

HOUSE BILL NO. 5995

July 23, 2020, Introduced by Reps. Wakeman and Marino and referred to the Committee on Regulatory Reform.

A bill to amend 1917 PA 273, entitled

"An act to regulate and license pawnbrokers that conduct business in this state; to provide for the disposition of allegedly misappropriated property in the possession of pawnbrokers; to provide remedies and prescribe penalties; and to provide for the powers and duties of certain local governmental units and state agencies,"



by amending the title and sections 1, 2, 3, 5, and 6 (MCL 446.201, 446.202, 446.203, 446.205, and 446.206), the title as amended by 2018 PA 345, sections 1 and 3 as amended by 2006 PA 292, and sections 2, 5, and 6 as amended by 2002 PA 469.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to regulate and license pawnbrokers that conduct business in this state; to provide for the disposition of allegedly misappropriated property in the possession of pawnbrokers; **to provide for the implementation, maintenance, and administration of a statewide electronic database of pawned items and certain other articles of personal property;** to provide remedies and prescribe penalties; and to provide for the powers and duties of certain local governmental units and state agencies.

Sec. 1. (1) A person ~~, corporation, or firm~~ shall not conduct business as a pawnbroker in any of the governmental units of this state without ~~having first obtained from~~ **a license issued by** the chief executive officer of that governmental unit ~~a license under this act that authorizes that person, corporation, or firm to~~ conduct that business. ~~This~~ **However, this** subsection does not require an internet drop-off store ~~complying~~ **that complies** with subsection (3), or ~~a person~~ **an individual who is** engaged in the sale, purchase, consignment, or trade of personal property or other valuable thing for himself or herself, to obtain a license under this act.

(2) ~~Licensure under either or both of the following acts does not exempt a person from obtaining a license under this act:~~

~~(a) The~~ **Registration under the** precious metal and gem dealer act, 1981 PA 95, MCL 445.481 to 445.492, ~~;~~



1 ~~(b)~~ does not exempt a person that is conducting business as a
 2 pawnbroker from the requirement to obtain a license under this act.
 3 Licensure under 1917 PA 350, MCL 445.401 to 445.408, does not
 4 exempt a person that is conducting business as a pawnbroker from
 5 the requirement to obtain a license under this act.

6 (3) ~~An~~ **A person that operates an internet drop-off store in**
 7 ~~compliance with that meets~~ the following conditions is exempt from
 8 licensure ~~the requirement to obtain a license~~ as a pawnbroker under
 9 this act:

10 (a) ~~Has~~ **The person has** a fixed place of business ~~within~~ **in**
 11 this state. ~~except that he or she~~

12 (b) **The person** exclusively transacts all purchases or sales by
 13 means of the internet and the purchases and sales are not
 14 physically transacted on the premises of ~~that~~ **the** fixed place of
 15 business **described in subdivision (a)**.

16 (c) ~~(b)~~ ~~Has~~ **The person has** the personal property or other
 17 valuable thing available on a website for viewing by photograph, if
 18 available, by the general public at no charge, ~~which website shall~~
 19 ~~be~~ **and the website is** searchable by zip code or state, or both. The
 20 website viewing shall include, as applicable, serial number, make,
 21 model, and other unique identifying marks, numbers, names, or
 22 letters appearing on the personal property or other valuable thing.

23 (d) ~~(c)~~ ~~Maintains~~ **The person maintains** records of the sale,
 24 purchase, consignment, or trade of the personal property or other
 25 valuable thing for at least 2 years. ~~which~~ **The** records shall
 26 contain a **complete and accurate** description, including a
 27 photograph, if available, and, if applicable, serial number, make,
 28 model, and other unique identifying marks, numbers, names, or
 29 letters appearing on the personal property or other valuable thing.



1 (e) ~~(d) Provide the~~ **The person provides a** local police agency
 2 with any name under which it conducts business on the website and
 3 access to the business premises at any time during normal business
 4 hours for purposes of inspection.

