

**AN ACT**

To regulate pawnbrokers operating in the Commonwealth; and for other purposes.

**BE IT ENACTED BY THE ELEVENTH NORTHERN MARIANAS COMMONWEALTH  
LEGISLATURE:**

Section 1. Short Title. This Act may be cited as the "Pawnbrokers Act of 1998."

Section 2. Findings and Purpose. The Legislature finds that the practice of lending money on the security of pledges or deposits of personal property must be regulated, to prevent abuse, overreaching and the commission or concealment of a crime. The purpose of this Act is to regulate pawnbrokers and businesses engaged in the lending of money on the security of pledges or deposits of personal property given the lender.

Section 3. Business License Exemption Added. 4 CMC § 5611 (a) is amended to read as follows:

(a) *Business License Required*. Before engaging in a business, a person shall first obtain from the Secretary of Commerce a license to do so; except that a pawnbroker must apply for a license pursuant to 4 CMC, Division 5, Chapter 6, Article 2.

Section 4. New Article Relating to Pawnbroker Licenses, Fees and Related Matters. 4 CMC, Division 5, Chapter 6 is amended by inserting after Article 1 the following new Article:

**Article 2. Pawnbroker Licenses, Fees and Related Matters**

§ 5620. Definitions. In this Article:

- (a) "Department" means the CNMI Department of Commerce.
- (b) "Licensee" means a person issued a pawnbrokers license.
- (c) "Pawnbroker" means a person who lends money by requiring the borrower to post personal property as collateral. It does not include a person engaged in banking business as defined in 4 CMC § 6103 or a bank under

5 CMC § 4105, or a person who lends money or other thing of value secured by stocks, bonds, or other securities.

(d) "Person" means any individual, association, organization, partnership, corporation or other entity.

(e) "Secretary" means the Secretary of Commerce.

(f) "Ticket" means a pawn ticket, bill of sale, ledger card, invoice, receipt or other document used in recording a pawnbroker transaction.

§ 5621. Pawnbroker Business License Required.

(a) No person shall engage in or conduct business as a pawnbroker, or advertise, transact, or solicit business as a pawnbroker except as authorized by this Article and only after obtaining a pawnbroker's license from the Secretary of Commerce.

(b) No person shall be issued a pawnbroker's license if the applicant has been convicted of a felony, or a misdemeanor offense involving theft, fraud, or moral turpitude.

(c) A non-refundable annual license fee of five hundred dollars (\$500) shall be paid the Secretary for a pawnbroker business license.

(d) Pawnbroker business licenses shall be valid for one year and may be renewed upon submission of a renewal application and payment of the annual license fee.

(e) Application for a pawnbrokers license and any renewal thereof shall be submitted on a form prescribed by the Secretary, together with a police clearance from the court for the applicant, if a natural person, for any person having principal ownership in the business, and for each employee of applicant. The Secretary may require any other information from the applicant as may be necessary to administer this Article.

(f) The license application and any application for renewal shall be accompanied by the annual license fee and a financial statement of the applicant, prepared by an accounting firm, acceptable to the Secretary showing net assets of at least seventy-five thousand dollars (\$75,000.00), fifty percent of which shall be in cash, for each place of business to be conducted by the licensee.

(g) Upon the filing of a business license application and the payment of the annual license fee, the Secretary shall issue a pawnbroker business license to the applicant if the Secretary finds that based on the financial standing, business experience, and character of the applicant the business will be operated honestly and fairly, and that the convenience and needs of the public justifies the operation of a pawnbroker's business in the community where the applicant proposes to operate. The license shall be effective for one year unless it is earlier surrendered, revoked, or suspended. If the Secretary denies the license application, it shall notify the applicant of the denial in writing.

(h) A Pawnbroker's license shall not be transferable or assignable to another person. A separate license application and fee must be filed and paid for each place of business.

(i) If a licensee proposes to change its place of business to another location, he shall first file a written request to the Secretary, who may approve or deny the request. The request shall be in a form prescribed by the Secretary.

(j) Before hiring any employee, the licensee must receive a police clearance from the court for such employee and shall submit such clearance to the Secretary for approval.

(k) A licensee shall submit the renewal application and pay the annual license fee to the secretary not later than thirty days before expiration of one's license. If a licensee fails to pay the fee and submit the renewal application, the Secretary may impose a late penalty of five dollars (\$5.00) per day, after expiration of one's license.

(l) No licensee may accept or receive any firearm or ammunition as pledge or pawn.

§ 5622. Duty to Record and Report Transactions.

