

ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda—underwritten by global corporations—includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

ALEC's Corporate Board —in recent past or present

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- Energy Future Holdings
- Johnson & Johnson
- Coca-Cola Company
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- Kraft Foods, Inc.
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- Peabody Energy
- Intuit, Inc.
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- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at www.SourceWatch.org.

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Title Pledge Act

Summary

This Act will provide for statewide licensing of title pledge lenders, including examination standards. The goal of this legislation is to reinforce title pledge lenders' financial responsibility to the public.

Model Legislation

Section 1. {Short Title} This Act shall be known and may be cited as the "Title Pledge Act."

Section 2. {Legislative Findings and Purpose} The making of title pledge loans vitally affects the general economy of this state and the public interest and welfare of its citizens. It is the policy of this state and the purpose of this Act to:

1. Ensure a sound system of making title pledge loans through statewide licensing of title pledge lenders by the department of financial institutions;
2. Establish licensing requirements;
3. Provide for the examination and regulation of title pledge lenders by the department of financial institutions; and
4. Ensure financial responsibility to the public.

Section 3. {Definitions} Unless the context otherwise requires, as used in this Act:

1. "Commissioner" means the commissioner of financial institutions or the commissioner's designated representative.
2. "Control" means possession, direct or indirect, of the power to direct or cause the direction of management and policies of a person whether through the ownership of voting securities by contract or otherwise; provided, that no individual shall be deemed to control a person solely on account of being a director, officer, or employee of such person. For purposes of this subdivision, a person who, directly or indirectly, owns, controls, holds the power to vote, or holds proxies representing twenty-five percent (25%) or more of the then outstanding voting securities issued by another person is presumed to control such other person. For purposes of this subdivision, the commissioner may determine whether a person, in fact, controls another person.
3. "Controlling person" means any person in control of a title pledge lender.
4. "Department" means the [insert state department of financial institutions or other appropriate regulatory department].
5. "Month" means thirty (30) days.
6. "Person" means an individual, sole proprietorship, general partnership, corporation, limited liability company or other entity duly qualified to do business in the state.
7. "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.
8. "Pledgor" means the individual or individuals obligated to repay the loan.
9. "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 for the title pledge lender to 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 when funds clear and return the 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 renewal or renewals thereof, the title pledge lender shall be allowed to take possession of the titled personal property. The title pledge

Did you know that global corporation Kraft Foods served as corporate co-chair in 2011?

lender shall retain physical possession of the certificate of title for the entire length of the title pledge agreement, but shall not be required to retain physical possession of the titled personal property at any time. A title pledge lender may only hold unencumbered certificates of title for pledge

10. "Title pledge lender" means any person engaged in the business of making title pledge agreements with pledgors.

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

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

Section 4. {Authority of Licensed Title Pledge Holders}

1. A title pledge lender licensed pursuant to this Act has the power to make loans of money on pledges of personal property certificates of title in accordance with the provisions of this Act.

2. Title pledge lenders licensed pursuant to this Act shall not have the powers enumerated in this Act without first complying with the law regulating title pledge agreements, but title pledge lenders exercising any of the powers in compliance with this Act's provisions shall not be deemed in violation of any usury law. No action shall be brought by a pledgor against a title pledge lender in connection with a title pledge agreement more than one (1) year after the date of the alleged occurrence of any violation of this Act.

Section 5. {License Required}

1. No person shall engage in the business of title pledge lending without having first obtained a license from the [insert state department of financial institutions or other appropriate regulatory department]. A separate license shall be required for each location from which such business is conducted.

2. Any loan made without first having obtained a license is void, in which case the person making the loan forfeits the right to collect any moneys, including principal, interest, and any other fee paid by the pledgor in connection with the title pledge agreement. The person making the loan shall return to the pledgor, the titled personal property pledged, or the fair market value of such titled personal property, and all principal, interest, and any other fees paid by the pledgor.

Section 6. {Eligibility Requirements for License}

1. To qualify for a license, an applicant shall satisfy the following requirements:

a. The applicant has a tangible net worth (tangible assets less liabilities) of not less than seventy-five thousand dollars (\$75,000) for each location;

b. The financial responsibility, financial condition, business experience, character, and general fitness of the applicant shall reasonably warrant the belief that the applicant's business will be conducted lawfully and fairly. In determining whether this qualification has been met, and for the purpose of investigating compliance with this Act, the commissioner may review and approve:

i. The relevant business records and the capital adequacy of the applicant;

ii. The financial responsibility, financial condition, business experience, character, and general fitness of any person who is a director, officer, or five percent (5%) or more shareholder of the applicant or owns or controls the applicant; and

iii. Any adjudication against the applicant or any person referred to in subdivision (b) (ii) of any criminal activity, any fraud or other act of personal dishonesty, or any act, omission or practice, which constitutes a breach of a fiduciary duty.

2. The requirements set forth in subdivisions (1) (a) and (1) (b) of this Section are continuing in nature.

3. Each application for a license shall be in writing and under oath to the commissioner, in a form prescribed by the commissioner, and shall include the following:

a. The legal name, residence and business address of the applicant and, if the applicant is an entity, of every member, partner, officer, managing employee, director, trustee, and person who controls the entity thereof;

b. The location in this state at which the registered officer of the applicant shall be located; and

c. Other data and information the commissioner may reasonably require with respect to the applicant, its directors, trustees, officers, members, partners, managing employees or controlling persons.

4. Each application for a license shall be accompanied by:

a. A filing fee, in an amount prescribed by the commissioner by rule but not to exceed one thousand dollars (\$1,000), which shall not be subject to refund but which, if the license is granted, shall constitute the license fee for the first license year or part thereof. The filing fee shall be applicable to each location; and

b. A balance sheet for the immediately preceding fiscal year prepared in accordance with generally accepted accounting principles.

5. Upon the filing of an application in a form prescribed by the commissioner, accompanied by the fee and documents required in this section, the commissioner shall investigate to ascertain whether the qualifications prescribed by this section have been satisfied. If the commissioner finds that the qualifications have been satisfied, the commissioner shall issue to the applicant a license to engage in the title pledge lending business in the state. A license issued pursuant to this subsection shall expire on October 31 unless the license submits a timely renewal application, or unless earlier surrendered, suspended or revoked pursuant to this Act.

6. If the commissioner determines that an applicant is not qualified to receive a license, the commissioner shall notify the applicant in writing that the application has been denied, stating the basis for denial. If the commissioner denies an application, or if the commissioner fails to act on an application within ninety (90) days after the filing of a properly completed application, the applicant may make written demand to the commissioner for a hearing before the commissioner on the question of whether the license should be granted. Any hearing shall be conducted pursuant to the Administrative Procedures Act of the state. A decision of the commissioner following any hearing on the denial of license is subject to review under the Administrative Procedures Act of the state.

7. The license shall be kept conspicuously posted in the place of business of the title pledge lender.

8. The license is not transferable or assignable except as allowed by rule of the commissioner.

9. The licensing year shall end on October 31. Each license may be renewed upon application by the license holder, submitted at least 30 days prior to the renewal date, showing continued compliance with the requirements of this section and the payment to the commissioner of the annual license fee in an amount prescribed by the commissioner by rule but not to exceed one thousand dollars (\$1,000) for each licensed location.

10. The commissioner may establish a biennial licensing arrangement for the filing of the application for license renewal but in no case shall the license fee be payable for more than one year at a time.

11. Except when a change of control is beyond the control of the Title pledge lender, or in the case of an emergency, a change in control of a title pledge lender shall require thirty (30) days prior written notice to the commissioner. In the case of a publicly traded corporation, such notification shall be made in writing within thirty (30) days of a change or acquisition of control of a title pledge lender.

12. Upon notification of a change in control, the commissioner may require such information as deemed necessary to determine whether to approve the new controlling person(s). The commissioner may disapprove the new person(s) for any reason the commissioner could deny a license. If the commissioner disapproves any person(s), the commissioner shall allow a reasonable time for the licensee to remove such person(s) as controller(s).

13. Costs incurred by the commissioner in investigating a change of control notification shall be paid by the person requesting such approval, subject to limitations set forth in Section (7)(2) of this Act.

14. Whenever control of a title pledge lender is acquired or exercised in violation of this subsection, the license of the title pledge lender may be revoked.

Section 7. {Rule-Making; Investigations}

1. The commissioner may promulgate reasonable regulations in accordance with the Administrative Procedures Act of this state for the enforcement of this Act. A copy of any rule or regulation adopted by the commissioner shall be mailed to each license holder at least thirty (30) days before the date it takes effect.

