

Senator Michael G. Waddoups proposes the following substitute bill:

PAWNBROKER INDUSTRY REVISIONS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael G. Waddoups

This act modifies provisions related to pawnshops by enacting a chapter entitled the Utah Pawnbroking Act and amending related provisions of the Criminal Code. This act requires registration of pawnshops with the Department of Financial Institutions. This act regulates pawn transactions and imposes record keeping and reporting requirements on pawnbroker businesses. The act establishes penalties for a pawnbroker's failure to comply with the requirements of the chapter. This act establishes an electronic database of pawnshop transactions accessible by law enforcement officials over the Internet. This act prescribes a procedure for persons to recover property that has been misappropriated and that is in the possession of a pawnbroker. This act provides that pawnbroker records are protected records. This act takes effect on July 1, 2002.

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

77-24-2, as last amended by Chapter 10, Laws of Utah 1992

78-6-1, as last amended by Chapter 215, Laws of Utah 1997

ENACTS:

7-24-101, Utah Code Annotated 1953

7-24-102, Utah Code Annotated 1953

7-24-103, Utah Code Annotated 1953



- 26 **7-24-104**, Utah Code Annotated 1953
- 27 **7-24-105**, Utah Code Annotated 1953
- 28 **7-24-106**, Utah Code Annotated 1953
- 29 **7-24-107**, Utah Code Annotated 1953
- 30 **7-24-108**, Utah Code Annotated 1953
- 31 **7-24-109**, Utah Code Annotated 1953
- 32 **7-24-110**, Utah Code Annotated 1953
- 33 **7-24-111**, Utah Code Annotated 1953
- 34 **7-24-112**, Utah Code Annotated 1953
- 35 **7-24-113**, Utah Code Annotated 1953
- 36 **7-24-114**, Utah Code Annotated 1953
- 37 **7-24-115**, Utah Code Annotated 1953
- 38 **7-24-116**, Utah Code Annotated 1953
- 39 **7-24-117**, Utah Code Annotated 1953
- 40 **7-24-118**, Utah Code Annotated 1953
- 41 **7-24-119**, Utah Code Annotated 1953
- 42 **7-24-120**, Utah Code Annotated 1953
- 43 **7-24-121**, Utah Code Annotated 1953
- 44 **7-24-122**, Utah Code Annotated 1953
- 45 **7-24-123**, Utah Code Annotated 1953
- 46 **7-24-124**, Utah Code Annotated 1953
- 47 **7-24-125**, Utah Code Annotated 1953

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

49 Section 1. Section **7-24-101** is enacted to read:

50 **CHAPTER 24. UTAH PAWNBROKING ACT**

51 **7-24-101. Title.**

52 This chapter is known as the "Utah Pawnbroking Act."

53 Section 2. Section **7-24-102** is enacted to read:

54 **7-24-102. Definitions.**

55 As used in this chapter:

56 (1) "Amount financed" means the amount of money paid by a pawnbroker to a pledgor in

57 a pawn transaction.

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

59 (3) "Credit" means the right to defer payment of debt or to incur debt and defer its

60 payment. Credit includes the right to receive money for pledged property and to redeem or

61 repurchase property by paying a greater sum.

62 (4) "Database" or "pawn transaction database" means the computer database established

63 and maintained pursuant to Section 7-24-111.

64 (5) "Department" means the Department of Financial Institutions created in Section

65 7-1-201.

66 (6) "Finance charge" means the difference between the amount financed and the

67 redemption price plus any other charges paid by the pledgor to the pawnbroker in connection with

68 a pawn transaction.

69 (7) "Identification" means a form of positive identification issued by a governmental entity

70 containing a numerical identifier and a photograph of the person identified.

71 (8) "Law enforcement officer" has the same definition as in Subsection 53-13-103(1).

72 (9) "Local law enforcement official" means the sheriff of the county in which a pawnshop

73 is located or, if the pawnshop is located within a municipality, the police chief of that municipality,

74 or the designee of the sheriff or police chief.

75 (10) "Maturity date" means the latest date that a pledgor may redeem pledged property.

76 (11) "Misappropriated" means stolen, embezzled, converted, obtained by theft, or

77 otherwise appropriated without authority of the lawful owner.

78 (12) "Net worth" means total assets minus total liabilities.

79 (13) "Pawnbroker" means a person with an established place of business who:

80 (a) advances money on the security of pledged property;

81 (b) purchases property on the condition of selling the property back at a redemption price

82 within a fixed period of time;

83 (c) publicly displays a sign at the place of business denoting a "pawnbroker" or

84 "pawnshop"; or

85 (d) publicly displays a sign, symbol, or other advertisement indicating that credit is

86 available to be extended on pledged property.

87 (14) "Pawnshop" means the location or premises where a pawnbroker conducts business.

88 (15) "Pawn ticket" means a document upon which information regarding a pawn
89 transaction is entered when the pawn transaction is made.

90 (16) (a) "Pawn transaction" means an extension of credit in which an individual delivers
91 property to a pawnbroker for an advance of money or sells property to a pawnbroker and retains
92 the right to redeem or repurchase the property for a redemption price within a fixed period of time.

93 (b) The following are considered a single item and shall be included in the same
94 transaction:

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

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

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

99 (d) For purposes of all state and federal bankruptcy laws, a pledgor's interest in pledged
100 property prior to the maturity date of the pawn transaction is considered to be a right of redemption
101 only.

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

105 (18) "Person" has the same definition as in Section 7-1-103.

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

108 (20) "Pledgor" means an individual who delivers tangible personal property to a
109 pawnbroker as security for an advance of money or who sells tangible personal property to a
110 pawnbroker and who has the right to redeem or repurchase the property at a redemption price
111 within a fixed period of time.

112 (21) "Property" means tangible personal property.

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

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

117 (24) "Redemption price" means a fixed price at which a pledgor may redeem or repurchase
118 pledged property.

119 (25) "Reportable data" means the information required to be recorded by pawnbrokers for
120 pawn transactions under Subsections 7-24-108(2), 7-24-108(3)(a), 7-24-108(3)(b), and
121 7-24-108(4), and the information required to be recorded by pawnbrokers for purchase transactions
122 under Subsections 7-24-109(1) through (4).

123 (26) "Search" means accessing a database record.

124 (27) "Securities Exchange Act" means the federal Securities Exchange Act of 1934, as
125 amended, or its comparable successor statute.