(a) A licensee shall maintain, wherever its business is conducted, a complete record of each pawnbroker transaction, legibly written in the English language, containing the following information:

(1) The printed name and signature of the person to whom a loan is being made;

- (2) The date and time of the transaction;
- (3) The name of the licensee, employee of licensee conducting the transaction;
- (4) The name, date of birth, sex, height, weight, race, and address of the person with whom the transaction is made;
- (5) A complete description of the property pledged, transferred, or consigned to the licensee, including the brand name, serial number, model number, initials, engravings, size, patterns, and color;
- (6) The amount loaned;
- (7) The type of identification and identification number used by the person with whom the transaction is made, which shall consist of a valid driver's license or government identification card issued by the Commonwealth of the Northern Mariana Islands, Guam, federal, state, or municipal government which has a photo and physical description of the person identified; and,
- (8) The nature of the transaction, a progressive serial number identifying the transaction, the name and address of the business conducting the transaction, and the location of the property.

(b) The licensee shall maintain at all times at his place of business such books, accounts, and records as will enable the Department or Secretary to determine whether the licensee is complying with this Article and any rules and regulations adopted pursuant to this Article. Every licensee shall preserve such books, accounts, and records, for at least three (3) years after making the final entry on any loan recorded therein. The books and records of the licensee shall be kept in a manner that the pawnbroker business transacted may be readily separated and distinguished from any other type of business that the licensee may be engaged in.

(c) Upon request, a licensee shall furnish or mail within twenty-four hours to the Department, on such forms as are provided by the Department, a full, true, and correct copies of the record of all requested transactions.

(d) Each licensee shall file a monthly report with the Department, showing such information as the Department may reasonably require concerning the licensee's business and operations during the preceding month. The Department shall issue an annual report therefrom. The Department shall impose a late penalty fee of five dollars (\$5.00) per day for any monthly report that is not received by the fifth day of the month following the month in which the report is due.

§ 5623. Revocation and Suspension of License.

(a) The Secretary may revoke or suspend, by written order, any license issued under this Article after issuing an order to show cause to the licensee giving the licensee and holding a hearing within ten (10) days thereafter a reasonable opportunity to be heard, if the Secretary finds that the license should be revoked for any of the following reasons:

(1) the application of the licensee contained false or fraudulent information;

(2) the licensee bribed or otherwise unlawfully influenced any person to have the license issued;

(3) The licensee presented false or fraudulent information to any person in support of the application;

(4) The licensee violated a Commonwealth law, rule or regulation in obtaining his license; or

(5) The licensee accepted collateral securing the loan which consisted of goods or property that licensee knew or should have known through diligent inquiry to be stolen.

(b) The revocation or suspension of any license shall not impair or affect any obligation arising under a pre-existing lawful contract between the licensee and a borrower, which is otherwise lawful.

§ 5624. Transactions.

(a) For each pawnbroker transaction, the licensee shall require proper identification from each borrower or pledger. "Proper identification" shall mean a government issued photographic identification including, but not limited to, a driver's license, military identification card, or passport.

(b) The borrower or pledger shall sign a statement verifying that he or she is the rightful owner of the goods or is otherwise entitled to sell or pledge the goods.

(c) A licensee shall, at the time of making a loan, require the signature of the borrower or pledger and shall be required to obtain copies of proper identification from the borrower or pledger.

(d) The licensee shall, at the time of making a loan, deliver to the pledger or the pledger's agent a memorandum or ticket on which shall be legibly written or printed in English the information required under 4 CMC § 5622(a).

(e) The holder of such ticket shall be presumed to be the person entitled to redeem the pledge, and the licensee shall deliver the pledge to the person presenting the ticket, upon payment of principal and agreed interest.

(f) Upon presentation of the pawn ticket at maturity or prior to maturity and the payment of principal and accrued interest, the licensee shall accept the payment, and issue a receipt showing due credit of principal payment and interest.

(g) If a ticket is lost, destroyed, or stolen, the borrower or pledger shall notify the licensee in writing. Before delivering the collateral or issuing a new ticket, the licensee shall require the pledger to execute an affidavit of the loss, destruction, or theft of the ticket. Upon receipt of such affidavit, the licensee shall permit the pledger either to repay the loan and redeem the pledge posted or receive a new ticket upon the payment of any accrued interest.

(h) The licensee may not charge a fee for reissuing a pawn ticket but may impose a charge for the cost of the affidavit which shall not exceed \$10.00.

(i) The alteration of a ticket shall not excuse the licensee from delivering the pledge according to the terms of the ticket as originally issued.

(j) The maximum rate of interest charged by licensee shall not exceed the rate authorized by the usury statute, 4 CMC § 5301 et seq., as amended. However, for loans paid in full within the first month, the licensee may charge twenty dollars (\$20.00) as a service fee.

