

By Senator Bennett

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

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

47  
48 Be It Enacted by the Legislature of the State of Florida:

49  
50 Section 1. Subsection (1) of section 538.03, Florida  
51 Statutes, is amended to read:

52 538.03 Definitions; applicability.—

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

54 (a)~~(e)~~ "Acquire" means to obtain by purchase, consignment,  
55 or trade.

56 (b)~~(d)~~ "Consignment shop" means a shop engaging in the  
57 business of accepting for sale, on consignment, secondhand goods  
58 which, having once been used or transferred from the

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59 manufacturer to the dealer, are then received into the  
60 possession of a third party.

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

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

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

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

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

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

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

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

95        538.04 Recordkeeping requirements; penalties.—

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

113        (a) The time, date, and place of the transaction.

114        (b) A complete and accurate description of the goods  
115 acquired, including the following information, if applicable:

116        1. Brand name.

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- 117 2. Model number.
- 118 3. Manufacturer's serial number.
- 119 4. Size.
- 120 5. Color, as apparent to the untrained eye.
- 121 6. Precious metal type, weight, and content if known.
- 122 7. Gemstone description, including the number of stones, if
- 123 applicable.
- 124 8. In the case of firearms, the type of action, caliber or
- 125 gauge, number of barrels, barrel length, and finish.
- 126 9. Any other unique identifying marks, numbers, or letters.
- 127 10. A digital color photograph of the goods in the
- 128 condition acquired.

129 (c) A description of the person from whom the goods are

130 ~~were~~ acquired, including:

- 131 1. Full name, current residential address, workplace, and
- 132 home and work phone numbers.
- 133 2. Height, weight, date of birth, race, gender, hair color,
- 134 eye color, and any other identifying marks.
- 135 3. The right thumbprint, free of smudges and smears, of the
- 136 person from whom the goods are ~~were~~ acquired.
- 137 4. A digital color photograph of the person from whom the
- 138 goods are acquired. Such photograph must be a full-face, close-
- 139 up in which the person is not wearing a hat, sunglasses,
- 140 eyeglasses, or other article or item that obscures the person's
- 141 identity.

142 (d) Any other information required by the form approved by

143 the department ~~of Law Enforcement.~~

144 (6) ~~If the appropriate law enforcement agency supplies A~~

145 ~~secondhand dealer~~ must, by noon of each business day, with

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

169 (7) If the original transaction form is lost or destroyed  
170 by the appropriate law enforcement agency, a copy or electronic  
171 record of the transaction from the statewide central database  
172 may be used by the secondhand dealer as evidence in court. ~~When~~  
173 ~~an electronic image of a customer's identification is accepted~~  
174 ~~for a transaction, the secondhand dealer must maintain the~~

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175 ~~electronic image in order to meet the recordkeeping requirements~~  
176 ~~applicable to the original transaction form. If a criminal~~  
177 ~~investigation occurs, the secondhand dealer shall, upon request,~~  
178 ~~provide a clear and legible copy of the image to the appropriate~~  
179 ~~law enforcement agency.~~

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

182 538.05 Inspection of records and premises of secondhand  
183 dealers.—

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

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

190 538.06 Holding period.—

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

193 Section 5. Section 538.09, Florida Statutes, is amended to  
194 read:

195 538.09 Registration.—

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

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

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204 exceed the amount assessed per location according to the  
205 following schedule:

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

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

210 3. Three hundred dollars for each location that conducts  
211 100 or fewer transactions per month.

212  
213 The registration and renewal fees imposed under this paragraph  
214 may not exceed the actual costs of processing transactions and  
215 the department's related expenses of administering this part.

216 The department shall annually review the fees and, if necessary,  
217 adjust the amount of the fees. The department must notify  
218 registered secondhand dealers in writing at least 30 days before  
219 any fee adjustment.

