

1                   A bill to be entitled  
2     An act relating to pawnbroker and secondhand dealer  
3     transactions; amending s. 538.03, F.S.; revising  
4     definitions; transferring regulation of secondhand dealers  
5     from the Department of Revenue to the Department of  
6     Agriculture and Consumer Services; amending s. 538.04,  
7     F.S.; revising recordkeeping requirements for secondhand  
8     dealer transactions; revising requirements for contents  
9     and electronic transfer of secondhand dealer transaction  
10    forms; requiring secondhand dealers to transfer certain  
11    information to a statewide central database within a  
12    specified period; authorizing certain electronic records  
13    to be used as evidence under certain circumstances;  
14    amending s. 538.05, F.S.; conforming provisions; amending  
15    s. 538.06, F.S.; revising the period for which secondhand  
16    dealers must maintain transaction records; amending s.  
17    538.09, F.S.; revising registration and renewal fees for  
18    secondhand dealers; providing for prior notice of fee  
19    adjustments; deleting provisions for the transfer of  
20    certain funds; conforming provisions; amending s. 538.11,  
21    F.S.; revising powers and duties of the Department of  
22    Agriculture and Consumer Services; conforming provisions;  
23    amending s. 539.001, F.S.; dividing the Florida  
24    Pawnbroking Act into multiple sections; revising  
25    registration and renewal fees for pawnbrokers; providing  
26    for prior notice of fee adjustments; revising  
27    recordkeeping requirements for pawnbrokers; revising  
28    requirements for contents and electronic transfer of

29 | pawnbroker transaction forms; requiring pawnbrokers to  
 30 | transfer certain information to a statewide central  
 31 | database within a specified period; conforming provisions;  
 32 | creating s. 539.109, F.S.; establishing a statewide  
 33 | central database of pawnbroker and secondhand dealer  
 34 | transactions; providing for the required elements, design,  
 35 | and infrastructure of the database; requiring the  
 36 | department to contract for the creation and maintenance of  
 37 | the database; limiting the financial and operating  
 38 | interests of certain database contractors; creating an  
 39 | oversight board for the database; providing for membership  
 40 | and duties of the oversight board; prohibiting law  
 41 | enforcement agencies and their agents from being charged  
 42 | fees for accessing or using the database; providing an  
 43 | effective date.

44 |  
 45 | Be It Enacted by the Legislature of the State of Florida:

46 |  
 47 | Section 1. Subsection (1) of section 538.03, Florida  
 48 | Statutes, is amended to read:

49 | 538.03 Definitions; applicability.—

50 | (1) As used in this part, the term:

51 | (a)~~(e)~~ "Acquire" means to obtain by purchase, consignment,  
 52 | or trade.

53 | (b)~~(d)~~ "Consignment shop" means a shop engaging in the  
 54 | business of accepting for sale, on consignment, secondhand goods  
 55 | which, having once been used or transferred from the  
 56 | manufacturer to the dealer, are then received into the

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57 possession of a third party.

58 (c)~~(i)~~ "Department" means the Department of Agriculture  
59 and Consumer Services Revenue.

60 (d)~~(h)~~ "Precious metals" means any item containing any  
61 gold, silver, or platinum, or any combination thereof, excluding  
62 any chemical or any automotive, photographic, electrical,  
63 medical, or dental materials or electronic parts.

64 (e)~~(b)~~ "Precious metals dealer" means a secondhand dealer  
65 who normally or regularly engages in the business of buying used  
66 precious metals for resale. The term does not include those  
67 persons involved in the bulk sale of precious metals from one  
68 secondhand or precious metals dealer to another.

69 (f)~~(a)~~ "Secondhand dealer" means any person, corporation,  
70 or other business organization or entity that ~~which~~ is not a  
71 secondary metals recycler subject to part II and which is  
72 engaged in the business of purchasing, consigning, or trading  
73 secondhand goods.

74 (g)~~(f)~~ "Secondhand goods" means personal property  
75 previously owned or used, which is not regulated metals property  
76 regulated under part II and which is purchased, consigned, or  
77 traded as used property. The term does ~~Such secondhand goods do~~  
78 not include office furniture, pianos, books, clothing, organs,  
79 coins, motor vehicles, costume jewelry, cardio and strength  
80 training or conditioning equipment designed primarily for indoor  
81 use, and secondhand sports equipment that is not permanently  
82 labeled with a serial number. For purposes of this paragraph,  
83 the term "secondhand sports equipment" does not include golf  
84 clubs.

85            (h)~~(e)~~ "Secondhand store" means the place or premises at  
 86 which a secondhand dealer is registered to conduct business as a  
 87 secondhand dealer or conducts business.

88            (i)~~(g)~~ "Transaction" means any purchase, consignment, or  
 89 trade of secondhand goods by a secondhand dealer.

90            Section 2. Subsections (1), (6), and (7) of section  
 91 538.04, Florida Statutes, are amended to read:

92            538.04 Recordkeeping requirements; penalties.—

93            (1) A secondhand dealer must ~~dealers shall~~ complete a  
 94 secondhand dealer ~~dealers~~ transaction form at the time of the  
 95 actual transaction. A secondhand dealer must ~~shall~~ maintain a  
 96 copy of a completed transaction form for at least 3 years, and  
 97 maintain such copy on the registered premises for at least 1  
 98 year, after the date of the transaction. Each transaction form  
 99 must ~~However, the secondhand dealer shall maintain a copy of the~~  
 100 ~~transaction form for not less than 3 years. Unless other~~  
 101 ~~arrangements have been agreed upon by the secondhand dealer and~~  
 102 ~~the appropriate law enforcement agency, the secondhand dealer~~  
 103 ~~shall, within 24 hours after the acquisition of any secondhand~~  
 104 ~~goods, deliver to the police department of the municipality~~  
 105 ~~where the goods were acquired or, if the goods were acquired~~  
 106 ~~outside of a municipality, to the sheriff's department of the~~  
 107 ~~county where the goods were acquired, a record of the~~  
 108 ~~transaction on a form approved by the Department of Law~~  
 109 ~~Enforcement. Such record shall contain:~~

- 110            (a) The time, date, and place of the transaction.  
 111            (b) A complete and accurate description of the goods  
 112 acquired, including the following information, if applicable:

- 113 1. Brand name.
- 114 2. Model number.
- 115 3. Manufacturer's serial number.
- 116 4. Size.
- 117 5. Color, as apparent to the untrained eye.
- 118 6. Precious metal type, weight, and content if known.
- 119 7. Gemstone description, including the number of stones,  
120 if applicable.
- 121 8. In the case of firearms, the type of action, caliber or  
122 gauge, number of barrels, barrel length, and finish.
- 123 9. Any other unique identifying marks, numbers, or  
124 letters.
- 125 10. A digital color photograph of the goods in the  
126 condition acquired.
- 127 (c) A description of the person from whom the goods are  
128 ~~were~~ acquired, including:
- 129 1. Full name, current residential address, workplace, and  
130 home and work phone numbers.
- 131 2. Height, weight, date of birth, race, gender, hair  
132 color, eye color, and any other identifying marks.
- 133 3. The right thumbprint, free of smudges and smears, of  
134 the person from whom the goods are ~~were~~ acquired.
- 135 4. A digital color photograph of the person from whom the  
136 goods are acquired. Such photograph must be a full-face, close-  
137 up in which the person is not wearing a hat, sunglasses,  
138 eyeglasses, or other article or item that obscures the person's  
139 identity.
- 140 (d) Any other information required by the form approved by

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141 the department of ~~Law Enforcement~~.

142 (6) ~~If the appropriate law enforcement agency supplies A~~  
143 ~~secondhand dealer must, by noon of each business day, with~~  
144 ~~appropriate software and the secondhand dealer has computer~~  
145 ~~capability, secondhand dealer transactions shall be~~  
146 ~~electronically transfer to the statewide central database~~  
147 ~~established under s. 539.109 each transaction completed during~~  
148 ~~the previous business day transferred. If a secondhand dealer~~  
149 ~~does not have computer capability, the appropriate law~~  
150 ~~enforcement agency may provide the secondhand dealer with a~~  
151 ~~computer and all necessary equipment for the purpose of~~  
152 ~~electronically transferring secondhand dealer transactions. The~~  
153 ~~appropriate law enforcement agency shall retain ownership of the~~  
154 ~~computer, unless otherwise agreed upon. The secondhand dealer~~  
155 ~~shall maintain the computer in good working order, ordinary wear~~  
156 ~~and tear excepted. If the secondhand dealer transfers secondhand~~  
157 ~~dealer transactions electronically, The secondhand dealer is not~~  
158 ~~required to ~~also~~ deliver to the appropriate law enforcement~~  
159 ~~agency the original or copies of any the secondhand dealer~~  
160 ~~transaction form transferred to the statewide central database~~  
161 ~~forms. For the purpose of a criminal investigation, the~~  
162 ~~appropriate law enforcement agency may request that the~~  
163 ~~secondhand dealer produce an original of a transaction form that~~  
164 ~~is has been electronically transferred. The secondhand dealer~~  
165 ~~must shall deliver this form to the appropriate law enforcement~~  
166 ~~agency within 24 hours after the request.~~

167 (7) If the original transaction form is lost or destroyed  
168 by the appropriate law enforcement agency, a copy or electronic

169 record of the transaction from the statewide central database  
 170 may be used by the secondhand dealer as evidence in court. ~~When~~  
 171 ~~an electronic image of a customer's identification is accepted~~  
 172 ~~for a transaction, the secondhand dealer must maintain the~~  
 173 ~~electronic image in order to meet the recordkeeping requirements~~  
 174 ~~applicable to the original transaction form. If a criminal~~  
 175 ~~investigation occurs, the secondhand dealer shall, upon request,~~  
 176 ~~provide a clear and legible copy of the image to the appropriate~~  
 177 ~~law enforcement agency.~~

178 Section 3. Subsection (1) of section 538.05, Florida  
 179 Statutes, is amended to read:

180 538.05 Inspection of records and premises of secondhand  
 181 dealers.—

182 (1) The entire registered premises and required records of  
 183 each secondhand dealer are subject to inspection during regular  
 184 business hours by the department or any law enforcement officer  
 185 having jurisdiction.