126 (28) "Tangible personal property" does not include:

127 (a) choses in action;

128 (b) securities;

129 (c) printed evidences of indebtedness; and

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

132 (29) "User" means an authorized person from the department or an authorized law
133 enforcement officer who accesses the database.

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

135 **7-24-103. Registration required -- Application -- Annual report -- Change of**
136 **ownership.**

137 (1) (a) A person may not engage in business as a pawnbroker without having registered
138 with the department.

139 (b) A separate registration is required for each pawnshop.

140 (c) The department may issue more than one registration to a person.

141 (2) (a) If a registered pawnbroker wishes to move the location of a pawnshop, the
142 pawnbroker shall give 30 days' written notice to the department and the local law enforcement
143 official.

144 (b) The department shall amend the pawnshop registration to reflect the change of location.

145 (3) A registration is effective until it expires or is relinquished, suspended, or revoked by
146 the department under Section 7-24-106.

147 (4) Each registered pawnbroker shall file with the department annually, on or before a date
148 established by department rule, a report for each registered pawnshop operated by the pawnbroker
149 within the state. The report shall provide the following information for the preceding calendar

150 year:

151 (a) total number of pawn transactions;

152 (b) total amount financed in pawn transactions;

153 (c) total number of pawn transactions forfeited;

154 (d) total number of pawn transactions redeemed;

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

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

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

161 (6) (a) Annually on or before August 1, a registered pawnbroker shall pay to the
162 department, for each pawnshop operated by the pawnbroker, a registration fee of \$250 for the
163 12-month period beginning on the preceding July 1 and ending on the following June 30.

164 (b) If the registration fee is not timely paid under Subsection (6)(a), the department shall
165 mail a notice of delinquency to the pawnbroker.

166 (c) If the fee remains unpaid 30 days after written notice of delinquency has been mailed,
167 the registration expires.

168 (7) (a) The department may issue a temporary registration authorizing the operation of a
169 pawnshop upon receipt of an application to transfer a registration from one person to another or
170 upon receipt of an application for a registration involving principals and owners who are identical
171 to those of an existing registered pawnshop.

172 (b) The temporary registration is effective until the permanent registration is issued or
173 denied by the department.

174 (8) If the ownership of a pawnshop changes, directly or beneficially, the new owner shall,
175 upon taking ownership, apply to the department for a new registration or a transfer of the existing
176 registration, except if:

177 (a) the current registered pawnbroker is a business entity; and

178 (b) the persons holding greater than 50% of the equity ownership interest of the entity
179 before the change in ownership continue to hold greater than 50% of the equity ownership interest
180 after the change in ownership.

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

182 **7-24-104. Eligibility for registration.**

183 (1) To be eligible for a pawnshop registration, an applicant shall:

184 (a) be of good moral character;

185 (b) demonstrate to the department that the pawnshop will be operated in compliance with
186 this chapter and any other applicable state or federal laws, rules, and regulations;

187 (c) have a net worth of at least \$100,000 or file a bond with the commissioner in the
188 amount of \$100,000 that meets the requirements, other than amount, under Subsection
189 7-24-105(4);

190 (d) (i) not have been convicted of a felony in this state or any other state; and

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

192 (e) (i) not have been convicted of a class A misdemeanor in this state or any other state
193 within the previous ten years; and

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

196 (f) own a computer system capable of transmitting reportable data in accordance with the
197 requirements of Section 7-24-112.

198 (2) If the applicant does not file a bond with the department in the amount of \$100,000
199 under Subsection (1), the department may require verification that the applicant meets the net
200 worth requirement under Subsection (1), including:

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

203 (b) a written statement that the accountant has audited the books and records of the
204 applicant.

205 (3) If an applicant for a pawnshop registration is a business entity, the eligibility
206 requirements of this section apply to:

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

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

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

211 **7-24-105. Application for registration -- Bond.**

212 (1) An application for a new pawnshop registration, the transfer of an existing pawnshop
213 registration, or the approval of a change in the ownership of a registered pawnshop shall be made
214 to the department in writing on a form prescribed by the department. The application shall be
215 under oath, and shall state the full name and place of residence of the applicant, the place where
216 the business is to be conducted, and other relevant information as required by the department, and
217 if the applicant:

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

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

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

224 (a) the applicant is owned directly or beneficially by a person who, as an issuer, has a class
225 of securities registered pursuant to Section 12(g) of the Securities Exchange Act or who, pursuant
226 to Section 15(d) of the Securities Exchange Act, is required as an issuer of securities to file
227 information, documents, and reports with the Securities and Exchange Commission; and

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

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

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

235 (ii) If the application is for a second or additional registration for a currently registered
236 applicant or involves substantially identical owners of a separate currently registered pawnshop,
237 the application shall be accompanied by an application fee of \$500.

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

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

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

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

249 (5) (a) When the department has accepted an application as complete, the department shall
250 investigate the accuracy of the information provided in the application as required by this chapter.
251 An application must be accompanied by the required fees and bond to be complete.

252 (b) If the department finds that the eligibility requirements for the registration are satisfied,
253 the department shall approve the application and issue to the applicant a pawnshop registration.

254 (c) If the department finds the registration requirements of this chapter are not met, the
255 department shall notify the applicant in writing.

256 (d) The department shall grant or deny each application for a registration within 60 days
257 of when the department accepts the application as complete, unless the period is extended by
258 written agreement between the applicant and the department.

259 (e) (i) The applicant is entitled to an administrative hearing regarding the department's
260 finding, under Section 7-1-105.

261 (ii) The hearing application shall be filed with the department within 30 days after receipt
262 of notice of the finding.

263 (iii) The applicant is entitled to a hearing within 60 days of filing the application for a
264 hearing.

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

266 **7-24-106. Suspension or revocation of registration -- Net worth requirement.**

267 (1) The department may, after notice and hearing, suspend or revoke a registration upon
268 a finding that:

269 (a) the pawnbroker, either intentionally, knowingly, recklessly, or negligently, has violated
270 this chapter;

271 (b) a fact or condition exists regarding the pawnbroking business or the pawnbroker which,
272 if it had existed or had been known to exist when the original application for a registration was
273 filed, would have been cause for the department to deny a registration under this chapter;

274 (c) the pawnbroker has aided, abetted, or conspired with another to circumvent or violate
275 the requirements of this chapter; or

276 (d) the pawnbroker or a legal or beneficial owner of the pawnbroker has been convicted
277 of a crime that the department finds violates this chapter or department rules.

