

Act No. 345
Public Acts of 2018
Approved by the Governor
October 16, 2018
Filed with the Secretary of State
October 16, 2018
EFFECTIVE DATE: January 14, 2019

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Rep. Lucido

ENROLLED HOUSE BILL No. 4887

AN ACT 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 sections 9, 10, and 11 (MCL 446.209, 446.210, and 446.211), the title as amended by 2002 PA 469, sections 9 and 11 as amended by 2004 PA 585, 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 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 provide for the powers and duties of certain local governmental units and state agencies.

Sec. 9. (1) A licensed pawnbroker may charge on any loan a rate of interest that does not exceed 3% per month and is not required to accept any interest less than 50 cents on a single loan. A pawnbroker may also charge \$3.00 per month or fraction of a month for the storage of unencumbered personal property under any single pledge or pawn.

(2) A pawnbroker or the pawnbroker’s agent or employee shall not charge or receive interest on a loan that exceeds the amounts established in this act.

(3) Interest on a loan is not payable in advance and shall be computed on unpaid monthly balances without compounding.

(4) A pawnbroker is not entitled to any examination fee and shall not make any charge that exceeds the amounts established in this act.

Sec. 10. (1) Subject to section 12, title to an item that is pledged or pawned vests in the pawnbroker 90 days after the pledge or pawn, or after the expiration of any longer period agreed to by the parties, if the borrower has not paid the debt, interest, and charges on the item that was pledged or pawned.

(2) Subject to section 12, a pawnbroker shall not sell any item that was pledged or pawned until the item has remained in the pawnbroker’s possession for at least 90 days.

Sec. 11. (1) If at any time before the sale of the item pledged or pawned the borrower pays or tenders to the pawnbroker the debt and interest and charges on the item, that payment or tender reinvests the pawner with the title and right of possession to the property pledged.

(2) A pawnbroker may agree in writing, after pledged or pawned unencumbered personal property has been deposited with the pawnbroker, to allow the pawner to maintain possession and use of the pledged or pawned

unencumbered personal property during the term of the pawn or pledge transaction. A pawnbroker may take possession of the pledged or pawned property pursuant to section 9609 of the uniform commercial code, 1962 PA 174, MCL 440.9609.

Sec. 12. (1) If an appropriate law enforcement official has probable cause to believe that property in the possession of a pawnbroker is misappropriated, or if a person files an official police report alleging misappropriation of property, the official may place a written hold order on the property. All of the following apply to a written hold order under this subsection:

(a) The hold order shall specify a holding period. The length of the holding period shall not exceed 90 days, unless extended by court order.

(b) The appropriate law enforcement official who placed the hold order may rescind it in writing.

(c) An appropriate law enforcement official may place only 1 hold order on a particular item of property.

(d) The hold order must include all of the following information:

(i) The name and mailing address of the pawnbroker.

(ii) The name, title, and identification number of the appropriate law enforcement official who placed the hold order and, if applicable, the number assigned to the claim or report relating to the property.

(iii) A complete description of the property in the possession of the pawnbroker, including model number and serial number, if applicable.

(iv) The name of the person that reported that the property was misappropriated, unless otherwise prohibited by law.

(v) The expiration date of the holding period specified under subdivision (a).

(2) An appropriate law enforcement official must sign and date a copy of a written hold order he or she placed on an item of property under subsection (1) as evidence that he or she placed the hold order and of the date the holding period specified under subsection (1)(a) begins.

(3) On the tenth day after a hold order placed under subsection (1) expires, if the pawnbroker has not received notice from a court that it has granted an extension of the hold order on the property, title to the property vests in and is 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 this act.

(4) A court shall not grant an extension of a hold order placed on property under subsection (1) unless a person that claims an interest in the property that is adverse to the pawnbroker or pawner has filed a report with a law enforcement agency and provided a copy of the report to the court and a copy of that report accompanies the notice from the court that it granted the extension described in subsection (3).

(5) Except as provided in subsection (6), a pawnbroker shall not release or dispose of property that is subject to a hold order under this section except pursuant to a court order, a written release from the appropriate law enforcement official, or the expiration of the holding period of the hold order described in subsection (1)(a).

(6) While a hold order is in effect, on request, the pawnbroker must release the property that is subject to the hold order to the custody of the appropriate law enforcement official that placed the hold order for use in a criminal investigation or proceeding related to the ownership claim. The release of the property to the custody of the appropriate law enforcement official is not considered a waiver or release of the pawnbroker's property rights in, interest in, or lien on the property.

(7) A law enforcement official or any other person that obtains custody of property under this section shall not deliver the property to any person that claims ownership of the property unless both of the following are met:

(a) The property is delivered after a hearing at which a court determines the merits of the claims to the property.

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

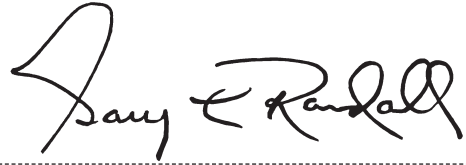
(8) If the court after a hearing described in subsection (7)(a) finds in favor of the pawnbroker, the property must be returned to the pawnbroker.

(9) A pawnbroker is not liable to any person for any property that is seized from the pawnbroker based on the pawnbroker's inability to return the property to that person because of the seizure.

(10) As used in this section, "appropriate law enforcement official" means a sheriff or sheriff's deputy of a sheriff's department in this state; village or township marshal of a village or township in this state; officer of the police department of any city, village, or township in this state; or office of the Michigan state police.

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor