

**Representative Joseph G. Murray** proposes to substitute the following bill:

**REGULATION OF PAWN SHOPS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Joseph G. Murray**

**This act modifies provisions related to pawnshops to enact the Utah Pawnbroking Act and make conforming amendments. This act grants authority to the Commissioner of the Department of Financial institutions to license pawnshops and prohibits pawnshops from operating without a license. This act regulates pawn transactions and imposes recordkeeping and reporting requirements on pawnbrokers. This act establishes penalties for a pawnbroker's failure to comply with the requirements of this act. This act provides for the creation of an electronic database of pawnshop transactions accessible by law enforcement officials over the Internet. This act establishes a procedure for persons to recover property that has been stolen and that is in the possession of a pawnbroker. This act amends existing statutes dealing with pawnbrokers to be consistent with this act. This act takes effect upon approval.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**11-6-1**, Utah Code Annotated 1953

**63-2-304**, as last amended by Chapters 232 and 335, Laws of Utah 2000

**76-6-408**, as last amended by Chapter 102, Laws of Utah 1993

ENACTS:

**7-24-101**, Utah Code Annotated 1953

**7-24-102**, Utah Code Annotated 1953

**7-24-103**, Utah Code Annotated 1953

**7-24-104**, Utah Code Annotated 1953





57 (2) "Commissioner" means the Commissioner of the Department of Financial Institutions.

58 (3) "Database" or "pawn transaction database" means the computer database established  
59 and maintained pursuant to this section.

60 (4) "Department" means the Department of Financial Institutions created in Section  
61 7-1-201.

62 (5) "Finance charge" means a service charge which, in addition to the amount financed,  
63 must be paid by a pledgor to redeem the pledged property.

64 (6) "Identification" means a form of positive identification issued by a governmental entity  
65 containing a numerical identifier and a photograph of the person identified.

66 (7) "Local law enforcement official" means the sheriff of the county in which a pawnshop  
67 is located or, if the pawnshop is located within a municipality, the police chief of that municipality,  
68 or the designee of the sheriff or police chief.

69 (8) "Look-up" means accessing a single database record.

70 (9) "Misappropriated" means stolen, embezzled, converted, or otherwise wrongfully  
71 appropriated against the will of the rightful owner.

72 (10) "Month" means that period of time from one date in a calendar month to the  
73 corresponding date in the following calendar month, but if there is no corresponding date, then the  
74 last day of the following month.

75 (11) "Net worth" means total assets minus total liabilities.

76 (12) "Pawnbroker" means a person with an established place of business who:

77 (a) advances funds on the security of pledged tangible personal property;

78 (b) purchases tangible personal property on the condition of selling the property back at  
79 a fixed priced within a fixed period of time;

80 (c) publicly displays a sign at the place of business denoting a "pawnbroker" or  
81 "pawnshop;" or

82 (d) publicly displays a sign, symbol, or other advertisement indicating that funds are  
83 available to be advanced on pledged tangible personal property.

84 (13) "Pawnshop" means the location or premises where a pawnbroker conducts business.

85 (14) "Pawn ticket" means a document upon which information regarding a pawn  
86 transaction is entered when the pawn transaction is made.

87 (15) (a) "Pawn transaction" means an advance of funds on the security of pledged tangible

88 personal property or a purchase of tangible personal property on condition that the tangible  
89 personal property is left in the possession of a pawnbroker and may be redeemed or repurchased  
90 for a fixed price within a fixed period of time.

91 (b) The following are considered a single item and must be included in the same  
92 transaction:

93 (i) items usually sold as a set; and

94 (ii) a pledged item together with items that are accessories to the pledged item.

95 (c) A separate pawn transaction retains its separate character when it is renewed, unless  
96 the parties agree otherwise.

97 (d) For purposes of all state and federal bankruptcy laws, a pledgor's interest in pledged  
98 property during the pendency of a pawn transaction is considered to be that of a right of  
99 redemption only.

100 (16) "Permitted vendor" means a vendor who has an established place of business and who  
101 when selling items to the pawnbroker furnishes a pawnbroker with an invoice specifying the  
102 vendor's name and address, the date of the sale, a description of the items sold, and the sale price.

103 (17) "Person" means an individual, partnership, corporation, joint venture, limited liability  
104 company, trust, association, or other legal entity.

105 (18) "Pledged property" means tangible personal property purchased by, deposited with,  
106 or otherwise delivered into the possession of, a pawnbroker in connection with a pawn transaction.

107 (19) "Pledgor" means an individual who delivers tangible personal property to a  
108 pawnbroker as security for an advance of funds or who sells tangible personal property to a  
109 pawnbroker, and who may redeem or repurchase the property at a fixed price within a fixed period  
110 of time by agreement with the pawnbroker.

111 (20) "Property" means tangible personal property.

112 (21) "Purchased property" means used or secondhand tangible personal property purchased  
113 by a pawnbroker in connection with a purchase transaction.

114 (22) "Purchase transaction" means a purchase of used or secondhand tangible personal  
115 property by a pawnbroker, other than in connection with a pawn transaction.

116 (23) "Reportable data" means the information required to be recorded by pawnbrokers for  
117 pawn transactions under Subsections 7-24-107(2), 7-24-107(3)(a), and 7-24-107(4), and the  
118 information required to be recorded by pawnbrokers for purchase transactions under Subsections

119 7-24-108(1) through (4).

120 (24) "Securities Exchange Act" means the federal Securities Exchange Act of 1934, as  
121 amended, or its comparable successor statute.

122 (25) "Tangible personal property" excludes:

123 (a) choses in action;

124 (b) securities;

125 (c) printed evidences of indebtedness; and

126 (d) instruments evidencing title, including certificates of title, to separate items of property,  
127 including motor vehicles.

128 (26) "User" means a person who accesses the database.

129 Section 3. Section **7-24-103** is enacted to read:

130 **7-24-103. License Required -- Application -- Annual report -- Change of ownership.**

131 (1) A person may not engage in business as a pawnbroker without a valid pawnshop  
132 license issued by the department. A separate license is required for each pawnshop. The  
133 department may issue more than one license to a person.

134 (2) If a licensee wishes to move the location of a pawnshop, the licensee shall give 30 days'  
135 written notice to the department and the local law enforcement official. The department shall  
136 amend the pawnshop license to reflect the change of location.

137 (3) A pawnshop license is effective until it expires or is relinquished, suspended, or  
138 revoked by the department under Section 7-24-106.

