

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

SENATE  
OFFICE OF THE SECRETARY

10 JUL 21 AM '05

SENATE  
S. No. 1696

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Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article 11, Section 5 provides:

SEC. 5. 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 the 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 or a loan unless such person discloses that the person is or was acting for  
18 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.* –

4 (A) No person or entity shall engage in business as a pawnbroker, act as a pawnbroker, or  
5 advertise, transact, or solicit business as a pawnbroker except as authorized by this chapter and  
6 without first obtaining a license from the 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  
22 SECTION 5. *Capital.* - The minimum paid-in capital of any pawnshop which may be  
23 established after the effectivity of this Act shall be Fifteen Million Pesos (P15,000,000.00);  
24 provided, however, that pawnshops established and in operation prior thereto shall comply with  
25 the minimum capitalization required under the provisions of this section within such time as may  
26 be prescribed by the Monetary Board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19           SECTION 14. *Books, Accounts and Records.* - (A) The license shall keep and use in his  
20 business such books, accounts, and records as will enable the commission to determine whether  
21 the licensee is complying with this Act and with the rules made by the commission pursuant to  
22 this Act. Every licensee shall preserve such books, accounts, and records, including cards used in  
23 the card system for at least two (2) years after making the final entry on any loan recorded  
24 therein. The books and records of the licensee shall be kept so that the pawnbroking business  
25 transacted may be readily separated and distinguished from any other business in which the  
26 licensee may be engaged.

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

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

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

- 11 (1) Date of resale.
- 12 (2) Amount of resale.

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

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

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

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

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

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

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

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

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

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

29 (2) The date of the transaction;

- 1 (3) The amount of the loan;
- 2 (4) The article or articles pledged;
- 3 (5) The serial number of the loan;
- 4 (6) The date on which each loan was paid in full, renewed, or unredeemed;
- 5 (7) An itemization of principal, interest and additional fees collected;
- 6 (8) The total of all charges collected.

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

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

19 SECTION 20. *Pawn Ticket.* -The pawnbroker shall, at the time of making a loan, deliver  
20 to the pledger or the pledger's agent a memorandum or ticket on which shall be legibly written or  
21 printed:

- 22 (A) The name of the pledger;
- 23 (B) The name of the pawnbroker and the place where the pledge is made;
- 24 (C) The articles or articles pledged;
- 25 (D) The amount of the loan;
- 26 (E) The date of the transaction;
- 27 (F) The serial number of the loan;
- 28 (G) The sum of the interest as provided in this Act;
- 29 (H) The amount of interest;



1 (I) The amount of charge and principal due at maturity; and

2 (J) A pawnbroker may insert in such ticket any other terms and conditions not  
3 inconsistent with this chapter. However, nothing appearing on a pawn ticket shall relieve the  
4 pawnbroker of the obligations to exercise reasonable care in the safekeeping of the article  
5 pledged with him.

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

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

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

22 SECTION 24. *Lost, Destroyed or Stolen Ticket.* - If a ticket is lost, destroyed, or stolen,  
23 the pledger shall so notify the pawnbroker in writing. Before delivering the collateral or issuing a  
24 new ticket, the pawnbroker shall require the pledger to make an affidavit of the alleged loss,  
25 destruction or theft of the ticket. Upon receipt of such affidavit, the pawnbroker shall permit the  
26 pledger either to redeem the loan or to receive a new ticket upon the payment of accrued interest  
27 and charges, and the pawnbroker shall incur no liability for so doing, unless the pawnbroker had  
28 previously received written notice of any adverse claim. The pawnbroker may collect reasonable

1 fee for reissuing the pawn ticket or affecting the affidavit along with the current lawful charge  
2 for notary fee.

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

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

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

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

26 SECTION 29. *Public Auction of Pawned Articles.* - No pawnbroker shall sell or  
27 otherwise dispose of any article or thing taken or received in part or pledge except at public  
28 auction in his place of business as such pawnbroker or in any other public place within the  
29 territorial limits of the municipality or city where the pawnshop has its place of business, under

1 the control and direction of an auctioneer With license duly issued by the corresponding  
2 authorities, nor shall any such article or thing be sold or disposed of unless said pawnbroker has  
3 published a notice once in at least two daily newspapers printed in the city or municipality during  
4 the week preceding the date of such sale. In remote areas where the newspapers are neither  
5 published nor circulated notice by newspaper publication shall be substituted by posting notices  
6 in conspicuous public places within the territorial limits of the city or municipality where the  
7 pawnshop has its place of business. Said notice, whether published or posted, shall be in English,  
8 and either in Filipino or in the local dialect, and shall contain the name of the pawnshop, its  
9 owner, address of the establishment, hour, and date of the auction sale.

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

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

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

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

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

23 SECTION 33. *Prohibition.* -

24 (A) No pawnbroker shall:

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

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

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

4 SECTION 34. *Closing and Removal of Business Period.* - No pawnbroker shall close or  
5 transfer his place of business within three (3) months after the expiration of the period for which  
6 any article or thing shall have been taken or received by him at his place of business in pawn or  
7 pledge, or before any such article or thing shall have been sold or otherwise disposed of in  
8 accordance with the provisions of this Act; provided, however, that removal or transfer of a  
9 pawnbroker's place of business from one place to another within the territorial limits of the same  
10 city or municipality may be authorized on condition that the pawnbroker shall publish a notice of  
11 such removal in two local daily newspapers, one in English, another in Filipino or in the local  
12 dialect, for a period of not less than three (3) days, the last day of which shall take place five (5)  
13 days before the removal, stating in the notice the date of removal, the address of the premises to  
14 be vacated and of the premises to which the pawnshop will transfer; and that he shall likewise  
15 post in a conspicuous place in both premises one copy of the notice in English and another in  
16 either Filipino or the local dialect during the period of its publication in the said local papers.

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

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

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

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

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

25 SECTION 36. *Penalties.* - A fine of not less than Five Thousand Pesos (p5,000.00)  
26 and not more than Thirty Thousand Pesos (P30,000.00) or imprisonment for not less than  
27 thirty days and not more than one (1) year, or both, at the discretion of the court, shall be  
28 imposed for violations of the provisions of this Act and its implementing rules and regulations;  
29 provided, that if the violation is committed by a corporation, partnership or an association, the

1 penalty provided for in this Act shall be imposed upon the directors, officers, employees or  
2 persons therein responsible for the offense, without prejudice to civil responsibilities arising  
3 from the criminal offense.

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

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

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

12 Approved,

/apm100708