MEMBERS PRESENT

Anna Moeller  
Task Force Chair, Elgin City Council, and Executive Director of the McHenry County Council of Governments

Jeffrey Swoboda  
Elgin Police Chief

Dave Allen  
Captain, Secretary of State Police  
(Sat in for Chief Deputy Sydney Roberts)

Alan Hamilton  
Insurance Agent  
Farmers Insurance

Catherine Peterson  
Village Manager  
Village of Lakewood, McHenry County

Kelly Swisher  
President  
Illinois Pawnbroker Association  
Owner of Arlington Jewelry

David Schoeneman  
Past President  
Illinois Pawnbrokers Association  
Shane’s Pawnshop

Steve Zahn  
Illinois Pawnbrokers Association
Chair Moeller called the meeting to order at 10:32 am. A quorum was present. Members and staff introduced themselves.

Approval meeting minutes from February 18, 2014 – With a correction on the 3rd page: If an item has a serial number it’s a 10 day hold instead of 3 day hold; if an item does not have a serial number it’s a 3 day hold instead of a 10 day hold, Catherine Peterson motioned and Alan Hamilton seconded; minutes approved unanimously.

Chair Moeller prepared and presented two options A and B based on the last meetings discussion for possible legislation.
As provided by the Chair:

**Option A:**
Option A is similar to Elgin’s Ordinance that was discussed last meeting. There is a requirement for Resell Dealers to upload their information, the items that are purchased, and the seller selling the items to an online database.

Definitions:
- “Department” means the Department of Financial and Professional Regulation
- Precious metals definition taken from the Elgin or Florida state statute - any item containing gold, silver or platinum, excluding any chemical, automotive, photographic, electrical, medical, dental materials, or electronic parts.
- Resale Dealer definition taken from Elgin Ordinance - any individual firm or corporation that operates as a for profit business and buys, sells, or possess on consignment jewelry, stamps, audio-video equipment or any precious metal previously owned by a consumer and those items making up 35% of gross receipts. (the 35% of gross receipts language addresses IRMA’s concern about big retailers that may buy estate jewelry on occasion and resell it but it’s not their main business)

Exemptions:
- Residential garage sales (there may need to be a definition of that under state statute)
- Sales conducted by nonprofits, fraternal, civic, governmental or religious organizations
- Sales or purchases that are regulated under other licensing laws of the state (automotive dealers for example)
- Consumer shows or exhibitions of collectables
- Sales by auctioneers, pawnbrokers, recyclable metals by recyclable metal dealer, and numismatic dealers

Recordkeeping:
- Requires resale dealers to upload to an electronic reporting system controlled by the state (whether its contracted 3rd party or a state developed database would be left to the discretion of the state) any transaction. The difference between this Option and B is that Option A requires reporting on a database.
- The specifications of what needs to be uploaded/recorded (type of article, brand, serial number, etc.) are taken from the Elgin Ordinance.
- Requirement to take a photograph of the article to be uploaded and image of the seller (specifies that it must be a valid card issued by a government entity; personal information of seller that is required; date and time of transaction; signed statement that the person is 18 years or older and has a legal right to sell that article)
- Information required for non-individually identifiable articles was taken from the Elgin Ordinance.

Prohibited Purchases:
- Can’t buy from someone who is not 18 years of age; intoxicated; doesn’t have at least one form of identification; where the serial number is no longer legible; the
sells is known to be a thief or convicted of theft, burglary, robbery, or possession of stolen property (taken from Elgin Ordinance)

Electronic Reporting of Transactions:
- Refers to the requirement for electronic reporting of transactions. The State of Illinois shall enter into a contract for service and maintain a contract with an electronic reporting system with secure online database capabilities as designated by the Illinois Department of Financial and Professional Regulation.
- Requires Resell Dealers to have access to a computer with internet and photographic or video capabilities so that they can report the items and personal information of the seller.
- No Resell Dealer shall be required to furnish new property - if it’s brought from a business rather than an individual they would not be required to report on the online database (taken from Elgin Ordinance).

Inspection of Records:
- Records and premises can be inspected by law enforcement having jurisdiction (taken from Elgin Ordinance but there were similar regulations in the Pawnbroker statute).

Video Camera Surveillance Required:
- Resell Dealers must maintain a video camera surveillance system (taken from Elgin ordinance).

