

1980

c 372 Pawnbrokers Act

Ontario

© Queen's Printer for Ontario, 1980

Follow this and additional works at: <http://digitalcommons.osgoode.yorku.ca/rso>

Bibliographic Citation

Pawnbrokers Act, RSO 1980, c 372

Repository Citation

Ontario (1980) "c 372 Pawnbrokers Act," *Ontario: Revised Statutes*: Vol. 1980: Iss. 6, Article 12.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1980/iss6/12>

CHAPTER 372

Pawnbrokers Act

1. In this Act,

Interpretation

- (a) "municipality" means a city, town, village or township;
- (b) "pawnbroker" means a person who carries on the business of taking by way of pawn or pledge any article for the repayment of money lent thereon;
- (c) "pawner" means a person who delivers an article for pawn to a pawnbroker;
- (d) "pledge" means an article pawned with a pawnbroker;
- (e) "shop" includes any place where the business of a pawnbroker is carried on. R.S.O. 1970, c. 341, s. 1.

2.—(1) No person shall carry on the business of a pawnbroker unless he obtains a licence therefor under the hand of the treasurer of the municipality in which he carries on or proposes to carry on business or unless he obtains a renewal of his licence annually, but no licence shall be issued or renewed unless under the authority of a by-law of the municipality.

Licences

(2) The sum of \$60, or such other sum as the council of the municipality may prescribe, shall be paid for every licence or renewal thereof to the treasurer for the use of the municipality. R.S.O. 1970, c. 341, s. 2.

Fee for licence

3.—(1) No application for a licence or renewal of a licence to carry on the business of a pawnbroker shall be refused until after the applicant has been afforded a hearing by the licence issuing authority.

Application for renewal

(2) Where, within the time prescribed therefor or, if no time is prescribed, prior to the expiry of his licence, the holder of a licence to carry on the business of a pawnbroker has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,

Continuation of licence pending renewal

- (a) until the renewal is granted; or
- (b) until the application has been finally determined by the licence issuing authority or, where there is an appeal from the decision of the licence issuing authority, until the last day for launching an appeal or such later date as may be fixed by the body to whom the appeal may be taken. 1971, c. 50, s. 65.

Licence to cover only one shop

4. No person shall, by virtue of one licence, carry on business as a pawnbroker in more than one shop. R.S.O. 1970, c. 341, s. 3.

Licence to partners

5. Where two or more persons carry on business as pawnbrokers in partnership in the same shop, only one licence is necessary. R.S.O. 1970, c. 341, s. 4.

Security

6. Every pawnbroker shall give to the municipality security to the satisfaction of the treasurer in the sum of \$2,000 for the due observance by him of this Act. R.S.O. 1970, c. 341, s. 5.

Business sign and notice of rights, rates and charges

7. Every pawnbroker shall,

- (a) keep exhibited in large, legible characters on a sign over the front door of his shop his name and the word "Pawnbroker"; and
- (b) keep displayed conspicuously in his shop a notice in large, legible characters so as to be visible to persons pawning articles or redeeming pledges, showing,
 - (i) rights of redemption of pledges,
 - (ii) rates of interest authorized by law to be taken by pawnbrokers for sums lent, and
 - (iii) maximum charges authorized by this Act. R.S.O. 1970, c. 341, s. 6.

Restrictions upon pawnbrokers

8. A pawnbroker shall not,

- (a) purchase any article or receive or take any article in pawn from any person who appears to the pawnbroker to be under the age of eighteen years or to be under the influence of alcohol or drugs;
- (b) purchase or take in pawn a pawnticket issued by himself or any other pawnbroker;

- (c) employ or permit any person under sixteen years of age to take any pledge in pawn;
- (d) carry on business as a pawnbroker on Sunday, Good Friday, Christmas Day or any day appointed by proclamation of the Governor General or the Lieutenant Governor as a public holiday, or on any other day before 8 o'clock in the morning or after 8 o'clock in the evening;
- (e) purchase, sell or otherwise deal with any pledge while in pawn with him, except in accordance with this Act;
- (f) suffer any pledge while in pawn with him to be redeemed with a view to his purchasing it;
- (g) make any contract or agreement with any person pawning or offering to pawn any article, or with the owner thereof, for the purchase, sale or disposition thereof, within the time of redemption;
- (h) take in pawn any cross, medal, insignia or other decoration granted by or with the approval of Her Majesty; or
- (i) melt any gold, silver, platinum or other precious metal that was pawned with him, that was not redeemed, and that has become his absolute property under this Act, unless he has been authorized so to do by the council of the municipality in which he carries on business. R.S.O. 1970, c. 341, s. 7.