186 Section 4. Subsection (5) of section 538.06, Florida  
 187 Statutes, is amended to read:

188 538.06 Holding period.—

189 (5) All dealers in secondhand property regulated by this  
 190 chapter shall maintain transaction records for 1 year ~~3 years~~.

191 Section 5. Section 538.09, Florida Statutes, is amended to  
 192 read:

193 538.09 Registration.—

194 (1) (a) A secondhand dealer may ~~shall~~ not engage in the  
 195 business of purchasing, consigning, or trading secondhand goods  
 196 from any location without registering with the department ~~of~~

197 Revenue.

198 (b) A secondhand dealer, upon registering, must pay a  
 199 registration fee prescribed by the department not to exceed \$300  
 200 per location. The secondhand dealer must also pay on October 1  
 201 of each year a renewal fee prescribed by the department not to  
 202 exceed the amount assessed per location according to the  
 203 following schedule:

204 1. One thousand three hundred dollars for each location  
 205 that conducts more than 500 transactions per month.

206 2. Eight hundred dollars for each location that conducts  
 207 at least 101, but not more than 500, transactions per month.

208 3. Three hundred dollars for each location that conducts  
 209 100 or fewer transactions per month.

210  
 211 The registration and renewal fees imposed under this paragraph  
 212 may not exceed the actual costs of processing transactions and  
 213 the department's related expenses of administering this part.  
 214 The department shall annually review the fees and, if necessary,  
 215 adjust the amount of the fees. The department must notify  
 216 registered secondhand dealers in writing at least 30 days before  
 217 any fee adjustment.

218 (c) A fee equal to the federal and state costs for  
 219 processing required fingerprints must be submitted to the  
 220 department with each application for registration. One  
 221 application is required for each dealer. If a secondhand dealer  
 222 is the owner of more than one secondhand store location, the  
 223 application must list each location, and the department shall  
 224 issue a duplicate registration for each location. For purposes

225 of subsections (4) and (5) ~~of this section~~, these duplicate  
 226 registrations are ~~shall be~~ deemed individual registrations. A  
 227 dealer ~~shall pay a fee of \$6 per location at the time of~~  
 228 ~~registration and an annual renewal fee of \$6 per location on~~  
 229 ~~October 1 of each year. All fees collected, less costs of~~  
 230 ~~administration, shall be transferred into the Operations Trust~~  
 231 ~~Fund.~~

232 (d) The department ~~of Revenue~~ shall forward the full set  
 233 of fingerprints to the Department of Law Enforcement for state  
 234 and federal processing, if ~~provided~~ the federal service is  
 235 available, to be processed for any criminal justice information  
 236 as defined in s. 943.045. The department shall remit the cost of  
 237 processing such fingerprints ~~shall be payable~~ to the Department  
 238 of Law Enforcement ~~by the department of Revenue.~~

239 (e) The department may issue a temporary registration to  
 240 each location pending completion of the background check by  
 241 state and federal law enforcement agencies, but shall revoke  
 242 such temporary registration if the completed background check  
 243 reveals a prohibited criminal background.

244 (f) 1. An applicant for a secondhand dealer registration  
 245 must be a natural person who has reached the age of 18 years.

246 2.(a) If the applicant is a partnership, all the partners  
 247 must apply.

248 3.(b) If the applicant is a joint venture, association, or  
 249 other noncorporate entity, all members of such joint venture,  
 250 association, or other noncorporate entity must make application  
 251 for registration as natural persons.

252 4.(e) If the applicant is a corporation, the registration

253 must include the name and address of such corporation's  
 254 registered agent for service of process in the state and a  
 255 certified copy of statement from the Secretary of State that the  
 256 corporation is duly organized in the state or, if the  
 257 corporation is organized in a state other than Florida, a  
 258 certified copy of statement from the Secretary of State that the  
 259 corporation is duly qualified to do business in this state. If  
 260 the dealer has more than one location, the application must list  
 261 each location owned by the same legal entity and the department  
 262 shall issue a duplicate registration for each location.

263 (2) The secondhand dealer must ~~shall~~ furnish with her or  
 264 his registration a complete set of her or his fingerprints,  
 265 certified by an authorized law enforcement officer, and a recent  
 266 full-face ~~fullface~~ photographic identification card of herself  
 267 or himself. The Department of Law Enforcement shall report its  
 268 findings to the department ~~of Revenue~~ within 30 days after the  
 269 date fingerprint cards are submitted for criminal justice  
 270 information.

271 (3) The secondhand dealer's registration must ~~shall~~ be  
 272 conspicuously displayed at her or his registered location. A  
 273 secondhand dealer must hold secondhand goods at the registered  
 274 location until 15 days after the secondhand transaction or until  
 275 any extension of the holding period has expired, whichever is  
 276 later.

277 (4) The department may impose a civil fine of up to  
 278 \$10,000 for each violation of this section, ~~which fine shall be~~  
 279 ~~transferred into the General Revenue Fund~~. If the fine is not  
 280 paid within 60 days, the department may bring a civil action

281 under s. 120.69 to recover the fine.

282 (5) In addition to the fine provided in subsection (4),  
 283 registration under this section may be denied or any  
 284 registration granted may be revoked, restricted, or suspended by  
 285 the department if the department determines that the applicant  
 286 or registrant:

287 (a) Has violated any provision of this chapter or any rule  
 288 or order made pursuant to this chapter;

289 (b) Has made a material false statement in the application  
 290 for registration;

291 (c) Has been guilty of a fraudulent act in connection with  
 292 any purchase or sale or has been or is engaged in or is about to  
 293 engage in any practice, purchase, or sale which is fraudulent or  
 294 in violation of the law;

295 (d) Has made a misrepresentation or false statement to, or  
 296 concealed any essential or material fact from, any person in  
 297 making any purchase or sale;

298 (e) Is making purchases or sales through any business  
 299 associate not registered in compliance with the provisions of  
 300 this chapter;

301 (f) Has, within the preceding 10-year period for new  
 302 registrants who apply for registration on or after October 1,  
 303 2006, been convicted of, or has entered a plea of guilty or nolo  
 304 contendere to, or had adjudication withheld for, a crime against  
 305 the laws of this state or any other state or of the United  
 306 States which relates to registration as a secondhand dealer or  
 307 which involves theft, larceny, dealing in stolen property,  
 308 receiving stolen property, burglary, embezzlement, obtaining

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309 | property by false pretenses, possession of altered property, any  
 310 | felony drug offense, any violation of s. 812.015, or any  
 311 | fraudulent dealing;

312 | (g) Has had a final judgment entered against her or him in  
 313 | a civil action upon grounds of fraud, embezzlement,  
 314 | misrepresentation, or deceit; or

315 | (h) Has failed to pay any sales tax owed to the Department  
 316 | of Revenue.

317 |  
 318 | In the event the department determines to deny an application or  
 319 | revoke a registration, it shall enter a final order with its  
 320 | findings on the register of secondhand dealers and their  
 321 | business associates, if any; and denial, suspension, or  
 322 | revocation of the registration of a secondhand dealer shall also  
 323 | deny, suspend, or revoke the registration of such secondhand  
 324 | dealer's business associates.

325 | (6) Upon the request of a law enforcement official, the  
 326 | department ~~of Revenue~~ shall release to the official the name and  
 327 | address of any secondhand dealer registered to do business  
 328 | within the official's jurisdiction.

