

SB

292

<target><bill>SB 292</bill><subject>SB
292</subject><comm>SFIN26</comm></target>

ALASKA STATE LEGISLATURE

Senate District H
600 E. Railroad Avenue
Wasilla AK 99654
907-376-4866
907-373-4724 :Fax



State Capitol
Juneau AK 99801-1182
907-465-3878
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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

SENATE FINANCE COMMITTEE REPORT

DATE: 4/6/10

FURTHER: Rules

DATE TURNED IN TO OFFICE: 4/10/10

Finance Committee considered

SENATE BILL NO. 292

SB 292 PAWNBROKERS

"An Act relating to the registration and operation of pawnbrokers and to the exemption for pawnbrokers under the Alaska Small Loans Act; and providing for an effective date."

and recommends:

be replaced with SCS or CS _____ ()

adopt previous SCS or CS SB 292 (Jud)

attached amendment(s)

adopt _____ Letter of Intent

further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____



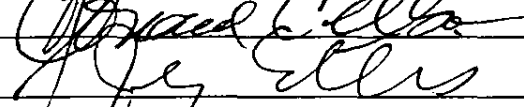
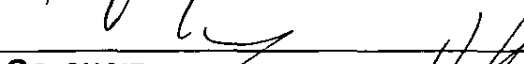

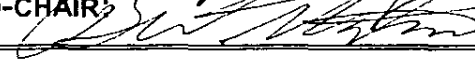
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
<u>LED</u>	<u>3/10/10</u>	<input checked="" type="checkbox"/>		<u>AM</u>	<u>1</u>

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Thomas	<input checked="" type="checkbox"/>			
	Ed	<input checked="" type="checkbox"/>			
	Orson			<input checked="" type="checkbox"/>	
	Ellis			<input checked="" type="checkbox"/>	
CO-CHAIR: 	Hoffman	<input checked="" type="checkbox"/>			
CO-CHAIR: 	Stedman	<input checked="" type="checkbox"/>			

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 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							
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CHANGE IN REVENUES (1156)	76.0	0.0	0.0	76.0	0.0	76.0	0.0
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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

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.

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
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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.

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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.

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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.

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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.