

Date of Hearing: June 22, 2015

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Matthew Dababneh, Chair

SB 285 (Block) – As Amended June 4, 2015

**SENATE VOTE:** 39-0

**SUBJECT:** Pawnbrokers: compensation: loans.

**SUMMARY:** Increases the maximum rates and fees that may be charged by California pawnbrokers and allows pawnbrokers to substitute electronic notices for mailed notices, as specified. Specifically, **this bill:**

- 1) Allows for the following changes to rates and fees charged by pawnbrokers:
  - a) Increase certain amounts that may be charged during the first three months of any loan less than \$2,500 by consolidating the existing 21 loan brackets into 6 and setting new maximum charges within those brackets;
  - b) Increase from 2.5 percent to 3 percent the maximum monthly rate of compensation that may be charged for the fourth and subsequent months on the unpaid principal balance of any loan;
  - c) Increase from 2 percent to 3 percent the allowable loan setup fee for each loan, and increase from \$10 to \$30 the maximum allowable loan setup fee; and
  - d) Increase the amount that may be charged for the handling and storage of pawned articles.
- 2) Authorizes a pawnbroker to deliver, at the sole option of the pledgor, specified notices via electronic mail.

**EXISTING LAW:**

- 1) Defines “pawnbroker” as every person engaged in the business of receiving goods, including motor vehicles, in pledge as security for a loan. (Fin. Code Sec. 21000.)
- 2) Requires every loan made by a pawnbroker to be evidenced by a written contract that provides for a four-month loan period, as specified. If a pledged article is not redeemed during the four-month period, and there is not a written agreement to extend the loan period, the pawnbroker must notify the borrower at his or her last known address within 30 days after expiration of the loan period and provide a 10 day extension to redeem the pledged property, as specified. Existing law provides that if the pawnbroker fails to notify the borrower within 30 days after the expiration of the loan period, the pawnbroker shall not charge interest from the day after the expiration of the one month period. (Fin. Code Sec. 21201.)
- 3) Permits a pawnbroker to charge fees pursuant to a set schedule of charges that are based upon the amount of the loan, including a charge not exceeding one dollar per month for any loan that does not exceed \$14.99. (Fin. Code Sec. 21200.5.) Existing law provides that charges for the first 90 days of a loan shall be determined by that schedule of charges. Charges for any period of time following the first 90 days of the loan shall not exceed the lesser of \$3 per month or 2.5 percent

of the unpaid principal balance. (Fin. Code Secs. 21200, 21201.4.)

- 4) Provides that a loan setup fee not to exceed \$5 or 2 percent, whichever is greater, may be charged for each loan. However, the maximum loan setup fee shall not exceed \$10. (Fin. Code Sec. 21200.1)
- 5) Provides that, in addition to other allowed charges, at the time property is redeemed a pawnbroker may collect a handling and storage charge for pawned articles pursuant to a set schedule of charges based on the volume of the pawned item, including a charge of \$5 for any article that cannot be contained within one cubic foot. Existing law prohibits the collection of a storage charge for any article that can be contained within one cubic foot. (Fin. Code Sec. 21200.6)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

The author writes:

*SB 285 would increase the rates and fees that California pawnbrokers may charge their customers, helping sustain the long-term viability of the pawn industry in California. California's pawn lending rates and fees are set by statute and have periodically been increased over the years to keep up with the cost of doing business. The last increase occurred in 2011 (AB 424, Eng, Chapter 318, Statutes of 2011).*

*According to [the California Pawnbroker's Association,] CAPA, California's interest rate and fee caps on pawn loans of up to \$2,500 are among the lowest in the country. California currently ranks 48th out of 51, when our allowable pawnbroker compensation is compared to the other states and the District of Columbia. Many of California's pawnbrokers - particularly our smallest ones - are struggling to remain in business in a state whose cost of living and cost of doing business is among the highest in the country.*

*CAPA, sponsor of this bill, counts approximately half of California's licensed pawnbrokers among its membership. In 2014 alone, thirteen of CAPA's members shut their doors, unable to make ends meet. Without an increase in allowable compensation, CAPA asserts that California's pawn industry will not survive.*

*According to national figures provided by CAPA, about 80 [percent] of pawn customers are repeat customers. Repayment rates nationally are in the 70 [percent] to 80 [percent] range, with California trending toward the upper level of that range.*

SB 285 is the latest in a series of bills sponsored by CAPA that seeks to increase the fees and charges associated with pawn transactions due to rising business costs and other economic impacts. Even with the increases in SB 285 California pawn transaction rates would still remain among the cheapest among all 50 states. Unlike other forms of small dollar lending a pawnbroker must have sufficient liquidity to fund the loan but also must store the property for the term of the loan.

SB 285 institutes the following key changes:

- 1) Increases from 2.5 percent to 3 percent the maximum monthly rate of compensation that may be charged for the fourth and subsequent months on the unpaid principal balance of any loan. Increases from 2 percent to 3 percent the allowable loan setup fee for each loan, and increase from \$10 to \$30 the maximum allowable loan setup fee.
- 2) Permits the collection of a \$1 handling and storage charge for any article that can be contained within one cubic foot, and would authorize the collection of handling and storage charges at the time a loan is issued instead of when the property is redeemed.
- 3) Allows a pawnbroker to notify the pledgor at his or her last known electronic address of the termination of the loan period at the sole option of the pledgor by a means for which verification of electronic transmission of the notification can be provided by the pawnbroker.

Specifically this bill would revise and consolidate the current loan charges by reducing from 21 brackets to 6 brackets the schedule of charges a pawnbroker may charge for the first 90 days of the loan. The new 6-tier rate structure would be the following:

Maximum Charge for First Three Months	Size of Loan
\$3	<\$20
\$6	\$20-\$49.99
\$9	\$50 to \$74.99
\$12	\$75 to \$99.99
\$15	\$100 to \$174.99
9% of principal amount	

If SB 285 becomes law the following demonstrates the new loan charges on a pawn transaction, assuming a \$1 storage fee:

Amount Borrowed	Cost to Borrower at End of Four-Month Loan Period*	Annual Percentage Rate
\$100	\$24.00	72.00
\$250	\$38.50	46.20
\$500	\$76.00	45.60
\$1000	\$151.00	45.30

\$1500	\$226.00	45.20
\$2000	\$301.00	45.15
\$2499	\$330.88	39.72

\*Assumes a storage fee of \$1.

#### Prior Legislation:

AB 424 (Eng, Chapter 318, Statutes of 2011) authorized pawnbrokers to charge borrowers the greater of three dollars per month or 2.5 percent per month on the unpaid principal balance of loans below \$2,500 that are greater than three months old. This bill also defined a month for purposes of the laws governing pawnbrokers as a period of time consisting of 30 consecutive days.

SB 217 (Vargas, Chapter 444, Statutes of 2011) would have authorized pawnbrokers to charge borrowers the greater of three dollars per month or 2.5 percent per month on the unpaid principal balance of loans below \$2,500 that are greater than three months old. This bill was gutted and amended to address a different subject.

SB 212 (DeLeon, 2011) would have clarified the circumstances under which replacement pawn loans could be taken out by individuals who are unable to undertake these transactions in person. This bill died in the Senate Banking & Financial Institutions Committee.

AB 1357 (Coto, 2009) would have increased the maximum fee a pawnbroker may charge or receive on the entire unpaid principal balance of loans over 90 days to 2.5 percent per month. This bill was vetoed by Governor Schwarzenegger.

SB 580 (Calderon, Chapter 340, Statutes of 2008), increased the allowable loan set-up fee from \$3 to \$5 and increased the minimum monthly charge from \$1 to \$3.

AB 264 (Mendoza, 2007), as introduced, would have increased the maximum rate that may be charged on loans over 90 days by instituting a flat 2.5 percent a month interest rate, and increased the loan setup fee to a maximum of \$50, as specified. The bill was gutted and amended after being held in the Senate Judiciary Committee.

AB 1297 (Papan, Chapter 505, Statutes of 2001), increased the maximum loan setup fee on loans of up to \$50 from \$2 to \$3; increased allowable handling and storage fees from \$3, \$9, and \$18, to \$5, \$10, and \$20, depending on the size of the object; and increased the maximum allowable fee for costs relating to sending a loan expiration notice from \$2 to \$3

#### **Support**

California Pawnbrokers Association (Sponsor)

#### **Opposition**

None on file.

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