

By the Committee on Banking and Insurance; and Senator
Campbell

311-1864-99

1 A bill to be entitled
2 An act relating to pawnbroking, secondhand
3 dealers, and stolen property; amending s.
4 539.001, F.S.; defining terms; modifying
5 findings required of the Division of Consumer
6 Services of the Department of Agriculture and
7 Consumer Services for orders imposing
8 penalties; requiring approval of pawnbroker
9 transaction forms; revising content of such
10 forms; revising recordkeeping requirements for
11 pawnbrokers to provide that the sheriff or the
12 director of the department of public safety is
13 designated as the central repository for copies
14 of all pawnbroker transaction forms collected
15 by law enforcement officials; providing for
16 submission of pawnbroker transaction forms to
17 the sheriff or public safety director upon
18 request; requiring pawnbrokers to computerize
19 their records by a specified date; providing
20 for a statewide system for collecting and
21 accessing pawnshop ticket and second-hand
22 dealer information; designating the sheriffs as
23 administrators of the system; providing
24 authorized law enforcement officials access to
25 the database; designating the sheriffs' offices
26 as central repositories responsible for the
27 transfer of information to the statewide
28 database; providing that the sheriffs, in
29 consultation with the Florida Police Chiefs and
30 the Department of Law Enforcement, must
31 establish standards for transmitting

1 information into the statewide system;
2 prohibiting the resale of certain data or the
3 use of the data to generate revenue;
4 proscribing certain acts; modifying hold order
5 procedures; providing penalties; providing
6 applicability of criminal penalties; amending
7 s. 539.003, F.S.; deleting an exception to
8 confidentiality of records of pawnbroker
9 transactions; amending s. 538.04, F.S.;
10 providing for electronic transfer of
11 transactions of secondhand goods; authorizing
12 law enforcement agencies to provide a
13 secondhand dealer with a computer and necessary
14 equipment for the electronic transfer of
15 transactions of secondhand goods; providing
16 procedures with respect to the electronic
17 transfer of transactions of secondhand goods;
18 providing an effective date.

19

20 Be It Enacted by the Legislature of the State of Florida:

21

22 Section 1. Subsections (2), (8), (9), (16), paragraph
23 (a) of subsection (7), paragraph (b) of subsection (11),
24 paragraphs (b), (l), and (m) of subsection (12), and paragraph
25 (b) of subsection (17) of section 539.001, Florida Statutes,
26 are amended, and paragraph (n) is added to subsection (12) of
27 that section, to read:

28

539.001 The Florida Pawnbroking Act.--

29

(2) DEFINITIONS.--As used in this section, the term:

30

(a) "Agency" means the Division of Consumer Services

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of the Department of Agriculture and Consumer Services.

1 (b) "Amount financed" is used interchangeably to mean
2 "amount of money advanced" or "principal amount."
3 (c)~~(b)~~ "Appropriate law enforcement official" means
4 the sheriff of the county in which a pawnshop is located or,
5 in case of a pawnshop located within a municipality, the
6 police chief of the municipality in which the pawnshop is
7 located; however, any sheriff or police chief may designate as
8 the appropriate law enforcement official for the county or
9 municipality, as applicable, any law enforcement officer
10 working within the county or municipality headed by that
11 sheriff or police chief. Nothing in this subsection limits the
12 power and responsibilities of the sheriff.
13 (d)~~(c)~~ "Claimant" means a person who claims that his
14 or her property was misappropriated.
15 (e)~~(d)~~ "Conveying customer" means a person who
16 delivers property into the custody of a pawnbroker, either by
17 pawn, sale, consignment, or trade.
18 (f)~~(e)~~ "Identification" means a government-issued
19 photographic identification or an electronic image taken from
20 a government-issued photographic identification.
21 (g)~~(f)~~ "Misappropriated" means stolen, embezzled,
22 converted, or otherwise wrongfully appropriated against the
23 will of the rightful owner.
24 (h)~~(g)~~ "Net worth" means total assets less total
25 liabilities.
26 (i)~~(h)~~ "Pawn" means any advancement of funds on the
27 security of pledged goods on condition that the pledged goods
28 are left in the possession of the pawnbroker for the duration
29 of the pawn and may be redeemed by the pledgor on the terms
30 and conditions contained in this section.
31

1 (j)~~(i)~~ "Pawnbroker" means any person who is engaged in
2 the business of making pawns; who makes a public display
3 containing the term "pawn," "pawnbroker," or "pawnshop" or any
4 derivative thereof; or who publicly displays a sign or symbol
5 historically identified with pawns. A pawnbroker may also
6 engage in the business of purchasing goods which includes
7 consignment and trade.

