

PERSONAL PROPERTY TRANSACTIONS**AMENDMENTS**

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael G. Waddoups

LONG TITLE**General Description:**

This bill amends the Pawnshop Transaction Information Act by placing its operations under the Division of Consumer Protection within the Department of Commerce. The bill authorizes attorney fees against persons subject to enforcement action under the act. This bill specifies lawful uses of pawn transaction information by law enforcement and a penalty for unlawful use. This bill changes the criminal penalties for violation of the act to civil penalties. This bill also repeals the repeal date of the act.

Highlighted Provisions:

This bill:

- ▶ places the operation and enforcement of the Pawnshop Transaction Information Act under the Division of Consumer Protection;
- ▶ renames "civil penalties" as "administrative fines" to be consistent with the division's statutory language;
- ▶ provides that the attorney general may bring enforcement actions and that attorney's fees, costs, and interest are to be awarded in enforcement cases;
- ▶ directs that these awarded fees, costs, and interest shall be paid to the division;
- ▶ provides that pawn transaction records provided to law enforcement or the central database may only be used for specified investigative and ownership inquiry purposes;
- ▶ imposes a civil penalty for use of pawn transaction records for any purpose not



- 28 authorized by the act;
- 29 ▶ changes specified violations of the act from class C misdemeanors to violations
- 30 subject to civil penalties;
- 31 ▶ clarifies the protected record provisions regarding the act; and
- 32 ▶ repeals the May 2, 2005 repeal date of the act.

33 **Monies Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 AMENDS:

- 39 **13-2-1**, as last amended by Chapter 222, Laws of Utah 2002
- 40 **13-32a-102**, as enacted by Chapter 299, Laws of Utah 2004
- 41 **13-32a-106**, as enacted by Chapter 299, Laws of Utah 2004
- 42 **13-32a-107**, as enacted by Chapter 299, Laws of Utah 2004
- 43 **13-32a-110**, as enacted by Chapter 299, Laws of Utah 2004
- 44 **13-32a-111**, as enacted by Chapter 299, Laws of Utah 2004
- 45 **13-32a-112**, as enacted by Chapter 299, Laws of Utah 2004
- 46 **13-32a-113**, as enacted by Chapter 299, Laws of Utah 2004
- 47 **13-32a-114**, as enacted by Chapter 299, Laws of Utah 2004
- 48 **63-2-304**, as last amended by Chapters 223, 299 and 358, Laws of Utah 2004

49 ENACTS:

- 50 **13-32a-102.5**, Utah Code Annotated 1953
- 51 **13-32a-106.5**, Utah Code Annotated 1953

52 **Uncodified Material Affected:**

53 REPEALS:

54 **Uncodified Section 18, Chapter 299, Laws of Utah 2004**



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

57 Section 1. Section **13-2-1** is amended to read:

58 **13-2-1. Consumer protection division established -- Functions.**

59 (1) There is established within the Department of Commerce the Division of Consumer
60 Protection.

61 (2) The division shall administer and enforce the following:

62 (a) Chapter 5, Unfair Practices Act;

63 (b) Chapter 10a, Music Licensing Practices Act;

64 (c) Chapter 11, Utah Consumer Sales Practices Act;

65 (d) Chapter 15, Business Opportunity Disclosure Act;

66 (e) Chapter 20, New Motor Vehicles Warranties Act;

67 (f) Chapter 21, Credit Services Organizations Act;

68 (g) Chapter 22, Charitable Solicitations Act;

69 (h) Chapter 23, Health Spa Services Protection Act;

70 (i) Chapter 25a, Telephone and Facsimile Solicitation Act;

71 (j) Chapter 26, Telephone Fraud Prevention Act;

72 (k) Chapter 28, Prize Notices Regulation Act;

73 (l) Chapter 30, Utah Personal Introduction Services Protection Act; ~~[and]~~

74 (m) Chapter 32a, Pawnshop Transaction Information Act; and

75 ~~[(m)]~~ (n) Chapter 34, Utah Postsecondary Proprietary School Act.

76 Section 2. Section **13-32a-102** is amended to read:

77 **13-32a-102. Definitions.**

78 As used in this chapter:

79 (1) "Account" means the Pawnbroker Operations Restricted Account created in Section
80 13-32a-113.

81 (2) "Board" means the Pawnshop Advisory Board created by this chapter.

82 (3) "Central database" or "database" means the electronic database created and
83 operated under Section 13-32a-105.

