

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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HOUSE BILL 721

Short Title: Title Pledge Amendments. (Public)

Sponsors: Representatives Jeter and R. Moore (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Commerce and Job Development.

April 11, 2013

A BILL TO BE ENTITLED
AN ACT TO ALLOW NONRECOURSE TITLE PLEDGE TRANSACTIONS INVOLVING
MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 45 of Chapter 66 of the General Statutes reads as rewritten:

"Part 1. Pawnbrokers and Cash Converters.

...

"§ 66-387. Definitions.

The following definitions apply in this Part:

- (1) Cash. – Lawful currency of the United States.
- (2) Cash converter. – A person engaged in the business of purchasing goods from the public for cash at a permanently located retail store who holds himself or herself out to the public by signs, advertising, or other methods as engaging in that business. The term does not include any of the following:
 - a. Pawnbrokers.
 - b. Persons whose goods purchases are made directly from manufacturers or wholesalers for their inventories.
 - c. Precious metals dealers, to the extent that their transactions are regulated under Part 2 of this Article.
 - d. Purchases by persons primarily in the business of obtaining from the public, either by purchase or exchange, used clothing, children's furniture, and children's products, provided the amount paid for the individual item purchased is less than fifty dollars (\$50.00).
 - e. Purchases by persons primarily in the business of obtaining from the public, either by purchase or exchange, sporting goods and sporting equipment, provided the amount paid for the individual item purchased is less than fifty dollars (\$50.00).
- (3) Pawn or pawn transaction. – A written bailment of personal property as security for a debt, redeemable on certain terms within 180 days, unless renewed, and with an implied power of sale on default.
- (4) Pawnbroker. – A person engaged in the business of lending money on the security of pledged goods and who may also purchase merchandise for resale from dealers and traders.



- 1 (5) Pawnshop. – The location at which, or premises in which, a pawnbroker
2 regularly conducts business.
- 3 (6) Person. – Any individual, corporation, joint venture, association, or any
4 other legal entity, however organized.
- 5 (7) Pledged goods. – Tangible personal property which is one of the following:
6 a. Property other than a motor vehicle subject to registrations and
7 required to have a certificate of title by the Division of Motor
8 Vehicles, in which case the property shall be deposited with, or
9 otherwise actually delivered into, the possession of a pawnbroker in
10 the course of his business in connection with a pawn transaction.
11 b. A vehicle subject to registration and required to have a certificate of
12 title by the Division of Motor Vehicles, in which case the certificate
13 of title for the vehicle shall be deposited with, or otherwise actually
14 delivered into the possession of a pawnbroker in the course of his
15 business in connection with a pawn transaction.
- 16 (8) Purchase. – An item purchased from an individual for the purpose of resale
17 whereby the seller no longer has a vested interest in the item.

18 ...

19 **"§ 66-393. Pawnbroker fees; interest rates.**

20 (a) If Pledged Goods Do Not Include Vehicles. – No For transactions in which the
21 pledged goods do not include a vehicle that is subject to registration and that is required to have
22 a certificate of title by the Division of Motor Vehicles, no pawnbroker shall demand or receive
23 an effective rate of interest greater than two percent (2%) per month, and no other charge of
24 any description or for any purpose shall be made by the pawnbroker, except that the
25 pawnbroker may charge, contract for, and recover an additional monthly fee for the following
26 services, including but not limited to:

- 27 (1) Title investigation;
- 28 (2) Handling, appraisal, and storage;
- 29 (3) Insuring a security;
- 30 (4) Application fee;
- 31 (5) Making daily reports to local law enforcement officers; and
- 32 (6) For other expenses, including losses of every nature, and all other services.

33 ~~In~~ Except as provided in subsection (b) of this section, in no event may the total of the
34 above listed monthly fees on a pawn transaction exceed twenty percent (20%) of the principal
35 up to a maximum of the following:

36	First month	\$100.00
37	Second month	75.00
38	Third month	75.00
39	Fourth month and thereafter	50.00

40 (b) If Pledged Goods Include Vehicles. – For transactions, in which the pledged goods
41 include a vehicle that is subject to registration and that is required to have a certificate of title
42 by the Division of Motor Vehicles, no pawnbroker shall demand or receive an effective rate of
43 interest greater than twenty percent (20%) per month, and no other charge of any description or
44 for any purpose shall be made by the pawnbroker, except that the pawnbroker may charge,
45 contract for, and recover an additional monthly fee for the services set forth in subsection (a) of
46 this section and for advertising, salaries, and all other expenses incurred by the licensee. The
47 fee shall not be deemed interest for any purpose of law and shall be no more than twenty
48 percent (20%) of the original principal amount of the money advanced or of the total unpaid
49 balance due at the inception of any renewal of the agreement, as applicable. The interest and
50 fees provided for in this subsection shall be deemed earned, due, and owing as of the date of the

1 pawn transaction and a like sum shall be deemed earned, due, and owing on the same day of
2 each subsequent 30-day period.

