

IC 28-7-5

Chapter 5. Pawnbrokers

IC 28-7-5-1

Citation

Sec. 1. This chapter shall be known as the Pawnbroking Law.
(Formerly: Acts 1935, c.195, s.1.) As amended by P.L.263-1985, SEC.182.

IC 28-7-5-2

Definitions

Sec. 2. In this chapter, unless the context otherwise requires:

"Director" refers to the director of the department.

"Pawnbroker" means any person, partnership, association, limited liability company, or corporation lending money on the deposit or pledge of personal property, or who deals in the purchase of personal property on the condition of selling the property back again at a stipulated price, other than choses in action, securities, or printed evidence of indebtedness.

"Pledge" means personal property deposited with a pawnbroker as security for a loan.

"Pledger" means the person who delivers personal property into the possession of a pawnbroker as security for a loan unless such person discloses that the person is or was acting for another; and in such event "pledger" means the disclosed principal.

"Department" means the department of financial institutions.

"Person" means any individual, limited liability company, sole proprietorship, partnership, trust, joint venture, corporation, unincorporated organization, or other form of entity, however organized.

"Month" means a period extending from a given date in one (1) calendar month to the like date in the succeeding calendar month or, if there is no such like date, then to the last day of the succeeding calendar month. For purposes of this chapter, each month is considered to have thirty (30) days.

(Formerly: Acts 1935, c.195, s.2.) As amended by P.L.263-1985, SEC.183; P.L.14-1992, SEC.131; P.L.42-1993, SEC.74; P.L.258-2003, SEC.11; P.L.10-2006, SEC.38 and P.L.57-2006, SEC.38; P.L.90-2008, SEC.47.

IC 28-7-5-3

Necessity of license

Sec. 3. No person shall engage in business as a pawnbroker, act as a pawnbroker, transact or solicit business as a pawnbroker, or use in an advertisement a word or statement that states or represents that the person is a pawnbroker, except as authorized by this chapter and without first obtaining a license from the department.

(Formerly: Acts 1935, c.195, s.3.) As amended by P.L.263-1985, SEC.184; P.L.14-1992, SEC.132; P.L.163-2001, SEC.1; P.L.90-2008, SEC.48.

IC 28-7-5-4

Application; business locations; other business conducted; criminal history; evidence of compliance; criminal background checks

Sec. 4. (a) Application for a pawnbroker's license shall be submitted on a form prescribed by the department and must include all information required by the department. An application submitted under this section must identify the location or locations at which the applicant proposes to engage in business as a pawnbroker in Indiana. If any business, other than the business of acting as a pawnbroker under this chapter, will be conducted by the applicant or another person at any location identified under this subsection, the applicant shall indicate for each location at which another business will be conducted:

- (1) the nature of the other business;
- (2) the name under which the other business operates;
- (3) the address of the principal office of the other business;
- (4) the name and address of the business's resident agent in Indiana; and
- (5) any other information the director may require.

(b) An application submitted under this section must indicate whether any individual described in section 8(a)(2) or 8(a)(3) of this chapter at the time of the application:

- (1) is under indictment for a felony under the laws of Indiana or any other jurisdiction; or
- (2) has been convicted of or pleaded guilty or nolo contendere to a felony under the laws of Indiana or any other jurisdiction.

(c) The director may request that the applicant provide evidence of compliance with this section at:

- (1) the time of application;
- (2) the time of renewal of a license; or
- (3) any other time considered necessary by the director.

(d) For purposes of subsection (c), evidence of compliance with this section may include:

- (1) criminal background checks, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation for any individual described in subsection (b);
- (2) credit histories; and
- (3) other background checks considered necessary by the director.

If the director requests a national criminal history background check under subdivision (1) for an individual described in that subdivision, the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (c). The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the

results of the national criminal history background check to any private entity.

(Formerly: Acts 1935, c.195, s.4.) As amended by P.L.14-1992, SEC.133; P.L.63-2001, SEC.18 and P.L.134-2001, SEC.20; P.L.10-2006, SEC.39 and P.L.57-2006, SEC.39; P.L.213-2007, SEC.70; P.L.217-2007, SEC.68; P.L.3-2008, SEC.223; P.L.90-2008, SEC.49; P.L.1-2009, SEC.149; P.L.35-2010, SEC.170.

IC 28-7-5-5 Version a

Initial and renewal applications; fees; financial statement; proof of bond and insurance; standards

Note: This version of section effective until 1-1-2012. See also following version of this section, effective 1-1-2012.

Sec. 5. (a) The initial application and any renewal application shall be accompanied by a fee fixed by the department under IC 28-11-3-5. The initial application and any renewal application must include a financial statement that:

- (1) is prepared in accordance with standards adopted by the director;
- (2) indicates the applicant meets minimum financial responsibility standards adopted by the director; and
- (3) is prepared by a third party acceptable to the director.

(b) The initial application and any renewal application must be accompanied by proof that the applicant:

- (1) has executed a bond, payable to the state, in an amount determined by the director; and
- (2) has obtained property and casualty insurance coverage, in an amount determined by the director;

in accordance with standards adopted by the director.

(c) Any standards adopted by the director and described in subsection (a)(1), (a)(2), or (b) must be made available:

- (1) for public inspection and copying at the offices of the department under IC 5-14-3; and
- (2) electronically through the computer gateway administered by the office of technology established by IC 4-13.1-2-1.

(Formerly: Acts 1935, c.195, s.5.) As amended by P.L.14-1992, SEC.134; P.L.42-1993, SEC.75; P.L.45-1995, SEC.23; P.L.80-1998, SEC.12; P.L.10-2006, SEC.40 and P.L.57-2006, SEC.40.