278 (2) (a) When the department suspends or revokes a pawnshop's registration, the
279 pawnbroker may not make any new pawn transactions at the pawnshop.

280 (b) Within five days of the suspension or revocation, the pawnbroker shall notify all
281 pledgors with pledged property at the pawnshop of the suspension or revocation and of their right
282 to redeem the pledged property.

283 (c) The pawnbroker may not close the pawnshop any sooner than 30 days after the latest
284 maturity date of the pledged property at the pawnshop.

285 (3) The department may:

286 (a) issue a registration subject to specified conditions;

287 (b) place on probation a person whose registration has been suspended; or

288 (c) reprimand in writing a registered pawnbroker for a violation of this chapter.

289 (4) A registered pawnbroker may surrender a registration by delivering it to the department
290 with written notice of its surrender. However, a surrender of a registration does not affect the civil
291 or criminal liability of the pawnbroker for acts committed prior to the surrender.

292 (5) (a) The suspension, revocation, or surrender of a registration does not affect the
293 obligation of a preexisting lawful contract between the registered pawnbroker and a pledgor.

294 (b) If a pawn transaction is made when the pawnbroker or the pawnshop is not registered,
295 the pawn transaction is void and no finance charge may be assessed against the pledgor.

296 (6) The department may reinstate a suspended registration or issue a new registration to
297 a person whose registration has been revoked if no fact or condition exists at the time of
298 reinstatement which would have justified the department in refusing originally to issue the
299 registration.

300 (7) For each pawnshop that a registered pawnbroker has a registration to operate, the
301 pawnbroker shall maintain either:

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

303 (b) a bond on file in the amount of \$100,000 for that pawnshop that meets the
304 requirements, other than the amount of the bond, under Subsection 7-24-105(4).

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

306 **7-24-107. Cause for revocation or suspension.**

307 (1) A pawnbroker may not:

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

310 (b) falsify, obliterate, destroy, or remove from the pawnshop any records, books, or
311 accounts relating to the pawnbroker's pawn or purchase transactions;

312 (c) accept pledged property with a serial number that has been intentionally defaced or
313 altered;

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

315 (e) make an agreement requiring the personal liability of a pledgor or the waiver of a
316 provision of this chapter;

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

320 (g) sell or otherwise charge for insurance in connection with a pawn transaction; or

321 (h) directly or indirectly, employ a device, scheme, or artifice to defraud, or engage in an
322 act, practice, or course of business that operates or would operate as a fraud or deceit on a person.

323 (2) Gross negligence or willful noncompliance by a pawnbroker regarding a written hold
324 order is cause for the department to either suspend or revoke the pawnbroker's registration.

325 (3) This section does not prohibit prosecution for a criminal violation.

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

327 **7-24-108. Pawn ticket.**

328 (1) When a pawn transaction is made, the information required by this section and by
329 department rules shall be entered on the pawn ticket. The information shall be typed, printed, or
330 written in ink and in the English language.

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

333 (i) brand name;

334 (ii) model number;

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

- 336 (iv) size;
- 337 (v) color, but not applicable to diamonds;
- 338 (vi) gold content, if indicated;
- 339 (vii) precious stone description, including the number of stones; and
- 340 (viii) any other unique identifying feature.
- 341 (b) If multiple items of a similar nature are delivered together in one transaction and the
- 342 items do not bear serial or model numbers and do not include precious metal or gemstones, such
- 343 as musical or video recordings, books, or hand tools, the description of the items is adequate if it
- 344 includes the quantity of items and a description of the type of items delivered.
- 345 (3) Regarding the pledgor, the pawn ticket shall include:
- 346 (a) the name, residence address, date of birth, and physical description of the pledgor;
- 347 (b) the type of identification and the identification number accepted from the pledgor;
- 348 (c) the pledgor's signature; and
- 349 (d) a legible fingerprint of the pledgor's right thumb; or, if the right thumb cannot be
- 350 fingerprinted, a legible fingerprint of the pledgor with a written notation identifying the finger
- 351 printed.
- 352 (4) Regarding the pawn transaction, the pawn ticket shall include:
- 353 (a) the time and date of the pawn transaction;
- 354 (b) the amount of moneys advanced, which shall be designated as the "amount financed"
- 355 and described as "the amount of cash given directly to you" or a similar phrase;
- 356 (c) the maturity date of the pawn transaction;
- 357 (d) the total finance charge payable on the maturity date;
- 358 (e) the total amount, which is the amount financed plus the finance charge, that must be
- 359 paid to redeem the pledged property on the maturity date, which shall be designated as the "total
- 360 of payments";
- 361 (f) the annual percentage rate, computed in accordance with the regulations adopted by the
- 362 Federal Reserve Board pursuant to the Federal Truth in Lending Act, 15 U.S.C. Sec. 1601 et seq.;
- 363 and
- 364 (g) any other information which the department requires for compliance with the Federal
- 365 Truth in Lending Act, 15 U.S.C. Sec. 1601 et seq. or the regulations promulgated under that act.
- 366 (5) The pawn ticket shall also include:

- 367 (a) the name and address of the pawnshop;
368 (b) the name of the pawnbroker or pawnshop employee who entered the information on
369 the pawn ticket or an alphanumeric code identifying that pawnbroker or pawnshop employee;
370 (c) a clearly legible statement that "Any personal property pledged to a pawnbroker within
371 this state which is not redeemed within 15 days following the maturity date of the pawn transaction
372 is automatically forfeited to the pawnbroker, and all right, title, and interest of the pledgor in the
373 property vests immediately in the pawnbroker without further notice to the pledgor of the
374 property.";
375 (d) a clearly legible statement that "The pledgor is not obligated to redeem the pledged
376 property.";
377 (e) a clearly legible statement that "The pledgor of this item represents and warrants that
378 it is not stolen, that it has no liens or encumbrances against it, and that the pledgor has the right to
379 sell or pawn the item."; and
380 (f) a blank line for the pledgor's signature.
381 (6) When the pawn transaction is made, the pawnbroker shall deliver to the pledgor an
382 exact copy of the pawn ticket.

