

AN ACT concerning regulation.

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

Section 5. The Pawnbroker Regulation Act is amended by changing Sections 0.05 and 4 as follows:

(205 ILCS 510/0.05)

Sec. 0.05. Administration of Act.

(a) This Act shall be administered by the Secretary of Financial and Professional Regulation, and, beginning on July 28, 2010 (the effective date of Public Act 96-1365), all references in this Act to the Commissioner of Banks and Real Estate are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional Regulation, who shall have all of the following powers and duties in administering this Act:

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

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

(2.5) To order restitution to consumers suffering damages resulting from violations of this Act, rules promulgated in accordance with this Act, or other laws or

regulations related to the operation of a pawnshop.

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

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

(5) To conduct hearings.

(6) To impose civil penalties ~~graduated~~ up to \$10,000 ~~\$1,000~~ against any person for each day that person violates ~~violation of~~ any provision of this Act, any rule promulgated in accordance with this Act, any State or federal law affecting pawnbrokers, or any order of the Secretary based upon the seriousness of the violation.

(6.5) To initiate, through the Attorney General, injunction proceedings whenever it appears to the Secretary that any person, whether licensed under this Act or not, is engaged or about to engage in an act or practice

that constitutes or will constitute a violation of this Act or any rule prescribed under the authority of this Act. The Secretary may, in his or her discretion, through the Attorney General, apply for an injunction, and upon a proper showing, any circuit court may enter a permanent or preliminary injunction or a temporary restraining order without bond to enforce this Act in addition to the penalties and other remedies provided for in this Act.

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

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

(9) In response to a complaint, to address any inquiries to any pawnshop in relation to its affairs, and it shall be the duty of the pawnshop to promptly reply in

writing to such inquiries. The Secretary may also require reports or information from any pawnshop at any time the Secretary may deem desirable.

(10) To revoke a license issued under this Act if the Secretary determines that (a) a licensee has been convicted of a felony in connection with the operations of a pawnshop; (b) a licensee knowingly, recklessly, or continuously violated this Act or State or federal law or regulation, a rule promulgated in accordance with this Act, or any order of the Secretary; (c) a fact or condition exists that, if it had existed or had been known at the time of the original application, would have justified license refusal; (d) the licensee knowingly submits materially false or misleading documents with the intent to deceive the Secretary or any other party; or (e) the licensee is unable or ceases to continue to operate the pawnshop.

(10.2) To remove or prohibit the employment of any officer, director, employee, or agent of the pawnshop who engages in or has engaged in unlawful activities that relate to the operation of a pawnshop.

(10.7) To prohibit the hiring of employees who have been convicted of a financial crime or any crime involving breach of trust who do not meet exceptions as established by rule of the Secretary.

(11) Following license revocation, to take possession

and control of a pawnshop for the purpose of examination, reorganization, or liquidation through receivership and to appoint a receiver, which may be the Secretary, a pawnshop, or another suitable person.

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

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

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

(e) The Pawnbroker Regulation Fund is established as a special fund in the State treasury. Moneys collected under this Act shall be deposited into the Fund and used for the administration of this Act. In the event that General Revenue Funds are appropriated to the Department of Financial and Professional Regulation for the initial implementation of this Act, the Governor may direct the repayment from the Pawnbroker Regulation Fund to the General Revenue Fund of such advance in an amount not to exceed \$30,000. The Governor may direct this interfund transfer at such time as he deems appropriate by giving appropriate written notice. Moneys in the Pawnbroker Regulation Fund may be transferred to the Professions Indirect Cost Fund, as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

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

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

(Source: P.A. 96-1038, eff. 7-14-10; 96-1365, eff. 7-28-10; 97-333, eff. 8-12-11.)

(205 ILCS 510/4) (from Ch. 17, par. 4654)

Sec. 4. Every pawnbroker shall, at the time of making any advancement or loan, deliver to the person pawning or pledging any property, a memorandum, contract, or note signed by him or her containing an accurate account and description, in the English language, of all the goods, articles or other things pawned or pledged, the amount of money, ~~value of things loaned thereon,~~ the time of pledging the same, the rate of interest to be paid on the loan, the name and residence of the person making the pawn or pledge, and the amount of any fees as specified in Section 2 of this Act.

(Source: P.A. 87-802.)

Public Act 098-0357

HB0101 Enrolled

LRB098 04899 MGM 34927 b

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