Holding Period:
- Items that are brought from an individual can’t be sold, bartered or melted within 10 days if it’s an individually identifiable article and if it’s not, 3 days.
- In the event that an item has probable cause that it was stolen there is a 90 day hold order on the good unless extended by a court.
- Reseller Dealer must release property to law enforcement while that piece of property is under investigation; once criminal proceedings are done the property is returned to Resale Dealer unless ordered to be deposed; the court shall order the person with whom the Resell Dealer acquired the item to pay restitution to the Resell Dealer if it’s found to be stolen.
- Resale Dealer required to keep records on all on transactions for 3 years.

Registration:
- Blanks were left when a Resell Dealer would be required to register with the Department and the fee amount.
- If a Resale Dealer is the owner of more than 1 store location a registration fee must be paid on each store (taken from Florida statute).
- Specifies requirements to be a Resell Dealer for registration (person over 18, if it’s a partnership all partners must apply, if it’s a joint venture all members of the joint venture must apply)

Inventory System:
- Requires an inventory of all property that was purchased so that appropriate law enforcement can inspect the property if need be.
Resellers Regulation Fund:
- Sets up a fund where fees would be deposited to pay for the cost of enforcement and online database (a cost would still need to be determined).

Section 13 lays out insurance requirements.

Section 14 lays out violations and penalties for violating the statue (based on Pawnbroker Act).

Chair Moeller recognized that with Option A, Illinois would be doing something different than how Pawnbrokers are regulated and how other states regulate Resell Dealers. California has an online database requirement but the state of California maintains and controls it. The Chair could not find any state that contracted with a 3rd party online database.

**Option B:**

Option B brings Cash for Gold and other resellers up to the same regulatory level as Pawnbrokers (Does not have the online database requirement, which is the difference between Option A and B)
- Require Cash for Gold’s to make a daily report to the Sheriff’s Department or Police Chief all transactions made that day.
- Section 8- Video Camera Surveillance is not required for Pawnbrokers but recommended by the Elgin Police Chief as something that should be required for Cash for Gold’s to help with law enforcement

Discussion was had about the role of the Precious Metal Purchasers Task Force pursuant to HB 3359, whether or not the task force was to draft legislation or report findings and recommendations to the General Assembly.

David Schoeneman asked if IDFPR had been consulted prior to inclusion of the draft legislation as the regulator of Resell Dealers.

Catherine Peterson indicated that since Pawnbrokers are regulated by IDFPR that Resell Dealers would be an extension of that.

Kelly Swisher stated that Pawnshops are different than Cash for Gold’s because they are a financial institution. Pawnshops do loans and that’s why Pawnbrokers are regulated by the Department of Financial and Professional Regulation.

The Chair expressed that we have a task force to bring the different groups together to talk about which agency would make the most sense if we were to have regulations for Cash for Gold’s. It was the Chair’s sense from the last meeting that everyone was in support of at least bringing Resale Dealers up to the same level of regulation as Pawnbrokers and indicated that was why she moved forward with drafting the two options.
3 ISSUES AROSE:

1. A clear definition of Resell Dealer that everyone is comfortable with
2. What agency will be tasked with the regulation/oversight of Cash for Gold’s
3. LEADS Online vs. Statewide Database

Issue # 1 Points:
Defining Resell Dealers

- We need to know who we are regulating.
- Chair Moeller read the Washington State definition for secondhand dealers: “Every person engaged in whole or part of the business of purchasing, selling, trading, consignment, selling or otherwise selling items of value, secondhand property, metal junk, precious metals whether or not the person maintains a fixed place of business within the state….this is more broad, secondhand dealer also includes persons or entities conducting business at flea markets or swap meets more than 3 times a year.”
- David Schoeneman expressed that the Washington definition could work if scrap metals are left out because we are just talking about precious metals.
- The Chair will gather different definitions for the Task Force to review (Indiana, Florida).

Issue # 2 Points:
Who will oversee the regulation of Cash for Gold’s?