9.—(1) Every pawnbroker who takes an article in pawn shall, before any money is lent thereon, enter in a book ^{Pawn-}_{broker's} ^{book} to be kept by him for that purpose,

- (a) the day, month and year in which the pledge was taken;
- (b) the full name, address and a description of the person delivering the article for pawn reasonably sufficient to identify such person, including sex, and estimated age, height, complexion and full particulars of identification if produced and, where the person who delivers the article for pawn states that he is the agent of its owner for the purpose of pawning it, the name and address of the owner;

(c) a description of the pledge reasonably sufficient to identify it; and

(d) the sum lent on the pledge.

Where no
identi-
fication

(2) Where a person tendering an article for pawn refuses or is unable to produce any identification, the pawnbroker shall enter in his book a note thereof, which shall be deemed to constitute compliance with the identification requirements of clause (1) (b).

Entries
to be
numbered
con-
secutively

(3) The entries shall be numbered in the book consecutively in the order in which the articles are pawned. R.S.O. 1970, c. 341, s. 8.

Pawnticket

10. At the time of taking an article in pawn, the pawnbroker shall give the pawner a pawnticket containing,

(a) the pawnbroker's name and business address;

(b) the name of the pawner;

(c) the day, month and year in which the pledge was taken in pawn;

(d) the number of the entry of the pledge in the pawnbroker's book;

(e) a description of the pledge;

(f) the sum lent on the pledge;

(g) the rate of interest charged for the sum lent;

(h) the charge for the pawnticket; and

(i) the charge for storage, if any. R.S.O. 1970, c. 341, s. 9.

Where
article
suspected
to have
been stolen

11. Where a pawnbroker has reasonable cause to suspect that an article offered to him has been stolen or otherwise unlawfully obtained, he shall forthwith report the matter to a member of the police force of the municipality in which he carries on business. R.S.O. 1970, c. 341, s. 10.

Alphabetical
list of
pawners

12. Every pawnbroker shall keep up to date during each year a list, arranged alphabetically, of the names of the persons who have pawned articles with him, and each such list shall be kept for not less than one year after the end of the year during which it was compiled. R.S.O. 1970, c. 341, s. 11.

13.—(1) Every pawnbroker shall before noon of every business day make a report either for the chief of police or for such other person as is designated by by-law of the council of the municipality. Daily report to police

(2) Such reports shall contain, in respect of every transaction made on the next preceding business day, all the information required under section 9 to be entered in the pawnbroker's book. Contents

(3) Such reports may be on forms to be furnished by the municipality or may be copies of the pawnbroker's book reproduced by any means whatsoever so long as the copy is legible. R.S.O. 1970, c. 341, s. 12. Form

14. Each pledge shall be identified by a number that corresponds with the number of the pawnticket and the entry of the transaction in the pawnbroker's book, and, when the pledge is redeemed, the pawnbroker shall record the amount of interest taken and his charges and shall keep the record for not less than one year after redemption. R.S.O. 1970, c. 341, s. 13. Identification of pledge

15. Every police officer and constable shall at all times be given access to and may inspect a pawnbroker's books, papers and pledges, and when so engaged may have with him such other persons as he considers advisable. R.S.O. 1970, c. 341, s. 14. Inspection by police

16. Except as hereinafter provided, a pawnbroker is not bound to deliver a pledge until the pawnticket for it is produced and delivered to him. R.S.O. 1970, c. 341, s. 15. Production of ticket