8 (k)~~(j)~~ "Pawnbroker transaction form" means the
9 instrument on which a pawnbroker records pawns and purchases
10 as provided in subsection (8).

11 (l)~~(k)~~ "Pawn service charge" means a charge for
12 investigating the title, storage, and insuring of the
13 security; closing the transaction; making daily reports to
14 appropriate law enforcement officials; expenses and losses;
15 and all other services.

16 (m)~~(l)~~ "Pawnshop" means the location at which a
17 pawnbroker conducts business.

18 (n)~~(m)~~ "Permitted vendor" means a vendor who furnishes
19 a pawnbroker with an invoice specifying the vendor's name and
20 address, the date of the sale, a description of the items
21 sold, and the sales price, and who has an established place of
22 business, or, in the case of a secondhand dealer as defined in
23 s. 538.03, has represented in writing that such dealer has
24 complied with all applicable recordkeeping, reporting, and
25 retention requirements pertaining to goods sold or otherwise
26 delivered to a pawnbroker.

27 (o)~~(n)~~ "Person" means an individual, partnership,
28 corporation, joint venture, trust, association, or other legal
29 entity.

30 (p)~~(o)~~ "Pledged goods" means tangible personal
31 property that is deposited with, or otherwise delivered into

1 the possession of a pawnbroker in connection with a pawn.
2 "Pledged goods" does not include titles or any other form of
3 written security in tangible property in lieu of actual
4 physical possession, including, but not limited to, choses in
5 action, securities, printed evidence of indebtedness, or
6 certificates of title and other instruments evidencing title
7 to separate items of property, including motor vehicles. For
8 purposes of federal and state bankruptcy laws, a pledgor's
9 interest in his or her pledged goods during the pendency of a
10 pawn is a right of redemption only.

11 (q)~~(p)~~ "Pledgor" means an individual who delivers
12 pledged goods into the possession of a pawnbroker in
13 connection with a pawn.

14 (r)~~(q)~~ "Purchase" means the transfer and delivery of
15 goods, by a person other than a permitted vendor, to a
16 pawnbroker by acquisition for value, consignment, or trade for
17 other goods.

18 (s)~~(r)~~ "Amount financed" is used interchangeably to
19 mean the same as "amount of money advanced" or "principal
20 amount".

21 (t)~~(s)~~ "Default date" means that date upon which the
22 pledgor's right of redemption expires and absolute right,
23 title, and interest in and to the pledged goods shall vest in
24 and shall be deemed conveyed to the pawnbroker by operation of
25 law.

26 (u)~~(t)~~ "Beneficial owner" means a person who does not
27 have title to property but has rights in the property which
28 are the normal incident of owning the property.

29 (v)~~(u)~~ "Operator" means a person who has charge of a
30 corporation or company and has control of its business, or of
31 its branch establishments, divisions, or departments, and who

1 is vested with a certain amount of discretion and independent
2 judgment.

3 (7) ORDERS IMPOSING PENALTIES.--

4 (a) The agency may enter an order imposing one or more
5 of the penalties set forth in paragraph (b) if the agency
6 finds that a pawnbroker:

7 1. Violated or is operating in violation of any of the
8 provisions of this section or of the rules adopted or orders
9 issued thereunder;

10 2. Made a material false statement in any application,
11 document, or record required to be submitted or retained under
12 this section;

13 3. Refused or failed, or any of its principal officers
14 has refused or failed, after notice, to produce any document
15 or records or disclose any information required to be produced
16 or disclosed under this section or the rules of the agency;

17 4. Made a material false statement in response to any
18 request or investigation by the agency, the Department of
19 Legal Affairs, or the state attorney; or

20 5. Has ~~intentionally~~ defrauded the public through
21 dishonest or deceptive means.

