

A BILL
TO BE ENTITLED
AN ACT

To amend Sections 5-19A-2, 5-19A-7, 5-19A-8, 5-19A-11 and 5-19A-15, Code of Alabama 1975, relating to the Alabama Pawnshop Act; to clarify that vehicle and manufactured home titles, land deeds and real estate are not pledged goods under the Act; to require certain conditions regarding renewed pawn transactions; to clarify the prohibited acts regarding maintaining pledged goods; to increase the license and investigation fees under the Act; to permit the issuance of regulations; and to clarify the procedures related to the confiscation of property by local law enforcement.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 5-19A-2, 5-19A-7, 5-19A-8, 5-19A-11 and 5-19A-15 Code of Alabama 1975, are amended to read as follows:

“5-19A-2.

“The following words and phrases shall have the following meanings:

(1) Appropriate Law Enforcement Agency. The sheriff of each county in which the pawnbroker maintains an office, or the police chief of the municipality in which the pawnbroker maintains an office.

(2) Attorney General. The Attorney General of the State of Alabama.

(3) Pawn Transaction. Any loan on the security of pledged goods or any purchase of pledged goods on condition that the pledged goods are left with the pawnbroker and may be redeemed or repurchased by the seller for a fixed price within a fixed period of time. A "pawn transaction" does not include the pledge

to, or the purchase by, a pawnbroker of real or personal property from a customer followed by the sale or the leasing of that property back to the customer in the same or a related transaction. A “pawn transaction” does not include a title to a manufactured home. A “pawn transaction” does not include a vehicle title pledge which is subject to the Alabama Title Pledge Act.

(4) Pawnbroker. Any person engaged in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time. Notwithstanding the foregoing, the following are exempt from the definition of the term "pawnbroker" and from this chapter: any bank which is regulated by the State Banking Department of Alabama; the Comptroller of the Currency of the United States; the Federal Deposit Insurance Corporation; the Board of Governors of the Federal Reserve System or any other federal or state authority; and all affiliates thereof and any bank or savings and loan association whose deposits or accounts are eligible for insurance by the Bank Insurance Fund or the Savings Association Insurance Fund or other fund administered by the Federal Deposit Insurance Corporation all affiliates thereof, any state or federally chartered credit union, and any finance company subject to licensing and regulation by the State Banking Department pursuant to Sections 5-19-1 to 5-19-19, inclusive.

(5) Person. An individual, partnership, corporation, joint venture, trust, association, or any legal entity.

(6) Pledged Goods. Tangible personal property other than choses in action,

securities, or printed evidences of indebtedness, which property is purchased by, deposited with, or otherwise actually delivered into the possession of, a pawnbroker in connection with a pawn transaction.

(7) Supervisor. The Supervisor of the Bureau of Loans of the State Banking Department.

“Section 5-19A-7

(a) A pawnbroker may contract for and receive a pawnshop charge in lieu of interest or other charges for all services, expenses, costs, and losses of every nature but not to exceed 25 percent of the principal amount, per month, advanced in the pawn transaction.

(b) Any interest, charge, or fees contracted for or received, directly or indirectly, in excess of the amount permitted under subsection (a) shall be uncollectible and the pawn transaction shall be void. The pawnshop charge allowed under subsection (a) shall be deemed earned, due, and owing as of the date of the pawn transaction and a like sum shall be deemed earned, due, and owing on the same day of the succeeding month.

(c) However, a pawnbroker may renew a pawn transaction, but the pawnshop fee shall be prorated if renewed prior to the maturity date. The new maturity date for renewals shall be 30 days from the date of the renewal.

“Section 5-19A-8

A pawnbroker, any clerk, agent, or employee of a pawnbroker shall not do any of the following:

(1) Fail to make an entry of any material matter in the record book.

(2) Make any false entry therein.

(3) Falsify, obliterate, destroy, or remove from the place of business records, books, or accounts relating to the licensee's pawn transactions.

(4) Refuse to allow the supervisor, the appropriate law enforcement agency, the Attorney General, or any other duly authorized state or federal law enforcement officer to inspect the pawn records or any pawn goods during the ordinary hours of business or other acceptable time to both parties.

