

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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OUR REFERENCE **RR-NTK**

July 18, 2013

The Honorable Ernest Y. Martin, Chair
and Members
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

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CITY CLERK
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Dear Chair Martin and Councilmembers:

SUBJECT: Secondhand Dealers and Pawnbrokers

The Honolulu Police Department would like to propose an amendment to Chapter 41, Article 35, of the Revised Ordinances of Honolulu 1990 relating to Secondhand Dealers and Pawnbrokers and the creation of a new Chapter 14, Article 43, Relating to Pawn Transactions.

Currently, Pawnbrokers and Secondhand Dealers in Honolulu are regulated by three different sections of the Hawaii Revised Statutes and two sections of the Revised Ordinances of Honolulu. Section 445-15 of the Hawaii Revised Statutes allows regulation of Pawnbrokers and Secondhand Dealers by local ordinance "as deemed necessary for the public health, safety, or welfare."

The changes proposed to Chapter 41, Article 35, and the creation of a new Article 43 would result in significant changes to the regulation of Pawnbrokers and Secondhand Dealers in Honolulu. One of the key points of this proposed legislation would be the requirement for Pawnbrokers and Secondhand Dealers to utilize an automated pawn management system as designated by the Chief of Police.

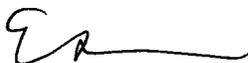
Should you have any questions, please contact Major Richard Robinson of the Criminal Investigation Division at 723-3715 or rrobinson1@honolulu.gov.

Sincerely,


Louis M. Kealoha
Chief of Police

Attachments

APPROVED:



Ember Lee Shinn
Managing Director

DEPT. COM. 548



A BILL FOR AN ORDINANCE

RELATING TO SECONDHAND DEALERS AND PAWNBROKERS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. The purpose of this ordinance is to strengthen the current city ordinance relating to the regulation of secondhand dealers and pawnbrokers in order to better protect the public and to aid in the recovery of stolen property.

SECTION 2. Chapter 41, Article 35, Revised Ordinances of Honolulu 1990, is amended to read as follows:

Article 35. Secondhand Dealers and Pawnbrokers

Sections:

- 41-35.1 Definitions.
- 41-35.2 [License required-Denial, suspension and revocation] Non applicability.
- 41-35.3 [Fee] License required.
- 41-35.4 Suspension and revocation of license.
- 41-35.5 Recordkeeping requirements.
- 41-35.6 Retention of records.
- 41-35.7 Submission of records.
- 41-35.8 Inspection of records and premises.
- 41-35.9 Holding period.
- 41-35.10 Prohibited Acts.
- 41-35.11 Pawn Transactions.
- 41-35.12 Penalty for violations.
- 41-35.13 Fee.

Sec. 41-35.1 Definitions.

As used in this article, unless the context otherwise requires:

“Acquire” means to obtain by purchase, consignment, or trade.

“Consignment shop” means a shop, with an established storefront, engaging in the business of accepting for sale, on consignment, goods, other than precious or semiprecious metals, gems or golf clubs.

“Dealer” means any person, firm, partnership, corporation, or other entity who engages in a business which includes the buying of previously owned articles.



A BILL FOR AN ORDINANCE

and includes any secondhand dealer or pawnbroker, and their authorized representative and/or employees.

"Department" means the Honolulu Police Department or any duly sworn officer of the Honolulu Police Department.

"Director" means the director of finance of the city or the director's duly authorized subordinates.

"Identification" means a valid government-issued photographic identification.

"Government issued identification" means:

- (1) A passport issued by the United States of America;
- (2) A driver's license issued pursuant to any state or District of Columbia law;
- (3) An identification card issued by any state or local government or the Bureau of Indian Affairs; or
- (4) An identification card issued by any branch of the Armed Forces of the United States of America.

"Goods" means personal property previously owned or used, and which is purchased, consigned, pawned, or traded as used property. "Goods" does not include titles or any other form of written security intangible property in lieu of actual physical possession, including, but not limited to, securities, printed evidence of indebtedness, or certificates of title and other instruments evidencing title to separate items of property, including motor vehicles. Such goods do not include household or office furniture, pianos, books, clothing, organs, motor vehicles, costume jewelry, cardio and strength training or conditioning equipment designed primarily for indoor use, and secondhand sports equipment that is not permanently labeled with a serial number. For purposes of this paragraph, "secondhand sports equipment" does not include golf clubs.

"Pawn transaction" means the act of lending money on the security of goods or the act of purchasing tangible personal property on condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.



A BILL FOR AN ORDINANCE

"Pawnbroker" means any person, firm, partnership, corporation, or other entity who advances for interest or for or an expectation of profit, gain, or reward any sum of money upon security of any goods or chattels taken by such person by way of pawn or pledge, and includes any person subject to Part V of Chapter 445.

"Pawnshop" means the place or premises at which a pawnbroker is registered to conduct business as a pawnbroker.

"Person" means an individual, partnership, corporation, joint venture, trust, association, or other legal entity.

"Precious or semiprecious gem" means any of the less common and more valuable stones and pearls, including but not limited to amethyst, diamond, emerald, jade, opal, ruby, sapphire, topaz, turquoise, and zircon, whether natural or synthetic, cut or polished.

"Precious or semiprecious metal" means any of the less common and more valuable metals, including but not limited to gold, silver, platinum, and alloys thereof, without regard to their fineness, but excludes bullion and bullion type coins and bars.

"Purchase" means the transfer and delivery of goods, by a person other than a commercial vendor, to a secondhand dealer or pawnbroker by acquisition for value, consignment, or trade for other goods.

"Scrap" means a piece of precious or semiprecious metal that can not be readily identified as any piece of describable jewelry.

"Secondhand dealer" means [the same as defined in HRS Section 486M-1. (Added by Ord. 95-03)] any person, corporation, or other business organization or entity which is not a Scrap Dealer as defined in HRS Chapter 445-231 which is engaged in the business of purchasing, consigning, or trading goods.

"Secondhand store" means the place or premises at which a secondhand dealer is registered to conduct business as a secondhand dealer.

"Seller" means an individual who delivers goods into the possession of a secondhand dealer or pawnbroker in connection with a transaction.



A BILL FOR AN ORDINANCE

"Transaction form" means the instrument on which a secondhand dealer or pawnbroker records pawns and purchases.

"Transaction" means any pawn, purchase, consignment, or trade of goods by a secondhand dealer or pawnbroker.

Sec. 41-35.2 [License required--Denial, suspension, and revocation] Non Applicability.

This Article does not apply to:

- (a) [It is unlawful for any person to engage in business as a secondhand dealer without obtaining a license issued by the director in accordance with the terms, conditions and penalties enumerated in HRS Chapter 445 and HRS Chapter 486M] Any secondhand transaction involving an organization or entity registered with the state as a nonprofit, religious, or charitable organization or any school-sponsored association or organization.
- (b) [The director may deny, suspend or revoke such license for violation of any provision of this article or HRS Chapter 445 and HRS Chapter 486M. (Added by Ord. 95-03)] A law enforcement officer acting in an official capacity.
- (c) A trustee in bankruptcy, executor, administrator, or receiver.
- (d) Any public official acting under judicial process or authority.
- (e) A sale on the execution or by virtue of any process issued by a court.
- (f) Any garage or yard sale operator who holds sales less than 20 weekends per year.
- (g) Any person who, pursuant to a written agreement, sells household personal property as an agent for the property owner or their representative at that person's residence.
- (h) The purchase, consignment, or trade of goods from one dealer to another dealer when the selling dealer has complied with the requirements of this chapter.
- (i) Any person accepting a good, other than precious or semiprecious metal or gem, in trade for a similar item of greater value.



A BILL FOR AN ORDINANCE

- (j) Any person purchasing, consigning, or trading goods, other than precious or semiprecious metals, gems, or golf clubs, at a flea market, trade show, farmer's market, or any other conglomeration of sellers, regardless of whether at a temporary or permanent business location.
- (k) Any auction business as defined in Part II of Chapter 445 HRS.
- (l) Any consignment shop as defined in Article 41-35.1.
- (m) Any person offering his or her own personal property for sale, purchase, consignment, or trade via an Internet web site, or a person or entity offering the personal property of others for sale, purchase, consignment, or trade via an Internet web site, when that person does not benefit from the sale of the item.
- (n) A business whose primary business is the sale, rental, or trade of motion picture video in digital format or video games, if the business:
 - (1) Requires the sellers of goods to have a current account with the business;
 - (2) Has on file in a readily accessible format the name, current residential address, home and work telephone numbers, government-issued identification number, place of employment, date of birth, gender, and thumbprint of each seller of goods;
 - (3) Purchases goods from the property owner or his or her representative at the place of business pursuant to an agreement in writing and signed by the property owner which describes the property purchased, states the date and time of the purchase, and states that the seller is the lawful owner of the property;
 - (4) Retains such purchase agreements for not less than 1 year; and
 - (5) Pays for the purchased property in the form of a store credit that is issued to the seller and is redeemable solely by the seller or another authorized user of the seller's account with that business.
- (o) Secondhand dealers or pawnbrokers are exempt from the provisions of this section for all transactions involving secondhand sports equipment except



