



House of Representatives

File No. 650

General Assembly

February Session, 2012

(Reprint of File No. 89)

Substitute House Bill No. 5328
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 5, 2012

AN ACT ESTABLISHING A FINE ART SECURED LENDING LICENSE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2012*) (a) For purposes of
2 sections 1 to 8, inclusive, of this act, "fine art" means any (1) drawing;
3 (2) painting; (3) sculpture; (4) mosaic; (5) photograph; (6) work of
4 calligraphy; (7) work of graphic art, including any etching, lithograph,
5 offset print, silkscreen or other work of graphic art; (8) craft work in
6 clay, textile, fiber, metal, plastic or other material; (9) art work in mixed
7 media, including any collage, assemblage or other work combining
8 any of the artistic media named in this definition, or combining any of
9 said media with other media; or (10) a master from which copies of an
10 artistic work can be made, such as a mold or a photographic negative,
11 with a market value of at least two thousand five hundred dollars.
12 "Fine art" shall not include (A) commissioned work prepared under
13 contract for trade or advertising usage, provided the artist, prior to
14 creating the work, has signed an agreement stating that said work shall
15 be a commissioned work which may be altered without consent, and
16 (B) work prepared by an employee within the scope of such

17 employee's employment duties.

18 (b) No person shall, in any city or town of this state, engage in or
19 carry on the business of loaning money upon deposits or pledges of
20 fine art unless such person is licensed in accordance with section 2 of
21 this act. The provisions of sections 1 to 8, inclusive, of this act shall
22 apply only if such fine art is deposited with a lender, and shall not
23 apply to loans made upon stock, bonds, notes or other written or
24 printed evidence of ownership of fine art or of indebtedness to the
25 holder or owner of any such securities.

26 Sec. 2. (NEW) (*Effective October 1, 2012*) (a) The licensing authority of
27 any town or city may grant licenses to suitable persons to be fine art
28 secured lenders in such town or city respectively, and may suspend or
29 revoke such licenses for cause, which shall include, but not be limited
30 to, failure to comply with any requirements for licensure specified by
31 the licensing authority at the time of issuance. For purposes of this
32 section and sections 3 and 5 of this act, "licensing authority" means the
33 chief of police of any town or city or, if such town or city does not have
34 an organized local police department, the Commissioner of Emergency
35 Services and Public Protection.

36 (b) The person so licensed shall pay, for the benefit of any such city
37 or town, respectively, or if the licensing authority of such city or town
38 is the Commissioner of Emergency Services and Public Protection, for
39 the benefit of the Department of Emergency Services and Public
40 Protection, to the licensing authority a license fee of fifty dollars and
41 twenty-five dollars per year thereafter for renewal of such license, and
42 shall, at the time of receiving such license, file, with the licensing
43 authority of such city or town, a bond to such city or town, with
44 competent surety, in the penal sum of two thousand dollars, to be
45 approved by such licensing authority and conditioned for the faithful
46 performance of the duties and obligations pertaining to the business so
47 licensed, unless such person is also licensed as a secondhand dealer in
48 accordance with section 21-47d of the general statutes, in which case
49 the licensing authority shall waive the payment of renewal fees and

50 filing of a bond required by this subsection.

51 (c) Each such license shall designate the place where such business
52 is to be carried on and shall be in effect for one year unless sooner
53 suspended or revoked. Such license shall be displayed in a
54 conspicuous location in the place where such business is carried on. At
55 the time of application for such license and each renewal thereof, the
56 applicant shall disclose to the licensing authority all places used or
57 intended to be used by the business for the purchase, receipt, storage
58 or sale of fine art. During the term of such license, the licensee shall
59 notify the licensing authority of any additional places that will be used
60 by the business for the purchase, receipt, storage or sale of fine art
61 prior to such use.

62 (d) An application for such license shall be made in writing, under
63 oath. The application shall contain: (1) The type of business to be
64 engaged in; (2) the applicant's full name, age, and date and place of
65 birth; (3) the applicant's residence addresses and places of employment
66 within the preceding five years; (4) the applicant's present occupation;
67 (5) any crime of which the applicant has been convicted, and the date
68 and place of such conviction; and (6) such additional information as
69 the licensing authority deems necessary to investigate the
70 qualifications, character, competency and integrity of the applicant. If
71 the applicant is a corporation, limited liability company, partnership or
72 association, the application shall contain the information required by
73 this subsection for each individual who is or will be an officer,
74 shareholder, financial backer, other than a financial institution, of such
75 entity or any other individual with a relationship to such entity similar
76 to that of an officer, shareholder or financial backer.

77 (e) The application for such license and any renewal thereof shall
78 identify or provide the address for any Internet web site or account
79 used by such applicant to conduct the business. During the term of the
80 license, the licensee shall notify the licensing authority, in writing, of
81 the addition or discontinuation of any Internet web site or account
82 used to conduct the business.

83 (f) No license shall be issued under this section by the licensing
84 authority to any person who has been convicted of a felony. The
85 licensing authority may require any applicant, employee or person
86 with an ownership interest in the business to submit to state and
87 national criminal history records checks. Whenever the licensing
88 authority requires such criminal history records checks, such
89 individual shall submit two complete sets of fingerprints on forms
90 prescribed by the licensing authority. Any criminal history records
91 checks required pursuant to this subsection shall be conducted in
92 accordance with section 29-17a of the general statutes. The licensing
93 authority may charge the individual a fee equal to the fees established
94 by the Federal Bureau of Investigation and the State Police Bureau of
95 Identification for performing such criminal history records checks.

96 (g) The licensing authority shall grant or deny an application for a
97 license not later than ninety days after the filing of such application
98 with the licensing authority. A licensee seeking renewal of such license
99 shall file an application for renewal at least sixty days before the
100 expiration of such license and the licensing authority shall grant or
101 deny such renewal not later than thirty days after the filing of such
102 application for renewal. The licensing authority may suspend, revoke
103 or modify any license issued under this section at any time during the
104 period of the license for good cause shown, upon notice to the licensee
105 and following a hearing. The licensing authority shall hold any such
106 hearing not later than thirty days after the date of issuance of such
107 notice and shall issue a decision not more than fourteen days after any
108 hearing. Any person aggrieved by any action of the licensing authority
109 in denying, suspending, revoking, modifying or refusing to renew a
110 license issued pursuant to this section may appeal from such action to
111 the Superior Court.

112 Sec. 3. (NEW) (*Effective October 1, 2012*) (a) No fine art secured
113 lender shall take, receive or purchase fine art without receiving proof
114 of the identity of the person depositing, pledging or selling the fine art.
115 Such identification shall include a photograph, an address, if available
116 on the identification, and an identifying number, including, but not

117 limited to, date of birth. No fine art secured lender shall enter into any
118 pledge or purchase transaction with a minor unless such minor is
119 accompanied by such minor's parent or guardian.

120 (b) Each such fine art secured lender shall maintain a computerized
121 record keeping system deemed appropriate by the licensing authority,
122 in which shall be entered in English, at the time the secured lender
123 receives any article of fine art by way of pledge, deposit or purchase, a
124 description of such article, the name, residence address, proof of
125 identity as required in subsection (a) of this section and a general
126 description of the person from whom, and the date and hour when
127 such fine art was received and in which, if the fine art does not contain
128 any identifiable numbers or markings, shall be included a digital
129 photograph of each article. Each entry in the record keeping system
130 shall be numbered consecutively. A tag shall be attached to the article
131 in a visible and convenient place with a number written on such tag
132 corresponding to the entry number in the record keeping system and
133 shall remain attached to the article until the article is sold or otherwise
134 disposed of, provided the licensing authority shall prescribe
135 procedures authorizing the removal of such tags from articles,
136 including those articles consisting of jewelry that are cleaned and
137 repaired on the premises by the fine art secured lender, that will
138 provide accountability for such articles. Such tag shall be visible in a
139 digital photograph taken in accordance with this section. Detailed
140 information regarding transactions involving sums taken or received
141 for the purpose of participating in secured art transactions, whether
142 through a collective fund or otherwise, shall be entered into and
143 maintained in the system by the fine art secured lender. Such record
144 keeping system and the place where such business is carried on and all
145 articles of fine art therein may be examined at all times by any state
146 police officer, municipal police officer, the licensing authority or any
147 person designated by them. Any state police officer or municipal
148 police officer who performs such an examination may require any
149 employee on the premises to provide proof of the employee's identity.
150 All records maintained pursuant to this section shall be retained by the

151 fine art secured lender for not less than two years.

152 (c) Except as provided in subsection (d) of this section, the
153 description of any fine art received by a fine art secured lender under
154 this section shall include, but not be limited to, all distinguishing
155 marks, names of any kind, including serial numbers, engravings,
156 etchings, affiliation with any institution or organization, dates, initials,
157 color, vintage or image represented. Any description of media of any
158 kind shall also include the title and artist or any other identifying
159 information contained on the cover or external surface of such media.

160 (d) The licensing authority may provide for an exemption from, or
161 establish additional or different requirements than, the requirements of
162 subsection (c) of this section upon consideration of the nature of the
163 fine art, transaction or business, including, but not limited to, articles
164 in bulk lots.

165 Sec. 4. (NEW) (*Effective October 1, 2012*) (a) Each fine art secured
166 lender shall, at the time of making any loan on a deposit or pledge of
167 fine art or of purchasing such fine art on condition of selling the same
168 back again at a stipulated price, deliver to the person who deposits,
169 pledges or sells such fine art a memorandum or note containing (1) the
170 entry required by the provisions of section 3 of this act to be made in
171 such fine art secured lender's computerized record keeping system,
172 and (2) a statement signed by the person who deposits, pledges or sells
173 such fine art representing and warranting that: (A) Such fine art is not
174 stolen and has no liens or encumbrances against it, (B) such person is
175 the rightful owner of such fine art and has the right to enter into the
176 transaction, and (C) such person will indemnify and hold harmless
177 such fine art secured lender for any loss arising from the transaction
178 because of a superior right of possession to the fine art residing with a
179 third person. Each such fine art secured lender may charge the person
180 who deposits, pledges or sells such fine art a fee for such
181 memorandum or note, the processing and recording of the transaction,
182 the storage of the fine art, any insurance for the fine art and any
183 appraisal of the fine art. Each such fine art secured lender shall pay for

184 any fine art received by deposit, pledge or purchase only by check,
185 draft, wire or money order and shall not pay cash for any such fine art
186 except when the fine art secured lender cashes a check, draft or money
187 order for the person who is depositing, pledging or selling the fine art.
188 When the fine art secured lender cashes a check, draft or money order,
189 such fine art secured lender shall require proof of the identity of the
190 person presenting the check, draft or money order in accordance with
191 subsection (a) of section 3 of this act.

192 (b) No fine art secured lender or person who loans money on the
193 deposit or pledge of fine art shall take or receive, for the use of money
194 loaned on fine art, any more than two per cent per month or fraction
195 thereof.

196 (c) Each check, draft or money order used to pay for fine art
197 received by a fine art secured lender shall contain the number or
198 numbers associated with such fine art in the record keeping system
199 maintained in accordance with section 3 of this act. Whenever payment
200 is made by check, the fine art secured lender shall retain the electronic
201 copy of such check or other record issued by the financial institution
202 that processed such check, and such copy or record shall be subject to
203 examination pursuant to section 3 of this act as part of such record
204 keeping system. No fine art secured lender shall cash any check, draft
205 or money order issued by such fine art secured lender in an amount in
206 excess of one thousand dollars and no person shall structure any
207 transaction or transactions to avoid this prohibition. Any transaction or
208 transactions between a fine art secured lender and the same party
209 within a twenty-four-hour period shall be aggregated and considered a
210 single transaction for the purposes of this subsection.

