

SB

292

<target><bill>SB 292</bill><subject>SB
292</subject><comm>HFIN26</comm></target>

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 292(L&C)
 (S) Publish Date: 3/22/10

Identifier (file name): SB292-CED-CBPL-3-16-10 Dept. Affected: DCCED
 Title: Pawnbrokers RDU: Corp, Bus, & Prof Licensing (117)
 Component: Corp, Bus, & Prof Licensing
 Sponsor: Senator Huggins
 Requester: Senate Labor and Commerce Component Number: 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES								
Personal Services	36.0	0.0	36.0	36.0	36.0	36.0	36.0	
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Contractual	1.0	0.0	1.0	1.0	1.0	1.0	1.0	
Supplies	1.0	0.0	1.0	1.0	1.0	1.0	1.0	
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	38.0	0.0	38.0	38.0	38.0	38.0	38.0	
CAPITAL EXPENDITURES								
CHANGE IN REVENUES (1156)	76.0	0.0	0.0	76.0	0.0	76.0	0.0	

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other: RSS (1156)	38.0	0.0	38.0	38.0	38.0	38.0	38.0
TOTAL	38.0	0.0	38.0	38.0	38.0	38.0	38.0

Estimate of any current year (FY2010) cost: 0.0

POSITIONS

Full-time							
Part-time	1	0	1	1	1	1	1
Temporary							

ANALYSIS: (Attach a separate page if necessary)

SB 292 places the licensing of pawnbrokers in the Department of Commerce, Community and Economic Development with an effective date for most provisions of the bill of July 1, 2011. Information on file indicates there would be approximately 30 licensees under this legislation.

The program would be required to cover its costs with licensing fees under AS 08.01.065, and revenue generated from program fees would be required to cover its full operating costs.

Prepared by: Jennifer Strickler, Division Operations Manager
 Division: Corporations, Business & Professional Licensing
 Approved by: Emil Notti, Commissioner
Commerce, Community and Economic Development

Phone: (907) 465-2144
 Date/Time: 03/16/2010 1:00PM
 Date: 3/16/2010

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Supplies	1.0	0.0	1.0	1.0	1.0	1.0	1.0	1.0
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FISCAL NOTE # 1

STATE OF ALASKA
2010 LEGISLATIVE SESSION

BILL NO. CSSB 292(L&C)

ANALYSIS CONTINUATION

Total PERSONAL SERVICES: \$ 36.0

- One (1) part-time Investigator III position, Range 18 to ensure reports and pawnbroker operations are in compliance with transaction details and recording requirements.

The license requirements of Pawnbrokers established in the bill are minimal. As such, the department anticipates that a part time Investigator may be able to fulfill both licensing and enforcement needs of the program.

Total CONTRACTUAL: \$1.0

- Contractual costs include printing of applications, and communication costs.

Total SUPPLIES: \$1.0

- Supplies consists of standard operating desk top supplies (paper, etc.)

TOTAL: \$ 38.0

REVENUE: The funding source for this program is Receipt Supported Services (RSS) from licensing fees. Revenue will be generated by individuals who seek licensure under this program and licensing fees will be established to cover all costs, direct and indirect, of the program.

*Adopted
4/14/10*

26-LS1487M
Bannister
4/14/10

**HOUSE CS FOR CS FOR SENATE BILL NO. 292()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION**

BY

**Offered:
Referred:**

Sponsor(s): SENATORS HUGGINS, McGuire, Menard, Dyson

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the registration and operation of pawnbrokers, to the exemption for**
2 **pawnbrokers under the Alaska Small Loans Act, and to the exclusion of pawnbrokers**
3 **under certain definitions in the Uniform Commercial Code; and providing for an**
4 **effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 *** Section 1. AS 06.20.330(b) is amended to read:**

7 (b) This chapter does not apply to individual loans by

8 **(1) pawnbrokers where separate and individual loans do not exceed**
9 **\$750; in this paragraph, "pawnbroker" means a person who is regulated under**
10 **AS 08.76.100 - 08.76.590; or**

11 **(2) loan shops where separate and individual loans do not exceed \$500.**

12 *** Sec. 2. AS 08.01.010 is amended by adding a new paragraph to read:**

13 (39) regulation of pawnbrokers (AS 08.76.100 - 08.76.590).

14 *** Sec. 3. AS 08.76.010(a) is amended to read:**

1 (a) A person engaged in the business of buying and selling secondhand
 2 articles, [OR LENDING MONEY ON SECONDHAND ARTICLES,] except a bank
 3 or a person regulated by AS 08.76.100 - 08.76.590, shall maintain a book, in
 4 permanent form, in which the person shall enter in legible English at the time of each
 5 [LOAN,] purchase [,] or sale

6 (1) the date of the transaction;

7 (2) the name of the person conducting the transaction;

8 (3) the name, age, and address of the customer;

9 (4) a description of the property bought [OR RECEIVED IN
 10 PLEDGE], which includes, for any firearm, watch, camera, or optical equipment
 11 bought [OR RECEIVED IN PLEDGE], the name of the maker, the serial, model, or
 12 other number, and all letters and marks inscribed;

13 (5) the price paid [OR AMOUNT LOANED];

14 (6) the signature of the customer.

15 * Sec. 4. AS 08.76.020 is amended to read:

16 **Sec. 08.76.020. Manner of recording entry.** The entries in the book [AND
 17 THE ELECTRONIC RECORD] required by AS 08.76.010 shall appear in
 18 chronological order [AND, WHEN MADE IN A BOOK,] in ink or indelible pencil.
 19 Blank lines may not be left between entries. Obliterations, alterations, or erasures may
 20 not be made. Corrections shall be made by drawing a line through the entry without
 21 destroying its legibility, and [, WHEN MADE IN A BOOK,] the line shall be drawn in
 22 ink. The book shall be open to the inspection of a peace officer at reasonable times.

23 * Sec. 5. AS 08.76 is amended by adding new sections to read:

24 **Article 2. Licensing and Regulation of Pawnbrokers.**

25 **Sec. 08.76.100. Licensing required.** (a) A person may not engage in business
 26 as a pawnbroker without holding a license issued by the department.

