**South Carolina General Assembly**

122nd Session, 2017-2018

**A191, R209, S810**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Hembree

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Introduced in the Senate on January 9, 2018

Introduced in the House on April 5, 2018

Last Amended on May 9, 2018

Passed by the General Assembly on May 10, 2018

Governor's Action: May 17, 2018, Signed

Summary: Pawn transactions

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/6/2017 Senate Prefiled

 12/6/2017 Senate Referred to Committee on **Labor, Commerce and Industry**

 1/9/2018 Senate Introduced and read first time ([Senate Journal‑page 64](file:///h%3A%5Csj%5C20180109.docx))

 1/9/2018 Senate Referred to Committee on **Labor, Commerce and Industry** ([Senate Journal‑page 64](file:///h%3A%5Csj%5C20180109.docx))

 3/22/2018 Senate Committee report: Favorable with amendment **Labor, Commerce and Industry** ([Senate Journal‑page 8](file:///h%3A%5Csj%5C20180322.docx))

 3/28/2018 Senate Read second time ([Senate Journal‑page 37](file:///h%3A%5Csj%5C20180328.docx))

 3/29/2018 Senate Committee Amendment Amended and Adopted ([Senate Journal‑page 17](file:///h%3A%5Csj%5C20180329.docx))

 3/29/2018 Senate Read third time and sent to House ([Senate Journal‑page 17](file:///h%3A%5Csj%5C20180329.docx))

 3/29/2018 Senate Roll call Ayes‑44 Nays‑0 ([Senate Journal‑page 17](file:///h%3A%5Csj%5C20180329.docx))

 4/3/2018 Scrivener's error corrected

 4/5/2018 House Introduced and read first time ([House Journal‑page 9](file:///h%3A%5Chj%5C20180405.docx))

 4/5/2018 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 9](file:///h%3A%5Chj%5C20180405.docx))

 4/26/2018 House Committee report: Favorable with amendment **Labor, Commerce and Industry** ([House Journal‑page 78](file:///h%3A%5Chj%5C20180426.docx))

 4/27/2018 Scrivener's error corrected

 5/2/2018 House Requests for debate‑Rep(s). Gilliard, King, Brawley, Brown, Pendarvis, Fry, Clemmons, Hewitt, Elliott, Crawford, Yow, Johnson, Duckworth, McGinnis, West, Anderson, Magnuson ([House Journal‑page 98](file:///h%3A%5Chj%5C20180502.docx))

 5/3/2018 House Requests for debate removed‑Rep(s). Clemmons, Johnson, Crawford, Fry, Duckworth, Hewitt, Yow, West, Elliott, McGinnis, Anderson ([House Journal‑page 23](file:///h%3A%5Chj%5C20180503.docx))

 5/9/2018 House Requests for debate removed‑Rep(s). Pendarvis, Brown, Gilliard ([House Journal‑page 53](file:///h%3A%5Chj%5C20180509.docx))

 5/9/2018 House Amended ([House Journal‑page 88](file:///h%3A%5Chj%5C20180509.docx))

 5/9/2018 House Read second time ([House Journal‑page 88](file:///h%3A%5Chj%5C20180509.docx))

 5/9/2018 House Roll call Yeas‑99 Nays‑0 ([House Journal‑page 95](file:///h%3A%5Chj%5C20180509.docx))

 5/10/2018 House Read third time and returned to Senate with amendments ([House Journal‑page 15](file:///h%3A%5Chj%5C20180510.docx))

 5/10/2018 Scrivener's error corrected

 5/10/2018 Senate Concurred in House amendment and enrolled ([Senate Journal‑page 49](file:///h%3A%5Csj%5C20180510.docx))

 5/10/2018 Senate Roll call Ayes‑41 Nays‑0 ([Senate Journal‑page 49](file:///h%3A%5Csj%5C20180510.docx))

 5/14/2018 Ratified R 209

 5/17/2018 Signed By Governor

 5/24/2018 Effective date See Act

 5/31/2018 Act No. 191

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**VERSIONS OF THIS BILL**

[12/6/2017](file:///p%3A%5Cpprever%5C2017-18%5C810_20171206.docx)

[3/22/2018](file:///p%3A%5Cpprever%5C2017-18%5C810_20180322.docx)

[3/29/2018](file:///p%3A%5Cpprever%5C2017-18%5C810_20180329.docx)

[4/3/2018](file:///p%3A%5Cpprever%5C2017-18%5C810_20180403.docx)

[4/26/2018](file:///p%3A%5Cpprever%5C2017-18%5C810_20180426.docx)

[4/27/2018](file:///p%3A%5Cpprever%5C2017-18%5C810_20180427.docx)

[5/9/2018](file:///p%3A%5Cpprever%5C2017-18%5C810_20180509.docx)

[5/10/2018](file:///p%3A%5Cpprever%5C2017-18%5C810_20180510.docx)

(A191, R209, S810)