2. To assure compliance with the provisions of this Act, the commissioner may examine the relevant business, books and records of any title pledge lender. The commissioner may charge and collect the reasonable and actual expenses for any compliance examination conducted under this Act

3. The commissioner, for the purpose of discovering violations of this Act and for the purpose of determining whether persons are subject to the provisions of this Act, is hereby authorized to examine persons licensed under this Act and persons reasonably suspected by the commissioner of conducting business which requires a license under this Act, including all relevant books, records and papers employed by such persons in the transaction of their business, and to summon witnesses and examine them under oath concerning matters relating to the business of such persons, or such other matters as may be relevant to the discovery of violations of this Act, including, without limitation, the conduct of business without a license as required under this Act.

4. All books and records required to be preserved by this Act or any regulation of the commissioner or required by any federal statute, regulation, or regulatory guideline, as applicable to each title pledge lender, shall be preserved and made available to the commissioner as provided in this Act, for a period of twenty-four (24) months from the date the title pledge agreement was executed or the date the last payment was received, whichever is later. The title pledge lender may cause any or all records at any time in its custody to be reproduced and/or preserved by itself or by any other person who agrees in writing to submit its operations to the examination of the commissioner to the extent that such operations directly affect such record-keeping by any micro-photographic process, electronic and/or mechanical data storage technique or any other means. Any such record reproduced and/or preserved by any such process, technique or means shall have the same force and effect as the original record and be admitted into evidence equally with the original. All records of the title pledge lending business shall be maintained

separately by the title pledge lender from any other business in which the title pledge lender may engage.

Section 8. {Record of Transactions Required - Inspection}

1. Each title pledge lender shall notify the commissioner fifteen (15) days prior to any change in the principal place of business of a title pledge lender.
2. Within fifteen (15) days of the occurrence of any of the events listed below, a title pledge lender shall file a written report with the commissioner describing such event and its expected impact on the activities of the title pledge lender in the state:
 - a. The filing for bankruptcy or reorganization by the title pledge lender;
 - b. Any felony indictment of the title pledge lender or any of its officers, directors or principals;
 - c. Any felony conviction of the title pledge lender or any of its officers, directors, principals.
3. Each title pledge lender shall file a report with the commissioner, commencing on October 1 and every odd year thereafter.
 - a. This report shall contain the following information:
 - i. The names and addresses of persons owning controlling interest in each title pledge lender;
 - ii. Balance sheets;
 - iii. If the title pledge lender is a corporation, the names and addresses of its officers and directors; if the title pledge lender is a partnership, the names and addresses of the partners; and if the title pledge lender is a limited liability company, the names and addresses of the Members of the limited liability company, or if the title pledge lender is any other form of entity, the names and addresses of all persons who generally manage or control the business.
 - b. If the title pledge lender holds two (2) or more licenses or is affiliated with other title pledge lenders, a composite report may be filed, but may not be required.
 - c. All such reports shall be filed in such form as may reasonably be required by the commissioner and shall be sworn to by a responsible officer of the title pledge lender.
 - d. The information submitted by title pledge lenders pursuant to this subsection shall be confidential and may not be disclosed or distributed outside the department by the commissioner except that the commissioner is authorized to disclose confidential information to any local, state or federal agency as the commissioner deems proper.

Section 9. {Recording of Liens}

1. Every title pledge lender shall keep a numbered record of every title pledge agreement or property pledge agreement executed by the title pledge lender and pledgor. Such record, as well as the title pledge agreement or property pledge agreement itself, shall include the following information:
 - a. The make, model, and year of the titled personal property;
 - b. The vehicle identification number, or other comparable identification number, along with the license plate number, if applicable, of the titled personal property;
 - c. The name, residential address, date of birth, and physical description of the pledgor;
 - d. The date the title pledge agreement or the property pledge agreement is executed by the title pledge lender and the pledgor; and
 - e. The maturity date of the title pledge agreement which shall be thirty (30) days after the title pledge agreement or property pledge agreement is executed by the title pledge lender and the pledgor.
2. The following information shall also be printed on the title pledge agreement:
 - a. The name and physical address of the title pledge office;
 - b. In not less than 14-point bold type, the name and address of the department of financial institutions as well as a telephone number to which consumers may address complaints;
 - c. The statement that "The pledgor represents and warrants, to the best of the pledgor's knowledge, that the titled personal property is not stolen and has no liens or encumbrances against it, the pledgor has the right to enter into this transaction and the pledgor will not apply for a duplicate certificate of title while the title pledge agreement is in effect."
 - d. The pledgor shall sign the title pledge agreement and shall be provided with a copy of such agreement. The title pledge agreement shall also be signed by the title pledge lender, or the lender's employee or agent. If the pledgor has been issued a social security number, the title pledge lender shall keep on file the social security number of the pledgor
 - e. All of the following statement in not less than 14-point bold type:

