


FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

7 JUL 24 13:10

SENATE
S. B. No. 1325

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article II, Section 5 provides:

The promotion of the general welfare is essential for the enjoyment by all 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 the operation of pawnshops 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 the interests of the public.*


MIRIAM DEFENSOR SANTIAGO


* This bill was originally filed during the Thirteenth Congress, First Regular Session.

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1 AN ACT
2 REGULATING PAWNSHOP ESTABLISHMENTS AND OPERATIONS

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

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

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

8 (A) “Pawnshop” means any person, partnership, association, or corporation lending
9 money on the deposit or pledge of personal property, or who deals in the purchase of personal
10 property on the condition of selling the property, or who deals in the purchase of personal
11 property on the condition of selling the property back again at a stipulated price, other than
12 choices in action, securities, or printed evidence of indebtedness; and shall be synonymous and
13 may be used interchangeably, with pawnbroker or pawnbrokerage.

14 (B) “Pledge” means the person who delivers personal property into the possession of a
15 pawnbroker as security for a loan.

16 (C) “Pledger” means the person who delivers personal property into the possession of a
17 pawnbroker as security for a loan unless such person discloses that the person is or was acting
18 for another; and in such event “pledger” means the disclosed principal.

19 (D) “Property” shall include only such personal property as may actually be delivered to
20 the control and possession of the pawnshop; provided, however, that certain specified chattels
21 such as guns, knives and similar weapons whose reception in pawn is expressly prohibited by
22 laws or regulations shall not be included.

1 (E) "Person" means an individual, firm, association, a limited liability company, a
2 partnership, a joint stock association, a trust or a corporation.

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

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

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

13 SECTION 4. *Requirement of registration with the Bangko Sentral ng Pilipinas.* – Any
14 individual, corporation or association duly registered and licensed to engage in the pawnshop
15 business shall file an information sheet, under oath, with the *Bangko Sentral ng Pilipinas*
16 (hereinafter referred to as "BSP") before commencement of actual operations; provided,
17 however, that pawnshops duly licensed and operating before the approval of this Act shall,
18 within six (6) months from the date of effectivity of the same, register with the BSP. For this
19 purpose, the BSP shall furnish pawnshops, upon request, with necessary copies of the prescribed
20 information sheet.

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

1 SECTION 6. *Citizenship Requirement.* – Upon the effectivity of this Act, only Filipino
2 citizens may establish and own a pawnshop organized in the form of a single proprietorship;
3 provided, however, that in the case of a partnership, at least seventy percent (70%) of its capital
4 shall be owned by Filipino Citizens. Provided, further, that in the case of a corporation, at least
5 seventy percent (70%) of the voting capital stock shall be owned by citizens of the Philippines,
6 or if there be no capital stock, at least seventy percent (70%) of the members entitled to vote,
7 shall be citizens of the Philippines.

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

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

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

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

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

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

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

10 (A) The licensee has failed to pay the annual license fee or comply with any ruling or
11 requirements of the commission;

12 (B) The licensee has violated any provision of this Act or any rule made by the
13 commission; or

14 (C) Any fact or condition exists which, if it had existed at the time of the original
15 application for such license, would have warranted the commission in refusing
16 originally to issue such license.

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

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

24 SECTION 14. *Books, Accounts and Records.* – (A) The licensee shall keep and use in his
25 business such books, accounts, and records as will enable the commission to determine whether
26 the licensee is complying with this Act and with the rules made by the commission pursuant to

1 this Act. Every licensee shall preserve such books, accounts, and records, including cards used in
2 the card system for at least two (2) years after making the final entry on any loan recorded
3 therein. The books and records of the licensee shall be kept so that the pawnbroking business
4 transacted may be readily separated and distinguished from any other business in which the
5 licensee may be engaged.

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

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

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

- 19 (1) Date of resale.
- 20 (2) Amount of resale.

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

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

27 SECTION 15. *Amount of Loan.* – Pawnshops may grant such amount of loans as may be
28 agreed upon between the parties; provided, that the amount of loan shall, in no case, be less than

1 thirty percent (30%) of the appraised value of the security offered for the loan unless the pawner
2 manifests in writing the desire to borrow a lesser amount.

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

8 (B) Interest shall not be deducted in advance, neither shall the pawnbroker induce or
9 permit any borrower to spot up or divide any loans for the purpose of evading any provision of
10 this chapter.

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

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

22 SECTION 17. *Submission of Report.* – Each licensee shall, annually on or before June 1,
23 file a report with the commission, giving such relevant information as the commission may
24 reasonably require concerning the business and operations during the preceding calendar year of
25 each licensed place of business conducted by such licensee. Such report shall be made under oath
26 and shall be in the form prescribed by the commission. The commission shall annually make an
27 analysis and a recapitulation of such reports, which shall be a matter of public record. The

1 commission may impose a fee of Two Hundred Pesos (P200.00) per day on any annual report
2 that is not received by June 1.

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

6 (1) The name and address of the pledger, or where the pledge is made by a person
7 acting as agent for a disclosed principal, the names and addresses of principal
8 and agent;

9 (2) The date of the transaction;

10 (3) The amount of the loan;

11 (4) The article or articles pledged;

12 (5) The serial number of the loan;

13 (6) The date on which each loan was paid in full, renewed, or unredeemed;

14 (7) An itemization of principal, interest and additional fees collected;

15 (8) The total of all charges collected.

16 (B) Other methods of recording data, such as electronic or computerized methods, may
17 be used provided written print-outs or hard copies of the required data are readily available. The
18 record keeping system of a licensee shall be made available for examination. The commission
19 shall determine the sufficiency of the records and whether the licensee has made the required
20 information reasonably available.

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

1 SECTION 20. *Pawn Ticket.* – The pawnbroker shall, at the time of making a loan, deliver
2 to the pledger or the pledger’s agent a memorandum or ticket on which shall be legibly written or
3 printed:

- 4 (A) The name of the pledger;
- 5 (B) The name of the pawnbroker and the place where the pledge is made;
- 6 (C) The articles or articles pledged;
- 7 (D) The amount of the loan;
- 8 (E) The date of the transaction;
- 9 (F) The serial number of the loan;
- 10 (G) The sum of the interest as provided in this Act;
- 11 (H) The amount of interest;
- 12 (I) The amount of charge and principal due at maturity; and
- 13 (J) A pawnbroker may insert in such ticket any other terms and conditions not
14 inconsistent with this chapter. However, nothing appearing on a pawn ticket shall
15 relieve the pawnbroker of the obligations to exercise reasonable care in the
16 safekeeping of the article pledged with him.

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

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

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

7 SECTION 24. *Lost, Destroyed or Stolen Ticket.* – If a ticket is lost, destroyed, or stolen,
8 the pledger shall so notify the pawnbroker in writing. Before delivering the collateral or issuing a
9 new ticket, the pawnbroker shall require the pledger to make an affidavit of the alleged loss,
10 destruction or theft of the ticket. Upon receipt of such affidavit, the pawnbroker shall permit the
11 pledger either to redeem the loan or to receive a new ticket upon the payment of accrued interest
12 and charges, and the pawnbroker shall incur no liability for so doing, unless the pawnbroker had
13 previously received written notice of any adverse claim. The pawnbroker may collect reasonable
14 fee for reissuing the pawn ticket or affecting the affidavit along with the current lawful charge
15 for notary fee.

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

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

25 SECTION 27. *Redemption.* – The pawner who fails to pay his obligation on the date it
26 falls due may, within ninety days from the date of maturity of the obligation, redeem the pawn
27 by payment of the principal of the debt with interest: Provided, however, that for the purpose of

1 computing interest due after the maturity of the obligation, the basis shall be the sum of the
2 principal of the obligation and interest earned at the time the obligation matured.

