

1 **H. B. 2534**

2
3 (By Delegates Morgan, Stephens, Diserio, Jones,
4 Paxton and Smith, P.)

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6 [Introduced February 19, 2013; referred to the
7 Committee on Government Organization then the Judiciary.]

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10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new article, designated §47-26-1, §47-26-2,
12 §47-26-3, §47-26-4 and §47-26-5, all relating to the
13 regulation of pawn brokers; defining terms; requiring
14 transaction records; specifying misdemeanor criminal penalty
15 for violations; requiring record retention; and authorizing
16 municipal and county regulation.

17 *Be it enacted by the Legislature of West Virginia:*

18 That the Code of West Virginia, 1931, as amended, be amended
19 by adding thereto a new article, designated §47-26-1, §47-26-2,
20 §47-26-3, §47-26-4 and §47-26-5, all to read as follows:

21 **ARTICLE 26. PAWNBROKERS.**

22 **§47-26-1. Definitions.**

23 (a) "Pawnbroker" means any person, partnership, association or
24 corporation advancing money in a pawn transaction in exchange for
25 collateral in the property of the pledgor. Pawnbroker does not

1 mean any bank which is regulated by the West Virginia Division of
2 Banking; the Comptroller of the Currency of the United States; the
3 Federal Deposit Insurance Corporation; the board of Governors of
4 the Federal Reserve System or any other federal or state authority;
5 and all affiliates thereof and any bank or savings and loan
6 association whose deposits or accounts are eligible for insurance
7 by the Bank Insurance Fund or the Savings Association Insurance
8 Fund or other fund administered by the Federal Deposit Insurance
9 Corporation all affiliates thereof, any state or federally
10 chartered credit union, and any finance company subject to
11 licensing and regulation by the West Virginia Division of Banking.

12 (b) "Pawn transaction" means a transaction between a
13 pawnbroker and a pledgor where the pledgor's property is placed in
14 the possession of the pawnbroker as security for money or other
15 valuable consideration provided to the pledgor on the condition
16 that the pledgor may pay a pawn charge and redeem his or her
17 property within a predetermined time frame. Pawn transactions do
18 not include those transactions where securities or printed evidence
19 of indebtedness are used as security for the transaction.

20 (c) "Pledgor" means a person who delivers the pledge into the
21 possession of a pawnbroker.

22 **§47-26-2. Pawn Transaction Record.**

23 (a)All pawnbrokers shall make and maintain a transaction
24 report on all sale or pawn transactions, except for refinance pawn

1 transactions or merchandise bought from a manufacturer or
2 wholesaler with an established place of business. The required
3 transaction report shall include the following, at a minimum:

4 (1) The date of the transaction;

5 (2) The name of the seller;

6 (3) The name of the purchaser;

7 (4) The name of the clerk who handled the transaction;

8 (5) The corresponding pawn ticket number;

9 (6) The terms of the loan or purchase;

10 (7) A copy of the seller's photo identification and type;

11 Provided, That the copy of the photo identification needs updated
12 yearly; and

13 (8) A detailed description of the property.

14 (b) For purposes of meeting the requirements of subsection (a)
15 of this section, a detailed description of the property must
16 include the following:

17 (1) In the case of firearms, the description must include, at
18 a minimum, the brand, model, caliber, type, and serial number;

19 (2) In the case of jewelry, the type of jewelry presented, the
20 karat weight, whether it is made of white gold, yellow gold or
21 other precious metals, and other description of the stones, shape,
22 cut, and oddities, etc. which are sufficient to describe the
23 article of jewelry;

24 (3) In the case of CDs, title and artist;

1 (4) In the case of DVDs, the title of the film;

2 (5) In the case of other types of articles and property, the
3 description shall include the type of article, brand, model and
4 serial number on the article, or any other such identifying
5 information or description to which is sufficient to specifically
6 describe the item or property.

7 (c) The seller must be required to sign the pawn transaction
8 statement; and a signed statement from the seller affirming
9 ownership must appear on the bill of sale or pawn ticket that is
10 completed by the seller or pledgor at the time of the transaction.

11 (d) The pawnbroker shall maintain the original of all pawn
12 transaction statements for a minimum of three years, and shall make
13 the original copies of the pawn transactions statements available
14 for inspection by law-enforcement officers and law-enforcement
15 agencies upon request during the posted hours of operation of the
16 business.

17 (e) At the conclusion of each month, the pawnbroker shall make
18 one or both of the following available to the state, county,
19 municipal or local law-enforcement agency which has primary
20 jurisdiction over the pawn shop's location:

21 (1) A copy of all pawn transaction statements for that month;
22 or

23 (2) A summary pawn transaction report which is sufficient to
24 identify the pawn transactions performed for that month, and the

1 description of the articles received and sold during that month.

2 (f) The information required to be collected pursuant to this
3 section is confidential, is not public record, and should only be
4 disclosed as provided in this section or otherwise provided by law:
5 Provided, That the confidential nature of this information in no
6 way impedes the pawnbroker's duty to accurately collect and timely
7 provide the information to law enforcement.

8 **§47-26-3. Penalties; pledgor, pawnbroker.**

9 (a) A seller or pledgor who falsely affirms ownership in a
10 pawn transaction is guilty of obtaining money, property and
11 services by false pretenses and subject to the penalties of section
12 twenty-four, article three, chapter sixty-one of this code.

13 (b) A pawnbroker who violates the provisions of this article
14 is guilty of a misdemeanor and, shall be fined not less than \$100
15 and not more than \$200 for each offense.

16 **§47-26-4. Retention of records.**

17 A pawnbroker shall maintain in either paper or electronic form
18 for not less than three years the completed pawn transaction forms
19 and signed ownership statements of each seller or pledger.

20 **§47-26-5. County and municipal regulation of pawnbrokers.**

21 This article may not be construed to prohibit or otherwise
22 limit any county or municipality of this state from adopting an
23 ordinance, to the extent that the ordinance does not conflict or

1 create lesser requirements than this article or any other provision
2 of this code, establishing additional requirements of pawnbrokers
3 within its jurisdiction. Pawnbrokers located in a county or
4 municipality in which an ordinance establishes reporting
5 requirements to local law-enforcement officials are not required to
6 provide duplicate information to other law-enforcement officials
7 pursuant to section three of this article.

NOTE: The purpose of this bill is to regulate pawn brokers. It defines terms; requires transaction records and record retention. and provides misdemeanor criminal penalties for violations. And, the bill authorizes municipal and county regulation.

This article is new; therefore, it has been completely underscored.