220 (c) A fee equal to the federal and state costs for  
221 processing required fingerprints must be submitted to the  
222 department with each application for registration. One  
223 application is required for each dealer. If a secondhand dealer  
224 is the owner of more than one secondhand store location, the  
225 application must list each location, and the department shall  
226 issue a duplicate registration for each location. For purposes  
227 of subsections (4) and (5) of this section, these duplicate  
228 registrations are shall be deemed individual registrations. A  
229 dealer shall pay a fee of \$6 per location at the time of  
230 registration and an annual renewal fee of \$6 per location on  
231 October 1 of each year. All fees collected, less costs of  
232 administration, shall be transferred into the Operations Trust



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233 ~~Fund.~~

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

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

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

248 2.(a) If the applicant is a partnership, all the partners  
249 must apply.

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

254 4.(e) If the applicant is a corporation, the registration  
255 must include the name and address of such corporation's  
256 registered agent for service of process in the state and a  
257 certified copy of statement from the Secretary of State that the  
258 corporation is duly organized in the state or, if the  
259 corporation is organized in a state other than Florida, a  
260 certified copy of statement from the Secretary of State that the  
261 corporation is duly qualified to do business in this state. If

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262 the dealer has more than one location, the application must list  
263 each location owned by the same legal entity and the department  
264 shall issue a duplicate registration for each location.

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

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

279 (4) The department may impose a civil fine of up to \$10,000  
280 for each violation of this section, ~~which fine shall be~~  
281 ~~transferred into the General Revenue Fund~~. If the fine is not  
282 paid within 60 days, the department may bring a civil action  
283 under s. 120.69 to recover the fine.

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

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

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291 (b) Has made a material false statement in the application  
292 for registration;

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

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

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

303 (f) Has, within the preceding 10-year period for new  
304 registrants who apply for registration on or after October 1,  
305 2006, been convicted of, or has entered a plea of guilty or nolo  
306 contendere to, or had adjudication withheld for, a crime against  
307 the laws of this state or any other state or of the United  
308 States which relates to registration as a secondhand dealer or  
309 which involves theft, larceny, dealing in stolen property,  
310 receiving stolen property, burglary, embezzlement, obtaining  
311 property by false pretenses, possession of altered property, any  
312 felony drug offense, any violation of s. 812.015, or any  
313 fraudulent dealing;

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

317 (h) Has failed to pay any sales tax owed to the Department  
318 of Revenue.

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

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

331 Section 6. Section 538.11, Florida Statutes, is amended to  
332 read:

333 538.11 Powers and duties of department; rules.—The same  
334 duties and privileges imposed by chapter 539 212 upon  
335 pawnbrokers ~~dealers of tangible personal property~~ respecting the  
336 keeping of ~~books and records and accounts~~ and compliance with  
337 rules of the department shall apply to and be binding upon all  
338 persons who are subject to ~~the provisions of~~ this chapter. The  
339 department shall administer, collect, and enforce the  
340 registration authorized under this chapter pursuant to the same  
341 procedures used in the licensure administration, collection, and  
342 enforcement of pawnbrokers ~~the general state sales tax imposed~~  
343 under chapter 539 212, except as provided in this section. ~~The~~  
344 ~~provisions of chapter 212 regarding the keeping of records and~~  
345 ~~books shall apply.~~ The department is authorized to employ  
346 persons and incur other expenses for which funds are  
347 appropriated by the Legislature. The department is empowered to  
348 adopt such rules, and shall prescribe and publish such forms, as

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349 may be necessary to effectuate the purposes of this chapter. The  
 350 Legislature hereby finds that the failure to promptly implement  
 351 the provisions of this chapter would present an immediate threat  
 352 to the welfare of the state. Therefore, the ~~executive director~~  
 353 ~~of the~~ department is hereby authorized to adopt emergency rules  
 354 pursuant to s. 120.54(4), for purposes of implementing this  
 355 chapter. Notwithstanding any ~~other~~ provision of law, such  
 356 emergency rules shall remain effective for 6 months from the  
 357 date of adoption. Other rules of the department related to and  
 358 in furtherance of the orderly implementation of the chapter  
 359 shall not be subject to a rule challenge under s. 120.56(2) or a  
 360 drawout proceeding under s. 120.54(3)(c)2. but, once adopted,  
 361 shall be subject to an invalidity challenge under s. 120.56(3).  
 362 Such rules shall be adopted by the department ~~Governor and~~  
 363 ~~Cabinet~~ and shall become effective upon filing with the  
 364 Department of State, notwithstanding the provisions of s.  
 365 120.54(3)(e)6.

