



HOUSE BILL No. 4009

January 11, 1995, Introduced by Rep. Clack and referred to the Committee on Regulatory Affairs.

A bill to amend the title and sections 1, 2, 3, 5, 8, 9, 10, 11, 13, 18, and 19 of Act No. 273 of the Public Acts of 1917, entitled

"An act to regulate and license pawnbrokers in cities and incorporated villages of this state, having a population of more than 3,000,"

being sections 446.201, 446.202, 446.203, 446.205, 446.208, 446.209, 446.210, 446.211, 446.213, 446.218, and 446.219 of the Michigan Compiled Laws; to add section 11a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 1, 2, 3, 5, 8, 9, 10, 11,
2 13, 18, and 19 of Act No. 273 of the Public Acts of 1917, being
3 sections 446.201, 446.202, 446.203, 446.205, 446.208, 446.209,
4 446.210, 446.211, 446.213, 446.218, and 446.219 of the Michigan

1 Compiled Laws, are amended and section 11a is added to read as
2 follows:

3

TITLE

4 An act to regulate and license ~~pawnbrokers~~ CERTAIN PERSONS
5 WHO PAWN, PLEDGE, PURCHASE, OR EXCHANGE CERTAIN ITEMS OF PERSONAL
6 PROPERTY in cities, TOWNSHIPS, and incorporated villages of this
7 state; ~~, having a population of more than 3,000~~ AND TO PRE-
8 SCRIBE CERTAIN POWERS AND DUTIES TO CERTAIN LOCAL GOVERNMENTAL
9 AGENCIES AND CERTAIN STATE AGENCIES.

10 Sec. 1. ~~No~~ A person, corporation, or firm shall
11 ~~hereafter~~ NOT carry on the business of pawnbroker in any of the
12 cities, TOWNSHIPS, or incorporated villages of this state
13 ~~, having a population of more than 3,000,~~ without having first
14 obtained from the ~~mayor of the city or president of the village~~
15 CHIEF EXECUTIVE OFFICER OF THE GOVERNMENTAL UNIT where the busi-
16 ness is to be carried on, a license subject to the provisions of
17 this act ~~, authorizing such~~ THE person, corporation, or firm
18 to carry on ~~such~~ THE business OF PAWNBROKER.

19 Sec. 2. (1) The ~~mayor of any such city or president of~~
20 ~~such village~~ CHIEF EXECUTIVE OFFICER OF THE GOVERNMENTAL UNIT
21 may ~~from time to time~~ grant ~~under his hand, and the official~~
22 ~~seal of his office,~~ to any suitable person, corporation, or
23 firm, a license authorizing ~~such~~ THE person, corporation, or
24 firm to carry on the business of a pawnbroker subject to ~~the~~
25 ~~provisions of~~ this act. ~~Said~~

26 (2) A PAWNBROKER'S license shall designate the particular
27 ~~place~~ ADDRESS in ~~said~~ THE ~~city or incorporated village~~

1 GOVERNMENTAL UNIT where ~~such person, corporation or firm~~ THE
 2 PAWNBROKER shall carry on ~~said~~ THE business, and ~~no person,~~
 3 ~~corporation or firm receiving said license~~ THE LICENSED
 4 PAWNBROKER shall NOT carry on ~~said~~ THE business in any other
 5 place than the one designated in ~~said~~ THE license. ~~Said~~

6 (3) A license shall be for the period of 1 year from date of
 7 issuance, unless sooner revoked for cause, and ~~shall~~ IS not
 8 ~~be~~ transferable. Before ~~any such~~ A license ~~shall be~~ IS
 9 issued, the ~~person applying therefor~~ APPLICANT shall pay to the
 10 ~~treasurer of~~ APPROPRIATE AGENCY WITHIN the ~~city or incorpo-~~
 11 ~~rated village~~ GOVERNMENTAL UNIT an annual license fee ~~of 250~~
 12 ~~dollars, and~~ DESCRIBED IN SUBSECTION (5).

