

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General



WILLIAM D. GRUHN
Chief
Consumer Protection Division

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

(410) 576-6374 Fax No.

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TO: The Honorable Delores G. Kelley, Chair
Finance Committee

FROM: W. Thomas Lawrie, Assistant Attorney General

RE: Senate Bill 411 – Business Regulation – Pawnbrokers – Interest Rate on Pawn Transactions – SUPPORT WITH AMENDMENTS

The Consumer Protection Division of the Office of the Attorney General (the “Division”) supports Senate Bill 411, a Bill sponsored by Senator Kramer to regulate certain aspects of pawn transactions, but notes that the Bill will need to be amended to effectuate its intended purpose. SB 411 would revise Title 12 of the Business Regulation Article, the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act (“the Act”) by adding a new section that limits the interest rates permitted to be charged on pawn transactions under the Act, while also setting the maximum term (or duration) of pawn transactions.

A “pawnbroker” is an individual who lends money at an interest rate and holds some of the borrower's personal goods as collateral to be sold to the public (in a pawn shop) in the event of default or one who lends money on the security of personal property pledged in his or her keeping.¹ Currently, for legitimate pawn transactions (or pawn loans), the Act does not expressly limit the interest rates that pawnbrokers can charge, and it does not limit the term of the loan. Pawnbrokers often charge monthly rates of interest of 30% or more on pawn transactions in Maryland, which equate to annual rates of 360% or more – more than 10 times the maximum rate of interest

¹ A pledge, also known as a “bailment,” requires that the pawnbroker take possession of the personal property itself; the broker's possession of only the title or other paper signifying ownership would not constitute a pledge under the Act, but would instead simply constitute a secured consumer loan subject to licensing and regulation under the Maryland Consumer Loan Law. *See* Commissioner of Financial Regulation, and Division of Occupational and Professional Licensing, Secondhand Precious Metal Object Dealer and Pawnbrokers Agency, “Advisory Notice: Vehicle Title Loan Providers in the State of Maryland Are Subject to Consumer Lending Laws,” Aug. 30, 2017, at <https://www.dllr.state.md.us/finance/advisories/advisory-vehicletitleloan.pdf> (last visited February 18, 2020).



permitted under Maryland's various consumer lending laws in Title 12 of the Commercial Law Article. *See, e.g.*, Md. Code Ann., Com. Law § 12-306(a)(6) (limiting loans under the Maryland Consumer Loan Law to annual interest rates of either 33% or 24%, depending on both the original principal balance of the loan and the unpaid principal balance). Further, there is no current limit in the Act on the length of time that a pawnbroker can continue to collect money from a consumer under a single pawn transaction. Senate Bill 411 seeks to place statutory limits on both the interest rates and the loan term of pawn transactions made in Maryland, thereby protecting consumers from the very high interest rates and other potentially harmful aspects of pawn transactions.

However, while it seems clear that SB 411 was intended to protect Maryland consumers state-wide, as currently drafted SB 411 likely would not apply to pawn transactions made in seven counties or cities, since pawn transactions made in those jurisdictions are primarily governed by local laws, rather than by the Act. In Maryland, the licensing and regulation of pawnbrokers can occur at the State or local level, depending on the jurisdiction in which the pawnbroking business is located. As Bus Reg. § 12-102(c) of the Act makes clear, “[e]xcept as otherwise provided in this title, this title does not apply to a pawnbroker located in a county that regulates pawnbrokers unless the pawnbroker does business as a dealer.” As such, pawnbrokers operating in any of the following jurisdictions in Maryland are regulated under the pawnbroker laws of that jurisdiction, and require a pawnbrokers license issued by that county or city: Anne Arundel County, Baltimore City, Carroll County, Harford County, Howard County, Montgomery County, or Prince Georges County. *See* Department of Labor, “Fact Sheet - Secondhand Precious Metal Objects Dealers & Pawnbrokers,” at <https://www.dllr.state.md.us/license/pm/pmfactsheet.shtml> (last visited February 18, 2020) (hereinafter, “DOL Fact Sheet”). Pawnbrokers operating in any other county in the State are licensed and regulated only under the Act, requiring a “secondhand precious metal objects dealer and pawnbroker” license from the Department of Labor; they do not require any type of local pawnbrokers license. Md. Code Ann., Bus. Reg. § 12-201(b); *see also* DOL Fact Sheet. Thus, while SB 411 would certainly apply to this latter group of counties, it likely would not apply to pawn transactions made in any of the seven local jurisdictions specified above that regulate pawnbrokers.

The Division has drafted two alternative amendments to address this issue. The enclosed amendments are intended to extend the protections encompassed in SB 411 to pawn transactions made state-wide, regardless of the jurisdiction in which a pawnbroker operates. The Division supports SB 411 with this amendment, and asks that the Senate Finance Committee give Senate Bill 411, as amended herein, a favorable report.

Enclosure

cc: Members, Finance Committee

AMENDMENT TO SENATE BILL NO. 411
(First Reading File Bill)

AMENDMENT NO. 1:

Variant A

- On page 3, after line 1, insert:

“(E) NOTWITHSTANDING § 12-102(C) OF THIS TITLE, THIS SECTION APPLIES TO EVERY PAWNBROKER CONDUCTING BUSINESS IN THE STATE, AND TO EVERY PAWN TRANSACTION MADE IN THE STATE.”

Variant B

- On page 3, after line 1, insert:

“(E) THIS SECTION APPLIES TO EVERY PAWNBROKER CONDUCTING BUSINESS IN THE STATE, REGARDLESS OF THE COUNTY IN WHICH THE PAWNBROKER IS LOCATED, AND TO EVERY PAWN TRANSACTION MADE IN THE STATE.”

For reference, Bus. Reg. § 12-102(c) provides:

(c) Pawnbrokers. – Except as otherwise provided in this title, this title does not apply to a pawnbroker located in a county that regulates pawnbrokers unless the pawnbroker does business as a dealer.