3 SECTION 28. *Disposition of Pawn on Default of Pawner.* – A pawnbroker may sell an
4 article pawned after the expiration of ninety (90) days from the maturity of the loan in
5 accordance with the preceding section, provided that not less than ten (10) days before making
6 the sale, the pawnbroker gives notice to the pledger by mail addressed to the post office address
7 of the pledger as shown on the pawnbroker's records notifying the person that unless the person
8 redeems the article within ten (10) days from the date of the mailing, the article becomes the
9 property of the pawnbroker and subject to sale. The pawnbroker becomes the owner of all
10 unredeemed pledges held for one hundred eighty (180) days after the maturity of the loan and no
11 notice need be made to the pledger.

12 SECTION 29. *Public Auction of Pawned Articles.* – No pawnbroker shall sell or
13 otherwise dispose of any article or thing taken or received in part or pledge except at public
14 auction in his place of business as such pawnbroker or in any other public place within the
15 territorial limits of the municipality or city where the pawnshop has its place of business, under
16 the control and direction of an auctioneer with license duly issued by the corresponding
17 authorities, nor shall any such article or thing be sold or disposed of unless said pawnbroker has
18 published a notice once in at least two daily newspapers printed in the city or municipality during
19 the week preceding the date of such sale. In remote areas where the newspapers are neither
20 published nor circulated notice by newspaper publication shall be substituted by posting notices
21 in conspicuous public places within the territorial limits of the city or municipality where the
22 pawnshop has its place of business. Said notice, whether published or posted, shall be in English,
23 and either in Filipino or in the local dialect, and shall contain the name of the pawnshop, its
24 owner, address of the establishment, hour, and date of the auction sale.

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

27 (A) When the property that constitutes the pledge is stolen or converted property; or

1 (B) Where a prior lien exists under another statute.

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

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

11 SECTION 33. *Prohibition.* –

12 (A) No pawnbroker shall:

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

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

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

21 SECTION 34. *Closing and Removal of Business Period.* – No pawnbroker shall close or
22 transfer his place of business within three (3) months after the expiration of the period for which
23 any article or thing shall have been taken or received by him at his place of business in pawn or
24 pledge, or before any such article or thing shall have been sold or otherwise disposed of in
25 accordance with the provisions of this Act; provided, however, that removal or transfer of a
26 pawnbroker's place of business from one place to another within the territorial limits of the same
27 city or municipality may be authorized on condition that the pawnbroker shall publish a notice of

1 such removal in two local daily newspapers, one in English, another in Filipino or in the local
2 dialect, for a period of not less than three (3) days, the last day of which shall take place five (5)
3 days before the removal, stating in the notice the date of removal, the address of the premises to
4 be vacated and of the premises to which the pawnshop will transfer; and that he shall likewise
5 post in a conspicuous place in both premises one copy of the notice in English and another in
6 either Filipino or the local dialect during the period of its publication in the said local papers.

7 SECTION 35. *Grant of Authority to the Bangko Sentral ng Pilipinas.* - The BSP is
8 hereby authorized:

9 (A) To issue rules and regulations to implement the provisions contained herein;

10 (B) To require from pawnshops reports of condition and such other reports necessary to
11 determine compliance with the provisions of this Act;

12 (C) To exercise visitorial powers whenever deemed necessary; and

13 (D) To impose such administrative sanctions including the imposition of fines for
14 violations of this Act and regulations issued by the BSP in pursuance thereto.

15 SECTION 36. *Penalties.* - A fine of not less than Five Thousand Pesos (P5,000.00) and
16 not more than Thirty Thousand Pesos (P30,000.00) or imprisonment for not less than thirty days
17 and not more than one (1) year, or both, at the discretion of the court, shall be imposed for
18 violations of the provisions of this Act and its implementing rules and regulations; provided, that
19 if the violation is committed by a corporation, partnership or an association, the penalty provided
20 for in this Act shall be imposed upon the directors, officers, employees or persons therein
21 responsible for the offense, without prejudice to civil responsibilities arising from the criminal
22 offense.

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

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

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

6 Approved,