13 (4) THE APPLICANT shall ALSO give a bond to the ~~said city~~
 14 ~~or incorporated village~~ GOVERNMENTAL UNIT in its corporate name
 15 ~~,~~ in the penal sum of ~~3,000 dollars,~~ \$10,000.00 with at least
 16 2 sureties, to be approved by the ~~city or village council~~
 17 LEGISLATIVE BODY OF THE GOVERNMENTAL UNIT AND conditioned for the
 18 faithful performance of the duties and obligations pertaining to
 19 the ~~said~~ PAWNBROKER'S business and for the payment of all costs
 20 and damages incurred by any violation of this act. ~~Provided,~~
 21 ~~That it shall be within the power of the common council of any~~
 22 ~~city or village to~~

23 (5) THE LEGISLATIVE BODY OF THE GOVERNMENTAL UNIT MAY fix
 24 the amount to be paid as ~~such~~ AN annual license fee at any
 25 amount not less than ~~50 dollars, nor~~ \$50.00, AND NOT more than
 26 ~~500 dollars~~ \$1,000.00 PER YEAR.

1 Sec. 3. ~~Any~~ AS USED IN THIS ACT:

2 (A) "PAWNBROKER" MEANS A person, corporation, or member
3 or members of a copartnership or firm, who ~~loans~~ CONDUCTS BUSI'
4 NESS IN A PAWNSHOP AND DOES ANY OF THE FOLLOWING:

5 (i) LOANS money on deposit ~~,~~ or pledge of personal prop-
6 erty ~~,~~ or other valuable thing, other than securities or
7 printed evidence of indebtedness. ~~,~~ ~~or who deals~~

8 (ii) DEALS in the purchasing of personal property or other
9 valuable thing on condition of selling ~~the same~~ IT back ~~again~~
10 at a stipulated price. ~~,~~ ~~is hereby defined to be a pawnbroker.~~

11 (iii) DEALS IN THE PURCHASE OF PERSONAL PROPERTY OR OTHER
12 VALUABLE THING WITHOUT BEING CONDITIONED UPON SELLING IT BACK AT
13 A STIPULATED PRICE.

14 (iv) DEALS IN THE EXCHANGE OF PERSONAL PROPERTY OR OTHER
15 VALUABLE THING FOR SOMETHING OF NEAR OR EQUAL VALUE.

16 (B) "PAWNSHOP" MEANS A PLACE OF BUSINESS WHERE THE PRIMARY
17 ACTIVITY IS TO DO ANY OF THE FOLLOWING:

18 (i) LOAN MONEY ON DEPOSIT OR PLEDGE OF PERSONAL PROPERTY OR
19 OTHER VALUABLE THING, OTHER THAN SECURITIES OR PRINTED EVIDENCE
20 OF INDEBTEDNESS.

21 (ii) DEAL IN THE PURCHASING OF PERSONAL PROPERTY OR OTHER
22 VALUABLE THING ON THE CONDITION OF SELLING IT BACK AT A STIPU-
23 LATED PRICE.

24 (iii) DEAL IN THE PURCHASING OF PERSONAL PROPERTY OR OTHER
25 VALUABLE THING WITHOUT THE PURCHASE BEING CONDITIONED UPON SELL-
26 ING IT BACK AT A STIPULATED PRICE.

1 (iv) DEAL IN THE EXCHANGE OF PERSONAL PROPERTY OR OTHER
2 VALUABLE THING ON THE CONDITION OF SELLING IT BACK AT A
3 STIPULATED PRICE.

4 Sec. 5. (1) ~~Every such~~ A pawnbroker shall keep a book ~~to~~
5 ~~be inspected by the chief of police or chief police officer of~~
6 ~~the city or village~~ in which shall be written in English, at the
7 time ~~he shall receive~~ THE PAWNBROKER RECEIVES any article of
8 personal property ~~,~~ or other valuable thing by way of pledge,
9 PURCHASE, EXCHANGE, or pawn, a DETAILED description of ~~such~~ THE
10 article INCLUDING AT LEAST THE MAKE, MODEL, AND SERIAL NUMBER, A
11 SEQUENTIAL TRANSACTION NUMBER, ~~the~~ ANY amount of money loaned
12 thereon, the rate of interest to be paid on such loan, the name,
13 residence, ~~and general description~~ DATE OF BIRTH, RACE, SEX,
14 SPECIFIC IDENTIFYING PHYSICAL CHARACTERISTICS, AND DRIVER LICENSE
15 NUMBER, SOCIAL SECURITY NUMBER, OFFICIAL STATE PERSONAL IDENTIFI-
16 CATION CARD NUMBER, OR GOVERNMENT IDENTIFICATION NUMBER of the
17 person from whom THE ARTICLE WAS RECEIVED, and the day and hour
18 when ~~such property~~ THE ARTICLE was received. ~~, and such~~ THE
19 book, and the place where ~~such~~ THE business is carried on, and
20 all articles of property ~~therein~~ IN THAT PLACE OF BUSINESS,
21 shall be subject to examination at any time by the ~~mayor, presi-~~
22 ~~dent, city~~ attorney ~~, or other police officer of such city or~~
23 ~~village~~ FOR THE GOVERNMENTAL UNIT, THE LOCAL POLICE AGENCY ~~, or~~
24 ~~by the prosecuting attorney or the sheriff or other police~~
25 ~~officer~~ of the ~~county in which said city or village is~~
26 ~~situated~~ GOVERNMENTAL UNIT, AND THE DEPARTMENT OF STATE POLICE.

1 (2) A LICENSED PAWNBROKER, WHEN HE OR SHE RECEIVES ANY
2 ARTICLE OF PERSONAL PROPERTY OR OTHER VALUABLE THING BY WAY OF
3 PLEDGE, PURCHASE, EXCHANGE, OR PAWN, SHALL MAKE A PERMANENT
4 RECORD OF THE TRANSACTION ON A FORM PROVIDED BY THE PAWNBROKER
5 THAT SUBSTANTIALLY COMPLIES WITH THE FORM PROVIDED FOR IN
6 SUBSECTION (4). THE DESCRIPTION OF THE ARTICLE SHALL CONTAIN AT
7 LEAST THE MAKE, MODEL, AND SERIAL NUMBER. EACH RECORD OF TRANS-
8 ACTION SHALL BE COMPLETED IN DUPLICATE BY THE LICENSED PAWNBRO-
9 KER, LEGIBLY IN INK IN THE ENGLISH LANGUAGE, AND SHALL CONTAIN
10 ALL APPLICABLE INFORMATION REQUIRED TO COMPLETE THE RECORD OF
11 TRANSACTION FORM UNDER SUBSECTION (4).

12 (3) WITHIN 24 HOURS AFTER THE PROPERTY IS RECEIVED, 1 COPY
13 OF THE RECORD OF TRANSACTION SHALL BE SENT TO THE LOCAL POLICE
14 AGENCY.

15 (4) THE RECORD OF TRANSACTION FORM SHALL BE 3 BY 5 INCHES IN
16 SIZE AND SHALL BE SUBSTANTIALLY AS FOLLOWS:

1 Sec. 8. (1) A pawnbroker, at the time of ~~such loan~~
2 RECEIVING AN ARTICLE BY PAWN OR PLEDGE, shall deliver to the
3 person pawning or pledging ~~any goods,~~ THE article ~~or thing,~~
4 memorandum ~~or note signed by him, containing the substance of~~
5 ~~the entry required to be made by him in his book by section 6.~~
6 ~~No charge shall be made or received by any pawnbroker for any~~
7 ~~such entry, memorandum or note.~~ TO BE USED BY THE PERSON OR THE
8 PERSON'S AGENT TO REDEEM THE ARTICLE.

