

Legislative Analysis



PAWNBROKER INTEREST RATES AND FINES

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4628 (proposed substitute H-2)

Sponsor: Rep. Pamela Hornberger

Committee: Regulatory Reform

Complete to 2-15-22

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4628 would amend 1917 PA 273, which regulates pawnbrokers, to increase from 3% to 4% the maximum interest rate per month that a licensed pawnbroker can charge for a loan made against pawned articles or goods or on any loan. The bill also would increase the criminal fine that may be imposed for a violation of the act and establish a civil fine for exceeding the cap on monthly interest rates for any loan.

Pawnbroker is defined in the act as a person, corporation, or member, or members of a copartnership or firm, who loans money on deposit, or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.

Under the act, a pawnbroker cannot require the interest on a loan to be paid in advance, must compute the interest on unpaid monthly balances without compounding, must adhere to certain record keeping requirements (e.g., a description of articles received and records for each transaction), must submit sworn statements to local law enforcement regarding articles received, must provide a signed note that an interest rate in excess of the allowed maximum would void the loan and the property pawned returned to the person pawning it, and may charge no more than \$3 a month for the storage of unencumbered personal property under a single pledge or pawn. A pawnbroker also is prohibited from charging an examination fee or making any charge that exceeds the amounts established in the act.

Currently, a violation of the act by a pawnbroker or his or her clerk, agent, servant, or employee is a misdemeanor punishable by a fine of at least \$25 but not more than \$100 or imprisonment for at least 10 days but not more than three months, or both a fine and imprisonment.

The bill would increase the amount of the criminal fine that could be imposed for a violation of the act to at least \$250 but not more than \$1,000. (The minimum and maximum terms of imprisonment would not be changed.)

In addition, the bill would establish a new civil fine of up to \$5,000 for a person who charges on any loan a rate of interest higher than the 4% per month proposed by the bill. A violation could be prosecuted either by the prosecutor of the county in which the violation occurred or by the attorney general.

MCL 446.208, 446.209, and 446.218

BACKGROUND:

House Bill 4628 is identical to Senate Bill 405 of the current legislative session, as passed by the Senate. House Bill 4628 and Senate Bill 405 are each similar to provisions contained in Senate Bill 369 and House Bill 5589 of the 2019-20 legislative session. Senate Bill 369 would have increased from 3% to 4% the interest rate a pawnbroker can charge, and House Bill 5589 would have updated the notice for a person pawning an item. However, neither of those bills proposed increasing the criminal fine for a violation of the act or creating a civil fine if a person charged a rate of interest higher than that prescribed in the act. Senate Bill 369 was passed by the House and the Senate and enrolled, but was pocket vetoed by the governor.¹

FISCAL IMPACT:

House Bill 4628 would have an indeterminate fiscal impact on the state and on local units of government. The number of violations that would occur under provisions of the bill is not known; therefore, it is not possible to estimate the amount of additional revenue that would be collected. Under the bill, penal fines for misdemeanor offenses would be increased from \$25–\$100 to \$250–\$1,000. Also, under the bill, a civil fine of up to \$5,000 would be imposed for a person that charges on any loan a rate of interest that is more than 4%. Any increase in penal or civil fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

Also, under section 8827(4) of the Revised Judicature Act, \$10 of the civil fine would be deposited into the state’s Justice System Fund, so revenue to the state would be increased. Justice System Fund revenue supports various justice-related endeavors in the judicial branch, the Departments of State Police, Corrections, Health and Human Services, and Treasury, and the Legislative Retirement System.

The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs. It is difficult to project the actual fiscal impact to courts due to variables such as law enforcement practices, prosecutorial practices, judicial discretion, case types, and complexity of cases.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

¹ If the governor does not sign a bill within 14 days after getting it and the legislature has adjourned to end the legislative session, the bill does not take effect and is said to have been “pocket vetoed.” Unlike a regular veto, a pocket veto does not oblige the governor to provide the legislature with his or her objections to the bill. Senate Bill 369 was presented to the governor on December 21, 2020, but was pocket vetoed when it was still unsigned 14 days later, on January 4, 2021. The legislature adjourned *sine die* (“without day”) on December 23, 2020, to end the legislative session.