22 (8) PAWNBROKER TRANSACTION FORM.--

23 (a) At the time the pawnbroker enters into any pawn or
24 purchase transaction, the pawnbroker shall complete a
25 pawnbroker transaction form for such transaction, including an
26 indication of whether the transaction is a pawn or a purchase,
27 and the pledgor or seller shall sign such completed form. The
28 agency must approve the design and format of the pawnbroker
29 transaction form, which must be 8 1/2 inches x 11 inches in
30 size and elicit the information required under this section.
31 In completing the pawnbroker transaction form, the pawnbroker

1 shall record the following information, which must be typed or
2 printed in black ink ~~written~~ indelibly and legibly in English.

3 (b) The front of the pawnbroker transaction form must
4 include:

5 1. The name and address of the pawnshop.

6 2. A complete and accurate printed description of the
7 pledged goods or purchased goods, notwithstanding product
8 identification letter codes imprinted on the form, including
9 the following information, if applicable:

10 a. Brand name.

11 b. Model number.

12 c. Manufacturer's serial number.

13 d. Size.

14 e. Color, as apparent to the untrained eye.

15 f. Precious metal type, weight, and content, if known.

16 g. Gemstone description, including the number of
17 stones.

18 h. In the case of firearms, the type of action,
19 caliber or gauge, number of barrels, barrel length, and
20 finish.

21 i. Any other unique identifying marks, numbers, names,
22 or letters.

23

24 Notwithstanding sub-subparagraphs a.-i., in the case of
25 multiple items of a similar nature delivered together in one
26 transaction which do not bear serial or model numbers and
27 which do not include precious metal or gemstones, such as
28 musical or video recordings, books, and hand tools, the
29 description of the items is adequate if it contains the
30 quantity of items and a description of the type of items
31 delivered.

1 3. The name, the current address, home telephone
2 number, and place of employment, the date of birth, a physical
3 description, and a substantial likeness of the right
4 thumbprint of the pledgor or seller. The thumbprint must be
5 placed on each copy of the pawnbroker transaction form. The
6 pledgor's address must be given verbally and the proper
7 identification number must be recorded. The pawnbroker is not
8 responsible for verifying any information given verbally by
9 the pledgor or seller.

10 4. The date and time of the transaction.

11 5. The type of identification accepted from the
12 pledgor or seller, including the issuing agency and the
13 identification number.

14 6. In the case of a pawn:

15 a. The amount of money advanced, which must be
16 designated as the amount financed;

17 b. The maturity date of the pawn, which must be 30
18 days after the date of the pawn;

19 c. The last default date of redemption of the pawn and
20 the amount due on the last default date of redemption;

21 d. The total pawn service charge payable on the
22 maturity date, which must be designated as the finance charge;

23 e. The amount financed plus the finance charge that
24 must be paid to redeem the pledged goods on the maturity date,
25 which must be designated as the total of payments;

26 f. The annual percentage rate, computed according to
27 the regulations adopted by the Federal Reserve Board under the
28 federal Truth in Lending Act; and

29 g. The front or back of the pawnbroker transaction
30 form must include a statement that:

31

1 (I) Any personal property pledged to a pawnbroker
2 within this state which is not redeemed within 30 days
3 following the maturity date of the pawn, if the 30th day is
4 not a business day, then the following business day, is
5 automatically forfeited to the pawnbroker, and absolute right,
6 title, and interest in and to the property vests in and is
7 deemed conveyed to the pawnbroker by operation of law, and no
8 further notice is necessary;

9 (II) The pledgor is not obligated to redeem the
10 pledged goods; and

11 (III) If the pawnbroker transaction form is lost,
12 destroyed, or stolen, the pledgor must immediately advise the
13 issuing pawnbroker in writing by certified or registered mail,
14 return receipt requested, or in person evidenced by a signed
15 receipt.

16 (IV) A pawn may be extended upon mutual agreement of
17 the parties.

18 7. In the case of a purchase, the amount of money paid
19 for the goods or the monetary value assigned to the goods in
20 connection with the transaction.

21 8. A statement that the pledgor or seller of the item
22 represents and warrants that it is not stolen, that it has no
23 liens or encumbrances against it, and that the pledgor or
24 seller is the rightful owner of the goods and has the right to
25 enter into the transaction.

26 9. The name, initials, or employee identification
27 number of the clerk completing the transaction form.

28
29 Any person who knowingly gives false verification of ownership
30 or gives a false or altered identification and who receives
31 money from a pawnbroker for goods sold or pledged commits:

1 a. If the value of the money received is less than
2 \$300, a felony of the third degree, punishable as provided in
3 s. 775.082, s. 775.083, or s. 775.084.