329 | Section 6. Section 538.11, Florida Statutes, is amended to  
 330 | read:

331 | 538.11 Powers and duties of department; rules.—The same  
 332 | duties and privileges imposed by chapter 539 ~~212~~ upon  
 333 | pawnbrokers ~~dealers of tangible personal property~~ respecting the  
 334 | keeping of ~~books and records and accounts~~ and compliance with  
 335 | rules of the department shall apply to and be binding upon all  
 336 | persons who are subject to ~~the provisions of~~ this chapter. The

337 department shall administer, collect, and enforce the  
 338 registration authorized under this chapter pursuant to the same  
 339 procedures used in the licensure ~~administration, collection, and~~  
 340 ~~enforcement~~ of pawnbrokers ~~the general state sales tax imposed~~  
 341 under chapter 539 ~~212~~, except as provided in this section. The  
 342 ~~provisions of chapter 212 regarding the keeping of records and~~  
 343 ~~books shall apply.~~ The department is authorized to employ  
 344 persons and incur other expenses for which funds are  
 345 appropriated by the Legislature. The department is empowered to  
 346 adopt such rules, and shall prescribe and publish such forms, as  
 347 may be necessary to effectuate the purposes of this chapter. The  
 348 Legislature hereby finds that the failure to promptly implement  
 349 the provisions of this chapter would present an immediate threat  
 350 to the welfare of the state. Therefore, the ~~executive director~~  
 351 ~~of the~~ department is hereby authorized to adopt emergency rules  
 352 pursuant to s. 120.54(4), for purposes of implementing this  
 353 chapter. Notwithstanding any ~~other~~ provision of law, such  
 354 emergency rules shall remain effective for 6 months from the  
 355 date of adoption. Other rules of the department related to and  
 356 in furtherance of the orderly implementation of the chapter  
 357 shall not be subject to a rule challenge under s. 120.56(2) or a  
 358 drawout proceeding under s. 120.54(3)(c)2. but, once adopted,  
 359 shall be subject to an invalidity challenge under s. 120.56(3).  
 360 Such rules shall be adopted by the department ~~Governor and~~  
 361 ~~Cabinet~~ and shall become effective upon filing with the  
 362 Department of State, notwithstanding the provisions of s.  
 363 120.54(3)(e)6.

364 Section 7. Section 539.001, Florida Statutes, is amended

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365 to read:

366 539.101 ~~539.001~~ Short title ~~The Florida Pawnbroking Act.-~~

367 ~~(1) SHORT TITLE.-~~This chapter section may be cited as the  
 368 "Florida Pawnbroking Act."

369 539.103 Definitions.-

370 ~~(2) DEFINITIONS.-~~As used in this chapter section, the  
 371 term:

372 (1) ~~(r)~~ "Amount financed" is used interchangeably to mean  
 373 the same as "amount of money advanced" or "principal amount".

374 (2) ~~(b)~~ "Appropriate law enforcement official" means the  
 375 sheriff of the county in which a pawnshop is located or, in case  
 376 of a pawnshop located within a municipality, the police chief of  
 377 the municipality in which the pawnshop is located; however, any  
 378 sheriff or police chief may designate as the appropriate law  
 379 enforcement official for the county or municipality, as  
 380 applicable, any law enforcement officer working within the  
 381 county or municipality headed by that sheriff or police chief.  
 382 ~~Nothing in~~ This subsection does not limit ~~limits~~ the power and  
 383 responsibilities of the sheriff.

384 (3) ~~(t)~~ "Beneficial owner" means a person who does not have  
 385 title to property but has rights in the property which are the  
 386 normal incident of owning the property.

387 (4) ~~(e)~~ "Claimant" means a person who claims that his or  
 388 her property was misappropriated.

389 (5) ~~(d)~~ "Conveying customer" means a person who delivers  
 390 property into the custody of a pawnbroker, either by pawn, sale,  
 391 consignment, or trade.

392 (6) ~~(s)~~ "Default date" means that date upon which the

393 | pledgor's right of redemption expires and absolute right, title,  
 394 | and interest in and to the pledged goods shall vest in and shall  
 395 | be deemed conveyed to the pawnbroker by operation of law.

396 |        (7)~~(a)~~ "Department" ~~"Agency"~~ means the Department of  
 397 | Agriculture and Consumer Services.

398 |        (8)~~(e)~~ "Identification" means a government-issued  
 399 | photographic identification or an electronic image taken from a  
 400 | government-issued photographic identification.

401 |        (9)~~(f)~~ "Misappropriated" means stolen, embezzled,  
 402 | converted, or otherwise wrongfully appropriated against the will  
 403 | of the rightful owner.

404 |        (10)~~(g)~~ "Net worth" means total assets less total  
 405 | liabilities.

406 |        (11)~~(u)~~ "Operator" means a person who has charge of a  
 407 | corporation or company and has control of its business, or of  
 408 | its branch establishments, divisions, or departments, and who is  
 409 | vested with a certain amount of discretion and independent  
 410 | judgment.

411 |        (12)~~(h)~~ "Pawn" means any advancement of funds on the  
 412 | security of pledged goods on condition that the pledged goods  
 413 | are left in the possession of the pawnbroker for the duration of  
 414 | the pawn and may be redeemed by the pledgor on the terms and  
 415 | conditions contained in this chapter ~~section~~.

416 |        (13)~~(i)~~ "Pawnbroker" means any person who is engaged in  
 417 | the business of making pawns; who makes a public display  
 418 | containing the term "pawn," "pawnbroker," or "pawnshop" or any  
 419 | derivative thereof; or who publicly displays a sign or symbol  
 420 | historically identified with pawns. A pawnbroker may also engage

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421 in the business of purchasing goods which includes consignment  
422 and trade.

423 (14)~~(j)~~ "Pawnbroker transaction form" means the instrument  
424 on which a pawnbroker records pawns and purchases as provided in  
425 s. 539.109 ~~subsection (8)~~.

426 (15)~~(k)~~ "Pawn service charge" means a charge for  
427 investigating the title, storage, and insuring of the security;  
428 closing the transaction; making daily reports to appropriate law  
429 enforcement officials; expenses and losses; and all other  
430 services.

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

433 (17)~~(m)~~ "Permitted vendor" means a vendor who furnishes a  
434 pawnbroker with an invoice specifying the vendor's name and  
435 address, the date of the sale, a description of the items sold,  
436 and the sales price, and who has an established place of  
437 business, or, in the case of a secondhand dealer as defined in  
438 s. 538.03, has represented in writing that such dealer has  
439 complied with all applicable recordkeeping, reporting, and  
440 retention requirements pertaining to goods sold or otherwise  
441 delivered to a pawnbroker.

442 (18)~~(n)~~ "Person" means an individual, partnership,  
443 corporation, joint venture, trust, association, or other legal  
444 entity.

445 (19)~~(o)~~ "Pledged goods" means tangible personal property  
446 that is deposited with, or otherwise delivered into the  
447 possession of a pawnbroker in connection with a pawn. "Pledged  
448 goods" does not include titles or any other form of written

449 security in tangible property in lieu of actual physical  
 450 possession, including, but not limited to, choses in action,  
 451 securities, printed evidence of indebtedness, or certificates of  
 452 title and other instruments evidencing title to separate items  
 453 of property, including motor vehicles. For purposes of federal  
 454 and state bankruptcy laws, a pledgor's interest in his or her  
 455 pledged goods during the pendency of a pawn is a right of  
 456 redemption only.

457 ~~(20)(p)~~ "Pledgor" means an individual who delivers pledged  
 458 goods into the possession of a pawnbroker in connection with a  
 459 pawn.

460 ~~(21)(q)~~ "Purchase" means the transfer and delivery of  
 461 goods, by a person other than a permitted vendor, to a  
 462 pawnbroker by acquisition for value, consignment, or trade for  
 463 other goods.

464 539.105 Pawnbrokers; license required.-

465 ~~(3) LICENSE REQUIRED.-~~

466 (1) (a) A person may not engage in business as a pawnbroker  
 467 unless the person has a valid license issued by the department  
 468 agency. A separate license is required for each pawnshop. The  
 469 department agency must issue more than one license to a person  
 470 if that person complies with the requirements for each license.

471 (b) A licensee who seeks to move a pawnshop to another  
 472 location must give 30 days' prior written notice to the  
 473 department agency by certified or registered mail, return  
 474 receipt requested, upon which ~~and~~ the department agency must  
 475 ~~then~~ amend the license to indicate the new location. The  
 476 licensee must also give such written notice to the appropriate

477 law enforcement official.

478 (c) Each license is valid for ~~a period of~~ 1 year unless it  
 479 is earlier relinquished, suspended, or revoked. Each license  
 480 must ~~shall~~ be renewed annually.

481 (2) A pawnbroker, upon licensure, must ~~and each licensee~~  
 482 ~~shall, initially and annually thereafter,~~ pay to the agency a  
 483 license fee prescribed by the department not to exceed \$500. The  
 484 pawnbroker must pay an annual renewal fee prescribed by the  
 485 department not to exceed the amount assessed per location  
 486 according to the following schedule: ~~of \$300 for each license~~  
 487 ~~held.~~

488 (a) One thousand five hundred dollars for each location  
 489 that conducts more than 1,000 transactions per month.

490 (b) One thousand dollars for each location that conducts  
 491 at least 151, but not more than 1,000, transactions per month.

492 (c) Five hundred dollars for each location that conducts  
 493 150 or fewer transactions per month.

494  
 495 The license and renewal fees imposed under this subsection may  
 496 not exceed the actual costs of processing transactions and the  
 497 department's related expenses of administering this chapter. The  
 498 department shall annually review the fees and, if necessary,  
 499 adjust the amount of the fees. The department must notify  
 500 licensed pawnbrokers in writing at least 30 days before any fee  
 501 adjustment.

502 (3) (a) ~~(d)~~ The department ~~agency~~ may issue a temporary  
 503 pawnbroker's license for the operation of a pawnshop either upon  
 504 receipt of an application to transfer an existing license from

505 one person to another or upon receipt of an application for a  
 506 license involving principals and owners that are substantially  
 507 identical to those of the existing licensee. The temporary  
 508 license is effective until the permanent license is issued or  
 509 denied by the department ~~agency~~.