3 (c) Interest and Fees Upon Renewal. – The interest and fees authorized under this Part
4 shall be calculated on the outstanding principal balance at each successive renewal or
5 continuation.

6 (d) Returned Check Fee Authorized. – In addition, pawnbrokers may charge fees for
7 returned checks as allowed by G.S. 25-3-506.

8 **"§ 66-394. Pawnbroker transactions.**

9 (a) Requirements for All Pawn Transactions. – In every pawn transaction:

10 (1) The original pawn contract shall have a maturity date of not less than 30
11 days, provided that nothing herein shall prevent the pledgor from redeeming
12 the property before the maturity date;

13 (2) Any personal property pledged to a pawnbroker in this State is subject to
14 sale or disposal when there has been no payment made on the account for a
15 period of 60 days past maturity date of the original contract; provided that
16 the contract between the pledgor and the pawnbroker is renewable if renewal
17 is agreed upon by both the parties;

18 (3) Every pawn ticket or receipt for such pawn shall have printed thereon the
19 provisions of subdivision (1) of this section which shall constitute: (i) notice
20 of such sale or disposal, (ii) notice of intention to sell or dispose of the
21 property without further notice, and (iii) consent to such sale or disposal.
22 The pledgor thereby forfeits all right, title and interest of, in, and to such
23 pawned property to the pawnbroker who thereby acquires absolute title to
24 the same, whereupon the debt is satisfied and the pawnbroker may sell or
25 dispose of the unredeemed pledges as his own property. Any sale or disposal
26 of property under this section terminates all liability of the pawnbroker and
27 vests in the purchaser the right, title, and interest of the borrower and the
28 pawnbroker;

29 (4) If the borrower loses his pawn ticket he shall not thereby forfeit his right to
30 redeem, but may, before the lapse of the redemption period, make an
31 affidavit with indemnification for such loss. The affidavit shall describe the
32 property pawned and shall take the place of the lost pawn ticket unless the
33 pawned property has already been redeemed with the original pawn ticket;
34 and

35 (5) A pledgor is not obligated to redeem pledged goods or make any payment on
36 a pawn transaction.

37 (b) Additional Requirements for Transactions Involving Motor Vehicles. – In every
38 pawn transaction in which the pledged goods include a vehicle that is subject to registration and
39 that is required to have a certificate of title by the Division of Motor Vehicles, the pawnbroker
40 shall do all of the following:

41 (1) Note its lien on the certificate of title.

42 (2) Release its lien on the certificate of title pursuant to G.S. 20-58.4 and return
43 the certificate of title to a pledgor upon payment of the full amount due the
44 pawnbroker on the pawn transaction.

45 (3) Require, beginning on the third renewal or continuation and at each
46 successive renewal or continuation thereafter, that the pledgor make a
47 payment of at least five percent (5%) of the original principal amount of the
48 money advanced, in addition to the interest and fees authorized under this
49 Part. Principal payment in excess of the five percent (5%) principal
50 reduction required by this subdivision shall be credited to the outstanding
51 principal on the day received. If, at the maturity of any renewal requiring a

1 principal reduction under this subdivision, the pledgor has not made
2 previous principal reductions adequate to satisfy the current required
3 principal reduction, and the pledgor cannot repay at least five percent (5%)
4 of the original principal balance and any outstanding interest and fees
5 authorized by this Part, the licensee may, but shall not be required to, defer
6 any required principal payment until the end of the title pledge agreement or
7 property pledge agreement. No further interest or fees may accrue on a
8 principal amount thus deferred.

9 **"§ 66-395. Prohibitions.**

10 (a) General Prohibitions. – A pawnbroker shall not:

- 11 (1) Accept a pledge from a person under the age of 18 years.
12 (2) Make any agreement requiring the personal liability of a pledgor in
13 connection with a pawn transaction.
14 (3) Accept any waiver, in writing or otherwise, of any right or protection
15 accorded a pledgor under this Part.
16 (4) Fail to exercise reasonable care to protect pledged goods from loss or
17 damage.
18 (5) Fail to return pledged goods to a pledgor upon payment of the full amount
19 due the pawnbroker on the pawn transaction. In the event such pledged
20 goods are lost or damaged while in the possession of the pawnbroker, it shall
21 be the responsibility of the pawnbroker to replace the lost or damaged goods
22 with merchandise of like kind and equivalent value. In the event the pledgor
23 and pawnbroker cannot agree as to replacement, the pawnbroker shall
24 reimburse the pledgor in the amount of the value agreed upon pursuant to
25 G.S. 66-391(b).
26 (6) Take any article in pawn, pledge, or as security from any person, which is
27 known to such pawnbroker to be stolen, unless there is a written agreement
28 with local or State law enforcement.
29 (7) Sell, exchange, barter, or remove from the pawnshop any goods pledged,
30 pawned, or purchased before the earlier of seven days after the date the pawn
31 ticket record is electronically reported in accordance with G.S. 66-391(d) or
32 30 days after the transaction, except in case of redemption by pledgor or
33 items purchased for resale from wholesalers.
34 (8) Operate more than one pawnshop under one license, and such shop must be
35 at a permanent place of business.
36 (9) Take as pledged goods any manufactured mobile home, recreational vehicle,
37 or motor vehicle other than a ~~motoreycle~~motorcycle, except in accordance
38 with the provisions of this Part.

