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PAWNBROKERS AMENDMENTS

House Bill 4009

Sponsor: Rep. Floyd Clack

Committee: Regulatory Affairs

Complete to 4-26-95

A SUMMARY OF HOUSE BILL 4009 AS INTRODUCED 1-11-95

The bill would amend the pawnbrokers' act, Public Act 273 of 1917, to increase allowable license fees and surety bond amount, require permanent records on forms prescribed by the bill, increase monthly storage charges, and delete requirements for sales of unredeemed items to be by public auction. Pawnbrokers' business hours would be restricted to 9 a.m. to 9 p.m. The bill would repeal a requirement that a pawnbroker pay to the pawner any surplus resulting from the sale of the pawned item. Also repealed would be a ban on Sunday business and a section dealing with a bond that was declared unconstitutional by the Michigan Supreme Court in 1941. A section requiring a sworn statement of transactions with descriptions of the pawner and of the article received to be sent daily to the local chief of police, with the exception of Sunday, would be repealed and would be replaced with new language.

Pawnbrokers and Pawnshops. Currently, a pawnbroker is defined as a person, corporation, or member of a copartnership or firm who loans money on deposit or pledge of personal property or other valuable thing, other than such things as securities, and who deals in purchasing personal property on condition of selling it back at a stipulated price. The bill would expand the definition to include those who buy personal property or valuable things without the condition of selling it back and those who exchange personal property for an article of near or equal value. A pawnshop would be defined as a place of business whose primary activity is to loan money on deposit or pledge of personal property or valuable things, other than securities; purchase personal property or things with or without the condition of selling it back at a stipulated price; or exchange personal property or things on the condition of selling it back at a stipulated price.

Licenses. License requirements, at present limited to pawnbrokers in cities or villages with populations over 3,000, would apply to pawnbrokers in all cities, villages, or townships, regardless of population. The local authority granting licenses would be changed from the mayor or president of a city or village to the chief executive officer of the governmental unit. Currently, license fees may be from \$50 to \$500 per year; the bill would allow them to be up to \$1,000 per year. The amount of the required surety bond would increase from \$3,000 to \$10,000.

Records and inspections. Records on pawned, purchased, or exchanged items would be maintained in a book, as currently required. Transactions recorded in the pawnbroker's book would be sequentially numbered and would include, in addition to currently-required information on the item and the pawner, the following: the make, model, and serial number of the article; the pawner's date of birth, race, sex, specific identifying physical

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characteristics, driver's license number, Social Security number, or other government identification number.

In addition, the bill would require permanent records of transactions to be recorded on forms provided by pawnbrokers on a form substantially complying with a form prescribed by the bill. The forms would include the same information required to be recorded in the pawnbroker's book with the addition of the pawner's thumbprint and the pawner's place of employment. Within 24 hours after receiving an item, one copy of the record of transaction would be sent to the local police agency. Local authorities may at present inspect pawnbroker premises and records; the bill would explicitly extend this authority to the state police. (Note: Public Act 231 of 1945 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.)

Pawn tickets. The memorandum that a pawnbroker must give a pawner would bear substantially the same notice that is now given: that if interest charges in excess of three percent per month (the bill would add the words "which is 36% if annualized") plus allowable storage charges are asked or received (the bill would limit storage charges to less than \$1 per month and \$6 per year), the loan is void and the borrower cannot be made to pay back the money loaned, and the pawnbroker loses all right to the possession of the goods. The bill would require that the memorandum contain the same transaction number and rate of interest recorded in the pawnbroker's book when the article was pawned.

Items accepted for pawn. Under the bill, a pawnbroker would be required to return to the lawful owner any article in his or her possession determined by a court with jurisdiction or agreed upon by the parties to be stolen property. A pawnbroker would not be barred by the bill from seeking civil remedies against the pawner for an article confiscated by police and returned to the rightful owner. However, a pawnbroker would be banned from accepting an article that customarily has a manufacturer's serial number or other identifying insignia unless the number or insignia was clearly visible on the item.

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

Storage and sales of pawned items. As with current law, a pawnbroker could not sell an item until it had been in his or her possession for at least six months. However, the bill would delete provisions requiring sales to be by public auction following newspaper notice, and requiring notices to be filed with the county clerk. The bill would require that an item remain in the same building where the item was received, and that the building be easily accessible to inspection by authorities. A pawnbroker, immediately upon receiving an article, would attach to it a tag bearing the transaction number assigned to that pawn. In the case of a loan of \$25 or more, a pawnbroker would send a written notice by first-class mail to the person who pawned the article; the notice would be sent no later than two weeks before the expiration date of the loan (the bill does not state what this notice would say).

Penalties. Penalties for violation of the act would be changed. A violation of the act would continue to be a misdemeanor punishable by a fine, a jail term of 10 days to three months, or both, but the range of the fine would be increased from the current \$25 to \$100, to between \$500 and \$1,000. Five or more violations of the act or a similar local ordinance would constitute a felony.

Under current law, a pawnbroker's license must be revoked for one year upon the conviction of the pawnbroker or his or her employee for a violation of the act. Under the bill, the license revocation would be at the option of the licensing municipality, but would be mandatory upon a third conviction. Also under the bill, the pawnbroker's license would be revoked for an employee's violation only if the employee's action was one that reasonably should have been prevented through supervision by the pawnbroker. A license revocation under this subsection would be preceded by a notice and an opportunity for a hearing.

MCL 446.201 et al.