

1 AN ACT concerning pawnbrokers.

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, 5, 6, and 11 as follows:

6 (205 ILCS 510/0.05)

7 Sec. 0.05. Administration of Act.

8 (a) This Act shall be administered by the Commissioner
9 of Banks and Real Estate who shall have all of the following
10 powers and duties in administering this Act:

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

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

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

21 (4) To subpoena witnesses, to compel their
22 attendance, to administer an oath, to examine any person
23 under oath, and to require the production of any relevant
24 books, papers, accounts, and documents in the course of
25 and pursuant to any investigation being conducted, or any
26 action being taken, by the Commissioner in respect of any
27 matter relating to the duties imposed upon, or the powers
28 vested in, the Commissioner under the provisions of this
29 Act or any rule promulgated in accordance with this Act.

30 (5) To conduct hearings.

31 (6) To impose civil penalties graduated up to

1 \$1,000 against any person for each violation of any
 2 provision of this Act, any rule promulgated in accordance
 3 with this Act, or any order of the Commissioner based
 4 upon the seriousness of the violation.

5 (6.5) To initiate, through the Attorney General,
 6 injunction proceedings whenever it appears to the
 7 Commissioner that any person, whether licensed under this
 8 Act or not, is engaged or about to engage in an act or
 9 practice that constitutes or will constitute a violation
 10 of this Act or any rule prescribed under the authority of
 11 this Act. The Commissioner may, in his or her
 12 discretion, through the Attorney General, apply for an
 13 injunction, and upon a proper showing, any circuit court
 14 may enter a permanent or preliminary injunction or a
 15 temporary restraining order without bond to enforce this
 16 Act in addition to the penalties and other remedies
 17 provided for in this Act.

18 (7) To issue a cease and desist order and, for
 19 violations of this Act, any order issued by the
 20 Commissioner pursuant to this Act, any rule promulgated
 21 in accordance with this Act, or any other applicable law
 22 in connection with the operation of a pawnshop, to
 23 suspend a license issued under this Act for up to 30
 24 days.

25 (8) To determine compliance with applicable law and
 26 rules related to the operation of pawnshops and to verify
 27 the accuracy of reports filed with the Commissioner, the
 28 Commissioner, not more than one time every 2 years, may,
 29 but is not required to, conduct a routine examination of
 30 a pawnshop, and in addition, the Commissioner may To
 31 examine the affairs of any pawnshop at any time if the
 32 Commissioner has reasonable cause to believe that
 33 unlawful or fraudulent activity is occurring, or has
 34 occurred, therein.

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

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

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

24 (b) After consultation with local law enforcement
25 officers, the Attorney General, and the industry, the
26 Commissioner may by rule require that pawnbrokers operate
27 video camera surveillance systems to record photographic
28 representations of customers and retain the tapes produced
29 for up to 30 days.

30 (c) Pursuant to rule, the Commissioner shall issue
31 licenses on an annual or multi-year basis for operating a
32 pawnshop. Any person currently operating or who has operated
33 a pawnshop in this State during the 2 years preceding the
34 effective date of this amendatory Act of 1997 shall be issued

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

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

26 (e) The Pawnbroker Regulation Fund is established as a
27 special fund in the State treasury. Moneys collected under
28 this Act shall be deposited into the Fund and used for the
29 administration of this Act. In the event that General
30 Revenue Funds are appropriated to the Office of the
31 Commissioner of Banks and Real Estate for the initial
32 implementation of this Act, the Governor may direct the
33 repayment from the Pawnbroker Regulation Fund to the General
34 Revenue Fund of such advance in an amount not to exceed

1 \$30,000. The Governor may direct this interfund transfer at
2 such time as he deems appropriate by giving appropriate
3 written notice.

4 (f) The Commissioner may, by rule, require all pawnshops
5 to provide for the expenses that would arise from the
6 administration of the receivership of a pawnshop under this
7 Act through the assessment of fees, the requirement to pledge
8 surety bonds, or such other methods as determined by the
9 Commissioner.

10 (g) All final administrative decisions of the
11 Commissioner under this Act shall be subject to judicial
12 review pursuant to the provisions of the Administrative
13 Review Law. For matters involving administrative review,
14 venue shall be in either Sangamon County or Cook County.

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

16 (205 ILCS 510/5) (from Ch. 17, par. 4655)

17 Sec. 5. Record requirements.

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

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

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

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

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

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

26 (d) Records, including reports to the Commissioner,
27 maintained by pawnbrokers shall be confidential, and no
28 disclosure of pawnbroker records shall be made except
29 disclosures authorized by this Act or ordered by a court of
30 competent jurisdiction. No record transferred to a
31 governmental official shall be improperly disclosed, provided
32 that use of those records as evidence of a felony or
33 misdemeanor shall be a proper purpose.

34 (e) Pawnbrokers and their associations may lawfully give

1 appropriate governmental agencies computer equipment for the
2 purpose of transferring information pursuant to this Act.

3 (Source: P.A. 90-56, eff. 7-3-97; 90-477, eff. 7-1-98;
4 90-655, eff. 7-30-98; 91-608, eff. 8-19-99.)

5 (205 ILCS 510/6) (from Ch. 17, par. 4656)

6 Sec. 6. Inspection of records.

7 (a) The book or computer records, as well as every
8 article or other thing of value so pawned or pledged, shall
9 at all times be open to the inspection of the Commissioner,
10 the sheriff of the county, his deputies, or any members of
11 the police force of any city in the county in which such
12 pawnbroker does business. In addition, the Commissioner shall
13 be authorized to inspect the books or records of any business
14 he or she has reasonable cause to believe is conducting pawn
15 transactions and should be licensed under this Act.

16 (b) The book or computer records, pawn tickets, or any
17 other records required by the Commissioner under this Act or
18 any rule promulgated in accordance with this Act shall be
19 maintained for a period of 3 years after the date on which
20 the record or ticket was prepared. These records and tickets
21 shall be open to inspection of the Commissioner at all times
22 during the 3-year period.

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

24 (205 ILCS 510/11) (from Ch. 17, par. 4661)

25 Sec. 11. Violations. Every person who knowingly violates
26 the provisions of this Act shall, for the first offense, be
27 guilty of a Class C misdemeanor, and for each subsequent
28 offense shall be guilty of a Class A misdemeanor, except that
29 a person who knowingly violates this Act by operating a
30 pawnshop without a license shall be guilty of a Class B
31 misdemeanor for the first offense and shall be guilty of a
32 Class A misdemeanor for any subsequent offense. provided,

1 ~~that~~ This Act shall not be construed as to, in any wise,
2 impair the power of cities or villages in this State to
3 license, tax, regulate except as to fee amounts, suppress,
4 and prohibit pawnbrokers as now provided by law.

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

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.