510 ~~(b)-(e)~~ A person must apply to the department ~~agency~~ for a  
 511 new license or for a temporary license upon any change, directly  
 512 or beneficially, in the ownership of any pawnshop. An  
 513 application for a license or an application to transfer an  
 514 existing license is not required upon any change, directly or  
 515 beneficially, in the ownership of a pawnshop if one or more  
 516 holders of at least 90 percent of the outstanding equity  
 517 interest of the pawnshop before the change in ownership continue  
 518 to hold at least 90 percent of the outstanding equity interest  
 519 after the change in ownership.

520 ~~(c)-(f)~~ Any person applying for or renewing a local  
 521 occupational license to engage in business as a pawnbroker must  
 522 exhibit a current license from the department ~~agency~~ before the  
 523 local occupational license may be issued or reissued.

524 (4) ~~ELIGIBILITY FOR LICENSE.~~

525 (a) To be eligible for a pawnbroker's license, an  
 526 applicant must:

- 527 1. Be of good moral character;
- 528 2. Have a net worth of at least \$50,000 or file with the  
 529 department ~~agency~~ a bond issued by a surety company qualified to  
 530 do business in this state in the amount of \$10,000 for each  
 531 license. In lieu of the bond required in this section, the  
 532 applicant may establish a certificate of deposit or an

533 | irrevocable letter of credit in a Florida banking institution in  
 534 | the amount of the bond. The original bond, certificate of  
 535 | deposit, or letter of credit shall be filed with the department  
 536 | ~~agency~~, and the department ~~agency~~ shall be the beneficiary to  
 537 | said document. The bond, certificate of deposit, or letter of  
 538 | credit shall be in favor of the department ~~agency~~ for the use  
 539 | and benefit of any consumer who is injured by the fraud,  
 540 | misrepresentation, breach of contract, financial failure, or  
 541 | violation of ~~any provision of this chapter section~~ by the  
 542 | pawnbroker. Such liability may be enforced either by proceeding  
 543 | in an administrative action or by filing a judicial suit at law  
 544 | in a court of competent jurisdiction. However, in such court  
 545 | suit, the bond, certificate of deposit, or letter of credit  
 546 | posted with the department ~~agency~~ shall not be amenable or  
 547 | subject to any judgment or other legal process issuing out of or  
 548 | from such court in connection with such lawsuit, but such bond,  
 549 | certificate of deposit, or letter of credit shall be amenable to  
 550 | and enforceable only by and through administrative proceedings  
 551 | before the department ~~agency~~. It is the intent of the  
 552 | Legislature that such bond, certificate of deposit, or letter of  
 553 | credit shall be applicable and liable only for the payment of  
 554 | claims duly adjudicated by order of the department ~~agency~~. The  
 555 | bond, certificate of deposit, or letter of credit shall be  
 556 | payable on a pro rata basis as determined by the department  
 557 | ~~agency~~, but the aggregate amount may not exceed the amount of  
 558 | the bond, certificate of deposit, or letter of credit;

559 |         3. Not have been convicted of, or found guilty of, or pled  
 560 | guilty or nolo contendere to, or not have been incarcerated

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561 within the last 10 years as a result of having previously been  
562 convicted of, or found guilty of, or pled guilty or nolo  
563 contendere to, regardless of adjudication, a felony within the  
564 last 10 years and not be acting as a beneficial owner for  
565 someone who has been convicted of, or found guilty of, or pled  
566 guilty or nolo contendere to, regardless of adjudication, a  
567 felony within the last 10 years; and

568 4. Not have been convicted of, or found guilty of, or pled  
569 guilty or nolo contendere to, or not have been incarcerated  
570 within the last 10 years as a result of having previously been  
571 convicted of, or found guilty of, or pled guilty or nolo  
572 contendere to, regardless of adjudication, a crime that involves  
573 theft, larceny, dealing in stolen property, receiving stolen  
574 property, burglary, embezzlement, obtaining property by false  
575 pretenses, possession of altered property, or any other  
576 fraudulent or dishonest dealing within the last 10 years, and  
577 not be acting as a beneficial owner for someone who has been  
578 convicted, of, or found guilty of, or pled guilty or nolo  
579 contendere to, or has been incarcerated within the last 10 years  
580 as a result of having previously been convicted of, or found  
581 guilty of, or pled guilty or nolo contendere to, regardless of  
582 adjudication, a crime that involves theft, larceny, dealing in  
583 stolen property, receiving stolen property, burglary,  
584 embezzlement, obtaining property by false pretenses, possession  
585 of altered property, or any other fraudulent or dishonest  
586 dealing within the last 10 years.

587 (b) Any applicant claiming to have a net worth of \$50,000  
588 or more shall file with the department ~~agency~~, at the time of

589 applying for a license, the following documentation:

590 1. A current financial statement prepared by a Florida  
591 certified public accountant; or

592 2. An affidavit stating the applicant's net worth is at  
593 least \$50,000, accompanied by supporting documentation; or

594 3. If the applicant is a corporation, a copy of the  
595 applicant's most recently filed federal tax return.

596

597 If the department ~~agency~~ cannot verify that the applicant meets  
598 the net worth requirement for a license, the department ~~agency~~  
599 may require a finding, including the presentation of a current  
600 balance sheet, by an accounting firm or individual holding a  
601 permit to practice public accounting in this state, that the  
602 accountant has reviewed the books and records of the applicant  
603 and that the applicant meets the net worth requirement.

604 (c) If an applicant for a pawnbroker's license is not an  
605 individual, the eligibility requirements of this subsection,  
606 other than the requirements of subparagraph (a)2., apply to each  
607 operator of the pawnshop and to each direct or beneficial owner  
608 of at least 10 percent of the outstanding equity interest of the  
609 pawnshop and, if the applicant is a corporation, to each officer  
610 and director of the corporation.

611 (5) ~~APPLICATION FOR LICENSE.—~~

612 (a) An application for a pawnbroker's license, for the  
613 transfer of an existing pawnbroker's license, or for the  
614 approval of a change in the ownership of a licensee's pawnshop  
615 must be under oath and must state the full name and place of  
616 residence of the applicant, the place where the business is to

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617 be conducted, and other relevant information required by the  
618 department agency.

619 (b)1. If the applicant is not an individual, the applicant  
620 must state the full name and address of each direct or  
621 beneficial owner of at least a 10-percent equity interest in  
622 such person. If the applicant is a corporation, the application  
623 must also state the full name and address of each officer and  
624 director.

625 2. Notwithstanding ~~the provisions of~~ subparagraph 1., the  
626 application need not state the full name and address of each  
627 officer, director, and shareholder if the applicant is owned  
628 directly or beneficially by a person that as an issuer has a  
629 class of securities registered under s. 12 of the Securities  
630 Exchange Act of 1934, or under s. 15(d) thereof, and is an  
631 issuer of registered securities required to file reports with  
632 the Securities and Exchange Commission and if the person files  
633 with the department agency the information, documents, and  
634 reports required to be filed with the Securities and Exchange  
635 Commission.

636 (c) Each initial application for a license must be  
637 accompanied by a complete set of fingerprints taken by an  
638 authorized law enforcement officer, \$300 for the first year's  
639 license fee, and the actual cost to the department agency for  
640 fingerprint analysis for each person subject to the eligibility  
641 requirements. The department agency shall submit the  
642 fingerprints to the Department of Law Enforcement for state  
643 processing, and the Department of Law Enforcement shall forward  
644 the fingerprints to the Federal Bureau of Investigation for a

645 national criminal history check. These fees and costs are not  
 646 refundable.

647 (d) When the application and the required fees are  
 648 received, the department ~~agency~~ shall investigate the facts,  
 649 approve the application, and issue a license to the applicant if  
 650 the department ~~agency~~ finds that the eligibility requirements  
 651 for the license are satisfied. The license must be prominently  
 652 displayed at the front desk or counter at each pawnshop.

653 (e) Fees and fines collected under this chapter ~~section~~ by  
 654 the department ~~agency~~ shall be deposited into the General  
 655 Inspection Trust Fund.

656 539.107 Pawnbroker transaction form; recordkeeping.-

657 ~~(8) PAWNBROKER TRANSACTION FORM.-~~

658 (1) ~~(a)~~ At the time the pawnbroker enters into any pawn or  
 659 purchase transaction, the pawnbroker shall complete a pawnbroker  
 660 transaction form for such transaction, including an indication  
 661 of whether the transaction is a pawn or a purchase, and the  
 662 pledgor or seller shall sign such completed form.

663 (2) The department ~~agency~~ must approve the design and  
 664 format of the pawnbroker transaction form, which must be 8 1/2  
 665 inches x 11 inches in size and elicit the information required  
 666 under this section. In completing the pawnbroker transaction  
 667 form, the pawnbroker shall record the following information,  
 668 which must be typed or written indelibly and legibly in English.

669 ~~(b)~~ The front of the pawnbroker transaction form must  
 670 include:

671 (a) ~~1.~~ The name and address of the pawnshop.

672 (b) ~~2.~~ A complete and accurate description of the pledged

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673 goods or purchased goods, including the following information,  
674 if applicable:

- 675 ~~1.a.~~ Brand name.
- 676 ~~2.b.~~ Model number.
- 677 ~~3.e.~~ Manufacturer's serial number.
- 678 ~~4.d.~~ Size.
- 679 ~~5.e.~~ Color, as apparent to the untrained eye.
- 680 ~~6.f.~~ Precious metal type, weight, and content, if known.
- 681 ~~7.g.~~ Gemstone description, including the number of stones.
- 682 ~~8.h.~~ In the case of firearms, the type of action, caliber  
683 or gauge, number of barrels, barrel length, and finish.
- 684 ~~9.i.~~ Any other unique identifying marks, numbers, names,  
685 or letters.
- 686 10. A digital color photograph of the pledged or purchased  
687 goods in the condition acquired.

