

1950

## c 272 Pawnbrokers Act

Ontario

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## CHAPTER 272

## The Pawnbrokers Act

1.—(1) In this Act,

Interpreta-  
tion.

- (a) "municipality" does not include county;
- (b) "pawnbroker" means a person who exercises the trade of receiving or taking by way of pawn or pledge any goods for the repayment of money lent thereon;
- (c) "pawner" means a person delivering an article for pawn to a pawnbroker;
- (d) "pawnticket" means the note or memorandum referred to in section 8;
- (e) "pledge" means an article pawned with a pawnbroker;
- (f) "shop" includes dwelling-house and warehouse or other place of business or place where business is transacted.

(2) In order to prevent evasion of the provisions of this Act, every person shall be deemed to be a pawnbroker who, Who to be deemed pawnbrokers.

- (a) keeps a shop for the purchase or sale of goods or chattels, or for taking in goods or chattels by way of security for money advanced thereon; or
- (b) purchases or receives or takes in goods or chattels and pays or advances or lends thereon any sum of money not exceeding \$50,

with or under an agreement or understanding expressed or implied or to be from the nature and character of the dealing reasonably inferred that those goods or chattels may be afterwards redeemed or repurchased on any terms, and every such transaction, payment, advance and loan shall be deemed a pawning, pledging and loan respectively under this Act. R.S.O. 1937, c. 244, s. 1.

2.—(1) No person shall exercise the trade 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 such trade, nor unless he obtains a renewal of the same annually, but no licence shall be issued or renewed Licences.

unless under the authority of a by-law of the council of the municipality.

Refusal to grant or renew.

(2) A licence or renewal may be refused without any cause assigned.

Fee for licence.

(3) The sum of \$60 shall be paid for every licence or renewal thereof to the treasurer for the use of the municipality, and every pawnbroker shall give to the municipality security to the satisfaction of the treasurer in the sum of \$1,000 for the due observance by him of the provisions of this Act.

Penalty for neglect to take out licence.

(4) Every person exercising such trade without having obtained a licence or renewal thereof shall be guilty of an offence and liable to a penalty of \$50 for every pledge he takes. R.S.O. 1937, c. 244, s. 2.

Licence to cover only one shop.

**3.** No person shall, by virtue of one licence, keep more than one shop. R.S.O. 1937, c. 244, s. 3.

Licence to partners.

**4.** Only one licence shall be necessary where two or more persons carry on trade as pawnbrokers in partnership in the same shop. R.S.O. 1937, c. 244, s. 4.

Agents, servants and apprentices of pawnbrokers.

**5.** For the purposes of this Act anything done or omitted by the servant, apprentice or agent of a pawnbroker in the course of or in relation to the business of a pawnbroker shall be deemed to be done or omitted, as the case may be, by the pawnbroker, and anything by this Act authorized to be done by a pawnbroker may be done by his servant, apprentice or agent. R.S.O. 1937, c. 244, s. 5.

Duties of pawnbroker, sign to be exhibited;

**6.**—(1) Every pawnbroker shall always,

(a) keep exhibited in large, legible characters on a sign over the outer door of his shop his name and the word "Pawnbroker"; and

notice of rates.

(b) keep displayed in a conspicuous part of his shop a notice painted or printed in English in large, legible characters so as to be visible to any person pawning or redeeming pledges, showing the rate of profit authorized by law to be taken, and also the various prices of the pawntickets to be given according to the rates hereinafter mentioned, and of the expense of obtaining a copy of the pawnticket where the pawnticket has been lost, mislaid, destroyed or fraudulently obtained from the pawner.

Penalty for non-compliance.

(2) If a pawnbroker fails in any respect to comply with the requirements of this section he shall be guilty of an offence

and liable to a penalty of not more than \$40. R.S.O. 1937, c. 244, s. 6.

7.—(1) Every pawnbroker who takes a pledge in pawn whereon a sum exceeding \$1 is lent shall, before he lends the money thereon, enter in English in a fair and legible manner in a book to be kept by him for that purpose, a description of the pledge, the sum lent thereon, with the day of the month and year, and the name and a description of the pawner, and the name of the street and number of the house where he resides, and whether he is a lodger in or the keeper of such house, by using the letter "L" if a lodger, and the letter "H" if a housekeeper, and also the name and place of abode of the owner according to the information of the pawner, into all which circumstances the pawnbroker shall inquire of him before any money is lent.

Entries to be made by pawn-brokers.

(2) Where the sum lent does not exceed \$1, a similar entry shall be made in such book within four hours after the goods have been pawned.

If sum does not exceed \$1.

(3) Where more than \$2 is lent upon a pledge, the entries shall be made in respect thereof in a separate book to be kept for that purpose.

Separate book for pledges over \$2.

(4) The entries shall be numbered in the books consecutively in the order in which the pledges are pawned in the following manner: the first pledge received in pawn as No. 1, the second as No. 2, and so on until the end of the month, and in like manner in every succeeding month, and upon every pawnticket respecting such pledge, shall be written the number of entry of the pledge so entered in the book. R.S.O. 1937, c. 244, s. 7.

Entries, how to be made.

8. At the time of taking any pledge a note or memorandum, written or printed, shall be given to the pawner containing a description of the pledge and a statement of the sum lent thereon, with the day of the month and year, and the name of the pawner and the name of the street, number of the house where he resides, and whether he is a lodger in or the keeper of such house, by using the letters "L" or "H", and upon such note or memorandum, or on the back thereof, shall be written or printed the name and place of abode of the pawnbroker and the rates of interest which may lawfully be charged, which note or memorandum the pawner is required to take, and unless he takes the same the pawnbroker shall not take the pledge in pawn. R.S.O. 1937, c. 244, s. 8.

Note or memorandum (ticket) for the pawner.

9.—(1) Where the sum lent is less than \$20, the pawnbroker may take five cents for the pawnticket.

Charges for ticket if less than \$20.

If more.

(2) Where the sum lent is \$20 or more, the pawnbroker may take 10 cents for the pawnticket. R.S.O. 1937, c. 244, s. 9.

Production of ticket.

**10.** Except as hereinafter provided, the pawnbroker shall not be bound to re-deliver the goods until the pawnticket is produced and delivered to him. R.S.O. 1937, c. 244, s. 10.

Duplicate ticket.

**11.** A duplicate of the pawnticket shall be affixed to the pledge, and, where the pledge is redeemed, the pawnbroker shall write or endorse on the duplicate the profit taken by him for the pledge, and shall keep the duplicate in his custody for one year after redemption. R.S.O. 1937, c. 244, s. 11.

Penalty for pawning goods of others.

**12.**—(1) Any person who knowingly and designedly pawns anything being the property of another person, unless employed or authorized by the owner so to do, shall be guilty of an offence and liable to a penalty of not less than \$4 and not more than \$20, and a further penalty of a sum equal to the full value of the pledge as ascertained by the convicting justice.

Penalties, how applied.

(2) The penalties shall be applied towards making satisfaction to the person injured, and defraying the costs of the prosecution, as may be adjudged reasonable by the convicting justice. R.S.O. 1937, c. 244, s. 12.

Consequences of taking linen, wearing apparel, unfinished goods, etc.

**13.** A pawnbroker who knowingly takes in pawn any linen or wearing apparel, or unfinished goods, or materials entrusted to any person to wash, scour, iron, mend, manufacture, work up, finish or make up, shall be guilty of an offence and liable to a penalty of not more than double the amount of the loan, and shall forthwith restore the pledge to the lawful owner in the presence of the convicting justice or as may be directed by him. R.S.O. 1937, c. 244, s. 13.

Search warrant. Rev. Stat., c. 379.

**14.**—(1) If the pawnbroker, when requested by a constable authorized by a search warrant issued under *The Summary Convictions Act* to search the shop, refuses to open the shop and permit it to be searched, the constable may break it open and search as he may think fit therein for such goods or articles, doing no wilful damage, and any pawnbroker or other person who opposes or hinders the search shall be guilty of an offence and liable to a penalty of not more than \$100.

Restoration of goods found on search.

(2) If in the search any of the goods in respect of which the warrant was issued are found and the property of the owner in the same is proved to the satisfaction of the justice, he shall cause the same to be forthwith restored to the owner. R.S.O. 1937, c. 244, s. 14.

**15.**—(1) Every pawnbroker shall before 10 o'clock in the forenoon of every business day report to the chief constable or to such other person as may be designated by by-law of the council of the municipality, on forms to be furnished by the municipality, a description of all pledges received by him in pawn on the next preceding business day together with the numbers of the pawntickets issued therefor and the amounts loaned. Daily report to police.

(2) Every person who contravenes this section shall be guilty of an offence and liable to a penalty of not more than \$40. R.S.O. 1937, c. 244, s. 15. Penalty.

**16.** The chief constable, or an officer authorized in writing by him or by a magistrate, or any member of the Ontario Provincial Police Force or the Royal Canadian Mounted Police may at all times inspect a pawnbroker's book and shall have access to all books and papers and all pledges, and when engaged in such inspection may take with him such other persons as he may deem advisable. R.S.O. 1937, c. 244, s. 16. Inspection by police.

