

Regular Session, 2014

HOUSE CONCURRENT STUDY REQUEST NO. 4

BY REPRESENTATIVE BROADWATER

Approved
6-2-14

PAWNBROKERS: Requests study of federal implications relative to the electronic transmission of consumers' personally identifiable information to law enforcement

1 A CONCURRENT STUDY REQUEST

2 To the House Committee on Commerce and the Senate Committee on Commerce,
3 Consumer Protection, and International Affairs to meet and to function as a joint
4 committee to study federal implications relative to pawnbrokers and the electronic
5 transmission of consumers' personally identifiable information to law enforcement,
6 and to report the findings of the joint committee to the legislature prior to the
7 convening of the 2015 Regular Session of the Legislature of Louisiana.

8 WHEREAS, R.S. 37:1796 requires every pawnbroker to maintain a permanent record
9 of all transactions of things pledged on the pawnshop premises, and the information required
10 to be maintained is both the personally identifiable information and the transactional
11 information for each pawn transaction; and

12 WHEREAS, R.S. 37:1798 requires every pawnbroker to provide all transactional
13 information as required to be obtained by R.S. 37:1796; and

14 WHEREAS, the transactional information required to be maintained in R.S. 37:1796
15 is also required to be provided to the chief of police of the city or town in which the
16 pawnbroker is doing business, or to the sheriff of the parish in which the pawnbroker is
17 doing business, on a daily basis, by the end of the next business day, or on a less frequent
18 basis as is required by the chief of police or sheriff; and

19 WHEREAS, R.S. 37:1796 requires the transactional information to be electronically
20 transmitted, if the pawnbroker has the means available to make transmissions in electronic

1 form via a system which makes solely transactional information available for transmission;
2 and

3 WHEREAS, for purposes of an investigation of a crime relating to a particular pawn
4 transaction, R.S. 37:1798 requires the pawnbroker to mail or fax the requesting official the
5 personally identifiable information relating to such transaction under investigation; and

6 WHEREAS, present law of R.S. 37:1798 does not authorize pawnbrokers to transmit
7 requested personally identifiable information through any electronic method; and

8 WHEREAS, the office of financial institutions designates pawnshops as non-
9 depository financial institutions; and

10 WHEREAS, pawnbrokers are governed by all of the major federal laws that apply
11 to entities designated as financial institutions; and

12 WHEREAS, pawnbrokers are required to comply with the provisions of the federal
13 Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999) and the
14 applicable implementing federal Privacy of Consumer Information regulations, as adopted
15 by the Office of the Comptroller of the Currency, 12 Code of Federal Regulations, Part 40
16 (2001); the Board of Governors of the Federal Reserve System, 12 Code of Federal
17 Regulations, Part 216 (2001); the Federal Deposit Insurance Corporation, 12 Code of
18 Federal Regulations, Part 332 (2001); the Office of Thrift Supervision, 12 Code of Federal
19 Regulations, Part 573 (2001); the National Credit Union Administration, 12 Code of Federal
20 Regulations, Part 716 (2001); the Federal Trade Commission, 16 Code of Federal
21 Regulations, Part 313 (2001); or the Securities and Exchange Commission, 17 Code of
22 Federal Regulations, Part 248 (2001), if the pawnbroker is a financial institution as defined
23 in those regulations; and

24 WHEREAS, pawn transactions are the only type of consumer credit that require
25 reporting to local law enforcement agencies and in many states, including Louisiana, this
26 reporting is required daily and may include extremely sensitive personally identifiable
27 information about the consumer (i.e. ethnicity, gender, address); and

28 WHEREAS, much of this information qualifies as "nonpublic personal information"
29 under federal privacy law and is entitled to protection as such; and

1 WHEREAS, fundamentally, this is why pawnbrokers are required to comply with
2 federal laws and regulations relative to privacy and protection of consumers' personally
3 identifiable information; however, there are some states within the United States that
4 authorize pawnbrokers to electronically transmit consumers' personally identifiable
5 information to law enforcement; and

6 WHEREAS, this raises the question as to whether pawnbrokers' electronic
7 transmission of consumers' personally identifiable information is necessarily a breach of the
8 federal Gramm-Leach-Bliley Act and other federal regulations implicating privacy and
9 protection of consumer information.

10 THEREFORE, the Legislature of Louisiana requests the House Committee on
11 Commerce and the Senate Committee on Commerce, Consumer Protection, and International
12 Affairs to meet and to function as a joint committee to study federal implications relative to
13 pawnbrokers and the electronic transmission of consumers' personally identifiable
14 information to law enforcement.

15 BE IT FURTHER RESOLVED that in undertaking the study and issuing
16 recommendations, the joint committee may request documents or data, conduct public
17 hearings, hear the testimony of witnesses, and determine whether there has been any
18 litigation relative to pawnbrokers' electronic transmission of consumers' personally
19 identifiable information, and take any other actions that it deems necessary to carry out its
20 functions.

21 BE IT FURTHER RESOLVED that the House Committee on Commerce and the
22 Senate Committee on Commerce, Consumer Protection, and International Affairs shall
23 report the findings of the joint committee to the full legislature prior to the convening of the
24 2015 Regular Session of the Legislature of Louisiana.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Broadwater

HCSR No. 4

Requests the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs to identify and study the following:

- (1) Federal implications relative to the electronic transmission of consumers' personally identifiable information to law enforcement.
- (2) Whether pawnbrokers' electronic transmission of consumers' personally identifiable information is necessarily a breach of the federal Gramm-Leach-Bliley Act and other federal regulations implicating privacy and protection of consumer information.
- (3) Any litigation relative to pawnbrokers' electronic transmission of consumers' personally identifiable information to law enforcement.