- i. "THIS LOAN IS NOT INTENDED TO MEET LONGTERM FINANCIAL NEEDS.
- ii. YOU SHOULD USE THIS LOAN ONLY TO MEET SHORT-TERM CASH NEEDS.
- iii. YOU WILL BE REQUIRED TO PAY ADDITIONAL INTEREST AND FEES IF YOU RENEW THIS LOAN RATHER THAN PAY THE DEBT IN FULL WHEN DUE.
- iv. THIS LOAN IS A HIGHER INTEREST LOAN. YOU SHOULD CONSIDER WHAT OTHER LOWER COST LOANS MAY BE AVAILABLE TO YOU.
- v. YOU ARE PLACING AT RISK YOUR CONTINUED OWNERSHIP OF THE PERSONAL PROPERTY WHOSE TITLE YOU ARE PLEDGING FOR THIS LOAN.
- vi. IF YOU FAIL TO REPAY THE FULL AMOUNT OF THIS LOAN ON OR BEFORE THE END OF THE MATURITY DATE OR RENEWAL OF THE LOAN THE TITLE PLEDGE LENDER MAY TAKE POSSESSION OF THE PROPERTY WHOSE TITLE IS PLEDGED AND SELL THE PROPERTY IN THE MANNER PROVIDED BY LAW.
- vii. IF YOU ENTER INTO A TITLE PLEDGE AGREEMENT, YOU HAVE A LEGAL RIGHT OF RESCISSION. THIS MEANS YOU MAY CANCEL YOUR CONTRACT AT NO COST TO YOU BY RETURNING THE MONEY YOU BORROWED BY THE NEXT BUSINESS DAY AFTER THE DATE OF YOUR LOAN.
- viii. IF THE TITLE PLEDGE AGREEMENT IS LOST, DESTROYED OR STOLEN, YOU SHOULD IMMEDIATELY SO ADVISE THE TITLE PLEDGE LENDER IN WRITING."

Section 10. {Rate of Interest}

1. A title pledge lender may contract for and receive an effective rate of interest as the parties agree to in writing.
2. Title pledge lenders may assess and collect amounts paid to independent third parties to repossess the titled personal property and deliver such titled personal property to the storage facility of the title pledge lender.
3. Notwithstanding the provisions of Section 4, or any other law to the contrary, in accordance with the Administrative Procedures Act of this state, the [insert state department of financial institutions or other appropriate regulatory department] shall promulgate rules requiring each title pledge lender to issue a standardized consumer notification and disclosure form in compliance with federal truth-in-lending laws prior to entering into any title pledge agreement wherein the pledged goods will consist of one (1) or more motor vehicles titled by this or any other state. The required style, content and method of executing the form shall be prescribed by the rule and shall be designed to ensure that the pledgor, prior to entering into such agreement, receives and acknowledges an accurate and complete notification and disclosure of the itemized and total amounts of all interest, fees, charges and other costs that will or potentially could be imposed as a result of such agreement

Section 11. {Right to Redeem} Except as otherwise provided in this Act, the pledgor, upon presentation of suitable identification, shall be entitled to redeem the titled personal property and/or certificate of title described therein upon satisfaction of all outstanding obligations pursuant to the title pledge agreement and this Act.