27 (b) A license is not transferable or assignable.

28 **Sec. 08.76.110. Requirements for license.** The department may issue a license
 29 to a person if the person

30 (1) has good character;

31 (2) has the experience to engage in business as a pawnbroker;

1 (3) is fit to engage in business as a pawnbroker;

2 (4) submits an application as required by the department under
3 AS 08.01.060; and

4 (5) pays a fee established by the department under AS 08.01.065.

5 **Sec. 08.76.130. Withdrawal of application.** The department may consider
6 that a person has withdrawn the person's application for a license if

7 (1) the application does not contain all of the required information; or

8 (2) the information required for the application is not submitted to the
9 department within 90 days after the department requests in writing that the person
10 provide the department with the information.

11 **Sec. 08.76.140. Duration and renewal of license.** (a) A license is valid for
12 two years.

13 (b) A person may renew a license under AS 08.01.100. The renewal fee must
14 be equal to the fee established under AS 08.76.110(5).

15 (c) Notwithstanding AS 08.01.100(b), if a person fails to renew a license
16 before the expiration date of the license, the person shall pay the department a delayed
17 renewal penalty of \$100 in addition to the regular renewal fee.

18 (d) If a person fails to renew the person's license, the person may not engage
19 in business as a pawnbroker until the person's license is renewed or a new license is
20 issued.

21 (e) The department may refuse to renew a license under this section for
22 reasons that would have prevented the issuance of the license to the person under
23 AS 08.76.110.

24 **Sec. 08.76.160. Limit on pawn transaction amount.** A licensee may not enter
25 into a pawn transaction that exceeds \$750, excluding the finance fee and any fees
26 charged under AS 08.76.220.

27 **Sec. 08.76.170. Customer and transaction limitations.** (a) A pawnbroker
28 may not knowingly enter into a pawnbroker transaction with a person who is

29 (1) under 18 years of age;

30 (2) under the influence of alcohol or a controlled substance when the
31 influence is apparent; or

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(3) using the name of another person.

(b) A pawnbroker may not knowingly accept or receive misappropriated property from a person in a pawnbroker transaction.

Sec. 08.76.180. Register of pawnbroker transactions. (a) A pawnbroker shall maintain a register in which the pawnbroker shall enter in legible English at the time of each pawnbroker transaction

(1) the date of the pawnbroker transaction;

(2) the name of the person conducting the pawnbroker transaction;

(3) the name, age, and address of the pledgor or purchaser;

(4) a description of the pledged property or purchased property, including the serial number, model number, or other number on the item of property;

(5) the price paid or amount loaned;

(6) the signature of the pledgor or seller; and

(7) the type of identification used by the pledgor or seller, the name of the government agency that issued the identification, and the number written on the identification.

(b) A register may be contained in a book or in an electronic format, except that the register for pawn transactions must be in an electronic format if the pawnbroker is located in a municipality that has a population of more than 5,000.

(c) A pawnbroker may not falsify or intentionally fail to make an entry of a material matter in a register.

(d) A pawnbroker shall maintain in good condition the record in the register of a completed pawnbroker transaction for one year after the completion of the pawnbroker transaction.

Sec. 08.76.190. Recording requirements. The records required to be maintained in a register by AS 08.76.180 must appear in chronological order and, if made in a book, in ink or indelible pencil. Blank lines may not be left between entries. A pawnbroker may not change a record in a register by obliteration, alteration, or erasure. A pawnbroker may correct a record in a register by drawing a line through the entry without destroying its legibility.

Sec. 08.76.200. Transaction agreement. A pawnbroker shall provide to a

1 pledgor or seller a copy of the transaction agreement between the pawnbroker and the
2 pledgor or seller. The agreement must clearly and conspicuously disclose

3 (1) the name and address of the pawnbroker and the name and mailing
4 address of the pledgor or seller;

5 (2) the date of the transaction;

6 (3) a description of the item sold or pledged;

7 (4) the amount of each fee charged under AS 08.76.210 and 08.76.220;

8 (5) if the transaction is a pawn transaction, the amount financed and
9 the maturity date; and

10 (6) if the transaction is a purchase by the pawnbroker, the amount of
11 the purchase price.

12 **Sec. 08.76.210. Finance fee.** (a) Except as provided in AS 08.76.280, for each
13 30-day period of a pawn transaction, including a grace period, a pawnbroker may
14 charge a pledgor a finance fee of \$5 or an amount that equals interest at a rate that
15 does not exceed 20 percent of the amount financed, whichever amount is greater.

16 (b) A finance fee is considered to be earned on the day that the pawn
17 transaction is entered into and on the first day of each subsequent 30-day period of the
18 pawn transaction.

19 **Sec. 08.76.220. Other charges allowed.** (a) Except as provided in
20 AS 08.76.280, a pawnbroker may charge a processing fee of not more than \$5 for each
21 pawn transaction for preparing and processing the pawn transaction documentation,
22 providing law enforcement reports, paying expenses, providing other services, and for
23 losses.

24 (b) A pawnbroker may charge a pledgor who places a firearm with the
25 pawnbroker as pledged property

26 (1) a firearm processing fee of not more than \$5; and

27 (2) a governmental fee.

28 **Sec. 08.76.230. Insurance.** A pawnbroker may not sell to a pledgor or
29 otherwise charge a pledgor for insurance in connection with a pawn transaction,
30 except to cover the shipment of pledged property that is redeemed by mail.

31 **Sec. 08.76.240. Return of pledged property.** A pawnbroker shall return

1 pledged property to a pledgor when the pledgor redeems the pledged property. The
2 pawnbroker shall provide the pledgor with a receipt showing the redemption. The
3 receipt must be on a form approved by the department.

4 **Sec. 08.76.250. Extension of grace period.** A pawnbroker and a pledgor may
5 agree to extend the 30-day grace period allowed under AS 08.76.270(b), but each
6 extension may not exceed 30 days. An extension must be in writing, and the
7 pawnbroker shall give the pledgor a copy of the extension agreement. The agreement
8 must clearly state the last day of the extension and the finance fee charged for the
9 extension.

10 **Sec. 08.76.260. Retention, storage, and lease.** A pawnbroker shall store
11 pledged property in a secure area and maintain the pledged property in an unaltered
12 condition. A pawnbroker may not lease pledged property.

13 **Sec. 08.76.270. Redemption.** (a) Unless there is a hold order on the pledged
14 property, the pledged property is subject to a claim under AS 08.76.370 or 08.76.380,
15 or the property is returned to a lessor under AS 08.76.400, a pledgor may redeem
16 pledged property by paying the amount financed and the finance fee in full before the
17 pawnbroker's scheduled closing time on the maturity date.

18 (b) If a pledgor does not pay the amount financed and the finance fee in full
19 before the pawnbroker's scheduled closing time on the maturity date, the pawnbroker
20 shall hold the pledged property on the pawnbroker's business premises for a grace
21 period of 30 days plus any extension allowed under AS 08.76.250. A pledgor may
22 redeem the pledged property during the actual grace period by paying the amount
23 financed and the finance fee, but a pledgor may not redeem pledged property after the
24 pawnbroker's scheduled closing time on the last day of the actual grace period. In this
25 subsection, "actual grace period" means the grace period plus any extension allowed
26 under AS 08.76.250.

27 (c) If there is a hold order on pledged property, the pledgor may redeem the
28 pledged property only when the hold order is released.

29 (d) If pledged property is subject to a claim under AS 08.76.370 or 08.76.380,
30 the pledgor may redeem the pledged property only when the pledged property
31 becomes available under AS 08.76.370 or 08.76.380 for redemption.

1 (e) If a pledgor does not redeem pledged property under (a) - (d) of this
2 section, the title and all interest in the pledged property transfer to the pawnbroker.

3 (f) The holder of a transaction agreement is presumed to be the person who is
4 entitled to redeem the pledged property that is the subject of the transaction
5 agreement, and a pawnbroker shall deliver the pledged property to the person who
6 presents the transaction agreement and pays the amount financed and the finance fee
7 for the pawn transaction.

8 **Sec. 08.76.280. Military personnel.** A pawnbroker shall waive the unpaid
9 amount financed and the finance fee due on a pawn transaction and hold, except as
10 provided in AS 08.76.320 - 08.76.380, the pledged property that is the subject of the
11 pawn transaction on the pawnbroker's business premises until 60 days after the
12 pledgor, the pledgor's spouse, or the pledgor's dependent returns to the United States,
13 if the pawnbroker receives a copy of military orders indicating that

14 (1) the pledgor, or the pledgor's spouse or dependent, is enlisted in the
15 military service of a state or the federal government; and

16 (2) after the pawn transaction was entered into, the person was or is to
17 be deployed abroad for service relating to a military conflict.

18 **Sec. 08.76.290. Business operation method and hours.** A pawnbroker may
19 not engage in the business of being a pawnbroker

20 (1) by using a method, including a drive-through window, in which a
21 person remains in a motor vehicle while conducting the pawnbroker transaction; or

22 (2) between the hours of 12 midnight and 6:00 a.m.

23 **Sec. 08.76.300. Waiver prohibited.** A pawnbroker may not require or allow a
24 person to waive a provision of AS 08.76.100 - 08.76.590.

25 **Sec. 08.76.310. Employees.** A pawnbroker may not knowingly employ a
26 person to work in a pawnshop if, within five years before the employment begins, the
27 person was convicted of, entered a plea of guilty to, entered a plea of no contest to, or
28 had adjudication withheld for a felony, or for a misdemeanor involving dishonesty.

29 **Sec. 08.76.320. Issuance of police hold order.** (a) When a law enforcement
30 officer has probable cause to believe that property in the possession of a pawnbroker
31 at a pawnshop in the law enforcement officer's jurisdiction has been misappropriated,

1 the law enforcement officer may issue a police hold order that directs the pawnbroker
2 not to release or dispose of the property until the police hold order terminates or a
3 court orders the release or disposal.

4 (b) Unless a pawnbroker or the pawnbroker's designee refuses to sign the
5 police hold order, a police hold order begins when the pawnbroker or the pawnbroker's
6 designee receives the police hold order. If the pawnbroker or the pawnbroker's
7 designee refuses to sign the police hold order, the police hold order begins when the
8 refusal occurs.

9 **Sec. 08.76.330. Evidentiary hold order.** (a) When property in the possession
10 of the pawnbroker may be needed as evidence in a filed court action involving a
11 criminal charge, a law enforcement agency may issue an evidentiary hold order to a
12 pawnbroker that directs the pawnbroker not to release or dispose of the property until
13 the evidentiary hold order terminates or a court orders the release or disposal.

14 (b) A pawnbroker who receives an evidentiary hold order under (a) of this
15 section shall hold the property until the attorney general notifies the pawnbroker in
16 writing of the disposition of the filed court action. The attorney general shall notify the
17 pawnbroker within 15 days after the disposition of the filed court action for which the
18 property may be needed as evidence.

19 **Sec. 08.76.340. Contents and form of hold order.** A hold order must be in
20 writing and contain

- 21 (1) the name of the pawnbroker;
- 22 (2) if a police hold order, the name, title, and identification number of
23 the law enforcement officer issuing the police hold order, and the name and address of
24 the law enforcement agency for which the law enforcement officer is acting;
- 25 (3) if an evidentiary hold order, the name and address of the law
26 enforcement agency issuing the evidentiary hold order;
- 27 (4) the number, if any, assigned by the law enforcement agency to the
28 case, and, for an evidentiary hold order, the number and caption of the filed court
29 action;
- 30 (5) a complete description of the property being held, including the
31 model number and serial number, if any;

1 (6) if a police hold order, the name of the person, if any, who reported
2 the property as misappropriated;

3 (7) the mailing address of the pawnshop where the property is being
4 held; and

5 (8) the expiration date of the hold order.

6 **Sec. 08.76.350. Duration of police hold order.** (a) A police hold order may
7 not exceed 30 days. However, a law enforcement officer may extend the police hold
8 order for two additional successive 30-day periods by giving written notification to the
9 pawnbroker before the expiration of each 30-day period.

10 (b) A law enforcement agency may not issue a new police hold order for the
11 same property after the second additional 30-day period allowed under this section.
12 However, the termination of the police hold order does not affect an existing
13 evidentiary hold order on the same property or prevent the issuance of an evidentiary
14 hold order for the same property.

15 (c) A law enforcement agency may release a police hold order before the end
16 of a 30-day period by issuing a written release to the pawnbroker.

17 **Sec. 08.76.360. Noncompliance with hold order.** The department may
18 suspend or revoke a pawnbroker's license if the pawnbroker knowingly fails to comply
19 with a hold order.

20 **Sec. 08.76.370. Claim notification.** (a) If a person believes that property in the
21 possession of a pawnbroker was misappropriated from the person, and if the person
22 wants to obtain possession of the property from the pawnbroker, the person shall first
23 notify the pawnbroker by certified mail, return receipt requested, of the person's claim.

24 (b) A notice under (a) of this section must contain a complete and accurate
25 description of the property and must be accompanied by proof that the claimant owns
26 the property and, if the claimant alleges that the property was stolen, a legible copy of
27 a law enforcement agency's report indicating that the property was stolen.

28 (c) Except as provided in AS 08.76.380, a pawnbroker may not, for 30 days
29 after the pawnbroker receives notice of the claim under this section, dispose of
30 property that is the subject of a claim.

31 **Sec. 08.76.380. Court action on claim.** If a claimant and a pawnbroker do not

1 resolve a claim within 10 days after the pawnbroker's receipt of a notice of the claim
2 under AS 08.76.370, the claimant may bring an action in superior court to require the
3 pawnbroker to return the property to the claimant. After a pawnbroker is notified that a
4 court action has been filed, the pawnbroker may not dispose of the property until the
5 court disposes of the court action, disposes of the property, or allows the pawnbroker
6 to dispose of the property.

7 **Sec. 08.76.390. Liability of pledgor.** A pledgor or seller of property to a
8 pawnbroker is liable to the pawnbroker for the full amount that the pledgor or seller
9 received from the pawnbroker, all charges owed by the pledgor for the pawnbroker
10 transaction, and attorney fees and other costs as allowed by the rules of court if, in an
11 action under AS 08.76.380,

12 (1) the superior court determines that the pledgor or seller
13 misappropriated the property from the claimant; and

14 (2) the superior court orders the pawnbroker to return the property to
15 the claimant.

16 **Sec. 08.76.400. Recovery of leased property.** (a) If property in the possession
17 of a pawnbroker was leased to a pledgor or seller when the pledgor or seller pledged
18 or sold the property to the pawnbroker, but the property did not have a permanent
19 label or other conspicuous mark identifying it as the lessor's property, the pawnbroker
20 shall return the property to the lessor if the lessor

21 (1) provides the pawnbroker with evidence that the property was the
22 lessor's property and was leased to the pledgor or seller at the time the property was
23 pledged or sold to the pawnbroker; and

24 (2) pays the pawnbroker

25 (A) the amount financed and the finance fee for the pawn
26 transaction, if the property was pledged to the pawnbroker; or

27 (B) the amount that the pawnbroker paid the seller if the
28 property was sold to the pawnbroker.

29 (b) A pawnbroker is not liable to the pledgor or seller of property that is
30 recovered by a lessor under (a) of this section for returning the property to a lessor
31 under (a) of this section.

1 **Sec. 08.76.410. Law enforcement reports.** (a) A pawnbroker shall provide a
2 law enforcement officer with a law enforcement report in paper or in an electronic
3 format on a weekly basis.

4 (b) A law enforcement report is confidential under AS 40.25.100 - 40.25.220,
5 and a law enforcement officer and a law enforcement agency may only use a law
6 enforcement report to investigate a crime involving the property that is the subject of
7 the pawnbroker transactions of the pawnbroker.

8 **Sec. 08.76.420. Contents of law enforcement reports.** (a) A law enforcement
9 report must contain

10 (1) a complete and accurate description of all property pledged to or
11 purchased by the pawnbroker, including, as applicable, the property's

12 (A) brand name, model number, and manufacturer's serial
13 number; and

14 (B) type of action and caliber or gauge, if the property is a
15 firearm; and

16 (2) the number of the pawnbroker transaction document that the
17 pawnbroker used to document the pawnbroker transaction.

18 (b) Notwithstanding (a) of this section, the description of the items under
19 (a)(1) of this section is adequate if the description gives the quantity of the items and
20 describes the type of the items if the pawnbroker transaction consists solely of
21 multiple items that are of a similar type, do not have serial or model numbers, and do
22 not contain precious metals or gemstones.

23 **Sec. 08.76.430. Inspection by law enforcement entities.** If a law enforcement
24 agency provides the case number assigned to the investigation for which the
25 inspection is being made, a pawnbroker may not refuse to allow the law enforcement
26 agency to inspect during normal business hours the pawnbroker's register and the
27 purchased property involved in the investigation or the unredeemed pledged property
28 involved in the investigation.

29 **Sec. 08.76.440. Discipline.** (a) The department may, after notice to the licensee
30 and reasonable opportunity to be heard, take the following disciplinary action against a
31 licensee if the licensee or an officer, agent, or employee of the licensee violates

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AS 08.76.100 - 08.76.590:

- (1) permanently revoke a license;
- (2) suspend a license for a specified period;
- (3) censure or reprimand a licensee;
- (4) impose limitations or conditions on the licensee;
- (5) impose probation requiring a licensee to report regularly to the department on matters related to the grounds for probation;
- (6) order the licensee to make restitution.

(b) If the department takes disciplinary action under (a) of this section, the department may not, for one year after the date of the disciplinary action, issue another license to the licensee or a license to

- (1) the spouse of the licensee;
- (2) a partnership if the licensee is a partner of the partnership;
- (3) a corporation if the licensee is an officer of the corporation, including a member of the board of directors of the corporation;
- (4) a limited liability company if the licensee is a member or manager of the limited liability company; or
- (5) an employee of the licensee.

(c) Before taking disciplinary action under (a) of this section, the department shall allow a licensee 30 days to correct the violation.

Sec. 08.76.450. Civil penalty. If a licensee, or an officer, agent, or employee of a licensee violates AS 08.76.100 - 08.76.590, the licensee is liable to the state for a civil penalty. Notwithstanding AS 08.01.075(a)(8), the penalty may not be less than \$200 or more than \$2,000. The amount of the civil penalty must be adjusted to the seriousness of the violation.

Sec. 08.76.460. Municipal regulation. (a) Subject to (b) of this section, a municipality with the authority under AS 29 to enact ordinances regulating pawnbrokers and pawnbroker transactions may adopt an ordinance regulating pawnbrokers and pawnbroker transactions if at a minimum the ordinance complies with AS 08.76.100 - 08.76.590.

(b) A municipality may not enact an ordinance that

1 (1) requires the payment of a fee or tax related to a pawnbroker
2 transaction; or

3 (2) restricts the hours of operation of a pawnbroker, except that an
4 ordinance may prohibit pawnbrokers from operating as provided under
5 AS 08.76.290(2).

6 (c) An ordinance that violates this section is void.

7 **Sec. 08.76.470. Regulations.** (a) The department may adopt regulations to
8 implement AS 08.76.100 - 08.76.590.

9 (b) Before the department adopts a regulation to implement AS 08.76.100 -
10 08.76.590, the department shall, in addition to any other requirements under AS 44.62
11 (Administrative Procedure Act), notify licensees of the proposed regulation. After the
12 regulation is adopted, the department shall send each licensee a copy of the regulation
13 adopted.

14 **Sec. 08.76.500. Exemptions.** This chapter does not apply to

15 (1) a financial institution that is subject to the regulation of the
16 department under AS 06, including a commercial bank, savings bank, credit union,
17 premium finance company, small loan company, bank holding company, financial
18 holding company, trust company, savings and loan association, and deferred deposit
19 advance licensee under AS 06.50; or

20 (2) a financial institution organized under federal law.

21 **Sec. 08.76.590. Definitions.** In AS 08.76.100 - 08.76.590,

22 (1) "amount financed" means the amount of money, excluding a
23 finance fee, charged by a pawnbroker for a pawn transaction;

24 (2) "business" includes advertising;

25 (3) "claim" means a claim under AS 08.76.370;

26 (4) "claimant" means a person who makes a claim;

27 (5) "department" means the Department of Commerce, Community,
28 and Economic Development;

29 (6) "evidentiary hold order" means an evidentiary hold order
30 authorized under AS 08.76.330;

31 (7) "finance fee" means all the amounts that a pawnbroker may charge

1 under AS 08.76.210;

2 (8) "governmental fee" means a fee imposed by a governmental
3 agency on a pawnbroker to hold or transfer a firearm or conduct a background check
4 required by the governmental agency;

5 (9) "grace period" means the 30-day period after a maturity date during
6 which a pawnbroker is required by AS 08.76.270(b) to retain possession of pledged
7 property;

8 (10) "hold order" means a police hold order or an evidentiary hold
9 order;

10 (11) "identification" means

11 (A) a government-issued identification document that contains
12 a photograph; or

13 (B) an electronic image of a document identified under (A) of
14 this paragraph;

15 (12) "knowingly" has the meaning given in AS 11.81.900;

16 (13) "law enforcement agency" means

17 (A) the police department of a municipality where a pawnshop
18 is located;

19 (B) the Department of Law;

20 (C) the Department of Public Safety;

21 (14) "law enforcement officer" means

22 (A) a police officer of the municipality where a pawnshop is
23 located; or

24 (B) a state trooper if a pawnshop is located in the unorganized
25 borough or if a pawnshop is located in a municipality that does not provide
26 police protection services;

27 (15) "law enforcement report" means a report required by
28 AS 08.76.410;

29 (16) "lease" means any form of rental;

30 (17) "license" means a license to engage in business as a pawnbroker
31 issued under AS 08.76.110;

- 1 (18) "licensee" means a person who holds a license;
- 2 (19) "maturity date" means the date by which a pledgor is required to
- 3 pay a pawnbroker the amount financed and the finance fee for a pawn transaction, but
- 4 does not include a grace period;
- 5 (20) "misappropriated" means pledged or sold to a pawnbroker
- 6 (A) after being stolen; or
- 7 (B) while being leased to the pledgor or seller by another
- 8 person if the property has a permanent label or other conspicuous mark
- 9 identifying it as another person's property;
- 10 (21) "pawnbroker" means a person who lends money in exchange for a
- 11 pledge of property;
- 12 (22) "pawnbroker transaction" means a pawn transaction or purchase;
- 13 (23) "pawn transaction" means a pledge given in exchange for a loan
- 14 by a pawnbroker;
- 15 (24) "personal property" means tangible personal property, but does
- 16 not include a security, a title to property, a deed, a bill of sale, or printed evidence of
- 17 indebtedness;
- 18 (25) "pledge" means a deposit of property as security for payment of
- 19 financial obligations to a pawnbroker in a pawn transaction;
- 20 (26) "pledged property" means the property that is pledged in a pawn
- 21 transaction;
- 22 (27) "pledgor" means
- 23 (A) a person who delivers property to a pawnbroker for a pawn
- 24 transaction; or
- 25 (B) the principal, if the person who delivers property to a
- 26 pawnbroker for a pawn transaction discloses that the delivery person is acting
- 27 for a principal;
- 28 (28) "police hold order" means a hold order authorized under
- 29 AS 08.76.320;
- 30 (29) "property" means personal property;
- 31 (30) "purchase" means a purchase of property by a pawnbroker that is

1 not a pawn transaction;

2 (31) "redeem" means to obtain the return of pledged property under
3 AS 08.76.270;

4 (32) "register" means the register required to be maintained by
5 AS 08.76.180;

6 (33) "registration fee" means a fee for registering a firearm;

7 (34) "seller" means a person who sells property to a pawnbroker, but
8 does not include a pledgor;

9 (35) "transaction agreement" means the transaction agreement required
10 by AS 08.76.200.

11 * Sec. 6. AS 45.01.211(b) is amended by adding a new paragraph to read:

12 (47) "pawnbroker" has the meaning given in AS 08.76.590.

13 * Sec. 7. AS 08.76.010(b) and 08.76.040 are repealed.

14 * Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 TRANSITION: REGULATIONS. The Department of Commerce, Community, and
17 Economic Development may proceed to adopt regulations under AS 08.01.080 and
18 AS 08.76.470, enacted by sec. 5 of this Act, necessary to implement this Act. The regulations
19 take effect under AS 44.62 (Administrative Procedure Act), but not before July 1, 2011.

20 * Sec. 9. The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 TRANSITION: CURRENT MUNICIPAL LICENSEES. (a) Notwithstanding
23 AS 08.76.100, enacted by sec. 5 of this Act, a person who holds a current municipal license
24 on July 1, 2011, may continue to engage in business as a pawnbroker through June 30, 2014,
25 without having a license issued by the Department of Commerce, Community, and Economic
26 Development.

27 (b) Notwithstanding AS 08.76.110, enacted by sec. 5 of this Act, the department shall
28 issue a license to a person who holds a municipal license if the person

29 (1) submits, before July 1, 2014, an application as required by the department
30 under AS 08.01.060; and

31 (2) pays a fee established by the department under AS 08.01.065.

1 (c) In this section,

2 (1) "license" has the meaning given in AS 08.76.590, enacted by sec. 5 of this
3 Act;

4 (2) "municipal license" means a license that is issued by a municipality to
5 authorize a person to engage in business as a pawnbroker; in this paragraph, "business" has
6 the meaning given in AS 08.76.590, enacted by sec. 5 of this Act;

7 (3) "pawnbroker" has the meaning given in AS 08.76.590, enacted by sec. 5 of
8 this Act.

9 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 **TRANSITION: EXISTING ORDINANCES.** An ordinance of a municipality that is in
12 effect on July 1, 2011, and that does not comply with AS 08.76.100 - 08.76.590, enacted by
13 sec. 5 of this Act, is void.

14 * **Sec. 11.** Section 8 of this Act takes effect immediately under AS 01.10.070(c).

15 * **Sec. 12.** Except as provided in sec. 11 of this Act, this Act takes effect July 1, 2011.

FISCAL NOTE # 1

STATE OF ALASKA
2010 LEGISLATIVE SESSION

BILL NO. CSSB 292(L&C)

ANALYSIS CONTINUATION

Total PERSONAL SERVICES: \$ 36.0

- One (1) part-time Investigator III position, Range 18 to ensure reports and pawnbroker operations are in compliance with transaction details and recording requirements.

The license requirements of Pawnbrokers established in the bill are minimal. As such, the department anticipates that a part time Investigator may be able to fulfill both licensing and enforcement needs of the program.

Total CONTRACTUAL: \$1.0

- Contractual costs include printing of applications, and communication costs.

Total SUPPLIES: \$1.0

- Supplies consists of standard operating desk top supplies (paper, etc.)

TOTAL: \$ 38.0

REVENUE: The funding source for this program is Receipt Supported Services (RSS) from licensing fees. Revenue will be generated by individuals who seek licensure under this program and licensing fees will be established to cover all costs, direct and indirect, of the program.

ALASKA STATE LEGISLATURE

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907-373-4724 :Fax



State Capitol
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Charlie Huggins
Senator

Sponsor Statement SB292

“An Act relating to the registration and operation of pawnbrokers, to the exemption for pawnbrokers under the Alaska Small Loans Act, and to the exclusion of pawnbrokers under certain definitions in the Uniform Commercial Code; and providing for an effective date.”

SB 292 institutes a regulatory framework for the operation of pawn shops in the State of Alaska. Currently, there is no codified regulation of this industry in statute – an oversight when it comes to consumer protection and protecting small businesses. Alaska is currently the only state without statewide regulation of the pawn shop industry.

Under present law, Alaska Statute 08.76.040 “The Disposition of Unredeemed Property” is the controlling language under which all pawnbrokers in Alaska currently conduct business. Under that statute, four paragraphs outline the redemption period, notices, and entitlements. SB 292 establishes a more robust structure that is easy for pawnbrokers to follow and effective for the state to regulate. This bill holds all pawn shops to the same transparent standard.

This legislation protects consumers as they will pay consistent rates and have specified rights throughout the State when utilizing pawn shops. It protects service-members who have pawned property and then been deployed, their interest will be frozen, and their property will be held until they return.

SB 292 helps business by providing a consistent regulatory framework under which to operate statewide. The legislation also assists local and state police forces by requiring a simple, but clear reporting system whereby all transactions are catalogued, inventoried and available to the authorities.

This legislation is not attempting to “fix a problem” that exists within the State. Rather it is a pro-active attempt to protect consumers and small businesses. I urge your support of this legislation

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 6, 2010

SUBJECT: Sectional summary of CSSB 292(JUD) relating to pawnbrokers
(Work Order No. 26-LS1487\W)

TO: Senator Charlie Huggins
Attn: Josh Tempel

FROM:  Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Amends a small loans provision to define a "pawnbroker" to be a person regulated under the new article.

Section 2. Adds the regulation of pawnbrokers under the new provisions to the list of subjects to which the chapter on centralized licensing applies.

Section 3. Removes persons regulated by the new provisions from a statute that currently regulates persons who buy, sell, and loan money on secondhand articles.

Section 4. Makes amendments to conform a current statute to the repeal (in bill sec. 6) of AS 08.76.010(b), which requires certain persons who lend money on secondhand articles to keep records electronically.

Section 5. Establishes a new article in AS 08.76 to license and regulate pawnbrokers.

Sec. 08.76.100. Requires a person who wants to engage in business as a pawnbroker to be licensed. Prohibits the transfer or assignment of a license.

Sec. 08.76.110. Sets out the conditions a person must satisfy in order for the department to issue the person a pawnbroker license.

Sec. 08.76.130. Allows the department to consider an application to be withdrawn under certain listed conditions.

Senator Charlie Huggins

April 6, 2010

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Sec. 08.76.140. Makes a license valid for two years. Allows a person to renew the license. Sets the renewal fee. Adds a renewal penalty fee if renewal is delayed. Prohibits a person who fails to renew from engaging in business as a pawnbroker until the license is renewed or a new license is issued. Allows the department to refuse to renew for a reason that would have prevented the license's issuance.

Sec. 08.76.160. Limits pawn transactions to not more than \$500. Excludes the finance fee and any fees under sec. 08.76.220 from this amount.

Sec. 08.76.170. Prohibits a pawnbroker from knowingly entering into pawnbroker transactions with certain listed categories of persons. Prohibits a pawnbroker from knowingly accepting or receiving misappropriated property.

Sec. 08.76.180. Requires a pawnbroker to maintain a register for pawnbroker transactions. Requires entering in the register certain specified items, including the signature of the pledgor or seller, at the time of each pawnbroker transaction. Allows the register to be made in a book or electronically, but requires electronic format where a pawnbroker is located in a municipality that has more than a certain population. Prohibits a pawnbroker from falsifying or intentionally failing to make an entry of a material matter in a register. Requires a pawnbroker to maintain in good condition in a register the record of a transaction for one year after its completion.

Sec. 08.76.190. Establishes requirements for making entries in a register. Prohibits a pawnbroker from changing a record in a register by obliteration, alteration, or erasure. Provides a method for correcting entries.

Sec. 08.76.200. Requires a pawnbroker to provide to a pledgor or seller a copy of the agreement with the pawnbroker. Lists the items that the agreement must disclose, including each fee charged under secs. 08.76.210 and 08.76.220.

Sec. 08.76.210. Establishes how much a pawnbroker may charge a pledgor as a finance fee. Indicates when a finance fee is considered to be earned.

Sec. 08.76.220. Identifies what other charges a pawnbroker may charge a pledgor. Allows for a processing fee and, when dealing with a firearm, a firearm processing fee and a governmental fee.

Sec. 08.76.230. Prohibits a pawnbroker from selling to, or charging a pledgor for, insurance -- except to cover shipment of property redeemed by mail.

Sec. 08.76.240. Requires a pawnbroker to return pledged property to the pledgor when redeemed. Requires a pawnbroker to provide a redemption receipt. Requires a pawnbroker to use a department-approved form for the receipt.

Sec. 08.76.250. Allows a pawnbroker and a pledgor to agree to an extension of the grace period allowed under sec. 08.76.270(b). Limits the length of an extension. Requires the extension to be written. Requires a pawnbroker to give the pledgor a copy of the extension agreement. Indicates that the agreement must clearly state the last day of the extension and the finance fee for the extension.

Sec. 08.76.260. Requires a pawnbroker to store the pledged property in a secure area. Requires a pawnbroker to maintain the property in an unaltered condition. Prohibits a pawnbroker from leasing the property.

Sec. 08.76.270. With three exceptions relating to hold orders, claims, and lessors, allows a pledgor to redeem pledged property. Establishes what the pledgor must do to redeem the property.

If property is not redeemed as required by closing time on the maturity date, directs the pawnbroker to hold the property for a specified grace period. Allows the pledgor to redeem the property during the grace period. Indicates how and when the pledgor may redeem the property during the grace period.

Requires that any hold order be released before a pledgor may redeem the property. Addresses when a pledgor may redeem property that is subject to a claim under sec. 08.76.370 or 08.76.380.

Provides that title and all interest in property transfer to the pawnbroker if the pledgor does not redeem as provided under (a) - (d) of this section.

Establishes a presumption that the holder of the transaction agreement is the person entitled to redeem. Directs a pawnbroker to deliver the pledged property to the person who presents the transaction agreement and pays the required amounts.

Sec. 08.76.280. Establishes special rules for payment and holding pledged property for pawn transactions relating to military personnel who are deployed abroad for service relating to a military conflict.

Sec. 08.76.290. Prohibits a pawnbroker from using a business method in which a person remains in a motor vehicle while conducting a transaction. Prohibits a pawnbroker from operating during specified early morning hours.

Sec. 08.76.300. Prohibits a pawnbroker from requiring or allowing a person to waive a provision of the new article.

Sec. 08.76.310. Prohibits a pawnbroker from knowingly hiring a person with a background involving a felony, or a misdemeanor involving dishonesty, within the past five years.

Sec. 08.76.320. Allows a law enforcement officer to issue a hold order on property suspected of being misappropriated. Requires the pawnbroker to hold the property until the hold order terminates or a court orders release of the hold order or disposal of the property. Indicates when the hold order takes effect.

Sec. 08.76.330. Allows a law enforcement officer to issue an evidentiary hold order on property that may be needed as evidence in a filed court criminal action. Requires the pawnbroker to hold the property until the hold order terminates or a court orders release of the hold order or disposal of the property. Indicates how long the pawnbroker is to hold the property. Requires the attorney general to notify the pawnbroker after the disposition of the filed court action.

Sec. 08.76.340. Requires a hold order to be in writing and to contain specified information.

Sec. 08.76.350. Limits a police hold order to 30 days. Allows for two extensions of 30 days each. Indicates how extensions are made. Prohibits the issuance of a new police hold order after the second extension has ended. Provides that the termination of a police hold order does not affect an existing or future evidentiary hold order on the same property. Allows for release of a police hold order before the time expires.

Sec. 08.76.360. Allows the department to suspend or revoke a pawnbroker's license for knowingly failing to comply with a hold order.

Sec. 08.76.370. Provides a procedure for a person who believes that pledged property was misappropriated to notify the pawnbroker of the person's claim and to delay the disposal of the property for 30 days, except as provided by sec. 08.76.380.

Sec. 08.76.380. If a misappropriation claim is not resolved within a specified time, allows the claimant to file a court action to order the pawnbroker to return the property. Prohibits the pawnbroker, after notification about the court action, from disposing of the property until the court disposes of the court action or allows the pawnbroker to dispose of the property.

Sec. 08.76.390. Establishes the liability of the pledgor or seller of property to a pawnbroker in a court action under sec. 08.76.380 when the court finds that the property was misappropriated and orders the pawnbroker to return the property to the claimant.

Sec. 08.76.400. Requires a pawnbroker, under certain conditions, to return property to the lessor of the property if the property was leased to the pledgor or seller when pledged or sold to the pawnbroker. Requires the lessor to provide supporting evidence and to pay a specified amount. Removes any liability of the pawnbroker to the pledgor or seller for returning the property to the lessor.

Sec. 08.76.410. Requires a pawnbroker to provide weekly reports to law enforcement officers. Makes the reports confidential under the Alaska Public Records Act and limits how a law enforcement officer and a law enforcement agency may use the reports.

Sec. 08.76.420. Lists what a law enforcement report must contain.

Sec. 08.76.430. Prohibits, if the investigation case number is provided, a pawnbroker from refusing to allow a law enforcement agency to inspect the register, and the purchased property or unredeemed property involved in the investigation, during normal business hours .

Sec. 08.76.440. Allows the department to take the listed disciplinary action against a licensee if the licensee, or the licensee's agents, officers, or employees, violates the new article. Requires notice and a reasonable opportunity to be heard. Within one year after disciplinary action prohibits the department from issuing another license to the licensee or to the listed persons related to the licensee. Requires the department to allow a licensee 30 days to correct a violation before taking disciplinary action.

Sec. 08.76.450. Establishes a civil penalty if a licensee, or an officer, agent, or employee of the licensee, violates the new article. Sets the penalty from \$200 to \$2,000. Requires the amount of the civil penalty to be adjusted for the seriousness of the violation.

Sec. 08.76.460. Authorizes municipalities (with the authority under AS 29) to regulate pawnbrokers if the ordinances at a minimum comply with the new article. Prohibits municipal requirements requiring fees or taxes or restricting hours of operation (except as provided by sec. 08.76.290(2)). Voids an ordinance that violates this section.

Sec. 08.76.470. Authorizes the department to adopt regulations to implement the new article. Requires the department to notify licensees of proposed regulations and to provide them with copies of new regulations.

Sec. 08.76.500. Exempts specified financial institutions from the new article.

Sec. 08.76.590. Defines the terms for the new article.

Section 6. Defines "pawnbroker" for the Uniform Commercial Code.

Section 7. Repeals AS 08.76.010(b), the provision requiring pawnbrokers in certain-sized municipalities to keep records electronically and to submit them as required by the municipal law enforcement agency. Repeals AS 08.76.040, which relates to the disposition of unredeemed property.

Section 8. Allows the Department of Commerce, Community, and Economic Development to adopt regulations necessary to implement the bill.

Senator Charlie Huggins

April 6, 2010

Page 6

Section 9. Provides transition provisions for pawnbrokers who are currently licensed by a municipality.

Section 10. Voids a municipal ordinance that is in effect on July 1, 2011, if the ordinance does not comply with the new article.

Section 11. Gives sec. 8 an immediate effective date.

Section 12. Gives the bill, except for sec. 8, an effective date of July 1, 2011.

If I may be of further assistance, please advise.

TLB:plm
10-206.plm

Cash America Statement

Why Alaska Should Regulate Pawnbrokers

SB 292 brings the pawn industry in Alaska into the 21st century. This bill marries the best of current regulation among the lower 48 states by instituting a regulatory framework for the operation of pawn shops in Alaska. Alaska is the only state in the nation without statewide regulation of pawn shops. This bill addresses this oversight and provides for needed consumer and business operator protections alike.

SB 292 is not attempting to fix a problem that exists currently. What it is trying to do is be proactive since current operators and their customers are vulnerable to unforeseen circumstances that could affect the industry. This proactive approach will protect both the consumer and business operator by instituting a regulatory framework under which to operate statewide.

Who pawnbrokers serve

In today's difficult economy, many people depend on pawnbrokers to help them meet daily financial needs not offered by other financial institutions. Pawn customers represent the working families of America who periodically experience an unexpected need for short-term funds. Pawn loans keep the electricity on, the rent paid and cars running with full tanks of gas. And pawn shops also provide a retail store environment where shoppers and sellers alike can save time and money by taking advantage of lower prices and favorable transaction terms.

Pawnshop customers have regular jobs, from working in hospitals to home construction. They support our economy by working in government, teaching our children and caring for the elderly, to name a few. Just like you, pawn customers have dreams; want better lives for their children and a stronger sense of security. However, they also have pressing bills and unforeseen financial issues.

According to GAO analysis of November 1999 Census, SIPP data, as many as 55 million people (28% of US adults) are un-banked. Pawn customers, therefore, use a pawn shop because they may or may not have a banking relationship and they find our pawnshops welcoming places to do business.

Average Pawn Customer

- Age: 36
- Household Income: \$29,000
- 80% are employed
- 82% have high school diploma or GED
- 33% are homeowners
- All ethnicities

- **Pawnbrokers are governed by all of the major federal laws that apply to other entities designated as financial institutions including:**
- USA Patriot Act
- Truth-in-Lending Act
- Bank Secrecy Act and IRS regulations requiring reporting of certain cash transactions
- Trading with the Enemy Act and related Executive Orders and regulations
- Privacy provisions of the Gramm-Leach-Bliley Financial Services Modernization Act
- FTC Privacy Rule
- FTC Safeguards Rule
- Fair Credit Reporting Act
- FTC Consumer Information Disposal Rule
- Equal Credit Opportunity Act
- Servicemembers Civil Relief Act

Highlights of SB 292:

- Regulated by the Department of Commerce, Community, and Economic Development.
- Establishes a transparent operating structure for pawnbrokers to follow so customers know what to expect in any statewide shop.
- Holds pawnbrokers to a higher standard by strengthening the relationship between pawnbrokers and police agencies across the state.
- Assists law enforcement by providing for straight forward pawn transaction reporting requirements.
- Brings due process for misappropriated property to all parties involved.
- Allows our service members who have been deployed overseas the opportunity of not having to be concerned about any property that is in a pawnshop as this bill provides for the freezing of the interest charge and requires that items be held until their return.
- Standardizes the fee structure while maintaining the same rate cap.
- Allows customers who frequent a pawnshop for their financial needs an extra 30-day grace period upon the loan expiration date to retrieve their personal belongings.