

28 **13-33-109**, Utah Code Annotated 1953

29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section **13-33-101** is enacted to read:

31 **CHAPTER 33. PAWNSHOP TRANSACTION INFORMATION ACT**

32 **13-33-101. Title.**

33 This chapter is known as the "Pawnshop Transaction Information Act."

34 Section 2. Section **13-33-102** is enacted to read:

35 **13-33-102. Definitions.**

36 As used in this chapter:

37 (1) "Local law enforcement agency" means a law enforcement agency within whose
38 jurisdiction the pawnshop is located.

39 (2) "Pawnbroker" means a person who:

40 (a) loans money on deposit of personal property, or deals in the purchase, exchange, or
41 possession of personal property on condition of selling the same property back again to the pledge
42 or depositor;

43 (b) loans or advances money on personal property by taking chattel mortgage security on
44 the property and takes or receives the personal property into his possession, and who sells the
45 unredeemed pledges; or

46 (c) receives personal property in exchange for money or in trade for other personal
47 property.

48 (3) "Register" means the record where information required under this chapter is
49 maintained by the pawnbroker. The register is either:

50 (a) a book or similar form of written record; or

51 (b) an electronic record in a format that is compatible with the local law enforcement
52 agencies' computers.

53 Section 3. Section **13-33-103** is enacted to read:

54 **13-33-103. Compliance with criminal code.**

55 Every pawnbroker shall, regarding each article a person pawns or purchases, comply with
56 the requirements of Subsections 76-6-408(2)(d)(i) through (iii) regarding the person's:

57 (1) legal right to the property;

58 (2) finger print; and

59 (3) picture identification.

60 Section 4. Section **13-33-104** is enacted to read:

61 **13-33-104. Register required to be maintained -- Contents.**

62 Every pawnbroker shall keep a register in which the pawnbroker or his employee shall
63 enter a description of every article pawned to him. The register entry for each article shall include:

64 (1) the date and time of the transaction;

65 (2) the pawn transaction ticket number;

66 (3) the date by which the article must be redeemed;

67 (4) the following information regarding the person who pawns the article:

68 (a) the person's name and date of birth;

69 (b) the person's physical description, including gender, height, weight, race, age, and hair

70 color, based on identification provided by the person, or the pawnbroker's good faith visual

71 assessment of the person, or both; and

72 (c) the driver license number or other form of positive identification issued by a
73 governmental entity and containing a numerical identifier and a photograph of the person;

74 (5) the amount loaned on or paid for the article, or the item for which it was traded;

75 (6) the identification of the pawnbroker or his employee making the register entry; and

76 (7) an accurate description of the article, including available identifying marks such as:

77 (a) names, numbers, serial numbers, model numbers, color, marks, monograms,

78 trademarks, and manufacturers' names;

79 (b) the metallic composition, and any jewels, stones, or glass;

80 (c) any other marks of identification or indicia of ownership on the item; and

81 (d) the weight of the item, if the payment is based on weight.

82 Section 5. Section **13-33-105** is enacted to read:

83 **13-33-105. Transaction information provided to law enforcement.**

84 (1) The information required to be recorded under Sections 13-33-103 and 13-33-104
85 regarding each transaction, and that is capable of being transmitted electronically, shall be
86 transmitted to the local law enforcement agency on the next business day following the transaction.

87 (2) The pawnbroker shall maintain all pawn tickets generated by the pawnshop and shall
88 make them available to local law enforcement agencies as required by local ordinance and as
89 requested by a law enforcement agency as part of an investigation.

90 Section 6. Section **13-33-106** is enacted to read:

91 **13-33-106. Deadline for registers to be electronic -- Notice for updating.**

92 (1) On or before January 1, 2002, each pawnbroker in the state that generates 50 or more
93 pawn transactions per month shall maintain the register in an electronic format that is compatible
94 with the computer systems of the local law enforcement agencies.

95 (2) On and after January 1, 2002, a pawnbroker shall pay to the local law enforcement
96 agency a fee of \$1 for each report required under Section 13-33-105 that is submitted as a written
97 report rather than electronically.

98 (3) The local law enforcement agency shall establish written procedures to ensure that
99 when the agency's computer system that receives the register is upgraded, the affected pawnbrokers
100 have adequate notice, information, and time to upgrade their computer systems so the systems are
101 compatible with the law enforcement agency computer system.

102 Section 7. Section **13-33-107** is enacted to read:

103 **13-33-107. Retention of records.**

104 (1) A pawnbroker shall retain the electronic transaction records required under this section
105 for not fewer than three years from the date of the transaction.

106 (2) The pawnbroker or law enforcement agency, whichever has custody of pawn tickets,
107 shall retain them for not fewer than three years from the date of the transaction.

