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SB-285 Pawnbrokers: compensation: loans. (2015-2016)

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Senate Bill No. 285

CHAPTER 245

An act to amend Sections 21200, 21200.1, 21200.5, 21200.6, 21201, and 21201.2 of, and to add Section 21205 to, the Financial Code, relating to pawnbrokers.

[Approved by Governor September 02, 2015. Filed with Secretary of State September 02, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 285, Block. Pawnbrokers: compensation: loans.

Existing law regulates pawnbrokers and sets the maximum compensation charged or received by pawnbrokers on loans to their customers. A knowing violation of the provisions regulating pawnbrokers is a crime.

Existing law provides a schedule of maximum charges for 21 loan brackets for the first 3 months of any loan.

This bill, in that schedule, would consolidate the 21 loan brackets into 6 and set maximum charges within those brackets.

Existing law, among other things, limits the charge for the 4th and subsequent months of a loan to 2.5% per month on the unpaid balance, as specified.

This bill would increase the charge limit for the 4th and subsequent months to 3% per month.

Existing law permits a loan setup fee of the greater of \$5 or 2% of the loan amount, not to exceed \$10.

This bill would adjust the permitted loan setup fee to the greater of either \$5 or 3% of the loan amount, not to exceed \$30.

Existing law establishes the maximum amount, irrespective of the duration of the loan, that may be charged based on size of pawned articles, as specified, and prohibits a storage charge for any article that can be contained within one cubic foot.

This bill would permit a pawnbroker to additionally charge a maximum of \$1 for handling and storage of any article that can be contained within one cubic foot.

Existing law requires a written contract that provides a 4-month loan period for every loan made by a pawnbroker for which goods are received in pledge as security and, under specified circumstances, requires a pawnbroker to notify the borrower at his or her last known address of the termination of the loan period, by a means for which verification of mailing or delivery of the notification can be provided by the pawnbroker, and provides for extending the right of redemption for a period of 10 days from the date that notice is mailed.

This bill instead would require a minimum 4-month loan period and would require the pawnbroker to provide that notification to the pledgor at his or her last known mailing or electronic address, by a means for which verification of mailing or, at the sole option of the pledgor, electronic transmission of the notification can be provided by the pawnbroker, as specified.

This bill also would require representatives of the pawnbroker industry to poll their members annually to gather data relating to the current financial condition of the California pawn industry.

Because a knowing violation of these provisions by a pawnbroker would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 21200 of the Financial Code is amended to read:

21200. (a) Except as otherwise provided in this chapter, no pawnbroker shall charge or receive compensation at a rate exceeding the sum of the following:

(1) Three percent per month on the unpaid principal balance of any loan.

(2) A charge not exceeding three dollars (\$3) a month on any loan when the monthly charge permitted by paragraph (1) would otherwise be less.

(b) One month's interest may be charged for any part of the month in which pawned property is redeemed.

SEC. 2. Section 21200.1 of the Financial Code is amended to read:

21200.1. A loan setup fee of five dollars (\$5) or 3 percent, whichever is greater, may be charged for each loan. However, the maximum loan setup fee shall not exceed thirty dollars (\$30). Loan setup fees are in addition to any other allowed charges.

SEC. 3. Section 21200.5 of the Financial Code is amended to read:

21200.5. A pawnbroker may charge as prescribed in the following schedule:

Schedule of Charges

(a) A charge not exceeding three dollars (\$3) may be made on any loan for not more than three months which does not exceed nineteen dollars and ninety-nine cents (\$19.99).

(b) A charge not exceeding six dollars (\$6) may be made on any loan for not more than three months of twenty dollars (\$20) or more, but not exceeding forty-nine dollars and ninety-nine cents (\$49.99).

(c) A charge not exceeding nine dollars (\$9) may be made on any loan for not more than three months of fifty dollars (\$50) or more, but not exceeding seventy-four dollars and ninety-nine cents (\$74.99).

(d) A charge not exceeding twelve dollars (\$12) may be made on any loan for not more than three months of seventy-five dollars (\$75) or more, but not exceeding ninety-nine dollars and ninety-nine cents (\$99.99).

(e) A charge not exceeding fifteen dollars (\$15) may be made on any loan for not more than three months of one hundred dollars (\$100) or more, but not exceeding one hundred seventy-four dollars and ninety-nine cents (\$174.99).

(f) A charge not exceeding 9 percent may be made on any loan for not more than three months on any loan of one hundred seventy-five dollars (\$175) or more, but not exceeding two thousand four hundred ninety-nine dollars and ninety-nine cents (\$2,499.99).

(g) The monthly charge for any extension of a written contract required by Section 21201 or 21201.5 shall be computed in accordance with the provisions of Section 21200.