(k) Any person who knowingly gives false information or a false or altered identification in violation of this section and who receives a loan from a licensee secured by goods pledged as security shall be guilty of:

(1) A misdemeanor punishable by a term of imprisonment not to exceed one year, a fine of not more than \$1,000, or both, if the money received is \$300 or less.

(2) A felony punishable by a term of imprisonment not to exceed five years, a fine of not more than \$5000, or both, if the value of the money received is more than \$300.

§ 5625. Holding Period, Disposal of Property by Pawnbroker.

(a)(1) A licensee may sell an article pawned after expiration of ninety (90) days from the maturity of the loan, provided that not less than ten (10) days before making the sale the licensee gives notice to the borrower or pledger by certified mail return receipt requested, mailed to the post office address of the borrower or pledger as shown on the licensee's records notifying the borrower that unless he redeems the article within ten (10) days from the date of the mailing, the article shall become the property of the licensee and subject to sale.

(2) The licensee shall be deemed the owner of all unredeemed pledges held for more than one hundred eighty (180) days after the maturity of the loan and no notice need be mailed to the pledger before licensee sells the pledge.

(b) A licensee shall have a first lien on all pledges of personal property for the amount of the loan, and for interest accrued.

(c) A licensee shall not be required to return personal property pledge as security, except upon surrender of the ticket and payment of the loan and any accrued interest, unless the ticket is enjoined or the pledge impounded by a court order.

(d) If more than one (1) person shall claim the right to redeem a pledge, the licensee shall incur no liability for refusing to deliver the pledge until the respective rights of the claimants shall have first been adjudicated.

§ 5626. Stolen Goods; Seizure of Goods.

(a) If a licensee has reasonable cause to believe that any property being pledged as security or already pledged as security is lost or stolen property, the licensee shall promptly report the matter to the Commissioner of Public Safety.

(b) Where probable cause exist that a pledge held by a licensee is stolen property, the Department of Public Safety shall, for purposes of investigation or trial or to preserve and safeguard the property:

(1) Seize the same; or

(2) Extend the holding period required under §5625(a), for not more than 60 days unless a court of competent jurisdiction decides that a longer holding period is required to preserve or safeguard the property.

(c) The Commissioner of Public Safety and the Secretary of Commerce shall adopt rules and regulations necessary to implement this Section 5626.

§ 5627. Prohibited Acts and Practices. It is unlawful for a licensee or any employee thereof to:

(a) Knowingly engage a pawnbroker transaction with:

(1) Any individual who is under the influence of drug or alcohol when such condition is visible or apparent;

(2) Any individual under the age of 18 years; or

(3) Any individual using a name other than his own name or the registered name of his business.

(b) Operate a pawn shop, engage in, or conduct business as a pawnbroker between the hours of 10:00 p.m. and 8:00 a.m.

(c) Accept as pledge, property that the licensee knows or should have known to be stolen property.

§ 5628. Penalties.

(a) Unless otherwise provided herein, a person who knowingly or willfully violates any provision of this Article shall be guilty of a misdemeanor and be punishable by a term of imprisonment not to exceed 1 year, and a fine not to exceed \$1,000.

(b) When the lawful owner recovers stolen property from a licensee and the person who sold or pledged the stolen property to the licensee is convicted of theft, or for dealing in stolen property, the court shall order the defendant to make full restitution to the licensee pursuant to 6 CMC §4109, as a condition of probation.

§ 5629. Distribution of Collected Fines and Penalties. Notwithstanding any law to the contrary, the Secretary of Finance shall deposit all fines and penalties collected under this Article as follows:

(a) Eighty percent shall be deposited into the General Fund, subject to appropriation.

(b) Twenty percent shall be deposited in a special account established by the Secretary of Finance to be known as the Pawnbroker Administration and Enforcement Fund. Such fund shall be non-lapsing and shall be a continuing appropriation to the Department of Commerce for the sole purpose of administering and enforcing the provisions of this Article.

§ 5630. Rule making. The Secretary shall adopt rules and regulations necessary to implement the provisions of this Article.

Section 5. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 6. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this Act becomes effective.

Section 7. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

**CERTIFIED BY:**

/s/ Ana S. Teregeyo  
**ANA S. TEREGEYO**  
**Acting Speaker**  
House of Representatives

**ATTESTED BY:**

/s/ Evelyn C. Fleming  
**EVELYN C. FLEMING**  
**House Clerk**

Approved this 19<sup>th</sup> day of February, 1999

/s/ Pedro P. Tenorio  
**PEDRO P. TENORIO**  
**Governor**  
Commonwealth of the Northern Mariana Islands