

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 720 Session of 2011

INTRODUCED BY V. BROWN, SHAPIRO, BARBIN, BROWNLEE, D. COSTA,  
DAVIDSON, GEIST, JOSEPHS, KORTZ, MANN, MIRABITO, MOUL, MUNDY,  
PARKER, PASHINSKI, VULAKOVICH AND DeLUCA, FEBRUARY 16, 2011

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 16, 2011

AN ACT

1 Amending the act of April 6, 1937 (P.L.200, No.51), entitled "An  
2 act licensing and regulating the business of pawnbrokers;  
3 providing for the issuance of licenses by the Secretary of  
4 Banking; authorizing the Secretary of Banking to make  
5 examinations and issue regulations; limiting the interest and  
6 charges on loans; and prescribing penalties for the violation  
7 of this act," further providing for definitions, for identity  
8 of pledger and for pawn ticket; providing for hold orders and  
9 related procedures; and further providing for sale of pledge  
10 and for penalties.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. The definitions of "pawnbroker," "pledge" and  
14 "pledger" in section 2 of the act of April 6, 1937 (P.L.200,  
15 No.51), known as the Pawnbrokers License Act, amended June 20,  
16 1947 (P.L.701, No.305), are amended to read:

17 Section 2. Definitions.--The following terms shall be  
18 construed in this act to have the following meanings, except in  
19 those instances where the context clearly indicates otherwise.

20 "Pawnbroker" includes any person, who--(1) engages in the  
21 business of lending money on the deposit or pledge of personal

1 property, other than choses in action, securities, or written  
2 evidences of indebtedness; or (2) purchases personal property  
3 with an expressed or implied agreement or understanding to sell  
4 it back at a subsequent time at a stipulated price; or (3) lends  
5 money upon goods, wares or merchandise pledged, stored or  
6 deposited as collateral security; or (4) purchases items of  
7 personal property without an agreement to sell the items back if  
8 the transaction occurs in an establishment where business is  
9 conducted under paragraph (1), (2) or (3).

10 "Pledge" means--(1) an article or articles deposited with a  
11 pawnbroker as security for a loan in the course of his business  
12 as defined in [the preceding paragraph] paragraph (3) of the  
13 definition of "pawnbroker"; or (2) an item of personal property  
14 purchased by the pawnbroker solely for resale.

15 "Pledger" means--(1) the person who obtains a loan from a  
16 pawnbroker and delivers a pledge into the possession of a  
17 pawnbroker, unless such person discloses that he is or was  
18 acting for another in which case a "pledger" means the disclosed  
19 principal; or (2) the person who sells an item of personal  
20 property to a pawnbroker solely for the pawnbroker's resale of  
21 the item.

22 \* \* \*

23 Section 2. Section 13 of the act, amended December 15, 1969  
24 (P.L.364, No.159), is amended to read:

25 Section 13. Identity of Pledger.--At the time of granting an  
26 original loan or purchasing an item of personal property, the  
27 pawnbroker shall enter upon his records, in the form and manner  
28 designated by the Secretary of Banking, a description of the  
29 pledger so as to identify the pledger, including [the pledger's  
30 name and address, and either the pledger's motor vehicle

1 operator's number, the pledger's Social Security number, or, if  
2 the pledger does not have this information, such other proof of  
3 identity as the Secretary of Banking shall provide by  
4 regulation.];

5 (1) name;

6 (2) address;

7 (3) age;

8 (4) sex;

9 (5) race;

10 (6) photocopy of a valid photo identification document

11 issued by the Federal or State government; and

12 (7) digital photograph of the pledger taken at the time of  
13 the transaction.

14 Section 3. Section 14 of the act is amended to read:

15 Section 14. Pawn Ticket.--At the time of granting a loan and  
16 upon the subsequent renewal of any loan or when purchasing  
17 personal property, the pawnbroker shall furnish to the pledger a  
18 pawn ticket which is serially numbered and which shall contain  
19 the following information--name and address of the pawnbroker,  
20 the name and address of the pledger, name and address of  
21 disclosed principal, if any, the date of the loan, the amount  
22 actually loaned, the serial number of the loan, description of  
23 the pledge, due date of the loan, the total amount of principal,  
24 interest and charges required to redeem the pledge on the due  
25 date, a statement setting forth that the pledge may be sold  
26 after ninety (90) days of the due date of the loan if not  
27 redeemed. A pawnbroker may insert additional provisions on the  
28 pawn ticket not inconsistent with this act, and he shall insert  
29 such other provisions as may be required by the Secretary of  
30 Banking.

1 A duplicate copy of the pawn ticket shall be retained by the  
2 pawnbroker for his record.

3 The pawnbroker shall require the pledger to surrender the  
4 original pawn ticket when the pledge is released or the loan is  
5 renewed.

6 Section 4. The act is amended by adding a section to read:

7 Section 16.1. Hold Orders and Related Procedures.--(a) When  
8 an appropriate law enforcement official has probable cause to  
9 believe that property in the possession of a pawnbroker is  
10 misappropriated, the official may place a written hold order on  
11 the property. The written hold order shall impose a holding  
12 period not to exceed ninety (90) days unless extended by court  
13 order. The appropriate law enforcement official may rescind, in  
14 writing, any hold order. An appropriate law enforcement official  
15 may place only one hold order on property.

16 (b) Upon the expiration of the holding period, the  
17 pawnbroker shall notify, in writing, the appropriate law  
18 enforcement official by certified mail, return receipt  
19 requested, that the holding period has expired. If, on the tenth  
20 day after the written notice has been received by the  
21 appropriate law enforcement official, the pawnbroker has not  
22 received from a court an extension of the hold order on the  
23 property and the property is not the subject of another court  
24 proceeding, title to the property shall vest in and be deemed  
25 conveyed by operation of law to the pawnbroker, free of any  
26 liability for claims but subject to any restrictions contained  
27 in the pawn transaction contract and subject to the provisions  
28 of this section.

29 (c) A hold order must specify:

30 (1) The name and address of the pawnbroker.

1     (2) The name, title and identification number of the  
2 representative of the appropriate law enforcement official or  
3 the court placing the hold order.

4     (3) If applicable, the name and address of the appropriate  
5 law enforcement official or court to which such representative  
6 is attached and the number, if any, assigned to the claim  
7 regarding the property.

8     (4) A complete description of the property to be held,  
9 including model number and serial number if applicable.

10    (5) The name of the person reporting the property to be  
11 misappropriated unless otherwise prohibited by law.

12    (6) The mailing address of the pawnbroker where the property  
13 is held.

14    (7) The expiration date of the holding period.

15    (d) The pawnbroker or the pawnbroker's representative must  
16 sign and date a copy of the hold order as evidence of receipt of  
17 the hold order and the beginning of the ninety (90) day holding  
18 period.

19    (e) (1) Except as provided in paragraph (2), a pawnbroker  
20 may not release or dispose of property subject to a hold order  
21 except pursuant to a court order, a written release from the  
22 appropriate law enforcement official or the expiration of the  
23 holding period of the hold order.

24    (2) While a hold order is in effect, the pawnbroker must  
25 upon request release the property subject to the hold order to  
26 the custody of the appropriate law enforcement official for use  
27 in a criminal investigation. The release of the property to the  
28 custody of the appropriate law enforcement official is not  
29 considered a waiver or release of the pawnbroker's property  
30 rights or interest in the property. Upon completion of the

1 criminal proceeding, the property must be returned to the  
2 pawnbroker unless the court orders other disposition. When  
3 another disposition is ordered, the court shall additionally  
4 order the conveying customer to pay restitution to the  
5 pawnbroker in the amount received by the conveying customer for  
6 the property together with reasonable attorney fees and costs.

7 Section 5. Sections 23 and 31 of the act are amended to  
8 read:

9 Section 23. Sale of Pledge.--Upon default in the payment of  
10 any loan, a pawnbroker may sell the pledge upon the conditions  
11 contained in this section.

12 A pawnbroker may sell a pledge at private sale for an amount  
13 not less than that agreed to by the pledger, which amount shall  
14 be stipulated on the pawn ticket and shall not be less than one  
15 hundred twenty-five per cent (125%) of the amount of the loan. A  
16 pledge which cannot be sold at private sale at the minimum price  
17 agreed to by the pledger must be sold at public auction.

18 No unredeemed pledge may be sold before the expiration of  
19 ninety (90) days after the due date of the loan unless otherwise  
20 specifically authorized in writing by the pledger. This  
21 authority to sell an unredeemed pledge prior to the expiration  
22 of ninety (90) days after the due date of the loan must be given  
23 by the pledger on a date subsequent to the due date of the loan.

24 An unredeemed pledge shall be sold within twelve months of  
25 the due date of a loan. No interest or charges permitted under  
26 this act may be collected on a loan after the expiration of  
27 twelve months of the due date of a loan, whether the loan is  
28 renewed, or the loan is paid and the pledge redeemed. Where the  
29 pawnbroker has failed to sell the pledge within six months of  
30 the due date of the loan, no such interest or charges may be

1 computed for the period after six months of the due date of a  
2 loan in determining the surplus due the pledger if a pledge is  
3 sold subsequent to six months after the due date of a loan.

4 A pawnbroker shall keep an article of personal property it  
5 received as a pledge for not less than ninety (90) days.

6 Section 31. Penalties.--Any person, partnership, association  
7 or corporation, or any partner, director, officer, agent or  
8 member thereof who shall engage in the business of pawnbroking  
9 in this Commonwealth without first obtaining a license under  
10 this act, shall be guilty of a misdemeanor, and, upon conviction  
11 thereof, shall be sentenced to pay a fine of not less than five  
12 hundred (\$500.00) dollars nor more than five thousand  
13 (\$5,000.00) dollars, and/or suffer imprisonment not less than  
14 six months nor more than three years, in the discretion of the  
15 court.

16 A pawnbroker licensed under the provisions of this act who  
17 shall violate any provision of this act, or shall direct or  
18 consent to such violation, shall be guilty of a misdemeanor,  
19 and, upon conviction thereof, shall be sentenced to pay a fine  
20 of not more than one thousand (\$1,000.00) dollars for the first  
21 offense, and for each subsequent offense a like fine, and/or  
22 suffer imprisonment not to exceed one year, in the discretion of  
23 the court.

24 An individual, partnership, association, corporation or  
25 business entity that commits a violation of this act shall, upon  
26 conviction, in addition to the other penalties set forth in this  
27 section, have its license issued under the act revoked and be  
28 ineligible to apply for a pawnbroker's license under this act  
29 for five (5) years after the violation.

30 Section 6. This act shall take effect in 60 days.