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BILL



ANALYSIS

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House Bill 4887 (as passed by the House)
Sponsor: Representative Peter J. Lucido
House Committee: Commerce and Trade
Senate Committee: Commerce

Date Completed: 8-31-18

CONTENT

The bill would add a section to Public Act 273 of 1917, which regulates and licenses pawnbrokers in certain governmental units, to do the following:

- **Permit a law enforcement officer to place a written hold order on property in the possession of a pawnbroker, if he or she believed the property to be misappropriated, or if a person filed a report alleging misappropriation of property.**
- **Require a hold order to include certain information, such as the law enforcement official's name, title, and identification number; a description of the property; and the expiration date of the holding period, which could not exceed 90 days.**
- **Specify that ten days after a hold order expired, title to property would transfer to a pawnbroker, if he or she had not received notice from a court granting an extension to the hold order.**
- **Prohibit a pawnbroker from releasing or disposing of property that was subject to a hold order except pursuant to a court order, written release from a law enforcement official, or the expiration of the holding period of a hold order.**
- **Prohibit a law enforcement official or any other person who had custody of property from delivering the property to any person who claimed ownership of it unless certain requirements were met.**

Additionally, the bill would amend the Act to specify that title to a pledged or pawned item would vest in a pawnbroker 90 days, instead of three months, after the pledge or pawn, or after the expiration of any longer period agreed to by the parties, if the borrower had not paid the debt, interest, and charges on the item.

The bill would take effect 90 days after its enactment.

Written Hold Order

Under the bill, if an appropriate law enforcement official had probable cause to believe that property in the possession of a pawnbroker was misappropriated, or if a person filed an official police report alleging misappropriation of property, the official could place a written hold order on the property. All of the following would apply to a written hold order:

- It would have to specify a holding period not exceeding 90 days, unless extended by court order.
- The law enforcement official who placed the hold order could rescind it in writing.

-- A law enforcement official could place only one hold order on a particular item of property.

("Appropriate law enforcement official" would mean a sheriff or sheriff's deputy of a Michigan sheriff's department; village or township marshal of a Michigan village or township; officer of the police department of any Michigan city, village, or township; or officer of the Michigan State Police.)

A hold order also would have to include all of the following information:

- The name and mailing address of the pawnbroker.
- The name, title, and identification number of the law enforcement official who placed the hold order and, if applicable, the number assigned to the claim or report relating to the property.
- A complete description of the property in the possession of the pawnbroker, including the model and serial numbers, if applicable.
- The name of the person who reported that the property was misappropriated, unless otherwise prohibited by law.
- The expiration date of the holding period.

A law enforcement official would have to sign and date a copy of a written hold order he or she placed on an item of property as evidence that he or she placed the hold order and of the date the holding period began.

Expiration of Hold Order & Extension

On the tenth day after a hold order expired, if the pawnbroker had not received notice from a court that it had granted an extension of the hold order on the property, title to the property would vest in and would be considered conveyed by operation of law to the pawnbroker, free of any liability for claims, but subject to any restrictions contained in the pawn transaction contract and subject to the provisions of the Act.

A court could not grant an extension of a hold order unless a person who claimed an interest in the property that was adverse to the pawnbroker or pawner had filed a report with a law enforcement agency and had provided a copy of the report to the court, and a copy of that report accompanied the notice from the court that it granted an extension on a hold order.

Disposition of Property Subject to Hold Order

Except as provided below, a pawnbroker could not release or dispose of property that was subject to a hold order except pursuant to a court order, a written release from an appropriate law enforcement official, or the expiration of the holding period of the hold order.

While a hold order was in effect, on request, the pawnbroker would have to release the property subject to the hold order to the custody of the appropriate law enforcement official who placed the hold order for use in a criminal investigation or proceeding related to the ownership claim. The release of the property 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 who obtained custody of property could not deliver the property to any person who claimed ownership of the property unless both of the following were met:

- The property was delivered after a hearing at which a court determined the merits of the claims to the property.

- If the court found against the pawnbroker, the court ordered the pawner or seller of the pledged or pawned item to make restitution to the pawnbroker for all money the pawnbroker advanced, and the total interest and charges accrued since the pawnbroker first advanced that money, with reasonable attorney fees and costs that the pawnbroker incurred in defending the action related to the disputed property.

After a hearing at which a court determined the merits of the claims to the property, if the court found in favor of the pawnbroker, the property would have to be returned to him or her.

A pawnbroker would not be liable to any person for any property that was seized from the pawnbroker based on his or her inability to return the property to that person because of the seizure.

MCL 446.209 et al.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have a minimal fiscal impact on the Department of State Police and local law enforcement agencies. The requirement - in some instances - to process, store, and relinquish pawned items under the bill could impose minor administrative costs, similar to costs already routinely assumed in the processing and storing other items obtained as evidence.

Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.