PAWNBROKERS
Act 273 of 1917

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.

History: 1917, Act 273, Eff. Aug. 10, 1917;—Am. 2002, Act 469, Imd. Eff. June 21, 2002;—Am. 2018, Act 345, Eff. Jan. 14, 2019.

The People of the State of Michigan enact:

446.201 Pawnbrokers; license required; exception; internet drop-off store exempt from licensure.

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 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 subsection does not require an internet drop-off store complying with subsection (3), or a person 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 precious metal and gem dealer act, 1981 PA 95, MCL 445.481 to 445.492.

(b) 1917 PA 350, MCL 445.401 to 445.408.

(3) An internet drop-off store in compliance with the following conditions is exempt from licensure as a pawnbroker under this act:

(a) Has a fixed place of business within this state except that he or she exclusively transacts all purchases or sales by means of the internet and the purchases and sales are not physically transacted on the premises of that fixed place of business.

(b) Has the personal property or other valuable thing available on a website for viewing by photograph, if available, by the general public at no charge, which website shall be searchable by zip code or state, or both. The website viewing shall include, as applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable thing.

(c) Maintains records of the sale, purchase, consignment, or trade of the personal property or other valuable thing for at least 2 years, which records shall contain a description, including a photograph, if available, and, if applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable thing.

(d) Provide the local police agency with any name under which it conducts business on the website and access to the business premises at any time during normal business hours for purposes of inspection.

(e) Within 24 hours after a request from a local police agency, provide an electronic copy of the seller's or consignor's name, address, telephone number, driver license number and issuing state, the buyer's name and address, if applicable, and a description of the personal property or other valuable thing as described in subdivision (c). The provision of information shall be in a format acceptable to the local police agency but shall at least be in a legible format and in the English language.

(f) Provide that payment for the personal property or other valuable thing is executed by means of check or other electronic payment system, so long as the payment is not made in cash. No payment shall be provided to the seller until the item is sold.

(g) Immediately remove the personal property or other valuable thing from the website if the local police agency determines that the personal property or other valuable thing is stolen.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9684;—CL 1948, 446.201;—Am. 2002, Act 469, Imd. Eff. June 21, 2002;—Am. 2004, Act 585, Imd. Eff. Jan. 4, 2005;—Am. 2006, Act 292, Imd. Eff. July 20, 2006.

Compiler's note: Act 334 of 1907 was repealed by Act 105 of 1911, but Act 105 of 1911 was held unconstitutional in People v. Quider, 183 Mich. 82, 149 N.W. 1 (1914). As to leaving Act 334 of 1907 in force prior to its repeal by Act 273 of 1917, see the following cases: Spry Lumber Co. v. Trust Co., 77 Mich. 199, 43 N.W. 778 (1889); Detroit v. Western Union Telegraph Co., 130 Mich. 474, 90 N.W. 283 (1902); People v. DeBlaay, 137 Mich. 402, 100 N.W. 598 (1904).

Former law: See Act 334 of 1907, being CL 1915, §§ 6006 to 6024, which was repealed by Act 273 of 1917.

446.202 Licenses; issuance; contents; term; transferability; fee; bond; limitations.

Sec. 2. (1) The chief executive officer of the governmental unit may grant under his or her hand, and the

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official seal of his or her office, to any suitable person, corporation, or firm a license authorizing that person, corporation, or firm to conduct the business of a pawnbroker subject to the provisions of this act.

(2) The license shall designate the particular place in the governmental unit where that person, corporation, or firm shall conduct the business. A person, corporation, or firm receiving a license shall not conduct the business in any other place than the place designated in the license.

(3) The term of license is 1 year from date of issuance, unless revoked for cause, and is not transferable.

(4) Before issuance of the license, the applicant shall pay to the treasurer of the governmental unit an annual license fee in the amount determined under subsection (5) and give a bond to the governmental unit in its corporate name, in the penal sum of $3,000.00, with at least 2 sureties, conditioned for the faithful performance of the duties and obligations pertaining to the conduct of the business and for the payment of all costs and damages incurred by any violation of this act. The governmental unit shall approve the bond.

(5) The governmental unit may fix the amount to be paid as the annual license fee at any amount not less than $50.00 or more than $500.00.

(6) Notwithstanding any other provision of this section, the authority of a governmental unit to issue a license under this act is limited as follows:

(a) A county may not issue a license for a location within a city or village with a population greater than 3,000.

(b) A county may not issue a license for a location within a city or village with a population of 3,000 or less or within a township or charter township if that city, village, township, or charter township has established the license fee pursuant to subsection (5).

(c) A township or charter township may not issue a license for a location within a village with a population over 3,000 or a village with a population of 3,000 or less that has established a fee under subsection (5).

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9685;—CL 1948, 446.202;—Am. 2002, Act 469, Imd. Eff. June 21, 2002.

