

HOUSE BILL No. 5922

May 18, 2004, Introduced by Reps. Ruth Johnson, Caul, Phillips, Jamnick, Voorhees, Vander Veen and Rocca and referred to the Committee on Commerce.

A bill to amend 1917 PA 273, entitled

"An act to regulate and license pawnbrokers in certain governmental units of this state; and to prescribe certain powers and duties of certain local governmental units and state agencies,"

by amending the title and sections 1, 2, 3, 5, 8, 9, 10, 11, 13, 18, and 19 (MCL 446.201, 446.202, 446.203, 446.205, 446.208, 446.209, 446.210, 446.211, 446.213, 446.218, and 446.219), the title and sections 1, 2, 3, 5, 8, and 19 as amended by 2002 PA 469 and sections 9, 10, and 11 as amended by 1998 PA 233, and by adding section 11a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to regulate and license ~~pawnbrokers~~ **certain persons** who **pawn, pledge, purchase, or exchange certain items of personal property** in certain governmental units of this state; ~~and~~ to prescribe certain powers and duties of certain local governmental

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1 units and state agencies; **and to provide for certain penalties**
 2 **and remedies.**

3 Sec. 1. (1) A person ~~—, corporation, or firm~~ shall not
 4 carry on the business of pawnbroker **or operate a pawnshop** in any
 5 of the governmental units of this state without having first
 6 obtained from the chief executive officer of the governmental
 7 unit where the business is to be carried on, a license subject to
 8 the provisions of this act, authorizing that person ~~—~~
 9 ~~corporation, or firm~~ to carry on that business. A person ~~—~~
 10 ~~corporation, or firm~~ carrying on the business of pawnbroker that
 11 was not required to obtain a license before ~~the effective date~~
 12 ~~of the amendatory act that added this sentence~~ **June 21, 2002,**
 13 shall obtain a license within 180 days after ~~that effective~~
 14 ~~date~~ **June 21, 2002.**

15 (2) **Licensure under either or both of the following acts does**
 16 **not exempt a person from obtaining a license under this act:**

17 (a) **The precious metal and gem dealer act, 1981 PA 95,**
 18 **MCL 445.481 to 445.492.**

19 (b) **1917 PA 350, MCL 445.401 to 445.408.**

20 Sec. 2. (1) The chief executive officer of the governmental
 21 unit may grant under his or her hand, and the official seal of
 22 his or her office, to any suitable person ~~—, corporation, or~~
 23 ~~firm~~ a license authorizing that person ~~—, corporation, or firm~~
 24 to conduct the business of a pawnbroker subject to ~~the~~
 25 ~~provisions of~~ this act.

26 (2) The **pawnbroker's** license shall designate the particular
 27 place in the governmental unit where that ~~person, corporation,~~

1 ~~or firm~~ **pawnbroker** shall conduct the business. A ~~person,~~
2 ~~corporation, or firm receiving a license~~ **licensed pawnbroker**
3 shall not conduct the business in any other place than the place
4 designated in the license.

5 (3) The term of license is 1 year from date of issuance,
6 unless revoked for cause, and is not transferable.

7 (4) Before issuance of the license, the applicant shall pay
8 to the treasurer of the governmental unit an annual license fee
9 in the amount determined under subsection (5) and give a bond to
10 the governmental unit in its corporate **or business** name, in the
11 penal sum of ~~-\$3,000.00-~~ **\$10,000.00**, with at least 2 sureties,
12 conditioned for the faithful performance of the duties and
13 obligations pertaining to the conduct of the **pawnbroker's**
14 business and for the payment of all costs and damages incurred by
15 any violation of this act. The governmental unit shall approve
16 the bond.

17 (5) The governmental unit may fix the amount to be paid as
18 the annual license fee at any amount not less than \$50.00 or more
19 than ~~-\$500.00-~~ **\$1,000.00**.

20 (6) Notwithstanding any other provision of this section, the
21 authority of a governmental unit to issue a license under this
22 act is limited as follows:

23 (a) A county may not issue a license for a location within a
24 city or village with a population greater than 3,000.

25 (b) A county may not issue a license for a location within a
26 city or village with a population of 3,000 or less or within a
27 township or charter township if that city, village, township, or

1 charter township has established the license fee pursuant to
2 subsection (5).

3 (c) A township or charter township may not issue a license
4 for a location within a village with a population over 3,000 or a
5 village with a population of 3,000 or less that has established a
6 fee under subsection (5).

