

Tenn. Code Ann. § 45-15-101

TENNESSEE CODE ANNOTATED
Copyright (c) 2005 by The State of Tennessee
All rights reserved.

*** CURRENT THROUGH THE 2005 SESSION ***
*** ANNOTATIONS CURRENT THROUGH June 24, 2005 ***

TITLE 45. BANKS AND FINANCIAL INSTITUTIONS
CHAPTER 15. TITLE PLEDGES

◆ **GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION**

Tenn. Code Ann. § 45-15-101 (2005)

45-15-101. Short title

This chapter shall be known and may be cited as the "Tennessee Title Pledge Act."

HISTORY: Acts 1995, ch. 186, § 13.

NOTES:

CROSS-REFERENCES. Motor vehicle sales licenses, title 55, ch. 17.

Tenn. Code Ann. § 45-15-102

TENNESSEE CODE ANNOTATED
Copyright (c) 2005 by The State of Tennessee
All rights reserved.

*** CURRENT THROUGH THE 2005 SESSION ***
*** ANNOTATIONS CURRENT THROUGH June 24, 2005 ***

TITLE 45. BANKS AND FINANCIAL INSTITUTIONS
CHAPTER 15. TITLE PLEDGES

◆ **GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION**

Tenn. Code Ann. § 45-15-102 (2005)

45-15-102. 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 chapter 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.

HISTORY: Acts 1995, ch. 186, § 13; 2005, ch. 440, § 1.

NOTES:

AMENDMENTS. The 2005 amendment, in (1), inserted "statewide", and added "by the department of financial institutions" to the end; substituted "Establish" for "Provide for" in (2); added present (3), and redesignated former (3) as present (4); and deleted former (4) which read: "Assist local governments in the exercise of their police power."

EFFECTIVE DATES. Acts 2005, ch. 440, § 19. November 1, 2005; provided, that for the purpose of promulgating rules, the act shall take effect June 17, 2005.

Tenn. Code Ann. § 45-15-103

TENNESSEE CODE ANNOTATED
Copyright (c) 2005 by The State of Tennessee
All rights reserved.

*** CURRENT THROUGH THE 2005 SESSION ***
*** ANNOTATIONS CURRENT THROUGH June 24, 2005 ***

TITLE 45. BANKS AND FINANCIAL INSTITUTIONS
CHAPTER 15. TITLE PLEDGES

◆ **GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION**

Tenn. Code Ann. § 45-15-103 (2005)

45-15-103. Chapter definitions

As used in this chapter, unless the context otherwise requires:

(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 (2), 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 (2), 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 department of financial institutions;

(5) "Month" means thirty (30) days;

(6) "Person" means an individual, any sole proprietorship, general partnership, corporation or limited liability company duly qualified to do business in Tennessee;

(7) "Pledged property" means any titled personal property or 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 or property pledge agreement;

(8) "Pledgor" means the individual or individuals obligated to repay the loan;

(9) "Property pledge agreement" means any written bailment or similar agreement whereby a title pledge lender agrees to make a loan of money to a pledgor, and the pledgor agrees to the title pledge lender's taking physical possession of unencumbered titled personal property owned by the pledgor, and taking possession of the personal property certificate of title. The pledgor shall have the exclusive right to redeem the titled personal property by repaying the loan of money in full, and by complying with the property pledge agreement. When the titled personal property is redeemed, the title pledge lender shall return the titled personal property and the certificate of title to the pledgor. The property pledge agreement shall provide that, upon failure by the pledgor to redeem the titled personal property at the

end of the original thirty-day agreement period, or the end of any subsequent thirty-day renewal or renewals of the agreement period, the title pledge lender shall be allowed to sell or otherwise dispose of the titled personal property;

(10) "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 to the title pledge lender's keeping 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 thirty-day renewal or renewals of the agreement period, the title pledge lender shall be allowed to take possession of the titled personal property. The title pledge 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;

(11) "Title pledge lender" means any person engaged in the business of making title pledge agreements or property pledge agreements with pledgors;

(12) "Title pledge office" means the location at which, or premises in which, a title pledge lender regularly conducts business; and

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

HISTORY: Acts 1995, ch. 186, § 13; 2005, ch. 440, § 2.

NOTES:

AMENDMENTS. The 2005 amendment deleted former (1) which read: "'Capital' means the assets of a business entity less the liabilities of that business entity. Assets and liabilities shall be measured according to generally accepted accounting principles (GAAP) or relevant pronouncements of the financial accounting standards board (FASB);" added present (1) through (5); redesignated former (2) and (3) as (6) and (7), respectively; inserted "an individual" in (6); added (8); and redesignated former (4) through (8) as (9) through (13), respectively.

EFFECTIVE DATES. Acts 2005, ch. 440, § 19. November 1, 2005; provided, that for the purpose of promulgating rules, the act shall take effect June 17, 2005.

Tenn. Code Ann. § 45-15-104

TENNESSEE CODE ANNOTATED
Copyright (c) 2005 by The State of Tennessee
All rights reserved.

*** CURRENT THROUGH THE 2005 SESSION ***
*** ANNOTATIONS CURRENT THROUGH June 24, 2005 ***

TITLE 45. BANKS AND FINANCIAL INSTITUTIONS
CHAPTER 15. TITLE PLEDGES

◆ **GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION**

Tenn. Code Ann. § 45-15-104 (2005)

45-15-104. Authority of licensed title pledge lenders

(a) A title pledge lender licensed pursuant to this chapter has the power to make loans of money on pledges of personal property certificates of title or on pledges of titled personal property in accordance with the provisions of this chapter.

(b) Title pledge lenders licensed pursuant to this chapter shall not have the powers enumerated in this chapter without first complying with the law regulating title pledge agreements and property pledge agreements, but title pledge lenders exercising any of the powers in compliance with this chapter's provisions shall not be deemed in violation of § 47-14-112 or 47-14-117. No action shall be brought by a pledgor against a title pledge lender in connection with a title pledge agreement or property pledge agreement more than one (1) year after the date of the alleged occurrence of any violation of this chapter.

HISTORY: Acts 1995, ch. 186, § 13; 2000, ch. 846, § 28; 2005, ch. 440, § 3.

NOTES:

AMENDMENTS. The 2000 amendment substituted "§ 47-9-610" for "§ 47-9-504(3)" in the first sentence of (b).

The 2005 amendment substituted "§ 47-14-112 or 47-14-117" for "§ 47-9-610, § 47-14-112, or § 47-14-117" at the end of the first sentence in (b).

EFFECTIVE DATES. Acts 2000, ch. 846, § 42. July 1, 2001.

Acts 2005, ch. 440, § 19. November 1, 2005; provided, that for the purpose of promulgating rules, the act shall take effect June 17, 2005.

Tenn. Code Ann. § 45-15-105

TENNESSEE CODE ANNOTATED
Copyright (c) 2005 by The State of Tennessee
All rights reserved.

*** CURRENT THROUGH THE 2005 SESSION ***
*** ANNOTATIONS CURRENT THROUGH June 24, 2005 ***

TITLE 45. BANKS AND FINANCIAL INSTITUTIONS
CHAPTER 15. TITLE PLEDGES

◆ **GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION**

Tenn. Code Ann. § 45-15-105 (2005)

45-15-105. License required -- Loans made without license void

(a) No person shall engage in the business of title pledge lending without having first obtained a license. A separate license shall be required for each location from which such business is conducted. Any person engaged in the business of title pledge lending on November 1, 2005, under a license issued by the county clerk, may continue to engage in the business without a license issued by the commissioner, until the commissioner has acted upon the application for a license, if the application is filed by December 31, 2005.

(b) Any loan made without 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 or property pledge agreement. The person making the loan shall return to the pledgor the pledged property, 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. The pledgor is entitled to receive reasonable attorney's fees and costs in any action brought by a pledgor to recover from the person making the loan, the pledged property, the titled personal property, and the principal, interest and any fees paid by the pledgor.

HISTORY: Acts 1995, ch. 186, § 13; 2005, ch. 440, § 4.

NOTES:

AMENDMENTS. The 2005 amendment rewrote this section which read: "It is unlawful for any person to be a title pledge lender unless such person has first procured a license to conduct such business in the manner and form as provided in this chapter."

EFFECTIVE DATES. Acts 2005, ch. 440, § 19. November 1, 2005; provided, that for the purpose of promulgating rules, the act shall take effect June 17, 2005.

Tenn. Code Ann. § 45-15-106

TENNESSEE CODE ANNOTATED
Copyright (c) 2005 by The State of Tennessee
All rights reserved.

*** CURRENT THROUGH THE 2005 SESSION ***
*** ANNOTATIONS CURRENT THROUGH June 24, 2005 ***

TITLE 45. BANKS AND FINANCIAL INSTITUTIONS
CHAPTER 15. TITLE PLEDGES

◆ **GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION**

Tenn. Code Ann. § 45-15-106 (2005)

45-15-106. Eligibility requirements for license -- Application -- Fees -- Issuance or denial of license -- Hearing on denial -- Renewal -- Change in control of lender

(a) To qualify for a license, an applicant shall satisfy the following requirements:

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

(2) 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 chapter, the commissioner may review and approve:

(A) The relevant business records and the capital adequacy of the applicant;

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

(C) Any record on the part of the applicant, or any person referred to in subdivision (a) (2)(B), of any criminal activity, any fraud or other act of personal dishonesty, any act, omission or practice that constitutes a breach of a fiduciary duty, or any suspension, removal or administrative action by any agency or department of the United States or any state, from participation in the conduct of any business.

(b) The requirements set forth in subsection (a) are continuing in nature.

(c) 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:

(1) The legal name, residence and business address of the applicant, and, if the applicant is a partnership, association, or corporation, of every member, officer, managing employee and director of the applicant;

(2) The location in Tennessee at which the registered officer of the applicant shall be located; and

(3) Other data and information the commissioner may require with respect to the applicant, its directors, trustees, officers, members, managing employees or agents.