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

384 **7-24-109. Purchase of property.**

385 A pawnbroker may not enter into a purchase transaction with any person other than a
386 manufacturer, wholesaler, recognized vendor, or another pawnbroker unless, when the purchase
387 transaction is made, a written record is made that contains:

- 388 (1) the name, residence address, date of birth, and physical description of the seller;
389 (2) the time and date of the purchase transaction;
390 (3) the type of identification accepted from the seller and the identification number;
391 (4) a complete and accurate description of the purchased property, including the
392 information required by Subsection 7-24-108(2);
393 (5) the name and address of the pawnshop;
394 (6) the name of the pawnbroker or pawnshop employee who made the written record or
395 an alphanumeric code identifying that pawnbroker or pawnshop employee;
396 (7) the seller's signature;
397 (8) a legible fingerprint of the seller's right thumb; or, if the right thumb cannot be

398 fingerprinted, a legible fingerprint of the seller with a written notation identifying the finger
399 printed; and

400 (9) a signed statement from the seller representing and warranting that the purchased
401 property is not stolen, that the property has no liens or encumbrances against it, and that the seller
402 has the right to sell the purchased property.

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

404 **7-24-110. Recordkeeping -- Holding period.**

405 (1) A pawnbroker shall maintain on the pawnshop premises a written paper record of all
406 pawn and purchase transactions pursuant to Sections 7-24-108 and 7-24-109.

407 (2) A pawnbroker shall retain each pawn and purchase transaction record required under
408 Subsection (1) for at least four years from the date of the transaction.

409 (3) Except for vehicles and property purchased from a manufacturer, wholesaler, or
410 recognized vendor, a pawnbroker shall maintain all purchased property on the pawnshop premises
411 for at least 30 calendar days before the property may be offered for resale.

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

413 **7-24-111. Pawn transaction database -- Functions -- Access -- Penalty for unlawful**
414 **access.**

415 (1) The department shall contract in accordance with Title 63, Chapter 56, Utah
416 Procurement Code, with a third-party agent to establish and maintain a pawn transaction database
417 in compliance with this section. The contract:

418 (a) may not obligate the department to pay the third party any amounts, but shall permit
419 the third party to collect setup and access fees as provided in this section; and

420 (b) shall require the third party to assume all responsibility for a malfunction of the
421 database software.

422 (2) The database shall provide law enforcement officials with useful information to
423 facilitate the investigation of alleged property crimes and shall also protect the privacy of
424 pawnbrokers and pawnshop customers with regard to pawn and purchase transactions.

425 (3) The database shall contain the pawn and purchase transaction information provided
426 by pawnbrokers under Section 7-24-112 and shall be updated at least daily on business days.

427 (4) (a) The third-party agent may charge law enforcement agencies an initial setup fee of
428 not more than \$150 per individual law enforcement officer having access to the database, and not

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

430 (b) The contract made under Subsection (1) may not require that the department be
431 assessed a fee for access to the database and may not require that pawnbrokers be assessed a fee
432 for adding, editing, or maintaining database records.

433 (5) (a) A law enforcement official may download in a single batch, not more frequently
434 than every 24 hours, all pawn transaction information, except the name of the pledgor, transmitted
435 to the database by any pawnshop located in the state.

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

438 (6) The database shall meet all of the following requirements:

439 (a) pawnbrokers shall be able to transmit reportable data for each pawn and purchase
440 transaction to the database via the Internet;

441 (b) the information in the database shall be accessible to the department and to law
442 enforcement via the Internet;

443 (c) the only authorized users of the database are the department and law enforcement
444 officials;

445 (d) a user shall be required to provide the user's identity to the database before performing
446 a search;

447 (e) to access the identity of a pledgor in a pawn transaction, a user other than the
448 department shall be required to provide to the database with a case number of a criminal action for
449 which the pledgor's identity is needed and to represent that the information is sought in connection
450 with the investigation of a crime involving pledged property;

451 (f) the database shall allow a law enforcement official to access database information from
452 any other jurisdiction that also transmits information to the database; and

453 (g) for each search, the database shall record and make available to all other users the
454 identity of the person conducting the search, the pawn transaction accessed in the search and, if
455 accessed, the identity of the pledgor.

456 (7) A person who gains access to the database under false pretenses is guilty of a class A
457 misdemeanor.

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

459 **7-24-112. Electronic reporting to law enforcement officials.**

460 (1) As used in this section:

461 (a) "Phase-in period" means a period of six months, beginning when the pawn transaction
462 database under Section 7-24-111 is initially capable of receiving pawnshop transaction
463 information.

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

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

470 (b) A pawnbroker's failure to comply with Subsection (2)(a) is grounds for the department
471 to deny the pawnbroker a temporary or permanent registration or, if the pawnbroker has received
472 a temporary or permanent registration, to suspend or revoke the registration.

473 (3) (a) A pawnbroker shall:

474 (i) make available all reportable data to local law enforcement officials by transmitting it
475 via the Internet to the pawn transaction database; and

476 (ii) transmit all reportable data for one business day to the database before the end of the
477 following business day.

478 (b) The reporting requirement under Subsection (3)(a) shall begin no later than the
479 expiration of the phase-in period.

480 (c) During the test period, a pawnbroker shall make available copies of each of the pawn
481 or purchase transaction documents underlying the reportable data being transmitted to enable the
482 local law enforcement official to verify that the reportable data is being accurately reported.

483 (4) A pawnbroker is not responsible for a delay in transmission that results from a
484 malfunction in the database.

485 (5) If either a pawnbroker or the local law enforcement official discovers an error in the
486 transmitted reportable data, the third-party agent shall be allowed a period of at least 30 days to
487 correct that error, commencing upon the third-party agent's receipt of notice of the error from the
488 local law enforcement official.

489 (6) If a pawnbroker experiences a computer malfunction, the pawnbroker shall be allowed
490 a period of at least 15 days within which to repair the malfunction. During this period of time the

491 pawnbroker is not in violation of this section if the pawnbroker has notified the local law
492 enforcement official of the malfunction and if the pawnbroker is making a bona fide effort to repair
493 the malfunction.

494 (7) During the periods under Subsections (5) and (6) the pawnbroker and the local law
495 enforcement official shall arrange a mutually acceptable alternative method by which the
496 pawnbroker provides the reportable data to the local law enforcement official.