211 Sec. 5. (NEW) (*Effective October 1, 2012*) Each fine art secured lender
212 shall submit quarterly to the licensing authority a sworn statement of
213 his or her transactions, describing the fine art received and
214 summarizing the nature and terms of each transaction. Such statement
215 shall be in an electronic format prescribed by the licensing authority.
216 The licensing authority may grant an exemption from the requirement

217 of submitting such statement in electronic format for good cause
218 shown. Each fine art secured lender shall maintain a written record of
219 the name and residence address and a description of each person from
220 whom the fine art was received and shall make such written record
221 available to law enforcement authorities upon request.

222 Sec. 6. (NEW) (*Effective October 1, 2012*) Whenever property is seized
223 from the place of business of a fine art secured lender by a law
224 enforcement officer, such officer shall give the fine art secured lender a
225 duly signed receipt for the fine art containing a case number, a
226 description of the fine art, the reason for the seizure, the name and
227 address of the officer, the name and address of the person claiming a
228 right to the fine art prior to the fine art secured lender and the name of
229 the fine art secured lender. If the fine art secured lender claims an
230 ownership interest in such fine art, he or she may request the return of
231 such fine art by filing a request for such fine art with the law
232 enforcement agency in accordance with the provisions of section 54-
233 36a of the general statutes. If the person who deposited, pledged or
234 sold any fine art received by a fine art secured lender is convicted of
235 any offense arising out of such fine art secured lender's acquisition,
236 retention or disposition of the fine art and such fine art secured lender
237 suffered an economic loss as a result of such offense, the court, at the
238 time of sentencing, may order restitution to such fine art secured
239 lender pursuant to subsection (c) of section 53a-28 of the general
240 statutes and such order may be enforced in accordance with section
241 53a-28a of the general statutes.

242 Sec. 7. (NEW) (*Effective October 1, 2012*) No fine art secured lender
243 shall sell or dispose of any fine art left with such fine art secured
244 lender in deposit or pledge for money loaned or as a result of the
245 purchase of such fine art on condition of selling the same back again at
246 a stipulated price in less than sixty days from the date when the same
247 is left in deposit or pledge or purchased on condition of selling the
248 same back again at a stipulated price, except when such sale or
249 disposition is to the person who deposited, pledged or sold such fine
250 art or an authorized agent of such person. All such fine art may be sold

251 or disposed of at the place of business of such fine art secured lender
 252 or at public sale after such sixty-day period. Upon the expiration of
 253 sixty days from the date when such fine art is left with a fine art
 254 secured lender, if the person who deposited or pledged such fine art
 255 fails to redeem any such fine art in accordance with the terms of the
 256 transaction, such right of redemption or repurchase on the part of the
 257 person who deposited or pledged such fine art shall be extinguished
 258 and the fine art secured lender shall acquire the entire interest in the
 259 fine art that was held by the person who deposited or pledged such
 260 fine art prior to such deposit or pledge without further notice to such
 261 person. The provisions of this subsection shall not apply if a fine art
 262 secured lender and a person who leaves fine art with such lender have
 263 entered into a contract regarding the disposal of such fine art.

264 Sec. 8. (NEW) (*Effective October 1, 2012*) (a) Any person who wilfully
 265 engages in the business of a fine art secured lender, unless licensed
 266 according to law, or after notice that his or her license has been
 267 suspended or revoked, shall be guilty of a class D felony.

268 (b) Any person who wilfully violates any provision of sections 1 to
 269 7, inclusive, of this act for which no other penalty is provided shall be
 270 guilty of a class A misdemeanor.