4 b. If the value of the money received is \$300 or more,
5 a felony of the second degree, punishable as provided in s.
6 775.082, s. 775.083, or s. 775.084.

7 (9) RECORDKEEPING; REPORTING; HOLD PERIOD.--

8 (a) A pawnbroker must maintain a copy of each
9 completed pawnbroker transaction form on the pawnshop premises
10 for at least 1 year after the date of the transaction. On or
11 before the end of each business day, the pawnbroker must
12 deliver to the appropriate law enforcement official the
13 original pawnbroker transaction forms for each of the
14 transactions occurring during the previous business day,
15 unless other arrangements have been agreed upon between the
16 pawnbroker and the appropriate law enforcement official. The
17 sheriff, as chief law enforcement officer of the county, or
18 the director of the department of public safety when there is
19 no sheriff, is designated as the central repository for
20 information from the pawnbroker transaction form collected by
21 the appropriate law enforcement official in the county as
22 provided in subparagraphs (8)(b)1., 2., and 4. Upon request by
23 the sheriff or public safety director, the appropriate law
24 enforcement official shall submit the information from the
25 pawnbroker transaction form as provided in subparagraphs
26 (8)(b)1., 2., and 4. to the sheriff or public safety director
27 within a time and in such form as is determined by the sheriff
28 or public safety director after consultation with the
29 appropriate law enforcement official. The sheriff or public
30 safety director, based upon a showing of probable cause that a
31 reported item has been misappropriated, may request and shall

1 receive any additional information pertaining to such item as
2 provided in subparagraphs (8)(b)3., 5., and 6. or may request
3 and receive a copy of the pawnbroker's transaction form.If
4 the original transaction form is lost or destroyed by the
5 appropriate law enforcement official, a copy may be used by
6 the pawnbroker as evidence in court. When an electronic image
7 of a pledgor or seller identification is accepted for a
8 transaction, the pawnbroker must maintain the electronic image
9 in order to meet the same recordkeeping requirements as for
10 the original transaction form. If a criminal investigation
11 occurs, the pawnbroker shall, upon request, provide a clear
12 and legible copy of the image to the appropriate law
13 enforcement official.

14 (b) If the appropriate law enforcement agency supplies
15 the appropriate software and the pawnbroker presently has the
16 computer ability, pawn transactions shall be electronically
17 transferred. If a pawnbroker does not presently have the
18 computer ability, the appropriate law enforcement agency may
19 provide the pawnbroker with a computer and all necessary
20 equipment for the purpose of electronically transferring pawn
21 transactions. The appropriate law enforcement agency shall
22 retain ownership of the computer, unless otherwise agreed
23 upon. The pawnbroker shall maintain the computer in good
24 working order, ordinary wear and tear excepted. Regardless of
25 whether the appropriate law enforcement agency has provided
26 the pawnbroker with the computer hardware necessary for this
27 electronic transfer, all pawnbrokers must computerize their
28 records by July 1, 2005. These computerized records must
29 provide for the export of pawn transaction data in the file
30 format and manner specified by the sheriff for inclusion in
31 the statewide database.In the event the pawnbroker transfers

1 pawn transactions electronically, the pawnbroker is not
2 required to also deliver to the appropriate law enforcement
3 official the original or copies of the pawnbroker transaction
4 forms. For audit purposes, the appropriate law enforcement
5 official may manually collect the original or a copy of the
6 completed transaction forms for review, with those forms being
7 returned to the pawnbroker within 15 business days.The
8 appropriate law enforcement official may, for the purposes of
9 a criminal investigation, request that the pawnbroker produce
10 an original of a transaction form that has been electronically
11 transferred. The pawnbroker shall deliver this form to the
12 appropriate law enforcement official within 24 hours of the
13 request.

14 (c) There shall be a statewide system for collecting
15 and accessing pawnshop ticket and second-hand dealer
16 information as defined in chapters 538 and 539. The system
17 shall be administered by the sheriffs and shall include the
18 database known as the Florida Sheriffs' Property Recovery
19 Database. This database shall be the officially recognized
20 statewide database for all pawnshop ticket and second-hand
21 dealer information for which collection is required by law.