84 (4) "Division" means the Division of Consumer Protection in Title 13, Chapter 1,
85 Department of Commerce.

86 ~~[(4)]~~ (5) "Identification" means a form of positive identification issued by a
87 governmental entity that:

88 (a) contains a numerical identifier and a photograph of the person identified; and

89 (b) may include a state identification card, a state drivers license, a United States

90 military identification card, or a United States passport.

91 ~~[(5)]~~ (6) "Local law enforcement agency" means a law enforcement agency that has
92 jurisdiction over the location where the pawnshop is located.

93 ~~[(6)]~~ (7) "Misappropriated" means stolen, embezzled, converted, obtained by theft, or
94 otherwise appropriated without authority of the lawful owner.

95 ~~[(7)]~~ (8) "Original victim" means a victim who is not a party to the pawn transaction.

96 ~~[(8)]~~ (9) "Pawnbroker" means a person whose business engages in the following
97 activities:

98 (a) loans money on one or more deposits of personal property;

99 (b) deals in the purchase, exchange, or possession of personal property on condition of
100 selling the same property back again to the pledgor or depositor;

101 (c) loans or advances money on personal property by taking chattel mortgage security
102 on the property and takes or receives the personal property into his possession, and who sells
103 the unredeemed pledges; or

104 (d) engages in a licensed business enterprise as a pawnshop.

105 ~~[(9)]~~ (10) "Pawn ticket" means a document upon which information regarding a pawn
106 transaction is entered when the pawn transaction is made.

107 ~~[(10)]~~ (11) "Pawn transaction" means an extension of credit in which an individual
108 delivers property to a pawnbroker for an advance of money or sells property to a pawnbroker
109 and retains the right to redeem or repurchase the property for the redemption price within a
110 fixed period of time.

111 ~~[(11)]~~ (12) "Pawnshop" means the physical location or premises where a pawnbroker
112 conducts business.

113 ~~[(12)]~~ (13) "Property" means any tangible personal property.

114 ~~[(13)]~~ (14) "Register" means the record of information required under this chapter to be
115 maintained by the pawnbroker. The register is an electronic record that is in a format that is
116 compatible with the central database.

117 Section 3. Section **13-32a-102.5** is enacted to read:

118 **13-32a-102.5. Administration and enforcement.**

119 (1) The division shall administer and enforce this chapter in accordance with the
120 authority under Title 13, Chapter 2, Division of Consumer Protection.

121 (2) The attorney general, upon request, shall give legal advice to, and act as counsel
122 for, the division in the exercise of its responsibilities under this chapter.

123 (3) Reasonable attorney's fees, costs, and interest shall be awarded to the division in
124 any action brought to enforce the provisions of this chapter.

125 Section 4. Section **13-32a-106** is amended to read:

126 **13-32a-106. Transaction information provided to the central database --**
127 **Protected information.**

128 (1) The information required to be recorded under Sections 13-32a-103 and
129 13-32a-104 that is capable of being transmitted electronically shall be transmitted
130 electronically to the central database on the next business day following the transaction.

131 (2) The pawnbroker shall maintain all pawn tickets generated by the pawnshop and
132 shall maintain the tickets in a manner so that the tickets are available to local law enforcement
133 agencies as required by this chapter and as requested by any law enforcement agency as part of
134 an investigation or reasonable random inspection conducted pursuant to this chapter.

135 (3) (a) If a pawnshop experiences a computer or electronic malfunction that affects its
136 ability to report transactions as required in Subsection (1), the pawnshop shall immediately
137 notify the local law enforcement agency of the malfunction.

138 (b) The pawnshop shall solve the malfunction within three business days or notify law
139 enforcement under Subsection (4).

140 (4) If the computer or electronic malfunction under Subsection (3) cannot be solved
141 within three business days, the pawnshop shall notify the local law enforcement agency of the
142 reasons for the delay and provide documentation from a reputable computer maintenance
143 company of the reasons why the computer or electronic malfunction cannot be solved within
144 three business days.

145 (5) A computer or electronic malfunction does not suspend the pawnshop's obligation
146 to comply with all other provisions of this chapter.

147 (6) During the malfunction under Subsections (3) and (4), the pawnshop shall:

148 (a) maintain the pawn tickets and other information required under this chapter in a
149 written form; and

150 (b) arrange with the local law enforcement agency a mutually acceptable alternative
151 method by which the pawnshop provides the required information to the local law enforcement

152 official.

