

AN ACT concerning financial regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Pawnbroker Regulation Act is amended by changing Sections 0.05, 5, 6, and 7.5 and by adding Section 15 as follows:

(205 ILCS 510/0.05)

Sec. 0.05. Administration of Act.

(a) This Act shall be administered by the Secretary of Financial and Professional Regulation ~~Commissioner of Banks and Real Estate~~ who shall have all of the following powers and duties in administering this Act:

(1) To promulgate reasonable rules for the purpose of administering the provisions of this Act.

(2) To issue orders for the purpose of administering the provisions of this Act and any rule promulgated in accordance with this Act.

(3) To appoint hearing officers and to hire employees or to contract with appropriate persons to execute any of the powers granted to the Secretary ~~Commissioner~~ under this Section for the purpose of administering this Act and any rule promulgated in accordance with this Act.

(4) To subpoena witnesses, to compel their attendance,

to administer an oath, to examine any person under oath, and to require the production of any relevant books, papers, accounts, and documents in the course of and pursuant to any investigation being conducted, or any action being taken, by the Secretary ~~Commissioner~~ in respect of any matter relating to the duties imposed upon, or the powers vested in, the Secretary ~~Commissioner~~ under the provisions of this Act or any rule promulgated in accordance with this Act.

(5) To conduct hearings.

(6) To impose civil penalties graduated up to \$1,000 against any person for each violation of any provision of this Act, any rule promulgated in accordance with this Act, or any order of the Secretary ~~Commissioner~~ based upon the seriousness of the violation.

(6.5) To initiate, through the Attorney General, injunction proceedings whenever it appears to the Secretary ~~Commissioner~~ that any person, whether licensed under this Act or not, is engaged or about to engage in an act or practice that constitutes or will constitute a violation of this Act or any rule prescribed under the authority of this Act. The Secretary ~~Commissioner~~ may, in his or her discretion, through the Attorney General, apply for an injunction, and upon a proper showing, any circuit court may enter a permanent or preliminary injunction or a temporary restraining order without bond to enforce this

Act in addition to the penalties and other remedies provided for in this Act.

(7) To issue a cease and desist order and, for violations of this Act, any order issued by the Secretary ~~Commissioner~~ pursuant to this Act, any rule promulgated in accordance with this Act, or any other applicable law in connection with the operation of a pawnshop, to suspend a license issued under this Act for up to 30 days.

(8) To determine compliance with applicable law and rules related to the operation of pawnshops and to verify the accuracy of reports filed with the Secretary ~~Commissioner~~, the Secretary ~~Commissioner~~, not more than one time every 2 years, may, but is not required to, conduct a routine examination of a pawnshop, and in addition, the Secretary ~~Commissioner~~ may examine the affairs of any pawnshop at any time if the Secretary ~~Commissioner~~ has reasonable cause to believe that unlawful or fraudulent activity is occurring, or has occurred, therein.

(9) In response to a complaint, to address any inquiries to any pawnshop in relation to its affairs, and it shall be the duty of the pawnshop to promptly reply in writing to such inquiries. The Secretary ~~Commissioner~~ may also require reports or information from any pawnshop at any time the Secretary ~~Commissioner~~ may deem desirable.

(10) To revoke a license issued under this Act if the

Secretary ~~Commissioner~~ determines that (a) a licensee has been convicted of a felony in connection with the operations of a pawnshop; (b) a licensee knowingly, recklessly, or continuously violated this Act, a rule promulgated in accordance with this Act, or any order of the Secretary ~~Commissioner~~; (c) a fact or condition exists that, if it had existed or had been known at the time of the original application, would have justified license refusal; or (d) the licensee knowingly submits materially false or misleading documents with the intent to deceive the Secretary ~~Commissioner~~ or any other party.

(11) Following license revocation, to take possession and control of a pawnshop for the purpose of examination, reorganization, or liquidation through receivership and to appoint a receiver, which may be the Secretary ~~Commissioner~~, a pawnshop, or another suitable person.

(b) After consultation with local law enforcement officers, the Attorney General, and the industry, the Secretary ~~Commissioner~~ may by rule require that pawnbrokers operate video camera surveillance systems to record photographic representations of customers and retain the tapes produced for up to 30 days.