139 (4) Each licensee shall file with the department annually, on or before a date established  
140 by department rule, a report for each licensed pawnshop operated by the licensee within the state.  
141 The report shall provide the following information for the preceding calendar year:

142 (a) total number of pawn transactions;

143 (b) total amount financed in pawn transactions;

144 (c) total number of pawn transactions forfeited;

145 (d) total number of pawn transactions redeemed;

146 (e) total number of pawn transactions for which pledged property was surrendered to law  
147 enforcement agencies or other parties claiming ownership; and

148 (f) total number of employees, both full-time and part-time, as of the reporting date.

149 (5) The report under Subsection (4) shall be in the form prescribed by department rule.

150 (6) The department shall make and publish annually a consolidated analysis and  
151 recapitulation of all reports required under this section, but the individual reports are protected  
152 records under Section 63-2-304.

153 (7) (a) A licensee shall pay , for each pawnshop operated by the licensee , a license fee of  
154 \$250 to the department annually on or before each December 1st for the following calendar year.

155 (b) If the license fee is not timely paid under Subsection (7)(a), the department shall mail  
156 a notice of delinquency to the licensee.

157 (c) If the fee remains unpaid 30 days after written notice of delinquency has been mailed,  
158 the license expires.

159 (8) (a) The department may issue a temporary license authorizing the operation of a  
160 pawnshop upon receipt of an application to transfer a license from one person to another or upon  
161 receipt of an application for a license involving principals and owners who are substantially  
162 identical to those of an existing licensed pawnshop.

163 (b) The temporary license is effective until the permanent license is issued or denied by  
164 the department.

165 (9) If the ownership of a pawnshop changes, directly or beneficially, the new owner shall  
166 apply to the department for a new license or transfer of an existing license, except if:

167 (a) the current licensee is a business entity; and

168 (b) the persons holding greater than 50% of the equity ownership interest of the entity  
169 before the change in ownership continue to hold greater than 50% of the equity ownership interest  
170 after the change in ownership.

171 Section 4. Section **7-24-104** is enacted to read:

172 **7-24-104. Eligibility for license.**

173 (1) To be eligible for a pawnshop license, an applicant shall:

174 (a) be of good moral character;

175 (b) demonstrate to the department that the pawnshop will be operated in compliance with  
176 this chapter and any other applicable state laws;

177 (c) have a net worth of at least \$100,000 or file a bond with the department in the amount  
178 of \$100,000 that meets the requirements, other than amount, under Subsection 7-24-105(4);

179 (d) (i) not have been convicted of a felony; and

180 (ii) not be acting as a beneficial owner for a person convicted of a felony;

181 (e) (i) not have been convicted of a class A misdemeanor within the previous ten years;  
182 and

183 (ii) not be acting as a beneficial owner for a person who has been convicted of a class A  
184 misdemeanor within the previous ten years; and

185 (f) own a computer system capable of transmitting reportable data in accordance with the  
186 requirements of Section 7-24-111.

187 (2) The department may require verification that the applicant meets the net worth  
188 requirement under Subsection (1), including:

189 (a) presentation of a current balance sheet by an accounting firm or an individual holding  
190 a permit to practice public accounting in this state; and

191 (b) a written statement that the accountant has reviewed the books and records of the  
192 applicant and that the applicant meets the net worth requirement.

193 (3) If an applicant for a pawnshop license is a business entity, the eligibility requirements  
194 of this section apply to:

195 (a) each operator and each legal or beneficial owner of the entity; and

196 (b) each officer, director, and direct or beneficial owner of 10% or greater of the  
197 outstanding shares of the corporation's capital stock, if the entity is a corporation.

198 Section 5. Section **7-24-105** is enacted to read:

199 **7-24-105. Application for license -- Bond.**

200 (1) An application for a new pawnshop license, the transfer of an existing pawnshop  
201 license, or the approval of a change in the ownership of a licensed pawnshop shall be made to the  
202 department in writing and under oath, and shall state the full name and place of residence of the  
203 applicant, the place where the business is to be conducted, and other relevant information as  
204 required by department rule, and if the applicant:

205 (a) is a partnership, the application shall state the full name and address of each partner;

206 or

207 (b) is a corporation, the application shall state the full name and address of each director  
208 and officer.

209 (2) If the applicant is a corporation, the application shall also state the full name and  
210 address of each shareholder, unless:

211 (a) the applicant is owned directly or beneficially by a person who, as an issuer, has a class

212 of securities registered pursuant to Section 12(g) of the Securities Exchange Act or who, pursuant  
213 to Section 15(d) of the Securities Exchange Act, is required as an issuer of securities to file  
214 information, documents, and reports with the Securities and Exchange Commission; and

215 (b) the person referred to in Subsection (2)(a) files with the department the information,  
216 documents, and reports required by the Securities Exchange Act to be filed with the Securities  
217 Exchange Commission.

218 (3) (a) The applicant shall file the completed application with the department with an  
219 application fee as provided under Subsection (3)(b).

220 (b) (i) If the applicant does not possess a current pawnshop license when the application  
221 is filed, the application shall be accompanied by an application fee of \$1,000.

222 (ii) If the application is for a second or additional license for a currently licensed applicant  
223 or involves substantially identical owners of a separate currently licensed pawnshop, the  
224 application shall be accompanied by an application fee of \$500.

225 (4) (a) With the application, an applicant for a pawnshop license shall file for each license  
226 sought a bond in the amount of \$5,000 with a surety company qualified to do business in Utah.

227 (b) The bond shall run to the state for its use and to a person who may have a cause of  
228 action against the obligor of the bond under this chapter.

229 (c) The bond shall require the obligor to comply with this chapter and to pay to the state  
230 and to a person bringing a cause of action against the obligor all amounts of money that may  
231 become due or owing to the state or to the person from the obligor under this chapter while the  
232 bond is in effect.

233 (d) The aggregate liability of the surety is not required to exceed the amount stated in the  
234 bond.

235 (5) (a) When the department receives an application and the required fees and bond, the  
236 department shall investigate the accuracy of the information provided in the application as required  
237 by this chapter and determine if the application is complete .

238 (b) If the department finds that the eligibility requirements for the license are satisfied, the  
239 department shall approve the application and issue to the applicant a license to operate as a  
240 pawnshop under this section.

241 (c) If the department finds the licensure requirements of this chapter are not met, the  
242 department shall notify the applicant in writing.



243 (d) The department shall grant or deny each application for a license within 60 days from  
244 its filing with the required fees and bond, unless the period is extended by written agreement  
245 between the applicant and the department.

246 (e) The applicant is entitled to a hearing on the department's finding under Title 63,  
247 Chapter 46b, Administrative Procedures Act. The hearing application shall be filed with the  
248 department within 30 days after receipt of notice of the finding. The applicant is entitled to a  
249 hearing within 60 days of filing the application for a hearing.