108 Section 8. Section **13-33-108** is enacted to read:

109 **13-33-108. Holding period for pawned articles.**

110 (1) (a) The pawn broker shall hold all articles pawned or traded to him for not fewer than
111 30 days after the date of receipt of the article, except that the pawnbroker may within this time
112 period return an article to the person who pawned the item.

113 (b) This Subsection (1) does not preclude a law enforcement agency from requiring a
114 pawnbroker to hold an article longer than 30 days if necessary in the course of an investigation.

115 (2) If a law enforcement agency seizes an item or requires the pawnbroker to hold an item
116 as part of an investigation, the agency shall provide to the pawnbroker a hold ticket issued by the
117 agency, which:

118 (a) states the active case number;

119 (b) confirms the date of the hold request and the item to be held; and

120 (c) facilitates the pawnbroker's ability to track the item when the prosecution takes over

121 the case.

122 (3) A hold on an item under Subsection (2) takes precedence over any request to claim or
123 purchase the item subject to the hold.

124 (4) When the purpose for the hold on the item is terminated, the law enforcement agency
125 requiring the hold shall within 15 days of the termination:

126 (a) return the item subject to the hold to the pawnbroker; or

127 (b) if the item is not returned to the pawnbroker, advise the pawnbroker either in writing
128 or electronically of the specific alternative disposition of the item.

129 Section 9. Section **13-33-109** is enacted to read:

130 **13-33-109. Penalties.**

131 (1) A violation of any of the following sections is a class C misdemeanor:

132 (a) Section 13-33-103, compliance with criminal code;

133 (b) Section 13-33-104, register required to be maintained;

134 (c) Section 13-33-105, transaction information provided to law enforcement;

135 (d) Section 13-33-107, retention of records; or

136 (e) Section 13-33-108, holding period for pawned articles.

137 (2) This section does not prohibit civil action by a governmental entity regarding the
138 pawnbroker's business operation.

139 Section 10. Section **63-2-304** is amended to read:

140 **63-2-304. Protected records.**

141 The following records are protected if properly classified by a governmental entity:

142 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has
143 provided the governmental entity with the information specified in Section 63-2-308;

144 (2) commercial information or nonindividual financial information obtained from a person
145 if:

146 (a) disclosure of the information could reasonably be expected to result in unfair
147 competitive injury to the person submitting the information or would impair the ability of the
148 governmental entity to obtain necessary information in the future;

149 (b) the person submitting the information has a greater interest in prohibiting access than
150 the public in obtaining access; and

151 (c) the person submitting the information has provided the governmental entity with the

152 information specified in Section 63-2-308;

153 (3) commercial or financial information acquired or prepared by a governmental entity to
154 the extent that disclosure would lead to financial speculations in currencies, securities, or
155 commodities that will interfere with a planned transaction by the governmental entity or cause
156 substantial financial injury to the governmental entity or state economy;

157 (4) records the disclosure of which could cause commercial injury to, or confer a
158 competitive advantage upon a potential or actual competitor of, a commercial project entity as
159 defined in Subsection 11-13-3(3);

160 (5) test questions and answers to be used in future license, certification, registration,
161 employment, or academic examinations;

162 (6) records the disclosure of which would impair governmental procurement proceedings
163 or give an unfair advantage to any person proposing to enter into a contract or agreement with a
164 governmental entity, except that this subsection does not restrict the right of a person to see bids
165 submitted to or by a governmental entity after bidding has closed;

166 (7) records that would identify real property or the appraisal or estimated value of real or
167 personal property, including intellectual property, under consideration for public acquisition before
168 any rights to the property are acquired unless:

169 (a) public interest in obtaining access to the information outweighs the governmental
170 entity's need to acquire the property on the best terms possible;

171 (b) the information has already been disclosed to persons not employed by or under a duty
172 of confidentiality to the entity;

173 (c) in the case of records that would identify property, potential sellers of the described
174 property have already learned of the governmental entity's plans to acquire the property; or

175 (d) in the case of records that would identify the appraisal or estimated value of property,
176 the potential sellers have already learned of the governmental entity's estimated value of the
177 property;

178 (8) records prepared in contemplation of sale, exchange, lease, rental, or other
179 compensated transaction of real or personal property including intellectual property, which, if
180 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of
181 the subject property, unless:

182 (a) the public interest in access outweighs the interests in restricting access, including the