(c) Pursuant to rule, the Secretary ~~Commissioner~~ shall issue licenses on an annual or multi-year basis for operating a pawnshop. Any person currently operating or who has operated a pawnshop in this State during the 2 years preceding the

effective date of this amendatory Act of 1997 shall be issued a license upon payment of the fee required under this Act. New applicants shall meet standards for a license as established by the Secretary ~~Commissioner~~. Except with the prior written consent of the Secretary ~~Commissioner~~, no individual, either a new applicant or a person currently operating a pawnshop, may be issued a license to operate a pawnshop if the individual has been convicted of a felony or of any criminal offense relating to dishonesty or breach of trust in connection with the operations of a pawnshop. The Secretary ~~Commissioner~~ shall establish license fees. The fees shall not exceed the amount reasonably required for administration of this Act. It shall be unlawful to operate a pawnshop without a license issued by the Secretary ~~Commissioner~~.

(d) In addition to license fees, the Secretary ~~Commissioner~~ may, by rule, establish fees in connection with a review, approval, or provision of a service, and levy a reasonable charge to recover the cost of the review, approval, or service (such as a change in control, change in location, or renewal of a license). The Secretary ~~Commissioner~~ may also levy a reasonable charge to recover the cost of an examination if the Secretary ~~Commissioner~~ determines that unlawful or fraudulent activity has occurred. The Secretary ~~Commissioner~~ may require payment of the fees and charges provided in this Act by certified check, money order, an electronic transfer of funds, or an automatic debit of an account.

(e) The Pawnbroker Regulation Fund is established as a special fund in the State treasury. Moneys collected under this Act shall be deposited into the Fund and used for the administration of this Act. In the event that General Revenue Funds are appropriated to the Department of Financial and Professional Regulation ~~Office of the Commissioner of Banks and Real Estate~~ for the initial implementation of this Act, the Governor may direct the repayment from the Pawnbroker Regulation Fund to the General Revenue Fund of such advance in an amount not to exceed \$30,000. The Governor may direct this interfund transfer at such time as he deems appropriate by giving appropriate written notice. Moneys in the Pawnbroker Regulation Fund may be transferred to the Professions Indirect Cost Fund, as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(f) The Secretary ~~Commissioner~~ may, by rule, require all pawnshops to provide for the expenses that would arise from the administration of the receivership of a pawnshop under this Act through the assessment of fees, the requirement to pledge surety bonds, or such other methods as determined by the Secretary ~~Commissioner~~.

(g) All final administrative decisions of the Secretary ~~Commissioner~~ under this Act shall be subject to judicial review pursuant to the provisions of the Administrative Review Law. For matters involving administrative review, venue shall be in

either Sangamon County or Cook County.

(Source: P.A. 94-91, eff. 7-1-05.)

(205 ILCS 510/5) (from Ch. 17, par. 4655)

Sec. 5. Record requirements.

(a) Except in municipalities located in counties having 3,000,000 or more inhabitants, every pawn and loan broker shall keep a standard record book that has been approved by the sheriff of the county in which the pawnbroker does business. In municipalities in counties with 3,000,000 or more inhabitants, the record book shall be approved by the police department of the municipality in which the pawn or loan broker does business. At the time of each and every loan or taking of a pledge, an accurate account and description, in the English language, of all the goods, articles and other things pawned or pledged, the amount of money, value or thing loaned thereon, the time of pledging the same, the rate of interest to be paid on such loan, and the name and residence of the person making such pawn or pledge shall be printed, typed, or written in ink in the record book. Such entry shall include the serial number or identification number of items received which bear such number. Except for items purchased from dealers possessing a federal employee identification number who have provided a receipt to the pawnbroker, every pawnbroker shall also record in his book, an accurate account and description, in the English language, of all goods, articles and other things

purchased or received for the purpose of resale or loan collateral by the pawnbroker from any source, not in the course of a pledge or loan, the time of such purchase or receipt and the name and address of the person or business which sold or delivered such goods, articles, or other things to the pawnbroker. No entry in such book shall be erased, mutilated or changed.

(b) Every pawnbroker shall require identification to be shown him by each person pledging or pawning any goods, articles or other things to the pawnbroker. If the identification shown is a driver's license or a State identification card issued by the Secretary of State and contains a photograph of the person being identified, only one form of identification must be shown. If the identification shown is not a driver's license or a State identification card issued by the Secretary of State and does not contain a photograph, 2 forms of identification must be shown, and one of the 2 forms of identification must include his or her residence address. These forms of identification shall include, but not be limited to, any of the following: driver's license, social security card, utility bill, employee or student identification card, credit card, or a civic, union or professional association membership card. In addition, in a municipality with a population of 1,000,000 or more inhabitants, if the customer does not have an identification issued by a governmental entity containing a photograph of the

person being identified, the pawnbroker shall photograph the customer in color and record the customer's name, residence address, date of birth, social security number, gender, height, and weight on the reverse side of the photograph. If the customer has no social security number, the pawnbroker shall record this fact.

A county or municipality, including a home rule unit, may regulate a pawnbroker's identification requirements for persons pledging or pawning goods, articles, or other things to the pawnbroker in a manner that is not less restrictive than the regulation by the State of a pawnbroker's identification requirements for persons pledging or pawning goods, articles, or other things. A home rule unit may not regulate a pawnbroker's identification requirements for persons pledging or pawning goods, articles, or other things to the pawnbroker in a manner less restrictive than the regulation by the State of a pawnbroker's identification requirements for persons pledging or pawning goods, articles, or other things. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of the powers and functions exercised by the State.

(c) A pawnbroker may maintain the records required by subsection (a) in computer form if the computer form has been approved by the Commissioner, the sheriff of the county in which the shop is located, and the police department of the

municipality in which the shop is located.

(d) Records, including reports to the Secretary ~~Commissioner~~, maintained by pawnbrokers shall be confidential, and no disclosure of pawnbroker records shall be made except disclosures authorized by this Act or ordered by a court of competent jurisdiction. No record transferred to a governmental official shall be improperly disclosed, provided that use of those records as evidence of a felony or misdemeanor shall be a proper purpose.

(e) Pawnbrokers and their associations may lawfully give appropriate governmental agencies computer equipment for the purpose of transferring information pursuant to this Act.

(Source: P.A. 91-608, eff. 8-19-99; 92-215, eff. 8-2-01.)

(205 ILCS 510/6) (from Ch. 17, par. 4656)

Sec. 6. Inspection of records.

(a) The book or computer records, as well as every article or other thing of value so pawned or pledged, shall at all times be open to the inspection of the Secretary ~~Commissioner~~, the sheriff of the county, his deputies, or any members of the police force of any city in the county in which such pawnbroker does business. In addition, the Secretary ~~Commissioner~~ shall be authorized to inspect the books or records of any business he or she has reasonable cause to believe is conducting pawn transactions and should be licensed under this Act.

(b) The book or computer records, pawn tickets, or any

other records required by the Secretary ~~Commissioner~~ under this Act or any rule promulgated in accordance with this Act shall be maintained for a period of 3 years after the date on which the record or ticket was prepared. These records and tickets shall be open to inspection of the Secretary ~~Commissioner~~ at all times during the 3-year period.

(Source: P.A. 92-215, eff. 8-2-01.)

(205 ILCS 510/7.5)

Sec. 7.5. Report to the Secretary ~~Commissioner~~. The Secretary ~~Commissioner~~, as often as the Secretary ~~Commissioner~~ shall deem necessary or proper, may require a pawnshop to submit a full and detailed report of its operations including, but not limited to, the number of pawns made, the amount financed on pawn transactions, and the number and amount of pawns surrendered to law enforcement.

The Secretary ~~Commissioner~~ shall prescribe the form of the report and establish the date by which the report must be filed.

(Source: P.A. 90-477, eff. 7-1-98; 90-602, eff. 7-1-98.)

(205 ILCS 510/15 new)

Sec. 15. Temporary buying locations; unregistered buyers.

(a) For purposes of this Section:

"Temporary buying location" means a location used by an unregistered buyer, including, but not limited to, hotels and

motels.

"Unregistered buyer" means an individual business, or an agent of an individual business, engaged in the business of purchasing from the public, scrap precious metals, including, but not limited to, jewelry, precious stones, semi-precious stones, coins, silver, gold, and platinum, that conducts transactions at a temporary buying location but is not registered under this Act.

(b) An unregistered buyer that seeks to conduct business at a temporary buying location in this State must comply with all of the following:

(1) An unregistered buyer must register with the sheriff of the county at least 30 days prior to its intention to conduct transactions in that county.

(2) An unregistered buyer must submit by 6 a.m. each day to the sheriff of the county in which he or she is located detailed transaction records for the previous day, which must include purchaser, seller, and inventory information pursuant to subsection (b) of Section 5 of this Act.

(3) An unregistered buyer must pay a registration fee to the sheriff of the county in which it seeks to conduct business. This fee shall be used to defray the cost of reviewing the records required under this Section and may be apportioned as the sheriff sees fit.

(c) The Department of Financial and Professional

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HB4854 Enrolled

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Regulation may adopt rules necessary for administration of this Section, which must include a fee schedule for counties to follow.

Section 99. Effective date. This Act takes effect upon becoming law.