250 Section 6. Section **7-24-106** is enacted to read:

251 **7-24-106. Suspension or revocation of license -- Net worth requirement.**

252 (1) The department may, after notice and hearing in accordance with Title 63, Chapter 46b,  
253 Administrative Procedures Act , suspend or revoke a license upon a finding that:

254 (a) The licensee, either knowingly or negligently, has violated this chapter;

255 (b) a fact or condition exists regarding the pawnbroking business or the licensee which,  
256 if it had existed or had been known to exist when the original application for a license was filed,  
257 would have been cause for the department to deny a license under this chapter;

258 (c) the licensee has aided, abetted, or conspired with another to circumvent or violate the  
259 requirements of this chapter; or

260 (d) the licensee or a legal or beneficial owner of the licensee has been convicted of a crime  
261 that the department finds directly relates to the duties and responsibilities of the occupation of a  
262 pawnbroker.

263 (2) The department may conditionally license or place on probation a person whose license  
264 has been suspended or may reprimand a licensee for a violation of this chapter. The department  
265 may make rules to regarding taking action under this Subsection (2).

266 (3) A licensee may surrender a license by delivering it to the department with written  
267 notice of its surrender. However, a surrender of a license does not affect the civil or criminal  
268 liability of the licensee for acts committed prior to the surrender.

269 (4) (a) The revocation, suspension, or surrender of a license does not affect the obligation  
270 of a pre-existing lawful contract between the licensee and a pledgor.

271 (b) A pawn transaction made by a person not licensed under this chapter is void as a pawn  
272 transaction.

273 (5) The department may reinstate a suspended license or issue a new license to a person

274 whose license has been revoked if no fact or condition exists at the time of reinstatement which  
275 would have justified the department in refusing originally to issue the license.

276 (6) For each pawnshop that a licensee has a license to operate, the licensee shall maintain  
277 either:

278 (a) a net worth of not less than \$100,000; or

279 (b) a bond on file in the amount of \$100,000 for that pawnshop that meets the  
280 requirements, other than the amount of the bond, under Section 7-24-105.

281 Section 7. Section **7-24-107** is enacted to read:

282 **7-24-107. Pawn ticket.**

283 (1) When a pawn transaction is made, the pawnbroker shall enter on the pawn ticket the  
284 information required in this section, which shall be typed or written in ink and in the English  
285 language.

286 (2) (a) Regarding the pledged property, the pawn ticket shall include a complete and  
287 accurate description of the pledged property, including the following information, if applicable:

288 (i) brand name;

289 (ii) model number;

290 (iii) serial number, if issued by the manufacturer and not intentionally defaced or altered;

291 (iv) size;

292 (v) color, but not applicable to diamonds;

293 (vi) gold content, if indicated;

294 (vii) precious stone description, including the number of stones; and

295 (viii) any other unique identifying feature.

296 (b) If multiple items of a similar nature are delivered together in one transaction and the  
297 items do not bear serial or model numbers and do not include precious metal or gemstones, such  
298 as musical or video recordings, books, or hand tools, the description of the items is adequate if it  
299 includes the quantity of items and a description of the type of items delivered.

300 (3) Regarding the pledgor, the pawn ticket shall include:

301 (a) the name, residence address, date of birth, and physical description of the pledgor;

302 (b) the type of identification and the identification number accepted from the pledgor;

303 (c) the pledgor's signature; and

304 (d) a legible fingerprint, preferably the right thumb, next to the pledgor's signature.

305 (4) Regarding the pawn transaction, the pawn ticket shall include:

306 (a) the date of the pawn transaction;

307 (b) the amount of cash advanced, which shall be designated as the "amount financed";

308 (c) the maturity date of the pawn transaction, which shall be 15 days after the date of the  
309 pawn transaction;

310 (d) the total pawn service charge payable on the maturity date, which shall be designated  
311 as the "finance charge";

312 (e) the total amount, which is the amount financed plus the finance charge, that must be  
313 paid to redeem the pledged property on the maturity date, which shall be designated as the "total  
314 of payments"; and

315 (f) the annual percentage rate, computed in accordance with the regulations adopted by the  
316 Federal Reserve Board pursuant to the Federal Truth-in-Lending Act, 15 U.S.C. Sec. 1601 et seq.

317 (5) The pawn ticket shall also include the following information:

318 (a) the name and address of the pawnshop;

319 (b) a clearly legible statement that "Any personal property pledged to a pawnbroker within  
320 this state which is not redeemed within 15 days following the maturity date of the pawn transaction  
321 is automatically forfeited to the pawnbroker, and absolute right, title, and interest in and to the  
322 property vests immediately in the pawnbroker without further notice to the pledgor of the  
323 property";

324 (c) a clearly legible statement that "The pledgor is not obligated to redeem the pledged  
325 property";

326 (d) a clearly legible statement that "The pledgor of this item represents and warrants that  
327 it is not stolen, that it has no liens or encumbrances against it, and that the pledgor has the right to  
328 sell or pawn the item"; and

329 (e) a blank line for the pledgor's signature.

330 (6) When the pawn transaction is made, the pawnbroker shall deliver to the pledgor an  
331 exact copy of the pawn ticket.

332 Section 8. Section **7-24-108** is enacted to read:

333 **7-24-108. Purchase of property.**

334 A pawnbroker may not enter into a purchase transaction with any person other than a  
335 manufacturer, wholesaler, permitted vendor, or another pawnbroker unless, when the purchase

336 transaction is made, the pawnbroker establishes a written record that contains:

337 (1) the name, residence address, date of birth, and physical description of the seller;

338 (2) the date of the purchase transaction;

339 (3) the type of identification accepted from the seller and the identification number;

340 (4) a complete and accurate description of the purchased property, including the

341 information required by Section 7-24-107; and

342 (5) a signed statement from the seller representing and warranting that the purchased

343 property is not stolen, that the property has no liens or encumbrances against it, and that the seller

344 has the right to sell the purchased property.

345 Section 9. Section **7-24-109** is enacted to read:

346 **7-24-109. Recordkeeping -- Holding period.**

347 (1) A pawnbroker shall maintain on the pawnshop premises a written, paper record of all

348 pawn and purchase transactions pursuant to Sections 7-24-107 and 7-24-108.

349 (2) Except for vehicles and property purchased from a manufacturer, wholesaler, or

350 permitted vendor, a pawnbroker shall maintain all purchased property on the pawnshop premises

351 for at least 30 calendar days before the property may be offered for resale.