7 Sec. 3. (1) As used in this act:

8 (a) "Chief executive officer" means any of the following:

9 (i) For a city, the mayor.

10 (ii) For a village, the village president.

11 (iii) For a township or charter township, the township
12 supervisor.

13 (iv) For a county, the county executive or, if there is no
14 county executive, the person designated by a resolution of the
15 county board of commissioners.

16 (b) "Governmental unit" means a city, township, charter
17 township, county, or incorporated village.

18 (c) "Pawnbroker" means a person ~~, corporation, or member, or~~
19 ~~members of a copartnership or firm, who loans~~ **that does any of**
20 **the following:**

21 (i) **Loans** money on deposit ~~—~~ or pledge of personal property
22 ~~—~~ or other valuable thing, other than securities or printed
23 evidence of indebtedness. ~~—, or who deals~~

24 (ii) **Deals** in the purchasing of personal property or other
25 valuable thing on condition of selling ~~the same~~ **it** back again
26 at a stipulated price.

27 (iii) **Deals in the purchase of personal property or other**

1 valuable thing without being conditioned upon selling it back at
2 a stipulated price.

3 (iv) Deals in the exchange of personal property or other
4 valuable thing for something of near or equal value.

5 (d) "Pawnshop" means a place of business where any of the
6 following activities occur, except as otherwise provided in
7 subsection (2):

8 (i) The loaning of money on deposit or pledge of personal
9 property or other valuable thing, other than securities or
10 printed evidence of indebtedness.

11 (ii) The purchasing of personal property or other valuable
12 thing on the condition of selling it back at a stipulated price.

13 (iii) The purchasing of personal property or other valuable
14 thing without the purchase being conditioned upon selling it back
15 at a stipulated price.

16 (iv) The exchanging of personal property or other valuable
17 thing for something of near or equal value.

18 (2) "Pawnshop" does not include a place of business involved
19 solely in the sale on consignment of used clothing or purchase
20 and sale of used clothing, or both.

21 Sec. 5. (1) A pawnbroker shall keep a record in English, at
22 the time the pawnbroker receives any article of personal property
23 or other valuable thing by way of pawn, **loan, purchase, or**
24 **exchange** that includes a description of the article, a sequential
25 transaction number, any amount of money loaned on the article,
26 the name, residence, general description, and driver license
27 number, official state personal identification card number, or

1 government identification number of the person from whom the
2 article was received, and the day and hour when the article was
3 received. The record, the place where the business is carried
4 on, and all articles of property in that place of business are
5 subject to examination at any time by the attorney of the
6 governmental unit, local police agency, the county prosecuting
7 attorney of the county in which the governmental unit is
8 situated, or the department of state police.

9 (2) Upon the receipt of any article of personal property or
10 other valuable thing by way of pawn, **loan, purchase, or exchange,**
11 the pawnbroker shall make a permanent record of the transaction
12 on a form provided by the pawnbroker that substantially complies
13 with the form described in subsection ~~-(4)-~~ (5). Each record of
14 transaction shall be completed in duplicate by the pawnbroker,
15 legibly in the English language, and shall contain all applicable
16 information required to complete the record of transaction form
17 under subsection ~~-(4)-~~ (5). This subsection does not prohibit
18 the use and transmission of the information required in the
19 record of the transaction by means of computer or other
20 electronic media as permitted by the local police agency within
21 the applicable governmental unit.

22 (3) The pawnbroker shall retain a record of each transaction
23 and, within 48 hours after the property is received, shall send 1
24 copy of the record of transaction to the local police agency.

25 (4) **The pawnbroker shall post on the internet or other**
26 **accessible mass audience media at least the description of the**
27 **article, the serial and model number, if any, and any other**

1 information customarily used to describe or identify such an
 2 article. The pawnbroker shall update the internet posting every
 3 business day and shall post on the internet every item pawned,
 4 pledged, sold, or exchanged within 24 hours after the
 5 transaction.

6 (5) ~~(4)~~ The record of transaction form shall be 8-1/2
 7 inches by 11 inches in size and shall be as follows:

8 **RECORD OF TRANSACTION**

9 **FRONT**

10	Article	Serial No.		
11	_____	_____		
12	Model No. or Case No.	Lens No. or Move. No.		
13	_____	_____		
14	Trade Name	Color	Size	No. Jewels
15	_____	_____	_____	_____
16	Material	Stone Set Design		
17	_____	_____		
18	Description	No.	Kind of Stone	Size
19	_____	_____	_____	_____
20	_____	_____	_____	_____
21	Inscription or Initials	_____	_____	_____
22	_____	_____	_____	_____
23	Purchase Price Amt. Loaned	_____	_____	_____
24	_____	_____	_____	_____
25	Dealer	_____	_____	_____
26	_____	_____	_____	_____
27	City	Date	Ticket No.	
28	_____	_____	_____	
29	Lady's [] Gent's []	Wrist [] Pocket []	Lapel []	

30 **BACK**

31	Operator's License # or Other I.D. #	
32	_____	
33	Customer's Name (PRINT)	
34	_____	
35	Street No. or RFD	
36	_____	
37	City and State	
38	_____	
39	Employed By:	Rolled print of right thumb (If impossible then some other fingerprint. Designate which.)
40	_____	
41	Age Height	
42	_____	

1	Weight	Race	W []	B []	O []	
2	<hr/>					
3	Time Received:		AM		PM	
4	<hr/>					
5	Mail reports within 48 hours to					
6	local officers					<input type="checkbox"/> Male
7						<input type="checkbox"/> Female
8	<hr/>					
9	Signature of person taking print					

10 Sec. 8. (1) A pawnbroker, at the time of ~~a loan~~ **receiving**
11 **an article by pawn or pledge**, shall deliver to the person pawning
12 or pledging ~~any~~ **the** article a memorandum ~~or note signed by him~~
13 ~~or her, containing the substance of the entry required to be made~~
14 ~~by him or her in his or her book by section 6. A charge shall~~
15 ~~not be made or received by the pawnbroker for the entry,~~
16 ~~memorandum, or note.~~ **to be used by the person or the person's**
17 **agent to redeem the article.**

18 (2) The memorandum ~~or note~~ shall ~~be consecutively numbered~~
19 ~~and upon its back shall be~~ **contain the following** printed in
20 English in 12-point type: ~~the following:~~ "If interest or
21 charges in excess of 3% per month, **which is 36% if annualized,**
22 plus storage charges, ~~provided in this document~~ **which shall not**
23 **exceed \$1.00 per month or \$6.00 per year,** are asked or received,
24 this loan is void and of no effect; and the borrower cannot be
25 made to pay back the money loaned, any interest on the loan, or
26 any charges or any part of the charges, and the pawnbroker loses
27 all right to the possession of the goods, article, or thing
28 pawned, and shall surrender the ~~item~~ **article** to the borrower or
29 pawnner upon due demand for the ~~item~~ **article**".

30 (3) **The memorandum described in subsection (1) shall contain**
31 **the same transaction number recorded in the pawnbroker's book**

1 when the article was pawned or pledged and the rate of interest
2 charged on the loan for that item.

3 (4) An individual who incurs damages or legal costs due to a
4 pawnbroker's violation of subsection (1) may recover, in an
5 action filed in a court of competent jurisdiction, damages, court
6 costs, and attorney fees.

7 Sec. 9. (1) A licensed pawnbroker may charge upon any loan
8 a rate of interest not to exceed 3% per month and is not required
9 to accept any interest less than 50 cents on a single loan.

10 (2) A pawnbroker may also charge \$1.00 per month or fraction
11 of a month for the storage of property under any single pledge or
12 pawn.

13 (3) A pawnbroker or the pawnbroker's agent or employee shall
14 not charge or receive interest on the loan in excess of the
15 amounts provided for in this act.

16 (4) Interest on any loan is not payable in advance and shall
17 be computed on unpaid monthly balances without compounding.

18 (5) A pawnbroker is not entitled to any examination fee and
19 shall not make any charge in excess of the amounts provided for
20 in this act.

21 (6) **The business hours of a pawnshop shall not be earlier**
22 **than 9 a.m. and not later than 10 p.m.**

23 Sec. 10. (1) Title to the item pledged or pawned vests in
24 the pawnbroker upon the expiration of 3 months or of any period
25 beyond 3 months agreed upon by the parties if the borrower has
26 not paid the debt, interest, and charges on the item pledged or
27 pawned.

1 (2) A pawnbroker shall not sell any pawn or pledge until the
2 item has remained in his or her possession for at least 3 months
3 in the pawnbroker's possession in a place in the same pawnshop in
4 which the article was received by pawn or pledge. The pawnshop
5 shall be easily accessible to inspection by the persons and
6 agencies described in section 5(1).

7 (3) The pawnbroker, immediately upon receiving an article,
8 shall attach to the article a tag containing the transaction
9 number assigned to that pledge or pawn.

10 (4) In the case of a loan of \$25.00 or more, a pawnbroker
11 shall send written notice by first-class mail to the person who
12 pawned the article. Notice under this subsection shall be sent
13 not later than 2 weeks before the date of expiration of the loan.

14 Sec. 11. If at any time before the sale of the item pledged
15 or pawned the borrower pays or tenders to the pawnbroker the
16 debt, ~~and~~ interest, and **storage** charges on the item, that
17 payment or tender reinvests the pawner with the title and right
18 of possession to the property **pawned or pledged**.

19 Sec. 11a. (1) Upon written notification from a law
20 enforcement agency that an item being pawned, pledged, exchanged,
21 or purchased has been determined by a law enforcement agency as
22 being stolen, the pawnbroker shall release the item to the law
23 enforcement agency.

24 (2) Property determined by a court of competent jurisdiction
25 or by agreement of the parties to be stolen property found in the
26 possession of a pawnbroker shall be returned by the pawnbroker to
27 the owner at no cost to the owner.

1 (3) This act does not prevent a pawnbroker from pursuing any
2 available civil remedies against the person pawning, pledging,
3 purchasing, or exchanging an article, including an action in
4 small claims court, if the article is confiscated by a law
5 enforcement agency for return to the owner.

6 Sec. 13. (1) ~~No~~ A pawnbroker, during the term of a loan
7 made on a pawned or pledged article, shall not intentionally
8 deface, scratch, obliterate, melt, separate, or break into parts
9 any ~~particle or thing~~ article received by ~~him~~ the pawnbroker
10 in pawn or otherwise ~~—~~ or in any manner do, cause, or ~~suffer~~
11 allow to be done by others ~~—~~ anything which ~~shall destroy or~~
12 ~~tend~~ destroys or tends to destroy the identity of ~~such~~ the
13 article or render the identification ~~thereof~~ of the article
14 more difficult.

15 (2) A pawnbroker shall not accept by way of pledge, pawn,
16 purchase, or exchange any article that customarily bears a
17 manufacturer's serial number or other identifying insignia unless
18 the number or insignia is plainly visible on the item.

19 Sec. 18. (1) ~~Any~~ Except as otherwise provided in this
20 section, a person ~~who shall violate~~ found guilty of violating
21 any of the provisions of this act, whether as owner, ~~or as~~
22 clerk, agent, ~~servant~~ or ~~employee~~, shall be ~~employee~~, is
23 guilty of a misdemeanor ~~and upon conviction thereof in any court~~
24 ~~of competent jurisdiction be fined~~ punishable by a fine of not
25 less than ~~25 dollars nor more than 100 dollars, or by~~
26 ~~imprisonment in the county jail~~ \$500.00 or more than \$1,000.00
27 or imprisonment for not less than 10 days ~~nor~~ or more than ~~3~~

1 ~~months~~ **93 days**, or ~~by~~ both. ~~such fine and imprisonment in the~~
2 ~~discretion of the court.~~

3 **(2) A person found guilty of violating this act or a local**
4 **ordinance substantially corresponding to this act for a fifth or**
5 **subsequent time is guilty of a felony.**

6 Sec. 19. **(1) Upon a conviction of any person conducting**
7 **business as a pawnbroker under this act, or on conviction of any**
8 **clerk, agent, servant, or employee of ~~the person~~ that**
9 **pawnbroker if the action of the clerk, agent, or employee that**
10 **resulted in the conviction was an action that reasonably should**
11 **have been prevented through supervision by the pawnbroker, the**
12 **chief executive officer of the governmental unit shall revoke the**
13 **license of the person after notice and opportunity for a hearing**
14 **and no part of the license fee shall be returned to him or her.**

15 **(2) The governmental unit shall not issue a license as a**
16 **pawnbroker to that person for the period of 1 year from the date**
17 **of the revocation.**

18 Enacting section 1. Sections 6, 16, and 17 of 1917 PA 273,
19 MCL 446.206, 446.216, and 446.217, are repealed.

20 Enacting section 2. This amendatory act takes effect
21 January 1, 2005.