

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 879

Short Title: Modernize Pawnbroker Act.

(Public)

Sponsors: Senators Kaplan; Bryan, Raynor, Tally, Parnell, and Guy.

Referred to: Banks and Thrift.

April 17, 1989

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE PAWNBROKERS MODERNIZATION ACT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 91 of the General Statutes is repealed.

Sec. 2. The North Carolina General Statutes are amended by adding a new

Chapter to read:

“CHAPTER 91A.

“PAWNBROKERS MODERNIZATION ACT OF 1989.

“§ 91A-9. Short title.

This act shall be known and may be cited as the Pawnbrokers Modernization Act of 1989.

“§ 91A-10. Purpose.

The making of pawn loans and the acquisition and disposition of tangible personal property by and through pawnshops vitally affects the general economy of this State and the public interest and welfare of its citizens. In recognition of these facts, it is the policy of this State and the purpose of the North Carolina Pawnbrokers Modernization Act of 1989 to:

- (1) Ensure a sound system of making loans and acquiring and disposing of tangible personal property by and through pawnshops, and to prevent unlawful property transactions, particularly in stolen property, through licensing and regulating pawnbrokers;
- (2) Provide for licensing fees, investigation fees, and minimum capital requirements of licensees;
- (3) Ensure financial responsibility to the State and the general public;

- 1 (4) Ensure compliance with federal and State laws; and
2 (5) Assist local governments in the exercise of their police authority.

3 **"§ 91A-11. Definitions.**

4 As used in this Article, unless the context requires otherwise:

- 5 (1) 'Pawn' or 'Pawn transaction' means a written bailment of personal
6 property as security for an engagement or debt, redeemable on certain
7 terms and with the implied power of sale on default.
8 (2) 'Pawnbroker' means any person engaged in the business of lending
9 money on the security of pledged goods and who may also purchase
10 merchandise for resale from dealers and traders.
11 (3) 'Pawnshop' means the location at which, or premises in which, a
12 pawnbroker regularly conducts business.
13 (4) 'Person' means any individual, corporation, joint venture, association,
14 or any other legal entity, however organized.
15 (5) 'Pledged goods' means tangible personal property which is deposited
16 with, or otherwise actually delivered into, the possession of a
17 pawnbroker in the course of his business in connection with a pawn
18 transaction.
19 (6) 'Purchase' means any item purchased from an individual for the
20 purpose of resale whereby the seller no longer has a vested interest in
21 the item.

22 **"§ 91A-12. Pawnbroker authority.**

23 A pawnbroker licensee is authorized to: (i) make loans on pledges of personal
24 property of any nature, (ii) deal in bullion stocks, (iii) purchase merchandise for resale
25 from dealers, traders, and wholesale suppliers and (iv) use its capital and funds in any
26 lawful manner within the general scope and purpose of its creation. Notwithstanding
27 the provisions of this section, no pawnbroker has the authority enumerated in this
28 section unless he has fully complied with the laws regulating the particular transactions
29 involved.

30 **"§ 91A-13. License required.**

31 It is unlawful for any person, firm, or corporation to establish or conduct a business
32 of pawnbroker unless such person, firm, or corporation has procured a license to
33 conduct business in compliance with the requirements of this Chapter.

34 **"§ 91A-14. Requirements for licensure.**

35 (a) To be eligible for a pawnbroker's license, an applicant must:

- 36 (1) Be of good moral character;
37 (2) Have net assets of at least seventy-five thousand dollars (\$75,000)
38 readily available for use exclusively in conducting the business of each
39 licensed pawnbroker; and
40 (3) Not have been convicted of a felony within the last 10 years.

41 (b) Every person, firm or corporation desiring to engage in the business of
42 pawnbroker shall petition the appropriate agency in the area in which the pawnshop is to
43 be operated for a license to conduct such business. Such petitions shall provide:

- 1 (1) The name and address of the person, and, in case of a firm or
2 corporation, the names and addresses of the persons composing such
3 firm or of the officers, directors, and stockholders of such corporation,
4 excluding shareholders of publicly traded companies.
- 5 (2) The name of the business and the street and mailing address where the
6 business is to be operated.
- 7 (3) A statement indicating the amount of net assets or capital proposed to
8 be used by the petitioner in operation of the business; this statement
9 shall be accompanied by an unaudited statement from an accountant or
10 certified public accountant verifying the information contained in the
11 accompanying statement.
- 12 (4) An affidavit by the petitioner that he has not been convicted of a
13 felony.
- 14 (5) A certificate from the chief of police, or sheriff of the county, or the
15 State Bureau of Investigation that the petitioner is of good moral
16 character and has not been convicted of a felony.
- 17 (6) Certified funds in the amount of fifty dollars (\$50.00) payable to the
18 clerk of court in the county where the business will be operated to
19 defray the cost of investigating the petition and the petitioner by the
20 chief of police, sheriff, or State Bureau of Investigation.