271 Sec. 9. (NEW) (*Effective October 1, 2012*) The provisions of sections 1
 272 to 8, inclusive, of this act shall not apply to any bank, out-of-state bank
 273 or any affiliate of a bank or out-of-state bank, as such terms are defined
 274 in section 36a-2 of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	New section
Sec. 2	<i>October 1, 2012</i>	New section
Sec. 3	<i>October 1, 2012</i>	New section
Sec. 4	<i>October 1, 2012</i>	New section
Sec. 5	<i>October 1, 2012</i>	New section
Sec. 6	<i>October 1, 2012</i>	New section

Sec. 7	<i>October 1, 2012</i>	New section
Sec. 8	<i>October 1, 2012</i>	New section
Sec. 9	<i>October 1, 2012</i>	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 13 \$	FY 14 \$
Judicial Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 13 \$	FY 14 \$
All Municipalities	Revenue Gain	Less than \$5,000	Less than \$2,500

Explanation

The bill is anticipated to result in a revenue gain of less than \$5,000 for municipalities because pawn brokers currently licensed under CGS 21-39 would be required to apply for a license in order to accept fine art.

Additionally, the bill could result in potential state revenue as a result of fines for violations of the bill. The bill allows fines up to \$2,000 or \$5,000, depending on the section, for offenses. However, there have been no convicted offenses for violations of similar regulations for pawn brokers since 2001.

House Amendment "A" made various changes to the underlying bill that resulted in the fiscal impact described above.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Judicial Department Offenses and Revenue Database

OLR Bill Analysis**sHB 5328 (as amended by House "A")******AN ACT ESTABLISHING A FINE ART SECURED LENDING LICENSE.*****SUMMARY:**

This bill creates a new fine art secured lending license issued by towns and cities with provisions and requirements similar to those for pawnbrokers. These include the same penalties and similar requirements for licensing, identifying sellers, recording, reporting, and payments.

The bill requires anyone (including a pawnbroker) who is in the business of loaning money on the deposit or pledge of fine art to obtain the new license.

The bill does not apply to loans made on stock, bonds, notes, or other written or printed evidence of fine art ownership or on indebtedness to the holder or owner of such securities. It also does not apply to banks or their affiliates.

Under the bill, anyone who willfully (1) engages in the business of fine art secured lending without a license or after notice that his or her license has been suspended or revoked is guilty of a class D felony, which is punishable by one to five years imprisonment, a fine of up to \$ 5,000, or both and(2) violates any fine art secured lending provision for which there is no other penalty is guilty of a class A misdemeanor, which is punishable by up to one year imprisonment, a \$2,000 fine, or both.

*House Amendment "A":

1. eliminates creditor information on a corporation's application,
2. eliminates a provision deeming a failure of the licensing authority to act as a denial,
3. increases the time the licensing authority has to hold a hearing from five to 30 days,
4. adds a recording requirement,
5. allows wire transfers as payment,
6. changes the allowable interest payment to a flat 2% rate from one dependent on value,
7. changes the reporting requirements from weekly to quarterly,
8. sets applicability exemptions, and
9. makes minor and technical changes.

EFFECTIVE DATE: October 1, 2012

§ 1 — FINE ARTS

Under the bill, "fine art" means any:

1. drawing;
2. painting;
3. sculpture;
4. mosaic;
5. photograph;
6. work of calligraphy;
7. work of graphic art, including any etching, lithograph, offset print, or silkscreen;

8. craft work in clay, textile, fiber, metal, plastic, or other material;
9. art work in mixed media, including any collage, assemblage, or other work combining any of the previously mentioned art; or
10. a master from which copies of an artistic work can be made, such as a mold or photographic negative, with a market value of at least \$2,500.

§ 2 — LICENSING

Licensing Authority

The bill makes a city or town's police chief or, for any city or town that does not have an organized local police department, the emergency services and public protection commissioner, the licensing authority.