5 (f) ~~(e) Within 24 hours after a request from a local police~~
 6 agency, ~~provide the~~ **person provides** an electronic copy of the
 7 seller's or consignor's name, address, telephone number, driver
 8 license number and issuing state, the buyer's name and address, if
 9 applicable, and a description of the personal property or other
 10 valuable thing as described in subdivision ~~(e)~~. ~~(d)~~. The ~~provision~~
 11 ~~of person shall provide the~~ information shall be in a format **that**
 12 **is** acceptable to the local police agency but shall at least be in a
 13 legible format and in the English language.

14 (g) ~~(f) Provide~~ **The person provides** that payment for the
 15 personal property or other valuable thing is executed by means of
 16 check or other electronic payment system, ~~so long as the payment~~
 17 ~~is not made and not~~ in cash. ~~No~~ **The person shall not provide**
 18 payment ~~shall be provided~~ to the seller until the item is sold.

19 (h) ~~(g) Immediately remove~~ **The person immediately removes** the
 20 personal property or other valuable thing from the website if the
 21 local police agency determines that the personal property or other
 22 valuable thing is stolen.

23 Sec. 2. (1) ~~The~~ **Subject to subsection (5), the** chief executive
 24 officer of ~~the a~~ governmental unit may ~~grant under his or her hand,~~
 25 ~~and the official seal of his or her office, to any suitable person,~~
 26 ~~corporation, or firm a license authorizing~~ **issue a license to any**
 27 **suitable person under this act that authorizes** that person ~~or~~
 28 ~~corporation, or firm~~ to conduct the business of a pawnbroker **in**
 29 **that governmental unit,** subject to the provisions of this act.



1 (2) ~~The~~ **A license issued under this section** shall designate
 2 the particular place in the governmental unit where that person ~~,~~
 3 ~~corporation, or firm~~ shall conduct the **pawnbroker** business. A
 4 person ~~, corporation, or firm receiving~~ **that receives** a license
 5 **under this section** shall not conduct ~~the~~ **a pawnbroker** business in
 6 any other place than the place designated in the license.

7 (3) The term of **a license issued under this section** is 1 year,
 8 ~~from beginning on the~~ date of issuance. ~~, unless revoked~~ **The**
 9 **license is revocable** for cause ~~,~~ and is not transferable.

10 (4) ~~Before issuance of the license, the applicant shall pay~~ **A**
 11 **chief executive officer shall not issue a license under this**
 12 **section unless the applicant does all of the following at the time**
 13 **the application is submitted:**

14 (a) **Pays** to the treasurer of the governmental unit an annual
 15 license fee. ~~in the amount determined under subsection (5) and give~~
 16 **The governmental unit shall determine the specific amount of the**
 17 **annual license fee, but the governmental unit shall not establish**
 18 **an annual license fee that is less than \$50.00 or more than**
 19 **\$500.00.**

20 (b) **Provides** a bond to the governmental unit **that is** in its
 21 corporate name, in the penal sum of \$3,000.00, with at least 2
 22 sureties, **that is** conditioned ~~for~~ **on** the faithful performance of
 23 the duties and obligations pertaining to the conduct of the
 24 **pawnbroker** business and for the payment of all costs and damages
 25 incurred ~~by~~ **as a result of** any violation of this act, ~~. The~~
 26 ~~governmental unit shall approve the bond.~~ **and that is satisfactory**
 27 **to the governmental unit.**

28 ~~(5) The governmental unit may fix the amount to be paid as the~~
 29 ~~annual license fee at any amount not less than \$50.00 or more than~~



1 ~~\$500.00.~~

2 (c) Provides to the chief executive officer proof of payment
3 of the fee described in section 6(5) to the department.

4 (d) Pays the treasurer of the governmental unit an application
5 processing fee, if any. A governmental unit may establish an
6 application processing fee, in an amount that does not exceed
7 \$50.00, for the review and processing of license applications under
8 this section.

9 (5) ~~(6) Notwithstanding any other provision of this section,~~
10 ~~the~~ **The** authority of a governmental unit to issue a license under
11 this ~~act~~ **section** is limited as follows:

12 (a) A county ~~may~~ **shall** not issue a license for a location
13 ~~within~~ **in** a city or village ~~with~~ **that has** a population ~~greater~~ **of**
14 ~~more~~ than 3,000.

