

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Appropriations Committee on Criminal and Civil Justice

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BILL: SB 1792

INTRODUCER: Senator Yarborough

SUBJECT: Public Records/Pawnbroker Transactions

DATE: February 11, 2026

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>FP</u>	_____

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## I. Summary:

SB 1792, which is linked to SB 1582, creates a public records exemption for all records relating to pawnbroker transactions delivered to the Department of Law Enforcement. The exemption does not prohibit the Department of Law Enforcement from releasing the name and address of the pawnbroker, the name and address of the conveying customer, or a description of pawned property to the alleged owner of the pawn property.

The bill provides that this information is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

The exemption is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2031, unless reviewed and saved from repeal by the Legislature.

The bill contains a statement of public necessity, as required by the Florida Constitution.

The bill does not have a fiscal impact on state revenues or expenditures. See Section V., Fiscal Impact Statement.

The bill provides the effective date is the same date that SB 1582, or similar legislation, if adopted, takes effect. CS/SB 1582 provides an effective date of July 1, 2026.

## II. Present Situation:

### A Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> This applies to the official business

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<sup>1</sup> FLA. CONST., art. I, s. 24(a).

of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person who acts on behalf of the government.<sup>2</sup>

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.<sup>3</sup> Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.<sup>4</sup> The Public Records Act states that:

It is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.<sup>5</sup>

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted. Section 119.011(12), F.S., defines “public records” to include:

All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.<sup>6</sup>

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”<sup>7</sup>

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>8</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>9</sup>

The Public Records Act contains general exemptions that apply across agencies. Agency or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program. Only the Legislature may create an exemption to public records

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<sup>2</sup> *Id.*

<sup>3</sup> The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are primarily located in s. 11.0431(2)-(3), F.S.

<sup>4</sup> Public records laws are found throughout the Florida Statutes.

<sup>5</sup> Section 119.01(1), F.S.

<sup>6</sup> Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>7</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>8</sup> Section 119.07(1)(a), F.S.

<sup>9</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

requirements.<sup>10</sup> An exemption must be created by general law and must specifically state the public necessity which justifies the exemption.<sup>11</sup> Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill that enacts an exemption may not contain other substantive provisions<sup>12</sup> and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.<sup>13</sup>

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.<sup>14</sup> Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.<sup>15</sup> Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>16</sup>

### Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,<sup>17</sup> with specified exceptions.<sup>18</sup> The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.<sup>19</sup> In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>20</sup> An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption, and it meets one of the following purposes:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;<sup>21</sup>
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize

<sup>10</sup> FLA. CONST., art. I, s. 24(c).

<sup>11</sup> *Id.*

<sup>12</sup> The bill may, however, contain multiple exemptions that relate to one subject.

<sup>13</sup> FLA. CONST., art. I, s. 24(c).

<sup>14</sup> *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5<sup>th</sup> DCA 2004).

<sup>15</sup> *Id.*

<sup>16</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5<sup>th</sup> DCA 1991).

<sup>17</sup> An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

<sup>18</sup> Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

<sup>19</sup> Section 119.15(3), F.S.

<sup>20</sup> Section 119.15(6)(b), F.S.

<sup>21</sup> Section 119.15(6)(b)1., F.S.

the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>22</sup> or

- It protects information of a confidential nature concerning entities, such as trade or business secrets.<sup>23</sup>

The Act requires specified questions to be considered during the review process.<sup>24</sup> In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>25</sup> If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.<sup>26</sup>

### **Pawnbroker Transaction Forms**

When a pawnbroker enters into any pawn or purchase transaction, the pawnbroker must complete a pawnbroker transaction form, indicating whether the transaction is a pawn or a purchase. The pledgor<sup>27</sup> or seller must sign the completed form. The pawnbroker must record the following identifying information on the front of the form, which must be typed or written indelibly and legibly in English:

- The name and address of the pawnshop.
- A complete and accurate description of the pledged goods or purchased goods including certain identifying information.
- The name, address, home, telephone number, place of employment, date of birth, physical description, and right thumbprint of the pledgor or seller.
- The date and time of the transaction.
- The type of identification accepted from the pledgor or seller, including the issuing agency and the identification number.
- In the case of a pawn:
  - The amount of money advanced, which must be designated as the amount financed.
  - The maturity date of the pawn, which must be 30 days after the date of the pawn.

<sup>22</sup> Section 119.15(6)(b)2., F.S.

<sup>23</sup> Section 119.15(6)(b)3., F.S.

<sup>24</sup> Section 119.15(6)(a), F.S. The specific questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>25</sup> FLA. CONST. art. I, s. 24(c).

<sup>26</sup> Section 119.15(7), F.S.

