

Legislative Analysis



PAWNBROKER INTEREST RATE AND FINES

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Senate Bill 405 as reported from second committee

Sponsor: Sen. Michael MacDonald

1st House Committee: Regulatory Reform

2nd House Committee: Rules and Competitiveness

Senate Committee: Regulatory Reform

Complete to 5-17-22

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<http://www.legislature.mi.gov>

BRIEF SUMMARY: Senate Bill 405 would amend 1917 PA 273, which regulates pawnbrokers, to increase from 3% to 4% the maximum monthly interest rate a licensed pawnbroker can charge for a loan against a pawned article, create a new civil fine for charging a higher monthly interest rate, and increase the criminal fine for a violation of the act.

FISCAL IMPACT: The bill would have an indeterminate fiscal impact on the state and local units of government. (See **Fiscal Information**, below, for a detailed discussion.)

THE APPARENT PROBLEM:

The role that pawn shops play in society has changed over the last two decades as a result of the state's economic ups and downs, popular television shows such as *Pawn Stars*, and, most recently, the impact the COVID-19 pandemic has had on personal finances. According to news articles, many people use pawn shops rather than go to a payday lender or take out a short-term loan from a bank. Whether someone has poor credit and cannot qualify for a traditional loan, or is in need of quick cash for an urgent expense, many find it easy to either take out a loan on an item (e.g., jewelry or a musical instrument) or sell the item outright to the pawn shop.

With a loan, most shops offer a 30- to 90-day period for the person to pay off the loan and redeem the item. As long as the monthly interest and storage fees are paid, many offer extensions to provide a longer period to pay off the loan and get the item back. If the person fails to repay the loan (including interest and fees) during the allotted time period, the shop keeps the item and may put it up for sale. The markup on the sale price of the item covers the original loan amount plus provides a profit for the business owner.

Among other changes, 2018 PA 345 increased the maximum amount a pawnbroker can charge as a storage fee from \$1 a month to \$3 a month. However, 2018 PA 345 did not increase the maximum interest that a pawnbroker may charge for a loan of an item of value. Some in the industry feel that the cap on monthly interest rates, which they point out has not been changed in over 100 years, should be raised to help with the increased cost of doing business.

THE CONTENT OF THE BILL:

Senate Bill 405 would increase from 3% to 4% the maximum monthly interest rate a licensed **pawnbroker** can charge for a loan made against pawned articles or goods or on any loan. The bill also would establish a new civil fine for exceeding the cap on monthly interest rates for any loan and increase the criminal fine that may be imposed for a violation of the act.

Pawnbroker means a person, corporation, or member, or members of a copartnership or firm, who loans money on deposit, or pledge of personal property, or other valuable

thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.

Under the act, a pawnbroker cannot require the interest on a loan to be paid in advance, must compute the interest on unpaid monthly balances without compounding, must adhere to certain record-keeping requirements (e.g., a description of articles received and records for each transaction), must submit sworn statements to local law enforcement regarding articles received, must provide a signed note that an interest rate in excess of the allowed maximum would void the loan and require the property pawned to be returned to the person pawning it, and may charge no more than \$3 a month for the storage of unencumbered personal property under a single pledge or pawn. A pawnbroker also is prohibited from charging an examination fee or making any charge that exceeds the amounts established in the act.

Currently, a violation of the act by a pawnbroker or his or her clerk, agent, servant, or employee is a misdemeanor punishable by a fine of at least \$25 but not more than \$100 or imprisonment for at least 10 days but not more than three months, or both a fine and imprisonment.

The bill would increase the amount of the criminal fine that could be imposed for a violation of the act to at least \$250 but not more than \$1,000. (The minimum and maximum terms of imprisonment would not be changed.)

In addition, the bill would establish a new civil fine of up to \$5,000 for a person who charges on any loan a rate of interest higher than the 4% per month proposed by the bill. A violation could be prosecuted either by the prosecutor of the county in which the violation occurred or by the attorney general.

MCL 446.208, 446.209, and 446.218

HOUSE COMMITTEE ACTION:

The House Regulatory Reform committee and the House Rules and Competitiveness committee each reported the Senate-passed version of the bill without amendment.

BACKGROUND INFORMATION:

Senate Bill 405 is identical to House Bill 4628 as reported from committee. House Bill 4628 and Senate Bill 405 are each similar to provisions contained in Senate Bill 369 and House Bill 5589 of the 2019-20 legislative session. Senate Bill 369 would have increased from 3% to 4% the interest rate a pawnbroker can charge, and House Bill 5589 would have updated notice of the interest rate for a person pawning an item. However, neither of those bills proposed increasing the criminal fine for a violation of the act or creating a civil fine if a person charged a higher rate of interest than prescribed in the act. Senate Bill 369 was passed by the House and the Senate and enrolled, but was pocket vetoed by the governor.¹

¹ If the governor does not sign a bill within 14 days after getting it and the legislature has adjourned to end the legislative session, the bill does not take effect and is said to have been “pocket vetoed.” Unlike a regular veto, a pocket veto does not oblige the governor to provide the legislature with his or her objections to the bill. Senate Bill 369 was presented to the governor on December 21, 2020, but was pocket vetoed when it was still unsigned 14 days later, on January 4, 2021. The legislature adjourned *sine die* (“without day”) on December 23, 2020, to end the legislative session.

FISCAL INFORMATION:

Senate Bill 405 would have an indeterminate fiscal impact on the state and on local units of government. The number of violations that would occur under provisions of the bill is not known; therefore, it is not possible to estimate the amount of additional revenue that would be collected. Under the bill, penal fines for misdemeanor offenses would be increased from a range of \$25–\$100 to a range of \$250–\$1,000. Also, under the bill, a civil fine of up to \$5,000 would be imposed for a person that charges on any loan a rate of interest that is more than 4%. Any increase in penal or civil fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

Also, under section 8827(4) of the Revised Judicature Act, \$10 of the civil fine would be deposited into the state’s Justice System Fund, so revenue to the state would be increased. Justice System Fund revenue supports various justice-related endeavors in the judicial branch, the Departments of State Police, Corrections, Health and Human Services, and Treasury, and the Legislative Retirement System.

The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs. It is difficult to project the actual fiscal impact to courts due to variables such as law enforcement practices, prosecutorial practices, judicial discretion, case types, and complexity of cases.

ARGUMENTS:

For:

During economic downturns, pawn shops can be a resource to those in need of a short-term loan for other essentials. Pawning an item for 30 to 90 days, the typical initial loan period, may enable an individual to meet an urgent need, such as rent, food, utilities, or medicine. Some customers even pawn the same item several times a year, finding the process to be easier than securing a short-term bank loan, especially if their credit is less than stellar, and perhaps cheaper than using a payday lender or paying overdraft fees if checks bounce. In addition, if a person can’t repay a loan and the pawnbroker takes possession of the pawned item, the loan doesn’t have to be repaid (the profit from selling the item covers the loan and provides a profit to the pawnbroker) and the person’s credit isn’t damaged as it would be if they had defaulted on a bank loan. Many pawnbrokers will even extend the repayment period as long as the monthly interest and monthly storage fee are regularly paid. Reportedly, depending on economic conditions, 60% to 80% of people repay the initial loan and fees and regain possession of the pawned item.

Currently, the statutory cap on monthly interest fees is 3%, and it has not been increased since 1917. Meanwhile, the costs of maintaining a building and a business have all increased. Pawnbrokers stress that the increase proposed by SB 405, to not more than 4% a month, would still be one of the lowest in the nation (e.g., several states charge up to 25% per month). According to a trade association, the low interest rate has also spurred illegal activity by some businesses known as “buy-back pawn shops” that skirt the statutory cap on interest by buying the item outright and then promising to sell it back at a 25% higher price. Under the bill, the cost to pay off a 30-day loan of \$100 and redeem the pawned item if the maximum monthly amount for interest and storage fees were charged would be no more than \$107 (maximum

interest fee of \$4 plus maximum storage fee of \$3), an increase of \$1 from the current maximum in interest that may be charged.

Against:

To some, calling a 4% monthly interest rate a minimal increase from the current 3% rate, or saying that it is a low-interest loan, is misleading, since for the person pawning an item it can be expensive, especially if the person needed a longer term to repay the loan and redeem the item. If a loan is renewed for a year, the amount paid in interest is 48% of the amount loaned. In addition, the maximum monthly storage fee, which itself was recently raised, would add an additional \$36 a year if the loan were extended to 12 months. Although the increased fees may seem minimal to some, they could further a cycle of poverty for others, as those who pawn items when quick cash is needed often are overrepresented by low-income individuals and families. If the current rate of default is 20% to 40%, the proposed increase could result in more heirlooms, or even needed items such as tools needed for employment in a trade, becoming too expensive to redeem.

POSITIONS:

A representative of the Michigan Pawnbrokers Association testified in support of the bill. (3-24-22):

The Department of Insurance and Financial Services indicated opposition to the bill. (3-24-22)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.