

HOUSE BILL No. 4887

August 16, 2017, Introduced by Rep. Lucido and referred to the Committee on Commerce and Trade.

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 section 10 (MCL 446.210), the title as amended by 2002 PA 469 and section 10 as amended by 1998 PA 233, and by adding section 12.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to regulate and license pawnbrokers ~~in certain~~
~~governmental units of~~ **THAT CONDUCT BUSINESS IN** this state; **TO**
PROVIDE FOR THE DISPOSITION OF ALLEGEDLY MISAPPROPRIATED PROPERTY
IN THE POSSESSION OF PAWNBROKERS; TO PROVIDE REMEDIES AND PRESCRIBE
PENALTIES; and to ~~prescribe certain~~ **PROVIDE FOR THE** powers and
duties of certain local governmental units and state agencies.

Sec. 10. (1) ~~Title~~ **SUBJECT TO SECTION 12, TITLE** to the ~~AN~~ item

1 ~~THAT IS~~ pledged or pawned vests in the pawnbroker ~~upon the~~
2 ~~expiration of 3 months or~~ **90 DAYS AFTER THE PLEDGE OR PAWN, OR**
3 **AFTER THE EXPIRATION** of any **LONGER** period ~~beyond 3 months~~ agreed
4 ~~upon~~ **TO** by the parties, if the borrower has not paid the debt,
5 interest, and charges on the item **THAT WAS** pledged or pawned.

6 (2) ~~A~~ **SUBJECT TO SECTION 12, A** pawnbroker shall not sell any
7 ~~pawn or pledge~~ **ITEM THAT WAS PLEDGED OR PAWNED** until the item has
8 remained in ~~his or her~~ **THE PAWNBROKER'S** possession for at least ~~3~~
9 ~~months.~~ **90 DAYS.**

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

16 (A) **THE HOLD ORDER SHALL SPECIFY A HOLDING PERIOD. THE LENGTH**
17 **OF THE HOLDING PERIOD SHALL NOT EXCEED 90 DAYS, UNLESS EXTENDED BY**
18 **COURT ORDER.**

19 (B) **THE APPROPRIATE LAW ENFORCEMENT OFFICIAL WHO PLACED THE**
20 **HOLD ORDER MAY RESCIND IT IN WRITING.**

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

23 (D) **THE HOLD ORDER MUST INCLUDE ALL OF THE FOLLOWING**
24 **INFORMATION:**

25 (i) **THE NAME AND MAILING ADDRESS OF THE PAWNBROKER.**

26 (ii) **THE NAME, TITLE, AND IDENTIFICATION NUMBER OF THE**
27 **APPROPRIATE LAW ENFORCEMENT OFFICIAL WHO PLACED THE HOLD ORDER AND,**

1 IF APPLICABLE, THE NUMBER ASSIGNED TO THE CLAIM OR REPORT RELATING
2 TO THE PROPERTY.

3 (iii) A COMPLETE DESCRIPTION OF THE PROPERTY IN THE POSSESSION
4 OF THE PAWNBROKER, INCLUDING MODEL NUMBER AND SERIAL NUMBER, IF
5 APPLICABLE.

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

8 (v) THE EXPIRATION DATE OF THE HOLDING PERIOD SPECIFIED UNDER
9 SUBDIVISION (A) .

10 (2) AN APPROPRIATE LAW ENFORCEMENT OFFICIAL MUST SIGN AND DATE
11 A COPY OF A WRITTEN HOLD ORDER HE OR SHE PLACED ON AN ITEM OF
12 PROPERTY UNDER SUBSECTION (1) AS EVIDENCE THAT HE OR SHE PLACED THE
13 HOLD ORDER AND OF THE DATE THE HOLDING PERIOD SPECIFIED UNDER
14 SUBSECTION (1) (A) BEGINS.