688  
689 Notwithstanding subparagraphs 1.-10. ~~sub-subparagraphs a.-i.~~, in  
690 the case of multiple items of a similar nature delivered  
691 together in one transaction which do not bear serial or model  
692 numbers and which do not include precious metal or gemstones,  
693 such as musical or video recordings, books, and hand tools, the  
694 description of the items is adequate if it contains the quantity  
695 of items and a description of the type of items delivered.

696 ~~(c)3.~~ The name, address, home telephone number, place of  
697 employment, date of birth, and physical description, ~~and right~~  
698 ~~thumbprint~~ of the pledgor or seller.

699 (d) The right thumbprint, free of smudges or smears, of  
700 the pledgor or seller.

701           (e) A digital color photograph of the pledgor or seller.  
 702           Such photograph must be a full-face, close-up in which the  
 703           pledgor or seller is not wearing a hat, sunglasses, eyeglasses,  
 704           or other article or item that obscures the pledgor's or seller's  
 705           identity.

706           (f)4. The date and time of the transaction.

707           (g)5. The type of identification accepted from the pledgor  
 708 or seller, including the issuing department ~~agency~~ and the  
 709 identification number.

710           (h)6. In the case of a pawn:

711           1.a. The amount of money advanced, which must be  
 712 designated as the amount financed;

713           2.b. The maturity date of the pawn, which must be 30 days  
 714 after the date of the pawn;

715           3.e. The default date of the pawn and the amount due on  
 716 the default date;

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

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

722           6.f. The annual percentage rate, computed according to the  
 723 regulations adopted by the Federal Reserve Board under the  
 724 federal Truth in Lending Act; and

725           7.g. The front or back of the pawnbroker transaction form  
 726 must include a statement that:

727           a.(I) Any personal property pledged to a pawnbroker within  
 728 this state which is not redeemed within 30 days following the

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729 maturity date of the pawn, if the 30th day is not a business  
730 day, then the following business day, is automatically forfeited  
731 to the pawnbroker, and absolute right, title, and interest in  
732 and to the property vests in and is deemed conveyed to the  
733 pawnbroker by operation of law, and no further notice is  
734 necessary;

735 b.~~(II)~~ The pledgor is not obligated to redeem the pledged  
736 goods; and

737 c.~~(III)~~ If the pawnbroker transaction form is lost,  
738 destroyed, or stolen, the pledgor must immediately advise the  
739 issuing pawnbroker in writing by certified or registered mail,  
740 return receipt requested, or in person evidenced by a signed  
741 receipt.

742 d.~~(IV)~~ A pawn may be extended upon mutual agreement of the  
743 parties.

744 (i)~~7.~~ In the case of a purchase, the amount of money paid  
745 for the goods or the monetary value assigned to the goods in  
746 connection with the transaction.

747 (j)~~8.~~ A statement that the pledgor or seller of the item  
748 represents and warrants that it is not stolen, that it has no  
749 liens or encumbrances against it, and that the pledgor or seller  
750 is the rightful owner of the goods and has the right to enter  
751 into the transaction.

752 (3) Any person who knowingly gives false verification of  
753 ownership or gives a false or altered identification and who  
754 receives money from a pawnbroker for goods sold or pledged  
755 commits:

756 (a)~~a.~~ If the value of the money received is less than

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757 \$300, a felony of the third degree, punishable as provided in s.  
 758 775.082, s. 775.083, or s. 775.084.

759 (b)~~b~~. If the value of the money received is \$300 or more,  
 760 a felony of the second degree, punishable as provided in s.  
 761 775.082, s. 775.083, or s. 775.084.

762 (4)~~(e)~~ A pawnbroker transaction form must provide a space  
 763 for the imprint of the right thumbprint of the pledgor or seller  
 764 and a blank line for the signature of the pledgor or seller.

765 (5)~~(d)~~ At the time of the pawn or purchase transaction,  
 766 the pawnbroker shall deliver to the pledgor or seller an exact  
 767 copy of the completed pawnbroker transaction form.

768 ~~(9) RECORDKEEPING; REPORTING; HOLD PERIOD.~~

769 (6)~~(a)~~ A pawnbroker must maintain a copy of each completed  
 770 pawnbroker transaction form on the pawnshop premises for at  
 771 least 1 year after the date of the transaction. ~~On or before the~~  
 772 ~~end of each business day, the pawnbroker must deliver to the~~  
 773 ~~appropriate law enforcement official the original pawnbroker~~  
 774 ~~transaction forms for each of the transactions occurring during~~  
 775 ~~the previous business day, unless other arrangements have been~~  
 776 ~~agreed upon between the pawnbroker and the appropriate law~~  
 777 ~~enforcement official.~~ If the original transaction form is lost  
 778 or destroyed by the appropriate law enforcement official, a copy  
 779 may be used by the pawnbroker as evidence in court. ~~When an~~  
 780 ~~electronic image of a pledgor or seller identification is~~  
 781 ~~accepted for a transaction, the pawnbroker must maintain the~~  
 782 ~~electronic image in order to meet the same recordkeeping~~  
 783 ~~requirements as for the original transaction form. If a criminal~~  
 784 ~~investigation occurs, the pawnbroker shall, upon request,~~

785 ~~provide a clear and legible copy of the image to the appropriate~~  
 786 ~~law enforcement official.~~

787 (7)(b) A ~~If the appropriate law enforcement agency~~  
 788 ~~supplies the appropriate software and the pawnbroker must, by~~  
 789 ~~noon of each business day, presently has the computer ability,~~  
 790 ~~pawn transactions shall be electronically transfer to the~~  
 791 ~~statewide central database established under s. 539.109 each~~  
 792 ~~transaction completed during the previous business day~~  
 793 ~~transferred. If a pawnbroker does not presently have the~~  
 794 ~~computer ability, the appropriate law enforcement agency may~~  
 795 ~~provide the pawnbroker with a computer and all necessary~~  
 796 ~~equipment for the purpose of electronically transferring pawn~~  
 797 ~~transactions. The appropriate law enforcement agency shall~~  
 798 ~~retain ownership of the computer, unless otherwise agreed upon.~~  
 799 ~~The pawnbroker shall maintain the computer in good working~~  
 800 ~~order, ordinary wear and tear excepted. In the event the~~  
 801 ~~pawnbroker transfers pawn transactions electronically, The~~  
 802 ~~pawnbroker is not required to also deliver to the appropriate~~  
 803 ~~law enforcement official the original or copies of any the~~  
 804 ~~pawnbroker transaction form transferred to the statewide central~~  
 805 ~~database forms.~~ The appropriate law enforcement official may,  
 806 for the purposes of a criminal investigation, request that the  
 807 pawnbroker produce an original of a transaction form that is ~~has~~  
 808 ~~been~~ electronically transferred. The pawnbroker must ~~shall~~  
 809 deliver this form to the appropriate law enforcement official  
 810 within 24 hours of the request.

811 (8)(e) All goods delivered to a pawnbroker in a pawn or  
 812 purchase transaction must be securely stored and maintained in

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813 an unaltered condition within the jurisdiction of the  
 814 appropriate law enforcement official for a period of 30 calendar  
 815 days after the transaction. Those goods delivered to a  
 816 pawnbroker in a purchase transaction may not be sold or  
 817 otherwise disposed of before the expiration of such period. The  
 818 pawnbroker shall make all pledged and purchased goods and all  
 819 records relating to such goods available for inspection by the  
 820 appropriate law enforcement official during normal business  
 821 hours throughout such period. The pawnbroker must store and  
 822 maintain pledged goods for the period prescribed in s. 539.111  
 823 ~~subsection (10)~~ unless the pledged goods are redeemed earlier.  
 824 ~~provided,~~ However, ~~that~~ within the first 30 days after the  
 825 original pawn, the pledged goods may be redeemed only by the  
 826 pledgor or the pledgor's attorney in fact.

827 539.111 Pledged goods not redeemed.—

828 ~~(10) PLEDGED GOODS NOT REDEEMED.—~~Pledged goods not  
 829 redeemed by the pledgor on or before the maturity date of a pawn  
 830 must be held by the pawnbroker for at least 30 days following  
 831 such date or until the next business day, if the 30th day is not  
 832 a business day. Pledged goods not redeemed within the 30-day  
 833 period following the maturity date of a pawn are automatically  
 834 forfeited to the pawnbroker; absolute right, title, and interest  
 835 in and to the goods shall vest in and shall be deemed conveyed  
 836 to the pawnbroker by operation of law; and no further notice is  
 837 necessary. A pledgor does not have an ~~has no~~ obligation to  
 838 redeem pledged goods or make any payment on a pawn.

