injunction, or appointment of a receiver.

8. Rules.

The County may adopt by motion rules which set forth with specificity acts or practices which violate this ordinance and which prescribe procedural rules for the administration of this ordinance.

9. Additional remedy to borrower, private right of action.

Any borrower injured by a violation of this Ordinance may bring an action for recovery of damages including twice the interest previously paid and the forfeiture of all interest charged, or contracted to be charged or reserved. Said borrower may recover reasonable attorney's fees and costs of such action. An award may be entered for punitive damages. The remedies provided for under this Ordinance is in addition to any other procedures or remedies for any violation provided in any other law or ordinance.

10. Conflicts.

All ordinance or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

11. Severability.


If any word, phrase, clause, section, or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not effect the validity of the remaining portions thereof.


12. Effective Date.

This ordinance shall be effective on June 1, 2000, and shall apply to all affected transactions on and after said date.

THIS ORDINANCE ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF FRANKLIN COUNTY, FLORIDA ON THE 2nd DAY OF MAY, 2000.

ATTEST:


KENDALL D. WADE,
CLERK


CLARENCE WILLIAMS,
CHAIRMAN



[Faint, illegible text, possibly a stamp or additional signature]