

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 879
Banks and Thrift Committee Substitute Adopted 5/1/89
Third Edition Engrossed 5/9/89

Short Title: Modernize Pawnbroker Act.

(Public)

Sponsors:

Referred to:

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 Chapter 91 of the General Statutes, and any local modifications thereto, is repealed.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 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;

- 1 (2) Provide for licensing fees, investigation fees, and minimum capital
- 2 requirements of licensees;
- 3 (3) Ensure financial responsibility to the State and the general public;
- 4 (4) Ensure compliance with federal and State laws; and
- 5 (5) Assist local governments in the exercise of their police authority.

6 **"§ 91A-11. Definitions.**

7 As used in this Article, the following definitions shall apply:

- 8 (1) 'Pawn' or 'Pawn transaction' means a written bailment of personal
- 9 property as security for a debt, redeemable on certain terms within 180
- 10 days, unless renewed, and with an implied power of sale on default.
- 11 (2) 'Pawnbroker' means any person engaged in the business of lending
- 12 money on the security of pledged goods and who may also purchase
- 13 merchandise for resale from dealers and traders.
- 14 (3) 'Pawnshop' means the location at which, or premises in which, a
- 15 pawnbroker regularly conducts business.
- 16 (4) 'Person' means any individual, corporation, joint venture, association,
- 17 or any other legal entity, however organized.
- 18 (5) 'Pledged goods' means tangible personal property which is deposited
- 19 with, or otherwise actually delivered into, the possession of a
- 20 pawnbroker in the course of his business in connection with a pawn
- 21 transaction.
- 22 (6) 'Purchase' means any item purchased from an individual for the
- 23 purpose of resale whereby the seller no longer has a vested interest in
- 24 the item.

25 **"§ 91A-12. Pawnbroker authority.**

26 A pawnbroker licensee is authorized to: (i) make loans on pledges of tangible

27 personal property, (ii) deal in bullion stocks, (iii) purchase merchandise for resale from

28 dealers, traders, and wholesale suppliers and (iv) use its capital and funds in any lawful

29 manner within the general scope and purpose of its creation. Notwithstanding the

30 provisions of this section, no pawnbroker has the authority enumerated in this section

31 unless he has fully complied with the laws regulating the particular transactions

32 involved.

33 **"§ 91A-13. License required.**

34 It is unlawful for any person, firm, or corporation to establish or conduct a business

35 of pawnbroker unless such person, firm, or corporation has procured a license to

36 conduct business in compliance with the requirements of this Chapter.

37 **"§ 91A-14. Requirements for licensure.**

- 38 (a) To be eligible for a pawnbroker's license, an applicant must:
- 39 (1) Be of good moral character;
- 40 (2) Have net assets of at least seventy-five thousand dollars (\$75,000)
- 41 readily available for use exclusively in conducting the business of each
- 42 licensed pawnbroker; and
- 43 (3) Not have been convicted of a felony within the last 10 years.

1 **(b)** Every person, firm or corporation desiring to engage in the business of
2 pawnbroker shall petition the appropriate city or county agency in the area in which the
3 pawnshop is to be operated for a license to conduct such business. Such petitions shall
4 provide:

5 **(1)** The name and address of the person, and, in case of a firm or
6 corporation, the names and addresses of the persons composing such
7 firm or of the officers, directors, and stockholders of such corporation,
8 excluding shareholders of publicly traded companies.

9 **(2)** The name of the business and the street and mailing address where the
10 business is to be operated.

11 **(3)** A statement indicating the amount of net assets or capital proposed to
12 be used by the petitioner in operation of the business; this statement
13 shall be accompanied by an unaudited statement from an accountant or
14 certified public accountant verifying the information contained in the
15 accompanying statement.

16 **(4)** An affidavit by the petitioner that he has not been convicted of a
17 felony.

18 **(5)** A certificate from the chief of police, or sheriff of the county, or the
19 State Bureau of Investigation that the petitioner has not been convicted
20 of a felony.

21 **(c)** Licenses shall be granted under this Chapter by the city if the pawnshop is to
22 be operated within the corporate limits of a city as defined by G.S. 160A-1, and by a
23 county if it is to be operated outside the corporate limits of any city as defined by G.S.
24 160A-1.

25 **(d)** Any license granted under this Chapter may be revoked by the county or city
26 issuing it, after a hearing, for substantial abuses of this Chapter by the licensee.

27 **§ 91A-15. Record keeping requirements.**

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

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

34 **(1)** A clear and accurate description of the property, including model and
35 serial number if indicated on the property.

36 **(2)** The name, residence address, phone number, and date of birth of
37 pledgor.

38 **(3)** Date of the pawn transaction.

39 **(4)** Type of identification and the identification number accepted from
40 pledgor.

41 **(5)** Description of the pledgor including approximate height, weight, sex,
42 and race.

43 **(6)** Amount of money advanced.

44 **(7)** The date due and the amount due.