(h) The schedule of charges prescribed by this section shall be posted in a place clearly visible to the general public.

SEC. 4. Section 21200.6 of the Financial Code is amended to read:

21200.6. (a) In addition to other allowed charges, at the time property is redeemed or a replacement loan is issued pursuant to Section 21201.5, the pawnbroker may collect a handling and storage charge for pawned articles. The maximum amount that may be charged pursuant to this section is in accordance with the following schedule:

- (1) One dollar (\$1) for any article that can be contained within one cubic foot.
- (2) Five dollars (\$5) for any article that cannot be contained within one cubic foot but can be contained within three cubic feet.
- (3) Ten dollars (\$10) for any article that cannot be contained within three cubic feet but can be contained within six cubic feet.
- (4) Twenty dollars (\$20) for any article that cannot be contained within six cubic feet and one dollar (\$1) for each additional cubic foot in excess of six cubic feet.

(b) For purposes of this section, cubic feet shall be determined by multiplying the width of an article, at its greatest width, by the depth of an article, at its greatest depth, by the height of an article, at its greatest height.

SEC. 5. Section 21201 of the Financial Code is amended to read:

21201. (a) Every loan made by a pawnbroker for which goods are received in pledge as security shall be evidenced by a written contract, a copy of which shall be furnished to the pledgor. The loan contract shall provide a loan period that is a minimum of four months, shall set forth the loan period and the date on which the loan is due and payable, and shall clearly inform the pledgor of his or her right to redeem the pledge during the loan period.

(b) Every loan contract shall contain the following notice, in at least 8-point boldface type and circumscribed by a box, immediately above the space for the pledgor's signature:

"You may redeem the property you have pledged at any time until the close of business on ____ [fill in date no less than four months from date loan begins]. To redeem, you must pay the amount of the loan and the applicable charges which have accrued through the date on which you redeem."

(c) Every pawnbroker shall retain in his or her possession every article pledged to him or her for the duration of the loan period. During such period the pledgor may redeem the articles upon payment of the amount of the loan and the applicable charges. If the pledgor and the pawnbroker agree in writing that the pawned property may be stored off premises, following the request for redemption of the loan, the pawnbroker shall return the pledged property to the pledgor the next calendar day when both the pawnbroker's store and the storage facility are open, not to exceed two business days.

(d) If any pledged article is not redeemed during the loan period as provided herein, and the pledgor and pawnbroker do not mutually agree in writing to extend the loan period, the pawnbroker shall notify the pledgor within one month after expiration of the loan period. If the pawnbroker fails to notify the pledgor within one month after the expiration of the loan period, the pawnbroker shall not charge interest from the day after the expiration of the one-month period. The pawnbroker shall notify the pledgor at his or her last known mailing or electronic address of the termination of the loan period, by a means for which verification of mailing or, at the sole option of the pledgor, electronic transmission of the notification can be provided by the pawnbroker, and extending the right of redemption, during posted business hours, for a period of 10 days from date of mailing or electronic transmission of that notice. Electronic notice of the termination of the loan period shall be valid if the pledgor has previously responded to an electronic communication sent by the pawnbroker to the pledgor's last known electronic address provided by the pledgor. Upon the initiation of each new or replacement loan, the pledgor shall affirm that the current electronic address on file with the pawnbroker is valid. The 10-day notice shall state, in substantially the same format as the following: "If the tenth day falls on a day when the pawnshop is closed, the time period is extended to the next day that the pawnshop is open."

(e) The posted schedule of charges required pursuant to Section 21200.5 shall contain a notice informing the pledgor that if he or she desires, the pawnbroker shall send the notice of termination of the loan period by registered or certified mail with return receipt requested, upon prepayment of the mailing costs.

(f) If any pledged article is not redeemed within the 10-day notice period, the pawnbroker shall become vested with all right, title, and interest of the pledgor, or his or her assigns, to the pledged article, to hold and dispose of as his or her own property. Any other provision of law relating to the foreclosure and sale of pledges shall not be applicable to any pledge the title to which is transferred in accordance with this section. The pawnbroker shall not sell any article of pledged property until he or she has become vested with the title to that property pursuant to this section.

(g) The sale of pledged property is a misdemeanor pursuant to Section 21209.

SEC. 6. Section 21201.2 of the Financial Code is amended to read:

21201.2. If the pledgor fails to redeem any pawned item during the loan period, thereby obliging the pawnbroker to mail or electronically transmit the notice required under Section 21201, the pawnbroker may charge a fee of up to three dollars (\$3) for services and costs pertaining to the preparation of the notice, in addition to any other allowed charges.

SEC. 7. Section 21205 is added to the Financial Code, to read:

21205. Representatives of the pawnbroker industry shall poll their members annually to gather data relating to the current financial condition of the California pawn industry.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.