

By the Committees on Business Regulation & Consumer  
Affairs, Law Enforcement & Crime Prevention and Representative  
Bloom

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.; providing that the Division of  
5           Consumer Services of the Department of  
6           Agriculture and Consumer Services must approve  
7           the design and format of pawnbroker transaction  
8           forms in consultation with the Florida  
9           Department of Law Enforcement; revising  
10          recordkeeping requirements for pawnbrokers to  
11          provide that the sheriff or the director of the  
12          department of public safety is designated as  
13          the central repository for specified pawn  
14          ticket information collected by the appropriate  
15          law enforcement official in the county;  
16          providing for submission of specified pawn  
17          ticket information to the sheriff or public  
18          safety director upon request; providing for the  
19          submission of additional information under  
20          certain circumstances; providing for a  
21          statewide system for collecting and accessing  
22          pawnshop ticket and secondhand dealer  
23          information; requiring the Florida Sheriffs'  
24          Association Statewide Task Force to administer  
25          the system; providing authorized law  
26          enforcement officials access to the Florida  
27          Sheriffs' Association Property Recovery  
28          Database; designating the sheriffs or public  
29          safety directors as central repositories  
30          responsible for all pawnshop ticket and  
31          secondhand dealer information collected in each

1 county; requiring the sheriffs or public safety  
2 directors to transfer such information to the  
3 statewide property recovery database; providing  
4 for the establishment of standards and  
5 requirements with respect to the transfer of  
6 such information; providing for access and  
7 approval fees; amending s. 538.04, F.S.;  
8 providing for electronic transfer of  
9 transactions of secondhand goods; authorizing  
10 the appropriate law enforcement agency to  
11 provide a secondhand dealer with a computer and  
12 necessary equipment for the electronic transfer  
13 of transactions of secondhand goods; providing  
14 procedures with respect to the electronic  
15 transfer of transactions of secondhand goods;  
16 amending s. 812.155, F.S.; removing the  
17 exclusion of rental-purchase agreements from  
18 provisions which provide criminal penalties for  
19 hiring, leasing, or obtaining personal property  
20 with intent to defraud and failing to return  
21 hired or leased personal property or equipment;  
22 providing an effective date.

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

25  
26 Section 1. Subsections (8) and (9) of section 539.001,  
27 Florida Statutes, are amended to read:

28 539.001 The Florida Pawnbroking Act.--

29 (8) PAWNBROKER TRANSACTION FORM.--

30 (a) At the time the pawnbroker enters into any pawn or  
31 purchase transaction, the pawnbroker shall complete a

1 pawnbroker transaction form for such transaction, including an  
2 indication of whether the transaction is a pawn or a purchase,  
3 and the pledgor or seller shall sign such completed form. The  
4 agency, in consultation with the Florida Department of Law  
5 Enforcement, must approve the design and format of the  
6 pawnbroker transaction form, which must be 8 1/2 inches x 11  
7 inches in size and elicit the information required under this  
8 section. In completing the pawnbroker transaction form, the  
9 pawnbroker shall record the following information, which must  
10 be typed or written indelibly and legibly in English.

11 (b) The front of the pawnbroker transaction form must  
12 include:

- 13 1. The name and address of the pawnshop.
- 14 2. A complete and accurate description of the pledged  
15 goods or purchased goods, including the following information,  
16 if applicable:
  - 17 a. Brand name.
  - 18 b. Model number.
  - 19 c. Manufacturer's serial number.
  - 20 d. Size.
  - 21 e. Color, as apparent to the untrained eye.
  - 22 f. Precious metal type, weight, and content, if known.
  - 23 g. Gemstone description, including the number of  
24 stones.
  - 25 h. In the case of firearms, the type of action,  
26 caliber or gauge, number of barrels, barrel length, and  
27 finish.
  - 28 i. Any other unique identifying marks, numbers, names,  
29 or letters.

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1 Notwithstanding sub-subparagraphs a.-i., in the case of  
2 multiple items of a similar nature delivered together in one  
3 transaction which do not bear serial or model numbers and  
4 which do not include precious metal or gemstones, such as  
5 musical or video recordings, books, and hand tools, the  
6 description of the items is adequate if it contains the  
7 quantity of items and a description of the type of items  
8 delivered.

9           3. The name, address, home telephone number, place of  
10 employment, date of birth, physical description, and right  
11 thumbprint of the pledgor or seller.

