

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 890 Session of 2013

INTRODUCED BY V. BROWN, HARHAI, D. COSTA, COHEN, STERN, KORTZ, BROWNLEE, KINSEY, MURT, PARKER AND CALTAGIRONE, MARCH 11, 2013

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 21, 2013

AN ACT

1 Amending the act of April 6, 1937 (P.L.200, No.51), entitled "An
2 act licensing and regulating the business of pawnbrokers;
3 providing for the issuance of licenses by the Secretary of
4 Banking; authorizing the Secretary of Banking to make
5 examinations and issue regulations; limiting the interest and
6 charges on loans; and prescribing penalties for the violation
7 of this act," further providing for definitions, for identity
8 of pledger and for pawn ticket; providing for hold orders and
9 related procedures; and further providing for sale of pledge
10 and for penalties.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The definitions of "pawnbroker," "pledge" and
14 "pledger" in section 2 of the act of April 6, 1937 (P.L.200,
15 No.51), known as the Pawnbrokers License Act, amended June 20,
16 1947 (P.L.701, No.305), are amended to read:

17 Section 2. Definitions.--The following terms shall be
18 construed in this act to have the following meanings, except in
19 those instances where the context clearly indicates otherwise.

20 "Pawnbroker" includes any person, who--(1) engages in the
21 business of lending money on the deposit or pledge of personal

1 property, other than choses in action, securities, or written
2 evidences of indebtedness; or (2) purchases personal property
3 with an expressed or implied agreement or understanding to sell
4 it back at a subsequent time at a stipulated price; or (3) lends
5 money upon goods, wares or merchandise pledged, stored or
6 deposited as collateral security; or (4) purchases items of
7 personal property without an agreement to sell the items back if
8 the transaction occurs in an establishment where business is
9 conducted under paragraph (1), (2) or (3).

10 "Pledge" means ~~---(1)~~ an article or articles deposited with a <--
11 pawnbroker as security for a loan in the course of his business
12 as defined in [the preceding paragraph] ~~paragraph (3) of the~~ <--
13 ~~definition of "pawnbroker"; or (2)~~ OR an item of personal <--
14 property purchased by the pawnbroker solely for resale.

15 "Pledger" means ~~--(1)~~ the person who obtains a loan from a
16 pawnbroker and delivers a pledge into the possession of a
17 pawnbroker, unless such person discloses that he is or was
18 acting for another in which case a "pledger" means the disclosed
19 principal; or (2) the person who sells an item of personal
20 property to a pawnbroker solely for the pawnbroker's resale of
21 the item.

22 * * *

23 Section 2. Section 13 of the act, amended December 15, 1969
24 (P.L.364, No.159), is amended to read:

25 Section 13. Identity of Pledger.--At the time of granting an
26 original loan or purchasing an item of personal property, the
27 pawnbroker shall enter upon his records, in the form and manner
28 designated by the Secretary of Banking, a description of the
29 pledger so as to identify the pledger, including the pledger's
30 [name and address, and either the pledger's motor vehicle

1 operator's number, the pledger's Social Security number, or, if
2 the pledger does not have this information, such other proof of
3 identity as the Secretary of Banking shall provide by
4 regulation.];

5 (1) name;

6 (2) address;

7 (3) age;

8 (4) sex;

9 (5) ~~race~~; PHYSICAL DESCRIPTION; AND

<--

10 (6) ~~photocopy of a valid photo identification document~~

<--

11 ~~issued by the Federal or State government; and~~

12 ~~(7) digital photograph of the pledger taken at the time of~~

13 ~~the transaction. VALID PHOTO IDENTIFICATION INCLUDING ANY OF THE~~

<--

14 FOLLOWING:

15 (I) A VALID DRIVER'S LICENSE OR IDENTIFICATION CARD ISSUED

16 BY THE DEPARTMENT OF TRANSPORTATION.

17 (II) A VALID IDENTIFICATION CARD ISSUED BY ANY OTHER AGENCY

18 OF THE COMMONWEALTH.

19 (III) A VALID IDENTIFICATION CARD ISSUED BY THE FEDERAL

20 GOVERNMENT.

21 (IV) A VALID UNITED STATES PASSPORT.