497 (8) This section does not require a pawnbroker to:

498 (a) make available paper copies of the transaction documents underlying the reportable
499 data except as provided in Subsection (3)(c) or as mutually agreed pursuant to Subsection (7); or

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

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

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

505 **7-24-113. Confidentiality of pawn and purchase transactions.**

506 (1) All records and information relating to pawn and purchase transactions delivered to
507 a law enforcement officer or transmitted to the pawn transaction database pursuant to Section
508 7-24-112 are protected records under Section 63-2-304. The records and information may be used
509 only by law enforcement officers and only for the following law enforcement purposes:

510 (a) to investigate a crime specifically involving the item of property delivered to the
511 pawnbroker in a pawn or purchase transaction;

512 (b) to investigate a pawnbroker's possible specific violation of the record keeping or
513 reporting requirements of this chapter, but only when the local law enforcement official, based on
514 a review of the records and information received, has probable cause to believe that a violation has
515 occurred; and

516 (c) to respond to an inquiry from a person claiming ownership of a described item of
517 property, by searching the database to determine if an item matching the description has been
518 delivered to a pawnbroker by another person in a pawn or purchase transaction and if so, obtaining
519 from the database:

520 (i) a description of the item of property;

521 (ii) the name and address of the pawnbroker who received the item; and

522 (iii) the name and address of the conveying person.

523 (2) The provisions of Subsection (1) do not apply to the department.

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

525 **7-24-114. Pledged property not redeemed.**

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

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

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

532 **7-24-115. Required business practices -- Replacement of lost property -- Inspection**
533 **of pawn records.**

534 (1) A pawnbroker shall:

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

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

537 (c) return or replace under Subsection (2) pledged property to a pledgor upon payment of
538 the full amount due the pawnbroker, unless the pledged property has been taken into custody by
539 a local law enforcement authority or by court order.

540 (2) (a) If pledged property is lost or damaged while in the possession of the pawnbroker,
541 the pawnbroker may satisfy the pledgor's claim by replacing the lost or damaged property with like
542 kinds of merchandise.

543 (b) Proof of replacement in compliance with this Subsection (2) is a defense to any
544 prosecution or civil action.

545 (c) As used in this Subsection (2), "lost" means pledged property that has been destroyed
546 or has disappeared due to an occurrence, other than the willful act or omission of the pawnbroker,
547 that results in the pledged property being unavailable for return to the pledgor.

548 (3) A pawnbroker shall allow the department and local law enforcement officials to inspect
549 the pawnbroker's pawn or purchase records during the ordinary hours of business or at another time
550 acceptable to both parties.

551 (4) A local law enforcement official may not remove a pawn or purchase record from the
552 pawnshop unless he gives the pawnbroker a receipt for that record. The pawnbroker shall retain

553 the receipt on the pawnshop premises for at least two years.

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

555 **7-24-116. Right to redeem -- Lost pawn ticket.**

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

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

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

562 (3) (a) Before delivering the pledged property or issuing a new pawn ticket to the pledgor
563 reporting the lost pawn ticket, the pawnbroker shall require the pledgor to provide a written and
564 dated statement of the loss, destruction, or theft of the ticket.

565 (b) The pawnbroker shall record on the written statement the type of identification and the
566 identification number provided by the pledgor, and the number of the lost, destroyed, or stolen
567 pawn ticket. The statement shall be signed by the pawnbroker or the pawnshop employee who
568 accepts the statement from the pledgor.

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

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

572 **7-24-117. Pawnbroker's lien.**

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

576 (2) Except as otherwise provided in this chapter, the pawnbroker:

577 (a) shall retain possession of the pledged property until the lien is satisfied; and

578 (b) may only be compelled to relinquish possession of the pledged property after receipt
579 of the amount financed plus the accrued finance charge.

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

581 **7-24-118. Claims against property held by pawnbrokers.**

582 (1) As used in this section and Section 7-24-119:

583 (a) "Claimant" means a person who claims that his property was misappropriated and then

584 delivered into the possession of a pawnbroker.

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

587 (c) "Court of competent jurisdiction" includes the small claims courts under Title 78,
588 Chapter 6, Small Claims Courts, if the fair market value of the disputed property plus attorney fees
589 but exclusive of court costs does not exceed \$5,000.

590 (d) "Disputed property" means pledged property claimed to be misappropriated.

591 (e) "Prosecuting attorney" means the city prosecutor, county attorney, district attorney, or
592 other government attorney responsible for prosecuting criminal violations in the jurisdiction where
593 the pawnshop is located.

594 (2) (a) Except as provided in Subsections (3) and (4), a pawnbroker has a right to possess
595 disputed property until:

596 (i) a defendant in a criminal proceeding:

597 (A) is found guilty of misappropriating the disputed property; or

598 (B) acknowledges in advance of a plea or as part of a plea bargain to having
599 misappropriated the disputed property and agrees to make full restitution for the misappropriation,
600 including restitution to the pawnbroker;

601 (ii) a court in a civil or criminal proceeding determines that the pawnbroker is not the
602 lawful owner of the disputed property;

603 (iii) the pawnbroker is paid the amount financed and the finance charge for the disputed
604 property by the lawful owner; or

605 (iv) the pawnbroker voluntarily consents in writing to permanently relinquish possession
606 of the disputed property.

607 (b) If a pawnbroker's right to possession of pledged property is terminated under
608 Subsection (2)(a), the property may be returned to the lawful owner pursuant to Section 77-24-2.

609 (3) Subject to Section 7-24-119, a pawnbroker's right to possess disputed property is
610 temporarily suspended when a law enforcement officer takes possession of the property:

611 (a) to further a criminal investigation;

612 (b) as evidence of a criminal violation; or

613 (c) pursuant to a lawful warrant for its seizure.

614 (4) When a law enforcement officer is in possession of disputed property and the purpose

615 for that possession no longer exists, the officer shall send notice to the claimant of his right to
616 request the return of the property under this Subsection (4). The law enforcement officer shall
617 return the property to the claimant if:

618 (a) before notice is sent to the claimant under this Subsection (4):

619 (i) the claimant reports a misappropriation of the disputed property to a local law
620 enforcement official;

621 (ii) a case number is assigned to the claimant's report; and

622 (iii) the prosecuting attorney consents to the release of the disputed property;

623 (b) no later than 15 days after the claimant receives notice under this Subsection (4), the
624 claimant signs a statement that identifies the case number assigned to the claimant's report and in
625 which the claimant:

626 (i) states that the claimant is the lawful owner of the disputed property;

627 (ii) describes the serial number or identifying marks used by the claimant to positively
628 identify the disputed property; and

629 (iii) states that the claimant will cooperate with law enforcement officers in the
630 investigation and prosecution concerning the disputed property;

631 (c) no later than 30 days after notice to the claimant under this Subsection (4), the local
632 law enforcement official delivers to the pawnbroker:

633 (i) a copy of the statement described in Subsection (4)(b); and

634 (ii) written notice that unless the pawnbroker submits an objection in writing, the disputed
635 property will be returned to the claimant 15 days after the pawnbroker's receipt of the notice and
636 the claimant's statement; and

637 (d) within 15 days after the pawnbroker receives the statement and notice under Subsection
638 (4)(c), the pawnbroker has not submitted a written objection to the local law enforcement official.