12           4. The date and time of the transaction.

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

16           6. In the case of a pawn:

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

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

21           c. The default date of the pawn and the amount due on  
22 the default date;

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

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

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

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

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

11           (II) The pledgor is not obligated to redeem the  
12 pledged goods; and

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

18           (IV) A pawn may be extended upon mutual agreement of  
19 the parties.

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

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

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           (c) A pawnbroker transaction form must provide a space  
8 for the imprint of the right thumbprint of the pledgor or  
9 seller and a blank line for the signature of the pledgor or  
10 seller.

11           (d) At the time of the pawn or purchase transaction,  
12 the pawnbroker shall deliver to the pledgor or seller an exact  
13 copy of the completed pawnbroker transaction form.

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

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

1 in subparagraphs (8)(b)1., 2., and 4. to the sheriff or public  
2 safety director within a time and in such form as is  
3 determined by the sheriff or public safety director after  
4 consultation with the appropriate law enforcement official.  
5 The sheriff or public safety director, based upon a showing of  
6 probable cause that a reported item has been misappropriated,  
7 may request and shall receive any additional information  
8 pertaining to such item as provided in subparagraphs (8)(b)  
9 3., 5., and 6. or may request and receive a copy of the pawn  
10 transaction form. If the original transaction form is lost or  
11 destroyed by the appropriate law enforcement official, a copy  
12 may be used by the pawnbroker as evidence in court. When an  
13 electronic image of a pledgor or seller identification is  
14 accepted for a transaction, the pawnbroker must maintain the  
15 electronic image in order to meet the same recordkeeping  
16 requirements as for the original transaction form. If a  
17 criminal investigation occurs, the pawnbroker shall, upon  
18 request, provide a clear and legible copy of the image to the  
19 appropriate law enforcement official.

20 (b) If the appropriate law enforcement agency supplies  
21 the appropriate software and the pawnbroker presently has the  
22 computer ability, pawn transactions shall be electronically  
23 transferred. If a pawnbroker does not presently have the  
24 computer ability, the appropriate law enforcement agency may  
25 provide the pawnbroker with a computer and all necessary  
26 equipment for the purpose of electronically transferring pawn  
27 transactions. The appropriate law enforcement agency shall  
28 retain ownership of the computer, unless otherwise agreed  
29 upon. The pawnbroker shall maintain the computer in good  
30 working order, ordinary wear and tear excepted. In the event  
31 the pawnbroker transfers pawn transactions electronically, the

1 pawnbroker is not required to also deliver to the appropriate  
2 law enforcement official the original or copies of the  
3 pawnbroker transaction forms. The appropriate law enforcement  
4 official may, for the purposes of a criminal investigation,  
5 request that the pawnbroker produce an original of a  
6 transaction form that has been electronically transferred. The  
7 pawnbroker shall deliver this form to the appropriate law  
8 enforcement official within 24 hours of the request.

9 (c) There shall be a statewide system for collecting  
10 and accessing pawnshop ticket and secondhand dealer  
11 information as defined in chapters 538 and 539. The system  
12 shall be administered by the Florida Sheriffs' Association  
13 Statewide Task Force, which shall include the database known  
14 as the Florida Sheriffs' Property Recovery Database. This  
15 database shall be the officially recognized statewide database  
16 for all pawnshop ticket and secondhand dealer information for  
17 which collection is required by law.

18 1. Any law enforcement official who is authorized by  
19 law, and who meets the requirements established by and is  
20 approved by the Florida Sheriffs' Association Statewide Task  
21 Force, shall have access to the Florida Sheriffs' Property  
22 Recovery Database in a manner prescribed by the Florida  
23 Sheriffs' Association Statewide Task Force.