15 (b) A county ~~may~~ **shall** not issue a license for a location
16 ~~within~~ **in** a city or village ~~with~~ **that has** a population of 3,000 or
17 ~~less~~ **fewer** or ~~within~~ **in** a township or charter township if that
18 city, village, township, or charter township has established the
19 license fee ~~pursuant to~~ **under** subsection ~~(5)~~ **(4) (a)**.

20 (c) A township or charter township ~~may~~ **shall** not issue a
21 license for a location ~~within~~ **in** a village ~~with~~ **that has** a
22 population ~~over~~ **of more than** 3,000 or a village ~~with~~ **that has** a
23 population of 3,000 or ~~less~~ **fewer** that has established ~~a~~ **an annual**
24 **license** fee under subsection ~~(5)~~ **(4) (a)**.

25 (6) **A governmental unit shall not adopt or enforce a local**
26 **law, ordinance, resolution, or rule that duplicates, extends,**
27 **revises, or conflicts with any provision of this act.**

28 Sec. 3. As used in this act:

29 (a) "Chief executive officer" means any of the following:



1 (i) For a city, the mayor.

2 (ii) For a village, the village president.

3 (iii) For a township or charter township, the township
4 supervisor.

5 (iv) For a county, the county executive or, if there is no
6 county executive, ~~the person~~ **an individual** designated by a
7 resolution of the county board of commissioners.

8 (b) **"Department" means the department of state police.**

9 (c) ~~(b)~~ "Governmental unit" means a city, township, charter
10 township, county, or incorporated village.

11 (d) ~~(e)~~ "Internet drop-off store" means a person ~~,~~
12 ~~corporation, or firm~~ that contracts with ~~other persons,~~
13 ~~corporations, or firms~~ **another person or persons** to offer its
14 ~~personal property or other valuable thing~~ **items** for sale, purchase,
15 consignment, or trade through means of an internet website and
16 meets the conditions described in section 1(3).

17 (e) **"Item" means an article of personal property or any other**
18 **valuable thing, except securities or printed evidence of**
19 **indebtedness.**

20 (f) ~~(d)~~ "Local police agency" means the police agency of the
21 city, village, or township, or if none, the county sheriff of the
22 county, in which ~~the~~ **a pawnbroker or** internet drop-off store
23 conducts business.

24 (g) ~~(e)~~ "Pawnbroker" means a person ~~,~~ ~~corporation, or member,~~
25 ~~or members of a copartnership or firm, who~~ **that** loans money on
26 deposit ~~,~~ or pledge of ~~personal property, or other valuable thing,~~
27 ~~other than securities or printed evidence of indebtedness, or who~~ **1**
28 **or more items or that** deals in the purchasing of ~~personal property~~
29 ~~or other valuable thing~~ **items** on condition of selling ~~the same~~



1 those items back again at a stipulated price.

2 (h) "Pawned item" means an item taken by a pawnbroker as
3 collateral for a loan.

4 (i) "Person" means an individual, partnership, corporation,
5 limited liability company, or other legal entity.

6 (j) "Purchased item" means an item that is acquired for cash
7 by a pawnbroker without the intent to sell or return that item back
8 to the seller.

9 (k) "Reportable item" means any of the following:

10 (i) An item pawned to or purchased by a pawnbroker in this
11 state.

12 (ii) A precious item received or purchased by a dealer in this
13 state under the precious metal and gem dealer act, 1981 PA 95, MCL
14 445.481 to 445.492. As used in this subparagraph, "dealer" and
15 "precious item" mean those terms as defined in section 2 of the
16 precious metal and gem dealer act, 1981 PA 95, MCL 445.482.

17 (iii) A second hand article purchased or received in exchange by
18 a second hand dealer or junk dealer under 1917 PA 350, MCL 445.401
19 to 445.408. As used in this subparagraph, "second hand dealer" and
20 "junk dealer" mean those terms as defined in section 3 of 1917 PA
21 350, MCL 445.403.