153 (7) ~~[Any]~~ A pawnshop that violates the electronic transaction reporting requirement of
154 this section is subject to ~~[a civil penalty]~~ an administrative fine of \$50 per day if:

155 (a) the pawnshop is unable to submit the information electronically due to a computer
156 or electronic malfunction;

157 (b) the three business day period under Subsection (3) has expired; and

158 (c) the pawnshop has not provided documentation regarding its inability to solve the
159 malfunction as required under Subsection (4).

160 ~~[(8) All civil penalty payments under Subsection (7) shall be remitted to the~~
161 ~~Department of Commerce, which shall deposit the fees in the account.]~~

162 ~~[(9)]~~ (8) A pawnshop is not responsible for a delay in transmission of information that
163 results from a malfunction in the central database.

164 Section 5. Section **13-32a-106.5** is enacted to read:

165 **13-32a-106.5. Confidentiality of pawn and purchase transactions.**

166 (1) All pawn and purchase transaction records delivered to a local law enforcement
167 official or transmitted to the central database pursuant to Section 13-32a-106 are protected
168 records under Section 63-2-304. These records may be used only by law enforcement officials
169 and the division and only for the law enforcement and administrative enforcement purposes of:

170 (a) investigating possible criminal conduct involving the property delivered to the
171 pawnbroker in a pawn or purchase transaction;

172 (b) investigating a pawnbroker's possible violation of the record keeping or reporting
173 requirements of this chapter when the local law enforcement official, based on a review of the
174 records and information received, has reason to believe that a violation has occurred;

175 (c) responding to an inquiry from a person claiming ownership of described property
176 by searching the database to determine if property matching the description has been delivered
177 to a pawnbroker by another person in a pawn or purchase transaction and if so, obtaining from
178 the database:

179 (i) a description of the property;

180 (ii) the name and address of the pawnbroker who received the property; and

181 (iii) the name, address, and date of birth of the conveying person; and

182 (d) take enforcement action under Section 13-2-5 against a pawnbroker.

183 (2) (a) A person may not knowingly and intentionally use, release, publish, or
184 otherwise make available to any person or entity any information obtained from the database
185 for any purpose other than those specified in Subsection (1).

186 (b) Each separate violation of this Subsection (2) is subject to a civil penalty not to
187 exceed \$250.

188 Section 6. Section **13-32a-107** is amended to read:

189 **13-32a-107. Deadline for registers to be electronic -- Notice for updating.**

190 (1) On and after January 1, 2005, each pawnbroker in the state that generates ten or
191 more pawn transactions per month shall maintain the register in an electronic format that is
192 compatible with the central database computer system.

193 (2) (a) On and after January 15, 2005, pawnbrokers under Subsection (1) [shall pay a
194 civil penalty] are subject to an administrative fine of \$50 a day [to the Department of
195 Commerce] for each daily report required under Section 13-32a-106 that is submitted as a
196 written report rather than electronically.

197 (b) Fines imposed under this section shall be paid to the division, which shall deposit
198 the fines in the account.

199 (3) The operators of the central database shall establish written procedures in
200 conjunction with the Pawnshop Advisory Board to ensure that when the central database is
201 upgraded, the affected pawnbrokers will receive adequate notice, information, and time to
202 upgrade their computer systems so the systems are compatible with the upgraded central
203 database.

204 Section 7. Section **13-32a-110** is amended to read:

205 **13-32a-110. Penalties.**

206 (1) A violation of any of the following sections [~~is a class C misdemeanor:~~] is subject
207 to a civil penalty of not more than \$500:

208 ~~[(a) Section 13-32a-103, compliance with criminal code;]~~

209 ~~[(b)]~~ (a) Section 13-32a-104, register required to be maintained;

210 ~~[(c)]~~ (b) Section 13-32a-106, transaction information provided to law enforcement;

211 ~~[(d)]~~ (c) Section 13-32a-108, retention of records; or

212 ~~[(e)]~~ (d) Section 13-32a-109, holding period for pawned articles.

213 (2) This section does not prohibit civil action by a governmental entity regarding the

214 pawnbroker's business operation or licenses.

215 Section 8. Section **13-32a-111** is amended to read:

216 **13-32a-111. Fees to fund training and central database.**

217 (1) On and after January 1, 2005, each pawnshop in operation shall annually pay \$250
218 to the [~~Department of Commerce~~] division, to be deposited in the account.

