

PAWNED GOODS HOLD PROCESS

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House Bill 4887 as reported from committee

Sponsor: Rep. Peter J. Lucido

Committee: Commerce and Trade

Complete to 12-11-17

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY:

House Bill 4887 would amend 1917 PA 273 (“An act to regulate and license pawnbrokers...”) to allow an “appropriate law enforcement official” to place a written hold on property in the possession of a pawnbroker. A law enforcement official could place a hold if he or she had probable cause to believe that property in the possession of a pawnbroker was misappropriated, or if a person filed a police report alleging misappropriation of property. The bill would create a procedure for the holding process by adding Section 12 to the act.

DETAILED SUMMARY:

All of the following would apply to the written hold order under the bill:

- The hold order must include a holding period of less than 90 days, unless extended by a court order.
- The law enforcement official who placed the hold order could rescind it.
- A law enforcement official could place only one hold on a particular item of property.

The hold order would be required to include all of the following:

- Name and mailing address of the pawnbroker.
- Name, title, and identification number of the law enforcement official placing the hold and, if applicable, the claim or report number relating to the property.
- A description of the property, including model and serial number, if applicable.
- The name of the person that reported that the property was misappropriated, unless otherwise prohibited by law.

The law enforcement official would be required to sign and date the hold order as evidence that the order was placed.

Ten days after a hold order expired, if the pawnbroker received no notice that the hold order had been extended, title to the property would vest in the pawnbroker. The title to property would be free of liability for claims, but would still be subject to any restrictions in the pawn transaction contract and subject to the provisions of the act.

A court would grant an extension of a hold order if all the following conditions were met:

- The person that claimed an interest in the property that is adverse to the pawnbroker or pawner filed a report with a law enforcement agency and provided a copy to the court.
- The report was included in the notice from the court to the pawnbroker that it granted an extension.

A pawnbroker would not be able to release or dispose of property subject to a hold order, except pursuant to a court order, a written release from the appropriate law enforcement official, or the expiration of the holding period for the hold order.

While a hold order was in effect, the pawnbroker would be required to release the property on request to the custody of the appropriate law enforcement official for use in a criminal investigation or proceeding related to the ownership claim. The release of the property to the law enforcement official would not be considered a waiver or release of the pawnbroker's property rights in, interest in, or lien on the property.

A law enforcement official or any other person that obtains custody of property would deliver the property to a person claiming ownership if both the following were met:

- The property is delivered after a court hearing that determines the merits of the claims to the property.
- If the court found against the pawnbroker, the court ordered the pawner of the item to make restitution to the pawnbroker for all money that the pawnbroker advanced, and the interest and charges accrued, together with reasonable attorney fees and costs the pawnbroker incurred in defending the action related to the property.

If the court found in favor of the pawnbroker, the property would be returned to the pawnbroker. Finally, a pawnbroker would not be liable to any person for any property that is seized from the pawnbroker and unable to be returned.

The bill would define "appropriate law enforcement official" as any sheriff or sheriff's deputy; village or township marshal; officer of any police department of any city, village, or township; or officer of the Michigan State Police.

HB 4887 would take effect 90 days after being enacted into law.

MCL 446.210 and proposed MCL 446.212

FISCAL IMPACT:

House Bill 4887 would have a minor fiscal impact on the Department of State Police and local law enforcement agencies. The requirements to process, store, and relinquish—when necessary—pawned items in question would impose minor administrative costs on law enforcement agencies, which would be similar to the costs of processing and storing other items obtained as evidence.

POSITIONS:

A representative of the Michigan Pawnbrokers Association testified in support of the bill. (11-7-17; and indicated support 11-28-17)

Legislative Analyst: Patrick Morris
Fiscal Analyst: Kent Dell

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