

987203743

HOUSE BILL NO. 769

Offered January 26, 1998

A BILL to amend and reenact §§ 54.1-4000 through 54.1-4005 and 54.1-4009 through 54.1-4014 of the Code of Virginia and to repeal §§ 54.1-4006 and 54.1-4007, relating to the regulation of pawnbrokers; penalty.

Patron—Callahan

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-4000 through 54.1-4005 and 54.1-4009 through 54.1-4014 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-4000. Definition of pawnbroker.

"Pawnbroker" means any person who lends or advances money or other things for profit on the pledge and possession of *tangible* personal property, or other valuable things, other than securities or written or printed evidences of indebtedness *or title*, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.

§ 54.1-4001. License required; license authorized by court; building designated in license; penalty.

A. No person shall engage in the business of a pawnbroker without having a valid license issued by the county, city or town in which the pawnbroker conducts such business.

B. The circuit court of any county or city may authorize any county, city or town to issue to any individual who produces satisfactory evidence of his good character, who has not been convicted of a felony in the last ten years, a license to engage in the business of a pawnbroker in that county, city or town. No such license shall be issued by any county, city or town except with such authority. Prior to the issuance of the license, the applicant shall furnish his date of birth and such other information to the licensing authority as may be required by the governing body. The license shall designate the building in which the licensee shall carry on such business. No person shall engage in the business of a pawnbroker without being licensed.

C. No person shall engage in the business of a pawnbroker in any location other than the one designated in his license, except with consent of the court which authorized the license.

D. Any person who violates the provisions of this section shall be guilty of a Class 4 1 misdemeanor. Each day's violation shall constitute a separate offense.

§ 54.1-4002. Local limitations as to number of pawnshops.

A. In addition to all limitations and restrictions and notwithstanding any other relevant provisions of this chapter, the governing body of any county, city or town may reasonably limit by resolution or ordinance the number of pawnshops that may be operated at any one time within its territorial limits.

B. The circuit court of any county or city which has, by resolution or ordinance, limited the number of pawnshops therein shall not authorize any license to any pawnbroker after the commissioner of the revenue or other tax assessing officer of the county, city or town over which it has jurisdiction for the issuance of such licenses has filed with the court a statement that the number of licensed pawnshops within the county, city or town has reached the maximum number of pawnshops authorized to be operated therein, unless the number has been reduced below the maximum prescribed. In the event that a properly licensed pawnbroker sells his business, the circuit court of the county or city shall authorize the county, city or town in which such business operates to issue to the purchaser a new license for the same location if the purchaser has not been convicted of a felony in the last ten years. Prior to the issuance of the license, the applicant shall furnish his date of birth and such other information to the licensing authority as may be required by the local governing body.

§ 54.1-4003. Bond required; private action on bond.

A. No person shall be licensed as a pawnbroker or engage in the business of a pawnbroker without having in existence a bond with surety in the minimum amount of \$50,000 to secure the payment of any judgment recovered under the provisions of subsection B.

B. Any person who recovers a judgment against a licensed pawnbroker for the pawnbroker's misconduct fraudulent activities may maintain an action in his own name upon the bond of the pawnbroker if the execution issued upon such judgment is wholly or partially unsatisfied.

§ 54.1-4004. Memorandum to be given pledgor; fee; lost ticket charge.

Every pawnbroker shall at the time of each loan deliver to the person pawning or pledging anything, a memorandum or note, signed by him, containing the information required by § 54.1-4009. A ~~one-time~~ ~~two dollar service~~ *four-dollar transaction fee* may be charged for any such ~~entry~~, memorandum or note.

INTRODUCED

HB769

60 *An additional four-dollar fee may also be charged for each renewal of the original loan. A lost-ticket*
61 *fee of five dollars may also be charged.*

62 § 54.1-4005. Sale of goods pawned.

63 No pawnbroker shall sell any pawn or pledge *item* until (i) it has been in his possession for ~~four~~
64 ~~months, unless a shorter period of not the minimum term set forth in the memorandum, but not less than~~
65 thirty days is agreed to in writing by the pawnbroker, *plus a grace period of fifteen days* and (ii) a statement
66 of ownership is obtained from the pawnbroker. All sales of items pursuant to this section ~~shall~~ *may* be made
67 at a public auction conducted by a licensed auctioneer *by the pawnbroker in the ordinary course of his*
68 *business. The governing body of the locality wherein the pawnbroker conducts his business may*
69 *determine the contents of the statement of ownership.*

70 § 54.1-4009. Records to be kept; credentials of person pawning goods.

71 A. Every pawnbroker shall keep at his place of business an accurate and legible record of each loan
72 or transaction in the course of his business. The account shall be recorded at the time of the loan or
73 transaction and shall include:

74 1. A description, serial number, and a statement of ownership of the goods, article or thing pawned
75 or pledged or received on account of money loaned thereon;

76 2. The time, date and place of the transaction;

77 3. The amount of money loaned thereon at the time of pledging the same;

78 4. The rate of interest to be paid on such loan;

79 5. *The fees charged by the pawnbroker, itemizing each fee charged separately;*

80 6. The full name, residence address, ~~work place, and home and work telephone numbers~~ *telephone*
81 *number and social security number or driver's license number* of the person pawning or pledging the
82 goods, article or thing, together with a particular description, including the height, weight, date of birth,
83 race, gender, hair and eye color, and any other identifying marks, of such person;

84 7. Verification of the identification by the exhibition of a government-issued identification card
85 such as a driver's license or military identification card. The record shall contain the type of
86 identification exhibited, the issuing agency, and the number thereon;

87 8. The terms and conditions of the loan, including the period for which any such loan may be
88 made; and

89 9. All other facts and circumstances respecting such loan.

90 B. The Superintendent of State Police shall promulgate regulations specifying the nature of the
91 particular description for the purposes of subdivision A 5 A 6 above.

92 The Superintendent of State Police shall promulgate regulations specifying the nature of identifying
93 credentials of the person pawning or pledging the goods. Such credentials shall be examined by the
94 pawnbroker, and an appropriate record retained thereof.

95 § 54.1-4010. Daily reports.

96 Every pawnbroker shall prepare a daily report of all goods, articles or things pawned or pledged with
97 him that day and *shall* file such report by noon of the following day with the chief of police or other
98 law-enforcement officer of the county, city or town where his business is conducted designated by the
99 local attorney for the Commonwealth to receive it. The report shall include the *pledgor's* name, ~~and~~
100 ~~residence of the pledgor and social security number or driver's license number~~, and a description of the
101 goods, ~~article~~ *articles* or ~~thing~~ *other things* pledged and shall be in writing and clearly legible to any
102 person inspecting it.

103 Any person, firm or corporation violating any of the provisions of this section shall be guilty of a
104 Class 4 misdemeanor.

105 § 54.1-4011. Officers may examine records or property; warrantless search and seizure authorized.

106 Every pawnbroker and every employee of the pawnbroker shall admit to the pawnbroker's place of
107 business during regular business hours, ~~the chief law-enforcement officer, or his designee~~ *any duly*
108 *authorized law-enforcement officer* of the jurisdiction where the business is being conducted, or any
109 law-enforcement official of the state or federal government. The pawnbroker or employee shall permit
110 the officer to (i) examine all records required by this chapter and any article listed in a record which is
111 believed by the officer to be missing or stolen and (ii) search for and take into possession any article
112 known to him to be missing, or known or believed by him to have been stolen. *However, the officer*
113 *shall not take possession of any article without providing to the pawnbroker a receipt.*

114 § 54.1-4012. Property pawned not to be disfigured or changed.

115 No property received on deposit or pledge by any pawnbroker shall be disfigured or its identity
116 destroyed or affected in any manner so long as it continues in pawn or in the possession of the
117 pawnbroker; ~~nor shall any property be concealed for forty-eight hours after the property is received by~~
118 ~~the pawnbroker while in pawn.~~

119 § 54.1-4013. Care of tangible personal property; evaluation fee.

120 A. Pawnbrokers shall store, ~~or take care to for and protect from damage during disuse~~, all blankets,
121 ~~clothing, carpets, furs, rugs, dress goods, cloths, mirrors, oil paintings, glass and chinaware, pianos,~~

organs, curtains, beddings and upholstered furniture pawned or pledged with them. Pawnbrokers shall be allowed to charge two percent per month in addition to the regular charges for the first three months, or part thereof, while such goods remain as pledge for money advanced all of the tangible personal property in the pawnbroker's possession and protect the property from damage or misuse. Nothing in this article shall be construed to mean that pawnbrokers are insurers of pawned property in their possession.

B. A pawnbroker may charge a storage fee for any items requiring storage, which fee shall not exceed seven percent of the amount loaned on such item for the period of the loan and any renewal period.

C. A pawnbroker may charge an evaluation fee on any item pawned, not to exceed three percent of the amount loaned on such item for the period of the loan and any renewal period.

§ 54.1-4014. Penalties.

~~Any~~ Except as otherwise provided in § 54.1-4001, any licensed pawnbroker who violates any of the provisions of this chapter shall be guilty of a Class 4 misdemeanor. In addition, the court may revoke or suspend the pawnbroker's license for second and subsequent offenses.

2. That §§ 54.1-4006 and 54.1-4007 of the Code of Virginia are repealed.