



Rep. John A. Fritchey

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LRB096 16446 MJR 37151 a

1 AMENDMENT TO HOUSE BILL 4854

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4854, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

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

8 (205 ILCS 510/0.05)

9 Sec. 0.05. Administration of Act.

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

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

16 (2) To issue orders for the purpose of administering

1 the provisions of this Act and any rule promulgated in  
2 accordance with this Act.

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

8 (4) To subpoena witnesses, to compel their attendance,  
9 to administer an oath, to examine any person under oath,  
10 and to require the production of any relevant books,  
11 papers, accounts, and documents in the course of and  
12 pursuant to any investigation being conducted, or any  
13 action being taken, by the Secretary ~~Commissioner~~ in  
14 respect of any matter relating to the duties imposed upon,  
15 or the powers vested in, the Secretary ~~Commissioner~~ under  
16 the provisions of this Act or any rule promulgated in  
17 accordance with this Act.

18 (5) To conduct hearings.

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

24 (6.5) To initiate, through the Attorney General,  
25 injunction proceedings whenever it appears to the  
26 Secretary ~~Commissioner~~ that any person, whether licensed

1 under this Act or not, is engaged or about to engage in an  
2 act or practice that constitutes or will constitute a  
3 violation of this Act or any rule prescribed under the  
4 authority of this Act. The Secretary ~~Commissioner~~ may, in  
5 his or her discretion, through the Attorney General, apply  
6 for an injunction, and upon a proper showing, any circuit  
7 court may enter a permanent or preliminary injunction or a  
8 temporary restraining order without bond to enforce this  
9 Act in addition to the penalties and other remedies  
10 provided for in this Act.

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

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

1           therein.

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

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

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

25           (b) After consultation with local law enforcement  
26 officers, the Attorney General, and the industry, the Secretary

1 ~~Commissioner~~ may by rule require that pawnbrokers operate video  
2 camera surveillance systems to record photographic  
3 representations of customers and retain the tapes produced for  
4 up to 30 days.

5 (c) Pursuant to rule, the Secretary ~~Commissioner~~ shall  
6 issue licenses on an annual or multi-year basis for operating a  
7 pawnshop. Any person currently operating or who has operated a  
8 pawnshop in this State during the 2 years preceding the  
9 effective date of this amendatory Act of 1997 shall be issued a  
10 license upon payment of the fee required under this Act. New  
11 applicants shall meet standards for a license as established by  
12 the Secretary ~~Commissioner~~. Except with the prior written  
13 consent of the Secretary ~~Commissioner~~, no individual, either a  
14 new applicant or a person currently operating a pawnshop, may  
15 be issued a license to operate a pawnshop if the individual has  
16 been convicted of a felony or of any criminal offense relating  
17 to dishonesty or breach of trust in connection with the  
18 operations of a pawnshop. The Secretary ~~Commissioner~~ shall  
19 establish license fees. The fees shall not exceed the amount  
20 reasonably required for administration of this Act. It shall be  
21 unlawful to operate a pawnshop without a license issued by the  
22 Secretary ~~Commissioner~~.

23 (d) In addition to license fees, the Secretary ~~Commissioner~~  
24 may, by rule, establish fees in connection with a review,  
25 approval, or provision of a service, and levy a reasonable  
26 charge to recover the cost of the review, approval, or service

1 (such as a change in control, change in location, or renewal of  
2 a license). The Secretary ~~Commissioner~~ may also levy a  
3 reasonable charge to recover the cost of an examination if the  
4 Secretary ~~Commissioner~~ determines that unlawful or fraudulent  
5 activity has occurred. The Secretary ~~Commissioner~~ may require  
6 payment of the fees and charges provided in this Act by  
7 certified check, money order, an electronic transfer of funds,  
8 or an automatic debit of an account.

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

25 (f) The Secretary ~~Commissioner~~ may, by rule, require all  
26 pawnshops to provide for the expenses that would arise from the

1 administration of the receivership of a pawnshop under this Act  
2 through the assessment of fees, the requirement to pledge  
3 surety bonds, or such other methods as determined by the  
4 Secretary ~~Commissioner~~.

5 (g) All final administrative decisions of the Secretary  
6 ~~Commissioner~~ under this Act shall be subject to judicial review  
7 pursuant to the provisions of the Administrative Review Law.  
8 For matters involving administrative review, venue shall be in  
9 either Sangamon County or Cook County.

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

11 (205 ILCS 510/5) (from Ch. 17, par. 4655)

12 Sec. 5. Record requirements.

13 (a) Except in municipalities located in counties having  
14 3,000,000 or more inhabitants, every pawn and loan broker shall  
15 keep a standard record book that has been approved by the  
16 sheriff of the county in which the pawnbroker does business. In  
17 municipalities in counties with 3,000,000 or more inhabitants,  
18 the record book shall be approved by the police department of  
19 the municipality in which the pawn or loan broker does  
20 business. At the time of each and every loan or taking of a  
21 pledge, an accurate account and description, in the English  
22 language, of all the goods, articles and other things pawned or  
23 pledged, the amount of money, value or thing loaned thereon,  
24 the time of pledging the same, the rate of interest to be paid  
25 on such loan, and the name and residence of the person making

1 such pawn or pledge shall be printed, typed, or written in ink  
2 in the record book. Such entry shall include the serial number  
3 or identification number of items received which bear such  
4 number. Except for items purchased from dealers possessing a  
5 federal employee identification number who have provided a  
6 receipt to the pawnbroker, every pawnbroker shall also record  
7 in his book, an accurate account and description, in the  
8 English language, of all goods, articles and other things  
9 purchased or received for the purpose of resale or loan  
10 collateral by the pawnbroker from any source, not in the course  
11 of a pledge or loan, the time of such purchase or receipt and  
12 the name and address of the person or business which sold or  
13 delivered such goods, articles, or other things to the  
14 pawnbroker. No entry in such book shall be erased, mutilated or  
15 changed.

16 (b) Every pawnbroker shall require identification to be  
17 shown him by each person pledging or pawning any goods,  
18 articles or other things to the pawnbroker. If the  
19 identification shown is a driver's license or a State  
20 identification card issued by the Secretary of State and  
21 contains a photograph of the person being identified, only one  
22 form of identification must be shown. If the identification  
23 shown is not a driver's license or a State identification card  
24 issued by the Secretary of State and does not contain a  
25 photograph, 2 forms of identification must be shown, and one of  
26 the 2 forms of identification must include his or her residence



1 address. These forms of identification shall include, but not  
2 be limited to, any of the following: driver's license, social  
3 security card, utility bill, employee or student  
4 identification card, credit card, or a civic, union or  
5 professional association membership card. In addition, in a  
6 municipality with a population of 1,000,000 or more  
7 inhabitants, if the customer does not have an identification  
8 issued by a governmental entity containing a photograph of the  
9 person being identified, the pawnbroker shall photograph the  
10 customer in color and record the customer's name, residence  
11 address, date of birth, social security number, gender, height,  
12 and weight on the reverse side of the photograph. If the  
13 customer has no social security number, the pawnbroker shall  
14 record this fact.

15 A county or municipality, including a home rule unit, may  
16 regulate a pawnbroker's identification requirements for  
17 persons pledging or pawning goods, articles, or other things to  
18 the pawnbroker in a manner that is not less restrictive than  
19 the regulation by the State of a pawnbroker's identification  
20 requirements for persons pledging or pawning goods, articles,  
21 or other things. A home rule unit may not regulate a  
22 pawnbroker's identification requirements for persons pledging  
23 or pawning goods, articles, or other things to the pawnbroker  
24 in a manner less restrictive than the regulation by the State  
25 of a pawnbroker's identification requirements for persons  
26 pledging or pawning goods, articles, or other things. This

1 Section is a limitation under subsection (i) of Section 6 of  
2 Article VII of the Illinois Constitution on the concurrent  
3 exercise by home rule units of the powers and functions  
4 exercised by the State.

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

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

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

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

22 (205 ILCS 510/6) (from Ch. 17, par. 4656)

23 Sec. 6. Inspection of records.

24 (a) The book or computer records, as well as every article  
25 or other thing of value so pawned or pledged, shall at all

1 times be open to the inspection of the Secretary ~~Commissioner~~,  
2 the sheriff of the county, his deputies, or any members of the  
3 police force of any city in the county in which such pawnbroker  
4 does business. In addition, the Secretary ~~Commissioner~~ shall be  
5 authorized to inspect the books or records of any business he  
6 or she has reasonable cause to believe is conducting pawn  
7 transactions and should be licensed under this Act.

8 (b) The book or computer records, pawn tickets, or any  
9 other records required by the Secretary ~~Commissioner~~ under this  
10 Act or any rule promulgated in accordance with this Act shall  
11 be maintained for a period of 3 years after the date on which  
12 the record or ticket was prepared. These records and tickets  
13 shall be open to inspection of the Secretary ~~Commissioner~~ at  
14 all times during the 3-year period.

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

16 (205 ILCS 510/7.5)

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

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

1 filed.

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

3 (205 ILCS 510/15 new)

4 Sec. 15. Temporary buying locations; unregistered buyers.

5 (a) For purposes of this Section:

6 "Temporary buying location" means a location used by an  
7 unregistered buyer, including, but not limited to, hotels and  
8 motels.

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

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

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

22 (2) An unregistered buyer must submit by 6 a.m. each  
23 day to the sheriff of the county in which he or she is  
24 located detailed transaction records for the previous day,  
25 which must include purchaser, seller, and inventory

1 information pursuant to subsection (b) of Section 5 of this  
2 Act.

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

8 (c) The Department of Financial and Professional  
9 Regulation may adopt rules necessary for administration of this  
10 Section, which must include a fee schedule for counties to  
11 follow.

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