352 Section 10. Section **7-24-110** is enacted to read:

353 **7-24-110. Pawn transaction database.**

354 (1) (a) The department shall contract in accordance with Title 63, Chapter 56, Utah

355 Procurement Code, with a third party to establish and maintain a pawn transaction database in

356 compliance with this section.

357 (b) The database shall provide local law enforcement officials with useful information to

358 facilitate the investigation of alleged property crimes while at the same time protecting the privacy

359 rights of pawnbrokers and pawnshop customers with regard to pawn transactions.

360 (2) The database shall contain the pawn transaction information provided by pawnbrokers

361 under Section 7-24-111 and shall be updated at least daily on business days.

362 (3) (a) The third party shall charge law enforcement agencies an initial set up fee of not

363 more than \$150 per individual law enforcement officer having access to the database, and not more

364 than \$15 per individual law enforcement officer per month for access to the database.

365 (b) The contract made under Subsection (1) may not require that pawnbrokers be assessed

366 a fee for access to the database for either entering information or for looking up information.

367 (4) (a) A local law enforcement official may download in a single batch, not more  
368 frequently than every 24 hours, all pawn transaction information, except the name of the pledgor,  
369 transmitted to the database by any pawnshop located in the law enforcement official's jurisdiction.

370 (b) The third party is not liable for the manner in which a law enforcement official uses  
371 the information after it is downloaded.

372 (5) The database shall meet all of the following requirements:

373 (a) Pawnbrokers shall be able to transmit to the database reportable data for each pawn  
374 transaction, and to correct errors in the data, over the Internet.

375 (b) The information in the database is accessible over the Internet.

376 (c) The only authorized users of the database are local law enforcement officials and  
377 pawnbrokers. A pawnbroker may not access database information other than the information  
378 provided by that pawnbroker.

379 (d) A user is required to disclose the user's identity to the database before performing a  
380 look-up.

381 (e) To access the identity of a pledgor in a pawn transaction, a user is required to provide  
382 the database with a case number of a criminal action for which the pledgor's identity is needed and  
383 to represent that the information is sought in connection with the investigation of a crime involving  
384 the pledged property delivered by the pledgor in that pawn transaction.

385 (f) The database shall allow a local law enforcement official to access database  
386 information from any other jurisdiction that also transmits information to the database.

387 (g) For each look-up, the database shall record the identity of the person doing the look-up,  
388 the pawn transaction accessed in the look-up and, if accessed, the identity of the pledgor. This  
389 look-up information shall be available to all other users.

390 (6) A person who gains access to the database under false pretenses is guilty of a class A  
391 misdemeanor.

392 (7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
393 department shall make rules and develop procedures for the purpose of administering and  
394 enforcing this section.

395 Section 11. Section **7-24-111** is enacted to read:

396 **7-24-111. Electronic reporting to law enforcement officials.**

397 (1) As used in this section:

398 (a) "Phase-in period" means a period of six months, beginning when the pawn transaction  
399 database under Subsection 7-24-110(1) is initially capable of receiving pawnshop transaction  
400 information.

401 (b) "Test period" means a period commencing on the date a pawnbroker commences  
402 transmitting reportable data. The length of the test period is that period agreed upon by the local  
403 law enforcement official and the pawnbroker, but may not exceed 90 days.

404 (2) (a) Within 90 days after the effective date of this chapter, a pawnbroker shall obtain  
405 a computer system capable of transmitting reportable data in accordance with the requirements of  
406 this section.

407 (b) A pawnbroker's failure to comply with Subsection (2)(a) is grounds for the department  
408 to deny the pawnbroker a temporary or permanent license or, if the pawnbroker has received a  
409 temporary or permanent license, to suspend or revoke the license.

410 (3) A pawnbroker who has obtained a computer system capable of transmitting reportable  
411 data in accordance with the requirements of this section shall:

412 (a) before the expiration of the phase-in period, make available all reportable data to the  
413 local law enforcement official by transmitting it over the Internet to the pawn transaction database,  
414 but a pawnbroker is not responsible for a delay in transmission that results from a malfunction in  
415 the database;

416 (b) transmit all reportable data for one business day to the database before the end of the  
417 following business day; and

418 (c) during a test period also make available copies of each of the underlying pawn or  
419 purchase transaction documents to enable the local law enforcement official to verify that the  
420 reportable data is being accurately reported.

421 (4) If either a pawnbroker or the local law enforcement official discovers an error in the  
422 transmitted reportable data, the pawnbroker shall be allowed a period of at least 30 days to correct  
423 that error, commencing upon the earlier of the pawnbroker's:

424 (a) reported discovery of the error; or

425 (b) receipt of notice from the local law enforcement official.

426 (5) If a pawnbroker experiences a computer malfunction, the pawnbroker shall be allowed  
427 a period of at least 30 days within which to repair the malfunction, and during this period of time  
428 the pawnbroker is not in violation of this section if the pawnbroker is making a bona fide effort

429 to repair the malfunction.

430 (6) During the periods under Subsections (4) and (5), the pawnbroker and the local law  
431 enforcement official shall arrange a mutually acceptable alternative method by which the  
432 pawnbroker provides the reportable data to the local law enforcement official.

433 (7) This section does not require a pawnbroker to:

434 (a) make available paper copies of the transaction documents underlying the reportable  
435 data except as expressly provided in Subsection (3)(c); or

436 (b) take an action to deliver the paper copies of the transaction documents other than  
437 making them available to the local law enforcement official at the pawnbroker's place of business.

438 (8) The department may not regulate the electronic transmission of reportable data in a  
439 manner that is inconsistent with the requirements of this section.

440 Section 12. Section **7-24-112** is enacted to read:

441 **7-24-112. Confidentiality of pawn and purchase transactions.**

442 All records and information relating to pawn and purchase transactions delivered to a local  
443 law enforcement official or transmitted to the pawn transaction database pursuant to Section  
444 7-24-111 are protected records under Section 63-2-304 and may be used only by law enforcement  
445 officials and only for the following official law enforcement purposes:

446 (1) the investigation of a crime specifically involving the item of property delivered to the  
447 pawnbroker in a pawn or purchase transaction;

448 (2) the investigation of a pawnbroker's possible specific violation of the recordkeeping or  
449 reporting requirements of this chapter, but only when the local law enforcement official, based on  
450 a review of the records and information received, has probable cause to believe that a violation has  
451 occurred; and

452 (3) upon inquiry from the alleged owner of an item of property delivered to a pawnbroker  
453 by another person in a pawn or purchase transaction, the disclosure to the alleged owner of the  
454 name and address of the pawnbroker, the name and address of the conveying customer, or a  
455 description of the item of property.

