

Assembly Bill No. 2344

Passed the Assembly August 19, 2002

Chief Clerk of the Assembly

Passed the Senate August 14, 2002

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 21201, 21201.3, 21201.5, and 21203 of the Financial Code, relating to pawnbrokers.

LEGISLATIVE COUNSEL'S DIGEST

AB 2344, Correa. Pawnbrokers.

Existing law regulates the sale and redemption of pledged property by pawnbrokers. Existing law requires a loan to which an original loan debit is applied to be processed as a new loan and deemed a new loan subject to loan origination fees, storage fees, and minimum fees when applicable.

This bill would allow a pledgor to pay all charges and interest due on the original loan in a form acceptable to the pawnbroker. The bill would also subject the new loan to allowable fees rather than minimum fees.

The bill would authorize an original pledgor and pawnbroker to agree to a new loan on forfeited property or to agree to allow redemption of the forfeited property, and to annul the forfeiture of the original loan if all interest and charges on the original loan are paid by the pledgor upon issuance or redemption.

The bill would require that, if the property is stored off the business premises of a pawnbroker, the property be returned the next calendar day when the pawnbroker's store and the off business premise storage facility are open, not to exceed 2 business days.

The people of the State of California do enact as follows:

SECTION 1. Section 21201 of the Financial Code is amended to read:

21201. 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 borrower. The loan contract shall provide a four-month loan period, shall set forth the loan period and the date on which the loan is due and payable, and shall clearly inform the borrower of his or her right to redeem the pledge during the loan period.



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 borrower's signature:

"You may redeem the property you have pledged at any time until the close of business on ____ [fill in date 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."

Every pawnbroker shall retain in his or her possession every article pledged to him or her for a period of four months. During such period the borrower may redeem the articles upon payment of the amount of the loan and the applicable charges. If the borrower 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 consumer the next calendar day when both the pawnbroker's store and the storage facility are open, not to exceed two business days.

If any pledged article is not redeemed during the four-month loan period as provided herein, and the borrower and pawnbroker do not mutually agree in writing to extend the loan period, the pawnbroker shall notify the borrower within 30 days after expiration of the loan period. If the pawnbroker fails to notify the borrower within 30 days after the expiration of the loan period, the pawnbroker shall not charge interest from the day after the expiration of the 30-day period. The pawnbroker shall 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 extending the right of redemption, during posted business hours, for a period of 10 days from date of mailing of that notice. The 10-day notice shall include a statement that: "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."

However, the posted schedule of charges required pursuant to Section 21200.5 shall contain a notice informing the borrower 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. 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. The sale of pledged property is a misdemeanor pursuant to Section 21209.

SEC. 2. Section 21201.3 of the Financial Code is amended to read:

21201.3. (a) The written contract required pursuant to Section 21201 shall contain a provision in 8-point type stating whether the item or items pledged are to be stored at the business premises of the pawnbroker and adjacent to this provision, the following disclosure shall be made: “We must return your property within two business days if your property is stored off premises.”

(b) Every pawnbroker shall display a sign at his or her premises indicating whether or not pawned items are insured.

(c) If a pawnbroker stores pledged property at a location other than the pawnshop, the pawnbroker shall post a conspicuous sign stating that pawned items may be stored off premises with the consent of the pledgor and that following the redemption of a loan, property is required to be returned the next calendar day upon which both the pawnbroker’s store and the storage facility are open, not to exceed two business days.

(d) Notwithstanding Section 21209, a violation of this section is an infraction.

(e) This section shall become operative July 1, 1995.

SEC. 3. Section 21201.5 of the Financial Code is amended to read:

21201.5. A pledgor may request, and a pawnbroker may consent to, a new loan to take effect upon or at any time after the expiration of the loan period stated in the original loan contract delivered to the pledgor under Section 21201. The pledgor shall pay in cash or another form acceptable to the pawnbroker all of the charges and interest due under the original loan, and the remaining unpaid balance of the actual amount borrowed under the original loan shall be debited to the new loan on which the same article or



articles are pledged. The loan to which the debit is applied shall be processed as a new loan and shall be deemed to be a new loan subject to loan origination fees, storage fees, and other fees permitted by this chapter, when applicable. The new loan contract required by Section 21201 shall disclose the amount of the original loan that is debited to the new loan.

SEC. 4. Section 21203 of the Financial Code is amended to read:

21203. Any property held in pawn which is not subject to a hold pursuant to Section 21647 of the Business and Professions Code shall be returned to the pledgor immediately upon redemption of the loan. However, if the property is stored off the business premises of the pawnbroker, following the redemption of the loan the property shall be returned the next calendar day when both the pawnbroker's store and the storage facility are open, not to exceed two business days.



Approved _____, 2002

Governor

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