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PAWNBROKERS: REQUIRE CERTAIN DOCUMENTATION

House Bill 5346 as enrolled

Public Act 233 of 1998

Sponsor: Rep. William Callahan

House Committee: Regulatory Affairs
Senate Committee: Economic Development,
International Trade and Regulatory
Affairs

Second Analysis (7-29-98)

THE APPARENT PROBLEM:

The pawnbrokers' act, Public Act 273 of 1917, has been virtually unchanged for decades. Some police officers argue that reporting requirements under the act are so minimal that pawnbrokers may report to police that they received a "gun", "jewelry", or "watch", with no descriptions or even a make or model, thus making it harder for police to track and retrieve stolen property. Further, computers, cell phones, and pagers have become a favorite target of thieves. Some believe that establishing a better paper trail on pawned items would enable police to crack down on illegal fencing operations and to recover stolen property. Others feel that parts of the act are antiquated, such as requiring unredeemed articles to be sold only at public auction. Legislation has been introduced to create a transaction report designed to provide a more detailed description of pawned items and to update various provisions of the act.

THE CONTENT OF THE BILL:

The bill would amend Public Act 273 of 1917, which regulates pawnbrokers in cities or villages with populations over 3,000, to require pawnbrokers to include certain information in the records that each pawnbroker is required to keep and to forward a copy of the record to the local police, increase monthly storage charges, and delete requirements that sales of unredeemed items be by public auction.

Records and inspections. Currently, pawnbrokers are required to record certain information for each article received in a book that can be inspected by law enforcement personnel. The bill would instead require that a permanent record of each transaction of

receiving an article of personal property be recorded on a form provided by the pawnbroker that substantially complied with provisions in the bill. Each record of transaction would have to be eight and a half inches by eleven inches, in duplicate, written legibly in English, and contain all the applicable information required under the bill. The pawnbroker would have to retain one copy and send one copy to the local police agency within 48 hours of the transaction. The bill would not prohibit the use or transmission of the information required by the transaction report to be made by computer or other electronic media. In addition to information currently required to be recorded in a pawnbroker's book such as the amount of money loaned on the pawn and the day and hour when the article was received by the pawnbroker, the bill would specify that the record would have to include a sequential transaction number and the driver license number, official state personal identification card number, or government identification number of the person from which an article was received. Other information required to be on the transaction form would include a detailed description of the article; the customer's name, address, place of employment, driver's license or other identification number, age, height, weight, and race; and the customer's right thumbprint along with the signature of the person taking the thumbprint. The form would also include a notice that a copy of the report would have to be mailed to the local police within 48 hours. The bill would delete the requirement to list the rate of interest to be paid on a loan made by a pawnbroker. The bill would also delete the mayor and president of a municipality from the list of those having authority to inspect the pawnbroker's records, but would add the Department of State Police.

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(Note: Section 6 of the act [MCL 446.206] currently requires pawnbrokers to make a sworn statement daily, except on Sundays, to the local police regarding any transactions. A description of the goods along with the pawnee's name, residence, and description must be included with the sworn statement. Further, Public Act 231 of 1945 [MCL 445.472] 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 local chief of police or chief police officer and also to the state police within 48 hours.)

Storage charges. Allowable storage charges would be raised from 50 cents to \$1 a month. Other limits on the duration of storage charges and a ban on storage charges on jewelry would be eliminated.

Sales of pawned items. Currently, a pawnbroker cannot sell an item until it has been in his or her possession for at least six months, and then only by public auction that has been advertised in accordance with strict provisions in the act. The bill would instead grant title to a pledged or pawned item after three months or any period beyond three months that had been agreed upon by the pawnbroker and the borrower if the borrower had not paid the debt, interest, and charges on the item. Provisions pertaining to selling unredeemed items by public auction and the advertising requirements for such an auction would be eliminated. Section 12 of the act, which pertains to any surplus money resulting from the sale of a pawned item being returned to the person who pawned the item, would be repealed. Thus, under the bill, a pawnbroker would be allowed to keep surplus revenue (money received from a sale that was over and above the amount of the loan and any interest or charges due) from the sale of an unredeemed pawned item.

Receiving items for pawn. Currently, the act prohibits a pawnbroker from receiving an article for pawn from a person about whom a pawnbroker had received a written notice from a police officer or parent indicating that the person was a minor, of unsound mind, habitually frequented houses of ill-fame, squandered his earnings or wasted his estate due to drinking or gaming, and so on. The bill would strike the current language and instead specify that a pawnbroker could not receive an article for pawn from a person under 18 years of age or a person that the pawnbroker suspected as having stolen the article to be pawned.

The bill would take immediate effect.

MCL 446.205 et al.

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, the bill would not have a fiscal impact on state or local government. (6-2-98)

ARGUMENTS:

For:

Legitimate pawnbrokers provide a service to their customers, often being the only source of loans for people who, for various reasons, do not have access to more traditional bank loans. Pawnbrokers report that over 90 percent of pawned items are redeemed by the pawnees. However, by requiring more detailed information to be recorded on sequentially numbered transaction forms filed with the local police, the bill should discourage illegal operations and aid police in tracking down and recovering stolen items.

Against:

The pawnbrokers' act already requires pawnbrokers to make a daily report to the local police. If the bill is going to add a newer and more detailed reporting requirement, then the daily reporting requirement should be deleted.

For:

Pawnbrokers would be aided by the elimination of antiquated restrictions on the sales of unredeemed items, and would be allowed to keep the surplus over the amount loaned. Further, requirements for newspaper notice and public auction would be eliminated, and storage fees would now be a flat dollar a month regardless of the type of item pawned. Pawnbrokers are currently heavily regulated and would continue to be so: what the bill would do is promote a more stable and level playing field for legitimate pawnbrokers.

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.