219 (2) On and after January 1, 2005, each law enforcement agency that participates in the
220 use of the database shall annually pay to the [~~Department of Commerce~~] division a fee of \$2
221 per sworn law enforcement officer who is employed by the agency as of January 1 of that year.
222 The fee shall be deposited in the account.

223 (3) The fees under Subsections (1) and (2) shall be paid to the account annually on or
224 before January 30.

225 Section 9. Section **13-32a-112** is amended to read:

226 **13-32a-112. Pawnshop Advisory Board -- Membership -- Duties -- Provide**
227 **training -- Records of compliance.**

228 (1) There is created within the [~~Department of Commerce~~] division the Pawnshop
229 Advisory Board. The board consists of ten voting members and one nonvoting member:

230 (a) one representative of the Utah Chiefs of Police Association;

231 (b) one representative of the Utah Sheriffs Association;

232 (c) one representative of the Statewide Association of Prosecutors;

233 (d) five representatives from the pawnshop industry who are appointed by the director
234 of the Utah Commission on Criminal and Juvenile Justice (CCJJ) and who represent five
235 separate pawnshops, each owned by a separate person or entity;

236 (e) one law enforcement officer who is appointed by the board members under
237 Subsections (1)(a) through (d);

238 (f) one law enforcement officer whose work regularly involves pawnshops and who is
239 appointed by the board members under Subsections (1)(a) through (d); and

240 (g) one representative from the central database, who is nonvoting.

241 (2) (a) The board shall elect one voting member as the chair of the board by a majority
242 of the members present at the board's first meeting each year.

243 (b) The chair shall preside over the board for a period of one year.

244 (c) The advisory board shall meet quarterly upon the call of the chair.

245 (3) (a) The board shall conduct quarterly training sessions regarding compliance with
246 this chapter and other applicable state laws for any person defined as a pawnbroker in this
247 chapter.

248 (b) Each training session shall provide not fewer than two hours of training.

249 (4) (a) Each pawnbroker in operation as of January 1 shall ensure one or more persons
250 employed by the pawnshop each participate in no fewer than four hours of compliance training
251 within that year.

252 (b) This requirement does not limit the number of employees, directors, or officers of a
253 pawnshop who attend the compliance training.

254 (5) The board shall monitor and keep a record of the hours of compliance training
255 accrued by each pawnshop.

256 (6) The board shall provide each pawnshop with a certificate of compliance upon
257 completion by an employee of the four hours of compliance training.

258 (7) (a) Each law enforcement agency that has a pawnshop located within its jurisdiction
259 shall ensure that at least one of its officers completes four hours of compliance training yearly.

260 (b) This requirement does not limit the number of law enforcement officers who attend
261 the compliance training.

262 Section 10. Section **13-32a-113** is amended to read:

263 **13-32a-113. Pawnbroker Operations Restricted Account.**

264 (1) There is created within the General Fund a restricted account known as the
265 Pawnbroker Operations Restricted Account.

266 (2) (a) The account shall be funded from the fees and [~~civil penalties~~] administrative
267 fines imposed and collected under Sections 13-32a-106, 13-32a-107, 13-32a-110, and
268 13-32a-111. These fees and [~~penalties~~] administrative fines shall be paid to the [~~Department of~~
269 ~~Commerce~~] division, which shall deposit them in the account.

270 (b) The Legislature may appropriate the funds in this account:

271 (i) to the board for the costs of providing training required under this chapter, costs of
272 the central database created in Section 13-32a-105, and for costs of operation of the board; and

273 (ii) to the [~~Department of Commerce~~] division for management of fees and penalties
274 paid under this chapter.

275 (c) The board shall account to the [~~Department of Commerce~~] division for

276 expenditures.

277 (d) The board shall account separately for expenditures for:

278 (i) training required under this chapter;

279 (ii) operation of the database;

280 (iii) operation of the board; and

281 (iv) costs of operation of the board.

282 Section 11. Section **13-32a-114** is amended to read:

283 **13-32a-114. Preemption of local ordinances -- Exceptions.**

284 (1) This chapter preempts all city, county, and other local ordinances governing
285 pawnshops, pawnbrokers, and pawnbroking transactions, if the ordinances are more restrictive
286 than the provisions of this chapter or are not consistent with this chapter.