456 Section 13. Section **7-24-113** is enacted to read:

457 **7-24-113. Pledged property not redeemed.**

458 (1) A pledgor has no obligation to redeem pledged property or to make a payment on a  
459 pawn transaction.

460 (2) Pledged property not redeemed within 15 days following the maturity date of a pawn  
461 transaction is automatically forfeited to the pawnbroker, who then has absolute right, title, and  
462 interest in the forfeited property without further notice to the pledgor.

463 Section 14. Section **7-24-114** is enacted to read:

464 **7-24-114. Required business practices - replacement of lost property -- Inspection of**  
465 **pawn records.**

466 (1) A pawnbroker shall:

467 (a) maintain a record of each pawn and purchase transaction for at least two years;

468 (b) exercise reasonable care to protect pledged property from loss or damage; and

469 (c) return or replace pledged property to a pledgor upon payment of the full amount due

470 the pawnbroker, unless the pledged property has been taken into custody by a local law

471 enforcement authority or on court order.

472 (2) (a) If pledged property is lost or damaged while in the possession of the pawnbroker,

473 the pawnbroker may satisfy the pledgor's claim by replacing the lost or damaged property with like

474 kinds of merchandise.

475 (b) Proof of replacement in compliance with this Subsection (2) is a defense to any

476 prosecution or civil action.

477 (c) For the purposes of this subsection, "lost" includes pledged property that has been

478 destroyed or has disappeared due to an occurrence, other than the willful act or omission of the

479 pawnbroker, that results in the pledged property being unavailable for return to the pledgor.

480 (3) A pawnbroker shall allow the department and the local law enforcement official to

481 inspect the pawnbroker's pawn or purchase records during the ordinary hours of business or at

482 another time acceptable to both parties.

483 Section 15. Section **7-24-115** is enacted to read:

484 **7-24-115. Prohibited acts.**

485 A pawnbroker may not:

486 (1) fail to make an entry of a material matter in the pawnbroker's records of a pawn or  
487 purchase transaction;

488 (2) falsify, obliterate, destroy, or remove from the pawnshop any records, books, or

489 accounts relating to the pawnbroker's pawn or purchase transactions;

490 (3) accept pledged property with a serial number that has been intentionally defaced or



491 altered:

492 (4) accept pledged property or purchase property from a person under the age of 18 years;

493 (5) make an agreement requiring the personal liability of a pledgor or the waiver of a  
494 provision of this chapter;

495 (6) conduct business at the pawnbroker's place of business on a Sunday or before the hour  
496 of 7:30 a.m. or after the hour of 7 p.m. on any other day, except that during the month of  
497 December, the hour of 7 p.m. is extended to 10 p.m.; or

498 (7) sell or otherwise charge for insurance in connection with a pawn transaction.

499 Section 16. Section **7-24-116** is enacted to read:

500 **7-24-116. Right to redeem -- Lost ticket.**

501 (1) A person who provides identification and who presents a pawn ticket to the  
502 pawnbroker is presumed to be entitled to redeem the pledged property described on the ticket.

503 (2) (a) If a pawn ticket is lost, destroyed, or stolen, the pledgor shall notify the pawnbroker  
504 in writing.

505 (b) If the pledged property has not previously been redeemed, then the pawnbroker's  
506 receipt of this notice invalidates the pawn ticket.

507 (3) (a) Before delivering the pledged property or issuing a new pawn ticket to the pledgor  
508 reporting the lost pawn ticket, the pawnbroker shall require the pledgor to make a written statement  
509 of the loss, destruction, or theft of the ticket.

510 (b) The pawnbroker shall record on the written statement the type of identification and the  
511 identification number provided by the pledgor, the date the statement is given, and the number of  
512 the lost, destroyed, or stolen pawn ticket. The statement shall be signed by the pawnbroker or the  
513 pawnshop employee who accepts the statement from the pledgor.

514 (4) A pawnbroker may charge a fee not to exceed \$2 for handling the paperwork in  
515 connection with each lost, destroyed, or stolen pawn ticket.

516 Section 17. Section **7-24-117** is enacted to read:

517 **7-24-117. Pawnbroker's lien.**

518 (1) A pawnbroker has a lien on pledged property as security for the amount financed and  
519 the finance charge for that property, but not for other amounts owed by the pledgor to the  
520 pawnbroker.

521 (2) Except as otherwise provided in this chapter, the pawnbroker shall retain possession

522 of the pledged property until the lien is satisfied. The pawnbroker may only be compelled to  
523 relinquish possession of the pledged property after receipt of the amount financed plus the accrued  
524 finance charge.

525 Section 18. Section **7-24-118** is enacted to read:

526 **7-24-118. Claims against property held by pawnbrokers.**

527 (1) As used in this section:

528 (a) "Claimant" means a person who claims that his property has been mis-appropriated and  
529 then delivered into the possession of a pawnbroker;

530 (b) "Conveying customer" means a person who delivers property into the custody of a  
531 pawnbroker, either by pawn, sale, or trade, and this property is later claimed to be misappropriated;  
532 and

533 (c) "Disputed property" means the property claimed to be misappropriated.

534 (2) (a) A pawnbroker has no recourse against a pledgor for payment on a pawn transaction  
535 except the pledged property itself, unless the pledged property is found by a court of competent  
536 jurisdiction to be misappropriated.

537 (b) If the pledged property is found by a court of competent jurisdiction to be  
538 misappropriated, the pawnbroker shall deliver the pledged property as the court directs.

539 (3) (a) To obtain possession of disputed property, a claimant shall:

540 (i) file with the local law enforcement official a police report with regard to the disputed  
541 property;

542 (ii) file a petition in a court of competent jurisdiction requesting return of the disputed  
543 property naming the pawnbroker as a defendant; and

544 (iii) serve the pawnbroker with the petition.

545 (b) The court shall waive any filing fee for the petition to recover the property, and the  
546 sheriff shall waive the service fees.

547 (c) (i) At least ten days prior to filing the petition, the claimant shall provide to the  
548 pawnbroker a copy of the police report and written notice of the claim, so that the pawnbroker has  
549 an opportunity to investigate and resolve the claim.

550 (ii) If the claimant does not provide a copy of the police report and the claim to the  
551 pawnbroker in accordance with this Subsection (3)(c), the claimant may not recover attorneys' fees  
552 as the prevailing party in the action to recover the property.

553 (4) The pawnbroker shall hold the disputed property until the right to possession is  
554 resolved by the parties or determined by a court of competent jurisdiction.