A BILL FOR AN ORDINANCE

secondhand sports equipment that is permanently labeled with a serial number, or golf equipment.

(p) A motor vehicle dealer as defined in HRS Chapter 437.

(q) Scrap Dealers regulated under HRS Chapter 445.

Sec. 41-35.3 [Fee] License required

[The annual fee for a secondhand dealer license shall be \$100.00, payable to the director (Added by Ord. 95-03)] License required.

(a) It is unlawful for any person to engage in business as a secondhand dealer or pawnbroker without obtaining a license issued by the director in accordance with the terms, conditions, and penalties enumerated in HRS Chapter 445 and HRS Chapter 486M.

(b) A separate license is required for each secondhand shop or pawnshop location and each licensed shop shall be operated out of an established storefront. Any license not operated out of an established storefront will expire 5 calendar days after its issued date.

(c) A licensee who seeks to move a secondhand shop or pawnshop to another location must give 30 days prior written notice to the director by certified or registered mail, return receipt requested, and the director will then amend the license to indicate the new location. The licensee must also give such written notice to the Honolulu Police Department.

(d) The secondhand dealer's or pawnbroker's license shall be conspicuously displayed at the licensed location.

(e) The director may deny, suspend, or revoke such license in accordance with Sec. 41-35.4 for violation of any provision of this article or HRS Chapter 445 and HRS Chapter 486M.

Sec. 41-35.4 Suspension and Revocation.

The Director of Finance shall suspend or revoke any license upon a finding that:



A BILL FOR AN ORDINANCE

- (a) The licensee has violated this article or has aided or conspired with another person to violate this article;
 - (1) For the first conviction for violation of this article a suspension of license for 14 calendar days shall be imposed.
 - (2) For a second conviction for subsequent violation within a 12 month period, a suspension of 21 calendar days shall be imposed.
 - (3) For a third conviction for subsequent violation within a 12 month period, a suspension of one year shall be imposed.
- (b) A condition exists that, had it existed when the license was issued, would have justified the agency's refusal to issue a license.
- (c) The notification of the suspension shall be sent by the director via registered mail to the address listed on the secondhand dealer or pawnbroker license. Return of the registered mail receipt shall fulfill the requirements of service.
- (d) The revocation, suspension, or surrender of a license does not impair or affect the obligation of any preexisting lawful contract between the licensee and any seller. Any pawn transaction made by a person without benefit of a license is voidable, in which case the person forfeits the right to collect any monies, including principal and any charges, from the seller in connection with such transaction and is obligated to return to the seller the goods in connection with such transaction.
- (e) Upon the request of a law enforcement official, the Director shall release to the official the name, address, and business history of any licensed secondhand dealer or pawnbroker.
- (f) For the purposes of this section "conviction" shall include all types of convictions including deferrals, and no contest pleas.

Sec. 41-35.5 Recordkeeping requirements.

- (a) At the time the dealer enters into any pawn or purchase transaction, the dealer shall complete a transaction form for such transaction, including an indication of whether the transaction is a pawn or a purchase, and the seller shall sign such



A BILL FOR AN ORDINANCE

completed transaction form. The design and format of the transaction form shall be designated by the Chief of Police of the Honolulu Police Department.

(b) Upon completing the transaction form, the dealer shall record the following information, which must be typed or legibly printed in ink in English:

- (1) The name and address of the dealer;
- (2) A sequential transaction number;
- (3) The time and date of the transaction;
- (4) A photograph and a complete and accurate description of goods offered for purchase or pawn, including the following information, if applicable:
 - (A) Brand name,
 - (B) Model number,
 - (C) Manufacturer's serial number,
 - (D) Size,
 - (E) Color, as apparent to the untrained eye,
 - (F) Precious metal type, weight, and fineness, if known,
 - (G) Gemstone description, including the number of stones, and
 - (H) Any other unique identifying marks, numbers, names, or letters.
- (5) Scrap items shall be described as "unidentifiable remnant" and shall included the precious metal type, weight, and fineness, if known;
- (6) Full name, current residential address, workplace, and home phone numbers of person from whom the goods were acquired;



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A BILL FOR AN ORDINANCE

- (7) Height, weight, date of birth, age, last four numbers of the social security number, race, gender, hair color, eye color, and any other identifying marks of the person from whom the goods were acquired;
- (8) A thumbprint, free of smudges and smears, of the person from whom the goods were acquired; and
- (9) A full-face photograph of the person from whom the goods were acquired.
- (10) The dealer shall require verification of the identification by the exhibition of a valid government-issued photographic identification card. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon.
- (11) The amount of money paid or loaned for each item or the monetary value assigned to each item in connection with the transaction.
- (12) Any other information required by the forms approved by the Honolulu Police Department.

Sec. 41-35.6 Retention of records.

Dealers shall complete a transaction form at the time of the actual transaction. Dealers shall maintain a copy of a completed transaction form on the registered premises for at least 3 years after the date of the transaction. However, dealers shall maintain a copy of the transaction form for not less than 1 year, if the transaction was submitted electronically.

Sec. 41-35.7 Submission of records.

- (a) If the Honolulu Police Department authorizes appropriate software to be used by secondhand dealers or pawnbrokers, all transactions shall be electronically transferred. The dealer shall at the end of each business day ensure that all records of transaction have been entered into the appropriate software and transmitted so that the information is available to the Department.
- (b) For the purpose of a criminal investigation, the appropriate law enforcement agency may request that the dealer produce an original of a transaction form that



A BILL FOR AN ORDINANCE

has been electronically transferred. The dealer shall deliver this form to the Honolulu Police Department within 24 hours after the request.

- (c) When an electronic image is part of a transaction, the secondhand dealer or pawnbroker must maintain the electronic image in order to meet the recordkeeping requirements applicable to the original transaction form.
- (d) The dealer shall, upon request by the Department, provide a clear and legible copy of all images related to the requested transaction.

Sec. 41-35.8 Inspection of records and premises.

- (a) The entire registered premises and required records of each dealer are subject to inspection during business hours by the Department.
- (b) If the goods are being stored in a secure location off premises, they must be made available for inspection within 24 hours of the initial request.

Sec. 41-35.9 Holding period.

- (a) A dealer shall not sell, barter, exchange, alter, adulterate, use, or in any way dispose of any goods within 30 calendar days of the date of acquisition of the goods. If the transaction was filed electronically, then the holding period will be reduced to 15 calendar days. Such holding periods are not applicable when the person known by the dealer to be the person from whom the goods were acquired desires to redeem, repurchase, or recover the goods, provided the dealer can produce the record of the original transaction with verification that the customer is the person from whom the goods were originally acquired.
- (b) A dealer must hold goods at the licensed location, or other secure location within the City and County of Honolulu, during the holding period.
- (c) A dealer must maintain actual physical possession of all goods throughout a transaction. A dealer shall not accept title or any other form of security in goods in lieu of actual physical possession.
- (d) Upon reasonable suspicion that goods held by a dealer are stolen, a Honolulu Police officer may recover the goods into evidence.



A BILL FOR AN ORDINANCE

Sec. 43-35.10 Prohibited Acts.

A dealer, or any employee or agent of a dealer may not:

- (a) Falsify or intentionally fail to make a transaction form.
- (b) Refuse to allow the Department to inspect completed transaction forms or pawned or purchased goods.
- (c) Obliterate, discard, or destroy a completed transaction form sooner than the required retention period required in Section 41-35.6.
- (d) Make any agreement requiring or allowing the personal liability of a seller or the waiver of any of the provisions of this section, or Chapters 445 Part V and 486 of the Hawaii Revised Statutes.
- (e) Knowingly enter into a pawn or purchase transaction with any person who is under the influence of alcohol or controlled substances when such condition is apparent.
- (f) Conduct any transaction with any person using the name of another or the registered name of another's business.
- (g) Conduct any transaction at any location other than the specific address listed on their secondhand dealer or pawnbroker license.
- (h) Lease goods to the seller or any other party.
- (i) Operate a secondhand shop or pawnshop between the hours of 11 p.m. and 7 a.m.
- (j) Make purchases or sales through any business associate not registered in compliance with the provisions of this article.

Sec. 41-35.11 Pawn transactions.

In addition to all provisions of Chapter 445, Part V, and Chapter 486M of the HRS, when conducting a pawn transaction, a pawnbroker shall also adhere to all provisions of this article.



A BILL FOR AN ORDINANCE

Sec. 41-35.12 Penalty for violations.

Except where otherwise provided herein, a person who knowingly violates any provision of this chapter commits a misdemeanor.

Sec. 41-35.13 Fees.

The annual fee for a secondhand dealer license or pawnbroker's license shall be \$100.00, payable to the director.

SECTION 3. Ordinance material to be repealed is bracketed. New ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the bracketed material, or the underscoring.

SECTION 4. This ordinance shall take effect upon approval.



A BILL FOR AN ORDINANCE

INTRODUCED BY:

DATE OF INTRODUCTION:

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

KIRK CALDWELL, Mayor
City and County of Honolulu



A BILL FOR AN ORDINANCE

RELATING TO PAWN TRANSACTIONS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. The purpose of this ordinance is to strengthen the current city ordinance relating to the regulation of pawnbrokers in order to better protect the public and to aid in the recovery of stolen property.

SECTION 2. Chapter 41, Revised Ordinances of Honolulu 1990, is amended to add a new Article 43 which reads as follows:

Article 43. Pawn Transactions

Sections:

- 41-43.1 Definitions.
- 41-43.2 Applicability.
- 41-43.3 Recordkeeping requirements for pawn transactions.
- 41-43.4 Pledged good not redeemed.
- 41-43.5 Pawn service charges.
- 41-43.6 Right to redeem; lost pawnbroker transaction form.
- 41-43.7 Pawnbroker's lien.
- 41-43.8 Claims against purchased good or pledged goods held by pawnbrokers.
- 41-43.9 Hold orders; issuance; required information; procedures.
- 41-43.10 Confidentiality.

Sec. 41-43.1 Definitions.

All definitions in this article are the same as in Article 35 unless otherwise defined:

"Amount financed" is used interchangeably to mean the same as "amount of money advanced" or "principal amount."

"Beneficial owner" means a person who does not have title to property but has rights in the property which are the normal incident of owning the property.

"Claimant" means a person who claims that his or her property was misappropriated.



A BILL FOR AN ORDINANCE

“Conveying customer” means a person who delivers property into the custody of a pawnbroker, either by pawn, sale, consignment, or trade.

“Default date” means that date upon which the pledgor’s right of redemption expires and absolute right, title, and interest in and to the pledged goods shall vest in and shall be deemed conveyed to the pawnbroker by operation of law.

“Misappropriated” means stolen, embezzled, converted, or otherwise wrongfully appropriated against the will of the rightful owner.

“Net worth” means total assets less total liabilities.

“Operator” means a person who has charge of a corporation or company and has control of its business, or of its branch establishments, divisions, or departments, and who is vested with a certain amount of discretion and independent judgment.

“Pawn” shall have the same meaning as “pawn transaction.”

“Holding period” means a period of time not less than thirty days after the maturity date, in which a customer has the right to redeem pledged goods by paying a pawnbroker the amount provided in the applicable pawn transaction agreement and an additional pawn finance charge.

“Maturity date” means the date upon which a pawn transaction agreement expires and the holding period begins to run.

“Pawn finance charge” means the sum of all charges, payable directly or indirectly by the customer and imposed directly or indirectly by the pawnbroker, including charges for insurance, handling, storage, and any other charge imposed incidental to the pawn transaction.

“Pledged goods” means tangible personal property, other than choses in action, securities, or printed evidences of indebtedness, that is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of the pawnbroker’s business and in connection with a pawn transaction.

“Month” means that period of time from one date in a calendar month to the corresponding date in the following calendar month, but if there is no corresponding date, then the last day of the following month, and when



A BILL FOR AN ORDINANCE

computations are made for a fraction of a month, a day shall be one-thirtieth of a month.

Sec. 41-43.2 Applicability.

In addition to all of the requirements in article 41-35, pawnbrokers shall also adhere to all provisions of this article.

Sec. 41-43.3 Recordkeeping requirements for pawn transactions.

The following information for all pawn transactions shall be recorded:

- (a) The amount of money advanced, which must be designated as the amount financed;
- (b) The maturity date of the pawn, which must be 30 days after the date of the pawn;
- (c) The default date of the pawn and the amount due on the default date;
- (d) The total pawn service charge payable on the maturity date, which must be designated as the finance charge;
- (e) The amount financed plus the finance charge that must be paid to redeem the pledged goods on the maturity date, which must be designated as the total of payments;
- (f) The annual percentage rate, computed according to the regulations adopted by the Federal Reserve Board under the federal Truth in Lending Act; and
- (g) The pawnbroker transaction form must include a statement that:
- (h) Any personal property pledged to a pawnbroker within this state which is not redeemed within 30 days following the maturity date of the pawn, if the 30th day is not a business day, then the following business day, is automatically forfeited to the pawnbroker, and absolute right, title, and interest in and to the property vests in and is deemed conveyed to the pawnbroker by operation of law, and no further notice is necessary;
 - (1) The pledgor is not obligated to redeem the pledged goods; and



A BILL FOR AN ORDINANCE

- (2) If the pawnbroker transaction form is lost, destroyed, or stolen, the pledgor must immediately advise the issuing pawnbroker in writing by certified or registered mail, return receipt requested, or in person evidenced by a signed receipt.
- (3) A pawn may be extended upon mutual agreement of the parties.
- (i) A statement that the pledgor or seller of the item represents and warrants that it is not stolen, that it has no liens or encumbrances against it, and that the pledgor or seller is the rightful owner of the goods and has the right to enter into the transaction.
- (j) Any person who knowingly gives false verification of ownership or gives a false or altered identification and who receives money from a pawnbroker for goods sold or pledged is guilty of a misdemeanor.
- (k) A pawnbroker transaction form must provide a space for the imprint of the right thumbprint of the pledgor and a blank line for the signature of the pledgor.
- (l) At the time of the pawn transaction, the pawnbroker shall deliver to the pledgor an exact copy of the completed pawnbroker transaction form.

Sec. 41-43.4 Pledged goods not redeemed.

Pledged goods not redeemed by the pledgor on or before the maturity date of a pawn must be held by the pawnbroker for at least 30 days following such date or until the next business day, if the 30th day is not a business day. Pledged goods not redeemed within the 30-day period following the maturity date of a pawn are automatically forfeited to the pawnbroker; absolute right, title, and interest in and to the goods shall vest in and shall be deemed conveyed to the pawnbroker by operation of law, and no further notice is necessary. A pledgor has no obligation to redeem pledged goods or make any payment on a pawn.

Sec. 41-43.5 Pawn service charges.

- (a) The default date of any pawn may be extended to a subsequent date by mutual agreement between the pledgor and the pawnbroker except the pawnbroker may not impose a minimum duration of more than 30 days, evidenced by a written memorandum, a copy of which must be supplied to the pledgor, which must clearly specify the new default date, and the pawn service charges owed on the



A BILL FOR AN ORDINANCE

new default date. In this event, the daily pawn service charge for the extension shall be equal to the pawn service charge for the original 30-day period divided by 30 days (i.e., one-thirtieth of the original total pawn service charge). There is no limit on the number of extensions that the parties may agree to.

- (b) Pledged goods may be redeemed by mail by agreement between the pledgor and the pawnbroker. The pledgor must pay in advance all monies due and a reasonable charge assessed by the pawnbroker to recover its cost and expenses involved in the packaging, insuring, and shipping of the pledged goods. The pawnbroker shall insure the pledged goods in an amount acceptable to the pledgor. The pawnbroker's liability for loss or damage in connection with the shipment of such pledged goods is limited to the amount of the insurance coverage obtained.
- (c) Any interest, charge, or fees contracted for or received, directly or indirectly, in excess of the amounts authorized under this section are prohibited, may not be collected, and render the pawn transaction voidable, in which case the pawnbroker shall forfeit the right to collect twice the amount of the pawn service charge contracted for in the pawn and, upon the pledgor's written request received by the pawnbroker within 30 days after the maturity date, shall be obligated to return to the pledgor the pledged goods delivered to the pawnbroker in connection with the pawn upon payment of the balance remaining due, provided that there shall be no penalty for a violation resulting from an accidental and bona fide error that is corrected upon discovery. Any action to circumvent the limitation on pawn service charges collectible under this section is voidable. In the event a pledgor makes a partial payment on a pawn that reduces the amount financed, any additional pawn service charges shall be calculated on the remaining balance of the original amount financed.

Sec. 41-43.6 Right to redeem; Lost pawnbroker transaction form.

- (a) Only a pledgor or a pledgor's authorized representative is entitled to redeem the pledged goods described in the pawnbroker transaction form; however, if the pawnbroker determines that the person is not the original pledgor or the pledgor's authorized representative, the pawnbroker is not required to allow the redemption of the pledged goods by such person. The person redeeming the pledged goods must sign the pledgor's copy of the pawnbroker transaction form, which the pawnbroker may retain as evidence of the person's receipt of the pledged goods. If the person redeeming the pledged goods is the pledgor's authorized representative, that person must present notarized authorization from



A BILL FOR AN ORDINANCE

the original pledgor and show identification to the pawnbroker, and the pawnbroker shall record that person's name and address on the pawnbroker transaction form retained by the pawnshop. It is the pawnbroker's responsibility to verify that the person redeeming the pledged goods is either the pledgor or the pledgor's authorized representative.

- (b) If a pledgor's copy of the pawnbroker transaction form is lost, destroyed, or stolen, the pledgor must notify the pawnbroker in writing by certified or registered mail, return receipt requested, or in person evidenced by a signed receipt, and receipt of this notice invalidates the pawnbroker transaction form if the pledged goods have not previously been redeemed. Before delivering the pledged goods or issuing a new pawnbroker transaction form, the pawnbroker must require the pledgor to make a written statement of the loss, destruction, or theft of the pledgor's copy of the pawnbroker transaction form. The pawnbroker must record on the written statement the type of identification and the identification number accepted from the pledgor, the date the statement is given, and the number of the pawnbroker transaction form that was lost, destroyed, or stolen. The statement must be signed by the pawnbroker or the pawnshop employee who accepts the statement from the pledgor.
- (c) Sales tax is not due or collectible in connection with the redemption of pledged goods.
- (d) If pledged goods are lost or damaged while in the possession of the pawnbroker, the pawnbroker may satisfy the pledgor's claim by replacing the lost or damaged goods with like kinds of merchandise of equal value, with which the pledgor can reasonably replace the goods. Such replacement is a defense to any civil action based upon the loss or damage of the goods.

Sec. 41-43.7 Pawnbroker's lien.

A pawnbroker has a possessory lien on the pledged goods pawned as security for the funds advanced, the pawn service charge owed, and the other charges authorized under this section, but not for other debts due to the pawnbroker. A pawnbroker has no recourse against a pledgor for payment on a pawn transaction except for the pledged goods themselves. Except as otherwise provided in this section, the pawnbroker must retain possession of the pledged goods until the lien is satisfied or until the default date. The pawnbroker may be compelled to relinquish possession of the pledged goods only after receipt of the



A BILL FOR AN ORDINANCE

applicable funds advanced plus the accrued service charge and other authorized charges, upon court order, or as otherwise provided by law.

Sec. 41-43.8 Claims against purchased goods or pledged goods held by pawnbrokers.

To obtain possession of purchased or pledged goods held by a pawnbroker which a claimant claims to be misappropriated, the claimant must notify the Honolulu Police Department and document the applicable report on the misappropriation of such property. The report must contain a complete and accurate description of the purchased or pledged goods. If reasonable suspicion exists, law enforcement officers may recover the disputed items as evidence in the criminal investigation. An interpleader proceeding may be initiated to determine resolve the dispute.

Sec. 41-43.9 Hold orders; Issuance; Required information; Procedures.

When an appropriate law enforcement official has reasonable suspicion to believe that property in the possession of a pawnbroker is misappropriated, the official may seize the property and enter it into evidence.

Sec. 41-43.10 Confidentiality.

All records relating to pawnbroker transactions delivered to appropriate law enforcement officials pursuant to this section are confidential and exempt from the provisions of 92F of the Hawaii Revised Statutes and may be used only for official law enforcement purposes. This section does not prohibit the disclosure by the appropriate law enforcement officials of the name and address of the pawnbroker, the name and address of the conveying customer, or a description of pawned property to the alleged owner of pawned property.

SECTION 3. New ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor or Ordinances need not include the underscoring.”

SECTION 4. This ordinance shall take effect upon approval.



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL _____

A BILL FOR AN ORDINANCE

INTRODUCED BY:

DATE OF INTRODUCTION:

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

KIRK CALDWELL, Mayor
City and County of Honolulu