

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

House Committee Substitute Favorable 6/24/89

Fifth Edition Engrossed 7/11/89

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 Chapter 91 of the General Statutes, and any local modifications thereto, is repealed.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

1 unlawful property transactions, particularly in stolen property, through
2 licensing and regulating pawnbrokers;

3 (2) Provide for licensing fees and investigation fees of licensees;

4 (3) Ensure financial responsibility to the State and the general public;

5 (4) Ensure compliance with federal and State laws; and

6 (5) Assist local governments in the exercise of their police authority.

7 **"§ 91A-11. Definitions.**

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

9 (1) 'Pawn' or 'Pawn transaction' means a written bailment of personal
10 property as security for a debt, redeemable on certain terms within 180
11 days, unless renewed, and with an implied power of sale on default.

12 (2) 'Pawnbroker' means any person engaged in the business of lending
13 money on the security of pledged goods and who may also purchase
14 merchandise for resale from dealers and traders.

15 (3) 'Pawnshop' means the location at which, or premises in which, a
16 pawnbroker regularly conducts business.

17 (4) 'Person' means any individual, corporation, joint venture, association,
18 or any other legal entity, however organized.

19 (5) 'Pledged goods' means tangible personal property which is deposited
20 with, or otherwise actually delivered into, the possession of a
21 pawnbroker in the course of his business in connection with a pawn
22 transaction.

23 (6) 'Purchase' means any item purchased from an individual for the
24 purpose of resale whereby the seller no longer has a vested interest in
25 the item.

26 **"§ 91A-12. Pawnbroker authority.**

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

34 **"§ 91A-13. License required.**

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

38 **"§ 91A-14. Requirements for licensure.**

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

40 (1) Be of good moral character; and

41 (2) Not have been convicted of a felony within the last 10 years.

42 (b) Every person, firm or corporation desiring to engage in the business of
43 pawnbroker shall petition the appropriate city or county agency in the area in which the

1 pawnshop is to be operated for a license to conduct such business. Such petitions shall
2 provide:

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

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

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

25 **"§ 91A-15. Record keeping requirements.**

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

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

- 32 (1) A clear and accurate description of the property, including model and
33 serial number if indicated on the property;
- 34 (2) The name, residence address, phone number, and date of birth of
35 pledgor;
- 36 (3) Date of the pawn transaction;
- 37 (4) Type of identification and the identification number accepted from
38 pledgor;
- 39 (5) Description of the pledgor including approximate height, weight, sex,
40 and race;
- 41 (6) Amount of money advanced;
- 42 (7) The date due and the amount due;
- 43 (8) All monthly pawn charges, including interest, annual percentage rate
44 on interest, and total recovery fee; and

1 (9) Agreed upon 'stated value' between pledgor and pawnbroker in case of
2 loss or destruction of pledged item; unless otherwise noted, 'stated
3 value' is the same as the loan value.

4 (c) The following shall be printed on all pawn tickets:

5 (1) The statement that 'ANY PERSONAL PROPERTY PLEDGED TO A
6 PAWNBROKER WITHIN THIS STATE IS SUBJECT TO SALE OR
7 DISPOSAL WHEN THERE HAS BEEN NO PAYMENT MADE ON
8 THE ACCOUNT FOR A PERIOD OF 60 DAYS PAST MATURITY
9 DATE OF THE ORIGINAL CONTRACT. NO FURTHER NOTICE
10 IS NECESSARY.';

11 (2) The statement that 'THE PLEDGOR OF THIS ITEM ATTESTS
12 THAT IT IS NOT STOLEN, HAS NO LIENS OR
13 ENCUMBRANCES, AND IS THE PLEDGOR'S TO SELL OR
14 PAWN.';

15 (3) The statement that 'THE ITEM PAWNEED IS REDEEMABLE ONLY
16 BY THE BEARER OF THIS TICKET OR BY IDENTIFICATION
17 OF THE PERSON MAKING THE PAWN.'; and

18 (4) A blank line for the pledgor's signature and the pawnbroker's signature
19 or initials.

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

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

30 **"§ 91A-16. Pawnbroker fees; interest rates.**

31 No pawnbroker shall demand or receive an effective rate of interest greater than two
32 percent (2%) per month, and no other charge of any description or for any purpose shall
33 be made by the pawnbroker, except that the pawnbroker may charge, contract for, and
34 recover an additional monthly fee for the following services, including but not limited
35 to:

36 (1) Title investigation;

37 (2) Handling, appraisal, and storage;

38 (3) Insuring a security;

39 (4) Application fee;

40 (5) Making daily reports to local law enforcement officers; and

41 (6) For other expenses, including losses of every nature, and all other
42 services.