**AN ACT** **TO AMEND SECTION 40‑39‑70, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RECORDKEEPING AND MISCELLANEOUS REQUIREMENTS OF PAWNBROKERS, SO AS TO REQUIRE PAWNBROKERS KEEP DIGITAL PHOTOGRAPHS OF GOODS, ARTICLES, OR THINGS PAWNED; TO AMEND SECTION 40‑39‑90, RELATING TO RECORDS PAWNBROKERS SHALL MAINTAIN FOR INSPECTION BY CERTAIN PUBLIC OFFICIALS, SO AS TO PROVIDE PAWNSHOPS OPERATING IN THIS STATE SHALL PROVIDE ALL RECORDS OF PLEDGED ITEMS BY ELECTRONIC DATA TRANSFER TO A DATABASE SYSTEM ACCESSIBLE BY LAW ENFORCEMENT AND APPROVED BY THE SOUTH CAROLINA DEPARTMENT OF CONSUMER AFFAIRS; TO AMEND SECTION 40‑39‑145, RELATING TO HOLD ORDERS, SO AS TO REVISE PROCEDURES FOR LAW ENFORCEMENT TREATMENT OF PAWNED PROPERTY BELIEVED TO BE STOLEN OR MISAPPROPRIATED, AND RIGHTS AND OBLIGATIONS OF CERTAIN RELATED PARTIES; AND TO AMEND SECTION 40‑39‑160, RELATING TO PENALTIES FOR VIOLATIONS, SO AS TO PROVIDE CRIMINAL PENALTIES FOR CERTAIN KNOWING AND WILLING VIOLATIONS CONCERNING PAWN TICKETS.**

Be it enacted by the General Assembly of the State of South Carolina:

**Recordkeeping requirements, digital photographs**

SECTION 1. Section 40‑39‑70 of the 1976 Code is amended to read:

 “Section 40‑39‑70. (A) A pawnbroker shall keep a record, at the time of any loan or purchase, containing:

 (1) an account, description, and digital photograph of the goods, articles, or things pawned, pledged, or purchased;

 (2) the amount of money loaned thereon;

 (3) the time of pledging them;

 (4) the charges or the rate of interest to be paid on the loan; and

 (5) the name and residence of the person selling, pawning, or pledging the goods, articles, or things.

 (B) Before a pledge or purchase, the pawnbroker shall verify the identity of the pledgor or seller by reviewing a state‑issued or federally issued photographic identification card, including a United States military identification card, or a passport issued by the United States.

 (C) A pawn or purchase transaction must be performed by the owner of the property, or his authorized agent, whose identity and agency relationship must be verified by the pawnbroker.”

**Recordkeeping, electronic transfers, database**

SECTION 2. Section 40‑39‑90 of the 1976 Code is amended to read:

 “Section 40‑39‑90. (A) Records kept by pawnbrokers pursuant to this chapter must at all reasonable times be open to the inspection by court officials, law enforcement officers, the Administrator of the Department of Consumer Affairs, and their designees. Any loan records identifying any individual must be handled in a confidential manner at all times.

 (B) Pawnshops operating in this State shall provide all records of pledged items by electronic data transfer to a database system accessible by law enforcement and approved by the South Carolina Department of Consumer Affairs.”

**Hold orders**

SECTION 3. Section 40‑39‑145 of the 1976 Code is amended to read:

 “Section 40‑39‑145. (A) When an appropriate law enforcement official has probable cause to believe that property in the possession of a pawnbroker is misappropriated or stolen, he shall deliver to the pawnbroker the relevant police report or case number pertaining to the property, and the pawnbroker shall release the property to the appropriate law enforcement agency for use in a criminal investigation or return the property to the identified innocent owner. A pawnbroker who releases the property to law enforcement must be listed as a statutory victim on all transmitted reports and case files. If at the conclusion of the criminal investigation no identifiable innocent owner is found, the property must be returned to the pawnbroker by the appropriate law enforcement agency.

 (B) The release of the property to the custody of the appropriate law enforcement official is not considered a waiver or release of the pawnbroker’s property rights or interest in the property. Upon completion of the criminal proceeding involving the property identified as stolen, the court additionally shall order the conveying customer to pay restitution to the pawnbroker in the amount received by the conveying customer for the property.

 (C) When law enforcement seizes property pursuant to subsection (A), they shall hold the seized property for ten business days before releasing it to an innocent owner. During this ten business day period, a pawnbroker may file an action for claim and delivery of the seized property, provided it also shall serve notice of this action to the law enforcement agency. If no notice is received within this ten business day period, the law enforcement agency may release the property to an identified innocent owner. A law enforcement agency that receives notice shall hold the property during the pendency of the action.”

**Penalties**

SECTION 4. Section 40‑39‑160 of the 1976 Code is amended to read:

 “Section 40‑39‑160. (1) If a pawnbroker violates Section 40‑39‑80, 40‑39‑100, 40‑39‑110, or 40‑39‑130, the pledgor has a cause of action to recover from the pawnbroker actual damages and the right in an action other than a class action to recover from the person violating these provisions a penalty in an amount to be determined by the court of not less than one hundred nor more than one thousand dollars. No action pursuant to this subsection may be brought more than one year after the scheduled or accelerated maturity of the debt.

 (2) A pledgor is not obligated to pay a charge in excess of that allowed by this chapter, and has a right of refund of any excess charge paid within ten days of written demand. A refund may not be made by reducing the consumer’s obligation by the amount of the excess charge unless the pawnbroker has notified the pledgor that the pledgor may request a refund and the pledgor has not so requested within ten days thereafter.

 (3) In an action in which it is found that a pawnbroker has violated this chapter, the court shall award to the pledgor the costs of the action and to the pledgor’s attorney reasonable fees. In determining attorney’s fees the amount of recovery on behalf of the consumer is not controlling.

 (4) Liability to the pledgor for violation of Section 40‑39‑130 is in lieu of and not in addition to his liability under the Federal Truth in Lending Act. No action with respect to the same violation may be maintained pursuant to both subsection (1) of this section and the Federal Truth in Lending Act.

 (5) A pawnbroker who knowingly and intentionally violates the provisions of Section 40‑39‑90 is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both. A violation of the provisions of this section is triable in magistrates or municipal court, as appropriate.”

**Time effective**

SECTION 5. This act takes effect ninety days after approval by the Governor.

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

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