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2 State of Arkansas
3 93rd General Assembly
4 Regular Session, 2021

INTERIM STUDY PROPOSAL 2021-093
As Engrossed: S3/22/21 S4/19/21

A Bill

SENATE BILL 529

5
6 By: Senator A. Clark

7 Filed with: Senate Committee on Judiciary
8 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

9
10 AN ACT CONCERNING THE RETURN OF STOLEN PROPERTY IN
11 THE POSSESSION OF A PAWNBROKER TO THE RIGHTFUL OWNER;
12 AND FOR OTHER PURPOSES.

Subtitle

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15 CONCERNING THE RETURN OF STOLEN PROPERTY
16 IN THE POSSESSION OF A PAWNBROKER TO THE
17 RIGHTFUL OWNER.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22
23 *SECTION 1. Arkansas Code § 18-27-302(1), concerning the definition of*
24 *"dealer" as it pertains to the Dealer in Secondhand Goods Reform and*
25 *Disclosure Act, is amended to read as follows:*

26 *(1)(A) "Dealer" means an individual or entity that is engaged in*
27 *the business of:*

28 *~~(A)(i)~~ Lending money upon the security of an article*
29 *of personal property that is retained by the individual or entity until:*

30 *~~(i)(a)~~ The loan is repaid; or*

31 *~~(ii)(b)~~ The time to repay the loan has*
32 *expired; or*

33 *~~(B)(ii)~~ Purchasing other than at wholesale or retail*
34 *an article of personal property for resale in any form.*

35 *(B) "Dealer" includes a pawnbroker:*

- 1 (i) Who is licensed by the Pawnbroker Licensure
- 2 Commission under the Arkansas Pawnbroker Act, § 17-56-101 et seq.; or
- 3 (ii) As defined under § 18-27-204;
- 4

5 SECTION 2. Arkansas Code § 18-27-302, concerning definitions as they
 6 pertain to the Dealer in Secondhand Goods Reform and Disclosure Act, is
 7 amended to add additional subdivisions to read as follows:

8 (5) "Fair market value" means the price a willing buyer would
 9 pay a willing seller after considering all factors in the marketplace that
 10 influence the price of property; and

11 (6) "Full restitution" means the higher of the following:

12 (A) The fair market value of the identifiable stolen
 13 property; or

14 (B) The amount for which the identifiable stolen property
 15 was sold.

16
 17 SECTION 3. Arkansas Code § 18-27-303 is amended to read as follows:

18 18-27-303. Recovery of personal property and identifiable stolen
 19 personal property – Liability.

20 (a)(1) An owner of stolen personal property may request that a dealer
 21 return the stolen property without charge to the owner or provide full
 22 restitution by signing and following the terms of the affidavit in favor of
 23 the dealer as described in § 18-27-304(b).

24 (2)(A) An affidavit described under § 18-27-304(b) shall be
 25 filed with the local law enforcement agency having jurisdiction along with
 26 reporting to the law enforcement agency and filing any required documents
 27 proving that the owner has located his or her stolen property in the
 28 possession of the dealer.

29 (B) The report to law enforcement described under
 30 subdivision (a)(2)(A) of this section is not a presumption that the dealer
 31 received the stolen property in an unlawful manner.

32 (3) An owner who knowingly files a false affidavit or false
 33 police report is subject to prosecution.

34 (b) Unless reasonable cause exists, within seven (7) days after the
 35 later of the receipt of an affidavit described in § 18-27-304(b) and the
 36 written release, either conditional or outright, of any property hold issued

1 by any law enforcement agency with respect to the identifiable stolen
2 property, a dealer shall:

3 (1) Deliver the identifiable stolen property to the owner or, if
4 the identifiable stolen property was sold to a third party before the dealer
5 received the affidavit described in § 18-27-304(b) and the written release,
6 pay the owner of the stolen personal property full restitution; or

7 (2) File a legal action in a court of competent jurisdiction to
8 determine ownership.

9 (c) If the dealer refuses to make an election under subsection (b) of
10 this section, the owner may file a replevin action to recover the property
11 and the court may award and apportion costs and attorney's fees as
12 appropriate under the facts of the case.

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15 /s/A. Clark

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18 Referred by Senator A. Clark
19 Prepared by: BPG/BPG

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