555 (5) (a) The filing of a petition to recover disputed property in accordance with this section  
556 shall be accepted as a criminal complaint by the prosecuting attorney with jurisdiction over the  
557 conveying customer.

558 (b) A civil judgment in favor of a claimant shall be accepted in a criminal prosecution  
559 against the conveying customer as rebuttable proof of theft or misappropriation of the pledged  
560 property, if the conveying customer was a party to the civil case.

561 (6) When a pledgor makes a pawn transaction in this state:

562 (a) the pledgor is considered to have agreed to be subject to the jurisdiction of the courts  
563 of this state in all civil actions and proceedings arising out of the pawn transaction filed by either  
564 a resident or nonresident plaintiff; and

565 (b) if the pledgor is a nonresident, the pledgor is considered to have:

566 (i) appointed the director of the department as the pledgor's lawful attorney and agent upon  
567 whom may be served all process in actions and proceedings arising out of the pawn transaction;  
568 and

569 (ii) agreed that any process served upon the director of the department has the same legal  
570 force and validity as if personally served upon the pledgor in this state.

571 (7) When a claimant files a petition to recover disputed property, the pawnbroker shall  
572 joint the conveying customer as a party to that action. If, after notice to the pawnbroker and the  
573 joinder of the conveying customer, the property is found by a court of competent jurisdiction to  
574 be misappropriated and is awarded to the claimant:

575 (a) the claimant is entitled to recover from the conveying customer the cost of the action,  
576 including the claimant's reasonable attorneys' fees, if the claimant provided the police report and  
577 the notice to the pawnbroker required by Subsection (3)(c);

578 (b) the conveying customer is liable to repay the pawnbroker the amount financed and all  
579 accrued finance charges;

580 (c) the conveying customer shall indemnify the pawnbroker for the costs paid by the  
581 pawnbroker that were incurred by the claimant, including the claimant's reasonable attorneys' fees;  
582 and

583 (d) the conveying customer is liable for the costs incurred by the pawnbroker in taking

584 action under this section, including the pawnbroker's reasonable attorneys' fees.

585 (8) If the court finds that the claimant was not entitled to the disputed property, then the  
586 claimant is liable for the pawnbroker's and conveying customer's costs incurred in taking action  
587 under this section, including the reasonable attorneys' fees of the pawnbroker and the conveying  
588 customer.

589 (9) (a) (i) When a person purchases property from a pawnbroker and a claimant later  
590 alleges the property is misappropriated, and a petition for return of the property is filed in a court  
591 of competent jurisdiction and served on the purchaser, the purchaser shall notify the pawnbroker  
592 and give the pawnbroker the opportunity to defend against the petition, including the opportunity  
593 to join the conveying customer as a party to the action.

594 (ii) If the purchaser fails to give the pawnbroker notice and an opportunity to defend  
595 against the petition as required in Subsection (9)(a)(i), the purchaser waives the right to recover  
596 the attorneys' fees from the pawnbroker.

597 (b) If, after notice to the pawnbroker and opportunity to join the conveying customer, the  
598 property is found by a court of competent jurisdiction to be misappropriated:

599 (i) the purchaser has a right of action against the pawnbroker for reimbursement of the  
600 money paid to the pawnbroker for the property and the costs of the action, including the  
601 purchaser's reasonable attorneys' fees;

602 (ii) the pawnbroker has a right of action against the conveying customer for the full amount  
603 the conveying customer received from the pawnbroker for the property, plus the total pawn service  
604 charges payable.

605 (iii) the conveying customer shall indemnify the pawnbroker for the costs incurred by the  
606 purchaser, including the reasonable attorneys' fees of the purchaser; and

607 (iv) the pawnbroker has a right of action against the conveying customer for the costs  
608 incurred by the pawnbroker in pursuing the procedure described in this section, including the  
609 reasonable attorneys' fees of the pawnbroker.

610 (10) (a) The conveying customer is guilty of the crime of fraudulently pledging or selling  
611 misappropriated property if the conveying customer fails to repay the pawnbroker the full amount  
612 owed to the pawnbroker within ten days after written demand for payment and notice that the  
613 property in question was misappropriated is deposited as certified or registered mail in the United  
614 States mail and addressed to the conveying customer.

615 (b) Fraudulently pledging or selling misappropriated property is a:  
616 (i) class B misdemeanor if the amount received from the pawnbroker was less than \$50;  
617 (ii) class A misdemeanor if the amount received from the pawnbroker was at least \$50 but  
618 less than \$150; and  
619 (iii) a third degree felony if the amount received from the pawnbroker was \$150 or more.

620 (11) (a) If an item of property is the subject of a lease or rental transaction between the  
621 claimant and a lease or rental customer when it is sold or pledged to the pawnbroker as part of a  
622 pawn transaction, the property is not considered misappropriated unless it bears a conspicuous  
623 permanent label or marking identifying it as the claimant's property.

624 (b) (i) Property subject to a lease or rental transaction which is not marked as provided in  
625 Subsection (11)(a) may be recovered by the claimant only upon payment to the pawnbroker of all  
626 moneys owing to or advanced by the pawnbroker in the pawn or purchase transaction and upon  
627 producing evidence identifying the property as having been the property of the claimant and having  
628 been leased or rented when the property was placed in the pawnbroker's possession.

629 (ii) The pawnbroker does not have liability regarding the recovery of leased or rental  
630 property that is not marked under Subsection (11)(a).

631 Section 19. Section **7-24-119** is enacted to read:

632 **7-24-119. Police holds on property.**

633 (1) (a) When a law enforcement official has probable cause to believe that property in  
634 possession of a pawnbroker is misappropriated, the official may place a written hold order on the  
635 property through the local law enforcement official in whose jurisdiction the pawnshop is located.

636 (b) The initial term of the written hold order may not exceed one month, except that the  
637 holding period may be extended for up to two additional successive one-month increments upon  
638 written notification to the pawnbroker prior to the expiration of the immediately preceding holding  
639 period. Any other extensions shall be by court order.

640 (c) If the holding period has expired and has not been extended under this Subsection (1),  
641 the hold order expires, and the pawnbroker shall notify the local law enforcement official that the  
642 hold order is no longer in effect.

643 (d) If, on the tenth business day after written notice is delivered to the local law  
644 enforcement official stating that the hold order is no longer in effect, the local law enforcement  
645 official has not provided to the pawnbroker an additional hold order to extend the hold or, if no

646 additional extension periods are available under this section, has not furnished a court order  
647 extending the hold order, title to the property reverts to the pawnbroker, subject to any restrictions  
648 contained in the pawn transaction contract and subject to the provisions of this section.

