

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

H. B. 2534

(BY DELEGATE(S) MORGAN, STEPHENS, DISERIO, JONES,
PAXTON AND SMITH, P.)

[Passed April 13, 2013; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended by adding thereto a new article, designated §47-26-1, §47-26-2, §47-26-3 and §47-26-4, all relating to the regulation of pawn brokers; defining terms; requiring transaction records; creating offenses; specifying misdemeanor criminal penalty for violations; requiring record retention; and allowing for additional local regulation by municipalities or counties.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 26. PAWNBROKERS.

§47-26-1. Definitions.

1 (a) "Pawnbroker" means any person, partnership, association
2 or corporation or employee thereof advancing money in a pawn
3 transaction in exchange for collateral in the property of the
4 pledgor. Pawnbroker does not mean any bank which is regulated
5 by the West Virginia Division of Financial Institutions; the
6 Comptroller of the Currency of the United States; the Federal
7 Deposit Insurance Corporation; the Board of Governors of the
8 Federal Reserve System or any other federal or state authority;
9 and all affiliates thereof and any bank or savings and loan
10 association whose deposits or accounts are eligible for insurance
11 by the Bank Insurance Fund or the Savings Association Insur-
12 ance Fund or other fund administered by the Federal Deposit
13 Insurance Corporation all affiliates thereof, any state or federally
14 chartered credit union, and any finance company subject to
15 licensing and regulation by the West Virginia Division of
16 Financial Institutions.

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

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

28 (d) "purchase" or "purchase transaction" means the transfer
29 and delivering of goods by a person to a pawnbroker by acquisi-
30 tion for value, consignment or trade for other goods. This
31 definition does not include purchases by pawnbrokers of items
32 not used or intended for resale, consignment or trade of the item
33 to another.

§47-26-2. Purchase and Pawn Transaction Records.

1 (a) All pawnbrokers shall make and maintain a transaction
2 report on all purchase or pawn transactions, except for refinance

3 pawn transactions or merchandise bought from a manufacturer
4 or wholesaler with an established place of business. The required
5 transaction report shall include the following:

6 (1) The date of the transaction;

7 (2) The name of the seller;

8 (3) The name of the clerk who handled the transaction;

9 (4) The corresponding pawn ticket number;

10 (5) The terms of the loan or purchase;

11 (6) A copy of the seller's or pledger's government photo
12 identification and type; Provided, That if the seller or pledger
13 does not have a government issued photo identification, the
14 pawnbroker shall have a photograph of the seller or pledger; and

15 (8) A detailed description of the property.

16 (b) For purposes of meeting the requirements of subsection
17 (a) of this section, a detailed description of the property shall
18 include the following:

19 (1) In the case of firearms, the description shall include the
20 brand, model, caliber, type, and serial number;

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

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

31 (c) The seller or pledger shall be required to sign the pawn
32 transaction statement or purchase transaction statement; and a
33 signed statement from the seller or pledger affirming ownership
34 shall appear on the bill of sale or pawn ticket that is completed
35 by the seller or pledger at the time of the transaction.

36 (d) The pawnbroker shall maintain the original of all
37 purchase or pawn transaction statements for three years, and
38 shall make the original copies of the purchase or pawn transac-
39 tion statements available for inspection by law enforcement
40 officers and law enforcement agencies upon request during the
41 posted hours of operation of the business.

42 (e) The information required to be collected pursuant to this
43 section is confidential, is not public record, and should only be
44 disclosed as provided in this section or otherwise provided by
45 law: Provided, That the confidential nature of this information in
46 no way impedes the pawnbroker's duty to accurately collect and
47 timely provide the information to law enforcement.

§47-26-3. Penalties; pawnbroker.

1 A pawnbroker who violates the provisions of this article is
2 guilty of a misdemeanor, and shall be fined not less than \$100
3 and not more than \$200 for each offense.

§47-26-4. County and municipal regulation of pawnbrokers.

1 This article may not be construed to prohibit or otherwise
2 limit any county or municipality of this state from adopting an
3 ordinance, to the extent that the ordinance does not conflict or
4 create lesser requirements than this article or any other provision
5 of this code, establishing additional requirements of pawnbro-
6 kers within its jurisdiction. Pawnbrokers located in a county or
7 municipality in which an ordinance establishes reporting
8 requirements to local law-enforcement officials are not required
9 to provide duplicate information to other law-enforcement
10 officials pursuant to section three of this article.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2013.

Governor