366 Section 7. Section 539.001, Florida Statutes, is amended to  
 367 read:

368 539.101 ~~539.001~~ Short title ~~The Florida Pawnbroking Act.-~~  
 369 ~~(1) SHORT TITLE.-~~ This chapter ~~section~~ may be cited as the  
 370 "Florida Pawnbroking Act."

371 539.103 Definitions.-  
 372 ~~(2) DEFINITIONS.-~~ As used in this chapter ~~section~~, the term:  
 373 (1)(r) "Amount financed" is used interchangeably to mean  
 374 the same as "amount of money advanced" or "principal amount".

375 (2)(b) "Appropriate law enforcement official" means the  
 376 sheriff of the county in which a pawnshop is located or, in case  
 377 of a pawnshop located within a municipality, the police chief of

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378 the municipality in which the pawnshop is located; however, any  
379 sheriff or police chief may designate as the appropriate law  
380 enforcement official for the county or municipality, as  
381 applicable, any law enforcement officer working within the  
382 county or municipality headed by that sheriff or police chief.  
383 ~~Nothing in~~ This subsection does not limit ~~limits~~ the power and  
384 responsibilities of the sheriff.

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

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

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

393 (6) ~~(s)~~ "Default date" means that date upon which the  
394 pledgor's right of redemption expires and absolute right, title,  
395 and interest in and to the pledged goods shall vest in and shall  
396 be deemed conveyed to the pawnbroker by operation of law.

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

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

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

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

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

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

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

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

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

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

434        (17)~~(m)~~ "Permitted vendor" means a vendor who furnishes a  
435 pawnbroker with an invoice specifying the vendor's name and

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436 address, the date of the sale, a description of the items sold,  
437 and the sales price, and who has an established place of  
438 business, or, in the case of a secondhand dealer as defined in  
439 s. 538.03, has represented in writing that such dealer has  
440 complied with all applicable recordkeeping, reporting, and  
441 retention requirements pertaining to goods sold or otherwise  
442 delivered to a pawnbroker.

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

446 (19)~~(o)~~ "Pledged goods" means tangible personal property  
447 that is deposited with, or otherwise delivered into the  
448 possession of a pawnbroker in connection with a pawn. "Pledged  
449 goods" does not include titles or any other form of written  
450 security in tangible property in lieu of actual physical  
451 possession, including, but not limited to, choses in action,  
452 securities, printed evidence of indebtedness, or certificates of  
453 title and other instruments evidencing title to separate items  
454 of property, including motor vehicles. For purposes of federal  
455 and state bankruptcy laws, a pledgor's interest in his or her  
456 pledged goods during the pendency of a pawn is a right of  
457 redemption only.

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

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



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465 539.105 Pawnbrokers; license required.-

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

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

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

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

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

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

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

493 (c) Five hundred dollars for each location that conducts

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494 150 or fewer transactions per month.

495

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

503 (3) (a) ~~(d)~~ The department ~~agency~~ may issue a temporary  
504 pawnbroker's license for the operation of a pawnshop either upon  
505 receipt of an application to transfer an existing license from  
506 one person to another or upon receipt of an application for a  
507 license involving principals and owners that are substantially  
508 identical to those of the existing licensee. The temporary  
509 license is effective until the permanent license is issued or  
510 denied by the department ~~agency~~.

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

521 (c) ~~(f)~~ Any person applying for or renewing a local  
522 occupational license to engage in business as a pawnbroker must

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523 exhibit a current license from the department ~~agency~~ before the  
524 local occupational license may be issued or reissued.

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

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

528 1. Be of good moral character;

