

COMMITTEE SUBSTITUTE

FOR

H. B. 2534

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

(Originating in the Committee on the Judiciary)

[March 19, 2013]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, as amended, by adding thereto a new article, designated §47-26-1, §47-26-2, §47-26-3, §47-26-4 and §47-26-5, all relating to the regulation of pawn brokers; defining terms; requiring transaction records; 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, §47-26-4 and §47-26-5, all to read as follows:

ARTICLE 26. PAWNBROKERS.

§47-26-1. Definitions.

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

16 (b) “Pawn transaction” means a transaction between a
17 pawnbroker and a pledgor where the pledgor’s property is placed
18 in the possession of the pawnbroker as security for money or
19 other valuable consideration provided to the pledgor on the
20 condition that the pledgor may pay a pawn charge and redeem
21 his or her property within a predetermined time frame. Pawn
22 transactions do not include those transactions where securities,

23 titles or printed evidence of indebtedness are used as security for
24 the transaction.

25 (c) “Pledgor” means a person who delivers the pledge into
26 the possession of a pawnbroker.

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

1 (a)All pawnbrokers shall make and maintain a transaction
2 report on all sale or pawn transactions, except for refinance pawn
3 transactions or merchandise bought from a manufacturer or
4 wholesaler with an established place of business. The required
5 transaction report shall include the following, at a minimum:

- 6 (1) The date of the transaction;
7 (2) The name of the seller;
8 (3) The name of the purchaser;
9 (4) The name of the clerk who handled the transaction;
10 (5) The corresponding pawn ticket number;
11 (6) The terms of the loan or purchase;
12 (7) A copy of the seller’s photo identification and type;
13 Provided, That the copy of the photo identification needs
14 updated yearly; 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 must
18 include the following:

19 (1) In the case of firearms, the description must include, at a
20 minimum, the 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 CDs, title and artist;

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

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

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

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

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

47 (1) A copy of all pawn transaction statements for that month;

48 or

49 (2) A summary pawn transaction report which is sufficient
50 to identify the pawn transactions performed for that month, and
51 the description of the articles received and sold during that
52 month.

53 (f) The information required to be collected pursuant to this
54 section is confidential, is not public record, and should only be
55 disclosed as provided in this section or otherwise provided by
56 law: *Provided, That the confidential nature of this information*
57 in no way impedes the pawnbroker's duty to accurately collect
58 and timely provide the information to law enforcement.

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

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

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

§47-26-4. Retention of records.

1 A pawnbroker shall maintain in either paper or electronic
2 form for not less than three years the completed pawn transac-
3 tion forms and signed ownership statements of each seller or
4 pledgor.

§47-26-5. 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.

