

By Representative Levine

1 A bill to be entitled
2 An act relating to pawnbrokers; amending s.
3 539.001, F.S.; providing a penalty for
4 falsifying certain information; requiring
5 pawnbrokers to post certain notices; specifying
6 notice contents; requiring pawnbrokers to
7 provide copies of certain information to
8 certain persons; revising procedures related to
9 claims for misappropriated goods held by a
10 pawnbroker; providing a penalty for pawning
11 stolen property through a pawnbroker; removing
12 the prohibition against local governments
13 enacting ordinances that are more restrictive
14 than the provisions of general law or that
15 restrict the hours of operations of pawnshops;
16 providing an effective date.

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

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20 Section 1. Paragraph (e) is added to subsection (8),
21 paragraph (d) is added to subsection (9), and paragraph (c) is
22 added to subsection (17) of section 539.001, Florida Statutes,
23 and subsections (15) and (20) are amended, to read:

24

539.001 The Florida Pawnbroking Act.--

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(8) PAWNBROKER TRANSACTION FORM.--

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(e) Any person who falsifies any information required
27 to be provided on a pawn transaction form commits a felony of
28 the third degree, punishable as provided in s. 775.082, s.
29 775.083, or s. 775.084.

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

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1 (d) A pawnbroker shall post a written notice on the
2 premises of the pawnshop, in a location which is easily
3 visible to pawnshop patrons, explaining how and by which
4 entity pawnshops are regulated, the rights of pawnbrokers,
5 pledgors or sellers, and beneficial owners, and how the claims
6 process operates with respect to stolen items that are
7 recovered. A copy of such notice shall also be provided, at
8 the time a police report is made concerning a theft or
9 misappropriation of property, to any claimant or person whose
10 property has been stolen. A pawnbroker shall also post a
11 written notice of the prohibitions and penalties provided in
12 this section and provide each pledgor or seller with a copy of
13 such notice.

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

16 (a) To obtain possession of purchased or pledged goods
17 held by a pawnbroker which a claimant claims to be
18 misappropriated, the claimant must notify the pawnbroker by
19 certified mail, return receipt requested, or in person
20 evidenced by signed receipt, of the claimant's claim to the
21 purchased or pledged goods. The notice must contain a complete
22 and accurate description of the purchased or pledged goods and
23 must be accompanied by a legible copy of the applicable law
24 enforcement agency's report on the misappropriation of such
25 property. The claimant must provide a receipt that evidences
26 proof of purchase of the goods. Upon receipt of such proof,
27 the pawnbroker must immediately convey the misappropriated
28 goods to the claimant. If the claimant does not have a receipt
29 and ~~if~~ the claimant and the pawnbroker do not resolve the
30 matter within 10 days after the pawnbroker's receipt of the
31 notice, the claimant may petition the court to order the

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

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

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

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

29 3. ~~The conveying customer shall be responsible to pay~~
30 ~~all attorney's fees and taxable costs incurred by the~~
31 ~~pawnbroker in defending a replevin action or any other civil~~

1 ~~matter wherein it is found that the conveying customer was in~~
2 ~~violation of this paragraph.~~

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

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

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

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

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

23 (17) CRIMINAL PENALTIES.--

24 (c) Any person who pawns any property through a
25 pawnbroker and knows or has reason to know the property is
26 stolen commits a felony of the third degree, punishable as
27 provided in s. 775.082, s. 775.083, or s. 775.084.

28 (20) LOCAL REGULATION OF PAWNBROKERS ~~CONFLICTING~~
29 ~~ORDINANCES~~.--This chapter does not preclude local governments
30 from enacting ordinances that are more restrictive than the
31 provisions of this section.~~Any county or municipality may~~

1 ~~enact ordinances that are in compliance with, but not more~~
2 ~~restrictive than this section, except that local ordinances~~
3 ~~may not restrict hours of operations other than between~~
4 ~~midnight and 6 a.m. Any ordinance that conflicts with this~~
5 ~~subsection is void. Nothing in this section shall affect the~~
6 ~~authority of a county or municipality to establish land use~~
7 ~~controls or require a pawnbroker to obtain a local~~
8 ~~occupational license.~~

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

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HOUSE SUMMARY

Provides a penalty for falsifying information required on a pawn transaction form. Requires pawnbrokers to post notices and provide handouts describing how pawnshops are regulated, the rights of persons involved in pawn transactions, how the claims process operates with respect to stolen items that are recovered, and the prohibitions and penalties provided by law. Revises procedures for claims related to misappropriated goods that are held by pawnbrokers. Makes pawning stolen property through a pawnbroker a third degree felony. Removes the prohibitions against local governments enacting ordinances that are more restrictive than the provisions of general law or that restrict the hours of operations of pawnshops.