22 1. Any law enforcement official who is authorized by
23 law, and who meets the requirements established by and is
24 approved by the sheriffs shall have access to the Florida
25 Sheriffs' Property Recovery Database, in a manner prescribed
26 by the sheriffs.

27 2. In order to establish a more efficient and
28 effective system, the sheriffs, which includes the Director of
29 Public Safety in Dade County, as the chief law enforcement
30 officers of their respective counties, shall be designated as
31 the central repository agencies for all pawnshop ticket and

1 second-hand dealer information collected in their counties.
2 Any other law enforcement agency collecting this information
3 shall deliver the information, once collected, to the sheriff
4 of the county in which it is collected, which includes the
5 Director of Public Safety in Miami-Dade County, in a manner
6 prescribed by the sheriffs. Upon receiving the information
7 the sheriffs, which includes the Director of Public Safety in
8 Miami-Dade County, shall cause the information to be
9 transferred to the Florida Sheriffs' Property Recovery
10 Database by electronic transmission or by other means approved
11 by the sheriffs. Pawnbroker transaction form information
12 initially transferred to the Florida Sheriffs' Association
13 Property Recovery Database shall be the information provided
14 in subparagraphs 8(b)1., 2., and 4. The Florida Sheriffs' Task
15 Force, based upon a showing of probable cause that a reported
16 item has been misappropriated, may request and shall receive
17 any additional information pertaining to such item as provided
18 in subparagraphs (8)(b)3., 5., and 6.

19 3. The Florida Sheriffs' Property Recovery Database
20 may be accessed through "FLASH," the Florida Sheriffs'
21 Statewide Computer Networking System, or through any other
22 avenue approved by the sheriffs. Any costs or fees incurred or
23 to be incurred by the Florida Department of Law Enforcement or
24 the Florida police chiefs must be approved by the Department
25 of Law Enforcement and the Florida Police Chiefs' Association
26 jointly. Data that is supplied to the sheriffs may not be
27 resold or used to generate revenue for the sheriffs. The
28 sheriffs shall act only in the capacity of a repository for
29 the data.

30 4. The sheriffs, in consultation with the Florida
31 Police Chiefs' Association and the Department of Law

1 Enforcement, shall establish the standards and requirements
2 for transmitting and transferring the information into the
3 statewide system and access approval.

4 (d)(c) All goods delivered to a pawnbroker in a pawn
5 or purchase transaction must be securely stored and maintained
6 in an unaltered condition within the jurisdiction of the
7 appropriate law enforcement official for a period of 30
8 calendar days after the transaction. Those goods delivered to
9 a pawnbroker in a purchase transaction may not be sold or
10 otherwise disposed of before the expiration of such period.
11 ~~The pawnbroker shall make all pledged and purchased goods and~~
12 ~~all records relating to such goods available for inspection by~~
13 ~~the appropriate law enforcement official during normal~~
14 ~~business hours throughout such period.~~The pawnbroker must
15 store and maintain pledged goods for the period prescribed in
16 subsection (10) unless the pledged goods are redeemed earlier;
17 provided, however, that within the first 30 days after the
18 original pawn, the pledged goods may be redeemed only by the
19 pledgor or the pledgor's attorney in fact.

20 (11) PAWN SERVICE CHARGES.--

21 (b) The default date of any pawn may be extended to a
22 subsequent date by mutual agreement, between the pledgor and
23 the pawnbroker except the pawnbroker may not impose a minimum
24 duration of more than 30 days, evidenced by a written
25 memorandum, a copy of which must be supplied to the pledgor,
26 which must clearly specify the new default date, and the pawn
27 service charges owed on the new default date. In this event,
28 the daily pawn service charge for the extension shall be equal
29 to the pawn service charge for the original 30-day period
30 divided by 30 days (i.e., one-thirtieth of the original total
31

1 pawn service charge). There is no limit on the number of
2 extensions that the parties may agree to.