- 183 governmental entity's interest in maximizing the financial benefit of the transaction; or
- 184 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the
- 185 value of the subject property have already been disclosed to persons not employed by or under a
- 186 duty of confidentiality to the entity;
- 187 (9) records created or maintained for civil, criminal, or administrative enforcement
- 188 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
- 189 release of the records:
- 190 (a) reasonably could be expected to interfere with investigations undertaken for
- 191 enforcement, discipline, licensing, certification, or registration purposes;
- 192 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
- 193 proceedings;
- 194 (c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;
- 195 (d) reasonably could be expected to disclose the identity of a source who is not generally
- 196 known outside of government and, in the case of a record compiled in the course of an
- 197 investigation, disclose information furnished by a source not generally known outside of
- 198 government if disclosure would compromise the source; or
- 199 (e) reasonably could be expected to disclose investigative or audit techniques, procedures,
- 200 policies, or orders not generally known outside of government if disclosure would interfere with
- 201 enforcement or audit efforts;
- 202 (10) records the disclosure of which would jeopardize the life or safety of an individual;
- 203 (11) records the disclosure of which would jeopardize the security of governmental
- 204 property, governmental programs, or governmental recordkeeping systems from damage, theft, or
- 205 other appropriation or use contrary to law or public policy;
- 206 (12) records that, if disclosed, would jeopardize the security or safety of a correctional
- 207 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
- 208 with the control and supervision of an offender's incarceration, treatment, probation, or parole;
- 209 (13) records that, if disclosed, would reveal recommendations made to the Board of
- 210 Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board
- 211 of Pardons and Parole, or the Department of Human Services that are based on the employee's or
- 212 contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;
- 213 (14) records and audit workpapers that identify audit, collection, and operational

214 procedures and methods used by the State Tax Commission, if disclosure would interfere with
215 audits or collections;

216 (15) records of a governmental audit agency relating to an ongoing or planned audit until
217 the final audit is released;

218 (16) records prepared by or on behalf of a governmental entity solely in anticipation of
219 litigation that are not available under the rules of discovery;

220 (17) records disclosing an attorney's work product, including the mental impressions or
221 legal theories of an attorney or other representative of a governmental entity concerning litigation;

222 (18) records of communications between a governmental entity and an attorney
223 representing, retained, or employed by the governmental entity if the communications would be
224 privileged as provided in Section 78-24-8;

225 (19) personal files of a legislator, including personal correspondence to or from a member
226 of the Legislature, but not correspondence that gives notice of legislative action or policy;

227 (20) (a) records in the custody or control of the Office of Legislative Research and General
228 Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or
229 contemplated course of action before the legislator has elected to support the legislation or course
230 of action, or made the legislation or course of action public; and

231 (b) for purposes of this Subsection (20)(b), a "Request For Legislation" submitted to the
232 Office of Legislative Research and General Counsel is a public document unless a legislator
233 submits the "Request For Legislation" with a request that it be maintained as a protected record
234 until such time as the legislator elects to make the legislation or course of action public;

235 (21) research requests from legislators to the Office of Legislative Research and General
236 Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response
237 to these requests;

238 (22) drafts, unless otherwise classified as public;

239 (23) records concerning a governmental entity's strategy about collective bargaining or
240 pending litigation;

241 (24) records of investigations of loss occurrences and analyses of loss occurrences that
242 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured
243 Employers' Fund, or similar divisions in other governmental entities;

244 (25) records, other than personnel evaluations, that contain a personal recommendation

245 concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal
246 privacy, or disclosure is not in the public interest;

247 (26) records that reveal the location of historic, prehistoric, paleontological, or biological
248 resources that if known would jeopardize the security of those resources or of valuable historic,
249 scientific, educational, or cultural information;

250 (27) records of independent state agencies if the disclosure of the records would conflict
251 with the fiduciary obligations of the agency;

252 (28) records of a public institution of higher education regarding tenure evaluations,
253 appointments, applications for admissions, retention decisions, and promotions, which could be
254 properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public
255 Meetings, provided that records of the final decisions about tenure, appointments, retention,
256 promotions, or those students admitted, may not be classified as protected under this section;

257 (29) records of the governor's office, including budget recommendations, legislative
258 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
259 policies or contemplated courses of action before the governor has implemented or rejected those
260 policies or courses of action or made them public;

261 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
262 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
263 recommendations in these areas;

264 (31) records provided by the United States or by a government entity outside the state that
265 are given to the governmental entity with a requirement that they be managed as protected records
266 if the providing entity certifies that the record would not be subject to public disclosure if retained
267 by it;

268 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body
269 except as provided in Section 52-4-7;

270 (33) records that would reveal the contents of settlement negotiations but not including
271 final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

272 (34) memoranda prepared by staff and used in the decision-making process by an
273 administrative law judge, a member of the Board of Pardons and Parole, or a member of any other
274 body charged by law with performing a quasi-judicial function;

275 (35) records that would reveal negotiations regarding assistance or incentives offered by

276 or requested from a governmental entity for the purpose of encouraging a person to expand or
277 locate a business in Utah, but only if disclosure would result in actual economic harm to the person
278 or place the governmental entity at a competitive disadvantage, but this section may not be used
279 to restrict access to a record evidencing a final contract;