649 (2) A hold order required by this section shall contain:

650 (a) the name of the pawnbroker;

651 (b) the name, title, and identification number of the representative of the local law  
652 enforcement official placing the hold order;

653 (c) the name and address of the law enforcement agency to which the representative is  
654 attached and the number, if any, assigned by the agency to the claim regarding the property;

655 (d) a complete description of the property to be held, including model number, and serial  
656 number if applicable;

657 (e) the name of the person who reported the property as misappropriated;

658 (f) the mailing address of the pawnshop where the property is held; and

659 (g) the expiration date of the holding period.

660 (3) The pawnbroker or his designee shall sign and date a copy of the hold order as  
661 evidence of receipt of the hold order and the beginning of the initial one-month holding period.

662 (4) (a) Upon written receipt, and while a hold order is in effect, a pawnbroker may release  
663 the property subject to the hold order to the custody of the local law enforcement official for the  
664 purpose of furthering a criminal investigation.

665 (b) The release of the property to the custody of the local law enforcement official is not  
666 considered a waiver or release of the pawnbroker's property rights or interest in the property.

667 (c) Upon completion of the criminal investigation, the local law enforcement official shall  
668 return the property to the pawnbroker.

669 (5) Except as provided in this section, a pawnbroker may not release or dispose of property  
670 subject to a holding order except as directed by a court order or upon the expiration of the holding  
671 period, including all extensions. A hold order may be released prior to the expiration of a  
672 one-month holding period by written release from the law enforcement official placing the initial  
673 hold order.

674 (6) The prosecuting attorney with jurisdiction over the pledgor shall notify the pawnbroker  
675 in writing in cases where criminal charges have been filed and the property may be needed as  
676 evidence. The notice shall contain the case number, the style of the case, and a description of the

677 property. The pawnbroker shall hold the property until receiving notice of the disposition of the  
678 case from the prosecuting attorney. The prosecuting attorney shall notify the pawnbroker and the  
679 claimant in writing within 15 days of the disposition of the case.

680 (7) Gross negligence or willful noncompliance by a pawnbroker regarding a written hold  
681 order is cause for the department to either suspend or revoke the pawnbroker's license.

682 Section 20. Section **7-24-120** is enacted to read:

683 **7-24-120. Examination of books, accounts, and records by the department.**

684 (1) (a) The department may examine the books, accounts, and records of a pawnshop or  
685 a pawnbroker and may make investigations to determine compliance with this chapter.

686 (b) The department shall allow a local law enforcement official to be present at the  
687 examination.

688 (2) In accordance with Section 7-1-401, the department may charge a fee for an  
689 examination conducted under Subsection (1).

690 Section 21. Section **7-24-121** is enacted to read:

691 **7-24-121. Pawnbroking advisory committee.**

692 (1) There is created within the department the pawnbroking advisory committee.

693 (2) The advisory committee consists of the following volunteer members appointed by the  
694 commissioner of the department:

695 (a) one representative of law enforcement who is a designee of the state attorney general;

696 (b) one representative of the department; and

697 (c) one representative of the pawnbroking industry.

698 (3) (a) Except as required by Subsection (3)(b), as terms of current committee members  
699 expire, the commissioner shall appoint each new member or reappointed member to a six-year  
700 term.

701 (b) Notwithstanding Subsection (3)(a), the commissioner shall, at the time of appointment  
702 or reappointment, adjust the length of terms to ensure that the terms of committee members are  
703 staggered so that one committee member is appointed every two years.

704 (4) When a vacancy occurs in the membership for any reason, the replacement shall be  
705 appointed for the unexpired term.

706 (5) The committee shall advise and consult with the department on all matters pertaining  
707 to the promulgation of rules to implement this chapter and the enforcement of this chapter.

708 (6) The department shall:

709 (a) determine, by rule, the causes for removal of committee members;

710 (b) establish committee procedures and administration policies consistent with this chapter  
711 and department rule; and

712 (c) provide administrative support to the committee.

713 Section 22. Section **7-24-122** is enacted to read:

714 **7-24-122. Violations and penalties -- Enforcement.**

715 (1) (a) Except as provided in Subsection (1)(b), a person who operates a pawnshop without  
716 a license under this chapter is guilty of a third degree felony and is subject to a fine of not more  
717 than \$5,000 or by imprisonment for not more than five years, or both.

718 (b) A person who operates a pawnshop without a license because of a failure to renew a  
719 license is not in violation of Subsection (1)(a) unless the license has expired pursuant to  
720 Subsection 7-24-103(7)(c).

721 (2) In addition to any other applicable penalty, a licensee who willfully violates any  
722 provision of this chapter is guilty of a class A misdemeanor.

723 (3) The department shall enforce the provisions of this act by exercise of its statutory  
724 authority.

725 (4) (a) When the department has probable cause to believe that a person is violating this  
726 chapter, the department may enter an order requiring the person to cease and desist from violating  
727 the chapter.

728 (b) The department may sue in any district court of this state having jurisdiction and venue  
729 to enjoin the person from violating this chapter. In this an action, the court may enter an order  
730 awarding a preliminary or permanent injunction.

731 Section 23. Section **7-24-123** is enacted to read:

732 **7-24-123. Criminal history records.**

733 The Criminal Investigations and Technical Services Division of the Department of Public  
734 Safety, established in Section 53-10-103, shall on request release to the department of any  
735 available criminal history records, conviction records, and warrant of arrest records on an  
736 individual applying for or holding a license under this chapter.

737 Section 24. Section **7-24-124** is enacted to read:

738 **7-24-124. Preemption.**



739 This chapter preempts all city, county, and other local laws and ordinances governing  
740 pawnbrokers and pawnbroking transactions that are more restrictive than the provision of this  
741 chapter or that are not consistent with this chapter.

742 Section 25. Section **7-24-125** is enacted to read:

743 **7-24-125. Transition period for licensing.**

744 Pawnbrokers operating pawnshops in business on the effective date of this chapter may  
745 continue to operate through December 31, 2001. Prior to that date the pawnbroker shall apply for  
746 a license from the department and shall complete the licensure process under this chapter so that  
747 the pawnshop is licensed under this chapter on and after January 1, 2002.