43 In no event may the total of the above listed monthly fees on a pawn transaction
44 exceed twenty percent (20%) of the principal up to a maximum of the following:

1	<u>First month</u>	<u>\$100.00</u>
2	<u>Second month</u>	<u>75.00</u>
3	<u>Third month</u>	<u>75.00</u>
4	<u>Fourth month and thereafter</u>	<u>50.00</u>

5 In addition, pawnbrokers may charge fees for returned checks as allowed by G.S. 25-3-
6 512.

7 **"§ 91A-17. Pawnbroker transactions.**

8 In every pawn transaction:

- 9 (1) The original pawn contract shall have a maturity date of not less than
10 30 days, provided that nothing herein shall prevent the pledgor from
11 redeeming the property before the maturity date;
- 12 (2) Any personal property pledged to a pawnbroker in this State is subject
13 to sale or disposal when there has been no payment made on the
14 account for a period of 60 days past maturity date of the original
15 contract; provided that the contract between the pledgor and the
16 pawnbroker is renewable if renewal is agreed upon by both the parties;
- 17 (3) Every pawn ticket or receipt for such pawn shall have printed thereon
18 the provisions of subdivision (1) of this section which shall constitute:
19 (i) notice of such sale or disposal, (ii) notice of intention to sell or
20 dispose of the property without further notice, and (iii) consent to such
21 sale or disposal. The pledgor thereby forfeits all right, title and interest
22 of, in, and to such pawned property to the pawnbroker who thereby
23 acquires absolute title to the same, whereupon the debt is satisfied and
24 the pawnbroker may sell or dispose of the unredeemed pledges as his
25 own property. Any sale or disposal of property under this section
26 terminates all liability of the pawnbroker and vests in the purchaser the
27 right, title, and interest of the borrower and the pawnbroker;
- 28 (4) If the borrower loses his pawn ticket he shall not thereby forfeit his
29 right to redeem, but may, before the lapse of the redemption period,
30 make an affidavit with indemnification for such loss. The affidavit
31 shall describe the property pawned and shall take the place of the lost
32 pawn ticket unless the pawned property has already been redeemed
33 with the original pawn ticket; and
- 34 (5) A pledgor is not obligated to redeem pledged goods or make any
35 payment on a pawn transaction.

36 **"§ 91A-18. Prohibitions.**

37 A pawnbroker shall not:

- 38 (1) Accept a pledge from a person under the age of 18 years;
- 39 (2) Make any agreement requiring the personal liability of a pledgor in
40 connection with a pawn transaction;
- 41 (3) Accept any waiver, in writing or otherwise, of any right or protection
42 accorded a pledgor under this Chapter;
- 43 (4) Fail to exercise reasonable care to protect pledged goods from loss or
44 damage;

- 1 (5) Fail to return pledged goods to a pledgor upon payment of the full
2 amount due the pawnbroker on the pawn transaction. In the event such
3 pledged goods are lost or damaged while in the possession of the
4 pawnbroker, it shall be the responsibility of the pawnbroker to replace
5 the lost or damaged goods with merchandise of like kind and
6 equivalent value. In the event the pledgor and pawnbroker cannot
7 agree as to replacement, the pawnbroker shall reimburse the pledgor in
8 the amount of the value agreed upon pursuant to G.S. 91A-15(b);
9 (6) Take any article in pawn, pledge, or as security from any person,
10 which is known to such pawnbroker to be stolen, unless there is a
11 written agreement with local or State police;
12 (7) Sell, exchange, barter, or remove from the pawnshop any goods
13 pledged, pawned, or purchased earlier than 48 hours after the
14 transaction, except in case of redemption by pledgor or items
15 purchased for resale from wholesalers;
16 (8) Operate more than one pawnshop under one license, and such shop
17 must be at a permanent place of business; or
18 (9) Take as pledged goods any manufactured mobile home, recreational
19 vehicle, or motor vehicle other than a motorcycle.

20 **"§ 91A-19. Penalties.**

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

29 (b) The provision of subsection (a) shall not apply to violations of G.S. 91A-
30 18(6) which shall be prosecuted under the North Carolina criminal statutes.

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

35 **"§ 91A-20. Municipal or county authority.**

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

- 40 (1) Interest, fees, or recovery charges;
41 (2) Hours of operation, unless such regulation applies to businesses
42 generally;
43 (3) The nature of the business or type of pawn transaction; or
44 (4) License fees in excess of rates set by the State.

1 **"§ 91A-21. License renewal.**

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

8 **"§ 91A-22. Bond.**

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

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