21 **§ 91A-15. Record keeping requirements.**

22 (a) Every pawnbroker shall keep consecutively numbered records of each and
23 every transaction, which shall correspond in all essential particulars to a detachable
24 pawn ticket or copy thereof attached to the record.

25 (b) The pawnbroker shall, at the time of making the pawn or purchase
26 transaction, enter upon the pawn ticket a record of the following information which
27 shall be typed or written in ink and in the English language:

- 28 (1) A clear and accurate description of the property, including model and
29 serial number if indicated on the property.
- 30 (2) The name, residence address, phone number, and date of birth of
31 pledgor.
- 32 (3) Date of the pawn transaction.
- 33 (4) Type of identification and the identification number accepted from
34 pledgor.
- 35 (5) Description of the pledgor including approximate height, weight, sex,
36 and race.
- 37 (6) Amount of money advanced.
- 38 (7) The date due and the amount due.
- 39 (8) All monthly pawn charges, including interest, annual percentage rate
40 on interest, and total recovery fee.
- 41 (9) Agreed upon 'stated value' between pledgor and pawnbroker in case of
42 loss or destruction of pledged item; Unless otherwise noted, 'stated
43 value' is the same as the loan value.

44 (c) The following shall be printed on all pawn tickets;

- 1 (1) The statement that 'ANY PERSONAL PROPERTY PLEDGED TO A
2 PAWNBROKER WITHIN THIS STATE IS SUBJECT TO SALE OR
3 DISPOSAL WHEN THERE HAS BEEN NO PAYMENT MADE ON
4 THE ACCOUNT FOR A PERIOD OF 60 DAYS PAST MATURITY
5 DATE OF THE ORIGINAL CONTRACT. NO FURTHER NOTICE
6 IS NECESSARY.'
- 7 (2) The statement that 'THE PLEDGOR OF THIS ITEM ATTESTS
8 THAT IT IS NOT STOLEN, HAS NO LIENS OR
9 ENCUMBRANCES, AND IS THE PLEDGOR'S TO SELL OR
10 PAWN.'
- 11 (3) The statement that 'THE ITEM PAWNED IS REDEEMABLE ONLY
12 BY THE BEARER OF THIS TICKET OR BY IDENTIFICATION
13 OF THE PERSON MAKING THE PAWN.'
- 14 (4) A blank line for the pledgor's signature and the pawnbroker's signature
15 or initials.

16 (d) The pledgor shall sign the pawn ticket and shall receive an exact copy of the
17 pawn ticket which shall be signed or initialed by the pawnbroker or any employee of the
18 pawnbroker. These records shall be available for inspection and pickup each regular
19 workday by the sheriff of the county or the chief of police of the municipality in which
20 the pawnshop is located. These records shall be a correct copy of the entries made of
21 the pawn or purchase transaction and shall be carefully preserved without alteration, and
22 shall be available during regular business hours.

23 (e) Except as otherwise provided in this Chapter, any person presenting a pawn
24 ticket to a pawnbroker is presumed to be entitled to redeem the pledged goods described
25 on the ticket.

26 **"§ 91A-16. Pawnbroker fees; interest rates.**

27 No pawnbroker shall demand or receive an effective rate of interest greater than two
28 and one-half percent (2-1/2%) per month, or thirty percent (30%) per annum, and no
29 other charge of any description or for any purpose shall be made by the pawnbroker,
30 except that the pawnbroker may charge, contract for, and recover an additional monthly
31 fee for:

- 32 (1) Title investigation;
33 (2) Handling, appraisal, and storage;
34 (3) Insuring a security;
35 (4) Closing a loan;
36 (5) Making daily reports to local law enforcement officers; and
37 (6) For other expenses, including losses of every nature, and all other
38 services.

39 Pawn transactions which have a principal not greater than one thousand dollars
40 (\$1,000) may recoup fees not exceeding one-fourth of the principal per month. Pawn
41 transactions which have a principal greater than one thousand dollars (\$1,000) but not
42 greater than fifteen hundred dollars (\$1,500) may recoup fees not exceeding one-fifth of
43 the principal amount between one thousand dollars (\$1,000) and fifteen hundred dollars
44 (\$1,500) per month. Pawn transactions involving a principal greater than fifteen

1 hundred dollars (\$1,500) may recoup fees not exceeding one-sixth of the principal
2 amount above fifteen hundred dollars (\$1,500). Such fees, when made and collected,
3 shall not be deemed interest for any purpose of law. Charges for a returned check or an
4 affidavit for a lost pawn ticket shall not exceed the local financial institution charges on
5 a returned check.