22 (V) A VALID STUDENT IDENTIFICATION CARD.

23 (VI) A VALID EMPLOYEE IDENTIFICATION CARD.

24 (VII) A VALID UNITED STATES ARMED FORCES IDENTIFICATION

25 CARD.

26 (VIII) A VALID VETERAN'S IDENTIFICATION CARD ISSUED BY AN

27 AGENCY OF THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS TO AN

28 INDIVIDUAL ENROLLED IN THE VETERANS AFFAIRS HEALTH BENEFITS

29 PROGRAM, PROVIDED THE CARD CONTAINS THE NAME AND PHOTOGRAPH OF

30 THE INDIVIDUAL.

1 Section 3. Section 14 of the act is amended to read:

2 Section 14. Pawn Ticket.--At the time of granting a loan and
3 upon the subsequent renewal of any loan or when purchasing
4 personal property, the pawnbroker shall furnish to the pledger a
5 pawn ticket which is serially numbered and which shall contain
6 the following information--name and address of the pawnbroker,
7 the name and address of the pledger, name and address of
8 disclosed principal, if any, the date of the loan, the amount
9 actually loaned, the serial number of the loan, description of
10 the pledge, due date of the loan, the total amount of principal,
11 interest and charges required to redeem the pledge on the due
12 date, a statement setting forth that the pledge may be sold
13 after ninety (90) days of the due date of the loan if not
14 redeemed. A pawnbroker may insert additional provisions on the
15 pawn ticket not inconsistent with this act, and he shall insert
16 such other provisions as may be required by the Secretary of
17 Banking.

18 A duplicate copy of the pawn ticket shall be retained by the
19 pawnbroker for his record.

20 The pawnbroker shall require the pledger to surrender the
21 original pawn ticket when the pledge is released or the loan is
22 renewed.

23 Section 4. The act is amended by adding a section to read:

24 Section 16.1. Hold Orders and Related Procedures.--(a) When
25 an appropriate law enforcement official has probable cause to
26 believe that property in the possession of a pawnbroker is
27 misappropriated, the official may place a written hold order on
28 the property. The written hold order shall impose a holding
29 period not to exceed ninety (90) days unless extended by court
30 order. The appropriate law enforcement official may rescind, in

1 writing, any hold order. An appropriate law enforcement official
2 may place only one hold order on property.

3 (b) Upon the expiration of the holding period, the
4 pawnbroker shall notify, in writing, the appropriate law
5 enforcement official by certified mail, return receipt
6 requested, that the holding period has expired. If, on the tenth
7 day after the written notice has been received by the
8 appropriate law enforcement official, the pawnbroker has not
9 received from a court an extension of the hold order on the
10 property and the property is not the subject of another court
11 proceeding, title to the property shall vest in and be deemed
12 conveyed by operation of law to the pawnbroker, free of any
13 liability for claims but subject to any restrictions contained
14 in the pawn transaction contract and subject to the provisions
15 of this section.

16 (c) A hold order must specify:

17 (1) The name and address of the pawnbroker.

18 (2) The name, title and identification number of the
19 representative of the appropriate law enforcement official or
20 the court placing the hold order.

21 (3) If applicable, the name and address of the appropriate
22 law enforcement official or court to which the representative is
23 attached and the number, if any, assigned to the claim regarding
24 the property.

25 (4) A complete description of the property to be held,
26 including model number and serial number if applicable.

27 (5) The name of the person reporting the property to be
28 misappropriated unless otherwise prohibited by law.

29 (6) The mailing address of the pawnbroker where the property
30 is held.

1 (7) The expiration date of the holding period.