22 Sec. 5. (1) A pawnbroker shall ~~keep a record~~ **prepare** in
23 English, ~~at the time the pawnbroker receives any article of~~
24 ~~personal property or other valuable thing by way of pawn, that~~
25 ~~includes a description of the article, a sequential transaction~~
26 ~~number, any amount of money loaned on the article, the name,~~
27 ~~residence, general description, and driver license number, official~~
28 ~~state personal identification card number, or government~~
29 ~~identification number of the person from whom the article was~~



1 ~~received, and the day and hour when the article was received. and~~
 2 **permanently retain, a separate, accurate, and legible record of**
 3 **each transaction in which it acquires a pawned item or purchased**
 4 **item.** The record, the **pawnbroker's** place ~~where the~~**of** business, is
 5 ~~carried on, and all articles of property items~~ in that place of
 6 business are subject to examination at any time by the attorney of
 7 the governmental unit, **a** local police agency, the county
 8 prosecuting attorney of the county in which the governmental unit
 9 is situated, or the department. ~~of state police.~~

10 ~~(2) Upon the receipt of any article of personal property or~~
 11 ~~other valuable thing by way of pawn, the pawnbroker shall make a~~
 12 ~~permanent record of the transaction on a form provided by the~~
 13 ~~pawnbroker that substantially complies with the form described in~~
 14 ~~subsection (4). Each record of transaction shall be completed in~~
 15 ~~duplicate by the pawnbroker, legibly in the English language, and~~
 16 ~~shall contain all applicable information required to complete the~~
 17 ~~record of transaction form under subsection (4). This subsection~~
 18 ~~does not prohibit the use and transmission of the information~~
 19 ~~required in the record of the transaction by means of computer or~~
 20 ~~other electronic media as permitted by the local police agency~~
 21 ~~within the applicable governmental unit.~~

22 ~~(3) The pawnbroker shall retain a record of each transaction~~
 23 ~~and, within 48 hours after the property is received, shall send 1~~
 24 ~~copy of the record of transaction to the local police agency.~~

25 ~~(4) The record of transaction form shall be 8 1/2 inches by 11~~
 26 ~~inches in size and shall be as follows:~~

27 **~~RECORD OF TRANSACTION~~**

28 **~~FRONT~~**

29 Article | ~~Serial No.~~ |

1				
2	Model No. or Case No.		Lens No. or Move. No.	
3				
4	Trade Name		Color	Size
5				No. Jewels
6	Material		Stone Set Design	
7				
8	Description		No.	Kind of Stone
9				Size
10				
11	Inscription or Initials			
12				
13	Purchase Price	Amt. Loaned		
14				
15	Dealer			
16				
17	City		Date	Ticket No.
18				
19	Lady's <input type="checkbox"/>	Gent's <input type="checkbox"/>	Wrist <input type="checkbox"/>	Pocket <input type="checkbox"/>
20	BACK			
21	Operator's License # or Other I.D. #			
22				
23	Customer's Name (PRINT)			
24				
25	Street No. or RFD			
26				
27	City and State			
28				

1	Employed By:	Rolled print of right thumb
2		(If impossible then some
3	Age Height	other fingerprint.
4		Designate which.)
5	Weight Race W <input type="checkbox"/> B <input type="checkbox"/> O <input type="checkbox"/>	
6		
7	Time Received: AM PM	
8		
9	Mail reports within 48 hours to	
10	local officers	<input type="checkbox"/> Male <input type="checkbox"/> Female
11		
12	Signature of person taking print	
13		

14 (2) The record described in subsection (1) must include all of
 15 the following information about each pawned item or purchased item
 16 that is acquired by the pawnbroker:

- 17 (a) A complete and accurate description of the item.
- 18 (b) If applicable, the serial number, model number, case
 19 number, or lens number of the item.
- 20 (c) If applicable, the item's trade name, color, size, number
 21 of jewels, material, stone set design, number of stones,
 22 description, kind, and size of each stone, inscription, or
 23 initials.
- 24 (d) For a pawned item, the amount loaned on the item.
- 25 (e) For a purchased item, the purchase price of the item.
- 26 (f) The pawnbroker's name and address.
- 27 (g) The date and time of the transaction and the name of the
 28 employee of the pawnbroker who acquired the pawned item or
 29 purchased item, or authorized the acquisition of the pawned item or

1 purchased item, on the pawnbroker's behalf.

2 (h) The transaction number.

3 (i) The name and address of the owner of the pawned or
4 purchased item.