839 539.113 Right to redeem; lost pawnbroker transaction  
 840 form.—

841        ~~(13) RIGHT TO REDEEM; LOST PAWNBROKER TRANSACTION FORM.~~  
842        (1)(a) Only a pledgor or a pledgor's authorized  
843 representative is entitled to redeem the pledged goods described  
844 in the pawnbroker transaction form; however, if the pawnbroker  
845 determines that the person is not the original pledgor, or the  
846 pledgor's authorized representative, the pawnbroker is not  
847 required to allow the redemption of the pledged goods by such  
848 person. The person redeeming the pledged goods must sign the  
849 pledgor's copy of the pawnbroker transaction form, which the  
850 pawnbroker may retain as evidence of the person's receipt of the  
851 pledged goods. If the person redeeming the pledged goods is the  
852 pledgor's authorized representative, that person must present  
853 notarized authorization from the original pledgor and show  
854 identification to the pawnbroker and the pawnbroker shall record  
855 that person's name and address on the pawnbroker transaction  
856 form retained by the pawnshop. It is the pawnbroker's  
857 responsibility to verify that the person redeeming the pledged  
858 goods is either the pledgor or the pledgor's authorized  
859 representative.

860        (2)(b) If a pledgor's copy of the pawnbroker transaction  
861 form is lost, destroyed, or stolen, the pledgor must notify the  
862 pawnbroker in writing by certified or registered mail, return  
863 receipt requested, or in person evidenced by a signed receipt,  
864 and receipt of this notice invalidates the pawnbroker  
865 transaction form if the pledged goods have not previously been  
866 redeemed. Before delivering the pledged goods or issuing a new  
867 pawnbroker transaction form, the pawnbroker must require the  
868 pledgor to make a written statement of the loss, destruction, or

869 theft of the pledgor's copy of the pawnbroker transaction form.  
 870 The pawnbroker must record on the written statement the type of  
 871 identification and the identification number accepted from the  
 872 pledgor, the date the statement is given, and the number of the  
 873 pawnbroker transaction form that was lost, destroyed, or stolen.  
 874 The statement must be signed by the pawnbroker or the pawnshop  
 875 employee who accepts the statement from the pledgor. A  
 876 pawnbroker is entitled to a fee not to exceed \$2 in connection  
 877 with each lost, destroyed, or stolen pawnbroker transaction form  
 878 and the taking of a properly prepared written statement.

879 (3)~~(e)~~ Sales tax is not due or collectible in connection  
 880 with the redemption of pledged goods.

881 (4)~~(d)~~ If pledged goods are lost or damaged while in the  
 882 possession of the pawnbroker, the pawnbroker may satisfy the  
 883 pledgor's claim by replacing the lost or damaged goods with like  
 884 kinds of merchandise of equal value, with which the pledgor can  
 885 reasonably replace the goods. Such replacement is a defense to  
 886 any civil action based upon the loss or damage of the goods.

887 539.115 Pawn service charges.-

888 ~~(11) PAWN SERVICE CHARGES.-~~

889 (1)~~(a)~~ In a pawn transaction, a pawnbroker may contract  
 890 for and receive a pawn service charge. The interest component of  
 891 the pawn service charge shall be deemed to be 2 percent of the  
 892 amount financed for each 30-day period in a pawn transaction.  
 893 The pawnbroker may charge any amount of pawn service charge, so  
 894 long as the total amount, inclusive of the interest component,  
 895 does not exceed 25 percent of the amount financed for each 30-  
 896 day period in a pawn transaction, except that the pawnbroker is

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897 entitled to receive a minimum pawn service charge of \$5 for each  
898 such 30-day period.

899 (2)~~(b)~~ The default date of any pawn may be extended to a  
900 subsequent date by mutual agreement, between the pledgor and the  
901 pawnbroker except the pawnbroker may not impose a minimum  
902 duration of more than 30 days, evidenced by a written  
903 memorandum, a copy of which must be supplied to the pledgor,  
904 which must clearly specify the new default date, and the pawn  
905 service charges owed on the new default date. In this event, the  
906 daily pawn service charge for the extension shall be equal to  
907 the pawn service charge for the original 30-day period divided  
908 by 30 days (i.e., one-thirtieth of the original total pawn  
909 service charge). There is no limit on the number of extensions  
910 that the parties may agree to.

911 (3)~~(e)~~ The total amount of pawn service charges that a  
912 pawnbroker may collect in the case of pledged goods redeemed at  
913 any time within 30 days after the date of the pawn is the amount  
914 provided in subsection (1) ~~paragraph (a)~~. The total amount of  
915 pawn service charges that a pawnbroker may collect in the case  
916 of redemptions occurring at any time more than 30 days after the  
917 date of the pawn is twice the amount provided in subsection (1)  
918 ~~paragraph (a)~~, except that, for redemptions occurring more than  
919 60 days after the date of the pawn, pawn service charges  
920 continue to accrue from and after the 60th day at the daily rate  
921 determined as provided in subsection (2) ~~paragraph (b)~~. Any  
922 unused pawn service charge paid in advance by the pledgor must  
923 ~~shall~~ be refunded by the pawnbroker.

924 (4)~~(d)~~ Pledged goods may be redeemed by mail by agreement

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925 between the pledgor and the pawnbroker. The pledgor must pay in  
 926 advance all moneys due and a reasonable charge assessed by the  
 927 pawnbroker to recover its cost and expenses involved in the  
 928 packaging, insuring, and shipping of the pledged goods. The  
 929 pawnbroker shall insure the pledged goods in an amount  
 930 acceptable to the pledgor. The pawnbroker's liability for loss  
 931 or damage in connection with the shipment of such pledged goods  
 932 is limited to the amount of the insurance coverage obtained.

933 (5)~~(e)~~ Any interest, charge, or fees contracted for or  
 934 received, directly or indirectly, in excess of the amounts  
 935 authorized under this chapter section are prohibited, may not be  
 936 collected, and render the pawn transaction voidable, in which  
 937 case the pawnbroker shall forfeit the right to collect twice the  
 938 amount of the pawn service charge contracted for in the pawn  
 939 and, upon the pledgor's written request received by the  
 940 pawnbroker within 30 days after the maturity date, shall be  
 941 obligated to return to the pledgor the pledged goods delivered  
 942 to the pawnbroker in connection with the pawn upon payment of  
 943 the balance remaining due, provided that there shall be no  
 944 penalty for a violation resulting from an accidental and bona  
 945 fide error that is corrected upon discovery. Any action to  
 946 circumvent the limitation on pawn service charges collectible  
 947 under this section is voidable. If ~~In the event~~ a pledgor makes  
 948 a partial payment on a pawn that reduces the amount financed,  
 949 any additional pawn service charges shall be calculated on the  
 950 remaining balance of the original amount financed.

951 539.117 Pawnbroker's lien.—

952 ~~(14) PAWNBROKER'S LIEN.—~~A pawnbroker has a possessory lien

953 on the pledged goods pawned as security for the funds advanced,  
 954 the pawn service charge owed, and the other charges authorized  
 955 under this chapter ~~section~~, but not for other debts due to the  
 956 pawnbroker. A pawnbroker has no recourse against a pledgor for  
 957 payment on a pawn transaction except for the pledged goods  
 958 themselves. Except as otherwise provided in this chapter  
 959 ~~section~~, the pawnbroker must retain possession of the pledged  
 960 goods until the lien is satisfied or until the default date. The  
 961 pawnbroker may be compelled to relinquish possession of the  
 962 pledged goods only after receipt of the applicable funds  
 963 advanced plus the accrued service charge and other authorized  
 964 charges, upon court order, or as otherwise provided by law.

965 539.119 Claims against purchased goods or pledged goods  
 966 held by pawnbrokers.—

967 ~~(15) CLAIMS AGAINST PURCHASED GOODS OR PLEDGED GOODS HELD~~  
 968 ~~BY PAWNBROKERS.—~~

969 (1)(a) To obtain possession of purchased or pledged goods  
 970 held by a pawnbroker which a claimant claims to be  
 971 misappropriated, the claimant must notify the pawnbroker by  
 972 certified mail, return receipt requested, or in person evidenced  
 973 by signed receipt, of the claimant's claim to the purchased or  
 974 pledged goods. The notice must contain a complete and accurate  
 975 description of the purchased or pledged goods and must be  
 976 accompanied by a legible copy of the applicable law enforcement  
 977 agency's report on the misappropriation of such property. If the  
 978 claimant and the pawnbroker do not resolve the matter within 10  
 979 days after the pawnbroker's receipt of the notice, the claimant  
 980 may petition the court to order the return of the property,

981 naming the pawnbroker as a defendant, and must serve the  
 982 pawnbroker with a copy of the petition. The pawnbroker shall  
 983 hold the property described in the petition until the right to  
 984 possession is resolved by the parties or by a court of competent  
 985 jurisdiction. The court shall waive any filing fee for the  
 986 petition to recover the property, and the sheriff shall waive  
 987 the service fees.

