

AMENDED IN SENATE MAY 5, 2015  
AMENDED IN SENATE APRIL 30, 2015  
AMENDED IN SENATE MARCH 26, 2015

**SENATE BILL**

**No. 300**

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**Introduced by Senator Mendoza**

February 23, 2015

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An act to amend Sections 21201, 21201.5, and 21208 of, and to add Section 21201.6 to, the Financial Code, relating to pawnbrokers.

LEGISLATIVE COUNSEL'S DIGEST

SB 300, as amended, Mendoza. Pawnbrokers: regulations.

Existing law regulates pawnbrokers and requires a written contract for every loan by a pawnbroker for which goods are received in pledge as security, as specified, and requires a copy of that contract to be furnished to the borrower.

This bill would permit the requirement for a written contract to be met electronically, provided that the contract and transaction comply with the provisions of the Uniform Electronic Transactions Act and meet certain disclosure requirements. The bill would also require that the contract be for a minimum of 4 months.

Existing law requires a pawnbroker, within one month after the loan period expires, 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 would instead 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. The bill would ~~consider an electronic notice of termination of the loan period valid if the pledgor responded within the previous 120 days to an electronic communication sent by the pawnbroker.~~ *provide that the electronic notice of the termination of the loan period would be valid only if the pledgor has previously responded to an electronic communication sent by the pawnbroker to the pledgor's last known electronic address and would require the pledgor to affirm the electronic address on file, as prescribed.*

Existing law permits a pledgor and a pawnbroker to agree to a new loan to become effective at the end of the loan period and requires the new loan to be processed as a new loan subject to loan origination, storage, and other fees as specified.

This bill would permit a replacement loan to be issued at the request of the pledgor with consent of the pawnbroker before the expiration of the redemption period, to become effective on the date it is issued, subject to specified requirements, including, but not limited to, that the pledgor pay off all outstanding charges from the prior loan then due before a replacement loan may be issued.

Existing law requires a pawnbroker to comply with the reporting requirements imposed on secondhand dealers, including the requirement to obtain and report the customer's fingerprint.

This bill would require a pawnbroker who has issued a loan electronically, instead of obtaining and reporting the customer's fingerprint, to electronically deposit the loan proceeds into a deposit account held in the name of the pledgor, as specified.

Because a knowing violation of these provisions 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.  
State-mandated local program: yes.

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

1 SECTION 1. It is the intent of the Legislature to permit the  
2 citizens of California the ability to transact pawn or collateral loans  
3 in an efficient and expeditious manner wherever they may be  
4 located. It is further the intent of the Legislature to permit such  
5 loans to be made in conformity with the Uniform Electronic  
6 Transactions Act, as set forth in Title 2.5 (commencing with  
7 Section 1633.1) of Part 2 of Division 3 of the Civil Code.

8 SEC. 2. Section 21201 of the Financial Code is amended to  
9 read:

10 21201. (a) Every loan made by a pawnbroker for which goods  
11 are received in pledge as security shall be evidenced by a written  
12 contract, a copy of which shall be furnished to the pledgor. The  
13 loan contract shall provide a loan period that is a minimum of four  
14 months, shall set forth the loan period and the date on which the  
15 loan is due and payable, and shall clearly inform the pledgor of  
16 his or her right to redeem the pledge during the loan period.

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

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

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

34 (d) If any pledged article is not redeemed during the four-month  
35 loan period as provided herein, and the pledgor and pawnbroker  
36 do not mutually agree in writing to extend the loan period, the  
37 pawnbroker shall notify the pledgor within one month after  
38 expiration of the loan period. If the pawnbroker fails to notify the

1 pledgor within one month after the expiration of the loan period,  
2 the pawnbroker shall not charge interest from the day after the  
3 expiration of the one-month period. The pawnbroker shall notify  
4 the pledgor at his or her last known mailing or electronic address  
5 of the termination of the loan period, by a means for which  
6 verification of mailing or, at the sole option of the pledgor,  
7 electronic transmission of the notification can be provided by the  
8 pawnbroker, and extending the right of redemption, during posted  
9 business hours, for a period of 10 days from date of mailing or  
10 electronic transmission of that notice. The 10-day notice shall state,  
11 in substantially the same format as the following: “If the tenth day  
12 falls on a day when the pawnshop is closed, the time period is  
13 extended to the next day that the pawnshop is open.” ~~Electronic~~  
14 ~~notice of the termination of the loan period shall be valid if the~~  
15 ~~pledgor has responded within the previous 120 days to an electronic~~  
16 ~~communication sent by the pawnbroker to the pledgor’s electronic~~  
17 ~~address. The electronic notice of the termination of the loan period~~  
18 ~~shall be valid only if the pledgor has previously responded to an~~  
19 ~~electronic communication sent by the pawnbroker to the pledgor’s~~  
20 ~~last known electronic address provided by the pledgor. Upon the~~  
21 ~~initiation of each new or replacement loan, the pledgor shall affirm~~  
22 ~~that the current electronic address on file with the pawnbroker is~~  
23 ~~valid.~~

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

29 (f) If any pledged article is not redeemed within the 10-day  
30 notice period, the pawnbroker shall become vested with all right,  
31 title, and interest of the pledgor, or his or her assigns, to the pledged  
32 article, to hold and dispose of as his or her own property. Any  
33 other provision of law relating to the foreclosure and sale of  
34 pledges shall not be applicable to any pledge the title to which is  
35 transferred in accordance with this section.

36 (g) The pawnbroker shall not sell any article of pledged property  
37 until he or she has become vested with the title to that property  
38 pursuant to this section. The sale of pledged property is a  
39 misdemeanor pursuant to Section 21209.

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

3 21201.5. (a) During the contractual loan period and any  
4 extension thereof, but prior to the start of the 10-day grace period  
5 provided in subdivision (d) of Section 21201, a pledgor may  
6 request, and a pawnbroker may consent to, a replacement loan to  
7 take effect upon the expiration of the loan period stated in the  
8 active loan contract delivered to the pledgor under Section 21201  
9 or this section.

10 (b) Alternatively, a pledgor may request, and a pawnbroker may  
11 consent to, a replacement loan during the 10-day grace period  
12 provided in subdivision (d) of Section 21201. Any such  
13 replacement loan shall become effective on the date it is issued.

14 (c) All of the following shall apply to a replacement loan issued  
15 pursuant to this section:

16 (1) The loan shall be processed as, and deemed to be, a new  
17 loan subject to all other fees and charges permitted by this chapter.

18 (2) Before a replacement loan may be issued, the pledgor shall  
19 pay off all outstanding charges from the prior loan then due,  
20 including interest or any loan writing, storage, notification, or other  
21 fee authorized in this chapter, in cash or another form acceptable  
22 to the pawnbroker. The pledgor's payment may be delivered to  
23 the pawnbroker by any method, including, but not limited to,  
24 United States mail, private mail, a personal representative, or  
25 electronic transfer, provided that the manner of payment is  
26 acceptable to the pawnbroker. If insufficient payment is tendered  
27 by the pledgor or is tendered in a form unacceptable to the  
28 pawnbroker, the pawnbroker shall, if commercially reasonable,  
29 return the payment in the same manner that the payment was  
30 delivered by the pledgor, or by another commercially reasonable  
31 manner, within five business days, and shall include a statement  
32 advising the pledgor the reason the payment was rejected. The  
33 pawnbroker is under no obligation to enter into a replacement loan  
34 if the amount is insufficient or the form of payment or method of  
35 tender is unacceptable to the pawnbroker.

36 (3) The unpaid balance of the prior loan shall be debited to the  
37 replacement loan on which the same article or articles have been  
38 pledged. The replacement loan contract shall disclose the amount  
39 of the prior loan that is debited and shall otherwise be consistent  
40 with Section 21201.

1 (4) If the pledgor requests a replacement loan in person or  
2 electronically, the pledgor's consent to the terms of the replacement  
3 loan shall be deemed given when he or she signs the written  
4 replacement loan contract in person or electronically in conformity  
5 with Section 21201.6.

6 (5) If the pledgor requests a replacement loan by mail or through  
7 a personal representative, the pledgor's consent to the terms of the  
8 replacement loan shall be deemed given when all required charges  
9 from the prior loan then due are paid in a form acceptable to the  
10 pawnbroker. The principal amount of a replacement loan requested  
11 by mail or through a personal representative shall not exceed the  
12 principal amount of the prior loan.

13 (6) The terms of the replacement loan shall be consistent with  
14 this chapter on the date the replacement loan is issued.

15 (7) The replacement loan shall be evidenced by a written  
16 agreement or electronic record. The pawnbroker shall mail or  
17 otherwise transmit a copy of the written agreement or electronic  
18 record to the pledgor within five business days following receipt  
19 of payment by means for which verification of mailing or electronic  
20 transmittal can be provided by the pawnbroker.

21 SEC. 4. Section 21201.6 is added to the Financial Code, to  
22 read:

23 21201.6. The requirement for a written contract signed by the  
24 pledgor as set forth in Sections 21201 and 21201.5 may be met  
25 electronically if all of the following conditions are satisfied:

26 (a) The contract and transaction comply with the provisions of  
27 the Uniform Electronic Transactions Act, as set forth in Title 2.5  
28 (commencing with Section 1633.1) of Part 2 of Division 3 of the  
29 Civil Code, as may be applicable at the time that the loan is entered  
30 into between the pawnbroker and the pledgor.

31 (b) Any written disclosures specified in this chapter to be set  
32 forth in a specified minimum type size are conspicuously presented  
33 to the pledgor prior to his or her execution of the electronic  
34 contract.

35 (c) The pawnbroker makes one of the following disclosures:

36 (1) If the principal loan amount is below two thousand five  
37 hundred dollars (\$2,500), the pawnbroker discloses the maximum  
38 compensation due a pawnbroker as set forth in Section 21200.7  
39 prior to the pledgor's execution of the electronic contract.

1 (2) If the principal loan amount is two thousand five hundred  
2 dollars (\$2,500) or more, the pawnbroker discloses the provisions  
3 of Sections 21051 and 22054 prior to the pledgor's execution of  
4 the electronic contract.

5 SEC. 5. Section 21208 of the Financial Code is amended to  
6 read:

7 21208. (a) Except as provided in subdivision (b), a pawnbroker  
8 shall comply with the reporting requirements imposed on  
9 secondhand dealers under Article 4 (commencing with Section  
10 21625) of Chapter 9 of Division 8 of the Business and Professions  
11 Code.

12 (b) A pawnbroker who has issued a loan electronically pursuant  
13 to Section 21201.6 shall, in lieu of obtaining and reporting the  
14 customer's fingerprint as set forth in subdivision (g) of Section  
15 21628 of the Business and Professions Code, electronically deposit  
16 the loan proceeds into a deposit account held in the name of the  
17 pledgor at a depository institution located in the United States.

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

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