

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2006

SPONSOR: Senator Klein

SUBJECT: Pawnbrokers

DATE: March 18, 1999

REVISED: 3/23/99 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>RI</u>	_____
3.	_____	_____	<u>CM</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill revises the Florida Pawnbroking Act to enable a robbery victim who presents an original bill of sale for an item discovered in a pawnshop to take possession of that property without having to pay the pawnbroker. The burden would shift to the pawnbroker to collect from the person who pawned the item. If a victim does not have a bill of sale for the item, he or she can petition the court to order the return of the property. If the court finds that the property was misappropriated, the pawnbroker may recover all of his costs from the customer who pawned the property.

The bill also removes a provision of the Florida Pawnbroking Act that prohibits a local government to enact ordinances that are more restrictive than the provisions of state law or that restrict the hours of operations of pawnshops. Instead, it provides that local governments are not precluded from enacting ordinances that are more restrictive than state law.

This bill amends section 539.001, Florida Statutes.

II. Present Situation:

Florida leads the nation with over 1,400 pawnshops. In 1996, the Legislature created the Florida Pawnbroking Act to authorize the department to license and regulate pawnbrokers. A pawn is the advancement of funds on the security of pledged goods on condition that the pledged goods are left in the possession of the pawnbroker for the duration of the pawn and may be redeemed by the pledgor on certain terms and conditions. Pawnbrokers must annually obtain a license from the department and pay an annual fee of up to \$300. To be eligible for a license, the applicant must:

- Be of good moral character;
- Have a net worth of at least \$50,000 or file with the department a surety bond, irrevocable letter of credit, or a certificate of deposit in the amount of \$10,000;
- Not have been convicted of a felony within the last 10 years; and

- Not have been convicted and not be acting as a beneficial owner for someone who has been convicted of a crime, within the last 10 years, that the department finds directly relates to the duties and responsibilities of a pawnbroker.

Currently, when a robbery victim locates his property at a pawn shop, in order to reclaim that property, he must buy it back from the pawnbroker or file costly and time-consuming litigation against the pawnshop owner. The Pawnbroking Act provides for claims against purchased goods or pledged goods held by pawnbrokers. Claimants are required to notify the pawnbroker by certified mail, return receipt requested, or in person, of the claimant's claim to the goods. The notice must contain a complete and accurate description of the purchased or pledged goods and must be accompanied by a legible copy of the applicable law enforcement agency's report on the misappropriation of the property. If the claimant and the pawnbroker do not resolve the matter within 10 days after the pawnbroker's receipt of the notice, the claimant may petition the court to order the return of the property, naming the pawnbroker as a defendant. The pawnbroker must be served with a copy of the petition. The pawnbroker would be required to hold the property until the right to possession is resolved by the parties or by a court.

If after notice and hearing, the court finds that the property was misappropriated and orders the return of the property to the claimant: (a) the claimant would be authorized to recover from the conveying customer the cost of the action; (b) the conveying customer would be required to repay the pawnbroker the full amount the conveying customer received from the pawnbroker for the property, plus all applicable pawn service charges; and (c) the conveying customer would be required to pay the pawnbroker's costs incurred in the proceeding, including the pawnbroker's reasonable attorney's fee. If the court finds against the claimant, the claimant would be liable for the defendants's costs and reasonable attorney's fees.

III. Effect of Proposed Changes:

Section 1. Amends s. 539.001, F.S., to revise procedures for claims related to misappropriated goods that are held by pawnbrokers. Requires a claimant to provide a receipt that evidences proof of purchase of the pawned goods. Requires the pawnbroker to immediately convey the misappropriated goods to the claimant upon receipt of such proof. If the claimant does not have a receipt and the claimant and the pawnbroker do not resolve the matter within 10 days, the claimant may petition the court to order the return of the property, naming the pawnbroker as a defendant. Requires the pawnbroker to petition the court for restitution from the conveying customer, naming such customer as defendant and serving him or her with a copy of the petition. If, after notice and a hearing, the court finds that the property was misappropriated, the pawnbroker may recover from the conveying customer the cost of the action, including the pawnbroker's reasonable attorney's fees, taxable costs, and the full amount the conveying customer received from the pawnbroker for the property, plus all applicable pawn charges.

Removes a provision that prohibits local governments from enacting ordinances that are more restrictive than state law or that restrict the hours of operations of pawnshops. Provides that ch. 539, F.S., does not preclude local governments from enacting ordinances that are more restrictive than the provisions of this section.

Section 2. Provides that this act shall take effect July 1, 1999.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill would enable a person who presents an original bill of sale for an item discovered in a pawnshop to take possession of that property without having to pay the pawnbroker. The burden would shift to the pawnbroker to collect from the person who pawned the item.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Agriculture and Consumer Services:

This amendment returns to current law a provision that prohibits local governments from enacting ordinances that are more restrictive than state law or that restrict the hours of operations of pawnshops. (WITH TITLE AMENDMENT)

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
