

STORAGE NAME: h2003a.lec

DATE: March 29, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LAW ENFORCEMENT AND CRIME PREVENTION
ANALYSIS**

BILL #: CS/HB 2003

RELATING TO: Pawnshop Transactions / Public Information Disclosure

SPONSOR(S): Committee on Law Enforcement and Crime Prevention and Representative Bloom

TIED BILL(S): HB 903

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) LAW ENFORCEMENT AND CRIME PREVENTION YEAS 9 NAYS 0
 - (2) BUSINESS REGULATION AND CONSUMER AFFAIRS
 - (3) GOVERNMENTAL OPERATIONS
 - (4) CRIMINAL JUSTICE APPROPRIATIONS
 - (5)
-

I. SUMMARY:

Committee Substitute for House Bill 2003 exempts records relating to secondhand dealers and pawnbrokers as it pertains to s. 119.07, (1) F.S., which requires that records be open to public records requests. Records found in pawnbroking and secondhand dealer forms may be used by law enforcement agencies for investigative purposes only. This section does not prohibit the disclosure of the name and address of the secondhand dealer or pawnbroker, the name and address of the conveying customer, or a description of the property acquired by the secondhand dealer.

This section is subject to the Open Government Sunset Review Act of 1995 in accordance to section 119.15, F.S., and shall stand repealed on October 5, 2005, unless reviewed and saved from repeal by the Legislature.

This bill shall take effect July 1, 2000

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Currently, pawnbroker transactions are covered in a confidentiality clause found in s. 539.003, F.S. This statutory section makes reference to records delivered to "appropriate law enforcement officials." This language could be construed to include the Florida Department of Law Enforcement, but it is not so stated in the statute.

In it's entirety section 539.003 (1), F.S., provides as follows: " All records relating to pawnbroker transactions delivered to appropriate law enforcement officials pursuant to s. 539.001, F.S., are confidential and exempt from the provisions of s. 119.07 (1), F.S., and s. 24 (a), Art. I of the State Constitution and may be used only for official law enforcement purposes. This section does not prohibit the disclosure by the appropriate law enforcement officials of the name and address of the pawnbroker, the name and address of the conveying customer, or a description of the property."

Section 539.003 (2), F.S., states that: " This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, F.S., and shall be repealed October 2, 2001, unless reviewed and saved from repeal by the Legislature."

Article I, section 24 (c), of the Florida constitution requires that the legislature approve any exemption to s. 119.07 (1), F.S. It further requires that the legislative action that exempts a section from the requirements in s. 119.01 (1), F.S., be " no broader than necessary to accomplish the stated purpose of the law."

C. EFFECT OF PROPOSED CHANGES:

CS/HB 2003 would make all records relating to secondhand goods acquisitions delivered to a police department, sheriff's department or the Florida Department of Law Enforcement pursuant to s. 538.04, F.S., exempt from the provisions of section 119.07 (1), F.S. This section does not prohibit the disclosure by a police department, sheriffs department , or by the Florida Department of Law Enforcement of the name and address of the secondhand dealer or pawnbroker, the name and address of the conveying customer, or a description of the property acquired by the secondhand dealer or pawnbroker.

This section is subject to the Open Government Sunset Review Act of 1995, in accordance with section 119.15, F.S., and shall stand repealed on October 2, 2005, unless reviewed and saved from repeal by the Legislature. Section 2 of HB 2003 states the finding of the Legislature to be that the exemption from public records law relating to secondhand goods acquisition delivered to a police or sheriff's department serves a legitimate purpose. The release of information would cause an unwarranted invasion into the life of the previous owner of the secondhand goods and that there is no overriding public interest to be served in allowing such information to be made public. House Bill 2003 also states that the Legislature finds that such an exemption is needed in order for law enforcement agencies to carry out their duties.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

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A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 29, 2000, the Committee on Law Enforcement and Crime Prevention passed an amendment to CS/HB 2003 to include the Florida Department of Law Enforcement to the list of law enforcement agencies receiving records relating to secondhand goods acquisitions which are exempt from s. 119.07 (1), F.S., relating to secondhand goods acquisitions dealers.

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND CRIME PREVENTION:

Prepared by:

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Allen Mortham Jr.

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