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

289 (a) enacting or enforcing local ordinances concerning public health, safety, or welfare,
290 if the ordinances are uniform and equal in application to pawnshops and pawnbrokers and other
291 [similar] retail businesses or activities;

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

293 (c) enacting zoning ordinances that restrict areas where pawnshops and other [similar]
294 retail businesses or activities can be located.

295 Section 12. Section **63-2-304** is amended to read:

296 **63-2-304. Protected records.**

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

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

300 (2) commercial information or nonindividual financial information obtained from a
301 person if:

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

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

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

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

313 (4) records the disclosure of which could cause commercial injury to, or confer a
314 competitive advantage upon a potential or actual competitor of, a commercial project entity as
315 defined in Subsection 11-13-103(4);

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

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

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

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

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

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

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

334 (e) the property under consideration for public acquisition is a single family residence
335 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
336 the property as required under Section 78-34-4.5;

337 (8) records prepared in contemplation of sale, exchange, lease, rental, or other

338 compensated transaction of real or personal property including intellectual property, which, if
339 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
340 of the subject property, unless:

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

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

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

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

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

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

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

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

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

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

367 (12) records that, if disclosed, would jeopardize the security or safety of a correctional
368 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere

369 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

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

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

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

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

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

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

388 (19) personal files of a legislator, including personal correspondence to or from a
389 member of the Legislature, provided that correspondence that gives notice of legislative action
390 or policy may not be classified as protected under this section;

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

395 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
396 Office of Legislative Research and General Counsel is a public document unless a legislator
397 asks that the records requesting the legislation be maintained as protected records until such
398 time as the legislator elects to make the legislation or course of action public;

399 (21) research requests from legislators to the Office of Legislative Research and

400 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
401 in response to these requests;

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

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

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

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

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

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

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

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

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

428 (31) records provided by the United States or by a government entity outside the state
429 that are given to the governmental entity with a requirement that they be managed as protected
430 records if the providing entity certifies that the record would not be subject to public disclosure

431 if retained by it;

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

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

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

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

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

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

451 (a) the donor requests anonymity in writing;

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

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

458 (38) accident reports, except as provided in Sections 41-6-40, 41-12a-202, and
459 73-18-13;

460 (39) a notification of workers' compensation insurance coverage described in Section
461 34A-2-205;

462 (40) (a) the following records of a public institution of education, which have been
463 developed, discovered, or received by or on behalf of faculty, staff, employees, or students of
464 the institution:

- 465 (i) unpublished lecture notes;
- 466 (ii) unpublished research notes and data;
- 467 (iii) unpublished manuscripts;
- 468 (iv) creative works in process;
- 469 (v) scholarly correspondence; and
- 470 (vi) confidential information contained in research proposals; and

471 (b) Subsection (40)(a) may not be construed to affect the ownership of a record;

472 (41) (a) records in the custody or control of the Office of Legislative Auditor General
473 that would reveal the name of a particular legislator who requests a legislative audit prior to the
474 date that audit is completed and made public; and

475 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
476 Office of the Legislative Auditor General is a public document unless the legislator asks that
477 the records in the custody or control of the Office of Legislative Auditor General that would
478 reveal the name of a particular legislator who requests a legislative audit be maintained as
479 protected records until the audit is completed and made public;

480 (42) records that provide detail as to the location of an explosive, including a map or
481 other document that indicates the location of:

- 482 (a) a production facility; or
- 483 (b) a magazine;

484 (43) information contained in the database described in Section 62A-3-311.1;

485 (44) information contained in the Management Information System and Licensing
486 Information System described in Title 62A, Chapter 4a, Child and Family Services;

487 (45) information regarding National Guard operations or activities in support of the
488 National Guard's federal mission;

489 (46) records provided by any pawnbroker or pawnshop to a law enforcement agency or
490 to the central database in compliance with Title 13, Chapter 32a, Pawnshop Transaction
491 Information Act; and

492 (47) information regarding food security, risk, and vulnerability assessments performed

493 by the Department of Agriculture and Food.

494 Section 13. **Repealer.**

495 This bill repeals:

496 **Uncodified Section 18, Chapter 299, Laws of Utah 2004, Repeal Date.** This

497 uncodified section affects: Sections 13-32a-101 through 13-32a-114.

Legislative Review Note

as of 2-15-05 1:27 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0062

Personal Property Transactions Amendments

18-Feb-05

5:46 PM

State Impact

Implementation of this bill can be handled within existing budgets.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst