AB-1186 Pawnbrokers: fees and charges. (2019-2020)

Date Published: 08/30/2019 09:00 PM

Assembly Bill No. 1186

CHAPTER 189

An act to amend Sections 21200.1, 21200.6, 21200.8, 21201, and 21201.2 of the Financial Code, relating to pawnbrokers.

[Approved by Governor August 30, 2019. Filed with Secretary of State August 30, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1186, Medina. Pawnbrokers: fees and charges.

(1) Existing law permits a pawnbroker to charge a loan setup fee of the greater of $5 or 3% of the loan amount, not to exceed $30.

This bill would adjust the permitted loan setup fee to the greater of either $7.50 or 3.5% of the loan amount, not to exceed $90.

(2) Existing law permits a pawnbroker to collect a handling and storage charge for pawned articles at the time property is redeemed or a replacement loan is issued. Existing law establishes the maximum amount that may be charged based on the size of pawned articles, as specified.

This bill would increase the permitted handling and storage charges depending on the size of the pawned articles, as specified.

(3) Existing law permits a pawnbroker to impose a processing charge in the amount of $4 for each pawned firearm.

This bill would increase the processing charge to $20 for each pawned firearm.

(4) Existing law permits a pawnbroker to charge a fee in the amount of up to $3 for preparing a 10-day notice when a pledged item is not redeemed during the loan period.

This bill would increase that maximum noticing fee to up to $5.

(5) Existing law requires pawnbrokers to provide written notice to a pledgor when a pledged item is not redeemed during the loan period and extends the pledgor's right of redemption 10 days from the date of the notice. Under existing law, the pawnbroker becomes vested with all right, title, and interest to the pledged article upon the expiration of the 10-day notice period.

This bill would make nonsubstantive changes to those provisions.

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

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

SECTION 1. Section 21200.1 of the Financial Code is amended to read:

21200.1. A loan setup fee of seven dollars and fifty cents ($7.50) or 3.5 percent, whichever is greater, may be charged for each loan. However, the maximum loan setup fee shall not exceed ninety dollars ($90). Loan setup fees are in addition to any other allowed charges.

SEC. 2. 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) Three dollars ($3) for any article that can be contained within one cubic foot.

(2) Six dollars ($6) for any article that cannot be contained within one cubic foot, but can be contained within three cubic feet.

(3) Twelve dollars ($12) for any article that cannot be contained within three cubic feet, but can be contained within six cubic feet.

(4) Twenty-four dollars ($24) for any article that cannot be contained within six cubic feet and three dollars ($3) 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. 3. Section 21200.8 of the Financial Code is amended to read:

21200.8. In addition to other allowed charges, a pawnbroker may collect a processing charge of twenty dollars ($20) for each firearm pawned.

SEC. 4. 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 their 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 their possession every article pledged to them for the duration of the loan period. During that 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 the pledgor's 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 they desire, 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 the pledgor’s assigns, to the pledged article, to hold and dispose of as the pawnbroker’s 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 they have 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. 5. 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 five dollars ($5) for services and costs pertaining to the preparation of the notice, in addition to any other allowed charges.