748 Section 26. Section **11-6-1** is amended to read:

749 **11-6-1. Records to be kept -- Availability to peace officers.**

750 Pawnbrokers and dealers in secondhand goods shall keep records containing a description  
751 of all articles received by them, the amounts paid therefor or advanced thereon, a general  
752 description of the person from whom received, together with his name and address and the date  
753 of the transaction. [~~Such~~] These records shall at all reasonable times be accessible to any peace  
754 officer who demands an inspection [~~thereof~~], and any further information regarding [~~such~~] the  
755 transaction that he may require shall be [given] provided by pawnbrokers and secondhand dealers  
756 to the best of their ability. [~~In cities of the first and the second class at the close of each day's~~  
757 ~~business pawnbrokers shall mail a copy of such records to the sheriff of the county in which they~~  
758 ~~are located.] A pawnbroker's or second-hand dealer's compliance with Sections 7-24-107 and  
759 7-24-108 and Subsections 7-24-109(1) and 7-24-114(3) satisfies the requirements of this section.~~

760 Section 27. Section **63-2-304** is amended to read:

761 **63-2-304. Protected records.**

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

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

765 (2) commercial information or nonindividual financial information obtained from a person  
766 if:

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

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

772 (c) the person submitting the information has provided the governmental entity with the  
773 information specified in Section 63-2-308;

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

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

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

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

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

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

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

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

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

799 (8) records prepared in contemplation of sale, exchange, lease, rental, or other  
800 compensated transaction of real or personal property including intellectual property, which, if

801 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of  
802 the subject property, unless:

803 (a) the public interest in access outweighs the interests in restricting access, including the  
804 governmental entity's interest in maximizing the financial benefit of the transaction; or

805 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the  
806 value of the subject property have already been disclosed to persons not employed by or under a  
807 duty of confidentiality to the entity;

808 (9) records created or maintained for civil, criminal, or administrative enforcement  
809 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if  
810 release of the records:

811 (a) reasonably could be expected to interfere with investigations undertaken for  
812 enforcement, discipline, licensing, certification, or registration purposes;

813 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement  
814 proceedings;

815 (c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

816 (d) reasonably could be expected to disclose the identity of a source who is not generally  
817 known outside of government and, in the case of a record compiled in the course of an  
818 investigation, disclose information furnished by a source not generally known outside of  
819 government if disclosure would compromise the source; or

820 (e) reasonably could be expected to disclose investigative or audit techniques, procedures,  
821 policies, or orders not generally known outside of government if disclosure would interfere with  
822 enforcement or audit efforts;

823 (10) records the disclosure of which would jeopardize the life or safety of an individual;

824 (11) records the disclosure of which would jeopardize the security of governmental  
825 property, governmental programs, or governmental recordkeeping systems from damage, theft, or  
826 other appropriation or use contrary to law or public policy;

827 (12) records that, if disclosed, would jeopardize the security or safety of a correctional  
828 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere  
829 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

830 (13) records that, if disclosed, would reveal recommendations made to the Board of  
831 Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board

832 of Pardons and Parole, or the Department of Human Services that are based on the employee's or  
833 contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

834 (14) records and audit workpapers that identify audit, collection, and operational  
835 procedures and methods used by the State Tax Commission, if disclosure would interfere with  
836 audits or collections;

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

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

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

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

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

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

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

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

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

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

862 (24) records of investigations of loss occurrences and analyses of loss occurrences that

863 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured  
864 Employers' Fund, or similar divisions in other governmental entities;

865 (25) records, other than personnel evaluations, that contain a personal recommendation  
866 concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal  
867 privacy, or disclosure is not in the public interest;

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

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

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

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

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

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

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

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

893 (34) memoranda prepared by staff and used in the decision-making process by an

894 administrative law judge, a member of the Board of Pardons and Parole, or a member of any other  
895 body charged by law with performing a quasi-judicial function;

896 (35) records that would reveal negotiations regarding assistance or incentives offered by  
897 or requested from a governmental entity for the purpose of encouraging a person to expand or  
898 locate a business in Utah, but only if disclosure would result in actual economic harm to the person  
899 or place the governmental entity at a competitive disadvantage, but this section may not be used  
900 to restrict access to a record evidencing a final contract;

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

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

907 (a) the donor requests anonymity in writing;

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

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

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

915 (39) a notification of workers' compensation insurance coverage described in Section  
916 34A-2-205; ~~and~~

917 (40) the following records of a public institution of education, which have been developed,  
918 discovered, or received by or on behalf of faculty, staff, employees, or students of the institution:  
919 unpublished lecture notes, unpublished research notes and data, unpublished manuscripts, creative  
920 works in process, scholarly correspondence, and confidential information contained in research  
921 proposals~~[-Nothing in];~~ but this Subsection (40) ~~shall~~ may not be construed to affect the  
922 ownership of a record~~[-];~~ and

923 (41) records provided by any pawnbroker to a law enforcement agency in compliance with  
924 Title 7, Chapter 24, Utah Pawnbroking Act.

925 Section 28. Section **76-6-408** is amended to read:

926 **76-6-408. Receiving stolen property.**

927 (1) A person commits theft if he receives, retains, or disposes of the property of another  
 928 knowing that it has been stolen, or believing that it probably has been stolen, or who conceals,  
 929 sells, withholds or aids in concealing, selling, or withholding the property from the owner,  
 930 knowing the property to be stolen, intending to deprive the owner of it.

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

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

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

936 (c) being a dealer in property of the sort received, retained, or disposed, acquires it for a  
 937 consideration which he knows is far below its reasonable value[~~;~~or].

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

942 [~~(i) certify, in writing, that he has the legal rights to sell the property;]~~

943 [~~(ii) provide a legible print, preferably the right thumb, at the bottom of the certificate next  
 944 to his signature; and]~~

945 [~~(iii) provide at least one other positive form of picture identification.]~~

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

951 [~~(4) When, in a prosecution under this section, it appears from the evidence that the  
 952 defendant was a pawnbroker or a person who has or operates a business dealing in or collecting  
 953 used or secondhand merchandise or personal property, or was an agent, employee, or representative  
 954 of a pawnbroker or person, that the defendant bought, received, concealed, or withheld the property  
 955 without obtaining the information required in Subsection (2)(d), then the burden shall be upon the~~

956 defendant to show that the property bought, received, or obtained was not stolen.]

957 [~~(5) Subsections (2)(d), (3), and (4) do not apply to scrap metal processors as defined in~~  
958 ~~Section 76-10-901.~~]

959 [~~(6)~~ (3) As used in this section:

960 (a) "Receives" means acquiring possession, control, or title or lending on the security of  
961 the property;

962 (b) "Dealer" means a person in the business of buying or selling goods.

963 Section 29. **Effective date.**

964 If approved by two-thirds of all the members elected to each house, this act takes effect  
965 upon approval by the governor, or the day following the constitutional time limit of Utah  
966 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the  
967 date of veto override.