639 (5) A claimant, a pawnbroker, or any other person who claims ownership rights in disputed
640 property may establish ownership rights in the property by filing a civil action in a court of
641 competent jurisdiction. In that action:

642 (a) the claimant and the pawnbroker shall both be parties; and

643 (b) the prevailing party shall be awarded its costs and reasonable attorney fees.

644 (6) A pawnbroker has no recourse against a pledgor for payment on a pawn transaction
645 except the pledged property itself, unless:

646 (a) (i) the pawnbroker's right to possession of the property is terminated under Subsection
647 (2); and

648 (ii) if a civil action is filed to establish ownership rights in the pledged property, the
649 pawnbroker joins the conveying customer as a party to the action; or

650 (b) the property was returned to a claimant pursuant to Subsection (4).

651 (7) (a) A conveying customer may be prosecuted for a criminal violation.

652 (b) A claimant may be prosecuted for filing a false claim.

653 (8) This section does not preclude an assignee of a claimant's rights in disputed property
654 from contesting either the claimant's or the pawnbroker's ownership interest in or right to possess
655 the disputed property.

656 (9) When a pledgor makes a pawn transaction in this state:

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

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

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

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

666 (10) (a) If an item of property is the subject of a lease, rental, or finance transaction
667 between the claimant and a lease, rental, or finance customer when the property is sold or pledged
668 to the pawnbroker as part of a pawn transaction, the property is not considered misappropriated
669 for purposes of this chapter unless it bears a conspicuous permanent label or marking identifying
670 it as the claimant's property.

671 (b) (i) Property subject to a lease, rental, or finance transaction which is not marked as
672 provided in Subsection (10)(a) may be recovered by the claimant only upon payment to the
673 pawnbroker of all moneys owing to or advanced by the pawnbroker in the pawn or purchase
674 transaction and upon producing evidence identifying the property as having been the property of
675 the claimant and having been leased, rented, or financed when the property was placed in the
676 pawnbroker's possession.

677 (ii) The pawnbroker does not have liability regarding the recovery of leased, rented, or
678 financed property that is not marked as described under Subsection (10)(a).

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

680 **7-24-119. Law enforcement hold on property -- Disposal of property received by law**
681 **enforcement officer.**

682 (1) The definitions in Section 7-24-118 apply to this section.

683 (2) (a) When a law enforcement officer acting under the authority of Subsection
684 53-13-103(3) has probable cause to believe that property in possession of a pawnbroker is
685 misappropriated, the law enforcement officer may place a written hold order on the property.

686 (b) The initial term of the written hold order may not exceed 30 days, except that the
687 holding period may be extended for not more than two additional successive 30-day increments
688 upon written notification to the pawnbroker prior to the expiration of the immediately preceding
689 holding period. Any other extensions shall be only by court order.

690 (c) If the holding period has expired and has not been extended under Subsection (2)(b),
691 the hold order expires, and the pawnbroker shall notify the local law enforcement official that the
692 hold order is no longer in effect.

693 (d) If, on the 15th business day after written notice is delivered to the law enforcement
694 officer stating that the hold order is no longer in effect, the officer has not provided to the
695 pawnbroker an order extending the hold under Subsection (2)(b), the pledgor's interest in the
696 property reverts to the pawnbroker, subject to any restrictions contained in the pawn transaction
697 contract and subject to the provisions of this section.

698 (3) A hold order required by this section shall contain:

699 (a) the name of the pawnbroker;

700 (b) the name, title, and identification number of the law enforcement officer placing the
701 hold order;

702 (c) the name and address of the agency the law enforcement officer represents and the case
703 number assigned by the agency to the claim regarding the property;

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

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

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

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

709 (4) The pawnbroker or his designee shall sign and date a copy of the hold order as
710 evidence of receipt of the hold order and acknowledgment of the beginning of the initial 30-day
711 holding period.

712 (5) A law enforcement officer who places the initial hold order may terminate the hold
713 order prior at any time.

714 (6) While a hold order is in effect, a pawnbroker shall retain possession of the property
715 subject to the hold order unless the pawnbroker releases the pledged property into the custody of
716 a law enforcement officer for any of the following reasons:

717 (a) to further a criminal investigation;

718 (b) as evidence of a criminal violation; or

719 (c) pursuant to a lawful warrant for its seizure.

720 (7) If a pawnbroker releases pledged property into the custody of a law enforcement
721 officer, including pledged property not subject to a hold order, the pawnbroker's release of the
722 property is not considered a waiver or release of the pawnbroker's property rights or interest in the
723 property.

724 (8) (a) If a law enforcement officer takes custody of pledged property, the law enforcement
725 officer shall give the pawnbroker a receipt for the property.

726 (b) While pledged property is in the custody of a law enforcement officer, the officer shall
727 comply with the applicable provisions of Sections 77-23-208 and 77-24-1.5 regarding safekeeping
728 of property.

729 (c) A law enforcement officer shall return pledged property held in custody to the
730 pawnbroker when the reason for the law enforcement officer's custody of the property no longer
731 exists, unless:

732 (i) the pawnbroker's right to possess the property is terminated pursuant to Subsection
733 7-24-118(2); or

734 (ii) the property is returned to a claimant pursuant to Subsection 7-24-118(4).

735 (9) A prosecuting attorney with jurisdiction over a case involving pledged property shall,
736 upon disposition of the case, direct that the property be returned to the pawnbroker, unless:

737 (a) the pawnbroker's right to possess the property is terminated pursuant to Subsection
738 7-24-118(2); or

739 (b) the property is returned to a claimant pursuant to Subsection 7-24-118(4).

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

741 **7-24-120. Examination of books, accounts, and records by the department.**

742 (1) The department may examine the books, accounts, and records of a pawnshop or a
743 pawnbroker and may make investigations to determine compliance with this chapter. The scope
744 and frequency of examinations shall be determined solely in the discretion of the department.