The licensing authority may grant licenses to any suitable person and suspend or revoke a license for cause, which includes failing to comply with any specified licensing requirements imposed at the time of issuance. The license is valid for one year unless suspended or revoked.

Applications

The bill requires license applications to be in writing, signed under oath, and contain:

1. the type of business to be engaged in;
2. the applicant's full name, age, and date and place of birth;
3. the applicant's home addresses and places of employment for the preceding five years;
4. the applicant's present occupation;
5. any criminal conviction, including the date and place; and
6. any additional information the licensing authority needs to

investigate the applicant's qualifications, character, competency, and integrity.

The application of a corporation, limited liability company, partnership, or association must contain the information required for each individual who is or will be an officer; shareholder; or financial backer, other than a financial institution; as well as any other individual with a similar relationship to the entity.

The application and any renewal application must also include information on any Internet website or account used to conduct business. The licensee, during the license term, must give the licensing authority written notice when it adds or discontinues an Internet website or account.

License Fees and Bond Requirements

The bill allows the licensing authority to collect and use for either the town, city, or department's benefit a \$50 licensing fee and an annual \$25 renewal fee.

It requires a licensee to file with the licensing authority a \$2,000 surety bond. The bond is conditioned on the faithful performance of the duties and obligations of the business. The bill exempts licensees who are also secondhand dealers from the renewal fees and bond requirement.

Background Check

The bill prohibits issuance of a license to anyone with a felony conviction. It allows the licensing authority to require any applicant, employee, or person with an ownership interest in the business to submit to a state and national criminal history check. In that case, the bill requires the subject to submit two sets of fingerprints. It also allows the licensing authority to charge the subject a fee equal to the fees the FBI and the State Police Bureau of Identification charge for performing the background checks.

Administrative License Procedures

The bill requires the licensing authority to grant or deny an application within 90 days after it is filed. The licensee must file for renewal at least 60 days before the license expires, and the licensing authority must grant or deny it within 30 days after the filing.

The licensing authority may suspend, revoke, or modify any license at any time during the license period for good cause, after notice and a hearing. The licensing authority must hold a hearing within 30 days after it issues the notice and render a decision within 14 days after the hearing. The applicant or licensee may appeal the licensing authority's decision to Superior Court.

License Display Requirements

The bill requires licensees to display their licenses in a conspicuous location on their premises. It also requires them to disclose (1) their business location for the next year and (2) all the places they use or intend to use to buy, receive, store, or sell fine art. During the term of the license, the licensee must notify the licensing authority in advance of any additional business locations.

FINE ART SECURED LENDER

§ 3 — Identification/Sale to Minor

The bill requires a licensed fine art secured lender (lender) to obtain proof of identity from a person depositing, pledging, or selling the fine art. The identification must include a photograph; an address, if available on the identification; and an identifying number, including date of birth. Lenders may not transact business with a minor, unless he or she is accompanied by a parent or guardian.

Record-Keeping System

The bill requires lenders to maintain a computerized record-keeping system that the licensing authority deems appropriate. The entries must be entered in English at the time of purchase and consecutively numbered. The system must also include a description of each article; the name, home address, proof of identity, and general description of the person selling the property; and the date and hour when the

property was received, with a digital photograph of any item without any identifiable numbers or markings.

The bill requires the lender to maintain and enter detailed information into the system regarding transactions involving sums taken or received in secured art transactions, whether through a collective fund or otherwise.

Digital Photographs and Tagging

The bill requires tags to be attached to the article in a visible and convenient place with a number corresponding to the entry number in the record-keeping system. The tag must remain attached to the article until it is sold or disposed of and be visible in the digital photograph. The licensing authority must establish procedures authorizing the removal of the tags, including for jewelry that is cleaned and repaired on the premises. The records must be maintained for at least two years.

Police Examination

A state or municipal police officer, the licensing authority, or a designee may, at any time, examine the records and place where business is carried on, including all articles on the property. They may also require any employee on the premises to provide proof of his or her identity.