6 **"§ 91A-17. Pawnbroker transactions.**

7 In every pawn transaction:

- 8 (1) Any personal property pledged to a pawnbroker in this State is subject
9 to sale or disposal when there has been no payment made on the
10 account for a period of 60 days past maturity date of the original
11 contract; provided that the contract between the pledgor and the
12 pawnbroker is renewable if renewal is agreed upon by both the parties;
13 (2) Every pawn ticket or receipt for such pawn shall have printed thereon
14 the provisions of subdivision (1) of this section which shall constitute:
15 (i) notice of such sale or disposal, (ii) notice of intention to sell or
16 dispose of the property without further notice, and (iii) consent to such
17 sale or disposal. The pledgor thereby forfeits all right, title and interest
18 of, in, and to such pawned property to the pawnbroker who thereby
19 acquires absolute title to the same, whereupon the debt is satisfied and
20 the pawnbroker may sell or dispose of the unredeemed pledges as his
21 own property. Any sale or disposal of property under this section
22 terminates all liability of the pawnbroker and vests in the purchaser the
23 right, title, and interest of the borrower and the pawnbroker;
24 (3) If the borrower loses his pawn ticket he shall not thereby forfeit his
25 right to redeem, but may, before the lapse of the redemption period,
26 make an affidavit with identification for such loss. The affidavit shall
27 describe the property pawned and shall take the place of the lost pawn
28 ticket unless the pawned property has already been redeemed with the
29 original pawn ticket;
30 (4) A pledgor is not obligated to redeem pledged goods or make any
31 payment on a pawn transaction.

32 **"§ 91A-18. Prohibitions.**

33 A pawnbroker shall not:

- 34 (1) Accept a pledge from a person under the age of 18 years;
35 (2) Make any agreement requiring the personal liability of a pledgor in
36 connection with a pawn transaction;
37 (3) Accept any waiver, in writing or otherwise, of any right or protection
38 accorded a pledgor under this Chapter;
39 (4) Fail to exercise reasonable care to protect pledged goods from loss or
40 damage;
41 (5) Fail to return pledged goods to a pledgor upon payment of the full
42 amount due the pawnbroker on the pawn transaction. In the event such
43 pledged goods are lost or damaged while in the possession of the
44 pawnbroker, it shall be the responsibility of the pawnbroker to replace

1 the lost or damaged goods with merchandise of like kind. In the event
2 the pledgor and pawnbroker cannot agree as to replacement, the
3 pawnbroker shall reimburse the pledgor in the amount of the value
4 agreed upon pursuant to G.S. 91A-15(b);

5 (6) Take any article in pawn, pledge, or as security from any person,
6 which is known to such pawnbroker to be stolen, unless there is a
7 written agreement with local or State police;

8 (7) Sell, exchange, barter, or remove from the pawnshop any goods
9 pledged, pawned, or purchased earlier than 48 hours after the
10 transaction, except in case of redemption by pledgor or items
11 purchased for resale from wholesalers;

12 (8) Operate more than one shop, store, or place of business under one
13 license, provided however, such person may move the business from
14 one location to another.

15 **"§ 91A-19. Penalties.**

16 (a) Every person, firm, or corporation, their guests or employees, who shall
17 knowingly violate any of the provisions of this act, shall, on conviction thereof, be
18 deemed guilty of a misdemeanor, and shall be fined a sum not to exceed five hundred
19 dollars (\$500.00) for each offense, and at the discretion of the court, may be imprisoned
20 for a period of time not to exceed six months. If the violation is by an owner or major
21 stockholder or managing partner of the pawnshop and the violation is knowingly
22 committed by the owner, major stockholder, or managing partner of the pawnshop, then
23 the license of the pawnshop may be suspended at the discretion of the court.

24 (b) The provision of subsection (a) shall not apply to violations of G.S. 91A-
25 18(6) which shall be prosecuted under the North Carolina criminal statutes.

26 **"§ 91A-20. Municipal authority.**

27 All of the incorporated municipalities, cities, and taxing districts in this State may by
28 ordinance adopt the provisions of this Chapter and may adopt such further rules and
29 regulations as the governing bodies of the incorporated municipalities, cities, and tax
30 districts deem appropriate; Provided, however, no incorporated municipality, city, or
31 taxing district may regulate:

32 (1) Interest, fees, or recovery charges;

33 (2) Hours of operation;

34 (3) The nature of the business or type of pawn transaction; or

35 (4) License fees in excess of rates set by the State.

36 **"§ 91A-21. License renewal.**

37 Notwithstanding any provision of this Chapter to the contrary, any person, firm, or
38 corporation licensed as a pawnbroker on or before October 1, 1989, shall continue in
39 force until the natural expiration thereof and all other provisions of this Chapter shall
40 apply to such license. Such pawnbroker shall be eligible for renewal of his license upon
41 its expiration or subsequent renewals, provided such license complies with the
42 requirements for renewal that were in effect immediately prior to October 1, 1989."

43 Sec. 3. This act shall become effective October 1, 1989.