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HOUSE BILL 112

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO PAWNBROKERS; PROVIDING THAT A PAWN TRANSACTION INCLUDES THE PURCHASE OF AN ITEM OF GOLD, SILVER, PLATINUM OR OTHER PRECIOUS METALS OR GEMS; REQUIRING PHOTOGRAPHS OF SUCH ITEMS IN PAWNBROKER REPORTS; PROVIDING THAT A PAWNBROKER SHALL NOT SELL, MELT DOWN, ALTER OR OTHERWISE DISPOSE OF SUCH AN ITEM UNTIL FIFTEEN DAYS AFTER PURCHASE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 56-12-1 NMSA 1978 (being Laws 1985, Chapter 228, Section 1) is amended to read:

"56-12-1. SHORT TITLE.--~~[This act]~~ Chapter 56, Article 12 NMSA 1978 may be cited as the "Pawnbrokers Act"."

SECTION 2. Section 56-12-2 NMSA 1978 (being Laws 1985, Chapter 228, Section 2) is amended to read:

"56-12-2. DEFINITIONS.--As used in the Pawnbrokers Act:

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1 A. "pawnbroker" means a person engaged in the
2 business of making pawn transactions;

3 B. "pawn service charge" means the sum of all
4 charges payable directly or indirectly by the pledgor and
5 imposed directly or indirectly by the pawnbroker as an incident
6 to the pawn transaction;

7 C. "pawnshop" means the location or premises at
8 which a pawnbroker regularly conducts [~~his~~] business;

9 D. "pawn transaction" means [~~either the act~~] a
10 transaction between a pawnbroker and a person [~~pledging a good~~
11 ~~of lending~~] where the pawnbroker:

12 (1) lends money or [~~extending~~] extends credit
13 on the security of pledged goods [~~or of purchasing~~];

14 (2) purchases tangible personal property with
15 an express or implied agreement or understanding that it may be
16 redeemed or repurchased by the seller at a stipulated price; or

17 (3) purchases an item of gold, silver,
18 platinum or other precious metals or gems for the purpose of
19 resale, melting down or otherwise altering the item;

20 E. "person" means an individual, partnership,
21 corporation, joint venture, trust, association or any other
22 legal entity however organized;

23 F. "pledged goods" means tangible personal property
24 other than choses in action, securities or printed evidences of
25 indebtedness, which property is deposited with or otherwise

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1 actually delivered into the possession of a pawnbroker in the
2 course of [~~his~~] the pawnbroker's business in connection with
3 the pawn transaction;

4 G. "local law enforcement agency" means the chief
5 of police, [~~his~~] the chief's designee, [~~or~~] the police
6 department if applicable to a municipality, [~~or~~] the county
7 sheriff, [~~his~~] the sheriff's designee or the county sheriff's
8 department if applicable to a county; and

9 H. "local government" means a municipality or
10 county."

11 SECTION 3. Section 56-12-9 NMSA 1978 (being Laws 1985,
12 Chapter 228, Section 9) is amended to read:

13 "56-12-9. PAWNBROKER REPORTS--RECORDS--DELIVERY--
14 VIOLATIONS.--

15 A. Every pawnbroker shall each day accurately
16 complete a report of all new and used property of every kind
17 received or purchased in a pawn transaction during the
18 preceding business day on a form approved by the local law
19 enforcement agency. Either a driver's license or other photo
20 identification card shall be required of each person entering
21 into a pawn transaction with a pawnbroker. Each item received
22 shall be listed on a separate report form. [~~Said~~] The report
23 shall include the following:

- 24 (1) name of item;
25 (2) description of the item, including make

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1 and model number, if any;

2 (3) serial number and other identifying marks,
3 if any;

4 (4) date, time and type of pawn transaction;

5 (5) name and address of person offering the
6 item;

7 (6) description of the person offering the
8 item, including sex, complexion, hair color, approximate height
9 and weight and date of birth; [~~and~~]

10 (7) type of identification used by person
11 offering item and identifying number of [~~said~~] the
12 identification. If the person presents a driver's license, the
13 report shall also indicate the state of issuance; and

14 (8) for an item of gold, silver, platinum or
15 other precious metals or gems, a photograph of the item.

16 B. All reports required by this section shall be
17 completed accurately and be made available by 12 o'clock noon
18 of the day following the day of the pawn transaction and shall
19 be delivered or mailed to the local law enforcement agency
20 within three days of the pawn transaction.

21 C. Property purchased directly from another permit
22 holder regulated by the Pawnbrokers Act who has already
23 reported the item pursuant to this section is exempt from the
24 requirements of this section.

25 D. Persistent or frequent erroneous or incomplete

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1 entries in or delays in the submitting of the [~~above required~~]
2 reports required by this section shall constitute a violation
3 of this section and are subject to the general penalty
4 provisions of the Pawnbrokers Act.

5 E. The reports and records of the permit holder
6 required pursuant to this section, as well as every item
7 received in pawn, shall be available for inspection by the
8 local government authority, the attorney general, the local law
9 enforcement agency or any sworn member of that law enforcement
10 agency at all reasonable times.

11 F. Each item pledged to or purchased by the permit
12 holder for which a report is required shall have attached to it
13 a tag with an alphabetic or numerical identification system
14 matching that item with its corresponding report and record."

15 SECTION 4. Section 56-12-11 NMSA 1978 (being Laws 1985,
16 Chapter 228, Section 11, as amended) is amended to read:

17 "56-12-11. DEFAULT--DISPOSITION OF PLEDGED PROPERTY AND
18 PRECIOUS METALS OR GEMS.--

19 A. Except as otherwise specified in this section,
20 upon default by the pledgor, [~~the~~] a pawnbroker shall comply
21 with the requirements of Chapter 55, Article 9 NMSA 1978 in the
22 disposition of the pledged goods.

23 B. If there is a conflict between a specific
24 provision of the Pawnbrokers Act and a more general provision
25 of Chapter 55, Article 9 NMSA 1978, the more specific provision

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1 of the Pawnbrokers Act shall control.

2 C. Notwithstanding the provisions of Subsection A
3 of this section, ~~[the]~~ a pawnbroker shall not dispose of the
4 pledged property, except by redemption, until at least ninety
5 days after the indebtedness has become due.

6 D. Notwithstanding the provisions of Subsection A
7 of this section, if ~~[the]~~ a pawnbroker disposes of the pledged
8 property by sale in the regular course of business, such sale
9 shall conform to the requirements of Chapter 55, Article 9 NMSA
10 1978 and, if a surplus remains after sale of the pledged
11 property, the pawnbroker shall make a record of the sale and
12 the amount of the surplus and notify the pledgor by first class
13 mail sent to the pledgor's last known address of the amount of
14 the surplus and the pledgor's right to claim it at a specified
15 location within ninety days of the date of mailing of the
16 notice if the surplus is one hundred dollars (\$100) or less or
17 within twelve months of the date of mailing of the notice if
18 the surplus is greater than one hundred dollars (\$100). In the
19 event that the first class mail addressed to any person is
20 returned unclaimed to the pawnbroker, then the pawnbroker shall
21 post and maintain on a conspicuous public part of the
22 pawnbroker's premises an appropriately entitled list naming
23 each such person. Ninety days or twelve months, as applicable,
24 after the date of the mailing or posting, whichever is later,
25 the pawnbroker may retain any surplus remaining unclaimed by

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1 the pledgor as the pawnbroker's own property.

2 E. Notwithstanding the provisions of Subsection A
3 of this section, a pawnbroker shall not sell, melt down, alter
4 or dispose of an item of gold, silver, platinum or other
5 precious metals or gems until at least fifteen days after the
6 pawnbroker has purchased the item."

7 SECTION 5. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2012.

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