9 (2) The memorandum ~~or note shall be consecutively numbered~~
10 ~~and upon its back~~ DESCRIBED IN SUBSECTION (1) shall ~~be~~ CONTAIN^N
11 THE FOLLOWING WORDS, printed in English: ~~in type as large as~~
12 ~~that in which the public acts of this state are printed, the fol~~
13 ~~lowing words:~~ "If interest or charges in excess of 3% per month,
14 WHICH IS 36% IF ANNUALIZED, plus storage charges ~~hereinafter~~
15 ~~provided~~ WHICH SHALL NOT EXCEED \$1.00 PER MONTH OR \$6.00 PER
16 YEAR, are asked or received, this loan is void and of no effect;
17 and the borrower cannot be made to pay back the money loaned,
18 ~~or~~ any interest, or any charges or any part thereof, and the
19 pawnbroker loses all right to the possession of the goods, arti-
20 cle or thing pawned, and shall surrender the ~~same~~ ARTICLE to
21 the borrower or pawner upon due demand ~~therefor~~ FOR THE
22 ARTICLE."

23 (3) THE MEMORANDUM DESCRIBED IN SUBSECTION (1) SHALL CONTAIN
24 THE SAME TRANSACTION NUMBER RECORDED IN THE PAWNBROKER'S BOOK
25 WHEN THE ARTICLE WAS PAWNED OR PLEDGED AND THE RATE OF INTEREST
26 CHARGED ON THE LOAN FOR THAT ITEM.

1 Sec. 9. (1) A licensed pawnbroker may charge upon any loan
2 a rate of interest not to exceed 3% per month, except that ~~he~~
3 THE PAWNBROKER is not required to accept any interest less than
4 50 cents on a single loan.

5 (2) A pawnbroker may also charge ~~50 cents~~ UP TO \$1.00 per
6 month or fraction ~~thereof~~ OF A MONTH for the storage of prop-
7 erty ~~, except jewelry, after 30 days but for not more than 4~~
8 ~~months,~~ under any single pledge or pawn. ~~No~~

9 (3) A pawnbroker or agent, or employee ~~thereof~~ OF A PAWN-
10 BROKER OR AGENT, shall NOT make a loan upon any deposit, pawn, or
11 pledge at a rate of interest and charge or receive ~~therefor~~ ANY
12 INTEREST OR CHARGE in excess of the amounts provided for in this
13 act.

14 (4) Interest on any loan shall not be payable in advance ~~,~~
15 and shall be computed on unpaid monthly balances only, but with-
16 out compounding.

17 (5) A pawnbroker ~~is~~ SHALL not ~~entitled to any~~ CHARGE AN
18 examination fee or ~~to~~ make any charge in excess of the amounts
19 provided for in this act.

20 (6) THE BUSINESS HOURS OF A PAWNBROKER SHALL NOT BE EARLIER
21 THAN 9 A.M. AND NOT LATER THAN 9 P.M.

22 Sec. 10. (1) ~~No pawnbroker shall sell any pawn or pledge~~
23 ~~until the same shall have remained 6 months in his possession,~~
24 ~~and all such sales shall be at public auction to the highest~~
25 ~~bidder, and not otherwise. Such sale shall be held under the~~
26 ~~direction and control of the pawnbroker and in his regularly~~
27 ~~established place of business. Notice of such sale shall be~~

~~1 published for at least 6 days previous thereto in 1 of the daily
2 newspapers to be designated by the mayor or president, published
3 in English, in the city or village where the business is carried
4 on. Provided, That if there be no daily newspaper in such city
5 or village, said notice shall be published at least 2 successive
6 weeks, in a weekly newspaper, to be designated by the mayor or
7 president, published in English, in such city or village. Such
8 notice shall specify the time and place at which such sale is to
9 take place and by whom it is to be conducted, and shall contain
10 the same description of the articles or goods to be sold as was
11 given in the memorandum or note delivered to the pawner under
12 section 8 of this act, and shall give the number of such memoran/
13 dum or note. An affidavit of the printer of such paper or of hi/
14 foreman, or his principal clerk, annexed to a printed copy of
15 such notice taken from the paper in which it was published and
16 specifying the times when and papers in which it was published,
17 shall be filed after the last day of such publication and before
18 the day fixed for such sale with the county clerk of the county
19 in which such sale is held. Such affidavit shall be kept in the
20 office of the said county clerk as a public document, and open to
21 the inspection of any person. A fee of 50 cents shall be paid by
22 the party filing such affidavit to the county clerk for the
23 filing of the same. A PAWBROKER SHALL NOT SELL ANY PAWNED OR
24 PLEDGED ARTICLE UNTIL THE ARTICLE HAS REMAINED AT LEAST 6 MONTHS
25 IN THE PAWBROKER'S POSSESSION IN A PLACE IN THE SAME BUILDING IN
26 WHICH THE ARTICLE WAS RECEIVED BY PAWN OR PLEDGE AND WHICH~~

1 BUILDING IS EASILY ACCESSIBLE TO INSPECTION BY THE PERSONS AND
2 AGENCIES PRESCRIBED IN SECTION 5(1).

3 (2) THE PAWNBROKER, IMMEDIATELY UPON RECEIVING AN ARTICLE,
4 SHALL ATTACH TO THE ARTICLE A TAG CONTAINING THE TRANSACTION
5 NUMBER ASSIGNED TO THAT PLEDGE OR PAWN.

6 (3) IN THE CASE OF A LOAN OF \$25.00 OR MORE, A PAWNBROKER
7 SHALL SEND WRITTEN NOTICE BY FIRST-CLASS MAIL TO THE PERSON WHO
8 PAWNED THE ARTICLE. NOTICE UNDER THIS SUBSECTION SHALL BE SENT
9 NOT LATER THAN 2 WEEKS BEFORE THE DATE OF EXPIRATION OF THE LOAN.

10 Sec. 11. (1) The borrower, at any time prior to the ~~sale~~
11 EXPIRATION OF THE TERM OF THE LOAN, may pay or tender to the
12 pawnbroker the ~~debt and interest and charges thereon, together~~
13 ~~with the cost of advertising the sale, if the sale has been~~
14 ~~advertised~~ PRINCIPAL, INTEREST, AND STORAGE CHARGES OWED ON A
15 PAWNED OR PLEDGED ARTICLE.

16 (2) The TIMELY payment or tender shall reinvest the pawner
17 with the title and right of possession to the property PAWNED OR
18 pledged.

19 SEC. 11A. (1) PROPERTY DETERMINED BY A COURT OF COMPETENT
20 JURISDICTION OR BY AGREEMENT OF THE PARTIES TO BE STOLEN PROPERTY
21 FOUND IN THE POSSESSION OF A PAWNBROKER SHALL BE RETURNED BY THE
22 PAWNBROKER TO THE LAWFUL OWNER.

23 (2) THIS ACT DOES NOT PREVENT A PAWNBROKER FROM PURSUING ANY
24 AVAILABLE CIVIL REMEDIES AGAINST THE PERSON PAWNING, PLEDGING,
25 PURCHASING, OR EXCHANGING AN ARTICLE, INCLUDING AN ACTION IN
26 SMALL CLAIMS COURT, IF THE ARTICLE IS CONFISCATED BY THE STATE
27 POLICE OR A LOCAL POLICE AGENCY FOR RETURN TO THE RIGHTFUL OWNER.

1 Sec. 13. (1) ~~No~~ A pawnbroker, DURING THE TERM OF A LOAN
2 MADE ON A PAWNED OR PLEDGED ARTICLE, shall NOT INTENTIONALLY
3 deface, scratch, obliterate, melt, separate, or break into parts
4 any ~~particle or thing~~ ARTICLE received by ~~him~~ THE PAWNBROKER
5 in pawn or otherwise, or in any manner do, cause, or ~~suffer~~
6 ALLOW to be done by others, anything which ~~shall destroy or~~
7 ~~tend~~ DESTROYS OR TENDS to destroy the identity of ~~such~~ THE
8 article or render the identification ~~thereof~~ OF THE ARTICLE
9 more difficult.

10 (2) A PAWNBROKER SHALL NOT ACCEPT BY WAY OF PLEDGE, PAWN,
11 PURCHASE, OR EXCHANGE ANY ARTICLE THAT CUSTOMARILY BEARS A
12 MANUFACTURER'S SERIAL NUMBER OR OTHER IDENTIFYING INSIGNIA UNLESS
13 THE NUMBER OR INSIGNIA IS PLAINLY VISIBLE ON THE ITEM.

14 Sec. 18. (1) ~~Any~~ EXCEPT AS OTHERWISE PROVIDED IN THIS
15 SECTION, A person ~~who shall violate~~ FOUND GUILTY OF VIOLATING
16 any of the provisions of this act, whether as owner, or as clerk,
17 agent, servant, or ~~employee, shall be~~ EMPLOYEE, IS guilty of a
18 misdemeanor ~~and upon conviction thereof in any court of compe-~~
19 ~~tent jurisdiction be fined~~ PUNISHABLE BY A FINE OF not less than
20 ~~25 dollars nor more than 100 dollars, or by imprisonment in the~~
21 ~~county jail~~ \$500.00 OR MORE THAN \$1,000.00, OR IMPRISONMENT OF
22 not less than 10 days ~~nor~~ OR more than 3 months, or ~~by~~ both.
23 ~~such fine and imprisonment in the discretion of the court.~~

24 (2) A PERSON FOUND GUILTY OF VIOLATING THIS ACT OR A LOCAL
25 ORDINANCE SUBSTANTIALLY CORRESPONDING TO THIS ACT FOR A FIFTH OR
26 SUBSEQUENT TIME IS GUILTY OF A FELONY.

1 Sec. 19. (1) Upon ~~any such~~ conviction PURSUANT TO
2 SECTION 18 of any person doing business as a pawnbroker under
3 ~~the provisions of~~ this act, or ~~on~~ conviction of any clerk,
4 agent, servant, or ~~employee~~ EMPLOYEE of ~~any such person~~ THAT
5 PAWNBROKER IF THE ACTION OF THE CLERK, AGENT, SERVANT, OR
6 EMPLOYEE THAT RESULTED IN THE CONVICTION WAS AN ACTION THAT REA-
7 SONABLY SHOULD HAVE BEEN PREVENTED THROUGH SUPERVISION BY THE
8 PAWNBROKER, the license of ~~such person shall forthwith~~ THE
9 PAWNBROKER MAY be revoked by the ~~mayor of the city or president~~
10 ~~of the village, and no part of the~~ CHIEF EXECUTIVE OFFICER OF
11 THE GOVERNMENTAL UNIT, EXCEPT THAT IN THE CASE OF A THIRD CONVIC-
12 TION, THE CHIEF EXECUTIVE OFFICER SHALL REVOKE THE LICENSE. ANY
13 REVOCATION PURSUANT TO THIS SUBSECTION SHALL BE PRECEDED BY A
14 NOTICE AND OPPORTUNITY FOR A HEARING.

15 (2) UPON A REVOCATION PURSUANT TO SUBSECTION (1), THE
16 PAWNBROKER'S license fee ~~of such party~~ shall NOT be returned
17 ~~to him~~ and no further license as a pawnbroker shall be granted
18 to ~~such person~~ THE PAWNBROKER for the period of 1 year from the
19 date of such revocation.

20 Section 2. Sections 6, 12, 16, and 17 of Act No. 273 of the
21 Public Acts of 1917, being sections 446.206, 446.212, 446.216,
22 and 446.217 of the Michigan Compiled Laws, are repealed.