



**House
Legislative
Analysis
Section**

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PAWNBROKER AMENDMENTS

**House Bill 4035 (Substitute H-2)
First Analysis (4-20-93)**

**Sponsor: Rep. Joseph Young, Jr.
Committee: State Affairs**

THE APPARENT PROBLEM:

The pawnbrokers' act, Public Act 273 of 1917, has been virtually unchanged for decades. Allowable license fees have not kept pace with inflation, and various provisions, such as a ban on Sunday business, are considered antiquated. The costs of doing business, notably insurance costs, have greatly increased over the years, and pawnbrokers and others argue the need for additional reforms that include raising the rate of interest that a pawnbroker may charge on the loan given on a pawned item. Legislation has been proposed to address these concerns.

THE CONTENT OF THE BILL:

The bill would amend the pawnbrokers' act, Public Act 273 of 1917, to increase allowable license fees, require permanent records on forms prescribed by the bill, increase maximum allowable interest rates, minimum interest charges, and monthly storage charges, and delete requirements for sales of unredeemed items to be by public auction. The bill would repeal a requirement for paying to the pawnbroker any surplus resulting from the sale of the pawned item. Also repealed would be a ban on Sunday business and a section dealing with a bond that was declared unconstitutional by the Michigan Supreme Court in 1941. Further details follow.

Licenses. License requirements, at present limited to pawnbrokers in municipalities with populations over 3,000, would apply to all pawnbrokers. Licenses, which are locally-issued, would expire from three to five years after the date of issue, rather than the current one year. License fees may at present be from \$50 to \$500 per year; the bill would allow them to be up to \$1,000 per year. The amount of the required surety bond would remain at \$3,000.

Records and inspections. Records on pawned items would have to be maintained on forms provided by pawnbrokers on a form substantially complying with a form prescribed by the bill. Forms would be

sequentially numbered and would include, in addition to currently-required information on the item and the pawnbroker, the following: the pawnbroker's driver's license number, social security number, or other government identification number; the pawnbroker's thumbprint; and information on the pawnbroker's employer. The record would no longer have to state the interest rate being charged. Within 48 hours after receiving an item, one copy of the record of transaction would be sent to the local police agency and one to the state police. Local authorities may at present inspect pawnbroker premises and records; the bill would explicitly extend this authority to the state police.

(Note: Public Act 231 of 1945 requires a pawnbroker or secondhand dealer to take the thumbprint of someone from whom property was received, and to send a copy of the thumbprint, along with a description of the property, to the state police within 48 hours.)

Pawn tickets. The memorandum that a pawnbroker must give a pawnbroker would bear substantially the same notice that is now given: that if interest charges in excess of five percent per month (three percent under current law) plus allowable storage charges are asked or received, the loan is void and the borrower cannot be made to pay back the money loaned, and the pawnbroker loses all right to the possession of the goods. The bill would require that the memorandum contain the same transaction number recorded in the pawnbroker's book when the article was pawned.

Interest and storage charges. Maximum allowable interest charges would be increased from three to five percent per month. A pawnbroker may at present charge minimum interest of 50 cents on a single loan; the bill would allow \$2. Allowable storage charges would be raised by \$1.50 to \$2 a month or part of a month. Limits on the duration of storage charges and a ban on storage charges on jewelry would be eliminated.

House Bill 4035 (4-20-93)

Storage and sales of pawned items. As with current law, a pawnbroker could not sell an item until it had been in his or her possession for at least six months. However, the bill would delete provisions requiring sales to be by public auction following newspaper notice, and requiring notices to be filed with the county clerk. The bill would require that an item remain in the same building where the item was received, and that the building be easily accessible to inspection by authorities. A pawnbroker, within 24 hours after receiving an article, would attach to it a tag bearing the transaction number assigned to that pawn. In the case of a loan of \$25 or more, a pawnbroker would send a written notice by first-class mail to the person who pawned the article; the notice would be sent no later than two weeks before the expiration date of the loan (the bill does not state what this notice would say).

Penalties. Penalties for violation of the act would be unchanged: violation of the act would continue to be a misdemeanor punishable by a fine of between \$25 and \$100, a jail term of 10 days to three months, or both fine and imprisonment. As with current law, a pawnbroker's license would be revoked for one year upon the conviction of the pawnbroker or his or her employee; however, under the bill, the pawnbroker's license would be revoked for an employee's violation only if the employee's action was one that reasonably should have been prevented through supervision by the pawnbroker.

MCL 446.201 et al.

FISCAL IMPLICATIONS:

There is no fiscal information at present. (3-6-92)

ARGUMENTS:

For:

The bill would update the pawnbrokers' act, and ease various burdens that the law places on pawnbrokers. By allowing pawnbrokers to charge up to five percent monthly interest, rather than the current three percent, the bill would enable pawnbrokers to meet their steep costs of doing business, which include high insurance costs and the costs of expensive vaults and alarm systems. Pawnbrokers also would take on the responsibility of providing their own forms, which would relieve the state of this burden. Pawnbrokers would similarly be aided by the elimination of antiquated restrictions on the sales of unredeemed items.

Stiffer license fees would help to ensure that only stable, legitimate businesses were licensed, thus improving the industry as a whole and helping to protect consumers from shady operators. Consumers would further benefit from the greater availability of loan dollars that would result under the bill, and from a provision that would explicitly require a pawnbroker to notify a pawnner by mail when the deadline for paying the loan was approaching. Pawnbrokers are heavily regulated and would continue to be so; what the bill would do is promote a more stable and prosperous industry.

Against:

The bill would provide a windfall for pawnbrokers, with no significant consumer protections. In addition to increasing the allowable monthly storage charges from 50 cents to \$2, and raising the minimum interest on a loan from 50 cents to \$2, the bill would nearly double the allowable rate of interest on pawn loans, allowing a pawnbroker to charge 30 percent interest over six months. Then, if the item remained unredeemed and was sold, the pawnbroker could keep the entire proceeds, rather than return to the pawnner any surplus over the amount needed to satisfy pawn charges. Sales would be more profitable: requirements for newspaper notice and public auction would be eliminated. While license fees would be increased, penalties would not be: violation of the act would continue to be a misdemeanor subject to a maximum fine of \$100 or a short jail term. Such low penalties have little deterrent value; besides, even if a pawnbroker ignored license requirements and other regulatory demands, prosecutorial priorities may infrequently extend to such a minor offense. The benefits claimed for consumers would do little: the only thing that the bill would explicitly do for pawnners is require the pawnbroker to mail a notice to the consumer prior to the expiration of the loan. However, the bill does not state what this notice is to say; further, it may be that receiving a pawnshop notice at home would be extremely awkward for the consumer, but the bill makes no provision for waiving the notice. Neither current law nor the bill require the consumer to be notified in writing of exactly what the charges will be, or of the consequences of failing to meet the loan terms. The bill would need further changes to balance consumer and pawnbroker benefits.

Response:

According to a series of newspaper articles a couple of years ago, a number of pawnbrokers in a major metropolitan area routinely charged loan and

storage rates that amounted to 20 percent a month, despite current restrictions on interest rates (three percent per month) and storage charges (fifty cents a month). Perhaps by increasing the maximum allowable interest rate, the minimum interest charge, and the monthly storage fee, the bill will actually wind up lowering what some people currently are paying pawnbrokers.

POSITIONS:

Lew Silver Diamond Broker, Inc., supports the bill.
(3-5-92)

The Michigan Retailers Association supports the concept of modernizing the pawnbrokers' act. (4-14-93)