988 (2)~~(b)~~ If, after notice and a hearing, the court finds  
 989 that the property was misappropriated and orders the return of  
 990 the property to the claimant:

991 (a)~~1.~~ The claimant may recover from the pawnbroker the  
 992 cost of the action, including the claimant's reasonable  
 993 attorney's fees; ~~and~~

994 (b)~~2.~~ If the conveying customer is convicted of theft, a  
 995 violation of this chapter ~~section~~, or dealing in stolen  
 996 property, the court shall order the conveying customer to repay  
 997 the pawnbroker the full amount the conveying customer received  
 998 from the pawnbroker for the property, plus all applicable pawn  
 999 service charges. As used in this subsection ~~paragraph~~, the term  
 1000 "convicted of" includes a plea of nolo contendere to the charges  
 1001 or any agreement in which adjudication is withheld; and

1002 (c)~~3.~~ The conveying customer is ~~shall be~~ responsible to  
 1003 pay all attorney's fees and taxable costs incurred by the  
 1004 pawnbroker in defending a replevin action or any other civil  
 1005 matter wherein it is found that the conveying customer violated  
 1006 ~~was in violation of this subsection paragraph.~~

1007 (3)~~(c)~~ If the court finds that the claimant failed to  
 1008 comply with subsection (1) ~~the requirements in paragraph (a) or~~

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1009 otherwise finds against the claimant, the claimant is liable for  
 1010 the defendants' costs, including reasonable attorney's fees.

1011 (4)~~(d)~~ The sale, pledge, or delivery of tangible personal  
 1012 property to a pawnbroker by any person in this state is  
 1013 considered to be:

1014 (a)~~1.~~ An agreement by the person who sells, pledges, or  
 1015 delivers the tangible personal property that the person is  
 1016 subject to the jurisdiction of the court in all civil actions  
 1017 and proceedings arising out of the pledge or sale transaction  
 1018 filed by either a resident or nonresident plaintiff;

1019 (b)~~2.~~ An appointment of the Secretary of State by any  
 1020 nonresident of this state as that person's lawful attorney and  
 1021 agent upon whom may be served all process in suits pertaining to  
 1022 the actions and proceedings arising out of the sale, pledge, or  
 1023 delivery; and

1024 (c)~~3.~~ An agreement by any nonresident that any process in  
 1025 any suit so served has the same legal force and validity as if  
 1026 personally served in this state.

1027 539.121 Hold orders.—

1028 ~~(16) HOLD ORDERS; ISSUANCE; REQUIRED INFORMATION;~~  
 1029 ~~PROCEDURES.—~~

1030 (1)~~(a)~~ When an appropriate law enforcement official has  
 1031 probable cause to believe that property in the possession of a  
 1032 pawnbroker is misappropriated, the official may place a written  
 1033 hold order on the property. The written hold order shall impose  
 1034 a holding period not to exceed 90 days unless extended by court  
 1035 order. The appropriate law enforcement official may rescind, in  
 1036 writing, any hold order. An appropriate law enforcement official

1037 may place only one hold order on property.

1038        (2)~~(b)~~ Upon the expiration of the holding period, the

1039 pawnbroker shall notify, in writing, the appropriate law

1040 enforcement official by certified mail, return receipt

1041 requested, that the holding period has expired. If, on the 10th

1042 day after the written notice has been received by the

1043 appropriate law enforcement official, the pawnbroker has not

1044 received from a court an extension of the hold order on the

1045 property and the property is not the subject of a proceeding

1046 under s. 539.119 ~~subsection (15)~~, title to the property shall

1047 vest in and be deemed conveyed by operation of law to the

1048 pawnbroker, free of any liability for claims but subject to any

1049 restrictions contained in the pawn transaction contract and

1050 subject to the provisions of this chapter ~~section~~.

1051        (3)~~(e)~~ A hold order must specify:

1052        (a)~~1.~~ The name and address of the pawnbroker.

1053        (b)~~2.~~ The name, title, and identification number of the

1054 representative of the appropriate law enforcement official or

1055 the court placing the hold order.

1056        (c)~~3.~~ If applicable, the name and address of the

1057 appropriate law enforcement official or court to which such

1058 representative is attached and the number, if any, assigned to

1059 the claim regarding the property.

1060        (d)~~4.~~ A complete description of the property to be held,

1061 including model number and serial number if applicable.

1062        (e)~~5.~~ The name of the person reporting the property to be

1063 misappropriated unless otherwise prohibited by law.

1064        (f)~~6.~~ The mailing address of the pawnbroker where the

1065 property is held.

1066 (g)~~7~~. The expiration date of the holding period.

1067 (4)~~(d)~~ The pawnbroker or the pawnbroker's representative  
 1068 must sign and date a copy of the hold order as evidence of  
 1069 receipt of the hold order and the beginning of the 90-day  
 1070 holding period.

1071 (5) (a)~~(e)~~1. Except as provided in paragraph (b)  
 1072 ~~subparagraph 2~~, a pawnbroker may not release or dispose of  
 1073 property subject to a hold order except pursuant to a court  
 1074 order, a written release from the appropriate law enforcement  
 1075 official, or the expiration of the holding period of the hold  
 1076 order.

1077 (b)~~2~~. While a hold order is in effect, the pawnbroker must  
 1078 upon request release the property subject to the hold order to  
 1079 the custody of the appropriate law enforcement official for use  
 1080 in a criminal investigation. The release of the property to the  
 1081 custody of the appropriate law enforcement official is not  
 1082 considered a waiver or release of the pawnbroker's property  
 1083 rights or interest in the property. Upon completion of the  
 1084 criminal proceeding, the property must be returned to the  
 1085 pawnbroker unless the court orders other disposition. When such  
 1086 other disposition is ordered, the court shall additionally order  
 1087 the conveying customer to pay restitution to the pawnbroker in  
 1088 the amount received by the conveying customer for the property  
 1089 together with reasonable attorney's fees and costs.

1090 539.123 Prohibited acts; penalties.-

1091 ~~(12) PROHIBITED ACTS.-~~

1092 (1) A pawnbroker, or an employee or agent of a pawnbroker,

1093 may not:

1094 (a) Falsify or intentionally fail to make an entry of any  
1095 material matter in a pawnbroker transaction form.

1096 (b) Refuse to allow the department ~~agency~~, the appropriate  
1097 law enforcement official, or the state attorney, or any of their  
1098 designated representatives having jurisdiction, to inspect  
1099 completed pawnbroker transaction forms or pledged or purchased  
1100 goods during the ordinary hours of the pawnbroker's business or  
1101 other time acceptable to both parties. The appropriate law  
1102 enforcement official shall disclose to a claimant the name and  
1103 address of the pawnbroker, the name and address of the conveying  
1104 customer, and a description of pawned, purchased, or consigned  
1105 goods that the claimant claims to be misappropriated.

1106 (c) Obliterate, discard, or destroy a completed pawnbroker  
1107 transaction form sooner than 3 years after the date of the  
1108 transaction.

1109 (d) Accept a pledge or purchase property from a person  
1110 under the age of 18 years.

1111 (e) Make any agreement requiring or allowing the personal  
1112 liability of a pledgor or the waiver of any of the provisions of  
1113 this chapter ~~section~~.

1114 (f) Knowingly enter into a pawn or purchase transaction  
1115 with any person who is under the influence of alcohol or  
1116 controlled substances when such condition is apparent, or with  
1117 any person using the name of another or the registered name of  
1118 another's business.

1119 (g) Conduct any pawn or purchase transaction at a drive-  
1120 through window or similar device in which the customer remains

1121 in a vehicle while conducting the transaction.

1122 (h) Fail to return or replace pledged goods to a pledgor  
 1123 upon payment of the full amount due the pawnbroker, unless the  
 1124 pledged goods have been placed under a hold order under s.  
 1125 539.121 ~~subsection (16)~~, or taken into custody by a court or  
 1126 otherwise disposed of by court order.

1127 (i) Sell or otherwise charge for insurance in connection  
 1128 with a pawn transaction, except in connection with the shipment  
 1129 of pledged goods redeemed by mail as provided in s. 539.115  
 1130 ~~subsection (11)~~.

1131 (j) Engage in title loan transactions at, within, or  
 1132 adjoining a licensed pawnshop location.

1133 (k) Lease pledged goods to the pledgor or any other party.

1134 (l) Operate a pawnshop between the hours of 10 p.m. and 7  
 1135 a.m.

1136 (m) Knowingly hire anyone to work in a pawnshop who has  
 1137 been convicted of, or entered a plea of guilty or nolo  
 1138 contendere to, or had adjudication withheld for a felony within  
 1139 the last 5 years, or been convicted of, or entered a plea of  
 1140 guilty or nolo contendere to, or had adjudication withheld for a  
 1141 crime within the last 5 years which involves theft, larceny,  
 1142 dealing in stolen property, receiving stolen property, burglary,  
 1143 embezzlement, obtaining property by false pretenses, possession  
 1144 of altered property, or any fraudulent, or dishonest dealing.

1145 (n) Knowingly accept or receive misappropriated property  
 1146 from a conveying customer in a pawn or purchase transaction.

1147 ~~(2) (6) SUSPENSION, REVOCATION, AND SURRENDER OF LICENSE;~~  
 1148 ~~NET WORTH REQUIREMENT.~~

1149 (a) The department ~~agency~~ may, after notice and a hearing,  
 1150 suspend or revoke any license upon a finding that:

1151 1. The licensee, either knowingly or without the exercise  
 1152 of due care, has violated this chapter ~~section~~ or has aided or  
 1153 conspired with another person to violate this chapter ~~section~~;

1154 2. A condition exists that, had it existed when the  
 1155 license was issued, would have justified the department's  
 1156 ~~agency's~~ refusal to issue a license;

1157 3. The licensee or its applicable agents or employees who  
 1158 are subject to the eligibility requirements no longer meet the  
 1159 eligibility requirements to hold a pawnbroker's license; or

1160 4. The licensee has through gross negligence or willful  
 1161 noncompliance failed to comply with a written hold order.

1162 (b) The department ~~agency~~ may conditionally license or  
 1163 place on probation a person whose license is ~~has been~~ suspended  
 1164 or may reprimand a licensee for a violation of this chapter  
 1165 ~~section~~.

1166 (c) The manner of giving notice and conducting a hearing,  
 1167 as required by paragraph (a), must conform to chapter 120.

1168 (d) Any licensee may surrender a license by delivering it,  
 1169 by certified or registered mail, return receipt requested, to  
 1170 the department ~~agency~~ with written notice of its surrender. The  
 1171 surrender of a license does not affect the civil or criminal  
 1172 liability of the licensee for acts committed before the  
 1173 surrender of the license.

1174 (e) The revocation, suspension, or surrender of a license  
 1175 does not impair or affect the obligation of any preexisting  
 1176 lawful contract between the licensee and any pledgor. Any pawn

1177 transaction made by a person without benefit of a license is  
 1178 voidable, in which case the person forfeits the right to collect  
 1179 any moneys, including principal and any charges, from the  
 1180 pledgor in connection with such transaction and is obligated to  
 1181 return to the pledgor the pledged goods in connection with such  
 1182 transaction.

1183 (f) The department ~~agency~~ may reinstate a suspended  
 1184 license or issue a new license to a person whose license has  
 1185 been revoked, if after a hearing it determines that no fact or  
 1186 condition then exists that would have justified the department  
 1187 ~~agency~~ in originally refusing to issue a license.

1188 (g) Each licensee must maintain a net worth of \$50,000 or  
 1189 the bond specified in s. 539.105(4) ~~subsection (4)~~.

1190 ~~(3)-(7) ORDERS IMPOSING PENALTIES.—~~

1191 (a) The department ~~agency~~ may enter an order imposing one  
 1192 or more of the penalties set forth in paragraph (b) if the  
 1193 department ~~agency~~ finds that a pawnbroker:

1194 1. Violated or is operating in violation of any of the  
 1195 provisions of this chapter ~~section~~ or of the rules adopted or  
 1196 orders issued under this chapter ~~thereunder~~;

1197 2. Made a material false statement in any application,  
 1198 document, or record required to be submitted or retained under  
 1199 this chapter ~~section~~;

1200 3. Refused or failed, or any of its principal officers has  
 1201 refused or failed, after notice, to produce any document or  
 1202 records or disclose any information required to be produced or  
 1203 disclosed under this chapter ~~section~~ or the rules adopted by ~~of~~  
 1204 the department ~~agency~~;

1205 4. Made a material false statement in response to any  
 1206 request or investigation by the department ~~agency~~, the  
 1207 Department of Legal Affairs, or the state attorney; or

1208 5. Has intentionally defrauded the public through  
 1209 dishonest or deceptive means.

1210 (b) Upon a finding as set forth in paragraph (a), the  
 1211 department ~~agency~~ may enter an order doing one or more of the  
 1212 following:

1213 1. Issuing a notice of noncompliance pursuant to s.  
 1214 120.695.

1215 2. Imposing an administrative fine not to exceed \$5,000  
 1216 for each act which constitutes a violation of this chapter  
 1217 ~~section~~ or a rule or an order.

1218 3. Directing that the pawnbroker cease and desist  
 1219 specified activities.

1220 4. Refusing to license or revoking or suspending a  
 1221 license.

1222 5. Placing the licensee on probation for a period of time,  
 1223 subject to such conditions as the department ~~agency~~ may specify.

1224 (c) The administrative proceedings which could result in  
 1225 the entry of an order imposing any of the penalties specified in  
 1226 paragraph (b) are governed by chapter 120.

1227 (d)1. When the department ~~agency~~, if a violation of this  
 1228 chapter ~~section~~ occurs, has reasonable cause to believe that a  
 1229 person is operating in violation of this chapter ~~section~~, the  
 1230 department ~~agency~~ may bring a civil action in the appropriate  
 1231 court for temporary or permanent injunctive relief and may seek  
 1232 other appropriate civil relief, including a civil penalty not to

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1233 exceed \$5,000 for each violation, restitution and damages for  
 1234 injured customers, court costs, and reasonable attorney's fees.

1235 2. The department ~~agency~~ may terminate any investigation  
 1236 or action upon agreement by the offender to pay a stipulated  
 1237 civil penalty, to make restitution or pay damages to customers,  
 1238 or to satisfy any other relief authorized herein and requested  
 1239 by the department ~~agency~~.

1240 (e) The remedies provided for in this subsection shall be  
 1241 in addition to any other remedy provided by law.

1242 539.125 Injunctions.—

1243 ~~(18) INJUNCTIONS.~~—When the department ~~agency~~ has  
 1244 reasonable cause to believe that a person is violating this  
 1245 chapter ~~section~~, the department ~~agency~~ may enter an order  
 1246 requiring the person to stop the violation. The department  
 1247 ~~agency~~ may petition the court to enjoin the person from engaging  
 1248 in the violation, continuing the violation, or doing any act in  
 1249 furtherance of the violation. The court may order a preliminary  
 1250 or permanent injunction.

1251 539.127 Criminal penalties.—

1252 ~~(17) CRIMINAL PENALTIES.~~—

1253 (1) ~~(a)~~ Any person who engages in business as a pawnbroker  
 1254 without first securing a license commits a felony of the third  
 1255 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1256 775.084.

1257 (2) ~~(b)~~ In addition to any other penalty, any person, who  
 1258 willfully violates this chapter ~~section~~ or who willfully makes a  
 1259 false entry in any record specifically required by this chapter  
 1260 ~~section~~ commits a misdemeanor of the first degree, punishable as

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1261 provided in s. 775.082 or s. 775.083. Clerical or recordkeeping  
 1262 errors, such as typographical errors or scrivener's errors,  
 1263 regarding any document or record required by this chapter are  
 1264 ~~section do not constitute a willful violation of this section,~~  
 1265 and are not subject to criminal penalties. Clerical or  
 1266 recordkeeping errors are subject to the administrative remedies,  
 1267 as provided in this chapter ~~act~~.

1268 539.131 Department of Law Enforcement; records.-

1269 ~~(19) RECORDS OF THE FLORIDA DEPARTMENT OF LAW~~  
 1270 ~~ENFORCEMENT.~~The Department of Law Enforcement, on request, must  
 1271 supply to the department ~~agency~~ any arrest and conviction  
 1272 records in its possession of an individual applying for or  
 1273 holding a license under this chapter ~~section~~.

1274 539.133 Local ordinances.-

1275 ~~(20) CONFLICTING ORDINANCES.~~Any county or municipality  
 1276 may enact ordinances that are in compliance with, but not more  
 1277 restrictive than this chapter ~~section~~, except that local  
 1278 ordinances shall not require the payment of any fee or tax  
 1279 related to a pawn transaction or purchase unless authorized  
 1280 under this chapter or restrict hours of operations other than  
 1281 between midnight and 6 a.m. Any ordinance that conflicts with  
 1282 this chapter ~~subsection~~ is void. This section does not affect  
 1283 the authority of a county or municipality to establish land use  
 1284 controls or require a pawnbroker to obtain a local occupational  
 1285 license.

1286 539.135 Rulemaking authority.-

1287 ~~(21) RULEMAKING AUTHORITY.~~The department ~~may~~ ~~agency~~ has  
 1288 ~~authority to~~ adopt rules pursuant to chapter 120 to administer

1289 ~~implement the provisions of this chapter section.~~

1290 Section 8. Section 539.109, Florida Statutes, is created  
1291 to read:

1292 539.109 Statewide central database of pawnbroker and  
1293 secondhand dealer transactions; oversight board.-

1294 (1) The department shall establish and administer a  
1295 statewide central database of pawnbroker and secondhand dealer  
1296 transactions that are electronically transferred under ss.  
1297 538.04 and 539.107.

1298 (2) (a) There is created within the department an oversight  
1299 board for the database. The board shall consist of eight  
1300 members, including:

1301 1. One member who is a licensed pawnbroker and one member  
1302 who is a registered secondhand dealer, each of whom shall be  
1303 appointed by the Commissioner of Agriculture.

1304 2. Two members appointed by the Florida Police Chiefs  
1305 Association, two members appointed by the Florida Sheriffs  
1306 Association, and two members appointed by Florida Law  
1307 Enforcement Property Recovery Unit, Inc., each of whom shall  
1308 serve ex officio as voting members of the board.

1309 (b) Members appointed by the commissioner shall be  
1310 appointed to terms of 4 years, except that, to establish  
1311 staggered terms, the commissioner may appoint initial members to  
1312 terms shorter than 4 years.

1313 (3) (a) The oversight board shall determine the required  
1314 elements, design, and infrastructure of the database. The  
1315 department shall contract for the creation and maintenance of

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1316 the database according to the required elements, design, and  
1317 infrastructure determined by the oversight board.

1318 (b) The database must be maintained on a computer server  
1319 that is housed or otherwise under the control of a law  
1320 enforcement agency.

1321 (c) A law enforcement agency or any agent thereof may not  
1322 be charged any fee to access or use the database.

1323 (d) An entity awarded a contract for the creation or  
1324 maintenance of the database must not have any financial or  
1325 operating interest in a pawnbroker or secondhand dealer in any  
1326 state.

1327 Section 9. This act shall take effect July 1, 2011.