

By Senator Klein

28-312-00

1 A bill to be entitled
2 An act relating to pawnbrokers; amending s.
3 539.001, F.S.; revising procedures related to
4 claims for misappropriated goods held by a
5 pawnbroker; removing the prohibition against
6 local governments enacting ordinances that are
7 more restrictive than the provisions of general
8 law or that restrict the hours of operations of
9 pawnshops; providing an effective date.

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

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13 Section 1. Subsections (15) and (20) of section
14 539.001, Florida Statutes, are amended to read:

15 539.001 The Florida Pawnbroking Act.--

16 (15) CLAIMS AGAINST PURCHASED GOODS OR PLEDGED GOODS
17 HELD BY PAWNBROKERS.--

18 (a) To obtain possession of purchased or pledged goods
19 held by a pawnbroker which a claimant claims to be
20 misappropriated, the claimant must notify the pawnbroker by
21 certified mail, return receipt requested, or in person
22 evidenced by signed receipt, of the claimant's claim to the
23 purchased or pledged goods. The notice must contain a complete
24 and accurate description of the purchased or pledged goods and
25 must be accompanied by a legible copy of the applicable law
26 enforcement agency's report on the misappropriation of such
27 property. The claimant must provide a receipt that shows proof
28 of purchase of the goods. Upon receipt of such proof, the
29 pawnbroker must immediately convey the misappropriated goods
30 to the claimant. If the claimant does not have a receipt and
31 ~~if~~ the claimant and the pawnbroker do not resolve the matter

1 within 10 days after the pawnbroker's receipt of the notice,
2 the claimant may petition the court to order the return of the
3 property, naming the pawnbroker as a defendant, and must serve
4 the pawnbroker with a copy of the petition. The pawnbroker
5 shall hold the property described in the petition until the
6 right to possession is resolved by the parties or by a court
7 of competent jurisdiction. The court shall waive any filing
8 fee for the petition to recover the property, and the sheriff
9 shall waive the service fees. The pawnbroker must petition the
10 court for restitution from the conveying customer, naming the
11 customer as defendant and serving him or her with a copy of
12 the petition.

13 (b) If, after notice and a hearing, the court finds
14 that the property was misappropriated, the pawnbroker ~~and~~
15 ~~orders the return of the property to the claimant:~~

16 1. ~~The claimant~~ may recover from the conveying
17 customer ~~pawnbroker~~ the cost of the action, including the
18 pawnbroker's claimant's reasonable attorney's fees, taxable
19 costs, and the full amount the conveying customer received
20 from the pawnbroker for the property, plus all applicable pawn
21 charges. ~~and~~

22 2. ~~If the conveying customer is convicted of theft, a~~
23 ~~violation of this section, or dealing in stolen property, the~~
24 ~~court shall order the conveying customer to repay the~~
25 ~~pawnbroker the full amount the conveying customer received~~
26 ~~from the pawnbroker for the property, plus all applicable pawn~~
27 ~~service charges. As used in this paragraph, the term~~
28 ~~"convicted of" includes a plea of nolo contendere to the~~
29 ~~charges or any agreement in which adjudication is withheld;~~
30 ~~and~~

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1 ~~3. The conveying customer shall be responsible to pay~~
2 ~~all attorney's fees and taxable costs incurred by the~~
3 ~~pawnbroker in defending a replevin action or any other civil~~
4 ~~matter wherein it is found that the conveying customer was in~~
5 ~~violation of this paragraph.~~

6 ~~(c) If the court finds that the claimant failed to~~
7 ~~comply with the requirements in paragraph (a) or otherwise~~
8 ~~finds against the claimant, the claimant is liable for the~~
9 ~~defendants' costs, including reasonable attorney's fees.~~

10 ~~(c)(d)~~ The sale, pledge, or delivery of tangible
11 personal property to a pawnbroker by any person in this state
12 is considered to be:

13 1. An agreement by the person who sells, pledges, or
14 delivers the tangible personal property that the person is
15 subject to the jurisdiction of the court in all civil actions
16 and proceedings arising out of the pledge or sale transaction
17 filed by either a resident or nonresident plaintiff;

18 2. An appointment of the Secretary of State by any
19 nonresident of this state as that person's lawful attorney and
20 agent upon whom may be served all process in suits pertaining
21 to the actions and proceedings arising out of the sale,
22 pledge, or delivery; and

23 3. An agreement by any nonresident that any process in
24 any suit so served has the same legal force and validity as if
25 personally served in this state.

26 (20) LOCAL REGULATION OF PAWNBROKERS ~~CONFLICTING~~
27 ~~ORDINANCES.~~--Local governments may enact ordinances that are
28 more restrictive than the provisions of this section.~~Any~~
29 ~~county or municipality may enact ordinances that are in~~
30 ~~compliance with, but not more restrictive than this section,~~
31 ~~except that local ordinances may not restrict hours of~~

1 ~~operations other than between midnight and 6 a.m. Any~~
2 ~~ordinance that conflicts with this subsection is void. Nothing~~
3 ~~in this section shall affect the authority of a county or~~
4 ~~municipality to establish land use controls or require a~~
5 ~~pawnbroker to obtain a local occupational license.~~

6 Section 2. This act shall take effect July 1, 2000.

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9 SENATE SUMMARY

10 Revises procedures for claims related to misappropriated
11 goods that are held by pawnbrokers. Removes the
12 prohibitions against local governments enacting
13 ordinances that are more restrictive than the provisions
14 of general law or that restrict the hours of operations
15 of pawnshops.
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