3 (12) PROHIBITED ACTS.--A pawnbroker, or an employee or
4 agent of a pawnbroker, may not:

5 (b) Refuse to allow the agency, the appropriate law
6 enforcement official, or the state attorney, or any of their
7 designated representatives having jurisdiction, to inspect
8 completed pawnbroker transaction forms or any record
9 pertaining to such transactions, including computer records,
10 or pledged or purchased goods during the ordinary hours of the
11 pawnbroker's business or other time acceptable to both
12 parties. Upon request of the alleged owner or claimant of the
13 disputed property, the appropriate law enforcement official
14 shall disclose to a claimant or alleged owner the name and
15 address of the pawnbroker, the name and address of the
16 conveying customer, and a description of disputed property
17 that has been pawned, purchased, or consigned ~~goods that the~~
18 ~~claimant claims to be misappropriated.~~ The pawnbroker may not
19 refuse to allow access to any area of the licensed business
20 location or any other location where pledged or purchased
21 property is stored. Any locations other than the licensed
22 location used for storage must be disclosed to the law
23 enforcement officer.

24 (1) Operate a pawnshop between the hours of 10 p.m.
25 and 7 a.m.

26 (m) Knowingly hire anyone to work in a pawnshop who
27 has been convicted of, or entered a plea of guilty or nolo
28 contendere to, or had adjudication withheld for a felony
29 within the last 5 years, or been convicted of, or entered a
30 plea of guilty or nolo contendere to, or had adjudication
31 withheld for a crime within the last 5 years which involves

1 theft, larceny, dealing in stolen property, receiving stolen
2 property, burglary, embezzlement, obtaining property by false
3 pretenses, possession of altered property, or any fraudulent,
4 or dishonest dealing.

5 (16) HOLD ORDERS; ISSUANCE; REQUIRED INFORMATION;
6 PROCEDURES.--

7 (a) When a ~~an appropriate~~ law enforcement official in
8 this state has probable cause to believe that property in the
9 possession of a pawnbroker is misappropriated, the official
10 may place a written hold order on the property. The written
11 hold order shall impose a holding period not to exceed 120 ~~90~~
12 days unless extended by court order. A ~~The appropriate~~ law
13 enforcement official in this state may rescind, in writing,
14 any hold order, but. ~~An appropriate law enforcement official~~
15 may place only one hold order on property.

16 (b) Upon the expiration of the holding period, the
17 pawnbroker shall notify, in writing, a ~~the appropriate~~ law
18 enforcement official in this state by certified mail, return
19 receipt requested, that the holding period has expired. If,
20 on the 10th day after the written notice has been received by
21 a ~~the appropriate~~ law enforcement official in this state, the
22 pawnbroker has not received from a court an extension of the
23 hold order on the property and the property is not the subject
24 of a proceeding under subsection (15), title to the property
25 shall vest in and be deemed conveyed by operation of law to
26 the pawnbroker, free of any liability for claims but subject
27 to any restrictions contained in the pawn transaction contract
28 and subject to the provisions of this section.

29 (c) A hold order must specify:

30 1. The name and address of the pawnbroker.

31

1 2. The name, title, and identification number of the
2 representative of the appropriate law enforcement official or
3 the court placing the hold order.

4 3. If applicable, the name and address of the
5 ~~appropriate~~ law enforcement official in this state or court to
6 which such representative is attached and the number, if any,
7 assigned to the claim regarding the property.

8 4. A complete description of the property to be held,
9 including model number and serial number if applicable.

10 5. The name of the person reporting the property to be
11 misappropriated unless otherwise prohibited by law.

12 6. The mailing address of the pawnbroker where the
13 property is held.

14 7. The expiration date of the holding period.

15 (d) The pawnbroker or the pawnbroker's representative
16 must sign and date a copy of the hold order as evidence of
17 receipt of the hold order and the beginning of the 90-day
18 holding period.

19 (e)1. Except as provided in subparagraph 2., a
20 pawnbroker may not release or dispose of property subject to a
21 hold order except pursuant to a court order, a written release
22 from a ~~the appropriate~~ law enforcement official in this state,
23 or the expiration of the holding period of the hold order.

24 2. While a hold order is in effect, the pawnbroker
25 must upon request release the property subject to the hold
26 order to the custody of a ~~the appropriate~~ law enforcement
27 official in this state for use in a criminal investigation.
28 The release of the property to the custody of a ~~the~~
29 ~~appropriate~~ law enforcement official in this state is not
30 considered a waiver or release of the pawnbroker's property
31 rights or interest in the property. Upon completion of the

1 criminal proceeding, the property must be returned to the
2 pawnbroker unless the court orders other disposition. When
3 such other disposition is ordered, the court shall
4 additionally order the conveying customer to pay restitution
5 to the pawnbroker in the amount received by the conveying
6 customer for the property together with reasonable attorney's
7 fees and costs.

8 (17) CRIMINAL PENALTIES.--

9 (b) In addition to any other penalty, any person, who
10 willfully violates this section or who willfully makes a false
11 entry in any record specifically required by this section
12 commits a misdemeanor of the first degree, punishable as
13 provided in s. 775.082 or s. 775.083. Clerical or
14 recordkeeping errors, such as typographical errors or
15 scrivener errors, regarding any document or record required by
16 this section do not constitute a willful violation of this
17 section and are not subject to criminal penalties. Clerical
18 errors or recordkeeping errors are subject to administrative
19 remedies as provided in this act.

20 Section 2. Subsection (1) of section 539.003, Florida
21 Statutes, is amended to read:

22 539.003 Confidentiality.--

23 (1) All records relating to pawnbroker transactions
24 delivered to appropriate law enforcement officials pursuant to
25 s. 539.001 are confidential and exempt from the provisions of
26 s. 119.07(1) and s. 24(a), Art. I of the State Constitution
27 and may be used only for official law enforcement purposes.
28 This section does not prohibit the disclosure by the
29 appropriate law enforcement officials of the name and address
30 of the pawnbroker, the name and address of the conveying
31

1 customer, or a description of pawned, purchased, or conveyed
2 property to the alleged owner of pawned property.

3 Section 3. Present subsections (3), (4), and (5) of
4 section 538.04, Florida Statutes, 1998 Supplement, are
5 redesignated as subsections (4), (5), and (6), respectively,
6 and a new subsection (3) is added to that section to read:

7 538.04 Recordkeeping requirements; penalties.--

8 (3) If the appropriate law enforcement agency supplies
9 the appropriate software and the secondhand dealer presently
10 has computer capability, transactions of secondhand goods
11 shall be electronically transferred. If a secondhand dealer
12 does not presently have computer capability, the appropriate
13 law enforcement agency may provide the secondhand dealer with
14 a computer and all necessary equipment for the purpose of
15 electronically transferring transactions of secondhand goods.
16 The appropriate law enforcement agency shall retain ownership
17 of the computer, unless otherwise agreed upon. The secondhand
18 dealer shall maintain the computer in good working order,
19 ordinary wear and tear excepted. In the event the secondhand
20 dealer transfers transactions of secondhand goods
21 electronically, the secondhand dealer is not also required to
22 deliver to the appropriate law enforcement official the
23 original or copies of the secondhand goods transaction forms.
24 The appropriate law enforcement official may, for the purposes
25 of a criminal investigation, request that the secondhand
26 dealer produce an original of a transaction form that has been
27 electronically transferred. The secondhand dealer shall
28 deliver this form to the appropriate law enforcement official
29 within 24 hours of the request.

30 Section 4. This act shall take effect upon becoming a
31 law.

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1820
4 Limits the information received by the sheriff or public
5 safety director, as the central repository, to information
6 specified in s. 539.001(8)(b)1., 2., and 4., F.S., which
7 includes the name and address of the pawnshop, a complete and
8 accurate printed description of the pledged goods or purchased
9 goods, and the date and time of the transaction. The
10 committee substitute provides that the sheriff or public
11 safety director, based upon a showing of probable cause that a
12 reported item has been misappropriated, may request and shall
13 receive from the pawnbroker any additional information
14 specified in s. 539.001(8)(b)3., 5., and 6., which includes
15 information related to the individual, such as name, address,
16 phone number, date of birth, fingerprint, type of I.D.
17 accepted, the amount of money advanced, and other related
18 information.
19 Limits the information provided to the Florida Sheriff's
20 Association Property Recovery Database in the same manner as
21 limited to sheriffs and public safety directors, as specified
22 above.
23 Specifies that the information that is supplied to the
24 sheriffs may not be resold or used to generate revenue for the
25 sheriffs, who shall act only in the capacity of a repository
26 for the data.
27 Revises the amendments to s. 539.001(17), F.S., related to
28 criminal penalties, to retain the element that a violation be
29 "willful" and to specify that clerical or recordkeeping errors
30 regarding any document or record required by this section do
31 not constitute a willful violation subject to criminal
penalties, but are subject to administrative remedies as
provided in this act.