Record Description

The record's property description must include:

1. all distinguishing marks;
2. names of any kind, including serial numbers;
3. engraving;
4. etchings;
5. affiliation with any institution or organization;
6. dates;

7. initials;
8. color;
9. vintage; and
10. image represented.

Any description of media must include the title and artist or other identifying information from its cover or external surface. The licensing authority may exempt or establish additional or different description requirements depending on the nature of the property, transaction, or business, including articles sold in bulk lots or with minimal value.

§ 4 — MEMORANDUM OR NOTE

The bill requires lenders to give the person who deposits, pledges, or sells his or her property a memorandum or note containing the entry from the lender's records. It requires that the memorandum or note also include a copy of a statement signed by the person stating he or she is the rightful owner of the fine art with the right to enter into the transaction, and that the fine art is not stolen and does not have any liens or encumbrances against it. The memorandum or note must also state that the person will indemnify and hold harmless the lender for any loss arising from the transaction because of someone else's superior right of possession. Lenders may charge customers a fee for costs associated with the memorandum, transaction, property storage, insurance, and appraisals.

Payment

The bill requires lenders to make payments only by check, draft, or money order, rather than cash. However, a lender can cash a check, draft, or money order he or she issues to a person, provided he or she requires proof of the person's identity.

The bill requires any check, draft, wire, or money order a lender uses to pay for property he or she receives to contain the same

identification numbers the lender used in his or her record-keeping system. The lender must keep the electronic copy of any check or other record issued by the financial institution that processes it. The copy is subject to inspection as part of the lender's record-keeping system.

The bill prohibits lenders who loan money for the deposit of fine art from charging more than 2% per month or fraction of a month.

The bill prohibits (1) a lender from cashing any check, draft, or money order he or she issues over \$1,000 and (2) a person from structuring his or her transactions to avoid this limit. Any transaction between a lender and the same party within a 24-hour period is considered a single transaction for this purpose.

§ 5 — REPORTING REQUIREMENTS

The bill requires lenders to submit electronic quarterly sworn statements of their transactions to the licensing authority. The report is a sworn statement of transactions describing the property received, including summarizing the nature and terms of the transaction. The bill allows the licensing authority to (1) require statements more frequently if the volume and nature of the business warrants it and (2) exempt a lender from the electronic reporting for good cause.

The bill requires each lender to maintain a written record of the name and residential address and a description of each customer. This written record must be available to law enforcement authorities if requested.

§ 6 — SEIZURE OF PROPERTY BY LAW ENFORCEMENT OFFICERS

The bill requires a law enforcement officer, when seizing fine art from a lender, to give him or her a duly signed receipt for the seized fine art containing:

1. a case number,
2. a description of the fine art,

3. the reason for the seizure,
4. the officer's name and address,
5. the name and address of the person claiming a right to the fine art prior to the lender, and
6. the lender's name.

Under the bill, if a lender claims an ownership interest in the fine art, he or she may request its return by filing a request with the law enforcement agency in accordance with the seized property procedures established in law.

The bill allows the court to order restitution if the person who deposited, pledged, or sold the fine art is convicted of an offense arising out of the lender's acquisition of the property and the lender suffered an economic loss as a result.

§ 7 — SALE OF PROPERTY

The bill prohibits lenders from selling or otherwise disposing of fine art left with them for less than 60 days, unless the customer is the person who deposited, pledged, or sold it. It also specifies that if the fine art is not redeemed within 60 days, the lender acquires the entire interest the customer had in the art without further notice. The lender may then sell or dispose of the fine art at his or her business place or through a public sale. These requirements do not apply if a lender and customer have entered into a contract regarding disposal of the fine art.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute
Yea 17 Nay 0 (03/13/2012)

Judiciary Committee

Joint Favorable

Yea 37 Nay 0 (05/03/2012)