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

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

748 **7-24-121. Pawnbroking advisory board.**

749 (1) There is created a pawnbroking advisory board consisting of seven members to be
750 appointed by the governor as follows:

751 (a) one representative of the attorney general of the state;

752 (b) one representative of the Utah Chiefs of Police Association;

753 (c) one representative of the Utah Sheriff's Association;

754 (d) one representative of the Statewide Association of Prosecutors;

755 (e) three representatives of the pawnbroking industry who:

756 (i) have had three or more years experience as a pawnbroker; and

757 (ii) are selected from a list submitted to the governor by an association in this state
758 representing the pawnbroking industry.

759 (2) (a) The board shall meet at least quarterly.

760 (b) Meetings of the board shall be held on the call of the chair.

761 (3) The members of the advisory board shall elect the chair of the board each year from
762 the membership of the board by a majority of the members present at the board's first meeting each
763 year.

764 (4) (a) Except as required by Subsection (4)(b), as terms of current board members expire,
765 the governor shall appoint each new member or reappointed member to a four-year term.

766 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time
767 of appointment or reappointment, adjust the length of terms to ensure that the terms of board
768 members are staggered so that approximately half of the board is appointed every two years.

769 (5) When a vacancy occurs in the membership of the board for any reason, the replacement

770 shall be appointed for the unexpired term.

771 (6) All members shall serve until their successors are appointed and qualified.

772 (7) (a) Members receive no compensation or benefits for their services, but may receive
773 per diem and expenses incurred in the performance of the member's official duties at the rates
774 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

775 (b) Members may decline to receive per diem and expenses for their service.

776 (8) A majority of the members of the board constitute a quorum.

777 (9) The board has the duty to advise the governor and commissioner on issues relating to
778 the pawnbroking industry and in the improvement of pawnbroking services to the people of the
779 state.

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

781 **7-24-122. Enforcement by the department -- Rulemaking.**

782 (1) The department may:

783 (a) receive and act on pawnbroking complaints by:

784 (i) taking action designed to obtain voluntary compliance with this chapter; and

785 (ii) commencing administrative or judicial proceedings on its own initiative to enforce
786 compliance with this chapter;

787 (b) counsel persons and groups on their rights and duties under this chapter; and

788 (c) employ hearing examiners, clerks, and other employees and agents as necessary to
789 perform its duties under this chapter.

790 (2) The department may make rules to:

791 (a) administer or enforce the provisions of this chapter;

792 (b) restrict or prohibit pawnbroking practices that are misleading, unfair, or abusive;

793 (c) promote or assure fair and full disclosure of the terms and conditions of agreements
794 and communications between pawnbrokers and customers; and

795 (d) promote or assure uniform application of the chapter.

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

797 **7-24-123. Criminal history records.**

798 The Criminal Investigations and Technical Services Division of the Department of Public
799 Safety, established in Section 53-10-103, shall on request release to the department any available
800 criminal history records, conviction records, and warrant of arrest records on an individual

801 applying for or holding a registration under this chapter.

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

803 **7-24-124. Preemption of local ordinances -- Exceptions.**

804 (1) This chapter preempts all city, county, and other local ordinances governing
805 pawnbrokers and pawnbroking transactions that are more restrictive than the provisions of this
806 chapter or that are not consistent with this chapter.

807 (2) Subsection (1) does not preclude a city, county, or other local governmental unit from:

808 (a) enacting or enforcing local ordinances concerning public health, safety, or welfare if

809 the ordinances are equally applicable to all businesses, including pawnbrokers or pawnshops;

810 (b) requiring a pawnbroker or a pawnshop to obtain and maintain a business license; or

811 (c) enacting zoning ordinances that restrict areas where pawnshops can be located.

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

813 **7-24-125. Transition period for registering current pawnbrokers.**

814 (1) Pawnbrokers operating pawnshops in business on the effective date of this chapter may
815 continue to operate through December 31, 2002.

816 (2) Prior to December 31, 2002, the pawnbroker shall apply for a registration from the
817 department and shall complete the registration process under this chapter.

818 (3) On and after January 1, 2003, a pawnbroker under Subsection (1) may not operate a
819 pawnshop unless it is registered under this chapter.

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

821 **11-6-1. Records to be kept -- Availability to peace officers.**

822 Pawnbrokers and dealers in secondhand goods shall keep records containing a description

823 of all articles received by them, the amounts paid [~~therefor~~] for them or advanced [~~thereon~~] on

824 them, a general description of the person from whom received, together with his name and address

825 and the date of the transaction. [~~Such~~] These records shall at all reasonable times be accessible

826 to any peace officer who demands an inspection [~~thereof~~], and any further information regarding

827 [~~such~~] the transaction that he may require shall be [~~given~~] provided by pawnbrokers and

828 secondhand dealers to the best of their ability. [~~In cities of the first and the second class at the close~~

829 ~~of each day's business pawnbrokers shall mail a copy of such records to the sheriff of the county~~

830 ~~in which they are located.] A pawnbroker's compliance with Sections 7-24-108, 7-24-109, and~~

831 7-24-112, and Subsection 7-24-115(4) satisfies the requirements of this section.

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

833 **63-2-304. Protected records.**

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

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

837 (2) commercial information or nonindividual financial information obtained from a person
838 if:

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

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

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

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

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

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

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

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

862 (a) public interest in obtaining access to the information outweighs the governmental

863 entity's need to acquire the property on the best terms possible;

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

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

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

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

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

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

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

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

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

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

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

892 (e) reasonably could be expected to disclose investigative or audit techniques, procedures,
893 policies, or orders not generally known outside of government if disclosure would interfere with

894 enforcement or audit efforts;

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

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

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

902 (13) records that, if disclosed, would reveal recommendations made to the Board of
903 Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board
904 of Pardons and Parole, or the Department of Human Services that are based on the employee's or
905 contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

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

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

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

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

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

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

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

924 (b) for purposes of this subsection, a "Request For Legislation" submitted to the Office of

925 Legislative Research and General Counsel is a public document unless a legislator submits the
926 "Request For Legislation" with a request that it be maintained as a protected record until such time
927 as the legislator elects to make the legislation or course of action public;

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

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

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

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

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

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

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

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

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

954 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
955 revenue estimates, and fiscal notes of proposed legislation before issuance of the final

956 recommendations in these areas;

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

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

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

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

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

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

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

979 (a) the donor requests anonymity in writing;

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

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

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

987 (39) a notification of workers' compensation insurance coverage described in Section
988 34A-2-205; ~~and~~

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

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

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

998 **76-6-408. Receiving stolen property -- Duties of pawnbrokers.**

999 (1) A person commits theft if he receives, retains, or disposes of the property of another
1000 knowing that it has been stolen, or believing that it probably has been stolen, or who conceals,
1001 sells, withholds or aids in concealing, selling, or withholding the property from the owner,
1002 knowing the property to be stolen, intending to deprive the owner of it.

1003 (2) The knowledge or belief required for Subsection (1) is presumed in the case of an actor
1004 who:

1005 (a) is found in possession or control of other property stolen on a separate occasion;
1006 (b) has received other stolen property within the year preceding the receiving offense
1007 charged; or

1008 (c) being a dealer in property of the sort received, retained, or disposed, acquires it for a
1009 consideration which he knows is far below its reasonable value~~[-; or]~~.

1010 ~~[(d) if the value given for the property exceeds \$20, is a pawnbroker or person who has~~
1011 ~~or operates a business dealing in or collecting used or secondhand merchandise or personal~~
1012 ~~property, or an agent, employee, or representative of a pawnbroker or person who buys, receives,~~
1013 ~~or obtains property and fails to require the seller or person delivering the property to:]~~

1014 ~~[(i) certify, in writing, that he has the legal rights to sell the property;]~~

1015 ~~[(ii) provide a legible print, preferably the right thumb, at the bottom of the certificate next~~
1016 ~~to his signature; and]~~

1017 ~~[(iii) provide at least one other positive form of picture identification.]~~

1018 ~~[(3) Every pawnbroker or person who has or operates a business dealing in or collecting~~
1019 ~~used or secondhand merchandise or personal property, and every agent, employee, or~~
1020 ~~representative of a pawnbroker or person who fails to comply with the requirements of Subsection~~
1021 ~~(2)(d) shall be presumed to have bought, received, or obtained the property knowing it to have~~
1022 ~~been stolen or unlawfully obtained. This presumption may be rebutted by proof.]~~

1023 ~~[(4) When, in a prosecution under this section, it appears from the evidence that the~~
1024 ~~defendant was a pawnbroker or a person who has or operates a business dealing in or collecting~~
1025 ~~used or secondhand merchandise or personal property, or was an agent, employee, or representative~~
1026 ~~of a pawnbroker or person, that the defendant bought, received, concealed, or withheld the property~~
1027 ~~without obtaining the information required in Subsection (2)(d), then the burden shall be upon the~~
1028 ~~defendant to show that the property bought, received, or obtained was not stolen.]~~

1029 ~~[(5) Subsections (2)(d), (3), and (4) do not apply to scrap metal processors as defined in~~
1030 ~~Section 76-10-901.]~~

1031 ~~[(6)]~~ (3) As used in this section:

1032 (a) "Receives" means acquiring possession, control, or title or lending on the security of
1033 the property[;].

1034 (b) "Dealer" means a person in the business of buying or selling goods.

1035 Section 29. Section **77-24-2** is amended to read:

1036 **77-24-2. Return of property not needed as evidence -- Procedure.**

1037 (1) (a) Custodial property which is not needed as evidence shall be returned to the owner
1038 if he may lawfully possess it. When the peace officer or the agency by which he is employed
1039 becomes aware that the property is not needed as evidence, the prosecuting attorney shall be so
1040 advised, giving a description and details of ownership. When the prosecuting attorney, by ~~[such]~~
1041 notice or otherwise, becomes aware that the property is not needed as evidence, he shall give
1042 written notice to the owner. Upon proof of ownership and of lawfulness of possession satisfactory
1043 to the prosecuting attorney, the prosecuting attorney shall give the owner written authorization
1044 which shall entitle the owner to receive the property from the person having custody of it.

1045 (b) When custodial property is received in evidence, it shall be retained by the clerk of the
1046 court last receiving it or shall be returned by him to the custody of the peace officer until all direct
1047 appeals and retrials are final, at which time the property shall be returned in accordance with this
1048 section. ~~[In the event that]~~

1049 (c) If the prosecuting attorney considers it necessary to retain control over the evidence,
1050 in anticipation of possible collateral attacks upon the judgment or of use in some potential
1051 prosecution, he may decline to authorize return.

1052 (2) Subsection (1) does not apply to custodial property taken from a pawnbroker that is
1053 subject to Section 7-24-118 or 7-24-119, unless the pawnbroker's right to possess the property is
1054 terminated pursuant to Subsection 7-24-118(2).

1055 Section 30. Section **78-6-1** is amended to read:

1056 **78-6-1. Small claims -- Defined -- Biannual review -- Counsel not necessary --**
1057 **Deferring multiple claims of one plaintiff -- Supreme Court to govern procedures.**

1058 (1) A small claims action is a civil action:

1059 (a) for the recovery of money where the amount claimed does not exceed \$5,000 including
1060 attorney fees but exclusive of court costs and interest and where the defendant resides or the action
1061 of indebtedness was incurred within the jurisdiction of the court in which the action is to be
1062 maintained; [~~or~~]

1063 (b) involving interpleader under Rule 22 of the Utah Rules of Civil Procedure, in which
1064 the amount claimed does not exceed \$5,000 including attorney fees but exclusive of court costs
1065 and interest[~~;~~]; or

1066 (c) to establish ownership rights in pledged property subject to Section 7-24-118, if the fair
1067 market value of the property plus attorney fees but exclusive of court costs does not exceed \$5,000.

1068 (2) The judgment in a small claims action may not exceed \$5,000 including attorney fees
1069 but exclusive of court costs and interest.

1070 (3) Counter claims may be maintained in small claims actions if the counter claim arises
1071 out of the transaction or occurrence that is the subject matter of the plaintiff's claim. A counter
1072 claim may not be raised for the first time in the trial de novo of the small claims action.

1073 (4) The Judicial Council shall present to the Judiciary Interim Committee prior to the
1074 general session of the Legislature during odd-numbered years a report and recommendations
1075 concerning the maximum amount of small claims actions.

1076 (5) Persons or corporations may litigate actions on behalf of themselves in person or
1077 through authorized employees with or without counsel.

1078 (6) If a person or corporation other than a municipality or a political subdivision of the
1079 state files multiple small claims in any one court, the clerk or judge of the court may remove all

1080 but the initial claim from the court's calendar in order to dispose of all other small claims matters.

1081 Claims so removed shall be rescheduled as permitted by the court's calendar.

1082 (7) Small claims matters shall be managed in accordance with simplified rules of

1083 procedure and evidence promulgated by the Supreme Court.

1084 Section 31. **Effective date.**

1085 This act takes effect on July 1, 2002.