17. The holder for the time being of a pawnticket shall, as between the pawner and the pawnbroker, be presumed to be the person entitled to redeem the pledge, and, subject to this Act, the pawnbroker shall accordingly, on payment of the sum lent, lawful interest and charges, deliver the pledge to the person producing the pawnticket. R.S.O. 1970, c. 341, s. 16. Rights of holder of ticket

18. Notwithstanding section 17, where a pawnbroker and a pawner agree that the pawnticket shall not be transferable and such condition is clearly shown upon the pawnticket, the pawner only may redeem the pledge. R.S.O. 1970, c. 341, s. 17. Pawnticket may be non-transferable

19.—(1) Where a pledge is destroyed or damaged by or in consequence of fire, lightning or tempest or any additional peril defined in a standard fire insurance additional perils Liability of pawnbroker in case of fire

supplemental contract, the pawnbroker nevertheless is liable, on application within the period during which the pledge would have been redeemable, to pay the value of the pledge after deducting the sum lent, lawful interest and charges, such value to be the sum lent, lawful interest and charges and 25 per cent on the sum lent.

Insurable
interest

(2) A pawnbroker has an insurable interest in the pledge to the extent of the value so estimated. R.S.O. 1970, c. 341, s. 18.

Right of
redemption
where sum
lent \$15
or less

20. Where the sum lent upon a pledge is \$15 or less, it may be redeemed at any time within one year after the day on which it was pawned by tendering to the pawnbroker the pawnticket, the sum borrowed and the lawful interest and charges, and, if it is not so redeemed, it becomes the pawnbroker's absolute property. R.S.O. 1970, c. 341, s. 19.

Idem,
where sum
lent is
more than
\$15 and
not more
than \$30

21.—(1) Where the sum lent upon a pledge is more than \$15 but not more than \$30, the pawnbroker may at any time after it has been in pawn for at least one year send to the pawner by first-class prepaid mail to the address shown in his book to be the address of the pawner a notice identifying the transaction and stating that, unless the pledge is redeemed within the fifteen days next after the day of mailing the notice, it becomes the pawnbroker's absolute property.

Idem

(2) Any such pledge may be redeemed at any time within the fifteen days next after the day of mailing the notice by tendering to the pawnbroker the pawnticket, the sum borrowed and the lawful interest and charges, and, if it is not so redeemed, it becomes the pawnbroker's absolute property. R.S.O. 1970, c. 341, s. 20.

Idem,
where sum
lent is
more than
\$30:

notice by
mail and
newspaper

22.—(1) Where the sum lent upon a pledge is more than \$30, the pawnbroker may at any time after it has been in pawn for at least one year send to the pawner by first-class prepaid mail to the address shown by his book to be the address of the pawner a notice identifying the transaction and stating that, unless the pledge is redeemed within the fifteen days next after the day of mailing the notice, a final notice will be published in a newspaper having general circulation in the municipality in which the pawnbroker carries on business identifying the transaction and stating that, unless the pledge is redeemed within the fifteen days next after the day of publication of the notice, it becomes the pawnbroker's absolute property.

(2) If the pledge is not redeemed within the fifteen days^{Idem} next after the mailing of the first notice mentioned in subsection (1), the pawnbroker may at any time thereafter give the final notice mentioned in that subsection.

(3) Any such pledge may be redeemed at any time^{Idem} within the fifteen days next after the mailing of the first notice mentioned in subsection (1) or within the fifteen days next after the day of publication of the final notice mentioned in that subsection, as the case may be, by tendering to the pawnbroker the pawnticket, the sum borrowed and the lawful interest and charges, and, if it is not so redeemed, it becomes the pawnbroker's absolute property. R.S.O. 1970, c. 341, s. 21.

23.—(1) The one-year period mentioned in sections 20,^{Calculation of 1-year period} 21 and 22 commences on the day following the day on which the pledge was put in pawn and ends with the close of business on the 365th day thereafter.

(2) The fifteen-day period mentioned in sections 21 and^{Calculation of 15-day period} 22 commences on the day following the day on which the notice was mailed or the final notice was published, as the case may be, and ends with the close of business on the fifteenth day thereafter.

