

AMENDED IN ASSEMBLY SEPTEMBER 4, 2015

AMENDED IN ASSEMBLY JULY 16, 2015

AMENDED IN ASSEMBLY JULY 2, 2015

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**

---

---

**Introduced by Senator Mendoza**

February 23, 2015

---

---

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

LEGISLATIVE COUNSEL'S DIGEST

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

(1) 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, on and after January 1, 2017, would permit the 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~~ *would, instead*, specify that the contract be for a minimum of 4 months.

(2) 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.

(3) 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.~~ *electronically, provided that the contract and transaction comply with the Uniform Electronic Transactions Act and meet certain disclosure requirements.*

~~(4) 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 depository account held in the name of the pledgor at a depository institution~~

located within the United States, and upon request by any peace officer, make available the account information used to deposit the loan proceeds.

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

~~(5) 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~~-no. State-mandated local program: ~~yes~~-no.

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

1 SECTION 1. It is the intent of the Legislature to permit  
2 Californians the ability to transact pawn or collateral loans in an  
3 efficient and expeditious manner wherever they may be located.  
4 ~~pawnbrokers to conduct business transactions by electronic means,~~  
5 ~~except when establishing an original loan.~~ It is further the intent  
6 of the Legislature to permit such ~~loans~~ transactions to be made in  
7 conformity with the Uniform Electronic Transactions Act, as set  
8 forth in Title 2.5 (commencing with Section 1633.1) of Part 2 of  
9 Division 3 of the Civil Code.

10 SEC. 2. Section 21201 of the Financial Code is amended to  
11 read:

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

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

22 “You may redeem the property you have pledged at any time  
23 until the close of business on \_\_\_\_ [fill in date no less than four  
24 months from date loan begins]. To redeem, you must pay the

1 amount of the loan and the applicable charges which have accrued  
2 through the date on which you redeem.”

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

13 (d) If any pledged article is not redeemed during the loan period  
14 as provided herein, and the pledgor and pawnbroker do not  
15 mutually agree in writing to extend the loan period, the pawnbroker  
16 shall notify the pledgor within one month after expiration of the  
17 loan period. If the pawnbroker fails to notify the pledgor within  
18 one month after the expiration of the loan period, the pawnbroker  
19 shall not charge interest from the day after the expiration of the  
20 one-month period. The pawnbroker shall notify the pledgor at his  
21 or her last known mailing or electronic address of the termination  
22 of the loan period, by a means for which verification of mailing  
23 or, at the sole option of the pledgor, electronic transmission of the  
24 notification can be provided by the pawnbroker, and extending the  
25 right of redemption, during posted business hours, for a period of  
26 10 days from date of mailing or electronic transmission of that  
27 notice. Electronic notice of the termination of the loan period shall  
28 be valid if the pledgor has previously responded to an electronic  
29 communication sent by the pawnbroker to the pledgor’s last known  
30 electronic address provided by the pledgor. Upon the initiation of  
31 each new or replacement loan, the pledgor shall affirm that the  
32 current electronic address on file with the pawnbroker is valid.  
33 The 10-day notice shall state, in substantially the same format as  
34 the following: “If the tenth day falls on a day when the pawnshop  
35 is closed, the time period is extended to the next day that the  
36 pawnshop is open.”

37 (e) The posted schedule of charges required pursuant to Section  
38 21200.5 shall contain a notice informing the pledgor that if he or  
39 she desires, the pawnbroker shall send the notice of termination

1 of the loan period by registered or certified mail with return receipt  
2 requested, upon prepayment of the mailing costs.

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

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

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

16 21201.5. (a) During the contractual loan period and any  
17 extension thereof, but prior to the start of the 10-day grace period  
18 provided in subdivision (d) of Section 21201, a pledgor may  
19 request, and a pawnbroker may consent to, a replacement loan to  
20 take effect upon the expiration of the loan period stated in the  
21 active loan contract delivered to the pledgor under Section 21201  
22 or this section.

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

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

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

31 (2) Before a replacement loan may be issued, the pledgor shall  
32 pay off all outstanding charges from the prior loan then due,  
33 including interest or any loan writing, storage, notification, or other  
34 fee authorized in this chapter, in cash or another form acceptable  
35 to the pawnbroker. The pledgor's payment may be delivered to  
36 the pawnbroker by any method acceptable to the pawnbroker,  
37 including, but not limited to, United States mail, private mail, a  
38 personal representative, or electronic transfer. If insufficient  
39 payment is tendered by the pledgor or is not tendered in cash or a  
40 form acceptable to the pawnbroker, the pawnbroker shall, if

1 commercially reasonable, return the payment in the same manner  
2 that the payment was delivered by the pledgor, or by another  
3 commercially reasonable manner, within five business days, and  
4 shall include a statement advising the pledgor the reason the  
5 payment was rejected. The pawnbroker is under no obligation to  
6 enter into a replacement loan if the amount is insufficient or the  
7 method of payment or form of tender is not cash or acceptable to  
8 the pawnbroker.

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

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

19 (5) If the pledgor requests a replacement loan by mail or through  
20 a personal representative, the pledgor's consent to the terms of the  
21 replacement loan shall be deemed given when all required charges  
22 from the prior loan then due are paid in a form acceptable to the  
23 pawnbroker. The principal amount of a replacement loan requested  
24 by mail or through a personal representative shall not exceed the  
25 principal amount of the prior loan.

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

28 (7) The replacement loan shall be evidenced by a written  
29 agreement or electronic record. The pawnbroker shall mail or  
30 otherwise transmit a copy of the written agreement or electronic  
31 record to the pledgor within five business days following receipt  
32 of payment by means for which verification of mailing or electronic  
33 transmittal can be provided by the pawnbroker.

34 SEC. 4. Section 21201.6 is added to the Financial Code, to  
35 read:

36 21201.6. The requirement for a written contract signed by the  
37 pledgor as set forth in Section 21201.5 may be met electronically  
38 if all of the following conditions are satisfied:

39 (a) The contract and transaction comply with the provisions of  
40 the Uniform Electronic Transactions Act, as set forth in Title 2.5

1 (commencing with Section 1633.1) of Part 2 of Division 3 of the  
2 Civil Code, as may be applicable at the time that the loan is entered  
3 into between the pawnbroker and the pledgor.

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

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

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

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

17 ~~(d) This section shall remain in effect only until January 1, 2017,~~  
18 ~~and as of that date is repealed.~~

19 ~~SEC. 5. Section 21201.6 is added to the Financial Code, to~~  
20 ~~read:~~

21 ~~21201.6. The requirement for a written contract signed by the~~  
22 ~~pledgor as set forth in Sections 21201 and 21201.5 may be met~~  
23 ~~electronically if all of the following conditions are satisfied:~~

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

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

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

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

38 ~~(2) If the principal loan amount is two thousand five hundred~~  
39 ~~dollars (\$2,500) or more, the pawnbroker discloses the provisions~~

1 of Sections 21051 and 22054 prior to the pledgor's execution of  
2 the electronic contract.

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

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

6 21208. (a) Except as provided in subdivision (c), a pawnbroker  
7 shall comply with the reporting requirements imposed on  
8 secondhand dealers under Article 4 (commencing with Section  
9 21625) of Chapter 9 of Division 8 of the Business and Professions  
10 Code.

11 (b) A pawnbroker who has issued a loan electronically pursuant  
12 to Section 21201.6 shall electronically deposit the loan proceeds  
13 into a depository account held in the name of the pledgor at a  
14 depository institution located within the United States.

15 (c) A pawnbroker who has issued a loan electronically pursuant  
16 to Section 21201.6 shall make available, upon request by any peace  
17 officer, the account information used to deposit the loan proceeds,  
18 in lieu of obtaining and reporting the customer's fingerprint as set  
19 forth in Section 21628 of the Business and Professions Code.

20 SEC. 7. No reimbursement is required by this act pursuant to  
21 Section 6 of Article XIII B of the California Constitution because  
22 the only costs that may be incurred by a local agency or school  
23 district will be incurred because this act creates a new crime or  
24 infraction, eliminates a crime or infraction, or changes the penalty  
25 for a crime or infraction, within the meaning of Section 17556 of  
26 the Government Code, or changes the definition of a crime within  
27 the meaning of Section 6 of Article XIII B of the California  
28 Constitution.

O