39 (a1) Prohibitions for Pawn Transactions Involving Motor Vehicles. – In a pawn
40 transaction in which the pledged goods include a vehicle that is subject to registration and that
41 is required to have a certificate of title by the Division of Motor Vehicles, the pawnbroker shall
42 not do any of the following:

- 43 (1) Enter into a pawn transaction in which the amount of money advanced,
44 when combined with the outstanding balance of all other outstanding
45 pawnbroker transactions that the pledgor has with the same pawnbroker that
46 are secured by a single title, exceeds five thousand dollars (\$5,000).
47 (2) Enter into a pawn transaction unless the pledgor presents a clear title to the
48 titled vehicle at the time that the pawn transaction is entered into. If a
49 licensee files a lien against the vehicle without possession of a clear title to
50 the property, the resulting lien shall be void.

1 (3) Enter into any pawn transaction with a borrower who is a military service
2 member unless the military service member obtains a written authorization
3 signed by the service member's company commander. A licensee shall
4 include a clear and concise statement in the loan documentation advising the
5 borrower that military service members must identify themselves as service
6 members and must obtain written authorization from their company
7 commander before entering a pawn transaction under this Part. The licensee
8 shall retain a copy of the borrower's military ID card and the company
9 commander's written authorization in the borrower's loan file. The borrower
10 shall attest (i) that he or she is or is not a military service member, (ii) that if
11 the borrower is a military service member, he or she has obtained a written
12 authorization from the company commander to enter the pawn transaction,
13 (iii) that all information presented to the licensee pertaining to the
14 requirements of this subsection is true and accurate to the best of the
15 borrower's knowledge. For purposes of this subdivision, the term "military
16 service member" shall include only service members on active duty.

17 (b) A cash converter shall not purchase from any person property which is known to the
18 cash converter to be stolen, unless there is a written agreement with local or State law
19 enforcement.

20 **"§ 66-396. Penalties.**

21 (a) Every person, firm, or corporation, their guests or employees, who shall knowingly
22 violate any of the provisions of this Part, shall, on conviction thereof, be deemed guilty of a
23 Class 2 misdemeanor. If the violation is by an owner or major stockholder or managing partner
24 of the pawnshop and the violation is knowingly committed by the owner, major stockholder, or
25 managing partner of the pawnshop, then the license of the pawnshop may be suspended at the
26 discretion of the court.

27 (b) The provision of subsection (a) of this section shall not apply to violations of
28 G.S. 66-395(a)(6) or G.S. 66-395(b) which shall be prosecuted under the North Carolina
29 criminal statutes.

30 (c) Any contract of pawn the making or collecting of which violates any provision of
31 this Part, except as a result of accidental or bona fide error of computation, shall be void, and
32 the licensee shall have no right to collect, receive or retain any interest or fee whatsoever with
33 respect to such pawn.

34 **"§ 66-397. Municipal or county authority.**

35 All of the counties and cities as defined by G.S. 160A-1 may by ordinance adopt the
36 provisions of this Part and may adopt such further rules and regulations as the governing bodies
37 of the counties and cities deem appropriate; provided, however, no county or city may regulate:

- 38 (1) Interest, fees, or recovery charges;
- 39 (2) Hours of operation, unless such regulation applies to businesses generally;
- 40 (3) The nature of the business or type of pawn transaction; or
- 41 (4) License fees in excess of rates set by the State.

42 **"§ 66-398. License renewal.**

43 Notwithstanding any provision of this Part to the contrary, any person, firm, or corporation
44 licensed as a pawnbroker on or before October 1, 1989, shall continue in force until the natural
45 expiration thereof and all other provisions of this Part shall apply to such license. Such
46 pawnbroker shall be eligible for renewal of his license upon its expiration or subsequent
47 renewals, provided such license complies with the requirements for renewal that were in effect
48 immediately prior to October 1, 1989.

49 **"§ 66-399. Bond.**

50 Every person, firm, or corporation licensed under this Part shall, at the time of receiving the
51 license, file with the city or county issuing the license a bond payable to such city or county in

1 the sum of five thousand dollars (\$5,000), to be executed by the licensee, and by two
2 responsible sureties or a surety company licensed to do such business in this State, to be
3 approved by the city or county, which shall be for the faithful performance of the requirements
4 and obligations pertaining to the business so licensed. The city or county may sue for forfeiture
5 of the bond upon a breach thereof. Any person who obtains a judgment against a pawnbroker
6 and upon which judgment execution is returned unsatisfied may maintain an action in his own
7 name upon the bond, to satisfy the judgment."

8 **SECTION 2.** This act is effective when it becomes law.