15 (3) ON THE TENTH DAY AFTER A HOLD ORDER PLACED UNDER
16 SUBSECTION (1) EXPIRES, IF THE PAWNBROKER HAS NOT RECEIVED NOTICE
17 FROM A COURT THAT IT HAS GRANTED AN EXTENSION OF THE HOLD ORDER ON
18 THE PROPERTY, TITLE TO THE PROPERTY VESTS IN AND IS CONSIDERED
19 CONVEYED BY OPERATION OF LAW TO THE PAWNBROKER, FREE OF ANY
20 LIABILITY FOR CLAIMS BUT SUBJECT TO ANY RESTRICTIONS CONTAINED IN
21 THE PAWN TRANSACTION CONTRACT AND SUBJECT TO THE PROVISIONS OF THIS
22 ACT.

23 (4) A COURT SHALL NOT GRANT AN EXTENSION OF A HOLD ORDER
24 PLACED ON PROPERTY UNDER SUBSECTION (1) UNLESS A PERSON THAT CLAIMS
25 AN INTEREST IN THE PROPERTY THAT IS ADVERSE TO THE PAWNBROKER OR
26 PAWNER HAS FILED A REPORT WITH A LAW ENFORCEMENT AGENCY AND
27 PROVIDED A COPY OF THE REPORT TO THE COURT AND A COPY OF THAT

1 REPORT ACCOMPANIES THE NOTICE FROM THE COURT THAT IT GRANTED THE
2 EXTENSION DESCRIBED IN SUBSECTION (3) .

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

9 (6) WHILE A HOLD ORDER IS IN EFFECT, ON REQUEST, THE
10 PAWNBROKER MUST RELEASE THE PROPERTY THAT IS SUBJECT TO THE HOLD
11 ORDER TO THE CUSTODY OF THE APPROPRIATE LAW ENFORCEMENT OFFICIAL
12 THAT PLACED THE HOLD ORDER FOR USE IN A CRIMINAL INVESTIGATION OR
13 PROCEEDING RELATED TO THE OWNERSHIP CLAIM. THE RELEASE OF THE
14 PROPERTY TO THE CUSTODY OF THE APPROPRIATE LAW ENFORCEMENT OFFICIAL
15 IS NOT CONSIDERED A WAIVER OR RELEASE OF THE PAWNBROKER'S PROPERTY
16 RIGHTS IN, INTEREST IN, OR LIEN ON THE PROPERTY.

17 (7) A LAW ENFORCEMENT OFFICIAL OR ANY OTHER PERSON THAT
18 OBTAINS CUSTODY OF PROPERTY UNDER THIS SECTION SHALL NOT DELIVER
19 THE PROPERTY TO ANY PERSON THAT CLAIMS OWNERSHIP OF THE PROPERTY
20 UNLESS BOTH OF THE FOLLOWING ARE MET:

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

23 (B) IF THE COURT FINDS AGAINST THE PAWNBROKER, THE COURT
24 ORDERS THE PAWNER OR SELLER OF THE ITEM THAT WAS PAWNED OR PLEDGED
25 TO MAKE RESTITUTION TO THE PAWNBROKER FOR ALL MONEY THAT THE
26 PAWNBROKER ADVANCED, AND THE TOTAL INTEREST AND CHARGES ACCRUED
27 SINCE THE PAWNBROKER FIRST ADVANCED THAT MONEY, TOGETHER WITH

1 REASONABLE ATTORNEY FEES AND COSTS THAT THE PAWNBROKER INCURRED IN
2 DEFENDING THE ACTION RELATED TO THE DISPUTED PROPERTY.

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

6 (9) A PAWNBROKER IS NOT LIABLE TO ANY PERSON FOR ANY PROPERTY
7 THAT IS SEIZED FROM THE PAWNBROKER BASED ON THE PAWNBROKER'S
8 INABILITY TO RETURN THE PROPERTY TO THAT PERSON BECAUSE OF THE
9 SEIZURE.

10 (10) AS USED IN THIS SECTION, "APPROPRIATE LAW ENFORCEMENT
11 OFFICIAL" MEANS A SHERIFF OR SHERIFF'S DEPUTY OF A SHERIFF'S
12 DEPARTMENT IN THIS STATE; VILLAGE OR TOWNSHIP MARSHAL OF A VILLAGE
13 OR TOWNSHIP IN THIS STATE; OFFICER OF THE POLICE DEPARTMENT OF ANY
14 CITY, VILLAGE, OR TOWNSHIP IN THIS STATE; OR OFFICE OF THE MICHIGAN
15 STATE POLICE.

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