



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2511

Introduced 2/26/2021, by Sen. Cristina Castro

SYNOPSIS AS INTRODUCED:

See Index

Amends the Pawnbroker Regulation Act. Provides that a pawnbroker may contract for and receive a monthly finance charge for expenses, losses, and services that may not exceed one-fourth (rather than one-fifth) of the loan amount. Provides that title to pledged property transfers to a pawnbroker after the expiration of the default date grace period or upon the expiration of an agreed extension. Provides procedures for a law enforcement officer to return property that was subject to a hold order to a pawnbroker or to return stolen property to its owner. Provides that after the return of stolen property, a pawnbroker shall not be liable to any private person or government entity for any further claims on the returned property. Provides information required to be included in a hold order. Provides that a person who owns or is employed by a pawnbroker licensed under the Act shall annually complete 4 hours of continuing education in a responsible training program approved by the Department of Financial and Professional Regulation. Provides that the license of a pawnbroker whose owners, managers, or employees fail to comply with the continuing education requirement may be suspended, revoked, or may face other disciplinary action. Denies home rule powers to regulate pawnbroker employee training and pawnbroker licensing. Provides that a person seeking approval or re-approval from the Department to offer a responsible training program may apply for approval or re-approval between August 1 and August 15 every 4 years. Establishes a nonrefundable application fee for approval or re-approval from the Department to offer a responsible training program. Provides that denial of approval by the Department shall include a detailed description of the reasons for the denial. Makes other changes.

LRB102 17225 BMS 22685 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Pawnbroker Regulation Act is amended by
5 changing Sections 2, 9, 10, and 12 and by adding Section 13 as
6 follows:

7 (205 ILCS 510/2) (from Ch. 17, par. 4652)

8 Sec. 2. It shall be unlawful for any pawnbroker to charge
9 or collect a greater benefit or percentage upon money
10 advanced, and for the use and forbearance thereof, than the
11 rate of 3% per month. Nothing in this Section shall be
12 construed so as to conflict with the law pertaining to usury
13 and the person receiving money so advanced may hold such
14 moneys to pay any fees in addition to interest as herein
15 provided.

16 Each pawnbroker, when making a loan under this Section,
17 must disclose in printed form on the pawn contract the
18 following information to the persons receiving the loan:

19 (1) the amount of money advanced, which must be
20 designated as the amount financed;

21 (2) the maturity date of the pawn, which must be at
22 least 30 days after the date of the pawn;

23 (3) the total pawn interest and service charge payable

1 on the maturity date, which must be designated as the
2 finance charge;

3 (4) the total of payments that must be paid to redeem
4 the pledged goods on the maturity date, which must be
5 designated as the total of payments; and

6 (5) the annual percentage rate, computed according to
7 the regulations adopted by the Board of Governors of the
8 Federal Reserve System under the Federal Truth in Lending
9 Act.

10 Each pawnbroker may contract for and receive a monthly
11 finance charge including interest and fees not to exceed
12 one-fourth ~~one-fifth~~ of the loan amount, as set forth herein,
13 for appraising, investigating title, storing and insuring the
14 collateral, closing the loan, making daily reports to local
15 law enforcement officers including enhanced computerized
16 reporting, complying with regulatory requirements, and for
17 other expenses and losses of every nature whatsoever and for
18 all other services. Such fees, when made and collected, shall
19 not be deemed interest for any purpose of law.

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

21 (205 ILCS 510/9) (from Ch. 17, par. 4659)

22 Sec. 9. No pawnbroker shall knowingly purchase or take any
23 article in pawn or pledge from any person appearing to be
24 intoxicated, nor from any person known to have been convicted
25 of theft. A law enforcement officer may provide such criminal

1 conviction information to a pawnbroker. ~~When any person is~~
2 ~~found to be the owner of stolen property which has been pawned,~~
3 ~~such property shall be returned to the owner thereof without~~
4 ~~the payment of the money advanced by the pawnbroker thereon or~~
5 ~~any costs or charges of any kind which the pawnbroker may have~~
6 ~~placed upon the same.~~

7 (Source: P.A. 84-1308.)

8 (205 ILCS 510/10) (from Ch. 17, par. 4660)

9 Sec. 10. Sale of property. No personal property pledged or
10 received on deposit by any pawnbroker shall be permitted to be
11 redeemed from such pawnbroker for a period of 48 hours after
12 the delivery of the copy and statement required by Section 7 of
13 this Act required to be delivered to the officer or officers
14 named therein. No personal property purchased by any
15 pawnbroker shall be sold or removed from the place of business
16 or transferred to another pawnshop location of such pawnbroker
17 for a period of 10 days after the delivery of the copy and
18 statement required by Section 7 of this Act required to be
19 delivered to the officer or officers named therein. If the
20 pawner or pledger fails to repay the loan during the period
21 specified on the pawn ticket, the pawnbroker shall
22 automatically extend a grace period of 30 days from the
23 default date on the loan during which the pawnbroker shall not
24 dispose of or sell the personal property pledged. The parties
25 may agree to extend or renew a loan upon terms agreed upon by

1 the parties, provided the terms comply with the requirements
2 of this Act. Title to the pledged property transfers to the
3 pawnbroker after the default date grace period expires or upon
4 expiration of an agreed extension. A county or municipality,
5 including a home rule unit, may regulate these holding periods
6 in a manner that is more restrictive than the regulation
7 provided in this Section 10. A home rule unit may not regulate
8 these holding periods in a manner less restrictive than the
9 regulation by the State. This Section is a limitation under
10 subsection (i) of Section 6 of Article VII of the Illinois
11 Constitution on the concurrent exercise by home rule units of
12 the powers and functions exercised by the State.

13 (Source: P.A. 99-188, eff. 1-1-16.)

14 (205 ILCS 510/12)

15 Sec. 12. Hold order.

16 (a) For the purposes of this Section, "hold order" means a
17 written legal instrument issued to a pawnbroker by a law
18 enforcement officer who is commissioned by the law enforcement
19 agency of the municipality or county that licenses and
20 regulates the pawnbroker, evidencing a criminal law
21 enforcement investigation, and ordering the pawnbroker to
22 retain physical possession of pledged goods in the possession
23 of the pawnbroker or property purchased by and in the
24 possession of the pawnbroker and ~~not~~ to not return, sell, or
25 otherwise dispose of such property as such property is

1 believed to be misappropriated goods.

2 (b) Upon written notice from a law enforcement officer
3 indicating that property in the possession of a pawnbroker and
4 subject to a hold order is needed for the purpose of furthering
5 a criminal investigation and prosecution, the pawnbroker shall
6 release the property subject to the hold order to the custody
7 of the law enforcement officer for such purpose and the law
8 enforcement officer shall provide a written acknowledgment
9 that the property has been released to the law enforcement
10 officer. The release of the property to the custody of the law
11 enforcement officer shall not be considered a waiver or
12 release of the pawnbroker's property rights or interest in the
13 property. Upon completion of the criminal investigation, the
14 property shall be returned to the pawnbroker who consented to
15 its release; except that:

16 (1) if the criminal investigation took place within
17 counties with a population of less than 300,000 and that
18 investigation: (A) has determined that the property is
19 stolen property, (B) has determined that the fair market
20 value of the stolen property is \$500 or less, (C) has
21 identified the rightful owner of the stolen property, and
22 (D) contains a court-admissible sworn statement by the
23 rightful owner that he or she is the true owner of the
24 stolen property, then law enforcement shall return the
25 property to that owner without the payment of the money
26 advanced by the pawnbroker or any costs or charges of any

1 kind that the pawnbroker may have placed upon the same; or
2 (2) if the criminal investigation took place within
3 counties with a population of more than 300,000 and that
4 investigation: (A) has determined that the property is
5 stolen property, (B) has determined that the then-fair
6 market value of the stolen property is \$1,000 or less, (C)
7 has identified the rightful owner of the stolen property,
8 and (D) contains a court-admissible sworn statement by the
9 rightful owner that he or she is the true owner of the
10 stolen property, then law enforcement shall return the
11 property to that owner without the payment of the money
12 advanced by the pawnbroker or any costs or charges of any
13 kind that the pawnbroker may have placed upon the same.

14 (c) After the return of said property, the pawnbroker
15 shall not be liable to any private person or government entity
16 for any further claims on the returned property.

17 Law enforcement shall provide all information related to
18 such persons involved in the investigation to the pawnbroker,
19 including the investigative report, without the need for a
20 subpoena, court order, or further legal action or government
21 filing.

22 The hold order shall expire on the 120th day after it is
23 issued, at which time the pawnbroker may exercise its rights
24 under any applicable pawn ticket or extension. If, ~~if~~ the law
25 enforcement officer has not completed the criminal
26 investigation within 120 days after the issuance of the hold

1 order ~~its release~~, the officer shall immediately return any
2 ~~the~~ property in law enforcement custody to the pawnbroker or
3 obtain and furnish to the pawnbroker a warrant for a maximum
4 120-day hold order extension and, as applicable, continued law
5 enforcement ~~the continued~~ custody of the property.

6 The pawnbroker shall not release or dispose of the
7 property except pursuant to a court order or the expiration of
8 the holding period of the hold order, including all
9 extensions.

10 In cases where criminal charges have been filed and the
11 property may be needed as evidence, the prosecuting attorney
12 shall notify the pawnbroker in writing. The notice shall
13 contain the case number, the style of the case, and a
14 description of the property. The pawnbroker shall hold any
15 such property in the pawnbroker's custody until receiving
16 notice of the disposition of the case from the prosecuting
17 attorney. The prosecuting attorney shall notify the pawnbroker
18 and claimant in writing within 15 days after the disposition
19 of the case.

20 (d) A hold order, and a foregoing notice of criminal
21 charges, must specify:

22 (1) the name and address of the pawnbroker;

23 (2) the law enforcement investigation number and the
24 name, title, and identification number of the law
25 enforcement officer placing the hold order or the court
26 placing the hold order;

1 (3) a complete description of the property to be held,
2 including model number and serial number, if applicable;

3 (4) the name of the alleged owner or person reporting
4 the alleged misappropriated property, unless otherwise
5 prohibited by law;

6 (5) the mailing address of the pawnbroker where the
7 property is held; and

8 (6) the issuance and expiration date of the holding
9 period.

10 (e) The pawnbroker or the pawnbroker's representative must
11 sign and date a copy of the hold order as evidence of receipt
12 of the hold order and the beginning of the 120-day holding
13 period.

14 (Source: P.A. 96-1365, eff. 7-28-10.)

15 (205 ILCS 510/13 new)

16 Sec. 13. Continuing education.

17 (a) A person who owns or is employed by a pawnbroker
18 licensed under this Act shall annually complete 4 hours of
19 continuing education in a responsible training program
20 approved by the Department of Financial and Professional
21 Regulation.

22 (b) The responsible training program modules shall consist
23 of training on State and local laws, administrative rules, and
24 regulations that pertain to the business of being a licensed
25 pawnbroker under this Act, including, but not limited to:

- 1 (1) the prohibition of a pawn transaction to minors;
2 (2) acceptable forms of identification, how to check
3 identification, and common mistakes made in verification
4 of identification;
5 (3) compliance with all pawn inventory requirements;
6 (4) maintenance of records;
7 (5) security and surveillance;
8 (6) inspections by State and local licensing and law
9 enforcement authorities, including hold order procedures;
10 and
11 (7) other areas as determined by rule.

12 (c) Upon the successful completion of the responsible
13 training program, the provider shall deliver proof of
14 completion either through United States mail or electronic
15 communication to the employee of the pawnshop and the
16 pawnbroker, who shall retain a copy of the certificate on file
17 at the location of the licensed pawnshop.

18 (d) The license of a pawnbroker whose owners, managers, or
19 employees fail to comply with this Section may be suspended,
20 revoked, or may face other disciplinary action.

21 (e) The regulation of pawnbroker employee training and
22 pawnbroker licensing is an exclusive power and function of the
23 State. A home rule unit may not regulate pawnbroker employee
24 training and pawnbroker licensing. This subsection is a denial
25 and limitation of home rule powers and functions under
26 subsection (h) of Section 6 of Article VII of the Illinois

1 Constitution.

2 (f) Persons seeking Department approval to offer the
3 training required by subsection (b) may apply for such
4 approval between August 1 and August 15 every 4 years in a
5 manner prescribed by the Department.

6 (g) Persons seeking Department approval to offer the
7 training required by subsection (b) shall submit a
8 nonrefundable application fee of \$2,000 to be deposited into
9 the Pawnbroker Regulation Fund or a fee set by rule. Any
10 changes made to the training module shall be approved by the
11 Department.

12 (h) The Department shall not unreasonably deny approval of
13 a training module, whether in-person or online, that meets all
14 the requirements of subsection (b). A denial of approval shall
15 include a detailed description of the reasons for the denial.

16 (i) A person approved to provide the training required by
17 subsection (b) shall submit an application for re-approval
18 between August 1 and August 15 of each even-numbered year and
19 include a nonrefundable application fee of \$2,000 to be
20 deposited into the Pawnbroker Regulation Fund or a fee set by
21 rule.

1 INDEX

2 Statutes amended in order of appearance

3 205 ILCS 510/2 from Ch. 17, par. 4652

4 205 ILCS 510/9 from Ch. 17, par. 4659

5 205 ILCS 510/10 from Ch. 17, par. 4660

6 205 ILCS 510/12

7 205 ILCS 510/13 new