

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4887

A bill to amend 1917 PA 273, entitled

"An act to regulate and license pawnbrokers in certain governmental units of this state; and to prescribe certain powers and duties of certain local governmental units and state agencies,"

by amending the title and sections 9, 10, and 11 (MCL 446.209, 446.210, and 446.211), the title as amended by 2002 PA 469, sections 9 and 11 as amended by 2004 PA 585, and section 10 as amended by 1998 PA 233, and by adding section 12.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
2 An act to regulate and license pawnbrokers ~~in certain~~
3 ~~governmental units of~~ **THAT CONDUCT BUSINESS IN** this state; **TO**
4 **PROVIDE FOR THE DISPOSITION OF ALLEGEDLY MISAPPROPRIATED PROPERTY**
5 **IN THE POSSESSION OF PAWNBROKERS; TO PROVIDE REMEDIES AND PRESCRIBE**
6 **PENALTIES;** and to ~~prescribe certain~~ **PROVIDE FOR THE** powers and

1 duties of certain local governmental units and state agencies.

2 Sec. 9. (1) A licensed pawnbroker may charge ~~upon~~ **ON** any loan
3 a rate of interest ~~not to~~ **THAT DOES NOT** exceed 3% per month and is
4 not required to accept any interest less than 50 cents on a single
5 loan. A pawnbroker may also charge ~~\$1.00~~ **\$3.00** per month or
6 fraction of a month for the storage of unencumbered personal
7 property under any single pledge or pawn.

8 ~~—— (2) A pawnbroker may charge \$1.00 per month or fraction of a~~
9 ~~month for a usage fee for unencumbered personal property pawned or~~
10 ~~pledged and used by the pawner during the term of the pawn or~~
11 ~~pledge. A usage fee charged under this subsection is not considered~~
12 ~~interest.~~

13 (2) ~~(3)~~ A pawnbroker or the pawnbroker's agent or employee
14 shall not charge or receive interest on ~~the loan in excess of~~ **A**
15 **LOAN THAT EXCEEDS** the amounts ~~provided for~~ **ESTABLISHED** in this act.

16 (3) ~~(4)~~ Interest on ~~any~~ **A** loan is not payable in advance and
17 shall be computed on unpaid monthly balances without compounding.

18 (4) ~~(5)~~ A pawnbroker is not entitled to any examination fee
19 and shall not make any charge ~~in excess of~~ **THAT EXCEEDS** the amounts
20 ~~provided for~~ **ESTABLISHED** in this act.

21 Sec. 10. (1) ~~Title~~ **SUBJECT TO SECTION 12, TITLE** to the ~~AN~~ item
22 **THAT IS** pledged or pawned vests in the pawnbroker ~~upon the~~
23 ~~expiration of 3 months or~~ **90 DAYS AFTER THE PLEDGE OR PAWN, OR**
24 **AFTER THE EXPIRATION** of any **LONGER** period ~~beyond 3 months~~ agreed
25 ~~upon~~ **TO** by the parties, if the borrower has not paid the debt,
26 interest, and charges on the item **THAT WAS** pledged or pawned.

27 (2) ~~A~~ **SUBJECT TO SECTION 12, A** pawnbroker shall not sell any

1 ~~pawn or pledge~~ **ITEM THAT WAS PLEDGED OR PAWNED** until the item has
2 remained in ~~his or her~~ **THE PAWNBROKER'S** possession for at least 3
3 ~~months.~~ **90 DAYS.**

4 Sec. 11. (1) If at any time before the sale of the item
5 pledged or pawned the borrower pays or tenders to the pawnbroker
6 the debt and interest and charges on the item, that payment or
7 tender reinvests the pawner with the title and right of possession
8 to the property pledged.

9 (2) A pawnbroker may agree in writing, after pledged or pawned
10 unencumbered personal property has been deposited with the
11 pawnbroker, to allow the pawner to maintain possession and use of
12 the pledged or pawned unencumbered personal property during the
13 term of the pawn or pledge transaction. ~~The agreement may also~~
14 ~~include the payment of a usage fee under section 9.~~ A pawnbroker
15 may take possession of the pledged or pawned property pursuant to
16 section 9609 of the uniform commercial code, 1962 PA 174, MCL
17 440.9609.

18 **SEC. 12. (1) IF AN APPROPRIATE LAW ENFORCEMENT OFFICIAL HAS**
19 **PROBABLE CAUSE TO BELIEVE THAT PROPERTY IN THE POSSESSION OF A**
20 **PAWNBROKER IS MISAPPROPRIATED, OR IF A PERSON FILES AN OFFICIAL**
21 **POLICE REPORT ALLEGING MISAPPROPRIATION OF PROPERTY, THE OFFICIAL**
22 **MAY PLACE A WRITTEN HOLD ORDER ON THE PROPERTY. ALL OF THE**
23 **FOLLOWING APPLY TO A WRITTEN HOLD ORDER UNDER THIS SUBSECTION:**

24 **(A) THE HOLD ORDER SHALL SPECIFY A HOLDING PERIOD. THE LENGTH**
25 **OF THE HOLDING PERIOD SHALL NOT EXCEED 90 DAYS, UNLESS EXTENDED BY**
26 **COURT ORDER.**

27 **(B) THE APPROPRIATE LAW ENFORCEMENT OFFICIAL WHO PLACED THE**

1 HOLD ORDER MAY RESCIND IT IN WRITING.

2 (C) AN APPROPRIATE LAW ENFORCEMENT OFFICIAL MAY PLACE ONLY 1
3 HOLD ORDER ON A PARTICULAR ITEM OF PROPERTY.

4 (D) THE HOLD ORDER MUST INCLUDE ALL OF THE FOLLOWING
5 INFORMATION:

6 (i) THE NAME AND MAILING ADDRESS OF THE PAWNBROKER.

7 (ii) THE NAME, TITLE, AND IDENTIFICATION NUMBER OF THE
8 APPROPRIATE LAW ENFORCEMENT OFFICIAL WHO PLACED THE HOLD ORDER AND,
9 IF APPLICABLE, THE NUMBER ASSIGNED TO THE CLAIM OR REPORT RELATING
10 TO THE PROPERTY.

11 (iii) A COMPLETE DESCRIPTION OF THE PROPERTY IN THE POSSESSION
12 OF THE PAWNBROKER, INCLUDING MODEL NUMBER AND SERIAL NUMBER, IF
13 APPLICABLE.

14 (iv) THE NAME OF THE PERSON THAT REPORTED THAT THE PROPERTY
15 WAS MISAPPROPRIATED, UNLESS OTHERWISE PROHIBITED BY LAW.

16 (v) THE EXPIRATION DATE OF THE HOLDING PERIOD SPECIFIED UNDER
17 SUBDIVISION (A) .

18 (2) AN APPROPRIATE LAW ENFORCEMENT OFFICIAL MUST SIGN AND DATE
19 A COPY OF A WRITTEN HOLD ORDER HE OR SHE PLACED ON AN ITEM OF
20 PROPERTY UNDER SUBSECTION (1) AS EVIDENCE THAT HE OR SHE PLACED THE
21 HOLD ORDER AND OF THE DATE THE HOLDING PERIOD SPECIFIED UNDER
22 SUBSECTION (1) (A) BEGINS.

23 (3) ON THE TENTH DAY AFTER A HOLD ORDER PLACED UNDER
24 SUBSECTION (1) EXPIRES, IF THE PAWNBROKER HAS NOT RECEIVED NOTICE
25 FROM A COURT THAT IT HAS GRANTED AN EXTENSION OF THE HOLD ORDER ON
26 THE PROPERTY, TITLE TO THE PROPERTY VESTS IN AND IS CONSIDERED
27 CONVEYED BY OPERATION OF LAW TO THE PAWNBROKER, FREE OF ANY

1 LIABILITY FOR CLAIMS BUT SUBJECT TO ANY RESTRICTIONS CONTAINED IN
2 THE PAWN TRANSACTION CONTRACT AND SUBJECT TO THE PROVISIONS OF THIS
3 ACT.

4 (4) A COURT SHALL NOT GRANT AN EXTENSION OF A HOLD ORDER
5 PLACED ON PROPERTY UNDER SUBSECTION (1) UNLESS A PERSON THAT CLAIMS
6 AN INTEREST IN THE PROPERTY THAT IS ADVERSE TO THE PAWNBROKER OR
7 PAWNER HAS FILED A REPORT WITH A LAW ENFORCEMENT AGENCY AND
8 PROVIDED A COPY OF THE REPORT TO THE COURT AND A COPY OF THAT
9 REPORT ACCOMPANIES THE NOTICE FROM THE COURT THAT IT GRANTED THE
10 EXTENSION DESCRIBED IN SUBSECTION (3) .

