

4115

2013-2014 Regular Sessions

I N S E N A T E

March 8, 2013

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, the banking law, the penal law and the lien law, in relation to enacting the "New York state pawn-broking act" and providing for the licensure and operation of pawn-brokers and repealing article 5 of the general business law relating to collateral loans

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Article 5 of the general business law is REPEALED and a new
2 article 5 is added to read as follows:

3 A R T I C L E 5

4 N E W Y O R K S T A T E P A W N B R O K I N G A C T

- 5 SECTION 40. SHORT TITLE.
6 41. DEFINITIONS.
7 42. LICENSE REQUIRED.
8 43. ELIGIBILITY FOR LICENSE.
9 44. APPLICATION FOR LICENSE.
10 45. SUSPENSION, REVOCATION AND SURRENDER OF LICENSE; NET WORTH
11 REQUIREMENT.
12 46. ORDERS IMPOSING PENALTIES.
13 47. PAWNBROKER TRANSACTION FORM.
14 48. RECORDKEEPING; REPORTING; HOLD PERIOD.
15 49. PLEDGED GOODS NOT REDEEMED.
16 50. PAWN SERVICE CHARGES.
17 51. PROHIBITED ACTS.
18 52. RIGHT TO REDEEM; LOST PAWNBROKER TRANSACTION FORM.
19 53. PAWNBROKER'S LIEN.
20 54. CLAIMS AGAINST PURCHASED GOODS OR PLEDGED GOODS HELD BY
21 PAWNBROKERS.
22 55. HOLD ORDERS; ISSUANCE; REQUIRED INFORMATION; PROCEDURES.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD09597-01-3

55-A. CRIMINAL PENALTIES.

55-B. INJUNCTIONS.

55-C. RECORDS OF THE DIVISION OF CRIMINAL JUSTICE SERVICES.

55-D. CONFLICTING LOCAL LAWS OR ORDINANCES.

55-E. RULES AND REGULATIONS.

S 40. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "NEW YORK STATE PAWNBROKING ACT."

S 41. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "AGENCY" MEANS THE DEPARTMENT OF LAW.

2. "APPROPRIATE LAW ENFORCEMENT OFFICIAL" MEANS THE SHERIFF OF THE COUNTY IN WHICH A PAWNSHOP IS LOCATED, OR IF A PAWNSHOP IS LOCATED IN A CITY, THE POLICE CHIEF OF THE CITY.

3. "CLAIMANT" MEANS A PERSON WHO CLAIMS THAT HIS OR HER PROPERTY WAS MISAPPROPRIATED.

4. "CONVEYING CUSTOMER" MEANS A PERSON WHO DELIVERS PROPERTY INTO THE CUSTODY OF A PAWNBROKER, EITHER BY PAWN, SALE, CONSIGNMENT, OR TRADE.

5. "IDENTIFICATION" MEANS A GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION OR AN ELECTRONIC IMAGE TAKEN FROM A GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION.

6. "MISAPPROPRIATED" MEANS STOLEN, EMBEZZLED, CONVERTED, OR OTHERWISE WRONGFULLY APPROPRIATED AGAINST THE WILL OF THE RIGHTFUL OWNER.

7. "NET WORTH" MEANS TOTAL ASSETS LESS TOTAL LIABILITIES.

8. "PAWN" MEANS ANY ADVANCEMENT OF FUNDS ON THE SECURITY OF PLEDGED GOODS ON CONDITION THAT THE PLEDGED GOODS ARE LEFT IN THE POSSESSION OF THE PAWNBROKER FOR THE DURATION OF THE PAWN AND MAY BE REDEEMED BY THE PLEDGOR ON THE TERMS AND CONDITIONS CONTAINED IN THIS SECTION.

9. "PAWNBROKER" MEANS ANY PERSON WHO IS ENGAGED IN THE BUSINESS OF MAKING PAWNS; WHO MAKES A PUBLIC DISPLAY CONTAINING THE TERM "PAWN," "PAWNBROKER," OR "PAWNSHOP" OR ANY DERIVATIVE THEREOF; OR WHO PUBLICLY DISPLAYS A SIGN OR SYMBOL HISTORICALLY IDENTIFIED WITH PAWNS. A PAWNBROKER MAY ALSO ENGAGE IN THE BUSINESS OF PURCHASING GOODS WHICH INCLUDES CONSIGNMENT AND TRADE.

10. "PAWNBROKER TRANSACTION FORM" MEANS THE INSTRUMENT ON WHICH A PAWNBROKER RECORDS PAWNS AND PURCHASES.

11. "PAWN SERVICE CHARGE" MEANS A CHARGE FOR INVESTIGATING THE TITLE, STORAGE, AND INSURING OF THE SECURITY; CLOSING THE TRANSACTION; MAKING DAILY REPORTS TO APPROPRIATE LAW ENFORCEMENT OFFICIALS; EXPENSES AND LOSSES; AND ALL OTHER SERVICES.

12. "PAWNSHOP" MEANS THE LOCATION AT WHICH A PAWNBROKER CONDUCTS BUSINESS.

13. "PERMITTED VENDOR" MEANS A VENDOR WHO FURNISHES A PAWNBROKER WITH AN INVOICE SPECIFYING THE VENDOR'S NAME AND ADDRESS, THE DATE OF THE SALE, A DESCRIPTION OF THE ITEMS SOLD, AND THE SALES PRICE, AND WHO HAS AN ESTABLISHED PLACE OF BUSINESS, OR, IN THE CASE OF A SECONDHAND DEALER, HAS REPRESENTED IN WRITING THAT SUCH DEALER HAS COMPLIED WITH ALL APPLICABLE RECORDKEEPING, REPORTING, AND RETENTION REQUIREMENTS PERTAINING TO GOODS SOLD OR OTHERWISE DELIVERED TO A PAWNBROKER.

14. "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION, JOINT VENTURE, TRUST, ASSOCIATION, OR OTHER LEGAL ENTITY.

15. "PLEDGED GOODS" MEANS TANGIBLE PERSONAL PROPERTY THAT IS DEPOSITED WITH, OR OTHERWISE DELIVERED INTO THE POSSESSION OF A PAWNBROKER IN CONNECTION WITH A PAWN. "PLEDGED GOODS" DOES NOT INCLUDE TITLES OR ANY OTHER FORM OF WRITTEN SECURITY IN TANGIBLE PROPERTY IN LIEU OF ACTUAL PHYSICAL POSSESSION, INCLUDING, BUT NOT LIMITED TO, CHOSSES IN ACTION, SECURITIES, PRINTED EVIDENCE OF INDEBTEDNESS, OR CERTIFICATES OF TITLE

1 AND OTHER INSTRUMENTS EVIDENCING TITLE TO SEPARATE ITEMS OF PROPERTY,
2 INCLUDING MOTOR VEHICLES. FOR PURPOSES OF FEDERAL AND STATE BANKRUPTCY
3 LAWS, A PLEDGOR'S INTEREST IN HIS OR HER PLEDGED GOODS DURING THE
4 PENDENCY OF A PAWN IS A RIGHT OF REDEMPTION ONLY.

5 16. "PLEDGOR" MEANS AN INDIVIDUAL WHO DELIVERS PLEDGED GOODS INTO THE
6 POSSESSION OF A PAWNBROKER IN CONNECTION WITH A PAWN.

7 17. "PURCHASE" MEANS THE TRANSFER AND DELIVERY OF GOODS, BY A PERSON
8 OTHER THAN A PERMITTED VENDOR, TO A PAWNBROKER BY ACQUISITION FOR VALUE,
9 CONSIGNMENT, OR TRADE FOR OTHER GOODS.

10 18. "AMOUNT FINANCED" IS USED INTERCHANGEABLY TO MEAN THE SAME AS
11 "AMOUNT OF MONEY ADVANCED" OR "PRINCIPAL AMOUNT".

12 19. "DEFAULT DATE" MEANS THAT DATE UPON WHICH THE PLEDGOR'S RIGHT OF
13 REDEMPTION EXPIRES AND ABSOLUTE RIGHT, TITLE, AND INTEREST IN AND TO THE
14 PLEDGED GOODS SHALL VEST IN AND SHALL BE DEEMED CONVEYED TO THE PAWN-
15 BROKER BY OPERATION OF LAW.

16 20. "BENEFICIAL OWNER" MEANS A PERSON WHO DOES NOT HAVE TITLE TO PROP-
17 ERTY BUT HAS RIGHTS IN THE PROPERTY WHICH ARE THE NORMAL INCIDENT OF
18 OWNING THE PROPERTY.

19 21. "OPERATOR" MEANS A PERSON WHO HAS CHARGE OF A CORPORATION OR
20 COMPANY AND HAS CONTROL OF ITS BUSINESS, OR OF ITS BRANCH ESTABLISH-
21 MENTS, DIVISIONS, OR DEPARTMENTS, AND WHO IS VESTED WITH A CERTAIN
22 AMOUNT OF DISCRETION AND INDEPENDENT JUDGMENT.

23 S 42. LICENSE REQUIRED. 1. A PERSON MAY NOT ENGAGE IN BUSINESS AS A
24 PAWNBROKER UNLESS THE PERSON HAS A VALID LICENSE ISSUED BY THE AGENCY. A
25 SEPARATE LICENSE IS REQUIRED FOR EACH PAWNSHOP. THE AGENCY MUST ISSUE
26 MORE THAN ONE LICENSE TO A PERSON IF THAT PERSON COMPLIES WITH THE
27 REQUIREMENTS FOR EACH LICENSE.

28 2. A LICENSEE WHO SEEKS TO MOVE A PAWNSHOP TO ANOTHER LOCATION MUST
29 GIVE WRITTEN NOTICE TO THE AGENCY AT LEAST THIRTY DAYS BEFORE THE MOVE
30 AND THE AGENCY MUST AMEND THE LICENSE TO INDICATE THE NEW LOCATION. THE
31 LICENSEE MUST ALSO GIVE SUCH WRITTEN NOTICE TO THE APPROPRIATE LAW
32 ENFORCEMENT OFFICIAL.

33 3. EACH LICENSE IS VALID FOR A PERIOD OF ONE YEAR UNLESS IT IS EARLIER
34 RELINQUISHED, SUSPENDED, OR REVOKED. EACH LICENSE SHALL BE RENEWED ANNU-
35 ALLY, AND EACH LICENSEE SHALL, INITIALLY AND ANNUALLY THEREAFTER, PAY TO
36 THE AGENCY A LICENSE FEE OF THREE HUNDRED DOLLARS FOR EACH LICENSE HELD.

37 4. THE AGENCY MAY ISSUE A TEMPORARY PAWNBROKER'S LICENSE FOR THE OPER-
38 ATION OF A PAWNSHOP EITHER UPON RECEIPT OF AN APPLICATION TO TRANSFER AN
39 EXISTING LICENSE FROM ONE PERSON TO ANOTHER OR UPON RECEIPT OF AN APPLI-
40 CATION FOR A LICENSE INVOLVING PRINCIPALS AND OWNERS THAT ARE SUBSTAN-
41 Tially IDENTICAL TO THOSE OF THE EXISTING LICENSEE. THE TEMPORARY
42 LICENSE IS EFFECTIVE UNTIL THE PERMANENT LICENSE IS ISSUED OR DENIED BY
43 THE AGENCY.

44 5. A PERSON MUST APPLY TO THE AGENCY FOR A NEW LICENSE OR FOR A TEMPO-
45 RARY LICENSE UPON ANY CHANGE, DIRECTLY OR BENEFICIALLY, IN THE OWNERSHIP
46 OF ANY PAWNSHOP. AN APPLICATION FOR A LICENSE OR AN APPLICATION TO
47 TRANSFER AN EXISTING LICENSE IS NOT REQUIRED UPON ANY CHANGE, DIRECTLY
48 OR BENEFICIALLY, IN THE OWNERSHIP OF A PAWNSHOP IF ONE OR MORE HOLDERS
49 OF AT LEAST NINETY PERCENT OF THE OUTSTANDING EQUITY INTEREST OF THE
50 PAWNSHOP BEFORE THE CHANGE IN OWNERSHIP CONTINUE TO HOLD AT LEAST NINETY
51 PERCENT OF THE OUTSTANDING EQUITY INTEREST AFTER THE CHANGE IN OWNER-
52 SHIP.

53 6. ANY PERSON APPLYING FOR OR RENEWING A LOCAL OCCUPATIONAL LICENSE TO
54 ENGAGE IN BUSINESS AS A PAWNBROKER MUST EXHIBIT A CURRENT LICENSE FROM
55 THE AGENCY BEFORE THE LOCAL BUSINESS TAX RECEIPT MAY BE ISSUED OR REIS-
56 SUED.

1 S 43. ELIGIBILITY FOR LICENSE. 1. TO BE ELIGIBLE FOR A PAWNBROKER'S
2 LICENSE, AN APPLICANT MUST:

3 (A) BE OF GOOD MORAL CHARACTER;

4 (B) HAVE A NET WORTH OF AT LEAST FIFTY THOUSAND DOLLARS OR FILE WITH
5 THE AGENCY A BOND ISSUED BY A SURETY COMPANY QUALIFIED TO DO BUSINESS IN
6 THIS STATE IN THE AMOUNT OF TEN THOUSAND DOLLARS FOR EACH LICENSE. IN
7 LIEU OF THE BOND REQUIRED IN THIS SECTION, THE APPLICANT MAY ESTABLISH A
8 CERTIFICATE OF DEPOSIT OR AN IRREVOCABLE LETTER OF CREDIT IN A NEW YORK
9 BANKING INSTITUTION IN THE AMOUNT OF THE BOND. THE ORIGINAL BOND,
10 CERTIFICATE OF DEPOSIT, OR LETTER OF CREDIT SHALL BE FILED WITH THE
11 AGENCY, AND THE AGENCY SHALL BE THE BENEFICIARY TO SAID DOCUMENT. THE
12 BOND, CERTIFICATE OF DEPOSIT, OR LETTER OF CREDIT SHALL BE IN FAVOR OF
13 THE AGENCY FOR THE USE AND BENEFIT OF ANY CONSUMER WHO IS INJURED BY THE
14 FRAUD, MISREPRESENTATION, BREACH OF CONTRACT, FINANCIAL FAILURE, OR
15 VIOLATION OF ANY PROVISION OF THIS SECTION BY THE PAWNBROKER. SUCH
16 LIABILITY MAY BE ENFORCED EITHER BY PROCEEDING IN AN ADMINISTRATIVE
17 ACTION OR BY FILING A JUDICIAL SUIT AT LAW IN A COURT OF COMPETENT
18 JURISDICTION. HOWEVER, IN SUCH COURT SUIT, THE BOND, CERTIFICATE OF
19 DEPOSIT, OR LETTER OF CREDIT POSTED WITH THE AGENCY SHALL NOT BE AMENA-
20 BLE OR SUBJECT TO ANY JUDGMENT OR OTHER LEGAL PROCESS ISSUING OUT OF OR
21 FROM SUCH COURT IN CONNECTION WITH SUCH LAWSUIT, BUT SUCH BOND, CERTIF-
22 ICATE OF DEPOSIT, OR LETTER OF CREDIT SHALL BE AMENABLE TO AND ENFORCEA-
23 BLE ONLY BY AND THROUGH ADMINISTRATIVE PROCEEDINGS BEFORE THE AGENCY. IT
24 IS THE INTENT OF THE LEGISLATURE THAT SUCH BOND, CERTIFICATE OF DEPOSIT,
25 OR LETTER OF CREDIT SHALL BE APPLICABLE AND LIABLE ONLY FOR THE PAYMENT
26 OF CLAIMS DULY ADJUDICATED BY ORDER OF THE AGENCY. THE BOND, CERTIFICATE
27 OF DEPOSIT, OR LETTER OF CREDIT SHALL BE PAYABLE ON A PRO RATA BASIS AS
28 DETERMINED BY THE AGENCY, BUT THE AGGREGATE AMOUNT MAY NOT EXCEED THE
29 AMOUNT OF THE BOND, CERTIFICATE OF DEPOSIT, OR LETTER OF CREDIT;

30 (C) NOT HAVE BEEN CONVICTED OF, OR FOUND GUILTY OF, OR PLED GUILTY OR
31 NOLO CONTENDERE TO, OR NOT HAVE BEEN INCARCERATED WITHIN THE LAST TEN
32 YEARS AS A RESULT OF HAVING PREVIOUSLY BEEN CONVICTED OF, OR FOUND GUIL-
33 TY OF, OR PLED GUILTY OR NOLO CONTENDERE TO, REGARDLESS OF ADJUDICATION,
34 A FELONY WITHIN THE LAST TEN YEARS AND NOT BE ACTING AS A BENEFICIAL
35 OWNER FOR SOMEONE WHO HAS BEEN CONVICTED OF, OR FOUND GUILTY OF, OR PLED
36 GUILTY OR NOLO CONTENDERE TO, REGARDLESS OF ADJUDICATION, A FELONY WITH-
37 IN THE LAST TEN YEARS; AND

38 (D) NOT HAVE BEEN CONVICTED OF, OR FOUND GUILTY OF, OR PLED GUILTY OR
39 NOLO CONTENDERE TO, OR NOT HAVE BEEN INCARCERATED WITHIN THE LAST TEN
40 YEARS AS A RESULT OF HAVING PREVIOUSLY BEEN CONVICTED OF, OR FOUND GUIL-
41 TY OF, OR PLED GUILTY OR NOLO CONTENDERE TO, REGARDLESS OF ADJUDICATION,
42 A CRIME THAT INVOLVES THEFT, LARCENY, DEALING IN STOLEN PROPERTY,
43 RECEIVING STOLEN PROPERTY, BURGLARY, EMBEZZLEMENT, OBTAINING PROPERTY BY
44 FALSE PRETENSES, POSSESSION OF ALTERED PROPERTY, OR ANY OTHER FRAUDULENT
45 OR DISHONEST DEALING WITHIN THE LAST TEN YEARS, AND NOT BE ACTING AS A
46 BENEFICIAL OWNER FOR SOMEONE WHO HAS BEEN CONVICTED OF, OR FOUND GUILTY
47 OF, OR PLED GUILTY OR NOLO CONTENDERE TO, OR HAS BEEN INCARCERATED WITH-
48 IN THE LAST TEN YEARS AS A RESULT OF HAVING PREVIOUSLY BEEN CONVICTED
49 OF, OR FOUND GUILTY OF, OR PLED GUILTY OR NOLO CONTENDERE TO, REGARDLESS
50 OF ADJUDICATION, A CRIME THAT INVOLVES THEFT, LARCENY, DEALING IN STOLEN
51 PROPERTY, RECEIVING STOLEN PROPERTY, BURGLARY, EMBEZZLEMENT, OBTAINING
52 PROPERTY BY FALSE PRETENSES, POSSESSION OF ALTERED PROPERTY, OR ANY
53 OTHER FRAUDULENT OR DISHONEST DEALING WITHIN THE LAST TEN YEARS.

54 2. ANY APPLICANT CLAIMING TO HAVE A NET WORTH OF FIFTY THOUSAND
55 DOLLARS OR MORE SHALL FILE WITH THE AGENCY, AT THE TIME OF APPLYING FOR
56 A LICENSE, THE FOLLOWING DOCUMENTATION:

1 (A) A CURRENT FINANCIAL STATEMENT PREPARED BY A NEW YORK CERTIFIED
2 PUBLIC ACCOUNTANT; OR

3 (B) AN AFFIDAVIT STATING THE APPLICANT'S NET WORTH IS AT LEAST FIFTY
4 THOUSAND DOLLARS, ACCOMPANIED BY SUPPORTING DOCUMENTATION; OR

5 (C) IF THE APPLICANT IS A CORPORATION, A COPY OF THE APPLICANT'S MOST
6 RECENTLY FILED FEDERAL TAX RETURN. IF THE AGENCY CANNOT VERIFY THAT THE
7 APPLICANT MEETS THE NET WORTH REQUIREMENT FOR A LICENSE, THE AGENCY MAY
8 REQUIRE A FINDING, INCLUDING THE PRESENTATION OF A CURRENT BALANCE
9 SHEET, BY AN ACCOUNTING FIRM OR INDIVIDUAL HOLDING A PERMIT TO PRACTICE
10 PUBLIC ACCOUNTING IN THIS STATE, THAT THE ACCOUNTANT HAS REVIEWED THE
11 BOOKS AND RECORDS OF THE APPLICANT AND THAT THE APPLICANT MEETS THE NET
12 WORTH REQUIREMENT.

13 3. IF AN APPLICANT FOR A PAWNBROKER'S LICENSE IS NOT AN INDIVIDUAL,
14 THE ELIGIBILITY REQUIREMENTS OF THIS SUBSECTION, OTHER THAN THE REQUIRE-
15 MENTS OF THIS SECTION, APPLY TO EACH OPERATOR OF THE PAWNSHOP AND TO
16 EACH DIRECT OR BENEFICIAL OWNER OF AT LEAST TEN PERCENT OF THE OUTSTAND-
17 ING EQUITY INTEREST OF THE PAWNSHOP AND, IF THE APPLICANT IS A CORPO-
18 RATION, TO EACH OFFICER AND DIRECTOR OF THE CORPORATION.

19 S 44. APPLICATION FOR LICENSE. 1. AN APPLICATION FOR A PAWNBROKER'S
20 LICENSE, FOR THE TRANSFER OF AN EXISTING PAWNBROKER'S LICENSE, OR FOR
21 THE APPROVAL OF A CHANGE IN THE OWNERSHIP OF A LICENSEE'S PAWNSHOP MUST
22 BE UNDER OATH AND MUST STATE THE FULL NAME AND PLACE OF RESIDENCE OF THE
23 APPLICANT, THE PLACE WHERE THE BUSINESS IS TO BE CONDUCTED, AND OTHER
24 RELEVANT INFORMATION REQUIRED BY THE AGENCY.

25 2. IF THE APPLICANT IS NOT AN INDIVIDUAL, THE APPLICANT MUST STATE THE
26 FULL NAME AND ADDRESS OF EACH DIRECT OR BENEFICIAL OWNER OF AT LEAST A
27 TEN PERCENT EQUITY INTEREST IN SUCH PERSON. IF THE APPLICANT IS A CORPO-
28 RATION, THE APPLICATION MUST ALSO STATE THE FULL NAME AND ADDRESS OF
29 EACH OFFICER AND DIRECTOR.

30 3. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SUBDIVISION ONE OF
31 THIS SECTION, THE APPLICATION NEED NOT STATE THE FULL NAME AND ADDRESS
32 OF EACH OFFICER, DIRECTOR, AND SHAREHOLDER IF THE APPLICANT IS OWNED
33 DIRECTLY OR BENEFICIALLY BY A PERSON THAT AS AN ISSUER HAS A CLASS OF
34 SECURITIES REGISTERED UNDER SECTION TWELVE OF THE SECURITIES EXCHANGE
35 ACT OF 1934, OR UNDER SECTION 15(D) THEREOF, AND IS AN ISSUER OF REGIS-
36 TERED SECURITIES REQUIRED TO FILE REPORTS WITH THE SECURITIES AND
37 EXCHANGE COMMISSION AND IF THE PERSON FILES WITH THE AGENCY THE INFORMA-
38 TION, DOCUMENTS, AND REPORTS REQUIRED TO BE FILED WITH THE SECURITIES
39 AND EXCHANGE COMMISSION.

40 4. EACH INITIAL APPLICATION FOR A LICENSE MUST BE ACCOMPANIED BY A
41 COMPLETE SET OF FINGERPRINTS TAKEN BY AN AUTHORIZED LAW ENFORCEMENT
42 OFFICER, THREE HUNDRED DOLLARS FOR THE FIRST YEAR'S LICENSE FEE, AND THE
43 ACTUAL COST TO THE AGENCY FOR FINGERPRINT ANALYSIS FOR EACH PERSON
44 SUBJECT TO THE ELIGIBILITY REQUIREMENTS. THE AGENCY SHALL SUBMIT THE
45 FINGERPRINTS TO THE DIVISION OF CRIMINAL JUSTICE SERVICES FOR STATE
46 PROCESSING, AND SUCH DIVISION SHALL FORWARD THE FINGERPRINTS TO THE
47 FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY CHECK.
48 THESE FEES AND COSTS ARE NOT REFUNDABLE.

49 5. WHEN THE APPLICATION AND THE REQUIRED FEES ARE RECEIVED, THE AGENCY
50 SHALL INVESTIGATE THE FACTS, APPROVE THE APPLICATION, AND ISSUE A
51 LICENSE TO THE APPLICANT IF THE AGENCY FINDS THAT THE ELIGIBILITY
52 REQUIREMENTS FOR THE LICENSE ARE SATISFIED. THE LICENSE MUST BE PROMI-
53 NENTLY DISPLAYED AT THE FRONT DESK OR COUNTER AT EACH PAWNSHOP.

54 6. FEES AND FINES COLLECTED UNDER THIS SECTION BY THE AGENCY SHALL BE
55 DEPOSITED INTO THE GENERAL FUND OF THE STATE.

1 S 45. SUSPENSION, REVOCATION AND SURRENDER OF LICENSE; NET WORTH
2 REQUIREMENT. 1. THE AGENCY MAY, AFTER NOTICE AND A HEARING, SUSPEND OR
3 REVOKE ANY LICENSE UPON A FINDING THAT:

4 (A) THE LICENSEE, EITHER KNOWINGLY OR WITHOUT THE EXERCISE OF DUE
5 CARE, HAS VIOLATED THIS SECTION OR HAS AIDED OR CONSPIRED WITH ANOTHER
6 PERSON TO VIOLATE THIS SECTION;

7 (B) A CONDITION EXISTS THAT, HAD IT EXISTED WHEN THE LICENSE WAS
8 ISSUED, WOULD HAVE JUSTIFIED THE AGENCY'S REFUSAL TO ISSUE A LICENSE;

9 (C) THE LICENSEE OR ITS APPLICABLE AGENTS OR EMPLOYEES WHO ARE SUBJECT
10 TO THE ELIGIBILITY REQUIREMENTS NO LONGER MEET THE ELIGIBILITY REQUIRE-
11 MENTS TO HOLD A PAWNBROKER'S LICENSE; OR

12 (D) THE LICENSEE HAS THROUGH GROSS NEGLIGENCE OR WILLFUL NONCOMPLIANCE
13 FAILED TO COMPLY WITH A WRITTEN HOLD ORDER.

14 2. THE AGENCY MAY CONDITIONALLY LICENSE OR PLACE ON PROBATION A PERSON
15 WHOSE LICENSE HAS BEEN SUSPENDED OR MAY REPRIMAND A LICENSEE FOR A
16 VIOLATION OF THIS SECTION.

17 3. THE MANNER OF GIVING NOTICE AND CONDUCTING A HEARING, AS REQUIRED
18 BY PARAGRAPH (A) OF SUBDIVISION ONE OF THIS SECTION, MUST CONFORM TO
19 PROVISIONS OF THE STATE ADMINISTRATIVE PROCEDURE ACT.

20 4. ANY LICENSEE MAY SURRENDER A LICENSE BY DELIVERING IT, BY CERTIFIED
21 OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, TO THE AGENCY WITH WRITTEN
22 NOTICE OF ITS SURRENDER. THE SURRENDER OF A LICENSE DOES NOT AFFECT THE
23 CIVIL OR CRIMINAL LIABILITY OF THE LICENSEE FOR ACTS COMMITTED BEFORE
24 THE SURRENDER OF THE LICENSE.

25 5. THE REVOCATION, SUSPENSION, OR SURRENDER OF A LICENSE DOES NOT
26 IMPAIR OR AFFECT THE OBLIGATION OF ANY PREEXISTING LAWFUL CONTRACT
27 BETWEEN THE LICENSEE AND ANY PLEDGOR. ANY PAWN TRANSACTION MADE BY A
28 PERSON WITHOUT BENEFIT OF A LICENSE IS VOIDABLE, IN WHICH CASE THE
29 PERSON FORFEITS THE RIGHT TO COLLECT ANY MONEYS, INCLUDING PRINCIPAL AND
30 ANY CHARGES, FROM THE PLEDGOR IN CONNECTION WITH SUCH TRANSACTION AND IS
31 OBLIGATED TO RETURN TO THE PLEDGOR THE PLEDGED GOODS IN CONNECTION WITH
32 SUCH TRANSACTION.

33 6. THE AGENCY MAY REINSTATE A SUSPENDED LICENSE OR ISSUE A NEW LICENSE
34 TO A PERSON WHOSE LICENSE HAS BEEN REVOKED, IF AFTER A HEARING IT DETER-
35 MINES THAT NO FACT OR CONDITION THEN EXISTS THAT WOULD HAVE JUSTIFIED
36 THE AGENCY IN ORIGINALLY REFUSING TO ISSUE A LICENSE.

37 7. EACH LICENSEE MUST MAINTAIN A NET WORTH OF FIFTY THOUSAND DOLLARS
38 OR THE BOND SPECIFIED IN SECTION FORTY-THREE OF THIS ARTICLE.

39 S 46. ORDERS IMPOSING PENALTIES. 1. THE AGENCY MAY ENTER AN ORDER
40 IMPOSING ONE OR MORE OF THE PENALTIES SET FORTH IN SUBDIVISION TWO OF
41 THIS SECTION IF THE AGENCY FINDS THAT A PAWNBROKER:

42 (A) VIOLATED OR IS OPERATING IN VIOLATION OF ANY OF THE PROVISIONS OF
43 THIS SECTION OR OF THE RULES ADOPTED OR ORDERS ISSUED THEREUNDER;

44 (B) MADE A MATERIAL FALSE STATEMENT IN ANY APPLICATION, DOCUMENT, OR
45 RECORD REQUIRED TO BE SUBMITTED OR RETAINED UNDER THIS SECTION;

46 (C) REFUSED OR FAILED, OR ANY OF ITS PRINCIPAL OFFICERS HAS REFUSED OR
47 FAILED, AFTER NOTICE, TO PRODUCE ANY DOCUMENT OR RECORDS OR DISCLOSE ANY
48 INFORMATION REQUIRED TO BE PRODUCED OR DISCLOSED UNDER THIS SECTION OR
49 THE RULES OF THE AGENCY;

50 (D) MADE A MATERIAL FALSE STATEMENT IN RESPONSE TO ANY REQUEST OR
51 INVESTIGATION BY THE AGENCY, OR ANY OTHER STATE DEPARTMENT; OR

52 (E) HAS INTENTIONALLY DEFRAUDED THE PUBLIC THROUGH DISHONEST OR DECEP-
53 TIVE MEANS.

54 2. UPON A FINDING AS SET FORTH IN SUBDIVISION ONE OF THIS SECTION, THE
55 AGENCY MAY ENTER AN ORDER DOING ONE OR MORE OF THE FOLLOWING:

56 (A) ISSUING A NOTICE OF NONCOMPLIANCE IN THE MANNER PRESCRIBED BY LAW;

1 (B) IMPOSING AN ADMINISTRATIVE FINE NOT TO EXCEED FIVE THOUSAND
2 DOLLARS FOR EACH ACT WHICH CONSTITUTES A VIOLATION OF THIS ARTICLE OR A
3 RULE OR AN ORDER;

4 (C) DIRECTING THAT THE PAWNBROKER CEASE AND DESIST SPECIFIED ACTIV-
5 ITIES;

6 (D) REFUSING TO LICENSE OR REVOKING OR SUSPENDING A LICENSE;

7 (E) PLACING THE LICENSEE ON PROBATION FOR A PERIOD OF TIME, SUBJECT TO
8 SUCH CONDITIONS AS THE AGENCY MAY SPECIFY.

9 3. THE ADMINISTRATIVE PROCEEDINGS WHICH COULD RESULT IN THE ENTRY OF
10 AN ORDER IMPOSING ANY OF THE PENALTIES SPECIFIED IN PARAGRAPH (B) OF
11 SUBDIVISION TWO OF THIS SECTION ARE GOVERNED BY THE PROVISIONS OF THE
12 STATE ADMINISTRATIVE PROCEDURE ACT.

13 4. (A) WHEN THE AGENCY HAS REASONABLE CAUSE TO BELIEVE THAT A PERSON
14 IS OPERATING IN VIOLATION OF THIS ARTICLE, THE AGENCY MAY BRING A CIVIL
15 ACTION IN THE APPROPRIATE COURT FOR TEMPORARY OR PERMANENT INJUNCTIVE
16 RELIEF AND MAY SEEK OTHER APPROPRIATE CIVIL RELIEF, INCLUDING A CIVIL
17 PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS FOR EACH VIOLATION, RESTITU-
18 TION AND DAMAGES FOR INJURED CUSTOMERS, COURT COSTS, AND REASONABLE
19 ATTORNEY'S FEES.

20 (B) THE AGENCY MAY TERMINATE ANY INVESTIGATION OR ACTION UPON AGREE-
21 MENT BY THE OFFENDER TO PAY A STIPULATED CIVIL PENALTY, TO MAKE RESTITU-
22 TION OR PAY DAMAGES TO CUSTOMERS, OR TO SATISFY ANY OTHER RELIEF AUTHOR-
23 IZED HEREIN AND REQUESTED BY THE AGENCY.

24 5. THE REMEDIES PROVIDED FOR IN THIS SECTION SHALL BE IN ADDITION TO
25 ANY OTHER REMEDY PROVIDED BY LAW.

26 S 47. PAWNBROKER TRANSACTION FORM. 1. AT THE TIME THE PAWNBROKER
27 ENTERS INTO ANY PAWN OR PURCHASE TRANSACTION, THE PAWNBROKER SHALL
28 COMPLETE A PAWNBROKER TRANSACTION FORM FOR SUCH TRANSACTION, INCLUDING
29 AN INDICATION OF WHETHER THE TRANSACTION IS A PAWN OR A PURCHASE, AND
30 THE PLEDGOR OR SELLER SHALL SIGN SUCH COMPLETED FORM. THE AGENCY MUST
31 APPROVE THE DESIGN AND FORMAT OF THE PAWNBROKER TRANSACTION FORM, WHICH
32 MUST BE 8 1/2 INCHES X 11 INCHES IN SIZE AND ELICIT THE INFORMATION
33 REQUIRED UNDER THIS SECTION. IN COMPLETING THE PAWNBROKER TRANSACTION
34 FORM, THE PAWNBROKER SHALL RECORD THE FOLLOWING INFORMATION, WHICH MUST
35 BE TYPED OR WRITTEN INDELIBLY AND LEGIBLY IN ENGLISH.

36 2. THE FRONT OF THE PAWNBROKER TRANSACTION FORM MUST INCLUDE:

37 (A) THE NAME AND ADDRESS OF THE PAWNSHOP.

38 (B) A COMPLETE AND ACCURATE DESCRIPTION OF THE PLEDGED GOODS OR
39 PURCHASED GOODS, INCLUDING THE FOLLOWING INFORMATION, IF APPLICABLE:

40 (I) BRAND NAME;

41 (II) MODEL NUMBER;

42 (III) MANUFACTURER'S SERIAL NUMBER;

43 (IV) SIZE;

44 (V) COLOR, AS APPARENT TO THE UNTRAINED EYE;

45 (VI) PRECIOUS METAL TYPE, WEIGHT, AND CONTENT, IF KNOWN;

46 (VII) GEMSTONE DESCRIPTION, INCLUDING THE NUMBER OF STONES;

47 (VIII) IN THE CASE OF FIREARMS, THE TYPE OF ACTION, CALIBER OR GAUGE,
48 NUMBER OF BARRELS, BARREL LENGTH, AND FINISH;

49 (IX) ANY OTHER UNIQUE IDENTIFYING MARKS, NUMBERS, NAMES, OR LETTERS.

50 NOTWITHSTANDING THE FOREGOING, IN THE CASE OF MULTIPLE ITEMS OF A
51 SIMILAR NATURE DELIVERED TOGETHER IN ONE TRANSACTION WHICH DO NOT BEAR
52 SERIAL OR MODEL NUMBERS AND WHICH DO NOT INCLUDE PRECIOUS METAL OR
53 GEMSTONES, SUCH AS MUSICAL OR VIDEO RECORDINGS, BOOKS, AND HAND TOOLS,
54 THE DESCRIPTION OF THE ITEMS IS ADEQUATE IF IT CONTAINS THE QUANTITY OF
55 ITEMS AND A DESCRIPTION OF THE TYPE OF ITEMS DELIVERED.

1 (C) THE NAME, ADDRESS, HOME TELEPHONE NUMBER, PLACE OF EMPLOYMENT,
2 DATE OF BIRTH, PHYSICAL DESCRIPTION, AND RIGHT THUMBPRINT OF THE PLEDGOR
3 OR SELLER.

4 (D) THE DATE AND TIME OF THE TRANSACTION.

5 (E) THE TYPE OF IDENTIFICATION ACCEPTED FROM THE PLEDGOR OR SELLER,
6 INCLUDING THE ISSUING AGENCY AND THE IDENTIFICATION NUMBER.

7 (F) IN THE CASE OF A PAWN:

8 (I) THE AMOUNT OF MONEY ADVANCED, WHICH MUST BE DESIGNATED AS THE
9 AMOUNT FINANCED;

10 (II) THE MATURITY DATE OF THE PAWN, WHICH MUST BE THIRTY DAYS AFTER
11 THE DATE OF THE PAWN;

12 (III) THE DEFAULT DATE OF THE PAWN AND THE AMOUNT DUE ON THE DEFAULT
13 DATE;

14 (IV) THE TOTAL PAWN SERVICE CHARGE PAYABLE ON THE MATURITY DATE, WHICH
15 MUST BE DESIGNATED AS THE FINANCE CHARGE;

16 (V) THE AMOUNT FINANCED PLUS THE FINANCE CHARGE THAT MUST BE PAID TO
17 REDEEM THE PLEDGED GOODS ON THE MATURITY DATE, WHICH MUST BE DESIGNATED
18 AS THE TOTAL OF PAYMENTS;

19 (VI) THE ANNUAL PERCENTAGE RATE, COMPUTED ACCORDING TO THE REGULATIONS
20 ADOPTED BY THE FEDERAL RESERVE BOARD UNDER THE FEDERAL TRUTH IN LENDING
21 ACT; AND

22 (VII) THE FRONT OR BACK OF THE PAWNBROKER TRANSACTION FORM MUST
23 INCLUDE A STATEMENT THAT:

24 (A) ANY PERSONAL PROPERTY PLEDGED TO A PAWNBROKER WITHIN THIS STATE
25 WHICH IS NOT REDEEMED WITHIN THIRTY DAYS FOLLOWING THE MATURITY DATE OF
26 THE PAWN, IF THE THIRTIETH DAY IS NOT A BUSINESS DAY, THEN THE FOLLOWING
27 BUSINESS DAY, IS AUTOMATICALLY FORFEITED TO THE PAWNBROKER, AND ABSOLUTE
28 RIGHT, TITLE, AND INTEREST IN AND TO THE PROPERTY VESTS IN AND IS DEEMED
29 CONVEYED TO THE PAWNBROKER BY OPERATION OF LAW, AND NO FURTHER NOTICE IS
30 NECESSARY;

31 (B) THE PLEDGOR IS NOT OBLIGATED TO REDEEM THE PLEDGED GOODS; AND

32 (C) IF THE PAWNBROKER TRANSACTION FORM IS LOST, DESTROYED, OR STOLEN,
33 THE PLEDGOR MUST IMMEDIATELY ADVISE THE ISSUING PAWNBROKER IN WRITING BY
34 CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, OR IN PERSON
35 EVIDENCED BY A SIGNED RECEIPT.

36 (D) A PAWN MAY BE EXTENDED UPON MUTUAL AGREEMENT OF THE PARTIES.

37 (G) IN THE CASE OF A PURCHASE, THE AMOUNT OF MONEY PAID FOR THE GOODS
38 OR THE MONETARY VALUE ASSIGNED TO THE GOODS IN CONNECTION WITH THE TRAN-
39 SACTION.

40 (H) A STATEMENT THAT THE PLEDGOR OR SELLER OF THE ITEM REPRESENTS AND
41 WARRANTS THAT IT IS NOT STOLEN, THAT IT HAS NO LIENS OR ENCUMBRANCES
42 AGAINST IT, AND THAT THE PLEDGOR OR SELLER IS THE RIGHTFUL OWNER OF THE
43 GOODS AND HAS THE RIGHT TO ENTER INTO THE TRANSACTION.

44 3. ANY PERSON WHO KNOWINGLY GIVES FALSE VERIFICATION OF OWNERSHIP OR
45 GIVES A FALSE OR ALTERED IDENTIFICATION AND WHO RECEIVES MONEY FROM A
46 PAWNBROKER FOR GOODS SOLD OR PLEDGED COMMITS A CLASS D FELONY IF THE
47 VALUE OF THE MONEY RECEIVED IS LESS THAN THREE HUNDRED DOLLARS OR A
48 CLASS C FELONY IF THE VALUE OF THE MONEY RECEIVED IS THREE HUNDRED
49 DOLLARS OR MORE.

50 4. A PAWNBROKER TRANSACTION FORM MUST PROVIDE A SPACE FOR THE IMPRINT
51 OF THE RIGHT THUMBPRINT OF THE PLEDGOR OR SELLER AND A BLANK LINE FOR
52 THE SIGNATURE OF THE PLEDGOR OR SELLER.

53 5. AT THE TIME OF THE PAWN OR PURCHASE TRANSACTION, THE PAWNBROKER
54 SHALL DELIVER TO THE PLEDGOR OR SELLER AN EXACT COPY OF THE COMPLETED
55 PAWNBROKER TRANSACTION FORM.

1 S 48. RECORDKEEPING; REPORTING; HOLD PERIOD. 1. A PAWNBROKER MUST
2 MAINTAIN A COPY OF EACH COMPLETED PAWNBROKER TRANSACTION FORM ON THE
3 PAWNSHOP PREMISES FOR AT LEAST ONE YEAR AFTER THE DATE OF THE TRANS-
4 ACTION. ON OR BEFORE THE END OF EACH BUSINESS DAY, THE PAWNBROKER MUST
5 DELIVER TO THE APPROPRIATE LAW ENFORCEMENT OFFICIAL THE ORIGINAL PAWN-
6 BROKER TRANSACTION FORMS FOR EACH OF THE TRANSACTIONS OCCURRING DURING
7 THE PREVIOUS BUSINESS DAY, UNLESS OTHER ARRANGEMENTS HAVE BEEN AGREED
8 UPON BETWEEN THE PAWNBROKER AND THE APPROPRIATE LAW ENFORCEMENT OFFI-
9 CIAL. IF THE ORIGINAL TRANSACTION FORM IS LOST OR DESTROYED BY THE
10 APPROPRIATE LAW ENFORCEMENT OFFICIAL, A COPY MAY BE USED BY THE PAWN-
11 BROKER AS EVIDENCE IN COURT. WHEN AN ELECTRONIC IMAGE OF A PLEDGOR OR
12 SELLER IDENTIFICATION IS ACCEPTED FOR A TRANSACTION, THE PAWNBROKER MUST
13 MAINTAIN THE ELECTRONIC IMAGE IN ORDER TO MEET THE SAME RECORDKEEPING
14 REQUIREMENTS AS FOR THE ORIGINAL TRANSACTION FORM. IF A CRIMINAL INVES-
15 TIGATION OCCURS, THE PAWNBROKER SHALL, UPON REQUEST, PROVIDE A CLEAR AND
16 LEGIBLE COPY OF THE IMAGE TO THE APPROPRIATE LAW ENFORCEMENT OFFICIAL.

17 2. IF THE APPROPRIATE LAW ENFORCEMENT AGENCY SUPPLIES THE APPROPRIATE
18 SOFTWARE AND THE PAWNBROKER PRESENTLY HAS THE COMPUTER ABILITY, PAWN
19 TRANSACTIONS SHALL BE ELECTRONICALLY TRANSFERRED. IF A PAWNBROKER DOES
20 NOT PRESENTLY HAVE THE COMPUTER ABILITY, THE APPROPRIATE LAW ENFORCEMENT
21 AGENCY MAY PROVIDE THE PAWNBROKER WITH A COMPUTER AND ALL NECESSARY
22 EQUIPMENT FOR THE PURPOSE OF ELECTRONICALLY TRANSFERRING PAWN TRANS-
23 ACTIONS. THE APPROPRIATE LAW ENFORCEMENT AGENCY SHALL RETAIN OWNERSHIP
24 OF THE COMPUTER, UNLESS OTHERWISE AGREED UPON. THE PAWNBROKER SHALL
25 MAINTAIN THE COMPUTER IN GOOD WORKING ORDER, ORDINARY WEAR AND TEAR
26 EXCEPTED. IN THE EVENT THE PAWNBROKER TRANSFERS PAWN TRANSACTIONS ELEC-
27 TRONICALLY, THE PAWNBROKER IS NOT REQUIRED TO ALSO DELIVER TO THE APPRO-
28 PRIATE LAW ENFORCEMENT OFFICIAL THE ORIGINAL OR COPIES OF THE PAWNBROKER
29 TRANSACTION FORMS. THE APPROPRIATE LAW ENFORCEMENT OFFICIAL MAY, FOR THE
30 PURPOSES OF A CRIMINAL INVESTIGATION, REQUEST THAT THE PAWNBROKER
31 PRODUCE AN ORIGINAL OF A TRANSACTION FORM THAT HAS BEEN ELECTRONICALLY
32 TRANSFERRED. THE PAWNBROKER SHALL DELIVER THIS FORM TO THE APPROPRIATE
33 LAW ENFORCEMENT OFFICIAL WITHIN TWENTY-FOUR HOURS OF THE REQUEST.

34 3. ALL GOODS DELIVERED TO A PAWNBROKER IN A PAWN OR PURCHASE TRANS-
35 ACTION MUST BE SECURELY STORED AND MAINTAINED IN AN UNALTERED CONDITION
36 WITHIN THE JURISDICTION OF THE APPROPRIATE LAW ENFORCEMENT OFFICIAL FOR
37 A PERIOD OF THIRTY CALENDAR DAYS AFTER THE TRANSACTION. THOSE GOODS
38 DELIVERED TO A PAWNBROKER IN A PURCHASE TRANSACTION MAY NOT BE SOLD OR
39 OTHERWISE DISPOSED OF BEFORE THE EXPIRATION OF SUCH PERIOD. THE PAWN-
40 BROKER SHALL MAKE ALL PLEDGED AND PURCHASED GOODS AND ALL RECORDS RELAT-
41 ING TO SUCH GOODS AVAILABLE FOR INSPECTION BY THE APPROPRIATE LAW
42 ENFORCEMENT OFFICIAL DURING NORMAL BUSINESS HOURS THROUGHOUT SUCH PERI-
43 OD. THE PAWNBROKER MUST STORE AND MAINTAIN PLEDGED GOODS FOR THE PERIOD
44 PRESCRIBED IN SECTION FORTY-NINE OF THIS ARTICLE UNLESS THE PLEDGED
45 GOODS ARE REDEEMED EARLIER; PROVIDED, HOWEVER, THAT WITHIN THE FIRST
46 THIRTY DAYS AFTER THE ORIGINAL PAWN, THE PLEDGED GOODS MAY BE REDEEMED
47 ONLY BY THE PLEDGOR OR THE PLEDGOR'S ATTORNEY IN FACT.

48 S 49. PLEDGED GOODS NOT REDEEMED. GOODS NOT REDEEMED BY THE PLEDGOR ON
49 OR BEFORE THE MATURITY DATE OF A PAWN MUST BE HELD BY THE PAWNBROKER FOR
50 AT LEAST THIRTY DAYS FOLLOWING SUCH DATE OR UNTIL THE NEXT BUSINESS DAY,
51 IF THE THIRTIETH DAY IS NOT A BUSINESS DAY. PLEDGED GOODS NOT REDEEMED
52 WITHIN THE THIRTY DAY PERIOD FOLLOWING THE MATURITY DATE OF A PAWN ARE
53 AUTOMATICALLY FORFEITED TO THE PAWNBROKER; ABSOLUTE RIGHT, TITLE, AND
54 INTEREST IN AND TO THE GOODS SHALL VEST IN AND SHALL BE DEEMED CONVEYED
55 TO THE PAWNBROKER BY OPERATION OF LAW; AND NO FURTHER NOTICE IS NECES-

1 SARY. A PLEDGOR HAS NO OBLIGATION TO REDEEM PLEDGED GOODS OR MAKE ANY
2 PAYMENT ON A PAWN.

3 S 50. PAWN SERVICE CHARGES. 1. IN A PAWN TRANSACTION, A PAWNBROKER MAY
4 CONTRACT FOR AND RECEIVE A PAWN SERVICE CHARGE. THE INTEREST COMPONENT
5 OF THE PAWN SERVICE CHARGE SHALL BE DEEMED TO BE TWO PERCENT OF THE
6 AMOUNT FINANCED FOR EACH THIRTY DAY PERIOD IN A PAWN TRANSACTION. THE
7 PAWNBROKER MAY CHARGE ANY AMOUNT OF PAWN SERVICE CHARGE, SO LONG AS THE
8 TOTAL AMOUNT, INCLUSIVE OF THE INTEREST COMPONENT, DOES NOT EXCEED TWEN-
9 TY-FIVE PERCENT OF THE AMOUNT FINANCED FOR EACH THIRTY DAY PERIOD IN A
10 PAWN TRANSACTION, EXCEPT THAT THE PAWNBROKER IS ENTITLED TO RECEIVE A
11 MINIMUM PAWN SERVICE CHARGE OF FIVE DOLLARS FOR EACH SUCH THIRTY DAY
12 PERIOD.

13 2. THE DEFAULT DATE OF ANY PAWN MAY BE EXTENDED TO A SUBSEQUENT DATE
14 BY MUTUAL AGREEMENT, BETWEEN THE PLEDGOR AND THE PAWNBROKER EXCEPT THE
15 PAWNBROKER MAY NOT IMPOSE A MINIMUM DURATION OF MORE THAN THIRTY DAYS,
16 EVIDENCED BY A WRITTEN MEMORANDUM, A COPY OF WHICH MUST BE SUPPLIED TO
17 THE PLEDGOR, WHICH MUST CLEARLY SPECIFY THE NEW DEFAULT DATE, AND THE
18 PAWN SERVICE CHARGES OWED ON THE NEW DEFAULT DATE. IN THIS EVENT, THE
19 DAILY PAWN SERVICE CHARGE FOR THE EXTENSION SHALL BE EQUAL TO THE PAWN
20 SERVICE CHARGE FOR THE ORIGINAL THIRTY DAY PERIOD DIVIDED BY THIRTY DAYS
21 (I.E., ONE-THIRTIETH OF THE ORIGINAL TOTAL PAWN SERVICE CHARGE). THERE
22 IS NO LIMIT ON THE NUMBER OF EXTENSIONS THAT THE PARTIES MAY AGREE TO.

23 3. THE TOTAL AMOUNT OF PAWN SERVICE CHARGES THAT A PAWNBROKER MAY
24 COLLECT IN THE CASE OF PLEDGED GOODS REDEEMED AT ANY TIME WITHIN THIRTY
25 DAYS AFTER THE DATE OF THE PAWN IS THE AMOUNT PROVIDED IN SUBDIVISION
26 ONE OF THIS SECTION. THE TOTAL AMOUNT OF PAWN SERVICE CHARGES THAT A
27 PAWNBROKER MAY COLLECT IN THE CASE OF REDEMPTIONS OCCURRING AT ANY TIME
28 MORE THAN THIRTY DAYS AFTER THE DATE OF THE PAWN IS TWICE THE AMOUNT
29 PROVIDED IN SUCH SUBDIVISION, EXCEPT THAT, FOR REDEMPTIONS OCCURRING
30 MORE THAN SIXTY DAYS AFTER THE DATE OF THE PAWN, PAWN SERVICE CHARGES
31 CONTINUE TO ACCRUE FROM AND AFTER THE SIXTIETH DAY AT THE DAILY RATE
32 DETERMINED AS PROVIDED IN SUBDIVISION TWO OF THIS SECTION. ANY UNUSED
33 PAWN SERVICE CHARGE PAID IN ADVANCE BY THE PLEDGOR SHALL BE REFUNDED BY
34 THE PAWNBROKER.

35 4. PLEDGED GOODS MAY BE REDEEMED BY MAIL BY AGREEMENT BETWEEN THE
36 PLEDGOR AND THE PAWNBROKER. THE PLEDGOR MUST PAY IN ADVANCE ALL MONEYS
37 DUE AND A REASONABLE CHARGE ASSESSED BY THE PAWNBROKER TO RECOVER ITS
38 COST AND EXPENSES INVOLVED IN THE PACKAGING, INSURING, AND SHIPPING OF
39 THE PLEDGED GOODS. THE PAWNBROKER SHALL INSURE THE PLEDGED GOODS IN AN
40 AMOUNT ACCEPTABLE TO THE PLEDGOR. THE PAWNBROKER'S LIABILITY FOR LOSS OR
41 DAMAGE IN CONNECTION WITH THE SHIPMENT OF SUCH PLEDGED GOODS IS LIMITED
42 TO THE AMOUNT OF THE INSURANCE COVERAGE OBTAINED.

43 5. ANY INTEREST, CHARGE, OR FEES CONTRACTED FOR OR RECEIVED, DIRECTLY
44 OR INDIRECTLY, IN EXCESS OF THE AMOUNTS AUTHORIZED UNDER THIS SECTION
45 ARE PROHIBITED, MAY NOT BE COLLECTED, AND RENDER THE PAWN TRANSACTION
46 VOIDABLE, IN WHICH CASE THE PAWNBROKER SHALL FORFEIT THE RIGHT TO
47 COLLECT TWICE THE AMOUNT OF THE PAWN SERVICE CHARGE CONTRACTED FOR IN
48 THE PAWN AND, UPON THE PLEDGOR'S WRITTEN REQUEST RECEIVED BY THE PAWN-
49 BROKER WITHIN THIRTY DAYS AFTER THE MATURITY DATE, SHALL BE OBLIGATED TO
50 RETURN TO THE PLEDGOR THE PLEDGED GOODS DELIVERED TO THE PAWNBROKER IN
51 CONNECTION WITH THE PAWN UPON PAYMENT OF THE BALANCE REMAINING DUE,
52 PROVIDED THAT THERE SHALL BE NO PENALTY FOR A VIOLATION RESULTING FROM
53 AN ACCIDENTAL AND BONA FIDE ERROR THAT IS CORRECTED UPON DISCOVERY. ANY
54 ACTION TO CIRCUMVENT THE LIMITATION ON PAWN SERVICE CHARGES COLLECTIBLE
55 UNDER THIS SECTION IS VOIDABLE. IN THE EVENT A PLEDGOR MAKES A PARTIAL
56 PAYMENT ON A PAWN THAT REDUCES THE AMOUNT FINANCED, ANY ADDITIONAL PAWN

SERVICE CHARGES SHALL BE CALCULATED ON THE REMAINING BALANCE OF THE ORIGINAL AMOUNT FINANCED.

S 51. PROHIBITED ACTS. A PAWNBROKER, OR AN EMPLOYEE OR AGENT OF A PAWNBROKER, MAY NOT:

1. FALSIFY OR INTENTIONALLY FAIL TO MAKE AN ENTRY OF ANY MATERIAL MATTER IN A PAWNBROKER TRANSACTION FORM.

2. REFUSE TO ALLOW THE AGENCY, THE APPROPRIATE LAW ENFORCEMENT OFFICIAL, OR THE ATTORNEY GENERAL, OR ANY OF THEIR DESIGNATED REPRESENTATIVES HAVING JURISDICTION, TO INSPECT COMPLETED PAWNBROKER TRANSACTION FORMS OR PLEDGED OR PURCHASED GOODS DURING THE ORDINARY HOURS OF THE PAWNBROKER'S BUSINESS OR OTHER TIME ACCEPTABLE TO BOTH PARTIES. THE APPROPRIATE LAW ENFORCEMENT OFFICIAL SHALL DISCLOSE TO A CLAIMANT THE NAME AND ADDRESS OF THE PAWNBROKER, THE NAME AND ADDRESS OF THE CONVEYING CUSTOMER, AND A DESCRIPTION OF PAWNED, PURCHASED, OR CONSIGNED GOODS THAT THE CLAIMANT CLAIMS TO BE MISAPPROPRIATED.

3. OBLITERATE, DISCARD, OR DESTROY A COMPLETED PAWNBROKER TRANSACTION FORM SOONER THAN THREE YEARS AFTER THE DATE OF THE TRANSACTION.

4. ACCEPT A PLEDGE OR PURCHASE PROPERTY FROM A PERSON UNDER THE AGE OF EIGHTEEN YEARS.

5. MAKE ANY AGREEMENT REQUIRING OR ALLOWING THE PERSONAL LIABILITY OF A PLEDGOR OR THE WAIVER OF ANY OF THE PROVISIONS OF THIS SECTION.

6. KNOWINGLY ENTER INTO A PAWN OR PURCHASE TRANSACTION WITH ANY PERSON WHO IS UNDER THE INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCES WHEN SUCH CONDITION IS APPARENT, OR WITH ANY PERSON USING THE NAME OF ANOTHER OR THE REGISTERED NAME OF ANOTHER'S BUSINESS.

7. CONDUCT ANY PAWN OR PURCHASE TRANSACTION AT A DRIVE-THROUGH WINDOW OR SIMILAR DEVICE IN WHICH THE CUSTOMER REMAINS IN A VEHICLE WHILE CONDUCTING THE TRANSACTION.

8. FAIL TO RETURN OR REPLACE PLEDGED GOODS TO A PLEDGOR UPON PAYMENT OF THE FULL AMOUNT DUE THE PAWNBROKER, UNLESS THE PLEDGED GOODS HAVE BEEN PLACED UNDER A HOLD ORDER UNDER THIS ARTICLE, OR TAKEN INTO CUSTODY BY A COURT OR OTHERWISE DISPOSED OF BY COURT ORDER.

9. SELL OR OTHERWISE CHARGE FOR INSURANCE IN CONNECTION WITH A PAWN TRANSACTION, EXCEPT IN CONNECTION WITH THE SHIPMENT OF PLEDGED GOODS REDEEMED BY MAIL AS PROVIDED IN THIS ARTICLE.

10. ENGAGE IN TITLE LOAN TRANSACTIONS AT, WITHIN, OR ADJOINING A LICENSED PAWNSHOP LOCATION.

11. LEASE PLEDGED GOODS TO THE PLEDGOR OR ANY OTHER PARTY.

12. OPERATE A PAWNSHOP BETWEEN THE HOURS OF TEN P.M. AND SEVEN A.M.

13. KNOWINGLY HIRE ANYONE TO WORK IN A PAWNSHOP WHO HAS BEEN CONVICTED OF, OR ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE TO, OR HAD ADJUDICATION WITHHELD FOR A FELONY WITHIN THE LAST FIVE YEARS, OR BEEN CONVICTED OF, OR ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE TO, OR HAD ADJUDICATION WITHHELD FOR A CRIME WITHIN THE LAST FIVE YEARS WHICH INVOLVES THEFT, LARCENY, DEALING IN STOLEN PROPERTY, RECEIVING STOLEN PROPERTY, BURGLARY, EMBEZZLEMENT, OBTAINING PROPERTY BY FALSE PRETENSES, POSSESSION OF ALTERED PROPERTY, OR ANY FRAUDULENT OR DISHONEST DEALING.

14. KNOWINGLY ACCEPT OR RECEIVE MISAPPROPRIATED PROPERTY FROM A CONVEYING CUSTOMER IN A PAWN OR PURCHASE TRANSACTION.

S 52. RIGHT TO REDEEM; LOST PAWNBROKER TRANSACTION FORM. 1. ONLY A PLEDGOR OR A PLEDGOR'S AUTHORIZED REPRESENTATIVE IS ENTITLED TO REDEEM THE PLEDGED GOODS DESCRIBED IN THE PAWNBROKER TRANSACTION FORM; HOWEVER, IF THE PAWNBROKER DETERMINES THAT THE PERSON IS NOT THE ORIGINAL PLEDGOR, OR THE PLEDGOR'S AUTHORIZED REPRESENTATIVE, THE PAWNBROKER IS NOT REQUIRED TO ALLOW THE REDEMPTION OF THE PLEDGED GOODS BY SUCH PERSON. THE PERSON REDEEMING THE PLEDGED GOODS MUST SIGN THE PLEDGOR'S COPY OF

1 THE PAWNBROKER TRANSACTION FORM, WHICH THE PAWNBROKER MAY RETAIN AS
2 EVIDENCE OF THE PERSON'S RECEIPT OF THE PLEDGED GOODS. IF THE PERSON
3 REDEEMING THE PLEDGED GOODS IS THE PLEDGOR'S AUTHORIZED REPRESENTATIVE,
4 THAT PERSON MUST PRESENT NOTARIZED AUTHORIZATION FROM THE ORIGINAL PLED-
5 GOR AND SHOW IDENTIFICATION TO THE PAWNBROKER AND THE PAWNBROKER SHALL
6 RECORD THAT PERSON'S NAME AND ADDRESS ON THE PAWNBROKER TRANSACTION FORM
7 RETAINED BY THE PAWNSHOP. IT IS THE PAWNBROKER'S RESPONSIBILITY TO VERI-
8 FY THAT THE PERSON REDEEMING THE PLEDGED GOODS IS EITHER THE PLEDGOR OR
9 THE PLEDGOR'S AUTHORIZED REPRESENTATIVE.

10 2. IF A PLEDGOR'S COPY OF THE PAWNBROKER TRANSACTION FORM IS LOST,
11 DESTROYED, OR STOLEN, THE PLEDGOR MUST NOTIFY THE PAWNBROKER IN WRITING
12 BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, OR IN PERSON
13 EVIDENCED BY A SIGNED RECEIPT, AND RECEIPT OF THIS NOTICE INVALIDATES
14 THE PAWNBROKER TRANSACTION FORM IF THE PLEDGED GOODS HAVE NOT PREVIOUSLY
15 BEEN REDEEMED. BEFORE DELIVERING THE PLEDGED GOODS OR ISSUING A NEW
16 PAWNBROKER TRANSACTION FORM, THE PAWNBROKER MUST REQUIRE THE PLEDGOR TO
17 MAKE A WRITTEN STATEMENT OF THE LOSS, DESTRUCTION, OR THEFT OF THE
18 PLEDGOR'S COPY OF THE PAWNBROKER TRANSACTION FORM. THE PAWNBROKER MUST
19 RECORD ON THE WRITTEN STATEMENT THE TYPE OF IDENTIFICATION AND THE IDEN-
20 TIFICATION NUMBER ACCEPTED FROM THE PLEDGOR, THE DATE THE STATEMENT IS
21 GIVEN, AND THE NUMBER OF THE PAWNBROKER TRANSACTION FORM THAT WAS LOST,
22 DESTROYED, OR STOLEN. THE STATEMENT MUST BE SIGNED BY THE PAWNBROKER OR
23 THE PAWNSHOP EMPLOYEE WHO ACCEPTS THE STATEMENT FROM THE PLEDGOR. A
24 PAWNBROKER IS ENTITLED TO A FEE NOT TO EXCEED TWO DOLLARS IN CONNECTION
25 WITH EACH LOST, DESTROYED, OR STOLEN PAWNBROKER TRANSACTION FORM AND THE
26 TAKING OF A PROPERLY PREPARED WRITTEN STATEMENT.

27 3. SALES TAX IS NOT DUE OR COLLECTIBLE IN CONNECTION WITH THE REDEMP-
28 TION OF PLEDGED GOODS.

29 4. IF PLEDGED GOODS ARE LOST OR DAMAGED WHILE IN THE POSSESSION OF THE
30 PAWNBROKER, THE PAWNBROKER MAY SATISFY THE PLEDGOR'S CLAIM BY REPLACING
31 THE LOST OR DAMAGED GOODS WITH LIKE KINDS OF MERCHANDISE OF EQUAL VALUE,
32 WITH WHICH THE PLEDGOR CAN REASONABLY REPLACE THE GOODS. SUCH REPLACE-
33 MENT IS A DEFENSE TO ANY CIVIL ACTION BASED UPON THE LOSS OR DAMAGE OF
34 THE GOODS.

35 S 53. PAWNBROKER'S LIEN. A PAWNBROKER HAS A POSSESSORY LIEN ON THE
36 PLEDGED GOODS PAWNED AS SECURITY FOR THE FUNDS ADVANCED, THE PAWN
37 SERVICE CHARGE OWED, AND THE OTHER CHARGES AUTHORIZED UNDER THIS
38 SECTION, BUT NOT FOR OTHER DEBTS DUE TO THE PAWNBROKER. A PAWNBROKER HAS
39 NO RECOURSE AGAINST A PLEDGOR FOR PAYMENT ON A PAWN TRANSACTION EXCEPT
40 FOR THE PLEDGED GOODS THEMSELVES. EXCEPT AS OTHERWISE PROVIDED IN THIS
41 SECTION, THE PAWNBROKER MUST RETAIN POSSESSION OF THE PLEDGED GOODS
42 UNTIL THE LIEN IS SATISFIED OR UNTIL THE DEFAULT DATE. THE PAWNBROKER
43 MAY BE COMPELLED TO RELINQUISH POSSESSION OF THE PLEDGED GOODS ONLY
44 AFTER RECEIPT OF THE APPLICABLE FUNDS ADVANCED PLUS THE ACCRUED SERVICE
45 CHARGE AND OTHER AUTHORIZED CHARGES, UPON COURT ORDER, OR AS OTHERWISE
46 PROVIDED BY LAW.

47 S 54. CLAIMS AGAINST PURCHASED GOODS OR PLEDGED GOODS HELD BY PAWN-
48 BROKERS. 1. TO OBTAIN POSSESSION OF PURCHASED OR PLEDGED GOODS HELD BY A
49 PAWNBROKER WHICH A CLAIMANT CLAIMS TO BE MISAPPROPRIATED, THE CLAIMANT
50 MUST NOTIFY THE PAWNBROKER BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
51 OR IN PERSON EVIDENCED BY SIGNED RECEIPT, OF THE CLAIMANT'S CLAIM TO THE
52 PURCHASED OR PLEDGED GOODS. THE NOTICE MUST CONTAIN A COMPLETE AND ACCU-
53 RATE DESCRIPTION OF THE PURCHASED OR PLEDGED GOODS AND MUST BE ACCOMPA-
54 NIED BY A LEGIBLE COPY OF THE APPLICABLE LAW ENFORCEMENT AGENCY'S REPORT
55 ON THE MISAPPROPRIATION OF SUCH PROPERTY. IF THE CLAIMANT AND THE PAWN-
56 BROKER DO NOT RESOLVE THE MATTER WITHIN TEN DAYS AFTER THE PAWNBROKER'S

1 RECEIPT OF THE NOTICE, THE CLAIMANT MAY PETITION THE COURT TO ORDER THE
2 RETURN OF THE PROPERTY, NAMING THE PAWNBROKER AS A DEFENDANT, AND MUST
3 SERVE THE PAWNBROKER WITH A COPY OF THE PETITION. THE PAWNBROKER SHALL
4 HOLD THE PROPERTY DESCRIBED IN THE PETITION UNTIL THE RIGHT TO
5 POSSESSION IS RESOLVED BY THE PARTIES OR BY A COURT OF COMPETENT JURIS-
6 DICTION. THE COURT SHALL WAIVE ANY FILING FEE FOR THE PETITION TO
7 RECOVER THE PROPERTY, AND THE SHERIFF SHALL WAIVE THE SERVICE FEES.

8 2. IF, AFTER NOTICE AND A HEARING, THE COURT FINDS THAT THE PROPERTY
9 WAS MISAPPROPRIATED AND ORDERS THE RETURN OF THE PROPERTY TO THE CLAIM-
10 ANT:

11 (A) THE CLAIMANT MAY RECOVER FROM THE PAWNBROKER THE COST OF THE
12 ACTION, INCLUDING THE CLAIMANT'S REASONABLE ATTORNEY'S FEES; AND

13 (B) IF THE CONVEYING CUSTOMER IS CONVICTED OF THEFT, A VIOLATION OF
14 THIS SECTION, OR DEALING IN STOLEN PROPERTY, THE COURT SHALL ORDER THE
15 CONVEYING CUSTOMER TO REPAY THE PAWNBROKER THE FULL AMOUNT THE CONVEYING
16 CUSTOMER RECEIVED FROM THE PAWNBROKER FOR THE PROPERTY, PLUS ALL APPLI-
17 CABLE PAWN SERVICE CHARGES. AS USED IN THIS PARAGRAPH, THE TERM
18 "CONVICTED OF" INCLUDES A PLEA OF NOLO CONTENDERE TO THE CHARGES OR ANY
19 AGREEMENT IN WHICH ADJUDICATION IS WITHHELD; AND

20 (C) THE CONVEYING CUSTOMER SHALL BE RESPONSIBLE TO PAY ALL ATTORNEY'S
21 FEES AND TAXABLE COSTS INCURRED BY THE PAWNBROKER IN DEFENDING A REPLEV-
22 IN ACTION OR ANY OTHER CIVIL MATTER WHEREIN IT IS FOUND THAT THE CONVEY-
23 ING CUSTOMER WAS IN VIOLATION OF THIS SECTION.

24 3. IF THE COURT FINDS THAT THE CLAIMANT FAILED TO COMPLY WITH THE
25 REQUIREMENTS IN SUBDIVISION ONE OF THIS SECTION OR OTHERWISE FINDS
26 AGAINST THE CLAIMANT, THE CLAIMANT IS LIABLE FOR THE DEFENDANTS' COSTS,
27 INCLUDING REASONABLE ATTORNEY'S FEES.

28 4. THE SALE, PLEDGE, OR DELIVERY OF TANGIBLE PERSONAL PROPERTY TO A
29 PAWNBROKER BY ANY PERSON IN THIS STATE IS CONSIDERED TO BE:

30 (A) AN AGREEMENT BY THE PERSON WHO SELLS, PLEDGES, OR DELIVERS THE
31 TANGIBLE PERSONAL PROPERTY THAT THE PERSON IS SUBJECT TO THE JURISDIC-
32 TION OF THE COURT IN ALL CIVIL ACTIONS AND PROCEEDINGS ARISING OUT OF
33 THE PLEDGE OR SALE TRANSACTION FILED BY EITHER A RESIDENT OR NONRESIDENT
34 PLAINTIFF;

35 (B) AN APPOINTMENT OF THE SECRETARY OF STATE BY ANY NONRESIDENT OF
36 THIS STATE AS THAT PERSON'S LAWFUL ATTORNEY AND AGENT UPON WHOM MAY BE
37 SERVED ALL PROCESS IN SUITS PERTAINING TO THE ACTIONS AND PROCEEDINGS
38 ARISING OUT OF THE SALE, PLEDGE, OR DELIVERY; AND

39 (C) AN AGREEMENT BY ANY NONRESIDENT THAT ANY PROCESS IN ANY SUIT SO
40 SERVED HAS THE SAME LEGAL FORCE AND VALIDITY AS IF PERSONALLY SERVED IN
41 THIS STATE.

42 S 55. HOLD ORDERS; ISSUANCE; REQUIRED INFORMATION; PROCEDURES. 1. WHEN
43 AN APPROPRIATE LAW ENFORCEMENT OFFICIAL HAS PROBABLE CAUSE TO BELIEVE
44 THAT PROPERTY IN THE POSSESSION OF A PAWNBROKER IS MISAPPROPRIATED, THE
45 OFFICIAL MAY PLACE A WRITTEN HOLD ORDER ON THE PROPERTY. THE WRITTEN
46 HOLD ORDER SHALL IMPOSE A HOLDING PERIOD NOT TO EXCEED NINETY DAYS
47 UNLESS EXTENDED BY COURT ORDER. THE APPROPRIATE LAW ENFORCEMENT OFFICIAL
48 MAY RESCIND, IN WRITING, ANY HOLD ORDER. AN APPROPRIATE LAW ENFORCEMENT
49 OFFICIAL MAY PLACE ONLY ONE HOLD ORDER ON PROPERTY.

50 2. UPON THE EXPIRATION OF THE HOLDING PERIOD, THE PAWNBROKER SHALL
51 NOTIFY, IN WRITING, THE APPROPRIATE LAW ENFORCEMENT OFFICIAL BY CERTI-
52 FIED MAIL, RETURN RECEIPT REQUESTED, THAT THE HOLDING PERIOD HAS
53 EXPIRED. IF, ON THE TENTH DAY AFTER THE WRITTEN NOTICE HAS BEEN RECEIVED
54 BY THE APPROPRIATE LAW ENFORCEMENT OFFICIAL, THE PAWNBROKER HAS NOT
55 RECEIVED FROM A COURT AN EXTENSION OF THE HOLD ORDER ON THE PROPERTY,
56 TITLE TO THE PROPERTY SHALL VEST IN AND BE DEEMED CONVEYED BY OPERATION

1 OF LAW TO THE PAWNBROKER, FREE OF ANY LIABILITY FOR CLAIMS BUT SUBJECT
2 TO ANY RESTRICTIONS CONTAINED IN THE PAWN TRANSACTION CONTRACT AND
3 SUBJECT TO THE PROVISIONS OF THIS SECTION.

4 3. A HOLD ORDER MUST SPECIFY:

5 (A) THE NAME AND ADDRESS OF THE PAWNBROKER.

6 (B) THE NAME, TITLE, AND IDENTIFICATION NUMBER OF THE REPRESENTATIVE
7 OF THE APPROPRIATE LAW ENFORCEMENT OFFICIAL OR THE COURT PLACING THE
8 HOLD ORDER.

9 (C) IF APPLICABLE, THE NAME AND ADDRESS OF THE APPROPRIATE LAW
10 ENFORCEMENT OFFICIAL OR COURT TO WHICH SUCH REPRESENTATIVE IS ATTACHED
11 AND THE NUMBER, IF ANY, ASSIGNED TO THE CLAIM REGARDING THE PROPERTY.

12 (D) A COMPLETE DESCRIPTION OF THE PROPERTY TO BE HELD, INCLUDING MODEL
13 NUMBER AND SERIAL NUMBER IF APPLICABLE.

14 (E) THE NAME OF THE PERSON REPORTING THE PROPERTY TO BE MISAPPROPRI-
15 ATED UNLESS OTHERWISE PROHIBITED BY LAW.

16 (F) THE MAILING ADDRESS OF THE PAWNBROKER WHERE THE PROPERTY IS HELD.

17 (G) THE EXPIRATION DATE OF THE HOLDING PERIOD.

18 4. THE PAWNBROKER OR THE PAWNBROKER'S REPRESENTATIVE MUST SIGN AND
19 DATE A COPY OF THE HOLD ORDER AS EVIDENCE OF RECEIPT OF THE HOLD ORDER
20 AND THE BEGINNING OF THE NINETY DAY HOLDING PERIOD.

21 5. (A) EXCEPT AS PROVIDED IN PARAGRAPH B OF THIS SUBDIVISION, A PAWN-
22 BROKER MAY NOT RELEASE OR DISPOSE OF PROPERTY SUBJECT TO A HOLD ORDER
23 EXCEPT PURSUANT TO A COURT ORDER, A WRITTEN RELEASE FROM THE APPROPRIATE
24 LAW ENFORCEMENT OFFICIAL, OR THE EXPIRATION OF THE HOLDING PERIOD OF THE
25 HOLD ORDER.

26 (B) WHILE A HOLD ORDER IS IN EFFECT, THE PAWNBROKER MUST UPON REQUEST
27 RELEASE THE PROPERTY SUBJECT TO THE HOLD ORDER TO THE CUSTODY OF THE
28 APPROPRIATE LAW ENFORCEMENT OFFICIAL FOR USE IN A CRIMINAL INVESTI-
29 GATION. THE RELEASE OF THE PROPERTY TO THE CUSTODY OF THE APPROPRIATE
30 LAW ENFORCEMENT OFFICIAL IS NOT CONSIDERED A WAIVER OR RELEASE OF THE
31 PAWNBROKER'S PROPERTY RIGHTS OR INTEREST IN THE PROPERTY. UPON
32 COMPLETION OF THE CRIMINAL PROCEEDING, THE PROPERTY MUST BE RETURNED TO
33 THE PAWNBROKER UNLESS THE COURT ORDERS OTHER DISPOSITION. WHEN SUCH
34 OTHER DISPOSITION IS ORDERED, THE COURT SHALL ADDITIONALLY ORDER THE
35 CONVEYING CUSTOMER TO PAY RESTITUTION TO THE PAWNBROKER IN THE AMOUNT
36 RECEIVED BY THE CONVEYING CUSTOMER FOR THE PROPERTY TOGETHER WITH
37 REASONABLE ATTORNEY'S FEES AND COSTS.

38 S 55-A. CRIMINAL PENALTIES. 1. ANY PERSON WHO ENGAGES IN BUSINESS AS A
39 PAWNBROKER WITHOUT FIRST SECURING A LICENSE IS GUILTY OF A CLASS C FELO-
40 NY.

41 2. IN ADDITION TO ANY OTHER PENALTY, ANY PERSON, WHO WILLFULLY
42 VIOLATES THIS SECTION OR WHO WILLFULLY MAKES A FALSE ENTRY IN ANY RECORD
43 SPECIFICALLY REQUIRED BY THIS SECTION IS GUILTY OF A CLASS A MISDEMEA-
44 NOR. CLERICAL OR RECORDKEEPING ERRORS, SUCH AS TYPOGRAPHICAL ERRORS OR
45 SCRIVENER'S ERRORS, REGARDING ANY DOCUMENT OR RECORD REQUIRED BY THIS
46 SECTION DO NOT CONSTITUTE A WILLFUL VIOLATION OF THIS SECTION, AND ARE
47 NOT SUBJECT TO CRIMINAL PENALTIES. CLERICAL OR RECORDKEEPING ERRORS ARE
48 SUBJECT TO THE ADMINISTRATIVE REMEDIES, AS PROVIDED IN THIS ARTICLE.

49 S 55-B. INJUNCTIONS. WHEN THE AGENCY HAS REASONABLE CAUSE TO BELIEVE
50 THAT A PERSON IS VIOLATING THIS ARTICLE, THE AGENCY MAY ENTER AN ORDER
51 REQUIRING THE PERSON TO STOP THE VIOLATION. THE AGENCY MAY PETITION THE
52 COURT TO ENJOIN THE PERSON FROM ENGAGING IN THE VIOLATION, CONTINUING
53 THE VIOLATION, OR DOING ANY ACT IN FURTHERANCE OF THE VIOLATION. THE
54 COURT MAY ORDER A PRELIMINARY OR PERMANENT INJUNCTION.

55 S 55-C. RECORDS OF THE DIVISION OF CRIMINAL JUSTICE SERVICES. THE
56 DIVISION OF CRIMINAL JUSTICE SERVICES SHALL, UPON REQUEST OF THE AGENCY,

1 SUPPLY TO THE AGENCY ANY ARREST AND CONVICTION RECORDS IN ITS POSSESSION
2 OF AN INDIVIDUAL APPLYING FOR OR HOLDING A LICENSE UNDER THIS ARTICLE.

3 S 55-D. CONFLICTING LOCAL LAWS OR ORDINANCES. ANY COUNTY OR CITY MAY
4 ENACT LOCAL LAWS OR ORDINANCES THAT ARE IN COMPLIANCE WITH, BUT NOT MORE
5 RESTRICTIVE THAN THIS SECTION, EXCEPT THAT SUCH LOCAL LAW OR ORDINANCE
6 SHALL NOT REQUIRE THE PAYMENT OF ANY FEE OR TAX RELATED TO A PAWN TRANS-
7 ACTION OR PURCHASE UNLESS AUTHORIZED UNDER THE LAWS OF THE STATE OR
8 RESTRICT HOURS OF OPERATIONS OTHER THAN BETWEEN MIDNIGHT AND SIX A.M.
9 ANY ORDINANCE THAT CONFLICTS WITH THIS SECTION IS VOID. THIS SECTION
10 DOES NOT AFFECT THE AUTHORITY OF A COUNTY OR MUNICIPALITY TO ESTABLISH
11 LAND USE CONTROLS OR REQUIRE A PAWNBROKER TO OBTAIN A CERTIFICATE OF
12 OCCUPANCY AS OTHERWISE REQUIRED BY LAW.

13 S 55-E. RULES AND REGULATIONS. THE ATTORNEY GENERAL MAY PROMULGATE
14 SUCH RULES AND REGULATIONS HE OR SHE DEEMS NECESSARY FOR THE IMPLEMENTA-
15 TION AND ENFORCEMENT OF THE PROVISIONS OF THIS ARTICLE.

16 S 2. The closing paragraph of section 340 of the banking law, as added
17 by chapter 22 of the laws of 1990, is amended to read as follows:

18 Nothing in this article shall apply to licensed [collateral loan] PAWN
19 brokers LICENSED PURSUANT TO ARTICLE FIVE OF THE GENERAL BUSINESS LAW.

20 S 3. Subdivision 3 of section 165.45 of the penal law, as amended by
21 chapter 515 of the laws of 1986, is amended to read as follows:

22 3. He is a [collateral loan] PAWN broker LICENSED IN ACCORDANCE WITH
23 THE PROVISIONS OF ARTICLE FIVE OF THE GENERAL BUSINESS LAW, or is in the
24 business of buying, selling or otherwise dealing in property; or

25 S 4. Subdivision 2 of section 165.55 of the penal law, as amended by
26 chapter 321 of the laws of 1983, is amended to read as follows:

27 2. A [collateral loan] PAWN broker LICENSED IN ACCORDANCE WITH ARTICLE
28 FIVE OF THE GENERAL BUSINESS LAW or a person in the business of buying,
29 selling or otherwise dealing in property who possesses stolen property
30 is presumed to know that such property was stolen if he obtained it
31 without having ascertained by reasonable inquiry that the person from
32 whom he obtained it had a legal right to possess it.

33 S 5. Section 202-b of the lien law, as amended by chapter 321 of the
34 laws of 1983, is amended to read as follows:

35 S 202-b. Pledgee may buy at public sale. Unless the pledge agreement
36 otherwise provides, in all cases where a pledgee may lawfully sell
37 pledged property and the property is sold at public sale, the pledgee,
38 or his assignee or the legal representative of either, may fairly and in
39 good faith purchase the pledged property or any part thereof at the
40 sale. This section does not apply to a sale of property pawned or
41 pledged with a [collateral loan] PAWN broker LICENSED IN ACCORDANCE WITH
42 ARTICLE 5 OF THE GENERAL BUSINESS LAW.

43 S 6. This act shall take effect on the first of November next succeed-
44 ing the date upon which it shall have become a law, except that any
45 rules and regulations necessary for the operation and enforcement of
46 this act may be implemented immediately.