

ORDINANCE NO. 2005 - 09

AN ORDINANCE AMENDING ORDINANCE 99-19, WHICH REGULATES THE MOTOR VEHICLE TITLE LOAN INDUSTRY; SPECIFICALLY AMENDING PART V, LICENSES; AND PART VI, VIOLATIONS AND PENALTIES; 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, the Board of County Commissioners of Nassau County, Florida, finds that consumers in Nassau County are in need of greater consumer protection for motor vehicle title loan transactions than are provided in Chapter 538, Part I, Florida Statutes, and

WHEREAS, the Board had found it necessary to amend Ordinance 99-19.

NOW, THEREFORE, BE IT ORDAINED this 28th day of February, 2005, by the Board of County Commissioners of Nassau County, Florida, that Ordinance 99-19 shall be amended as follows:

PART ONE

Part V. Licenses.

(a) No secondhand dealer may engage in business as a title loan lender two months after the effective date of this ordinance unless the secondhand dealer has a valid license issued by the County ~~Coordinator~~ Administrator's Office and a county occupational license issued by the Tax Collector. A separate license from the County ~~Coordinator~~ Administrator will be required for each physical location of title loan business. The County ~~Coordinator~~ Administrator or his designee shall issue more than one license to an applicant if that applicant complies with the requirements of this Part for each license.

(b) An application for a license pursuant to this Part must be submitted to the County ~~Coordinator~~ Administrator's Office on such form as the County ~~Coordinator~~ Administrator may prescribe. If the County ~~Coordinator~~ Administrator determines that an application should be granted, he/she shall issue the license for a period not to exceed two years. A non-refundable application and license fee not exceeding \$800.00 shall accompany an initial application for each title loan location.

(c) The County ~~Coordinator~~ Administrator shall charge a biennial renewal fee of \$800.00. 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 \$100.00 and a biennial license fee of \$800.00. 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 ~~Coordinator~~ Administrator by certified or registered mail, return receipt requested, and the County ~~Coordinator~~ Administrator shall then amend the license accordingly. A license issued pursuant to this Part is not transferable or assignable. The location or locations must be properly zoned pursuant to the Nassau County Zoning Code.

(e) Books, accounts, and records; maintenance and examination by the County ~~Coordinator~~ Administrator.

(1) 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 Part.

(2) The County ~~Coordinator~~ Administrator or his designee may require books and record to be produced and available at a reasonable and convenient location within Nassau County.

(3) 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 ~~Coordinator~~ Administrator for two (2) years after the date of original entry.

(4) The County ~~Coordinator~~ Administrator may prescribe by written regulation the minimum information to be shown in the books, accounts, records, and documents of licensees so that such records will enable the department to determine the licensee's compliance with this Part.

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

(g) A licensee must apply to the County ~~Coordinator~~ Administrator's Office 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.

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

(1) File with the County ~~Coordinator~~ Administrator a bond in the amount of \$25,000.00 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 ~~Coordinator~~ Administrator 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 of 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.

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

(3) Not have been convicted of a felony, and not acting in behalf of a beneficial owner who has been convicted of a crime that the division finds directly related to the duties and responsibilities of a title loan lender within the past ten years.

(4) Provide a copy of the occupational license.

(i) The County ~~Coordinator~~ Administrator or his designee shall determine the form of the license.

(j) 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.

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

Part VI. Violations and Penalties.

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

(1) Failure to comply with any provision of this Part or regulations promulgated by the Board of County Commissioners.

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

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

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

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

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

(7) Aiding, abetting, or conspiring with an individual to circumvent or violate any of the requirements of this Part or state or federal law.

(8) 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.

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

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

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

(12) 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.

(13) 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.

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

(15) 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.

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

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

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

(19) Charging a prepayment penalty.

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

(21) Acting as a title loan lender in this county six months after the effective date of this ordinance without a current, active license issued by the County ~~Coordinator~~ Administrator's Office pursuant to this Ordinance.

(22) 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:

(a) To knowingly or willfully employ any device, scheme or artifice to defraud;

(b) 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;

(c) To obtain property by fraud, willful misrepresentation of a future act or false promise.

(23) In any manner within the jurisdiction of the county, to knowingly and willfully falsify, conceal or cover up by a trick, scheme or device 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.

(24) Commission of fraud, misrepresentation, concealment, dishonest dealing by trick, scheme or device, culpable negligence, or breach of trust in any title loan transaction in Nassau County; or aiding, assisting, or conspiring with any other person engage in any such misconduct and in furtherance thereof.

(25) Failure to maintain a current occupational license.

(b) Upon a recommendation by the County ~~Coordinator~~ Administrator and the County Attorney that the licensee or applicant has committed any of the acts set forth in subsection (a) hereof, the County Commissioners may enter an order and take one or more of the following actions:

(1) Deny the application for a license pursuant to this ordinance.

(2) Revoke or suspend a license previously granted pursuant to this Part.

(3) 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.

(4) Issue a letter of concern or reprimand.

(5) Place permanent restrictions or conditions upon issuance or maintenance of a license pursuant to this ordinance.

(6) Impose an administrative fine not to exceed \$1,500.00 for each violation of this Part.

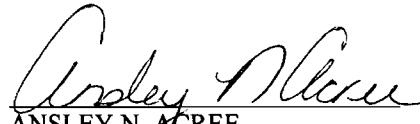
(7) The County shall be entitled to a reasonable attorney's fees, including appellate fees and costs, in an action successfully enforcing any fine imposed under this Part.

(c) When the County has reasonable cause to believe that a licensee is operating in violation of this Part, 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.

SECTION TWO.

This Ordinance shall become effective upon its being filed in the Office of the Secretary of State.

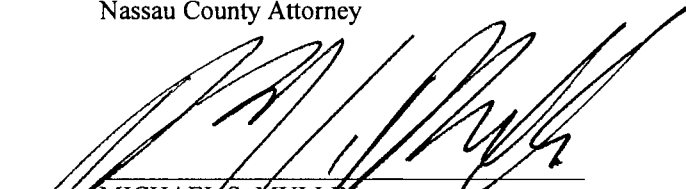
**BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA**


ANSLEY N. ACREE
Its: Chairman

ATTEST:


JOHN A. CRAWFORD
Its: Ex-Officio Clerk

Approved as to form by the
Nassau County Attorney


MICHAEL S. MULLIN

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