- 1 (8) All monthly pawn charges, including interest, annual percentage rate
2 on interest, and total recovery fee.
- 3 (9) Agreed upon 'stated value' between pledgor and pawnbroker in case of
4 loss or destruction of pledged item; unless otherwise noted, 'stated
5 value' is the same as the loan value.
- 6 (c) The following shall be printed on all pawn tickets:
- 7 (1) The statement that 'ANY PERSONAL PROPERTY PLEDGED TO A
8 PAWNBROKER WITHIN THIS STATE IS SUBJECT TO SALE OR
9 DISPOSAL WHEN THERE HAS BEEN NO PAYMENT MADE ON
10 THE ACCOUNT FOR A PERIOD OF 60 DAYS PAST MATURITY
11 DATE OF THE ORIGINAL CONTRACT. NO FURTHER NOTICE
12 IS NECESSARY.'
- 13 (2) The statement that 'THE PLEDGOR OF THIS ITEM ATTESTS
14 THAT IT IS NOT STOLEN, HAS NO LIENS OR
15 ENCUMBRANCES, AND IS THE PLEDGOR'S TO SELL OR
16 PAWN.'
- 17 (3) The statement that 'THE ITEM PAWNED IS REDEEMABLE ONLY
18 BY THE BEARER OF THIS TICKET OR BY IDENTIFICATION
19 OF THE PERSON MAKING THE PAWN.'
- 20 (4) A blank line for the pledgor's signature and the pawnbroker's signature
21 or initials.
- 22 (d) The pledgor shall sign the pawn ticket and shall receive an exact copy of the
23 pawn ticket which shall be signed or initialed by the pawnbroker or any employee of the
24 pawnbroker. These records shall be available for inspection and pickup each regular
25 workday by the sheriff of the county or the chief of police of the municipality in which
26 the pawnshop is located. These records shall be a correct copy of the entries made of
27 the pawn or purchase transaction and shall be carefully preserved without alteration, and
28 shall be available during regular business hours.
- 29 (e) Except as otherwise provided in this Chapter, any person presenting a pawn
30 ticket to a pawnbroker is presumed to be entitled to redeem the pledged goods described
31 on the ticket.
- 32 **"§ 91A-16. Pawnbroker fees; interest rates.**
- 33 No pawnbroker shall demand or receive an effective rate of interest greater than two
34 percent (2%) per month, and no other charge of any description or for any purpose shall
35 be made by the pawnbroker, except that the pawnbroker may charge, contract for, and
36 recover an additional monthly fee for the following services, including but not limited
37 to:
- 38 (1) Title investigation;
- 39 (2) Handling, appraisal, and storage;
- 40 (3) Insuring a security;
- 41 (4) Application fee;
- 42 (5) Making daily reports to local law enforcement officers; and
- 43 (6) For other expenses, including losses of every nature, and all other
44 services.

1 In no event may the total of the above listed monthly fees on a pawn transaction
2 exceed 20% of the principal up to a maximum of \$100.00 per month. In addition,
3 pawnbrokers may charge fees for returned checks as allowed by G.S. 25-3-512.

4 **"§ 91A-17. Pawnbroker transactions.**

5 In every pawn transaction:

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

30 **"§ 91A-18. Prohibitions.**

31 A pawnbroker shall not:

- 32 (1) Accept a pledge from a person under the age of 18 years;
33 (2) Make any agreement requiring the personal liability of a pledgor in
34 connection with a pawn transaction;
35 (3) Accept any waiver, in writing or otherwise, of any right or protection
36 accorded a pledgor under this Chapter;
37 (4) Fail to exercise reasonable care to protect pledged goods from loss or
38 damage;
39 (5) Fail to return pledged goods to a pledgor upon payment of the full
40 amount due the pawnbroker on the pawn transaction. In the event such
41 pledged goods are lost or damaged while in the possession of the
42 pawnbroker, it shall be the responsibility of the pawnbroker to replace
43 the lost or damaged goods with merchandise of like kind and
44 equivalent value. In the event the pledgor and pawnbroker cannot

1 agree as to replacement, the pawnbroker shall reimburse the pledgor in
2 the amount of the value agreed upon pursuant to G.S. 91A-15(b);

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

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

10 (8) Operate more than one pawnshop under one license, and such shop
11 must be at a permanent place of business.

12 **"§ 91A-19. Penalties.**

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

21 (b) The provision of subsection (a) shall not apply to violations of G.S. 91A-
22 18(6) which shall be prosecuted under the North Carolina criminal statutes.

23 (c) Any contract of pawn the making or collecting of which violates any
24 provision of this Chapter, except as a result of accidental or bona fide error of
25 computation, shall be void, and the licensee shall have no right to collect, receive or
26 retain any interest or fee whatsoever with respect to such pawn.

27 **"§ 91A-20. Municipal or county authority.**

28 All of the counties and cities as defined by G.S. 160A-1 may by ordinance adopt the
29 provisions of this Chapter and may adopt such further rules and regulations as the
30 governing bodies of the counties and cities deem appropriate; Provided, however, no
31 county or city may regulate:

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

33 (2) Hours of operation, unless such regulation applies to businesses
34 generally;

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

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

37 **"§ 91A-21. License renewal.**

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

44 **"§ 91A-22. Bond.**

1 Every person, firm, or corporation licensed under this Chapter shall, at the time of
2 receiving the license, file with the city or county issuing the license a bond payable to
3 such city or county in the sum of five thousand dollars (\$5,000), to be executed by the
4 licensee, and by two responsible sureties or a surety company licensed to do such
5 business in this State, to be approved by the city or county, which shall be for the
6 faithful performance of the requirements and obligations pertaining to the business so
7 licensed. The city or county may sue for forfeiture of the bond upon a breach thereof.
8 Any person who obtains a judgement against a pawnbroker and upon which judgement
9 execution is returned unsatisfied may maintain an action in his own name upon the
10 bond, to satisfy the judgement."

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