529 2. Have a net worth of at least \$50,000 or file with the  
530 department ~~agency~~ a bond issued by a surety company qualified to  
531 do business in this state in the amount of \$10,000 for each  
532 license. In lieu of the bond required in this section, the  
533 applicant may establish a certificate of deposit or an  
534 irrevocable letter of credit in a Florida banking institution in  
535 the amount of the bond. The original bond, certificate of  
536 deposit, or letter of credit shall be filed with the department  
537 ~~agency~~, and the department ~~agency~~ shall be the beneficiary to  
538 said document. The bond, certificate of deposit, or letter of  
539 credit shall be in favor of the department ~~agency~~ for the use  
540 and benefit of any consumer who is injured by the fraud,  
541 misrepresentation, breach of contract, financial failure, or  
542 violation of ~~any provision of this chapter section~~ by the  
543 pawnbroker. Such liability may be enforced either by proceeding  
544 in an administrative action or by filing a judicial suit at law  
545 in a court of competent jurisdiction. However, in such court  
546 suit, the bond, certificate of deposit, or letter of credit  
547 posted with the department ~~agency~~ shall not be amenable or  
548 subject to any judgment or other legal process issuing out of or  
549 from such court in connection with such lawsuit, but such bond,  
550 certificate of deposit, or letter of credit shall be amenable to  
551 and enforceable only by and through administrative proceedings

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552 before the department ~~agency~~. It is the intent of the  
553 Legislature that such bond, certificate of deposit, or letter of  
554 credit shall be applicable and liable only for the payment of  
555 claims duly adjudicated by order of the department ~~agency~~. The  
556 bond, certificate of deposit, or letter of credit shall be  
557 payable on a pro rata basis as determined by the department  
558 ~~agency~~, but the aggregate amount may not exceed the amount of  
559 the bond, certificate of deposit, or letter of credit;

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

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

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581 as a result of having previously been convicted of, or found  
582 guilty of, or pled guilty or nolo contendere to, regardless of  
583 adjudication, a crime that involves theft, larceny, dealing in  
584 stolen property, receiving stolen property, burglary,  
585 embezzlement, obtaining property by false pretenses, possession  
586 of altered property, or any other fraudulent or dishonest  
587 dealing within the last 10 years.

588 (b) Any applicant claiming to have a net worth of \$50,000  
589 or more shall file with the department ~~agency~~, at the time of  
590 applying for a license, the following documentation:

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

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

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

597

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

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

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610 pawnshop and, if the applicant is a corporation, to each officer  
611 and director of the corporation.

612 (5) ~~APPLICATION FOR LICENSE.~~

613 (a) An application for a pawnbroker's license, for the  
614 transfer of an existing pawnbroker's license, or for the  
615 approval of a change in the ownership of a licensee's pawnshop  
616 must be under oath and must state the full name and place of  
617 residence of the applicant, the place where the business is to  
618 be conducted, and other relevant information required by the  
619 department ~~agency~~.

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

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

637 (c) Each initial application for a license must be  
638 accompanied by a complete set of fingerprints taken by an

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639 authorized law enforcement officer, \$300 for the first year's  
640 license fee, and the actual cost to the department ~~agency~~ for  
641 fingerprint analysis for each person subject to the eligibility  
642 requirements. The department ~~agency~~ shall submit the  
643 fingerprints to the Department of Law Enforcement for state  
644 processing, and the Department of Law Enforcement shall forward  
645 the fingerprints to the Federal Bureau of Investigation for a  
646 national criminal history check. These fees and costs are not  
647 refundable.

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

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

657 539.107 Pawnbroker transaction form; recordkeeping.-

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

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

664 (2) The department ~~agency~~ must approve the design and  
665 format of the pawnbroker transaction form, which must be 8 1/2  
666 inches x 11 inches in size and elicit the information required  
667 under this section. In completing the pawnbroker transaction

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668 form, the pawnbroker shall record the following information,  
669 which must be typed or written indelibly and legibly in English.

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

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

673 (b)2. A complete and accurate description of the pledged  
674 goods or purchased goods, including the following information,  
675 if applicable:

676 1.a. Brand name.

677 2.b. Model number.

678 3.c. Manufacturer's serial number.

679 4.d. Size.

680 5.e. Color, as apparent to the untrained eye.

681 6.f. Precious metal type, weight, and content, if known.

682 7.g. Gemstone description, including the number of stones.

683 8.h. In the case of firearms, the type of action, caliber  
684 or gauge, number of barrels, barrel length, and finish.

685 9.i. Any other unique identifying marks, numbers, names, or  
686 letters.

687 10. A digital color photograph of the pledged or purchased  
688 goods in the condition acquired.

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



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

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

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

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

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

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

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

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

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

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

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

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

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

728 a.(I) Any personal property pledged to a pawnbroker within  
729 this state which is not redeemed within 30 days following the  
730 maturity date of the pawn, if the 30th day is not a business  
731 day, then the following business day, is automatically forfeited  
732 to the pawnbroker, and absolute right, title, and interest in  
733 and to the property vests in and is deemed conveyed to the  
734 pawnbroker by operation of law, and no further notice is  
735 necessary;

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

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

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

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

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

753 (3) Any person who knowingly gives false verification of  
754 ownership or gives a false or altered identification and who

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755 receives money from a pawnbroker for goods sold or pledged  
756 commits:

757 (a)~~a.~~ If the value of the money received is less than \$300,  
758 a felony of the third degree, punishable as provided in s.  
759 775.082, s. 775.083, or s. 775.084.

760 (b)~~b.~~ If the value of the money received is \$300 or more, a  
761 felony of the second degree, punishable as provided in s.  
762 775.082, s. 775.083, or s. 775.084.

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

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

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

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

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784 ~~requirements as for the original transaction form. If a criminal~~  
785 ~~investigation occurs, the pawnbroker shall, upon request,~~  
786 ~~provide a clear and legible copy of the image to the appropriate~~  
787 ~~law enforcement official.~~

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

812 (8)(e) All goods delivered to a pawnbroker in a pawn or

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

828 539.111 Pledged goods not redeemed.—

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

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

841 ~~(13) RIGHT TO REDEEM; LOST PAWNBROKER TRANSACTION FORM.—~~

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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

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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 for  
890 and receive a pawn service charge. The interest component of the  
891 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  
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

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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  
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



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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) PAWBROKER'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

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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

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987 the service fees.

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

991 (a)~~1.~~ The claimant may recover from the pawnbroker the cost  
992 of the action, including the claimant's reasonable attorney's  
993 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 pay  
1003 all attorney's fees and taxable costs incurred by the pawnbroker  
1004 in defending a replevin action or any other civil matter wherein  
1005 it is found that the conveying customer violated ~~was in~~  
1006 ~~violation of~~ this subsection ~~paragraph~~.

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

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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

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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

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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

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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

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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 license  
1155 was issued, would have justified the department's ~~agency's~~  
1156 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



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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 license  
1184 or issue a new license to a person whose license has been  
1185 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)~~.

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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 dishonest  
1209 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 for  
1216 each act which constitutes a violation of this chapter ~~section~~  
1217 or a rule or an order.

1218 3. Directing that the pawnbroker cease and desist specified

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1219 activities.

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

1221 5. Placing the licensee on probation for a period of time,  
1222 subject to such conditions as the department ~~agency~~ may specify.

1223 (c) The administrative proceedings which could result in  
1224 the entry of an order imposing any of the penalties specified in  
1225 paragraph (b) are governed by chapter 120.

1226 (d)1. When the department ~~agency~~, if a violation of this  
1227 chapter ~~section~~ occurs, has reasonable cause to believe that a  
1228 person is operating in violation of this chapter ~~section~~, the  
1229 department ~~agency~~ may bring a civil action in the appropriate  
1230 court for temporary or permanent injunctive relief and may seek  
1231 other appropriate civil relief, including a civil penalty not to  
1232 exceed \$5,000 for each violation, restitution and damages for  
1233 injured customers, court costs, and reasonable attorney's fees.

1234 2. The department ~~agency~~ may terminate any investigation or  
1235 action upon agreement by the offender to pay a stipulated civil  
1236 penalty, to make restitution or pay damages to customers, or to  
1237 satisfy any other relief authorized herein and requested by the  
1238 department ~~agency~~.

1239 (e) The remedies provided for in this subsection shall be  
1240 in addition to any other remedy provided by law.

1241 539.125 Injunctions.—

1242 ~~(18) INJUNCTIONS.—~~When the department ~~agency~~ has reasonable  
1243 cause to believe that a person is violating this chapter  
1244 ~~section~~, the department ~~agency~~ may enter an order requiring the  
1245 person to stop the violation. The department ~~agency~~ may petition  
1246 the court to enjoin the person from engaging in the violation,  
1247 continuing the violation, or doing any act in furtherance of the

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1248 violation. The court may order a preliminary or permanent  
1249 injunction.