446.203 Definitions.

Sec. 3. As used in this act:

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

(*i*) For a city, the mayor.

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

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

(*iv*) For a county, the county executive or, if there is no county executive, the person designated by a resolution of the county board of commissioners.

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

(c) "Internet drop-off store" means a person, corporation, or firm that contracts with other persons, corporations, or firms to offer its personal property or other valuable thing for sale, purchase, consignment, or trade through means of an internet website and meets the conditions described in section 1(3).

(d) "Local police agency" means the police agency of the city, village, or township, or if none, the county sheriff of the county in which the internet drop-off store conducts business.

(e) "Pawnbroker" means 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.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9686;—CL 1948, 446.203;—Am. 2002, Act 469, Imd. Eff. June 21, 2002;—Am. 2006, Act 292, Imd. Eff. July 20, 2006.

446.204 Licensed pawnbroker; action upon bond.

Sec. 4. If any person shall be aggrieved by the conduct of any such licensed pawnbroker, and shall recover judgment against him therefor, such person may, after the return unsatisfied, either in whole or in part, of any execution issued upon said judgment, maintain an action in his own name upon the bond of the said pawnbroker in any court having jurisdiction of the amount of said judgment remaining unsatisfied.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9687;—CL 1948, 446.204.

446.205 Record of property received; contents; inspection; form of permanent record.

Sec. 5. (1) A pawnbroker shall keep a record in English, at the time the pawnbroker receives any article of personal property or other valuable thing by way of pawn, that includes a description of the article, a sequential transaction number, any amount of money loaned on the article, the name, residence, general description, and driver license number, official state personal identification card number, or government identification number of the person from whom the article was received, and the day and hour when the

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article was received. The record, the place where the business is carried on, and all articles of property in that place of business are subject to examination at any time by the attorney of the governmental unit, local police agency, the county prosecuting attorney of the county in which the governmental unit is situated, or the department of state police.

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

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

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

RECORD OF TRANSACTION

FRONT

Article		Serial No.		
Model No. or Case No.		Lens No. or Move. No.		
Trade Name		Color	Size	No. Jewels
Material		Stone Set Design		
Description		No.	Kind of Stone	Size
Inscription or Initials				
Purchase Price	Amt. Loaned			
Dealer				
City		Date	Ticket No.	

Lady's [] Gent's[] Wrist [] Pocket[] Lapel[]

BACK

Operator's License # or Other I.D. #	
Customer's Name (PRINT)	
Street No. or RFD	
City and State	
Employed By:	Rolled print of right thumb (If impossible then some other fingerprint. Designate which.)
Age Height	
Weight Race W [] B [] O []	

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Time Received:	AM	PM	
Mail reports within 48 hours to local officers		[] Male	[] Female
Signature of person taking print			

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9688;—CL 1948, 446.205;—Am. 1998, Act 233, Imd. Eff. July 3, 1998;—Am. 2002, Act 469, Imd. Eff. June 21, 2002.

Compiler's note: See Act 469 of 2002 for correct formatting of table in subsection (4).

446.206 Statement to police of articles received; contents.

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

History: 1917, Act 273, Eff. Aug. 10, 1917;—Am. 1927, Act 347, Imd. Eff. June 2, 1927;—CL 1929, 9689;—CL 1948, 446.206;—Am. 2002, Act 469, Imd. Eff. June 21, 2002.

446.207 Repealed. 1980, Act 199, Imd. Eff. July 10, 1980.

Compiler's note: The repealed section pertained to the right of a pawnbroker to deal in secondhand property.

446.208 Purchaser's memorandum of pawn; contents.

Sec. 8. A pawnbroker, at the time of a loan, shall deliver to the person pawning or pledging any article a memorandum or note signed by him or her, containing the substance of the entry required to be made by him or her in his or her book by section 6. A charge shall not be made or received by the pawnbroker for the entry, memorandum, or note. The memorandum or note shall be consecutively numbered and upon its back shall be printed in English in 12-point type the following: "If interest or charges in excess of 3% per month, plus storage charges provided in this document, are asked or received, this loan is void and of no effect; and the borrower cannot be made to pay back the money loaned, any interest on the loan, or any charges or any part of the charges, and the pawnbroker loses all right to the possession of the goods, article, or thing pawned, and shall surrender the item to the borrower or pawner upon due demand for the item.".

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9691;—CL 1948, 446.208;—Am. 1965, Act 252, Eff. Mar. 31, 1966;—Am. 2002, Act 469, Imd. Eff. June 21, 2002.

446.209 Interest on loans; rate; storage charge; time of payment; computation; fee or excess charge prohibited.

Sec. 9. (1) A licensed pawnbroker may charge on any loan a rate of interest that does not exceed 3% per month and is not required to accept any interest less than 50 cents on a single loan. A pawnbroker may also charge $3.00 per month or fraction of a month for the storage of unencumbered personal property under any single pledge or pawn.

(2) A pawnbroker or the pawnbroker's agent or employee shall not charge or receive interest on a loan that exceeds the amounts established in this act.

(3) Interest on a loan is not payable in advance and shall be computed on unpaid monthly balances without compounding.

(4) A pawnbroker is not entitled to any examination fee and shall not make any charge that exceeds the amounts established in this act.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9692;—CL 1948, 446.209;—Am. 1965, Act 252, Eff. Mar. 31, 1966;—Am. 1998, Act 233, Imd. Eff. July 3, 1998;—Am. 2004, Act 585, Imd. Eff. Jan. 4, 2005;—Am. 2018, Act 345, Eff. Jan. 14, 2019.

446.210 Title to item; sale of pledged or pawned item; time of possession.

Sec. 10. (1) Subject to section 12, title to an item that is pledged or pawned vests in the pawnbroker 90 days after the pledge or pawn, or after the expiration of any longer period agreed to by the parties, if the

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borrower has not paid the debt, interest, and charges on the item that was pledged or pawned.

(2) Subject to section 12, a pawnbroker shall not sell any item that was pledged or pawned until the item has remained in the pawnbroker's possession for at least 90 days.

History: 1917, Act 273, Eff. Aug. 10, 1917;—Am. 1927, Act 347, Imd. Eff. June 2, 1927;—CL 1929, 9693;—CL 1948, 446.210;—Am. 1998, Act 233, Imd. Eff. July 3, 1998;—Am. 2018, Act 345, Eff. Jan. 14, 2019.

446.211 Payment or tender of debt before sale; effect as to title and right to property; agreement to permit pawner to maintain possession.

Sec. 11. (1) If at any time before the sale of the item pledged or pawned the borrower pays or tenders to the pawnbroker the debt and interest and charges on the item, that payment or tender reinvests the pawner with the title and right of possession to the property pledged.

(2) A pawnbroker may agree in writing, after pledged or pawned unencumbered personal property has been deposited with the pawnbroker, to allow the pawner to maintain possession and use of the pledged or pawned unencumbered personal property during the term of the pawn or pledge transaction. A pawnbroker may take possession of the pledged or pawned property pursuant to section 9609 of the uniform commercial code, 1962 PA 174, MCL 440.9609.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9694;—CL 1948, 446.211;—Am. 1965, Act 252, Eff. Mar. 31, 1966;—Am. 1998, Act 233, Imd. Eff. July 3, 1998;—Am. 2004, Act 585, Imd. Eff. Jan. 4, 2005;—Am. 2018, Act 345, Eff. Jan. 14, 2019.

446.212 Misappropriated property; effect of written hold order; delivery of property to person claiming ownership; return of property to pawnbroker; liability; "appropriate law enforcement official" defined.

Sec. 12. (1) If an appropriate law enforcement official has probable cause to believe that property in the possession of a pawnbroker is misappropriated, or if a person files an official police report alleging misappropriation of property, the official may place a written hold order on the property. All of the following apply to a written hold order under this subsection:

(a) The hold order shall specify a holding period. The length of the holding period shall not exceed 90 days, unless extended by court order.

(b) The appropriate law enforcement official who placed the hold order may rescind it in writing.

(c) An appropriate law enforcement official may place only 1 hold order on a particular item of property.

(d) The hold order must include all of the following information:

(*i*) The name and mailing address of the pawnbroker.

(*ii*) The name, title, and identification number of the appropriate law enforcement official who placed the hold order and, if applicable, the number assigned to the claim or report relating to the property.

(*iii*) A complete description of the property in the possession of the pawnbroker, including model number and serial number, if applicable.

(*iv*) The name of the person that reported that the property was misappropriated, unless otherwise prohibited by law.

(*v*) The expiration date of the holding period specified under subdivision (a).

(2) An appropriate law enforcement official must sign and date a copy of a written hold order he or she placed on an item of property under subsection (1) as evidence that he or she placed the hold order and of the date the holding period specified under subsection (1)(a) begins.

(3) On the tenth day after a hold order placed under subsection (1) expires, if the pawnbroker has not received notice from a court that it has granted an extension of the hold order on the property, title to the property vests in and is considered conveyed by operation of law to the pawnbroker, free of any liability for claims but subject to any restrictions contained in the pawn transaction contract and subject to the provisions of this act.

(4) A court shall not grant an extension of a hold order placed on property under subsection (1) unless a person that claims an interest in the property that is adverse to the pawnbroker or pawner has filed a report with a law enforcement agency and provided a copy of the report to the court and a copy of that report accompanies the notice from the court that it granted the extension described in subsection (3).

(5) Except as provided in subsection (6), a pawnbroker shall not release or dispose of property that is subject to a hold order under this section except pursuant to a court order, a written release from the appropriate law enforcement official, or the expiration of the holding period of the hold order described in subsection (1)(a).

(6) While a hold order is in effect, on request, the pawnbroker must release the property that is subject to the hold order to the custody of the appropriate law enforcement official that placed the hold order for use in a criminal investigation or proceeding related to the ownership claim. The release of the property to the custody

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of the appropriate law enforcement official is not considered a waiver or release of the pawnbroker's property rights in, interest in, or lien on the property.

(7) A law enforcement official or any other person that obtains custody of property under this section shall not deliver the property to any person that claims ownership of the property unless both of the following are met:

(a) The property is delivered after a hearing at which a court determines the merits of the claims to the property.

(b) If the court finds against the pawnbroker, the court orders the pawner or seller of the item that was pawned or pledged to make restitution to the pawnbroker for all money that the pawnbroker advanced, and the total interest and charges accrued since the pawnbroker first advanced that money, together with reasonable attorney fees and costs that the pawnbroker incurred in defending the action related to the disputed property.

(8) If the court after a hearing described in subsection (7)(a) finds in favor of the pawnbroker, the property must be returned to the pawnbroker.

(9) A pawnbroker is not liable to any person for any property that is seized from the pawnbroker based on the pawnbroker's inability to return the property to that person because of the seizure.

(10) As used in this section, "appropriate law enforcement official" means a sheriff or sheriff's deputy of a sheriff's department in this state; village or township marshal of a village or township in this state; officer of the police department of any city, village, or township in this state; or office of the Michigan state police.

History: Add. 2018, Act 345, Eff. Jan. 14, 2019.

Compiler's note: Former MCL 446.212, which pertained to disposition of surplus money resulting from sale, was repealed by Act 233 of 1998, Imd. Eff. July 3, 1998.

446.213 Pawned property; destruction or defacing unlawful; visibility of serial number or insignia.

Sec. 13. (1) A pawnbroker shall not deface, scratch, obliterate, melt, separate, or break into parts any article or thing received by him or her in pawn, or otherwise or in any manner do, cause, or suffer to be done by others, anything that destroys or tends to destroy the identity of the article or thing, or tends to render the identification of the thing or article more difficult.

(2) A pawnbroker shall not accept by way of pledge, pawn, purchase, or exchange any article or thing that customarily bears a manufacturer's serial number or other identifying insignia unless the number or insignia is plainly visible on the article or thing.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9696;—CL 1948, 446.213;—Am. 2004, Act 585, Imd. Eff. Jan. 4, 2005.

446.214 Pawned property; acceptance from certain persons prohibited.

Sec. 14. A pawnbroker shall not receive for pawn any article from any person under 18 years of age or a person the pawnbroker suspects as having stolen the article to be pawned.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9697;—CL 1948, 446.214;—Am. 1998, Act 233, Imd. Eff. July 3, 1998.

446.216 Bond of complainant; amount, surety.

Sec. 16. The said bond shall be in double the value of the property claimed, with such surety as such court shall approve, and shall be given to the person from whose possession the property was taken, with condition that the obliger so claiming the same will pay all the costs and damages that may be recovered against him by the obligee in any suit brought within 10 days from the date of such bond.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9699;—CL 1948, 446.216.

Constitutionality: Section held unconstitutional as violative of due process clauses of state and federal constitutions for failure to provide adequate notice and opportunity for hearing. Rassner v Federal Collateral Society, Inc, 299 Mich 206; 300 NW 45 (1941).

446.217 Transaction of business on Sunday unlawful.

Sec. 17. No license granted under the provisions of this act shall authorize any business to be transacted by pawnbrokers on the first day of the week commonly called Sunday.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9700;—CL 1948, 446.217.

446.218 Violation of act; penalty.

Sec. 18. Any person who shall violate any of the provisions of this act, whether as owner, or as clerk, agent, servant or employe, shall be guilty of a misdemeanor and upon conviction thereof in any court of competent jurisdiction be fined not less than 25 dollars nor more than 100 dollars, or by imprisonment in the county jail not less than 10 days nor more than 3 months, or by both such fine and imprisonment in the

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discretion of the court.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9701;—CL 1948, 446.218.

446.219 Violation of act; revocation of license; duration.

Sec. 19. Upon a conviction of any person conducting business as a pawnbroker under this act, or on conviction of any clerk, agent, servant, or employee of the person, the chief executive officer of the governmental unit shall revoke the license of the person and no part of the license fee shall be returned to him or her. The governmental unit shall not issue a license as a pawnbroker to that person for the period of 1 year from the date of the revocation.

History: 1917, Act 273, Eff. Aug. 10, 1917;—CL 1929, 9702;—CL 1948, 446.219;—Am. 2002, Act 469, Imd. Eff. June 21, 2002.

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