11 (5) EXCEPT AS PROVIDED IN SUBSECTION (6) , A PAWNBROKER SHALL
12 NOT RELEASE OR DISPOSE OF PROPERTY THAT IS SUBJECT TO A HOLD ORDER
13 UNDER THIS SECTION EXCEPT PURSUANT TO A COURT ORDER, A WRITTEN
14 RELEASE FROM THE APPROPRIATE LAW ENFORCEMENT OFFICIAL, OR THE
15 EXPIRATION OF THE HOLDING PERIOD OF THE HOLD ORDER DESCRIBED IN
16 SUBSECTION (1) (A) .

17 (6) WHILE A HOLD ORDER IS IN EFFECT, ON REQUEST, THE
18 PAWNBROKER MUST RELEASE THE PROPERTY THAT IS SUBJECT TO THE HOLD
19 ORDER TO THE CUSTODY OF THE APPROPRIATE LAW ENFORCEMENT OFFICIAL
20 THAT PLACED THE HOLD ORDER FOR USE IN A CRIMINAL INVESTIGATION OR
21 PROCEEDING RELATED TO THE OWNERSHIP CLAIM. THE RELEASE OF THE
22 PROPERTY TO THE CUSTODY OF THE APPROPRIATE LAW ENFORCEMENT OFFICIAL
23 IS NOT CONSIDERED A WAIVER OR RELEASE OF THE PAWNBROKER'S PROPERTY
24 RIGHTS IN, INTEREST IN, OR LIEN ON THE PROPERTY.

25 (7) A LAW ENFORCEMENT OFFICIAL OR ANY OTHER PERSON THAT
26 OBTAINS CUSTODY OF PROPERTY UNDER THIS SECTION SHALL NOT DELIVER
27 THE PROPERTY TO ANY PERSON THAT CLAIMS OWNERSHIP OF THE PROPERTY

1 UNLESS BOTH OF THE FOLLOWING ARE MET:

2 (A) THE PROPERTY IS DELIVERED AFTER A HEARING AT WHICH A COURT
3 DETERMINES THE MERITS OF THE CLAIMS TO THE PROPERTY.

4 (B) IF THE COURT FINDS AGAINST THE PAWNBROKER, THE COURT
5 ORDERS THE PAWNER OR SELLER OF THE ITEM THAT WAS PAWNED OR PLEDGED
6 TO MAKE RESTITUTION TO THE PAWNBROKER FOR ALL MONEY THAT THE
7 PAWNBROKER ADVANCED, AND THE TOTAL INTEREST AND CHARGES ACCRUED
8 SINCE THE PAWNBROKER FIRST ADVANCED THAT MONEY, TOGETHER WITH
9 REASONABLE ATTORNEY FEES AND COSTS THAT THE PAWNBROKER INCURRED IN
10 DEFENDING THE ACTION RELATED TO THE DISPUTED PROPERTY.

11 (8) IF THE COURT AFTER A HEARING DESCRIBED IN SUBSECTION
12 (7) (A) FINDS IN FAVOR OF THE PAWNBROKER, THE PROPERTY MUST BE
13 RETURNED TO THE PAWNBROKER.

14 (9) A PAWNBROKER IS NOT LIABLE TO ANY PERSON FOR ANY PROPERTY
15 THAT IS SEIZED FROM THE PAWNBROKER BASED ON THE PAWNBROKER'S
16 INABILITY TO RETURN THE PROPERTY TO THAT PERSON BECAUSE OF THE
17 SEIZURE.

18 (10) AS USED IN THIS SECTION, "APPROPRIATE LAW ENFORCEMENT
19 OFFICIAL" MEANS A SHERIFF OR SHERIFF'S DEPUTY OF A SHERIFF'S
20 DEPARTMENT IN THIS STATE; VILLAGE OR TOWNSHIP MARSHAL OF A VILLAGE
21 OR TOWNSHIP IN THIS STATE; OFFICER OF THE POLICE DEPARTMENT OF ANY
22 CITY, VILLAGE, OR TOWNSHIP IN THIS STATE; OR OFFICE OF THE MICHIGAN
23 STATE POLICE.

24 Enacting section 1. This amendatory act takes effect 90 days
25 after the date it is enacted into law.