Section 12. {Thirty-Day Agreements; Renewal of Agreements}

1. Title pledge agreements made pursuant to this Act shall not exceed thirty (30) days in length. However, such agreements may provide for renewals, which may occur automatically, unless one (1) of the following has occurred:
 - a. The pledgor has redeemed the pledged certificate of title by paying all principal, interest, and customary fees due in accordance with the title pledge agreement;
 - b. The pledgor has surrendered possession, title and all other interest in and to the certificate of title to the title pledge lender;
 - c. The title pledge lender has notified the pledgor in writing that the title pledge agreement is not to be renewed;
 - d. Default by pledgor of any obligation pursuant to the title pledge agreement.
2. A pledgor has the right to cancel the pledgors' obligation to make payments under a title pledge agreement until the close of the next business day after the day when the pledgor signs a title pledge agreement if the pledgor returns the original check or cash to the location where the loan was originated. For the purpose of this section, "business day" means any day that the title pledge office is open for business.
3. Notwithstanding any provision of this Act to the contrary, beginning with the sixth renewal or continuation and at each successive renewal or continuation thereafter, the pledgor shall be required to make a payment of at least five percent (5%) of the original principal amount of the title pledge transaction in addition to interest and fees authorized by this Act. Interest and fees authorized by this Act at each successive renewal or continuation shall be calculated on the outstanding principal balance. Principal payments in excess of the five percent (5%) required principal reduction shall be credited to the outstanding principal on the day received. If at the maturity of any renewal requiring a principal reduction, the pledgor has not made previous principal reductions adequate to satisfy the current required principal reduction, and the pledgor cannot repay at least five percent (5%) of the original principal balance and any outstanding interest and fees authorized by this Act, the title pledge lender may, but shall not be obligated to, defer any required principal payment until the end of the title pledge agreement. No further interest or fees may accrue on any such principal amount thus deferred.

Section 13. {Default}

1. Upon expiration of a title pledge agreement and the final renewal of the agreement, if any, if the title pledge agreement has not been paid in full, the title pledge lender may declare a default, in which case the title pledge lender shall mail a Notice to Cure Default to the pledgor at the pledgor's last address shown in the title pledge lender's file, notifying the pledgor that the pledgor has ten (10) days from the date of the notice in which to cure the default.
2. If the pledgor does not cure the default within the ten days, the title pledge lender may repossess the vehicle whose title is pledged. 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. There shall be no further interest or other fees charged to the pledgor after repossession of the property. After repossession, the title pledge lender shall mail a Notice of Right to Redeem to the pledgor, notifying the pledgor that the pledgor must redeem the title within ten (10) days by paying all outstanding principal, interest and fees authorized by this Act owed by the pledgor to the title pledge lender, plus all repossession charges, in which case the pledgor shall be given possession of the titled personal property and the certificate of title without further charge. If the pledgor fails to redeem the certificate of title by the end of the ten day period, the pledgor shall thereby forfeit all right, title and interest in and to the personal property whose title is pledged to the title pledge lender, who shall thereby acquire an absolute right of title to the titled personal property, and the title pledge lender shall have the right and authority to sell or dispose of the property.
3. The title pledge lender shall sell the property in a commercially reasonable manner. The proceeds of the sale shall be applied to the principal, interest and all fees authorized by this Act owed by the pledgor to the title pledge lender, including the actual repossession costs and cost of the sale. Any surplus from the sale of the titled personal property shall be remitted to the pledgor after such sale and shall not be retained by the title pledge lender. The commissioner shall prescribe by rule the manner in which the title pledge lender shall remit any surplus to the pledgor.
4. Upon voluntary surrender of the vehicle whose title is pledged, the title pledge lender shall have no obligation to send any Notice to Cure Default or Notice of Right to Redeem to the pledgor.
5. If the pledgor loses the title pledge agreement or property pledge agreement or other evidence of the transaction, the pledgor shall not thereby forfeit the right to redeem the pledged property, but may promptly, before the lapse of the redemption date, make affidavit for such loss, describing the pledged property, which affidavit shall, in all respects, replace and be substituted for the lost evidence of the pledge transaction.