(3) When a period mentioned in subsection (1) or (2) ends^{Exception} on a day on which business is not carried on, the next business day is included in the period. R.S.O. 1970, c. 341, s. 22.

24. As soon as a notice mentioned in section 21 or 22^{Affidavit as to notices} has been sent or published, the pawnbroker shall make or cause to be made an affidavit as to the sending or publication, as the case may be, of the notice, and such affidavit shall be kept by the pawnbroker for at least two years. R.S.O. 1970, c. 341, s. 23.

25.—(1) If, during the period that a pledge is redeemable,^{Where pledge not given back upon tender of moneys owing} the pawner tenders to the pawnbroker the pawnticket, the sum lent and the lawful interest and charges and the pawnbroker neglects or refuses without reasonable cause to deliver back the goods so pawned, the pawner may make oath thereof before a justice of the peace, who shall summon such person before him, and shall examine on oath the parties and their witnesses touching the matter.

(2) If tender of the pawnticket with the sum lent and the lawful interest and charges is proved to have been made^{Tender and consequences of refusal} within such time, then, on payment by the pawner of the total amount owed or, if the pawnbroker refuses to accept

such amount on tender before the justice, the justice shall, by order, direct the pledge to be forthwith delivered to the pawner or, if it is not so delivered, shall direct the pawnbroker to make satisfaction for the value thereof to be fixed by the justice in accordance with section 19, and, if the pawnbroker neglects or refuses to deliver up the pledge or to make satisfaction for the value so fixed, the justice shall commit him to imprisonment for a period of not more than three months or until he delivers up the pledge or makes satisfaction for the value so fixed. R.S.O. 1970, c. 341, s. 24.

Compensation for depreciation of pledge

26. If a person entitled and offering to redeem a pledge shows to the satisfaction of a justice of the peace that the pledge has become or has been rendered of less value than it was at the time of the pawning thereof by or through the default, neglect or wilful misbehaviour of the pawnbroker, the justice may award a reasonable satisfaction to the owner of the pledge in respect of the damage, and the amount awarded shall be deducted from the amount payable to the pawnbroker or shall be paid by the pawnbroker, as the case requires, in such manner as the justice may direct, and in case of default the pawnbroker is liable to the punishment mentioned in section 25. R.S.O. 1970, c. 341, s. 25.

Lost pawntickets

27.—(1) Any person claiming to be entitled to redeem a pledge but not holding the pawnticket may apply to the pawnbroker for a copy of the pawnticket and a printed form of affidavit, which the pawnbroker shall deliver to him upon payment of the charge therefor.

Idem

(2) If the claimant proves to the satisfaction of a justice of the peace his right to redeem the pledge and on or before the third day after the day on which the form of affidavit is delivered to him by the pawnbroker, exclusive of days on which the pawnbroker is prohibited from carrying on business, delivers back to the pawnbroker the affidavit duly sworn and endorsed with a certificate of the justice that such proof has been made, the claimant has, as between him and the pawnbroker, all the rights and remedies that he would have had if he had produced his pawnticket.

Idem

(3) The pawnbroker is not bound to deliver the pledge to any person until the expiration of such three days.

Idem

(4) The pawnbroker shall be indemnified for delivering the pledge, or otherwise acting in conformity with the affidavit and certificate, unless he has notice that the affidavit is fraudulent or false in a material particular. R.S.O. 1970, c. 341, s. 26.

28. In addition to his profit on the sum lent, being interest ^{Maximum charges} thereon at not more than the lawful rate, a pawnbroker is entitled to make the following charges:

1. For a pawnticket, not more than 20 cents.
2. For storage of a pledge, not more than 10 cents per month per cubic foot or part thereof of storage space taken up by the pledge.
3. For a copy of a pawnticket and printed form of affidavit, not more than 20 cents. R.S.O. 1970, c. 341, s. 27.

29.—(1) Every person or pawnbroker, as the case may be, ^{Offence} who without reasonable excuse contravenes or fails to comply with any of the provisions of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$500.

(2) A proceeding to prosecute an offence against this Act may be ^{Limitation} commenced within twelve months next after the offence was committed. R.S.O. 1970, c. 341, s. 28, *revised*.