280 (36) materials to which access must be limited for purposes of securing or maintaining the
281 governmental entity's proprietary protection of intellectual property rights including patents,
282 copyrights, and trade secrets;

283 (37) the name of a donor or a prospective donor to a governmental entity, including a
284 public institution of higher education, and other information concerning the donation that could
285 reasonably be expected to reveal the identity of the donor, provided that:

286 (a) the donor requests anonymity in writing;

287 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
288 classified protected by the governmental entity under this Subsection (37); and

289 (c) except for public institutions of higher education, the governmental unit to which the
290 donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no
291 regulatory or legislative authority over the donor, a member of his immediate family, or any entity
292 owned or controlled by the donor or his immediate family;

293 (38) accident reports, except as provided in Sections 41-6-40, 41-12a-202, and 73-18-13;

294 (39) a notification of workers' compensation insurance coverage described in Section
295 34A-2-205; ~~and~~

296 (40) the following records of a public institution of education, which have been developed,
297 discovered, or received by or on behalf of faculty, staff, employees, or students of the institution:
298 unpublished lecture notes, unpublished research notes and data, unpublished manuscripts, creative
299 works in process, scholarly correspondence, and confidential information contained in research
300 proposals. Nothing in this Subsection (40) shall be construed to affect the ownership of a
301 record[-]; ~~and~~

302 (41) records provided by any pawnbroker to a law enforcement agency in compliance with
303 Title 13, Chapter 33, Pawnshop Transaction Information Act.

304 Section 11. Section **76-6-408** is amended to read:

305 **76-6-408. Receiving stolen property -- Duties of pawnbrokers.**

306 (1) A person commits theft if he receives, retains, or disposes of the property of another

307 knowing that it has been stolen, or believing that it probably has been stolen, or who conceals,
308 sells, withholds, or aids in concealing, selling, or withholding the property from the owner,
309 knowing the property to be stolen, and intending to deprive the owner of it.

310 (2) The knowledge or belief required for Subsection (1) is presumed in the case of an actor
311 who:

312 (a) is found in possession or control of other property stolen on a separate occasion;

313 (b) has received other stolen property within the year preceding the receiving offense
314 charged;

315 (c) being a dealer in property of the sort received, retained, or disposed, acquires it for a
316 consideration which he knows is far below its reasonable value; or

317 (d) [~~if the value given for the property exceeds \$20,~~] is a pawnbroker or person who has
318 or operates a business dealing in or collecting used or secondhand merchandise or personal
319 property, or an agent, employee, or representative of a pawnbroker or person who buys, receives,
320 or obtains property and fails to require the seller or person delivering the property to:

321 (i) certify, in writing, that he has the legal rights to sell the property;

322 (ii) provide a legible print, preferably the right thumb, at the bottom of the certificate next
323 to his signature; and

324 (iii) provide at least one [~~other~~] positive form of [~~picture~~] identification issued by a
325 governmental entity and containing both a numerical identifier and a photograph of the person.

326 (3) Every pawnbroker or person who has or operates a business dealing in or collecting
327 used or secondhand merchandise or personal property, and every agent, employee, or
328 representative of a pawnbroker or person who fails to comply with the requirements of Subsection
329 (2)(d) [~~shall be~~] is presumed to have bought, received, or obtained the property knowing it to have
330 been stolen or unlawfully obtained. This presumption may be rebutted by proof.

331 (4) When, in a prosecution under this section, it appears from the evidence that the
332 defendant was a pawnbroker or a person who has or operates a business dealing in or collecting
333 used or secondhand merchandise or personal property, or was an agent, employee, or representative
334 of a pawnbroker or person, that the defendant bought, received, concealed, or withheld the property
335 without obtaining the information required in Subsection (2)(d), then the burden [~~shall be~~] is upon
336 the defendant to show that the property bought, received, or obtained was not stolen.

337 (5) Subsections (2)(d), (3), and (4) do not apply to scrap metal processors as defined in

338 Section 76-10-901.

339 (6) As used in this section:

340 [~~(b)~~] (a) "Dealer" means a person in the business of buying or selling goods.

341 (b) "Pawnbroker" means a person who:

342 (i) loans money on deposit of personal property, or deals in the purchase, exchange, or
343 possession of personal property on condition of selling the same property back again to the pledge
344 or depositor;

345 (ii) loans or advances money on personal property by taking chattel mortgage security on
346 the property and takes or receives the personal property into his possession, and who sells the
347 unredeemed pledges; or

348 (iii) receives personal property in exchange for money or in trade for other personal
349 property.

350 [~~(a)~~] (c) "Receives" means acquiring possession, control, or title or lending on the security
351 of the property[;].

Legislative Review Note
as of 1-5-01 9:30 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel