



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4854

Introduced 1/15/2010, by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

205 ILCS 510/0.05	
205 ILCS 510/5	from Ch. 17, par. 4655
205 ILCS 510/6	from Ch. 17, par. 4656
205 ILCS 510/7.5	
205 ILCS 510/15 new	

Amends the Pawnbroker Regulation Act. Changes references from the Commissioner of Banks and Real Estate to the Secretary of Financial and Professional Regulation. Provides that an unregistered pawnbroker that seeks to conduct business at a temporary sales location in the State must comply with specified requirements, including (1) registration with the with sheriff of the county at least 30 days prior to its intention to conduct transactions in that county, (2) the submission of detailed transaction records, which must include purchaser, seller, and inventory information, and (3) payment of a registration fee to the sheriff of the county in which it seeks to conduct business. Provides that the Department of Financial and Professional Regulation may adopt rules necessary for administration of specified provisions. Effective immediately.

LRB096 16446 MJR 31714 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning financial 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 0.05, 6, and 7.5 and by adding Section 15 as
6 follows:

7 (205 ILCS 510/0.05)

8 Sec. 0.05. Administration of Act.

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

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

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

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

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

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

10 (5) To conduct hearings.

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

16 (6.5) To initiate, through the Attorney General,
17 injunction proceedings whenever it appears to the
18 Secretary ~~Commissioner~~ that any person, whether licensed
19 under this Act or not, is engaged or about to engage in an
20 act or practice that constitutes or will constitute a
21 violation of this Act or any rule prescribed under the
22 authority of this Act. The Secretary ~~Commissioner~~ may, in
23 his or her discretion, through the Attorney General, apply
24 for an injunction, and upon a proper showing, any circuit
25 court may enter a permanent or preliminary injunction or a
26 temporary restraining order without bond to enforce this

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 either Sangamon County or Cook County.

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

3 (205 ILCS 510/5) (from Ch. 17, par. 4655)

4 Sec. 5. Record requirements.

5 (a) Except in municipalities located in counties having
6 3,000,000 or more inhabitants, every pawn and loan broker shall
7 keep a standard record book that has been approved by the
8 sheriff of the county in which the pawnbroker does business. In
9 municipalities in counties with 3,000,000 or more inhabitants,
10 the record book shall be approved by the police department of
11 the municipality in which the pawn or loan broker does
12 business. At the time of each and every loan or taking of a
13 pledge, an accurate account and description, in the English
14 language, of all the goods, articles and other things pawned or
15 pledged, the amount of money, value or thing loaned thereon,
16 the time of pledging the same, the rate of interest to be paid
17 on such loan, and the name and residence of the person making
18 such pawn or pledge shall be printed, typed, or written in ink
19 in the record book. Such entry shall include the serial number
20 or identification number of items received which bear such
21 number. Except for items purchased from dealers possessing a
22 federal employee identification number who have provided a
23 receipt to the pawnbroker, every pawnbroker shall also record
24 in his book, an accurate account and description, in the
25 English language, of all goods, articles and other things

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

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

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

7 A county or municipality, including a home rule unit, may
8 regulate a pawnbroker's identification requirements for
9 persons pledging or pawning goods, articles, or other things to
10 the pawnbroker in a manner that is not less restrictive than
11 the regulation by the State of a pawnbroker's identification
12 requirements for persons pledging or pawning goods, articles,
13 or other things. A home rule unit may not regulate a
14 pawnbroker's identification requirements for persons pledging
15 or pawning goods, articles, or other things to the pawnbroker
16 in a manner less restrictive than the regulation by the State
17 of a pawnbroker's identification requirements for persons
18 pledging or pawning goods, articles, or other things. This
19 Section is a limitation under subsection (i) of Section 6 of
20 Article VII of the Illinois Constitution on the concurrent
21 exercise by home rule units of the powers and functions
22 exercised by the State.

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

1 municipality in which the shop is located.

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

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

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

14 (205 ILCS 510/6) (from Ch. 17, par. 4656)

15 Sec. 6. Inspection of records.

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

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

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

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

8 (205 ILCS 510/7.5)

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

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

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

20 (205 ILCS 510/15 new)

21 Sec. 15. Temporary sales locations; unregistered
22 pawnbrokers.

23 (a) For purposes of this Section:

24 "Temporary sales location" means a location used by an

1 unregistered pawnbroker that is not a commercial property,
2 including, but not limited to, hotels and motels.

3 "Unregistered pawnbroker" means an individual or business
4 that conducts transactions at a temporary sales location but
5 are not registered under this Act.

6 (b) An unregistered pawnbroker that seeks to conduct
7 business at a temporary sales location in this State must
8 comply with all of the following:

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

12 (2) An unregistered pawnbroker must submit by 6 a.m.
13 each day to the sheriff of the county in which he or she is
14 located detailed transaction records for the previous day,
15 which must include purchaser, seller, and inventory
16 information.

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

22 (c) The Department of Financial and Professional
23 Regulation may adopt rules necessary for administration of this
24 Section.

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