

REPORT OF THE COMMITTEE ON PUBLIC SAFETY AND ECONOMIC DEVELOPMENT

Voting Members:

Carol Fukunaga, Chair; Kymberly Marcos Pine, Vice-Chair
Ikaika Anderson, Stanley Chang, Breene Harimoto

Committee Meeting Held
October 29, 2013

Honorable Ernest Y. Martin
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Public Safety and Economic Development to which was referred Resolution 13-258 entitled:

“RESOLUTION EXPRESSING SUPPORT FOR STATE LEGISLATION THAT WOULD AUTHORIZE COUNTY POLICE DEPARTMENTS TO ENABLE THE ELECTRONIC RECORDING AND TRANSFER OF PAWNBROKER AND SECONDHAND DEALER TRANSACTION INFORMATION”

reports as follows:

The purpose of this Resolution is to support state legislation that would authorize the county police departments to regulate and implement the electronic recording and transfer of pawnbroker and secondhand dealer transaction information.

The Honolulu Police Department (HPD) submitted written testimony and a representative from the HPD testified in support of the Resolution. An individual also testified in support.

In an effort to better protect the public and aid in the recovery of stolen property, the HPD proposed a comprehensive regulatory system to strengthen the current City ordinance regulating pawnbrokers and secondhand dealers by proposing Bill 51 (2013) *Relating to Secondhand Dealers and Pawnbrokers* and Bill 52 (2013) *Relating to Pawn Transactions*.

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON NOV 13 2013

COMMITTEE REPORT NO. 320

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Bill 51 (2013) was intended to provide the needed instruction and guidelines for the pawnbrokers and secondhand dealers to legally and properly operate their businesses in the City and County of Honolulu. This Bill more clearly identified what constitutes pawn and secondhand transactions, and specified licensure requirements, recordkeeping functions, identification standards, and submittal obligations. According to HPD, the key to this effort at transparency is the opportunity for pawnbrokers and secondhand dealers to use an automated pawn transaction designated by the Police Chief. Bill 52 (2013) specified the terms and conditions of a pawn transaction, as well as setting forth new record-keeping requirements for pawnbrokers and the industry.

During the course of the Council meeting on August 7, 2013 when the Bills passed First Reading, several industry testifiers raised concerns that the Bills were overly broad, intruding into State jurisdiction regulating pawnbrokers and secondhand dealers.

Currently, pawnbrokers and secondhand dealers are regulated by both State law and County ordinance. Chapter 445, Part V, and Chapter 486M, Hawaii Revised Statutes (HRS), are the underlying State authorizations for the Counties to monitor and regulate pawn transactions and second hand dealers. Chapter 41, Article 35, Revised Ordinances of Honolulu (ROH) governs the licensure of secondhand dealers in the City and County of Honolulu.

Your Committee subsequently encouraged Honolulu Police Department, Hawaii Pawnbrokers Association, Hawaii Jewelers Association, and other stakeholders to work together to improve the bill and reduce the likelihood of duplicative, or costly regulatory burdens being placed on businesses. The result was a CD 1 draft for both bills that were reported out by your Committee and passed Second Reading by the Council.

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However, your Committee recognizes that the CD1 amendments may not provide HPD with the needed tools to address the approximately 10,000 handwritten transaction slips per month from the 223 licensed pawn shops and secondhand dealers in the County. Your Committee agrees with HPD that an electronic database containing detailed information about each pawn and secondhand dealer transaction is a powerful tool for the police to use in quickly searching for stolen goods and personal property.

Based on legal review and advice, your Committee believes that the amended measures may still contain potential conflicts with State law and that the scope of the electronic recording requirement may exceed the County's authority under current State law. Before seeking new amendments to the ROH, your Committee urges the State Legislature to amend the HRS to authorize the Counties to record and transfer pawnbroker and secondhand dealer transaction information in electronic form.

Your Committee recognizes that pawnbrokers and secondhand dealers provide a needed community service for those individuals who may prefer to purchase used goods at a lower cost, or who are in need of funds but do not necessarily qualify for the conventional loans offered by financial institutions. Many are small businesses that may not have computer equipment, access and the finances to switch to electronic reporting. Upon further consideration, your Committee has amended the Resolution by:

1. Adding a new Whereas clause that identifies concerns brought up by pawnbrokers and secondhand dealers that any legislation: (a) exempt certain pawnbrokers and secondhand dealers from the electronic filing and reporting requirements, (b) protect the privacy of sellers by limiting the type and scope of information to be submitted, and (c) provide affordable

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(c) provide affordable software options and ensure that the cost or purchase and maintenance remain affordable; and

2. Making technical, nonsubstantive amendments for clarity and style.

Your Committee on Public Safety and Economic Development is in accord with the intent and purpose of Resolution 13-258, as amended herein, and recommends its adoption in the form attached hereto, as Resolution 13-258, CD1. (Ayes: Fukunaga, Harimoto, Pine – 3; Noes: None; Excused: Anderson, Chang – 2.)

Respectfully submitted,



Committee Chair

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON NOV 13 2013

COMMITTEE REPORT NO. 320



RESOLUTION

EXPRESSING SUPPORT FOR STATE LEGISLATION THAT WOULD AUTHORIZE COUNTY POLICE DEPARTMENTS TO ENABLE THE ELECTRONIC RECORDING AND TRANSFER OF PAWNBROKER AND SECONDHAND DEALER TRANSACTION INFORMATION.

WHEREAS, pawnbrokers and secondhand dealers provide a needed community service for individuals who may prefer to purchase used goods at a lower cost or who are in need of funds but do not necessarily qualify for conventional loans offered by financial institutions; and

WHEREAS, however, the activities of such businesses may provide opportunities for persons committing a crime to conceal and profit from that crime by using such establishments to receive and transfer stolen property quickly and easily; and

WHEREAS, the Honolulu Police Department (HPD) reports that in 2012, approximately \$11 million of jewelry and precious metals were stolen, while only 2.7 percent or approximately \$297,012 worth of such stolen goods were recovered; and

WHEREAS, currently, pawnbrokers and secondhand dealers in the City are regulated by state law and county ordinance — Hawaii Revised Statutes (HRS) Chapter 445, Part V, and Chapter 486M are the underlying state authorizations for the counties to monitor and regulate pawn transactions and secondhand dealers and Revised Ordinances of Honolulu Chapter 41, Article 35, governs the licensure of secondhand dealers; and

WHEREAS, HRS Section 486M-2 requires pawnbrokers and secondhand dealers, upon the receipt of any previously owned article, to record certain transaction information and submit the information to the Chief of Police; and

WHEREAS, Bill 51 (2013) and Bill 52 (2013), which propose to strengthen City ordinance relating to the regulation of secondhand dealers and pawnbrokers, are currently being considered by the Council; and

WHEREAS, at the meeting of the Committee on Public Safety and Economic Development on October 3, 2013, at which the foregoing bills were considered, a representative of the HPD stated that HPD receives approximately 10,000 handwritten transaction slips per month from the 223 licensed pawn shops and secondhand dealers on Oahu; and



RESOLUTION

WHEREAS, the representative of HPD also testified that all received information must be manually entered into the HPD records system, and it is no longer possible or feasible for HPD to keep up with the volume of information received; and

WHEREAS, the provision of transaction records in electronic form would greatly facilitate the entry and distribution of pawnbroker and secondhand dealer transaction data; and

WHEREAS, the maintenance of an electronic pawnbroker and secondhand dealer transaction database would also likely result in greater efficiencies in searches for stolen property and the identification of career property criminals; and

WHEREAS, the pawnbrokers industry has identified concerns and advocates that changes to the existing laws regarding the electronic recording and transfer of pawnbroker and secondhand dealer transaction information include: 1) exemptions for certain pawnbrokers and secondhand dealers, who are in business at that time the existing law is amended, from the electronic filing requirements; 2) limitations on the type and scope of information required to be submitted by sellers in order to protect the privacy of sellers; and 3) affordable software options and ensure that the cost of maintenance of the software is affordable; and

WHEREAS, written testimonies submitted by pawnbroker and HPD representatives at the October 3, 2013 Committee on Public Safety and Economic Development meeting noted that the scope of the electronic recording requirement in Bills 51 (2013) and 52 (2013) might exceed the county's authority under state law; and

WHEREAS, to avoid possible conflicts with state law, the Council finds that state statutes should be amended to authorize counties to record and transfer pawnbroker and secondhand dealer transaction information in electronic form; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it supports state legislation that would authorize county police departments to regulate and implement the electronic recording and transfer of pawnbroker and secondhand dealer transaction information; and



RESOLUTION

BE IT FINALLY RESOLVED that copies of this Resolution be transmitted to the Speaker of the State House of Representatives, the Senate President, and the Honolulu Chief of Police.

INTRODUCED BY:

Carol Fukunaga

DATE OF INTRODUCTION:

October 22, 2013
Honolulu, Hawaii

Councilmembers