IC 28-7-5-5 Version b

Initial and renewal applications; fees; financial statement; proof of bond and insurance; standards; tax warrant list

Note: This version of section effective 1-1-2012. See also preceding version of this section, effective until 1-1-2012.

Sec. 5. (a) The initial application and any renewal application shall be accompanied by a fee fixed by the department under IC 28-11-3-5. The initial application and any renewal application must include a financial statement that:

- (1) is prepared in accordance with standards adopted by the director;

(2) indicates the applicant meets minimum financial responsibility standards adopted by the director; and

(3) is prepared by a third party acceptable to the director.

(b) The initial application and any renewal application must be accompanied by proof that the applicant:

(1) has executed a bond, payable to the state, in an amount determined by the director; and

(2) has obtained property and casualty insurance coverage, in an amount determined by the director;

in accordance with standards adopted by the director.

(c) Any standards adopted by the director and described in subsection (a)(1), (a)(2), or (b) must be made available:

(1) for public inspection and copying at the offices of the department under IC 5-14-3; and

(2) electronically through the computer gateway administered by the office of technology established by IC 4-13.1-2-1.

(d) If the department of state revenue notifies the department that a person is on the most recent tax warrant list, the department shall not issue or renew the person's license until:

(1) the person provides to the department a statement from the department of state revenue that the person's tax warrant has been satisfied; or

(2) the department receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

(Formerly: Acts 1935, c.195, s.5.) As amended by P.L.14-1992, SEC.134; P.L.42-1993, SEC.75; P.L.45-1995, SEC.23; P.L.80-1998, SEC.12; P.L.10-2006, SEC.40 and P.L.57-2006, SEC.40; P.L.172-2011, SEC.133.

IC 28-7-5-6

Repealed

(Repealed by P.L.14-1992, SEC.165.)

IC 28-7-5-7

Repealed

(Repealed by P.L.45-1995, SEC.33.)

IC 28-7-5-8

Issuance and duration of license; evidence of compliance; denial of application; person not qualifying for license; replacement of manager

Sec. 8. (a) Upon an applicant's filing of the application required by section 4 of this chapter and payment of the license fee, if the department finds the financial standing, competence, business experience, and character of:

(1) the applicant, any employee of the applicant, and any significant affiliate of the applicant;

(2) each director, executive officer, or manager of the applicant, or any other individual having a similar status or performing a similar function for the applicant; and

(3) if known, each person directly or indirectly owning of record or owning beneficially at least ten percent (10%) of the outstanding shares of any class of equity security of the applicant;

are such that the business will be operated honestly, fairly, and efficiently and that the convenience and needs of the public exist for the operation of the business in the community wherein the applicant proposes to operate, it shall issue and deliver a license to the applicant, which license shall authorize the applicant to engage in the business of pawnbroking.

(b) The director is entitled to request evidence of compliance with the requirements of this section by the licensee, including any affiliate or person described in subsection (a), at:

- (1) the time of issuance of the license;
- (2) the time of renewal of the license; or
- (3) any other time considered necessary by the director.

A license shall remain in effect until it is surrendered, revoked, or suspended. If the department denies the application, it shall notify the applicant of the denial. The department may hold a public hearing if the department considers the hearing necessary.

(c) The department may deny an application under this section if the director determines that the application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license.

(d) If a licensee replaces a manager, the licensee shall give the department written notice of the replacement not later than thirty (30) days after engaging another person to serve as manager.

(Formerly: Acts 1935, c.195, s.8.) As amended by P.L.263-1985, SEC.186; P.L.14-1992, SEC.136; P.L.45-1995, SEC.24; P.L.80-1998, SEC.13; P.L.10-2006, SEC.41 and P.L.57-2006, SEC.41; P.L.90-2008, SEC.50; P.L.35-2010, SEC.171; P.L.89-2011, SEC.50.

IC 28-7-5-9

License not transferable or assignable; multiple business locations

Sec. 9. Except in a transaction approved under section 9.1 of this chapter, a license shall not be transferable or assignable. More than one (1) place of business may be maintained under the same license.

(Formerly: Acts 1935, c.195, s.9.) As amended by P.L.263-1985, SEC.187; P.L.14-1992, SEC.137; P.L.45-1995, SEC.25; P.L.89-2011, SEC.51.

IC 28-7-5-9.1

Change in control of licensee; application to department; timeframe for department's decision; conditions for approval; duty of licensee to report transfer of securities; director's discretion to require new license

Sec. 9.1. (a) As used in this section, "control" means possession of the power directly or indirectly to:

- (1) direct or cause the direction of the management or policies

of a licensee, whether through the beneficial ownership of voting securities, by contract, or otherwise; or

(2) vote at least twenty-five percent (25%) of the voting securities of a licensee, whether the voting rights are derived through the beneficial ownership of voting securities, by contract, or otherwise.

(b) An organization or an individual acting directly, indirectly, or through or in concert with one (1) or more other organizations or individuals may not acquire control of any licensee unless the department has received and approved an application for change in control. The department has not more than one hundred twenty (120) days after receipt of an application to issue a notice approving the proposed change in control. The application must contain the name and address of the organization, individual, or individuals who propose to acquire control and any other information required by the director.

(c) The period for approval under subsection (b) may be extended:

(1) in the discretion of the director for an additional thirty (30) days; and

(2) not more than two (2) additional times for not more than forty-five (45) days each time if:

(A) the director determines that the organization, individual, or individuals who propose to acquire control have not submitted substantial evidence of the qualifications described in subsection (d);

(B) the director determines that any material information submitted is substantially inaccurate; or

(C) the director has been unable to complete the investigation of the organization, individual, or individuals who propose to acquire control because of any delay caused by or the inadequate cooperation of the organization, individual, or individuals.

(d) The department shall issue a notice approving the application only after it is satisfied that both of the following apply:

(1) The organization, individual, or individuals who propose to acquire control are qualified by competence, experience, character, and financial responsibility to control and operate the licensee in a legal and proper manner.

(2) The interests of the owners and creditors of the licensee and the interests of the public generally will not be jeopardized by the proposed change in control.

(e) The director may determine, in the director's discretion, that subsection (b) does not apply to a transaction if the director determines that the direct or beneficial ownership of the licensee will not change as a result of the transaction.

(f) The president or other chief executive officer of a licensee shall report to the director any transfer or sale of securities of the licensee that results in direct or indirect ownership by a holder or an affiliated group of holders of at least ten percent (10%) of the outstanding securities of the licensee. The report required by this

section must be made not later than ten (10) days after the transfer of the securities on the books of the licensee.

(g) Depending on the circumstances of the transaction, the director may reserve the right to require the organization, individual, or individuals who propose to acquire control of a licensee to apply for a new license under section 4 of this chapter, instead of acquiring control of the licensee under this section.

As added by P.L.89-2011, SEC.52.

IC 28-7-5-10

Relocation or addition of business location; notice and request for approval

Sec. 10. Whenever a licensee:

- (1) changes its place of business to another location; or
- (2) adds one (1) or more business locations;

the licensee shall give written notice to the department. Not later than thirty (30) days before the relocation or addition of one (1) or more business locations under this section, the licensee shall request approval in a form prescribed by the director to add or change one (1) or more business locations.

(Formerly: Acts 1935, c.195, s.10.) As amended by P.L.14-1992, SEC.138; P.L.45-1995, SEC.26; P.L.10-2006, SEC.42 and P.L.57-2006, SEC.42.

IC 28-7-5-10.1

Ceasing business as pawnbroker; requirements; failure to comply; appointment of liquidating agent by director

Sec. 10.1. (a) A licensee that decides to cease engaging in business as a pawnbroker in Indiana shall do the following not later than thirty (30) days before closing the licensee's pawnbroking business:

- (1) Notify the department of:
 - (A) the licensee's intention to cease engaging in business as a pawnbroker in Indiana; and
 - (B) the date on which the licensee's pawnbroking business will cease.
- (2) Surrender the license to the department.
- (3) Provide the following to all pledgers that have loans outstanding with the licensee:
 - (A) Notice of:
 - (i) the licensee's intention to cease engaging in business as a pawnbroker in Indiana; and
 - (ii) the date on which the licensee's pawnbroking business will cease.
 - (B) Instructions, approved by the director, on how pledged articles may be redeemed before the date identified under clause (A)(ii).

(b) If:

- (1) a licensee ceases engaging in business as a pawnbroker in Indiana without complying with subsection (a); and

(2) the director determines that it is in the public interest that the department oversees the liquidation of the licensee's business;

the director may appoint a liquidating agent to conclude the affairs of the licensee's pawnbroker business in Indiana. The department may use the proceeds of the licensee's bond under section 5 of this chapter to pay the expenses of the liquidation.

(c) If:

(1) a license is revoked under section 13 of this chapter and the director determines that it is not in the best interests of the public for the licensee to liquidate the business; or

(2) the director otherwise determines that it is in the best interests of the public;

the director may appoint a liquidating agent to conclude the affairs of the licensee's pawnbroker business in Indiana. The department may use the proceeds of the licensee's bond under section 5 of this chapter to pay the expenses of liquidation.

As added by P.L.213-2007, SEC.71; P.L.217-2007, SEC.69. Amended by P.L.90-2008, SEC.51; P.L.35-2010, SEC.172.

IC 28-7-5-10.5

Other business conducted at pawnbroking locations; notice to department

Sec. 10.5. (a) This section applies if, after a person has been issued a license or renewal license under this chapter, any of the following apply:

(1) Any business, other than the business of acting as a pawnbroker under this chapter, will be conducted by the licensee or another person at any location in Indiana in which the licensee conducts the business of acting as a pawnbroker under this chapter.

(2) Any information concerning other business conducted at the locations identified in the licensee's application under section 4(a) of this chapter changes.

(b) For each location described in subsection (a)(1) or (a)(2), the licensee shall provide to the department the information required under section 4(a) of this chapter with respect to that location:

(1) not later than fifteen (15) days after the other business begins operating at the location; or

(2) if the licensee's next license renewal fee under section 11 of this chapter is due before the date described in subdivision (1), along with the licensee's next license renewal fee under section 11 of this chapter.

As added by P.L.10-2006, SEC.43 and P.L.57-2006, SEC.43.

IC 28-7-5-10.6

Felony convictions or pleas; notice to department

Sec. 10.6. (a) This section applies if, after a person has been issued a license or renewal license under this chapter, any individual described in section 8(a)(2) or 8(a)(3) of this chapter has been

convicted of or pleaded guilty or nolo contendere to a felony under the laws of Indiana or any other jurisdiction.

(b) If this section applies, the licensee shall provide to the department the information required under section 4(b) of this chapter:

(1) not later than thirty (30) days after the licensee or any individual described in section 8(a)(2) or 8(a)(3) of this chapter has been convicted of or pleaded guilty or nolo contendere to the felony; or

(2) if the licensee's next license renewal fee under section 11 of this chapter is due before the date described in subdivision (1), along with the licensee's next license renewal fee under section 11 of this chapter.

As added by P.L.213-2007, SEC.72; P.L.217-2007, SEC.70. Amended by P.L.90-2008, SEC.52; P.L.35-2010, SEC.173.

IC 28-7-5-11

License renewal; application; fees

Sec. 11. (a) To remain in force, a license must be renewed before June 1 of each year, beginning with the year following the date of issuance. A licensee may renew a license issued under this chapter by filing a renewal application prescribed by the director. The department shall prescribe the form of the renewal application. To be accepted for processing, a renewal application must be accompanied by:

(1) the license renewal fee fixed by the department under IC 28-11-3-5; and

(2) all other information and documents requested by the director.

(b) The department may fix a daily late fee under IC 28-11-3-5 for a:

(1) renewal application; or

(2) license renewal fee;

that is received by the department after June 1.

(Formerly: Acts 1935, c.195, s.11.) As amended by P.L.263-1985, SEC.188; P.L.14-1992, SEC.139; P.L.42-1993, SEC.76; P.L.45-1995, SEC.27; P.L.35-2010, SEC.174; P.L.89-2011, SEC.53.

IC 28-7-5-12

Repealed

(Repealed by P.L.14-1992, SEC.165.)

IC 28-7-5-13

Revocation of license; grounds; procedure

Sec. 13. (a) The department shall, upon ten (10) days notice to the licensee stating the contemplated action and in general the grounds therefor, and upon reasonable opportunity to be heard, revoke, by written order, any license issued under this chapter if it shall find that:

(1) the licensee has failed to comply with any ruling or

requirements of the department;

(2) the licensee has violated any provision of this chapter or any rule made by the department; or

(3) any fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the department in refusing originally to issue such license.

(b) If the director of the department:

(1) has just cause to believe an emergency exists from which it is necessary to protect the interests of the public; or

(2) determines that the license was obtained for the benefit of, or on behalf of, a person who does not qualify for a license;

the director may proceed with the revocation of the license under IC 4-21.5-3-6.

(Formerly: Acts 1935, c.195, s.13.) As amended by P.L.263-1985, SEC.190; P.L.14-1992, SEC.140; P.L.45-1995, SEC.28; P.L.176-1996, SEC.22; P.L.80-1998, SEC.14.

IC 28-7-5-13.1

Failure to file renewal form or pay renewal fee; revocation or suspension of license

Sec. 13.1. (a) A license issued by the department under this chapter may be revoked or suspended by the department if the licensee fails to:

(1) file any renewal form required by the department; or

(2) pay any license renewal fee described under section 11 of this chapter;

not later than sixty (60) days after the due date.

(b) A person whose license is revoked or suspended under this section may:

(1) pay all delinquent fees and apply for reinstatement of the person's license; or

(2) appeal the revocation or suspension to the department for an administrative review under IC 4-21.5-3.

Pending the decision resulting from a hearing under IC 4-21.5-3 concerning a license revocation or suspension, the license remains in force.

As added by P.L.176-1996, SEC.23. Amended by P.L.10-2006, SEC.44 and P.L.57-2006, SEC.44; P.L.89-2011, SEC.54.

IC 28-7-5-14

Effect of revocation, suspension, or surrender of license

Sec. 14. No revocation or suspension or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any borrower.

(Formerly: Acts 1935, c.195, s.14.)

IC 28-7-5-15

Investigatory and enforcement authority; costs of investigation; voided loans

Sec. 15. (a) For the purpose of discovering violations of this chapter and securing information necessary for the enforcement of this chapter, the department may investigate:

- (1) any licensee; or
- (2) any person that it suspects to be operating without a license or in violation of this chapter.

The department has all investigatory and enforcement authority under IC 28-11 for financial institutions. If the department conducts an investigation under this section, the licensee or person investigated shall pay all reasonably incurred costs of the investigation in accordance with the fee schedule adopted under IC 28-11-3-5.

(b) If a person knowingly makes a pawn loan without the license required by section 3 of this chapter, the loan made in violation of this chapter is void and the debtor is not obligated to pay the principal amount of the loan, any finance charge on the loan, or any additional fee under section 28.5 of this chapter. The debtor, or the department on behalf of the debtor, may recover any amount paid to the person who knowingly violated section 3 of this chapter.

(Formerly: Acts 1935, c.195, s.15.) As amended by P.L.263-1985, SEC.191; P.L.14-1992, SEC.141; P.L.42-1993, SEC.77; P.L.172-1997, SEC.19; P.L.10-2006, SEC.45 and P.L.57-2006, SEC.45.

IC 28-7-5-15.1

Applicability of law governing administrative orders and procedures; venue

Sec. 15.1. Except as otherwise provided, IC 4-21.5 applies to and governs all agency action taken by the department under this chapter. A proceeding for administrative review under IC 4-21.5-3 or judicial review under IC 4-21.5-5 must be held in Marion County.

As added by P.L.35-2010, SEC.175.

IC 28-7-5-16

Books, accounts, and records; examination and costs; bills of sale; sales at stipulated price; record of control; examination of vendors

Sec. 16. (a) The licensee shall keep and use in the licensee's business such books, accounts, and records as will enable the department to determine whether the licensee is complying with this chapter and with the rules adopted by the department under this chapter. Every licensee shall preserve such books, accounts, and records, including cards used in the card system for at least two (2) years after making the final entry on any loan recorded therein. The books and records of the licensee shall be kept so that the pawnbroking business transacted in Indiana may be readily separated and distinguished from the business of the licensee transacted elsewhere and from any other business in which the licensee may be engaged. To determine whether the licensee is complying with this chapter and with rules adopted by the department under this chapter, the department may examine the books, accounts, and records

required to be kept by the licensee under this subsection. If the department examines the books, accounts, and records of the licensee under this subsection, the licensee shall pay all reasonably incurred costs of the examination in accordance with the fee schedule adopted under IC 28-11-3-5.