(5) Fail to maintain a record of each pawn transaction for at least four years.

(6) Accept a pledge or purchase property from a person under the age of 19 years.

(7) Make any agreement requiring the personal liability of a pledgor or seller or waiving any of the provisions of this section or providing for a maturity date less than 30 days after the date of the pawn transaction.

(8) Fail to return or replace pledged goods to a pledgor or seller upon payment of the full amount due the pawnbroker unless the pledged goods have been taken into custody by a court or by a law enforcement officer or agency.

(9) Sell, lease, or agree to sell or lease pledged or purchased goods back to the pledgor or back to the seller and the same or related transaction.

(10) Sell or otherwise charge for insurance in connection with a pawn transaction.

(11) Fail to maintain pledged goods on the premises until redeemed or forfeited by the pledgor.

“Section 5-19A-11

(a) A person may not engage in business as a pawnbroker unless the person has a valid license authorizing engagement in the business. A separate license is

required for each place of business. The supervisor may issue more than one license to a person if that person complies with this chapter for each license. A new license or application to transfer an existing license is required upon any change, directly or beneficially, in the ownership of any licensed pawnshop and an application must be made to the supervisor in accordance with this chapter.

(b) When a licensee wishes to move a pawnshop to another location, the licensee shall give 30 days written notice to the supervisor, who shall then amend the license accordingly.

(c) Each license shall remain in full force and effect until relinquished, suspended, revoked, or expired. Every licensee, on or before each December 1st, shall pay the supervisor ~~\$100.00~~ \$500.00 for each license as the annual fee for the succeeding calendar year. The license shall expire on ~~If the annual fee remains unpaid 30 days after written notice of delinquency has been given to the licensee by the supervisor, the license shall thereupon expire, but not before~~ December 31st of any year for which the annual fee has been paid. All licensing and investigation fees shall be paid into the special fund established under Section 5-2A-20. The annual license fee required shall be delinquent on January 1 of each year and there shall be a penalty of 10 percent for each month or portion thereof that the licensee is delinquent in the payment of such license fee.

(d) The license shall be in the form prescribed by the supervisor, posted conspicuously in the place of business of the licensee, and shall not be assignable or transferable or removed to another location without permission of the supervisor.

~~(d)~~ (e) The supervisor may issue a temporary license authorizing the operation of a pawnshop upon receipt of an application to transfer a license from one person to another, or upon the receipt of an application for a license involving principals and owners that are substantially identical to those of an existing licensed pawnshop. The temporary license shall be effective until the permanent license is issued or denied.

~~(e)~~ (f) A new license or an application to transfer an existing license shall not be required upon any change, directly or beneficially, in the ownership of a licensed pawnshop incorporated under the laws of this state or any other state if the licensee continues to operate as a corporation doing a pawnbroking business under the license. The supervisor may require the licensee to provide information deemed reasonable and appropriate concerning the officers and directors of the corporation and persons owning in excess of 25 percent of the outstanding shares of the corporation.

(g) The supervisor may adopt reasonable regulations, not inconsistent with law, for the enforcement of this chapter.

(h) For the purpose of determining compliance with this chapter, the supervisor may, at any reasonable time, cause an examination to be made at the licensee's place of business of the records and transactions of such licensee. As cost of examination, the licensee shall pay the supervisor an examination fee as provided by Section 5-2A-24 which shall be collected and paid into the special fund provided by Section 5-2A-20 and used in the supervision and examination of licensees.

“Section 5-19A-15

(a) No pledged or purchased goods may be confiscated by local law enforcement without the following actions having been accomplished: if the property pledged to, or purchased by, a pawnbroker may be put on a seven-day hold by the authorized law enforcement authorities, but the pledged or purchased property may not be placed on hold unless:

(1) A police report being made ~~is made~~ in a timely manner and

(2) A warrant is sworn out for the person who pledged or sold the goods to the pawnbroker or for alias if the person is unknown.

(3) A warrant or writ is issued for the merchandise to be confiscated along with a request for restitution, pursuant to law.

(b) This section shall not affect the right of any person who has an ownership interest or prior lien in the pledged or purchased goods.