

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 16, 2007

TO: Honorable Burt R. Solomons, Chair, House Committee on Financial Institutions

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1454 by Bohac (Relating to the regulation of and information regarding property in the custody of a pawnbroker; providing criminal penalties.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend Section 371.005, Finance Code, to authorize the governing body of a municipality to adopt an ordinance to enforce provisions, other than those related to licensing, under Chapter 371, the Texas Pawnshop Act. An ordinance adopted under the chapter would be a Class C misdemeanor.

The bill would add Section 371.1821 to Chapter 371, Finance Code, to authorize the chief law enforcement officer of a sheriff's office or a municipal police department to place a hold order on goods in the possession of a pawnbroker if the officer has reasonable suspicion to believe those goods are misappropriated. Procedures for placing and removing the hold and relating to the length of the hold are stipulated in the bill. A person who pledges with or sells misappropriated property to a pawnbroker under the subsection commits a Class B misdemeanor.

The bill would add Subchapter H to Chapter 371, Finance Code, to authorize a chief law enforcement officer to require a pawnbroker who generates, or is capable of generating, computerized pawn and purchase tickets to transmit all transaction data to the law enforcement agency electronically in a format used by the pawnbroker's computer software. If a law enforcement agency requires a pawnbroker to submit transaction data to the department electronically, the agency would be required to maintain a secure database using a minimum 128-bit encryption. The law enforcement agency would not be allowed to charge a fee for the preparation, compilation, conversion, or transmission of data.

A pawnbroker who electronically reports information would be required to make available for on-site inspection to any appropriate law enforcement officer on request, paper copies of pawn or purchase transaction documents, including required thumbprints and photographs, for 180 days after the date the data is transmitted electronically, with certain exceptions.

The Finance Commission of Texas may adopt rules to establish procedures to address computer-related malfunctions and errors under the new subchapter, and rules to address maintaining paper records.

The bill would amend the Penal Code to add to the definition of Theft as an offense the failure of a pawnshop to record and obtain certain information from a seller or pledgor and to provide that data to a law enforcement agency as required by Section 371.352, Finance Code.

The Department of Banking (under the Finance Commission) indicates no fiscal impact to the agency implement provisions of the bill that relate to the agency.

Local Government Impact

The Legislative Budget Board contacted sheriff's offices and police departments from various sized

counties and municipalities. Responses provided only discussed the fiscal impact of implementing the provisions under Subchapter H. It is anticipated, however, that there would be an insignificant fiscal impact related to enforcement and punishment of offenses created under the provisions of the bill.

Harris County, with a population of 3.4 million, reported that its sheriff's office already has an electronic data system capable of handling submissions from pawnshops, although the feature is not currently activated. If the sheriff were to require pawnshops to make electronic submissions, computer programming required to activate the feature would result in a one-time cost of \$8,000, which the county indicates is an insignificant impact. The Travis County Sheriff's Office, in a county with a population of 812,280, and the Fort Bend County Sheriff's Office, in a county with a population of 354,452, indicated there would be no fiscal impact to their offices. The Collin County Sheriff's Office (county population of 491,675) reported that the office already has a similar procedure in place and that there are very few pawn shops in the area; therefore, there would be no fiscal impact to the department.

The City of Houston Police Department (city population of 1.9 million) estimates that requiring the pawnshops to report all pawn transaction data electronically to the department would require one-time programming costs of \$10,000. In addition, the department estimates a savings in manhour costs of approximately \$220,000 annually from having all data downloaded directly into one internal system.

The City of Austin (population of 656,562) reports that provisions of the bill would not create a significant fiscal impact.

The City of Abilene Police Department (city population of 115,930) reports that it would not implement its own electronic reporting system (no fiscal impact), but if it were to require pawnshops to report electronically, it would use a repository service provider at an annual contract price starting at \$8,400 in fiscal year 2008 and increasing incrementally, reaching \$10,210 in fiscal year 2012. The department currently uses volunteers, at no cost to the department, to manually enter pawnshop data that is sent by the pawnshops in paper form.

Source Agencies: 451 Department of Banking, 466 Office of Consumer Credit Commissioner

LBB Staff: JOB, JRO, JB, DB