(b) If a pawnbroker, in the conduct of the business, purchases an article from a seller, the purchase shall be evidenced by a bill of sale properly signed by the seller. All bills of sale must be in duplicate and must recite the following separate items:

- (1) Date of bill of sale.
- (2) Amount of consideration.
- (3) Name of pawnbroker.
- (4) Description of each article sold. However, if multiple articles of a similar nature that do not contain an identification or serial number (such as precious metals, gemstones, musical recordings, video recordings, books, or hand tools) are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any other unique identifying marks, numbers, names, letters, or special features.
- (5) Signature of seller.
- (6) Address of seller.
- (7) Date of birth of the seller.
- (8) The type of government issued identification used to verify the identity of the seller, together with the name of the governmental agency that issued the identification, and the identification number present on the government issued identification.

(c) If a pawnbroker, in the conduct of the business, purchases an article from a seller on the condition of selling the property back at a stipulated price, the transaction shall be evidenced by a bill of sale properly signed by the seller. All such bills of sale must be in duplicate and recite the information in subsection (b) and must also contain the following information:

- (1) Date of resale.
- (2) Amount of resale.

(d) The original copy of the bill of sale shall be retained by the pawnbroker. The second copy shall be delivered to the seller by the pawnbroker at the time of sale. The heading on all bill of sale forms must be in boldface type.

(e) Each licensee shall maintain a record of control indicating the number of accounts and dollar value of all outstanding pawnbroking receivables. Each licensee shall maintain a separate record of transactions subject to subsection (c).

(f) If a licensee contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the licensee and be subject to the department's routine examination procedures, the person that provides the service to the licensee shall, at the request of the director, submit to an examination by the department.

If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any licensee that receives services from the person refusing the examination to:

(1) discontinue receiving one (1) or more services from the person; or

(2) otherwise cease conducting business with the person.

(Formerly: Acts 1935, c.195, s.16.) As amended by P.L.263-1985, SEC.192; P.L.14-1992, SEC.142; P.L.42-1993, SEC.78; P.L.80-1998, SEC.15; P.L.163-2001, SEC.2; P.L.10-2006, SEC.46 and P.L.57-2006, SEC.46; P.L.35-2010, SEC.176.

IC 28-7-5-17

Report; late fee

Sec. 17. Each licensee shall file a report as requested by the director, but not more frequently than annually, giving any relevant information the department may reasonably require concerning the business and operations of each licensed place of business conducted by the licensee within the state. The report must be in the form prescribed by the director. The department may impose a fee established under IC 28-11-3-5 for each day the report is delinquent. *(Formerly: Acts 1935, c.195, s.17.) As amended by P.L.14-1992, SEC.143; P.L.45-1995, SEC.29; P.L.172-1997, SEC.20; P.L.90-2008, SEC.53.*

IC 28-7-5-18

Repealed

(Repealed by P.L.14-1992, SEC.165.)

IC 28-7-5-19

Loan record requisites; data recording methods

Sec. 19. (a) Every pawnbroker shall keep a record in ink that must include the following:

(1) The name, date of birth, and address of the pledger, or where the pledge is made by a person acting as agent for a disclosed principal, the names, dates of birth, and addresses of principal and agent.

(2) The date of the transaction.

(3) The amount of the loan.

(4) The article or articles pledged, and a description of the articles. However, if multiple articles of a similar nature that do not contain an identification or serial number (such as precious metals, gemstones, musical recordings, video recordings, books, or hand tools) are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any other unique identifying marks, numbers, names, letters, or special features.

- (5) The serial number of the loan.
- (6) The date on which each loan was paid in full, renewed, or unredeemed.
- (7) An itemization of principal, interest, and additional fees collected.
- (8) An itemization of fees authorized under IC 28-7-5-25.
- (9) The total of all charges collected.
- (10) The type of government issued identification used to verify the identity of the seller, together with the name of the governmental agency that issued the identification, and the identification number present on the government issued identification.

(b) Other methods of recording data, such as electronic or computerized methods, may be used provided written printouts or hard copies of the required data are readily available. The record keeping system of a licensee shall be made available in Indiana for examination. The department shall determine the sufficiency of the records and whether the licensee has made the required information reasonably available.

(Formerly: Acts 1935, c.195, s.19.) As amended by P.L.14-1992, SEC.144; P.L.42-1993, SEC.79; P.L.80-1998, SEC.16; P.L.163-2001, SEC.3.

IC 28-7-5-20

Signature, fingerprint, and identification of pledger

Sec. 20. The pawnbroker shall at the time of making a loan or purchase require the signature and right thumbprint of the pledger on all pawn tickets, bills of sale, or ledger cards retained by the licensee. If the person is unable to write, the person shall sign by mark. In such event, the pawnbroker shall record on the signature card such information as will enable the pawnbroker to identify the person in case of the loss of the ticket. If the person does not have a right thumb, any other existing finger may be used. However, a clear print must be obtained.

(Formerly: Acts 1935, c.195, s.20.) As amended by P.L.263-1985, SEC.193; P.L.14-1992, SEC.145; P.L.45-1995, SEC.30.

IC 28-7-5-21

Pawn ticket

Sec. 21. (a) The pawnbroker shall, at the time of making a loan, deliver to the pledger or the pledger's agent a memorandum or ticket on which shall be legibly written or printed the following information:

- (1) The name of the pledger.
- (2) The name of the pawnbroker and the place where the pledge is made.
- (3) The article or articles pledged, and a description of the articles. However, if multiple articles of a similar nature that do not contain an identification or serial number (such as precious metals, gemstones, musical recordings, video recordings, books,

or hand tools) are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any other unique identifying marks, numbers, names, letters, or special features.

(4) The amount of the loan.

(5) The date of the transaction.

(6) The serial number of the loan.

(7) The sum of the interest as provided in section 28 of this chapter and the charge as provided in section 28.5 of this chapter stated as an annual percentage rate computed in accordance with regulations issued by the Federal Reserve Board under the Federal Consumer Credit Protection Act (as defined in IC 24-4.5-1-302).

(8) The amount of interest.

(9) The amount of charge and principal due at maturity.

(10) A copy of sections 28, 28.5, and 30 of this chapter.

(11) The date of birth of the pledger.

(12) The type of government issued identification used to verify the identity of the pledger, together with the name of the governmental agency that issued the identification, and the identification number present on the government issued identification.

(13) The last date on which the pledged article or articles may be redeemed before the article or articles may be sold if the loan is not redeemed, renewed, or extended. The language setting forth the information described in this subdivision must be in 14 point boldface type.

(14) A statement that:

(A) notifies the pledger that the pawnbroking transaction is regulated by the department; and

(B) includes a toll free telephone number for the department.

(b) A pawnbroker may insert in such ticket any other terms and conditions not inconsistent with this chapter. However, nothing appearing on a pawn ticket shall relieve the pawnbroker of the obligations to exercise reasonable care in the safekeeping of articles pledged with the pawnbroker.

(Formerly: Acts 1935, c.195, s.21.) As amended by P.L.263-1985, SEC.194; P.L.14-1992, SEC.146; P.L.45-1995, SEC.31; P.L.80-1998, SEC.17; P.L.163-2001, SEC.4; P.L.10-2006, SEC.47 and P.L.57-2006, SEC.47; P.L.213-2007, SEC.73; P.L.217-2007, SEC.71.

IC 28-7-5-21.5

Required disclosure of information

Sec. 21.5. A pawnbroker is required to disclose to a debtor in a pawn transaction the information required by the Federal Reserve Board under the Federal Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., and its implementing regulations.

As added by P.L.172-1997, SEC.21. Amended by P.L.80-1998,

SEC.18.

IC 28-7-5-22

Presumptive right of ticket holder to redeem; compliance with local ordinance or law concerning pledge retention

Sec. 22. (a) The holder of a ticket described in section 21 of this chapter shall be presumed to be the person entitled to redeem the pledge, and, except as provided in subsection (b), the pawnbroker shall deliver the pledge to the person presenting the ticket, upon payment of principal, interest and charge.

(b) If a local ordinance or other law requires the retention of the pledge for a specific period of time, the pawnbroker shall comply with the local ordinance or other law if the retention period does not exceed ten (10) days.

(Formerly: Acts 1935, c.195, s.22.) As amended by P.L.14-1992, SEC.147; P.L.35-2010, SEC.177.

IC 28-7-5-23

Redemption by mail; compliance with local ordinance or law concerning pledge retention

Sec. 23. (a) Except as provided in subsection (b), when a ticket, instead of being presented in person, is sent to the pawnbroker by mail, accompanied with a money order for the total amount due and a reasonable fee for shipping and handling, the pawnbroker may securely pack and forward the pledge to the pledger in accordance with the remitter's instructions. If the remittance is insufficient to cover the amount due, the pawnbroker shall either notify the remitter of the amount of the deficiency or send the pledge subject to the payment of shipping charges by the consignee. The pawnbroker's liability for the pledge shall cease upon delivery of the pledge to the carrier or his agent.

(b) If a local ordinance or other law requires the retention of the pledge for a specific period, the pawnbroker shall comply with the local ordinance or other law if the retention period does not exceed ten (10) days.

(Formerly: Acts 1935, c.195, s.23.) As amended by P.L.14-1992, SEC.148; P.L.35-2010, SEC.178.

IC 28-7-5-24

Partial payment before maturity

Sec. 24. Upon presentation of the pawn ticket prior to maturity and the payment of accrued interest and charge and the tender of not less than one dollar (\$1.00) of the principal balance, the pawnbroker shall accept the same, showing due credit of principal payment on pawn ticket, together with the amount of unpaid principal balance, or issue a new ticket for the reduced amount. Future interest charges and charge shall be computed on the unpaid principal balance.

(Formerly: Acts 1935, c.195, s.24.)

IC 28-7-5-25

Loss, destruction, or theft of pawn ticket

Sec. 25. If a ticket is lost, destroyed, or stolen, the pledger shall so notify the pawnbroker in writing. Before delivering the collateral or issuing a new ticket, the pawnbroker shall require the pledger to make affidavit of the alleged loss, destruction, or theft of the ticket. Upon receipt of such affidavit, the pawnbroker shall permit the pledger either to redeem the loan or to receive a new ticket upon the payment of accrued interest and charges, and the pawnbroker shall incur no liability for so doing, unless the pawnbroker had previously received written notice of any adverse claim. The pawnbroker may collect a fee of three dollars (\$3) for reissuing the pawn ticket or affecting the affidavit along with the current lawful charge for notary fee.