24 2. In order to establish a more efficient and  
25 effective statewide system for collecting and accessing  
26 pawnshop ticket and secondhand dealer information, the  
27 sheriff, as chief law enforcement officer of the county, or  
28 the director of the department of public safety when there is  
29 no sheriff, shall be designated as the central repository for  
30 all pawnshop ticket and secondhand dealer information  
31 collected in the county. Any other law enforcement agency

1 collecting this information shall deliver the information,  
2 once collected, to the sheriff of the county in which it is  
3 collected, or the director of the department of public safety  
4 of the county in which it is collected when there is no  
5 sheriff, in a manner prescribed by the Florida Sheriffs'  
6 Association Statewide Task Force. Upon receiving the  
7 information, the sheriff or the public safety director, as  
8 appropriate, shall cause the information to be transferred to  
9 the Florida Sheriffs' Property Recovery Database by electronic  
10 transmission or by other means approved by the Florida  
11 Sheriffs' Association Statewide Task Force. Pawn ticket  
12 information initially transferred to the Florida Sheriff's  
13 Association Property Recovery Database shall be the  
14 information as contained in subparagraphs (8)(b) 1., 2., and  
15 4. The Florida Sheriff's Task Force, based upon a showing of  
16 probable cause that a reported item has been misappropriated,  
17 may request and shall receive any additional information  
18 pertaining to such item as contained in subparagraphs (8)(b)  
19 3., 5., and 6.

20 3. The Florida Sheriffs' Property Recovery Database  
21 may be accessed through "FLASH," the Florida Sheriffs'  
22 statewide computer networking system, or through any other  
23 means approved by the Florida Sheriffs' Association Statewide  
24 Task Force.

25 4. The Florida Sheriffs' Association Statewide Task  
26 Force shall establish the standards and requirements for  
27 transmitting and transferring the information into the  
28 statewide system and access approval and fees.

29 (d)(e) All goods delivered to a pawnbroker in a pawn  
30 or purchase transaction must be securely stored and maintained  
31 in an unaltered condition within the jurisdiction of the

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

14 Section 2. Subsections (4) and (5) of section 538.04,  
15 Florida Statutes, 1998 Supplement, are renumbered as  
16 subsections (5) and (6), respectively, and a new subsection  
17 (4) is added to said section to read:

18 538.04 Recordkeeping requirements; penalties.--

19 (4) If the appropriate law enforcement agency supplies  
20 the appropriate software and the secondhand dealer presently  
21 has computer capability, transactions of secondhand goods  
22 shall be electronically transferred. If a secondhand dealer  
23 does not presently have computer capability, the appropriate  
24 law enforcement agency may provide the secondhand dealer with  
25 a computer and all necessary equipment for the purpose of  
26 electronically transferring transactions of secondhand goods.  
27 The appropriate law enforcement agency shall retain ownership  
28 of the computer, unless otherwise agreed upon. The secondhand  
29 dealer shall maintain the computer in good working order,  
30 ordinary wear and tear excepted. In the event the secondhand  
31 dealer transfers transactions of secondhand goods

1 electronically, the secondhand dealer is not required to also  
2 deliver to the appropriate law enforcement official the  
3 original or copies of the secondhand goods transaction forms.  
4 The appropriate law enforcement official may, for the purposes  
5 of a criminal investigation, request that the secondhand  
6 dealer produce an original of a transaction form that has been  
7 electronically transferred. The secondhand dealer shall  
8 deliver this form to the appropriate law enforcement official  
9 within 24 hours of the request.

10 (5)~~(4)~~ Any person who knowingly gives false  
11 verification of ownership or who gives a false or altered  
12 identification, and who receives money from a secondhand  
13 dealer for goods sold or pledged commits:

14 (a) If the value of the money received is less than  
15 \$300, a misdemeanor of the first degree, punishable as  
16 provided in s. 775.082 or s. 775.083.

17 (b) If the value of the money received is \$300 or  
18 more, a felony of the third degree, punishable as provided in  
19 s. 775.082, s. 775.083, or s. 775.084.

20 (6)~~(5)~~ Secondhand dealers are exempt from the  
21 provisions of this section for all transactions involving  
22 secondhand sports equipment except secondhand sports equipment  
23 that is permanently labeled with a serial number.

24 Section 3. Subsection (7) of section 812.155, Florida  
25 Statutes, 1998 Supplement, is amended to read:

26 812.155 Hiring, leasing, or obtaining personal  
27 property or equipment with the intent to defraud; failing to  
28 return hired or leased personal property or equipment; rules  
29 of evidence.--

30 ~~(7) EXCLUSION OF RENTAL PURCHASE AGREEMENTS.--This~~  
31 ~~section does not apply to personal property or equipment that~~

1 ~~is the subject of a rental-purchase agreement that permits the~~  
2 ~~lessee to acquire ownership of the personal property or~~  
3 ~~equipment.~~

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

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