5 (j) The name and operator's license number or other
6 identification number of the individual from whom the item was
7 received; his or her date of birth, height, gender, weight, and
8 race and the name of the employee of the pawnbroker who acquired
9 the pawned item or purchased item, or authorized the acquisition of
10 the pawned item or purchased item, on the pawnbroker's behalf; and
11 his or her signature.

12 ~~Sec. 6. A pawnbroker shall make daily, except Sunday, a sworn~~
13 ~~statement of his or her transactions, describing the articles~~
14 ~~received, and setting forth the name, residence, and description of~~
15 ~~the person from whom the articles were received, to the chief of~~
16 ~~police or chief law enforcement officer of the governmental unit.~~

17 (1) Within 48 hours after it receives a pawned item in a
18 transaction described in section 5(1), a pawnbroker shall
19 electronically transmit the information described in section
20 5(2) (a), (b), (d), and (f) to (h) for that item to the department,
21 in a format determined by the department. A pawnbroker shall retain
22 an electronic copy of any information transmitted under this
23 subsection for at least 5 years, in a format determined by the
24 department.

25 (2) Within 48 hours after it receives a purchased item in a
26 transaction described in section 5(1), a pawnbroker shall
27 electronically transmit the information described in section
28 5(2) (a), (b), and (e) to (h) for that item to the department, in a
29 format determined by the department. A pawnbroker shall retain an



1 electronic copy of any information transmitted under this
2 subsection for at least 5 years, in a format determined by the
3 department.

4 (3) Within 90 days after the effective date of the amendatory
5 act that added this subsection, the department shall implement and
6 maintain a statewide electronic database of reportable items. All
7 of the following apply to the database:

8 (a) The database shall include the information transmitted to
9 the department under any of the following:

10 (i) Subsection (1) or (2).

11 (ii) Section 4a of the precious metal and gem dealer act, 1981
12 PA 95, MCL 445.484a.

13 (iii) Section 4a of 1917 PA 350, MCL 445.404a.

14 (b) Only the department and other law enforcement agencies
15 shall have access to the information in the database.

16 (c) The department may operate the database or may select and
17 contract with a single third-party provider to operate the
18 database. If the department contracts with a third-party provider
19 for the operation of the database, all information obtained from
20 any of the following shall be electronically stored in the
21 department:

22 (i) Pawnbrokers under this section.

23 (ii) Dealers under the precious metal and gem dealer act, 1981
24 PA 95, MCL 445.481 to 445.492. As used in this subparagraph,
25 "dealer" means that term as defined in section 2 of the precious
26 metal and gem dealer act, 1981 PA 95, MCL 445.482.

27 (iii) Second hand dealers or junk dealers under 1917 PA 350, MCL
28 445.401 to 445.408. As used in this subparagraph, "second hand
29 dealer" and "junk dealer" mean those terms as defined in section 3



1 of 1917 PA 350, MCL 445.403.

2 (d) Information in the database, and any information forwarded
3 to the department or to a third-party provider for inclusion in the
4 database, is confidential; is not subject to disclosure under the
5 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246; and
6 shall not be disclosed by the department, a third-party provider,
7 or any person to any other person, except for purposes of this act
8 and for law enforcement purposes.

9 (4) Within 180 days after the effective date of the amendatory
10 act that added this subsection, each pawnbroker shall implement any
11 software that the department determines is necessary to administer
12 the collection of information required under this section and the
13 retention of information by the pawnbroker under subsection (1) or
14 (2).

15 (5) Each pawnbroker shall pay an annual fee of not more than
16 \$250.00 for each of its licensed locations for the implementation
17 and maintenance of the database described in this section. The
18 department shall determine the specific amount of the fee and
19 collect the fee.

20 Enacting section 1. This amendatory act takes effect 90 days
21 after the date it is enacted into law.

22 Enacting section 2. This amendatory act does not take effect
23 unless all of the following bills of the 100th Legislature are
24 enacted into law:

25 (a) Senate Bill No. ____ or House Bill No. 5997 (request no.
26 05113'19).

27 (b) Senate Bill No. ____ or House Bill No. 5996 (request no.
28 05989'19).

