

THIRTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

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SENATE

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S. No. 522

INTRODUCED BY HON. MANUEL B. VILLAR, JR.

EXPLANATORY NOTE

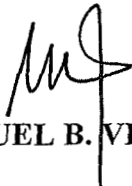
The Constitution, Article 2, Section 5 provides:

The promotion of the general welfare is essential for the enjoyment by all the people of the blessings of democracy.

Pawnshops provide an additional source of credit especially for small borrowers left unserved by banking and other financial institutions in the country.

P.D. No. 114, a.k.a. the "Pawnshop Regulation Act", governs pawnshop establishments and provides definite and uniform standards for their operation. However, the law is no longer responsive, given the growing complexities of the pawnshop business.

Hence, this bill seeks to lay down amended requirements and standards that will place operation on a sound and stable basis, deriving the optimum advantages from them as an additional source of credit and preventing, as far as practicable, practices prejudicial to public interest.


MANUEL B. VILLAR, JR.

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AN ACT REGULATING PAWNSHOP ESTABLISHMENTS AND OPERATIONS

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short title* – This Act shall be known as the “Pawnbroking Regulation Act.”

SECTION 2. *Definitions* – In this Act, unless the context otherwise requires—

1. Pawnshop – means any person, partnership, association, or corporation lending money on the deposit or pledges of personal property, or who deals in the purchase of personal property on the condition of selling the property, or who deals in the purchase of personal property on the condition of selling the property back again at a stipulated price, other than choices in action, securities, or printed evidence of indebtedness; and shall be synonymous and may be used interchangeably, with pawnbroker or pawnbrokerage.
2. Pledge – means personal property deposited with pawnbroker as security for a loan.
3. Pledger – means the persona who delivers personal property into the possession of pawnbroker as security for a loan unless such person discloses that the person is or was acting for another; and in such event “pledger” means the disclosed principal.
4. Property – shall include only such personal property as may actually be delivered to the control and possession of the pawnshop; provided, however, that certain specified chattels such a guns, knives and similar weapons whose reception is pawn is expressly prohibited by the laws or regulations shall not be included.

5. Person – means an individual, a firm, an association, a limited liability company, a partnership, a joint stock association, a trust, or a corporation.

SECTION 3. *Registration and licensing* – (a) No person or entity shall engage in business as a pawnbroker, act as a pawnbroker, or advertise, transact, or solicit business as a pawnbroker except as authorized by this chapter and without first obtaining a license from the department.

(b) Application for a pawnbroker's license shall be submitted on a form prescribed by the appropriate agency and must include all information by said agency.

(c) any person or entity desiring to engage in the pawnshop business shall register with the Securities and Exchange Commission (hereinafter referred to as the "commission") and secure a license from the appropriate city or municipality having territorial jurisdiction over the place of establishment and operation.

SECTION 4. *Requirement of registration with the Bangko Sentral ng Pilipinas*-- Any individual, corporation or association duly registered and licensed to engage in the pawnshop business shall file in information sheet, under oath, with the Bangko Sentral ng Pilipinas (hereinafter referred to as "BSP") before commencement of actual operations; provided, however, that pawnshops duly licensed and operating before the approval of this Act shall, within six months from the date of effectivity of the same, register with the BSP. For this purpose, the BSP shall furnish pawnshops, upon request, with necessary copies of the prescribed information sheet.

SECTION 5. *Capital* – The minimum paid-in capital of any pawnshop which may established after the effectivity of this act shall be fifteen million pesos (P15,000,000.00); provided, however, that pawnshops established and in operation prior thereto shall comply with the minimum capitalization required under the provisions of this section within such time as may be prescribed by the Monetary Board.

SECTION 6. *Citizenship requirements* – Upon the effectivity of this Act, only Filipino citizens may establish and own a pawnshop organized in the form of a single proprietorship; provided, however, that in the case of partnership, at least seventy per cent (70%) of its capital shall be owned by Filipino citizens. Provided, further, that in the case of corporation, at least

seventy per cent (70%) of the voting capital stock shall be owned by citizens of the Philippines, or if there be no stock, at least seventy per cent (70%) of the members entitled to vote, shall be citizens of the Philippines.

The percentage of foreign-owned voting stock or non-citizens entitled to vote in any domestic pawnshop existing prior to the effectivity of this Act, if such percentage is excess of thirty per cent (30%) of the voting stock or members entitled to vote of the pawnshop shall not be increased but shall be reduced, and once reduced, shall not be increased thereafter beyond thirty per cent (30%) of the voting stock, or number of members entitled to vote, of the pawnshop.

The percentage of foreign-owned voting stocks in any pawnshop shall be determined by the citizenship of the individual stockholders in the pawnshop. In the case of corporations owning shares in a pawnshop, the citizenship of the individual owners of voting stock in such corporations shall be the basis of computing the percentage.

SECTION 7. *Issuance of license* – Upon the filing of the application and the payment of the license fee, if the commission shall find the financial standing, competence, business experience, and character of the applicant are such that the business will be operated experience, and character of the applicant are such that the business will be operated honestly, fairly, and effectively and that the convenience and needs of the public exist for the operation of such business in the community wherein such applicant propose to operate, it shall issue and deliver a license to the applicant, which license shall authorize the applicant to engage in the business of pawnbroking. Such license shall remain in effect until it is surrendered, revoked, or suspended.

SECTION 8. *Denial* – If the appropriate agency denies application, it shall notify the applicant of the denial and return the sum paid by the applicant as a license fee. The agency may hold a public hearing if the department considers the hearing necessary.

SECTION 9. *Non-transferability* – the license shall not be transferable or assignable. More than one (1) place of business may be maintained under the same license.

SECTION 10. *Change of place of business* – Whenever a license changes its place of business to another location, the licensee shall give written notice to the department. The licensee shall request approval to add or change one (1) or more business locations.

SECTION 11. *Suspension or revocation of license* – The commission shall, upon ten (10) days notice to the licensee stating the contemplated action and in general the ground therefore, and upon reasonable opportunity to be heard, suspend or revoke, by written order, any license issued under this Act if it shall find that:

- (a) the licensee has failed to pay the annual license fee or comply with ruling or requirements of the commission;
- (b) the licensee has violated any provision of this Act or any rule made by the commission; or
- (c) any fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the commission in refusing original to issue such license.

SECTION 12. *Pre-existing obligation* – No revocation or suspension or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any borrower.

SECTION 13. *Investigative power* – For the purpose of discovering violations of this Act and securing information necessary for the enforcement of this Act, the commission may investigate any license or person that it suspects to be operating without a license and in violation of this Act.

SECTION 14. *Books, accounts and records* – (a) The licensee shall keep and use in his business such books, accounts, and record as will enable the commission to determine whether the licensee is complying with his Act and with the rules made by the commission pursuant to this Act. Every licensee shall preserve such books, accounts, and records, including cards used in the card system for at least two (2) years after making the final entry on any loan recorded therein. The books and records of the licensee shall be kept so that the pawnbroking business in which the licensee may be engaged.

(b) If a pawnbroker, in the conduct of the business, purchases an article from a seller, the purchase shall be evidenced by a bill of sale property signed by the seller. All bills of sale must be in duplicate and must recite the following separate items:

- (1) Date of bill sale.
- (2) Amount of consideration.
- (3) Name of pawnbroker.
- (4) Description of each article sold.
- (5) Signature of seller
- (6) Address of seller.

(c) If a pawnbroker, in the conduct of the business, purchases an article from a seller on the condition of selling the property back at a stipulated price, the transaction shall be evidenced by a bill of sale properly signed by the seller. All such bills of sale must be in duplicate and recite the information in subsection (b) and must also contain the following information.

- (1) date of resale.
- (2) Amount of resale.

(d) The original copy of the bill of sale shall be retained by the pawnbroker. The second copy shall be delivered to the seller by the pawnbroker at the time of sale. The heading on all bill of sale forms must be in boldface type.

(e) Each licensee should maintain a record of control indicating the number of accounts and dollar value of all outstanding pawnbroking receivables. Each license shall maintain a separate record of transactions subject to subsection (c)

SECTION 15. *Amount of loan* – Pawnshops may grant such amount of loans as may be agreed upon between the parties provided, that the amount of loan shall, in no case, be less than thirty per cent (30%) of the appraised value of the security offered for the loan unless the pawner manifests in writing the desire to borrow a lesser amount.

SECTION 16. *Rate of interests* – (a) No pawnshop shall directly or indirectly stipulate, charge, demand, take or receive any rate higher than 12% per annum. It should be unlawful for a pawnshop to divide that pawn offered by a pawner in order to collect greater interest and/or to require the pawner to pay an additional charge as insurance premium for the safekeeping and conservation of the article pawned.

(b) Interest shall be conducted in advance, neither shall the pawnbroker induce or permit any borrower to spot up or divide any loans for the purpose of evading any provisions of this chapter.

(c) If a pawnbroker charges or receives interest in excess of that provided in this section, or makes any charges not authorized by this Act, the pawnbroker shall forfeit principal and interest and return the pledge upon demand of the pledger and surrender of the pawn ticket without the principal or interest. If such excessive or unauthorized charges have been paid by the pledger, the pledger may recover the same, including the principal if paid, in a civil action against the pawnbroker.

(d) In addition to the loan finance charge authorized by this Act, a pawnbroker may charge, contract for, and receive a fee not to exceed one-fifth (1/5) of the principal amount of the loan per month or any fractional part of a month for servicing the pledge that may include investigation the title, storing, providing security, appraisal, handling, making daily reports to local law enforcement officers, and for other expenses and costs associated with servicing the pledge.

SECTION 17. *Submission of report* – Each licensee shall, annually on or before June 1, file a report with the commission, giving such relevant information as the commission may reasonably require concerning the business and operation during the preceding calendar year of a each licensed place of business conducted by such licensee. Such report shall be made under oath and shall be in the form prescribed by the commission. The commission shall annually make an analysis and a recapitulation of such reports, which shall be a matter of public record. The commission may impose a fee of P200.00 per day on any annual report that that is not received by June 1.

SECTION 18. *Maintenance of record* – (a) Every pawnbroker shall keep a record in ink, in Filipino or English with corresponding translation in the local dialect of every pawn, that must include that following.

- (1) The name and address of the pledger, or where the pledge is made by a person acting as agent for a disclosed principal, the names and addresses of principal and agent.
- (2) The date of the transaction
- (3) The amount of the loan
- (4) The article or articles pledged.
- (5) The serial number of the loan
- (6) The date on which each loan was paid in full, renewed, or unredeemed.
- (7) An itemization of principal, interest, and additional fees collected
- (8) The total of all charges collected

(b) Other methods of recording data, such as electronic or computerized methods, may be used provided written printouts or hard copies of the data are readily available. The record keeping system of a license shall be made available for examination. The commission shall determine the sufficiency of the records and whether the licensee has made the required information reasonably available.

SECTION 19. *Signature and thumbprints* – The pawnbroker shall at the time of making a loan or purchase require the signature and right thumbprint of the pledger on all pawn tickets, bills of sale, or ledger cards retained by the licensee. If the person is unable to write, the person shall sign by mark. In such event, the pawnbroker shall record on the signature card such information as will enable the pawnbroker to identify the person in case of the loss of the ticket. If the person does not have a right thumb, any other existing finger may be used. However, a clear print must be obtained.

SECTION 20. *Pawn ticket* – (a) The pawnbroker shall, at the time of making a loan, deliver to the pledger or the pledger's agent a memorandum or ticket on which shall be legibly written or printed.

- (b) the name of the pledger;
- (c) the name of the pawnbroker and the place where the pledge is made;
- (d) the article or articles pledged;

- (e) the amount of the loan;
- (f) the date of the transaction
- (g) the serial number of the loan
- (h) the sum of the interest as provided in this Act
- (i) the amount of interest;
- (j) the amount of interest;

(b) A pawnbroker may inset in such ticket any other terms and conditions not inconsistent with this chapter. However, nothing appearing on a pawn ticket shall relieve the pawnbroker of the obligations to exercise reasonable care in the safekeeping of articles pledged with him.

SECTION 21. *Ticket holder* – The holder of such ticket shall be presumed to be the person entitled to redeem the pledge, and the pawnbroker shall deliver the pledge to the person presenting the ticket, upon payment of principal, interest and charge.

SECTION 22. *Mail* – When a ticket, instead of being presented in person, is sent to the pawnbroker by mail, accompanied with a money order for the total amount due and a reasonable fee for shipping and handling, the pawnbroker may securely pack and forward the pledge to the pledger in accordance with the remitter's instructions. If the remittance is insufficient to cover the amount due, the pawnbroker shall either notify the remitter of the amount of the deficiency or send the pledge subject to the payment of shipping charges by the consignee. The pawnbroker's liability for the pledge shall cease upon delivery of the pledge to the carrier or his agent.

SECTION 23. *Presentation of ticket before maturity* – Upon presentation of the pawn ticket prior to maturity and the payment of accrued interest and charge and the tender of not less than P50.00 of the principal balance, the pawnbroker shall accept the same, showing due credit of principal payment on pawn ticket, together with the amount of unpaid principal balance, or issue a new ticket for the reduced amount. Future interest charges and charges shall be computed on the unpaid principal balance.

SECTION 24. *Lost, destroyed or stolen ticket* – If a ticket is lost, destroyed, or stolen, the pledger shall so notify the pawnbroker in writing. Before delivering the collateral or issuing a new ticket, the pawnbroker shall require the pledger to make affidavit of the alleged loss,

destruction, or theft of the ticket. Upon receipt of such affidavit, the pawnbroker shall permit the pledger either to redeem the loan or to receive a new ticket upon the payment of accrued interest and charges, and the pawnbroker shall incur no liability for so doing, unless the pawnbroker had previously received written notice of any adverse claim. The pawnbroker may collect reasonable fee for reissuing the pawn ticket or affecting the affidavit along with the current lawful charge for notary fee.

SECTION 25. *Alteration of ticket* – The alteration of a ticket shall not excuse the pawnbroker who issued it from liability to deliver the pledge according to the terms of the ticket as originally issued, but shall relieve the pawnbroker or any other liability to the pledger or holder of the ticket.

SECTION 26. *Liability for loss* – A pawnbroker shall be liable for the loss of a pledge resulting from the pawnbroker's failure to exercise reasonable care in regard to it, but the pawnbroker shall not be liable for the loss of the pledge which could not have been avoided by the exercise of reasonable care. The burden of proof to establish due care shall be upon the pawnbroker.

SECTION 27. *Redemption* – The pawner who fails to pay his obligation on the date it falls due may, within ninety days from the date of maturity of the obligation, redeem the pawn by payment of the principal of the debt with interest: Provided, however, that for the purpose of computing interest due after maturity of the obligation, the basis shall be the sum of the principal of the obligation and interest earned at the time the obligation matured.

SECTION 28. *Disposition of pawn on default of pawner* – A pawnbroker may sell an article pawned after expiration of ninety (90) days from the maturity of the loan in accordance with preceding section, provided that not less than ten (10) days before making the sale, the pawnbroker gives notice to the pledger by mail addressed to the post office address of the pledger as shown on the pawnbroker's records notifying the person that unless the person redeems the article within ten (10) days from the date of the mailing, the article becomes the property of the pawnbroker and subject to sale. The pawnbroker becomes owner of the unredeemed pledged

held for one hundred eighty (180) days after the maturity of the loan and no notice need be mailed to the pledge.

SECTION 29. *Public auction of pawned articles* – No pawnbroker shall sell or otherwise dispose of any article or thing taken or received in pawn or pledge except at public auction in his place of business as such pawnbroker or in any other public place within the territorial limits of the municipality or city where the pawnshop has its place of business, under the control and direction of an auctioneer with license duly issued by the corresponding authorities, nor shall any such article or thing be sold or disposed of unless said pawnbroker has published a notice one in at least two daily newspaper printed in the city or municipality during the week preceding the date of such sale. In remote areas where the newspaper publication shall be substituted by posting notices in conspicuous public places within the territorial limits of the city or municipality where the pawnshop has its place of business. Said notice, where published or posted, shall be in English, and either in Filipino or in the local dialect, and shall contain the name of the pawnshop, its owner, address of the establishment, hour, and date of the auction sale.

SECTION 30. *Lien on pledges* – A pawnbroker has first lien on all pledges for the amount of his loan, interest and charges except:

- (1) when the property that constitutes the pledge is stolen or converted property; or
- (2) where a prior lien exist under another statute.

SECTION 31. *Delivery of pledge upon surrender of ticket* – A pawnbroker shall not be required to deliver a pledge except upon surrender of the ticket, unless the ticket be impounded or its negotiation enjoined by a court.

SECTION 32. *Multiple claims* – If more than one (1) person shall claim the right to redeem a pledge, the pawnbroker shall incur no liability for refusing to deliver the pledge until the respective rights of the claimants shall have been adjudicated. If no action be brought against the pawnbroker by either party within the period for which the pawnbroker is required under this act to hold the pledge, or within thirty (30) days after notice of an adverse claim, the pawnbroker may proceed to sell the pledge subject of adjudication of the parties' rights.

SECTION 33. *Prohibition* – (a) No pawnbroker shall:

(1) receive any pledge or make a purchase from a person under eighteen (18) years of age; or

(2) receive any pledge or make a purchase of stolen property that the pawnbroker believes or should have reason to believe is stolen property acquired as result of a crime.

(b) No pawnbroker shall purchase personal property or any other thing of value agreeing to sell the same back to the seller at a price other than the original purchase price, at a total charge, rate of interest, discount, or other remuneration in excess of the rate chargeable under this Act.

SECTION 34. Closing and removal of business period – No pawnbroker shall close or transfer his place of business within three months after the expiration of the period for which any article or thing shall have been taken or received by him at his place otherwise disposed of in accordance with provisions of this Act; provided, however, that removal or transfer of a pawnbroker's place of business from one place to another within the territorial limits of the same city or municipality may be authorized on condition that the pawnbroker shall publish a notice of such removal in two local daily papers, one in English, another in Pilipino or in the local dialect, for a period of not less than three days, the last days of which shall take place five days before the removal, stating in the notice the date of the removal, the address of the premises to be vacated and of the premises to which the pawnshop will transfer; and that he shall likewise post in a conspicuous place in both premises one copy of the notice in English and another in either Pilipino or the local dialect during the period of its publication in the said local papers.

SECTION 35. *Grant of authority to the Bangko Sentral ng Pilipinas* – The BSP is hereby authorized (a) to issue rules and regulations to implement the provisions contained herein: (b) to require from pawnshops reports of conditions and such other reports necessary to determine compliance with the provisions of this Act (c) to exercise visitorial powers whenever deemed necessary; and (d) to impose such administrative sanctions including the imposition of fines for violations of this Acts and regulations issued by the BSP in pursuance thereto.

SECTION 36. *Penalties* – A fine of most less than five thousand pesos (P5,000.00) and not more than thirty thousand pesos (P30,000.00) or imprisonment for not less than thirty days

and not more than one year, or both., at the discretion of the court, shall be imposed for violations of the provisions of this Act and its implementing rules and regulations; provided, that if the violation is committed by a corporation, partnership or an association, the penalty provided for in this Act shall be imposed upon the directors, officers, employees or persons therein responsible for the offense, without prejudice to civil liabilities arising from the criminal offense.

SECTION 37. *Separability Clause* – If any provision or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 38. *Repealing Clause* – Any law presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provision of this Act is hereby repealed, modified or amended accordingly.

SECTION 39. *Effectivity Clause* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspaper of general circulation.

Approved.