<sup>27</sup> A "pledgor" is the person who delivers pledged goods into the possession of a pawnbroker in connection with a pawn. Section 539.001(2)(p), F.S.

- The default date of the pawn and the amount due on the default date.
- The total pawn service charge payable on the maturity date, which must be designated as the finance charge.
- The amount financed plus the finance charge that must be paid to redeem the pledged goods on the maturity date, which must be designated as the total of payments.
- The annual percentage rate.
- The front or back of the pawnbroker transaction form must include certain information specific to pawns.
- In the case of a purchase, the amount of money paid for the goods or the monetary value assigned to the goods in connection with the transaction.
- A statement that the pledgor or seller of the item represents and warrants that it is not stolen, that it has no liens or encumbrances against it, and that the pledgor or seller is the rightful owner of the goods and has the right to enter into the transaction.<sup>28</sup>

### **Pawnbroker Transaction Form Recordkeeping**

A pawnbroker must provide a pledgor or seller with a copy of a pawnbroker transaction form at the time of the pawn or sale.<sup>29</sup> Pawnbroker transaction forms must be kept on the pawnshop's premises for at least one year after the transaction's date.<sup>30</sup>

Before the end of each business day, a pawnbroker must deliver the original pawnbroker transaction forms to the appropriate official<sup>31</sup> for the local law enforcement agency for all of the transactions during the previous business day unless other arrangements have been agreed upon by the pawnbroker and the appropriate law enforcement agency.<sup>32</sup>

In lieu of physically delivering the original pawnbroker transaction forms, a local law enforcement agency may supply software to a pawnbroker so the pawnbroker may electronically transfer the transaction forms to the law enforcement agency. If a pawnbroker does not have a computer to use such software, the law enforcement agency may provide a computer to the pawnbroker.<sup>33</sup>

All records relating to pawnbroker transactions delivered to appropriate law enforcement officials pursuant to s. 539.001, F.S., are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. 1 of the State Constitution and may be used only for official law enforcement purposes. Law enforcement officials are not prohibited from disclosing the name and address of the pawnbroker, the name and address of the conveying customer, or a description of pawned property to the alleged owner of pawned property.<sup>34</sup>

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<sup>28</sup> Section 539.001(8)(b), F.S.

<sup>29</sup> Section 539.001(8), F.S.

<sup>30</sup> Section 539.001(9), F.S.

<sup>31</sup> The appropriate law enforcement official is the sheriff of the county in which a pawnshop is located or, in case of a pawnshop located within a municipality, the police chief of the municipality in which the pawnshop is located. Any sheriff or police chief may designate any law enforcement officer working within the county or municipality as the appropriate law enforcement official. Section 539.001(1)(b), F.S.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> Section 539.003, F.S.

### III. Effect of Proposed Changes:

CS/SB 1582 amends ss. 538.04, 538.19, 538.32, and 539.001, F.S., to require all secondhand dealers, secondary metals recyclers, mail-in secondhand precious metals dealers, and pawnbrokers to provide certain recordkeeping and transaction information to the Florida Department of Law Enforcement (FDLE) for the purpose of statewide data sharing.

**Section 1** of this bill provides that all records relating to pawnbroker transactions delivered to the Department of Law Enforcement are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The exemption does not prohibit the Department of Law Enforcement from releasing the name and address of the pawnbroker, the name and address of the conveying customer, or a description of pawned property to the alleged owner of the pawn property.

The exemption is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2031, unless reviewed and saved from repeal by the Legislature.

**Section 2** provides a public necessity statement, which is required by the Florida Constitution. The bill states that the public records exemption is necessary because the records contain sensitive personal identifying information from pawn transactions. Access to such sensitive information would expose pledgors and sellers to increased risks of identity theft.

**Section 3** provides that the bill takes effect on the same date that SB 1582 or similar legislation takes effect, if adopted in the same legislative session or an extension thereof and becomes a law. SB 1582 provides an effective date of July 1, 2026.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

##### **Vote Requirement**

Article I, section 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records or open meetings requirements. This bill creates a public records exemption; therefore, it requires a two-thirds vote.

**Public Necessity Statement**

Article I, section 24(a) of the State Constitution and Article I, section 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records or open meetings requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill includes a public necessity statement for the exemptions. The bill states that the public records exemption is necessary because the records contain sensitive personal identifying information from pawn transactions. Access to such sensitive information would expose pledgors and sellers to increased risks of identity theft.

**Breadth of Exemption**

Article I, section 24(c), of the State Constitution requires exemptions to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the bill is to protect the personal identifying information from pawn transactions. The exemption does not appear to be broader than necessary to accomplish its purpose.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 539.003 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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