

- SUBJECT:** Operation and regulation of pawnshops
- COMMITTEE:** Financial Institutions — committee substitute recommended
- VOTE:** 7 ayes — Averitt, Denny, Ehrhardt, Elkins, Grusendorf, Marchant, Juan Solis
0 nays
2 absent — Solomons, Pitts
- WITNESSES:** For — W. J. Mike Murphy, Texas Association of Pawn Brokers
Against — None
On — Leslie L. Pettijohn, Office of Consumer Credit Commissioner
- BACKGROUND:** Finance Code, chapter 371 governs the operation and regulation of pawnshops. The commissioner of consumer credit has regulatory authority over business aspects of pawn license holders.
- DIGEST:** CSHB 1511 would amend various sections of Finance Code, chapter 371 to:
- ! establish that the Legislature has exclusive authority to regulate pawnshops except for powers delegated to the commissioner;
 - ! authorize the commissioner to issue temporary licenses to current pawnshop owners so they can open new locations;
 - ! authorize the commissioner to set a maximum hold period of 10 days for items acquired by a pawnshop;
 - ! require that any rule issued by the commissioner cannot take effect until 21 days after notices have been mailed to all license holders;
 - ! raise the minimum value of goods to be identified by tag to \$25 from \$10;
 - ! clarify net asset requirements;
 - ! repeal the authority of the commissioner to adopt rules relating to outdoor signs, maintenance of pawnshop premises, and the use of firearms for pawnshop security, and declare void any rules the commissioner has adopted on outdoor signs and maintenance of premises; and
 - ! make technical corrections and clarifications.

The bill would take effect September 1, 1999.

**SUPPORTERS
SAY:**

CSHB 1511 is largely a cleanup bill that would fix unintended consequences of last session's recodification of the Finance Code and clarify certain requirements of pawnbrokers and the authority of the consumer credit commissioner. Most sections of the bill would restore older language that was not included in the recodification, the omission of which has caused confusion among pawnbrokers as to their rights and responsibilities.

The bill would allow the commissioner to establish a hold period of up to 10 days during which a pawnbroker could not sell or dispose of an acquired item. Absent a formal rule, the industry now generally operates with a hold period of 20 days. A hold period gives law enforcement officials an opportunity to track stolen merchandise and makes it riskier for a person to sell stolen goods to a pawnbroker. The increasing use of computers and automation of data have allowed a faster check of serial numbers and other identifying information against stolen property records than reflected by the current 20-day practice.

Many pawnshop owners also repair jewelry, monogram clothing, and conduct other side businesses at their pawnshops. Current law requires pawnbrokers to inform the commissioner when they initiate side businesses. This policy has proven unhelpful for finding violations and represents an unnecessary regulatory burden. CSHB 1511 would relieve this burden for pawnbrokers who start their own side businesses. However, pawnbrokers still would have to inform the commissioner if they allowed outside persons to operate side businesses in their pawnshops. This continuing requirement would ensure that unlicensed individuals could not engage in pawn-related activities regulated by the commissioner.

The bill would repeal several unneeded rulemaking authorities of the commissioner. City ordinances govern outdoor signs for all businesses, including pawnshops, so the commissioner does not need to regulate outdoor signs. Likewise, rules on the cleanliness and upkeep of pawnshops are unneeded, and the commissioner has not used this authority. Existing weapons laws sufficiently regulate pawnshops with respect to the use of firearms for security purposes, and the commissioner has not used the authority to make rules in this area.

Occasionally, pawnbrokers receive notification about a rule issued by the commissioner after it has taken effect, meaning that they are out of compliance. Under CSHB 1511, any rule could not go into effect until 21 days after all notices had been mailed out. This would give pawnbrokers time to comply with new rules before they became effective.

OPPONENTS
SAY:

A 10-day hold is not sufficient for law enforcement officials, especially in larger cities, to check for stolen merchandise. The commissioner should be able to set the hold period to 20 days to give police enough time to investigate thefts and locate stolen property. Too many pawnshops still provide information in paper formats, requiring the police to enter the data manually. By the time police receive the paper records, enter them into the computer, and match them with stolen property data, the 10 days may already be over.

OTHER
OPPONENTS
SAY:

The 10-day hold should be allowed only for pawnshops that provide their pawn-ticket data to the police by electronic means.

NOTES:

The committee substitute made several technical changes to the original bill and redesignated section numbers. It added sections concerning the 21-day rule notification period, side business notification, pawnshop security, 10-day hold period, outdoor sign rules, and shop maintenance rules. The substitute also deleted a section regarding forfeiture of goods.

HB 2676 by Keel, relating to law enforcement procedures for obtaining data from pawn shops electronically, is scheduled for public hearing in the Financial Institutions Committee today.