1250 539.127 Criminal penalties.—

1251 ~~(17) CRIMINAL PENALTIES.—~~

1252 (1) ~~(a)~~ Any person who engages in business as a pawnbroker  
1253 without first securing a license commits a felony of the third  
1254 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1255 775.084.

1256 (2) ~~(b)~~ In addition to any other penalty, any person, who  
1257 willfully violates this chapter section or who willfully makes a  
1258 false entry in any record specifically required by this chapter  
1259 ~~section~~ commits a misdemeanor of the first degree, punishable as  
1260 provided in s. 775.082 or s. 775.083. Clerical or recordkeeping  
1261 errors, such as typographical errors or scrivener's errors,  
1262 regarding any document or record required by this chapter are  
1263 ~~section do not constitute a willful violation of this section,~~  
1264 and are not subject to criminal penalties. Clerical or  
1265 recordkeeping errors are subject to the administrative remedies,  
1266 as provided in this chapter act.

1267 539.131 Department of Law Enforcement; records.—

1268 ~~(19) RECORDS OF THE FLORIDA DEPARTMENT OF LAW ENFORCEMENT.—~~

1269 The Department of Law Enforcement, on request, must supply to  
1270 the department agency any arrest and conviction records in its  
1271 possession of an individual applying for or holding a license  
1272 under this chapter section.

1273 539.133 Local ordinances.—

1274 ~~(20) CONFLICTING ORDINANCES.—~~Any county or municipality may  
1275 enact ordinances that are in compliance with, but not more  
1276 restrictive than this chapter section, except that local

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1277 ordinances shall not require the payment of any fee or tax  
1278 related to a pawn transaction or purchase unless authorized  
1279 under this chapter or restrict hours of operations other than  
1280 between midnight and 6 a.m. Any ordinance that conflicts with  
1281 this chapter subsection is void. This section does not affect  
1282 the authority of a county or municipality to establish land use  
1283 controls or require a pawnbroker to obtain a local occupational  
1284 license.

1285 539.135 Rulemaking authority.—

1286 ~~(21) RULEMAKING AUTHORITY.—~~The department may agency has  
1287 authority to adopt rules pursuant to chapter 120 to administer  
1288 implement the provisions of this chapter section.

1289 Section 8. Section 539.109, Florida Statutes, is created to  
1290 read:

1291 539.109 Statewide central database of pawnbroker and  
1292 secondhand dealer transactions; oversight board.—

1293 (1) The department shall establish and administer a  
1294 statewide central database of pawnbroker and secondhand dealer  
1295 transactions that are electronically transferred under ss.  
1296 538.04 and 539.107.

1297 (2) (a) There is created within the department an oversight  
1298 board for the database. The board shall consist of eight  
1299 members, including:

1300 1. One member who is a licensed pawnbroker and one member  
1301 who is a registered secondhand dealer, each of whom shall be  
1302 appointed by the Commissioner of Agriculture.

1303 2. Two members appointed by the Florida Police Chiefs  
1304 Association, two members appointed by the Florida Sheriffs  
1305 Association, and two members appointed by the Florida Law

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1306 Enforcement Property Recovery Unit, Inc., each of whom shall  
1307 serve ex officio as voting members of the board.

1308 (b) Members appointed by the commissioner shall be  
1309 appointed to terms of 4 years, except that, to establish  
1310 staggered terms, the commissioner may appoint initial members to  
1311 terms shorter than 4 years.

1312 (3) (a) The oversight board shall determine the required  
1313 elements, design, and infrastructure of the database. The  
1314 department shall contract for the creation and maintenance of  
1315 the database according to the required elements, design, and  
1316 infrastructure determined by the oversight board.

1317 (b) The database must be maintained on a computer server  
1318 that is housed or otherwise under the control of a law  
1319 enforcement agency.

1320 (c) A law enforcement agency or any agent thereof may not  
1321 be charged any fee to access or use the database.

1322 (d) An entity awarded a contract for the creation or  
1323 maintenance of the database must not have any financial or  
1324 operating interest in a pawnbroker or secondhand dealer in any  
1325 state.

1326 Section 9. This act shall take effect July 1, 2011.