- IDFPR
  - Kelly Swisher said that the Pawnbrokers just had their annual meeting with IDFPR and at the meeting the Department spoke to them about raising their fees because of financial constraints of the Department. Part of the task force is to come up with a funding mechanism which would be in conjunction with who is going to regulate Cash for Gold’s. Mr. Swisher doesn’t know that IDFPR can regulate Cash for Gold’s without serious funding.
  - With Option A and B it would be a registration requirement through the Department and that’s it. Neither option presents the robust regulation that Pawnbrokers have under IDFPR (IDFPR goes in and examines Pawnshops). In the two proposed drafts the sheriff or local police enforcement has the right to go in and examine Cash for Gold’s.
- Department of Agriculture
  - The Department of Agriculture regulates weights and measures and they go in and access the legitimacy of the weights these places are using so they could potentially be the agency that regulates the Cash for Gold’s since they are going into these shops anyway. A gold seller or buyer would have to have a scale and maybe that’s something to include in the legislation, that these entities must have scales that are regulated by the Department of Agriculture.
• Some states have the regulation of Cash for Gold’s under their Department of Revenue or the Attorney General’s Office.
• Sheriff’s Association needs to be involved. It was brought up that a lot of the county sheriff’s don’t know that they have the ability to regulate the unregistered buyers that set up in hotels or temporary buying locations pursuant to the Pawnbroker Regulation Act.
• The cities or counties could issue the licenses for Cash for Gold’s.

**Issue # 4 Points:**

**LEADS Online vs. Statewide Database**

• The Illinois Pawnbrokers Association will not support a 3rd party database citing issues with LEADS Online:
  - Profiling and misuse
  - Control of information is outside the state of Illinois, it goes to a 3rd party that can sell/distribute peoples financial information however it chooses. We do not have control over them.
  - Pawnshops are a financial institution and it would go against federal regulations.
• The IL Pawnbrokers Association does not have an issue with a database controlled through the State of Illinois and the state distributing information to law enforcement.
• Cost
  - The database would be helpful to have for law enforcement especially if you are talking about the sheriff’s and local police regulating the Cash for Gold’s.
  - We don’t know the feasibility of a state run database until you regulate the people that are out there and find out what kind of revenue stream you can generate through licensing.
• Chair Moeller looked into the Gramm-Leach-Bliley Act for Reseller’s and found that it applied to Pawnbrokers because they are a financial institution and may not apply to Cash for Gold’s because it’s a straight transaction.
• Chair Moeller referenced the discussion from the last meeting that Elgin pays $10,000 a year with approximately 30 shops for LEADS Online. The Chair is not sure if the fee is based on how many facilities there are in a community.
• Not every municipality can afford LEADS Online; a state run database can be made available to everyone.

**DRAFT PROPOSAL DISCUSSION:**

• Dave Allen indicated that slapping offenders with a Class B Misdemeanor isn’t much incentive for a Resell Dealer to be in compliance with the statute. It seems like a very low threshold.
• Kelly Swisher asked about refining Option B section 2 (Exemptions). Instead of saying sales by auction, sales by pawnbrokers, sales by recyclable metals that the exemptions are just listed (auctioneers, pawnbrokers, recyclable metals, etc.)
• There needs to be a determination of how many entities we are looking at regulating.
• Steve Zahn proposed providing an incentive for the new entity being regulated to get a license.
• The Secretary of State issues the Corporate Certificate so could possibly have a number of how many legit entities are out there.
• The Department of Revenue, Illinois Department of Employment Security and/or Illinois Retail Merchants Association may be able to shed some light on how many people are actively involved in the buying and selling of precious metals.
• Appropriation - getting dollars tied to this is going to be an important part of the regulation of Cash for Gold’s.
• Parity of licensing fee between the industries (Pawnbrokers currently pay $765 for a 1 year license; there is a proposal pending raising the fee to $2,000 for a 2 year license paid in two $1,000 installments).
• Possibly take out the insurance provision.

MEETING RECAP (RESEARCH ITEMS FOR NEXT MEETING):

The Task Force is not considering Option A as a near term solution but should keep in mind for the report (database for future legislation). The Task Force is considering Option B for possible legislation this session or in November.

1. Number of shops that would be regulated (Question submitted to the Legislative Research Unit)
2. Fee (comparable to Pawnbroker’s fee?)
3. Which Department or Agency will be in charge of regulating Cash for Gold’s?
4. Secretary of State’s Office providing draft language on penalty provisions for noncompliance.
5. Narrow definition to focus on Precious Metals (possibly use Washington definition with a few changes but the Chair will provide additional definitions for the task force to look at).

ADJOURN:

The meeting was adjourned at 11:58 am.