

AMENDED IN ASSEMBLY JUNE 11, 2015

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 *and repeal* Section 21201.6-~~to~~, of, 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. *Existing law requires the contract to provide a 4-month loan period.*

~~This bill~~ *bill, on and after January 1, 2017,* would permit the ~~requirement for a~~ *requirements for an original* 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~~ *specify* 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 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. *The bill would also permit the replacement loan to be issued electronically, beginning January 1, 2016, subject to the same conditions for the original written contract described above.*

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.~~ *the*  
27 *duration of the loan period.* During such period the pledgor may  
28 redeem the articles upon payment of the amount of the loan and  
29 the applicable charges. If the pledgor and the pawnbroker agree  
30 in writing that the pawned property may be stored off premises,  
31 following the request for redemption of the loan, the pawnbroker  
32 shall return the pledged property to the pledgor the next calendar  
33 day when both the pawnbroker’s store and the storage facility are  
34 open, not to exceed two business days.

1 (d) If any pledged article is not redeemed during the ~~four-month~~  
2 loan period as provided herein, and the pledgor and pawnbroker  
3 do not mutually agree in writing to extend the loan period, the  
4 pawnbroker shall notify the pledgor within one month after  
5 expiration of the loan period. If the pawnbroker fails to notify the  
6 pledgor within one month after the expiration of the loan period,  
7 the pawnbroker shall not charge interest from the day after the  
8 expiration of the one-month period. ~~The~~

9 (e) *The* pawnbroker shall notify the pledgor at his or her last  
10 known mailing or electronic address of the termination of the loan  
11 period, by a means for which verification of mailing or, at the sole  
12 option of the pledgor, electronic transmission of the notification  
13 can be provided by the pawnbroker, and extending the right of  
14 redemption, during posted business hours, for a period of 10 days  
15 from date of mailing or electronic transmission of that notice. The  
16 10-day notice shall state, in substantially the same format as the  
17 following: “If the tenth day falls on a day when the pawnshop is  
18 closed, the time period is extended to the next day that the  
19 pawnshop is open.” The electronic notice of the termination of the  
20 ~~loan period~~ *period, if the option is offered by the pawnbroker,* shall  
21 be valid ~~only~~ if the pledgor has previously responded to an  
22 electronic communication sent by the pawnbroker to the pledgor’s  
23 last known electronic address provided by the pledgor. Upon the  
24 initiation of each new or replacement loan, the pledgor shall affirm  
25 that the current electronic address on file with the pawnbroker is  
26 valid.

27 ~~(e) However, the~~

28 (f) *The* posted schedule of charges required pursuant to Section  
29 21200.5 shall contain a notice informing the pledgor that if he or  
30 she desires, the pawnbroker shall send the notice of termination  
31 of the loan period by registered or certified mail with return receipt  
32 requested, upon prepayment of the mailing costs.

33 ~~(f)~~

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

1 ~~(g)~~

2 (h) The pawnbroker shall not sell any article of pledged property  
3 until he or she has become vested with the title to that property  
4 pursuant to this section. The sale of pledged property is a  
5 misdemeanor pursuant to Section 21209.

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

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

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

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

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

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

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

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

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

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

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

26 SEC. 4. Section 21201.6 is added to the Financial Code, to  
27 read:

28 21201.6. The requirement for a written contract signed by the  
29 pledgor as set forth in ~~Sections 21201 and~~ *Section* 21201.5 may  
30 be met electronically if all of the following conditions are satisfied:

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

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

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

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

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

9 *(d) This section shall remain in effect only until January 1, 2017,*  
10 *and as of that date is repealed.*

11 *SEC. 5. Section 21201.6 is added to the Financial Code, to*  
12 *read:*

13 *21201.6. The requirement for a written contract signed by the*  
14 *pledgor as set forth in Sections 21201 and 21201.5 may be met*  
15 *electronically if all of the following conditions are satisfied:*

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

21 *(b) Any written disclosures specified in this chapter to be set*  
22 *forth in a specified minimum type size are conspicuously presented*  
23 *to the pledgor prior to his or her execution of the electronic*  
24 *contract.*

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

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

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

34 *(d) This section shall become operative on January 1, 2017.*

35 ~~SEC. 5.~~

36 *SEC. 6. Section 21208 of the Financial Code is amended to*  
37 *read:*

38 *21208. (a) Except as provided in subdivision (b), a pawnbroker*  
39 *shall comply with the reporting requirements imposed on*  
40 *secondhand dealers under Article 4 (commencing with Section*

1 21625) of Chapter 9 of Division 8 of the Business and Professions  
2 Code.

3 (b) A pawnbroker who has issued a loan electronically pursuant  
4 to Section 21201.6 shall, in lieu of obtaining and reporting the  
5 customer’s fingerprint as set forth in subdivision (g) of Section  
6 21628 of the Business and Professions Code, electronically deposit  
7 the loan proceeds into a deposit account held in the name of the  
8 pledgor at a depository institution located in the United States.

9 ~~SEC. 6.~~

10 *SEC. 7.* No reimbursement is required by this act pursuant to  
11 Section 6 of Article XIII B of the California Constitution because  
12 the only costs that may be incurred by a local agency or school  
13 district will be incurred because this act creates a new crime or  
14 infraction, eliminates a crime or infraction, or changes the penalty  
15 for a crime or infraction, within the meaning of Section 17556 of  
16 the Government Code, or changes the definition of a crime within  
17 the meaning of Section 6 of Article XIII B of the California  
18 Constitution.