Section 14. {Prohibited Actions}

1. A title pledge lender shall not:
 - a. Accept a pledge from a person less than eighteen (18) years of age, or from anyone who appears to be intoxicated;
 - b. Make any agreement giving the title pledge lender any recourse against the pledgor other than the title pledge lender's right to take possession of the titled personal property and certificate of title upon the pledgor's default or failure to redeem, and to sell or otherwise dispose of the titled personal property in accordance with the provisions of this Act, except where the pledgor prevented repossession of the vehicle, damaged or committed or permitted waste on the vehicle or committed fraud;
 - c. Enter into a title pledge agreement in which the amount of money loaned, when combined with the outstanding balance of other outstanding title pledge agreements the pledgor has with the same lender secured by any single certificate of title, exceeds ten thousand dollars (\$10,000) or enter into a property pledge agreement in which the amount of money loaned exceeds ten thousand dollars (\$10,000);
 - d. Accept any waiver, in writing or otherwise, of any right or protection accorded a pledgor under this Act;
 - e. Fail to exercise reasonable care to protect from loss or damage the certificate of title in the physical possession of the title pledge lender;
 - f. Purchase pledged titled personal property that was repossessed in the operation of its business;
 - g. Maintain more than one (1) title pledge office or place of operation for each title pledge lender under each license, provided, however, any such title pledge lender may move from one (1) place of business to another, as permitted;
 - h. Enter into a pledge agreement unless the pledgor presents a clear title to titled personal property at the time that the loan is made, and such title is retained, after noting of the lien by the state, in the physical possession of the title pledge lender. If the title pledge lender files a lien against such property without possession of a clear title to such property, the resulting lien shall be void;
 - i. Capitalize or add any accrued interest or fee to the original principal of the title pledge agreement during any renewal of the agreement;
 - j. Sell or otherwise charge for any type of insurance in connection with a title pledge agreement. Nothing in this subdivision shall prohibit a title pledge lender from offering a pledgor the option to purchase memberships in automobile clubs or associations, provided that the title pledge lender informs the pledgor in writing that the membership is optional, that the membership can be purchased elsewhere, and that the purchase of the membership has no bearing on whether the pledgor receives a loan;

- k. Charge a prepayment penalty;
- l. Require a pledgor to provide any additional guaranty as a condition to entering into a title pledge agreement;
- m. Use any collection tactics in violation of the federal Fair Debt Collection Practices Act;
- n. Use any device or agreement, including agreements with affiliated title pledge lenders, with the intent to obtain greater charges than otherwise would be authorized by this Act; or
- o. Violate the provisions of this Act or any rule promulgated pursuant thereto by the commissioner.

Section 15. {Penalties} Any person who intentionally violates any provision of this Act commits a Class A misdemeanor.

Section 16. {Violations}

1. The commissioner may, after notice and opportunity for a hearing, impose a civil penalty or suspend or revoke any license if the commissioner finds that the title pledge lender has knowingly or through lack of due care:

- a. Engaged in conduct of a manner, this would warrant the denial of an application;
- b. Refused to permit the commissioner to make any examination authorized by this Act;
- c. Failed to pay the annual license fee imposed by this Act, or an examination fee imposed by the commissioner under the authority of this Act;
- d. Committed any fraud;
- e. Made a false statement in the application for the license or failed to give a true reply to a question in the application;
- f. Demonstrated incompetence or untrustworthiness to act as a title pledge lender; or
- g. Violated any provisions of this Act or any administrative regulation issued pursuant thereto or has violated any other law in the course of such title pledge lender's dealings as a title pledge lender.

2. A hearing shall be held on written notice given at least twenty (20) days prior to the date of the hearing and shall be conducted in accordance with the Administrative Procedures Act of the state.

3. If, after notice and opportunity for a hearing, the commissioner finds that a person has violated this Act, or any administrative regulation issued pursuant thereto, the commissioner may take any or all of the following actions:

- a. Order the person to cease and desist violating the Act or any administrative rules issued pursuant thereto;
- b. Require the refund of any fees collected by such person in violation of this Act; and
- c. Order the person to pay the commissioner a civil penalty of not more than one thousand dollars (\$1,000) for each transaction in violation of this Act.

4. The commissioner may enter into consent orders at any time with any person to resolve any matter arising under this Act. A consent order shall be signed by the person to whom it is issued, or a duly authorized representative, and shall indicate agreement to the terms contained therein. A consent order need not constitute an admission by any person that any provision of this Act, or any rule, regulation or order promulgated or issued hereunder has been violated, nor need it constitute a finding by the commissioner that such person has violated any provision of this Act or any rule, regulation or order promulgated or issued under this Act.

5. Notwithstanding the issuance of a consent order, the commissioner may seek civil or criminal penalties or compromise civil penalties concerning matters encompassed by the consent order.

6. In cases involving extraordinary circumstances requiring immediate action, the commissioner may take any enforcement action authorized by this Act without providing the opportunity for a prior hearing, but shall promptly afford a subsequent hearing upon an application to rescind the action taken which is filed with the commissioner within twenty (20) days after receipt of the notice of the commissioner's emergency action.

7. Any person aggrieved by the conduct of a title pledge lender under this Act in connection with the title pledge lender's regulated activities may file a written complaint with the commissioner who may investigate the complaint.

8. In the course of the investigation of the complaint, the commissioner may:

- a. Subpoena witnesses;
- b. Administer oaths;
- c. Examine any individual under oath; and
- d. Compel the production of records, books, papers, contracts or other documents relevant to such investigation.

9. If any person fails to comply with a subpoena of the commissioner under this Act or to testify concerning any matter about which the person may be interrogated under this Act, the commissioner may petition any court of competent jurisdiction for enforcement.

10. The license of any title pledge lender under this Act who fails to comply with a subpoena of the commissioner may be suspended pending compliance with the subpoena.

11. The commissioner shall have exclusive administrative power to investigate and enforce all complaints filed by any person, which are not criminal in nature, which complaint relates to the business of title pledge lending.

12. The commissioner, after notice and opportunity for hearing, may censure, suspend for a period not to exceed twelve (12) months, or bar a person from any position of employment, management or control of any title pledge lender, if the commissioner finds that the:

a. Censure, suspension, or bar is in the public interest and that the person has intentionally committed or caused a violation of this Act or any rule, regulation or order of the commissioner; or

b. Person has:

i. Been convicted or pled guilty to or pled *nolo contendere* to any crime; or

ii. Been held liable in any civil action by final judgment, or any administrative judgment by any public agency; if the criminal, civil or administrative judgment involved any offense reasonably related to the qualifications, functions, or duties of a person engaged in the business in accordance with the provisions of this Act.

c. Persons suspended or barred under this subsection are prohibited from participating in any business activity of a title pledge lender and from engaging in any business activity on the premises where a title pledge lender is conducting its business. This subsection shall not be construed to prohibit suspended or barred persons from having their personal transactions processed by a title pledge lender.

d. This subsection shall apply to any violation, conviction, plea, or judgment on or after the enactment of this act.

Section 17. {Acquiring a License; Maintaining an Existing License} No incorporated municipality, city or taxing district in this state shall enact an ordinance or resolution or promulgate any rules or regulations relating to this Act. The provisions of any ordinance or resolution or rules or regulations of any municipality, city or taxing district relative to title pledge lending are superseded by the provisions of this Act.

Section 18. {Severability}

Section 19. {Effective Date}

Adopted by the CIED Task Force at the 2005 Annual Meeting. Approved by the ALEC Board of Directors September 26, 2005

About Us and ALEC EXPOSED. The Center for Media and Democracy reports on corporate spin and government propaganda. We are located in Madison, Wisconsin, and publish www.PRWatch.org, www.SourceWatch.org, and now www.ALECExposed.org. For more information contact: editor@prwatch.org or 608-260-9713.

Center for Media and Democracy's quick summary

This bill would authorize a form of short-term lending that many states have recognized as unfair and predatory to low-income consumers. Specifically, it authorizes lending companies to give short-term, 30-day renewable loans backed by the borrower's car title, loans which usually have high rates of interest. Consumer groups oppose this model legislation not only because the high interest rates and short-term repayment period can trap consumers in a cycle of debt, but also because it places a working person in the position of risking their vehicle (an asset usually necessary in order to work and maintain a living). The bill provides few consumer protections, for example failing to include a private right of action with strong remedies and requiring that all claims be brought within one year, providing little deterrence for predatory lenders (especially considering that the budgets and resources of regulatory agencies are often restrained, and the agency may lack the political will to conduct adequate enforcement). The Consumer Federation of America, USPIRG, and the Center for Responsible Lending sent a letter to ALEC opposing this model legislation in November 2005, noting these concerns and referring to many examples of predatory title lending, and also pointing out that title lenders have been generous campaign contributors.

In Wisconsin as of May 2011, the Joint Finance Committee approved a proposal to lift the state's current ban.