**17.** Gold or silver which has been pawned shall not be melted by a pawnbroker unless specially authorized by the council of the municipality. R.S.O. 1937, c. 244, s. 17. Gold or silver not to be melted.

**18.** 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 loan and profit, deliver the pledge to the person producing the pawnticket. R.S.O. 1937, c. 244, s. 18. Rights of holder of ticket.

**19.**—(1) Where a pledge is destroyed or damaged by or in consequence of fire, the pawnbroker shall nevertheless be liable, on application within the period during which the pledge would have been redeemable, to pay the value of the pledge after deducting the amount of the loan and profit, such value to be the amount of the loan and profit and 25 per cent on the amount of the loan. Liability of pawnbroker in case of fire.

(2) A pawnbroker shall have an insurable interest in the pledge to the extent of the value so estimated. R.S.O. 1937, c. 244, s. 19. Insurable interest of pawnbroker.

**20.**—(1) If within one year after a pledge has been pawned exclusive of the day on which it was pawned, the pawner or other person on his behalf, tenders to the pawnbroker the pawnticket and also the principal money borrowed and the profit according to the lawful rates, and the person who took Time for redemption; rights of pawner.

the pledge 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 premises.

Tender, and consequences of refusal.

(2) If tender of the pawnticket with the principal sum lent, and lawful profit thereon, is proved to have been made within such time, then on payment by the pawner of the principal money and the lawful profit due thereon, or, if the pawnbroker refuses to accept thereof on tender before the justice, the justice shall, by order under his hand, direct the pledge to be forthwith delivered to the pawner, or, if it has been sold, embezzled, lost, mislaid or destroyed, shall direct the pawnbroker to make satisfaction for the value thereof to be fixed by the justice, subject to section 19, and if the pawnbroker neglects or refuses to deliver up the pledge or to make satisfaction for the value thereof the justice shall commit him to the common jail for a period not exceeding three months or until he delivers up the pledge, or makes satisfaction for the value thereof pursuant to the order. R.S.O. 1937, c. 244, s. 20.

Compensation for depreciation of pledge.

**21.** 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 directs, and in case of default the pawnbroker shall be liable to the punishment mentioned in section 20. R.S.O. 1937, c. 244, s. 21.

Protection of owners and persons not having pawntickets.

**22.**—(1) This section shall have effect for the protection of persons entitled to redeem a pledge and pawners not having their pawntickets to produce.

Idem.

(2) 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.

Idem.

(3) 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 shall have, as between him and the pawnbroker, all the rights and remedies which he would have had if he had produced his pawnticket.

(4) The pawnbroker shall not be bound to deliver the pledge *Idem.* to any person until the expiration of such three days.

(5) The pawnbroker shall be indemnified for delivering the *Idem.* pledge, or otherwise acting in conformity with the affidavit and certificate, unless he has notice that the affidavit is fraudulent or false in any material particular.

(6) If the money lent is under \$20, the pawnbroker may take *Idem.* for the copy and affidavit five cents, or if it is \$20 or more, he may take ten cents. R.S.O. 1937, c. 244, s. 22.

(NOTE.—*As to lawful rates see R.S.C. 1927, c. 152, ss. 3, 4.*)

**23.**—(1) A pledge pawned for \$2 or less if not redeemed within the year of redemption shall, at the end thereof, become and be the pawnbroker's absolute property. Pledges for \$2 or less not redeemed in time forfeited.

(2) A pledge pawned for more than \$2 shall continue redeemable until it is disposed of, as in this Act provided, although the year of redemption has expired. R.S.O. 1937, c. 244, s. 23. Pledges over \$2 redeemable until sold.

**24.**—(1) Where the sum lent exceeds \$2, the pledge shall be sold at public auction and not otherwise. When to be at public auction.

(2) Before such sale the articles pawned shall be exposed to public view, and an advertisement thereof containing the name and place of abode of the pawnbroker, a description of the articles separately, the month the pledge was received in pawn and the number of the pledge shall be published on two separate days in a public newspaper published in the municipality and the second advertisement shall be published at least two clear days before the first day of sale. Exposition of goods and advertisement.

(3) If the articles are not described separately in the advertisement, the pawnbroker shall incur a penalty payable to the owner of the pledge of not less than \$8 and not more than \$40. Penalty.

(4) A pawnbroker may bid for and purchase at a sale by auction made or purporting to be made under this Act a pledge pawned with him, and on such purchase he shall be deemed the absolute owner of the pledge purchased. Bidding by pawnbroker.

(5) Where a pawnbroker bids at a sale, the auctioneer shall not take the bidding in any other form than that in which he takes the biddings of other persons at the same sale, and How to be taken.

the auctioneer on knocking down any article to a pawnbroker shall forthwith declare audibly the name of the pawnbroker as purchaser.

Account of sales to be kept and booked.

(6) The pawnbroker shall enter in a book to be kept for that purpose a just account of the sale, showing therein the day of the month on which the articles were pledged, the name of the pawner, the day when, and the money for which each article pledged was sold, and the name and abode of the auctioneer.

Disposal of surplus.

(7) If the pledge is sold for more than was due thereon, the overplus, after deducting the necessary costs and charges of the sale and advertisement, shall be paid to the pawner by whom or upon whose account the pledge was pawned.

Pawner may inspect entries.

(8) The pawner or the person for whom the pledge was pawned or his executor, administrator or assignee shall have the right to inspect the entry made of the sale on paying five cents for the inspection.

Consequence of refusal to permit inspection.

(9) If the pawnbroker refuses to permit the pawner or the person for whom the pledge was pawned or his executor, administrator or assignee, upon the production of the probate or letters of administration or the assignment, to inspect such entry, or if the pledge was sold for more than the sum entered in such book, or if the pawnbroker did not make such entry, or did not in good faith sell the pledge according to this Act, or refuses to pay the overplus on demand, in addition to any other liability, he shall be guilty of an offence and liable to a penalty of not less than \$40 and not more than \$100, and the convicting justice may award the whole or any part of the penalty to the person aggrieved. R.S.O. 1937, c. 244, s. 24.

Restrictions upon pawnbrokers.

**25.**—(1) A pawnbroker shall not,

- (a) purchase any article or receive or take any pledge in pawn from any person who appears to be under the age of 15 years, or to be intoxicated; or
- (b) purchase or take in pawn a pawnticket issued by any other pawnbroker; or
- (c) employ or permit any servant or other person under 16 years of age to take pledges in pawn; or
- (d) carry on business as a pawnbroker on Sunday, Good Friday, Christmas Day or any day appointed by the Governor-General or the Lieutenant-Governor for a general fast or thanksgiving, or on any other day before eight o'clock in the morning or after eight

o'clock in the evening, except on Saturday evening and the evenings preceding Good Friday and Christmas Day, on which evenings he may keep his shop open until ten o'clock; or

- (e) under any pretence purchase, except at public auction, any pledge while in pawn with him; or
- (f) suffer any pledge while in pawn with him to be redeemed with a view to his purchasing it; or
- (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; or
- (h) sell or otherwise dispose of any pledge pawned with him except at such time and in such manner as is authorized by this Act; or
- (i) take in pawn from any person any naval or military medal, badge, decoration or order.

(2) Every pawnbroker who contravenes this section shall be Penalty. guilty of an offence and liable to a penalty of not less than \$20 and not more than \$40. R.S.O. 1937, c. 244, s. 25.

**26.** When the justice is of the opinion that the production of any pawnbook, voucher, pawnticket or other document, which is or ought to be in the hands, custody or power of a pawnbroker is necessary, he shall summon him to attend with it, and the pawnbroker shall be bound to produce it in the state in which it was when the pledge was pawned, and if he neglects or refuses to attend or to produce it in its true and perfect state he shall, unless he shows good cause to the satisfaction of the justice, be guilty of an offence and liable to a penalty of not less than \$20 and not more than \$40. R.S.O. 1937, c. 244, s. 26. Pawnbroker bound to produce pawnbooks, etc.

**27.** No fee shall be taken by a justice of the peace for any summons or warrant granted by him under this Act, so far as the same relates to a pledge. R.S.O. 1937, c. 244, s. 27. No fee on justice's summons or warrant.

**28.** Unless otherwise provided, all penalties recovered under this Act shall belong to the municipality in which the offence was committed and be paid over to the treasurer thereof. R.S.O. 1937, c. 244, s. 28. Application of penalties.

**29.** The penalties imposed by this Act shall be recoverable under *The Summary Convictions Act*, but an information may be laid for any offence against this Act, within 12 months next after the offence was committed. R.S.O. 1937, c. 244, s. 29. Recovery of penalties. Rev. Stat., c. 379.

Act to extend to executors, administrators, etc.

**30.** This Act shall extend to the executor and administrator of a deceased pawnbroker, but he shall not be answerable for any penalty personally or out of his own estate unless the same was incurred by reason of his own act or neglect. R.S.O. 1937, c. 244, s. 30.

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