2 (d) The pawnbroker or the pawnbroker's representative must
3 sign and date a copy of the hold order as evidence of receipt of
4 the hold order and the beginning of the ninety (90) day holding
5 period.

6 (e) (1) Except as provided in paragraph (2), a pawnbroker
7 may not release or dispose of property subject to a hold order
8 except pursuant to a court order, a written release from the
9 appropriate law enforcement official or the expiration of the
10 holding period of the hold order.

11 (2) While a hold order is in effect, the pawnbroker must
12 upon request release the property subject to the hold order to
13 the custody of the appropriate law enforcement official for use
14 in a criminal investigation. The release of the property to the
15 custody of the appropriate law enforcement official may not be
16 considered a waiver or release of the pawnbroker's property
17 rights or interest in the property. Upon completion of the
18 criminal proceeding, the property must be returned to the
19 pawnbroker unless the court orders other disposition. When
20 another disposition is ordered, the court shall additionally
21 order the conveying customer to pay restitution to the
22 pawnbroker in the amount received by the conveying customer for
23 the property together with reasonable attorney fees and costs.

24 Section 5. Sections 23 and 31 of the act are amended to
25 read:

26 Section 23. Sale of Pledge.--Upon default in the payment of
27 any loan, a pawnbroker may sell the pledge upon the conditions
28 contained in this section.

29 A pawnbroker may sell a pledge at private sale for an amount
30 not less than that agreed to by the pledger, which amount shall

1 be stipulated on the pawn ticket and shall not be less than one
2 hundred twenty-five per cent (125%) of the amount of the loan. A
3 pledge which cannot be sold at private sale at the minimum price
4 agreed to by the pledger must be sold at public auction.

5 No unredeemed pledge may be sold before the expiration of
6 ninety (90) days after the due date of the loan unless otherwise
7 specifically authorized in writing by the pledger. This
8 authority to sell an unredeemed pledge prior to the expiration
9 of ninety (90) days after the due date of the loan must be given
10 by the pledger on a date subsequent to the due date of the loan.

11 An unredeemed pledge shall be sold within twelve months of
12 the due date of a loan. No interest or charges permitted under
13 this act may be collected on a loan after the expiration of
14 twelve months of the due date of a loan, whether the loan is
15 renewed, or the loan is paid and the pledge redeemed. Where the
16 pawnbroker has failed to sell the pledge within six months of
17 the due date of the loan, no such interest or charges may be
18 computed for the period after six months of the due date of a
19 loan in determining the surplus due the pledger if a pledge is
20 sold subsequent to six months after the due date of a loan.

21 A pawnbroker shall keep an article of personal property it
22 received as a pledge for not less than ninety (90) days.

23 Section 31. Penalties.--Any person, partnership, association
24 or corporation, or any partner, director, officer, agent or
25 member thereof who shall engage in the business of pawnbroking
26 in this Commonwealth without first obtaining a license under
27 this act, shall be guilty of a misdemeanor, and, upon conviction
28 thereof, shall be sentenced to pay a fine of not less than five
29 hundred (\$500.00) dollars nor more than five thousand
30 (\$5,000.00) dollars, and/or suffer imprisonment not less than

1 six months nor more than three years, in the discretion of the
2 court.

3 A pawnbroker licensed under the provisions of this act who
4 shall violate any provision of this act, or shall direct or
5 consent to such violation, shall be guilty of a misdemeanor,
6 and, upon conviction thereof, shall be sentenced to pay a fine
7 of not more than one thousand (\$1,000.00) dollars for the first
8 offense, and for each subsequent offense a like fine, and/or
9 suffer imprisonment not to exceed one year, in the discretion of
10 the court.

11 An individual, partnership, association, corporation or
12 business entity that commits a violation of this act shall, upon
13 conviction, in addition to the other penalties set forth in this
14 section, have its license issued under the act revoked and be
15 ineligible to apply for a pawnbroker's license under this act
16 for five (5) years from the date of conviction.

17 Section 6. This act shall take effect in 60 days.