(Formerly: Acts 1935, c.195, s.25.) As amended by P.L.14-1992, SEC.149.

IC 28-7-5-26

Alteration of pawn ticket; effect

Sec. 26. The alteration of a ticket shall not excuse the pawnbroker who issued it from liability to deliver the pledge according to the terms of the ticket as originally issued, but shall relieve the pawnbroker of any other liability to the pledger or holder of the ticket.

(Formerly: Acts 1935, c.195, s.25a.) As amended by P.L.14-1992, SEC.150.

IC 28-7-5-27

Repealed

(Repealed by P.L.14-1992, SEC.165.)

IC 28-7-5-28

Rate of interest; calculation for partial month; minimum term; reduction in advance; penalty for excessive or unauthorized interest or charges

Sec. 28. (a) The maximum rate of interest charged by pawnbrokers shall be the same as the maximum loan finance charge for supervised lenders under IC 24-4.5-3-508(2). For purposes of this subsection:

- (1) the term of a loan commences on the date on which the loan is made;
- (2) differences in lengths of months are disregarded; and
- (3) each day is counted as one-thirtieth (1/30) of a month.

The minimum term of a loan made by a pawnbroker is one (1) month. However, on loans paid in full within the first month, the pawnbroker may charge one (1) month's interest.

(b) Interest shall not be deducted in advance, neither shall the pawnbroker induce or permit any borrower to split up or divide any loan or loans for the purpose of evading any provisions of this chapter.

(c) If a pawnbroker charges or receives interest in excess of that

provided in this section, or makes any charges not authorized by this chapter, the pawnbroker shall forfeit principal and interest and return the pledge upon demand of the pledger and surrender of the pawn ticket without the principal or interest. If such excessive or unauthorized charges have been paid by the pledger, the pledger may recover the same, including the principal if paid, in a civil action against the pawnbroker.

(Formerly: Acts 1935, c.195, s.27; Acts 1969, c.287, s.1; Acts 1971, P.L.402, SEC.1.) As amended by Acts 1981, P.L.259, SEC.1; P.L.272-1983, SEC.1; P.L.14-1992, SEC.151; P.L.42-1993, SEC.80; P.L.258-2003, SEC.12.

IC 28-7-5-28.5

Additional charge; servicing fee

Sec. 28.5. (a) Except as provided in subsection (b), in addition to the loan finance charge authorized by section 28 of this chapter, a pawnbroker may charge, contract for, and receive a fee not to exceed one-fifth (1/5) of the principal amount of the loan per month or any fractional part of a month for servicing the pledge that may include investigating the title, storing, providing security, appraisal, handling, making daily reports to local law enforcement officers, and for other expenses and costs associated with servicing the pledge. The fee for each month after the second month of the loan transaction is limited to one-thirtieth (1/30) of the monthly fee for each day the loan is outstanding. Such a charge when made and collected is not interest and is not a rate under IC 35-45-7-1.

(b) If a loan is renewed or extended, the monthly fee authorized by subsection (a) accrues at a rate of one-thirtieth (1/30) of the monthly fee each day:

- (1) beginning upon the expiration of two (2) months after the original date of the loan; and
- (2) continuing through and including the day a pledger redeems the pledge.

As added by P.L.14-1992, SEC.152. Amended by P.L.42-1993, SEC.81; P.L.63-2001, SEC.19; P.L.134-2001, SEC.21; and P.L.163-2001, SEC.5; P.L.258-2003, SEC.13.

IC 28-7-5-29

Liability for loss to pledger; due care

Sec. 29. A pawnbroker shall be liable for the loss of a pledge resulting from the pawnbroker's failure to exercise reasonable care in regard to it, but the pawnbroker shall not be liable for the loss of a pledge which could not have been avoided by the exercise of reasonable care. The burden of proof to establish due care shall be upon the pawnbroker.

(Formerly: Acts 1935, c.195, s.28.) As amended by P.L.14-1992, SEC.153.

IC 28-7-5-29.5

Waiver of rights not permitted

Sec. 29.5. A debtor may not waive or agree to forego any rights or benefits under this chapter.

As added by P.L.172-1997, SEC.22.

IC 28-7-5-30

Disposition of unredeemed pledges; prohibit public access

Sec. 30. (a) Subject to subsections (b) and (c), upon the expiration of two (2) months from the maturity of the loan, a pawned article becomes the property of the pawnbroker and is subject to sale.

(b) Subsection (a) applies only if the pledger is given a reasonable opportunity during:

(1) the term of the loan; and

(2) the two (2) month period described in subsection (a);
to repay the loan and redeem the pawned article.

(c) During the term of the loan and the two (2) month period described in subsection (a), the pawnbroker may not allow the public to have access to the pawned article.

(Formerly: Acts 1935, c.195, s.29.) As amended by P.L.271-1985, SEC.1; P.L.14-1992, SEC.154; P.L.80-1998, SEC.19; P.L.163-2001, SEC.6; P.L.258-2003, SEC.14; P.L.10-2006, SEC.48 and P.L.57-2006, SEC.48; P.L.213-2007, SEC.74; P.L.217-2007, SEC.72.

IC 28-7-5-31

Repealed

(Repealed by P.L.14-1992, SEC.165.)

IC 28-7-5-32

Repealed

(Repealed by P.L.14-1992, SEC.165.)

IC 28-7-5-33

Lien

Sec. 33. A pawnbroker has a first lien on all pledges for the amount of his loan, interest, and charges except:

(1) when the property that constitutes the pledge is stolen (IC 35-43-4-2) or converted (IC 35-43-4-3) property; or

(2) where a prior lien exists under another statute.

(Formerly: Acts 1935, c.195, s.32.) As amended by P.L.272-1983, SEC.2.

IC 28-7-5-34

Delivery of pledge; necessity of surrender of pawn ticket

Sec. 34. A pawnbroker shall not be required to deliver a pledge except upon surrender of the ticket, unless the ticket be impounded or its negotiation enjoined by a court.

(Formerly: Acts 1935, c.195, s.33.) As amended by P.L.263-1985, SEC.195; P.L.14-1992, SEC.155.

IC 28-7-5-35

Conflicting claims; sale of pledge subject to adjudication

Sec. 35. If more than one (1) person shall claim the right to redeem a pledge, the pawnbroker shall incur no liability for refusing to deliver the pledge until the respective rights of the claimants shall have been adjudicated. If no action be brought against the pawnbroker by either party within the period for which the pawnbroker is required under section 30 of this chapter to hold the pledge, or within one (1) month after notice of an adverse claim, the pawnbroker may proceed to sell the pledge subject to adjudication of the parties' rights.

(Formerly: Acts 1935, c.195, s.34.) As amended by P.L.263-1985, SEC.196; P.L.14-1992, SEC.156; P.L.258-2003, SEC.15.

IC 28-7-5-36

Unlawful transactions

Sec. 36. (a) No pawnbroker shall:

- (1) receive any pledge or make a purchase from a person under eighteen (18) years of age; or
- (2) receive any pledge or make a purchase of property that the pawnbroker believes or should have reason to believe is stolen property acquired as a result of a crime.

(b) No pawnbroker shall purchase personal property or any other thing of value agreeing to sell the same back to the seller at a price other than the original purchase price, at a total charge, rate of interest, discount, or other remuneration in excess of the rate chargeable under sections 28 and 28.5 of this chapter.

(c) If a pawnbroker purchases personal property or any other thing of value agreeing to sell the same back to the seller at a price other than the original purchase price, section 30 of this chapter applies.

(Formerly: Acts 1935, c.195, s.35; Acts 1973, P.L.264, SEC.4.) As amended by P.L.17-1985, SEC.22; P.L.14-1992, SEC.157; P.L.42-1993, SEC.82; P.L.45-1995, SEC.32.

IC 28-7-5-37

Violations

Sec. 37. A person who violates this chapter commits a Class A misdemeanor.

(Formerly: Acts 1935, c.195, s.36.) As amended by Acts 1978, P.L.2, SEC.2821; P.L.14-1992, SEC.158; P.L.42-1993, SEC.83.

IC 28-7-5-37.5

Compliance with money laundering laws; investigation and enforcement by the department

Sec. 37.5. (a) A licensee shall comply with all state and federal money laundering statutes and regulations, including the following as they become applicable to licensees under this chapter:

- (1) The Bank Secrecy Act (31 U.S.C. 5311 et seq.).
- (2) The USA Patriot Act of 2001 (P.L. 107-56).
- (3) Any regulations, policies, or reporting requirements established by the Financial Crimes Enforcement Network of

the United States Department of the Treasury.

(4) Any other state or federal money laundering statutes or regulations that apply to a licensee.

(b) The department shall do the following:

(1) To the extent authorized or required by state law, investigate potential violations of, and enforce compliance with, state money laundering statutes or regulations.

(2) Investigate potential violations of federal money laundering statutes or regulations and, to the extent authorized or required by federal law:

(A) enforce compliance with the federal statutes or regulations; or

(B) refer suspected violations of the federal statutes or regulations to the appropriate federal regulatory agencies.

As added by P.L.10-2006, SEC.49 and P.L.57-2006, SEC.49.

IC 28-7-5-38

Violations; civil action; injunctive relief; civil penalties

Sec. 38. The department may bring a civil action, including an action for injunctive relief, on the department's own behalf or on behalf of a pledger, against a person, a business, or a licensee for violating this chapter. If a court finds that the defendant has violated this chapter, the court may assess a civil penalty not to exceed five thousand dollars (\$5,000) per violation.

As added by P.L.42-1993, SEC.84. Amended by P.L.10-2006, SEC.50 and P.L.57-2006, SEC.50.

IC 28-7-5-38.1

Violations; civil penalty

Sec. 38.1. If the department determines, after notice and opportunity to be heard, that a person has violated this chapter, the department may, in addition to or instead of all other remedies available under this chapter, impose on the person a civil penalty that does not exceed ten thousand dollars (\$10,000) per violation.

As added by P.L.90-2008, SEC.54. Amended by P.L.35-2010, SEC.179.

IC 28-7-5-39

Confidentiality of records; exceptions; safeguarding of personal records; release of information to supervisory agencies

Sec. 39. (a) Records and information generated by licensees in the course of their business are confidential under IC 5-14-3-4.

(b) A law enforcement or prosecutorial official may obtain or receive records and information described in subsection (a) relating to pawnbroking transactions for use in the official law enforcement purpose of investigating crime.

(c) Law enforcement officials may disclose the name and address of the pawnbroker to an adverse claimant in the case of a dispute over ownership of property in possession of the pawnbroker.

(d) A person licensed or required to be licensed under this chapter

is subject to IC 28-1-2-30.5 with respect to any records maintained by the person.

(e) The director may provide for the release of information under this chapter to representatives of state, federal, or foreign:

- (1) financial institution; or
- (2) money services business;

supervisory agencies.

As added by P.L.163-2001, SEC.7. Amended by P.L.90-2008, SEC.55.