



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-3052/1
ARG:kjf&cdc

2021 ASSEMBLY BILL 653

October 22, 2021 - Introduced by Representatives AUGUST, LOUDENBECK, SPIROS, DITTRICH, KUGLITSCH, SCHRAA and THIESFELDT, cosponsored by Senator STAFSHOLT. Referred to Committee on State Affairs.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to amend** 138.10 (9) and 138.10 (11) of the statutes; **relating to:** the
2 method of sending notices by pawnbrokers and modifying rules promulgated by
3 the Department of Financial Institutions.

Analysis by the Legislative Reference Bureau

This bill allows pawnbrokers to send certain notices by electronic mail and text message.

Under current law, pawnbrokers receive security for loans to customers by taking possession of the customer's personal property. If the customer defaults on the loan, the pawnbroker may sell the personal property, subject to certain conditions. At least 30 days before selling the personal property, the pawnbroker must send to the customer, by registered mail, a notice of the contemplated sale, which notice must also state the amount due on the loan. If the sale is completed and results in a surplus, the pawnbroker must send to the customer, by registered mail, notice of the surplus from the sale. These provisions, however, do not apply if the pawnbroker is a "licensed lender," which is a lender, other than a financial institution, licensed by the Department of Financial Institutions to assess a greater than 18 percent finance charge for a consumer loan.

This bill allows pawnbrokers to send notices of sale and notices of surplus by registered mail or other means authorized under DFI's rules, and the bill further modifies DFI's rules related to pawnbroker notices to allow a pawnbroker to provide notice by electronic mail or text message if certain requirements are met. Under the bill, a pawnbroker may send notice to a physical mailing address, or the pawnbroker

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may send notice by electronic mail or text message if all of the following apply: 1) the pawnbroker receives the customer's written consent to receive notices by electronic mail or text message, which consent must state that the customer has the right to withdraw the consent and must be signed by the customer, except that no separate signature is required if the pawnbroker receives authorization by electronic mail or text message from the customer's electronic mail address or telephone number; 2) the pawnbroker requires at the time of the consent that the customer verify, using a specified method, the customer's electronic mail address or telephone number; 3) the pawnbroker retains records of the electronic mail or text message notices sent; and 4) the pawnbroker sends notice to the customer's physical mailing address if the electronic mail or text message delivery fails or if the customer withdraws consent to receive notice by electronic mail or text message.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 138.10 (9) of the statutes is amended to read:

2 138.10 (9) NOTICE OF SALE. A pawnbroker shall not sell any pledge unless due
3 notice of such contemplated sale has been forwarded sent to the pledgor, by
4 registered mail or other means authorized by rule of the division of banking, to the
5 address most recently given by the pledgor ~~at the time of obtaining the loan or to such~~
6 ~~new address of the pledgor, as shown on~~ in the pawnbroker's record records. Notice
7 of the contemplated sale of a pledge shall be mailed sent to the pledgor not less than
8 30 days prior to the date of sale. Such notice shall state total amount of principal,
9 interest and charges due on the loan as of the date of the notice.

10 **SECTION 2.** 138.10 (11) of the statutes is amended to read:

11 138.10 (11) NOTICE OF SURPLUS. Notice of any surplus from the sale of a pledge
12 shall be forwarded sent to the pledgor within 10 days of the date of sale ~~by registered~~
13 ~~mail to the address given by the pledgor at the time of obtaining the loan or to such~~
14 ~~new address of the pledgor, of which the pawnbroker has received notice.~~ This notice
15 may be sent by any means authorized for a notice of sale under sub. (9).

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1 **SECTION 3.** DFI-Bkg 77.06 of the administrative code is renumbered DFI-Bkg
2 77.06 (1) and amended to read:

3 DFI-Bkg 77.06 (1) ~~A Subject to sub. (2), a pawnbroker shall~~ may not sell any
4 pledge unless notice of the sale has been forwarded to the pledgor at the address
5 given by the pledgor at the time of obtaining the loan or to a new address of the
6 pledgor, as shown in the pawnbroker's record. Notice of the sale shall be ~~mailed~~ sent
7 to the pledgor not ~~less~~ fewer than 30 days ~~prior to~~ before the date of sale. The notice
8 shall state the total amount of principal, interest, and charges due on the loan as of
9 the date of the notice.

10 **SECTION 4.** DFI-Bkg 77.06 (2) of the administrative code is created to read:

11 DFI-Bkg 77.06 (2) The address to which notice is sent under sub. (1) may be
12 any of the following:

13 (a) A physical mailing address.

14 (b) An electronic mail address or telephone number capable of receiving text
15 messages if all of the following apply:

16 1. The pawnbroker receives the pledgor's written consent to receive notices by
17 electronic mail or text message. The consent must be signed by the pledgor, and it
18 must prominently state that the pledgor has the right to withdraw consent to receive
19 notices by electronic mail or text message at any time. A separate signature for the
20 consent is not required if the pawnbroker receives direct authorization by electronic
21 mail or text message from the pledgor's electronic mail address or telephone number.

22 2. The pawnbroker requires at the time of the consent under subd. 1. that the
23 pledgor verify the electronic mail address or telephone number as follows:

24 a. With respect to consent for a notice sent by electronic mail, the pawnbroker
25 requires the pledgor to verify the accuracy of the electronic mail address by writing

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1 or electronically entering the address 2 times, by receiving and replying to a test
2 electronic mail from the pawnbroker, or by any other method approved by the
3 division of banking.

4 b. With respect to consent for a notice sent by text message, the pawnbroker
5 requires the pledgor to verify the pledgor's ability to receive a text message by
6 receiving and replying to a test text message from the pawnbroker or by any other
7 method approved by the division of banking.

8 3. The pawnbroker retains records of electronic mail or text message notices
9 sent to that address, including the content and the time and date of the delivery.

10 4. The pawnbroker sends notice to the pledgor's physical mailing address if the
11 electronic mail or text message delivery fails or if the pledgor withdraws consent to
12 receive notice by electronic mail or text message.

13 **SECTION 5. Initial applicability.**

14 (1) This act first applies to notices sent on the effective date of this subsection.

15 **SECTION 6. Effective date.**

16 (1) Notwithstanding s. 227.265, this act takes effect on the day after
17 publication.

18 (END)