

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Timothy Grayson, Chair

SB 1198 (Roth) – As Amended April 8, 2024

SENATE VOTE: 38-0

SUBJECT: Pawnbrokers: fees and charges

SUMMARY: Increases the caps on certain fees collected by pawnbrokers and authorizes a remote transaction fee.

Specifically, **this bill:**

- 1) Establishes the following updated fee schedule for a pawnbroker's storage, handling, and security-related activities:
 - a) \$5 (increased from \$3) or 2.5 percent of the loan amount for any item that can be contained within one cubic foot;
 - b) \$10 (increased from \$6) or 2.5 percent of the loan amount for any item that can be contained within three cubic feet;
 - c) \$20 (increased from \$12) or 2.5 percent of the loan amount for any item that can be contained within six cubic feet; and
 - d) \$30 (increased from \$24) or 2.5 percent of the loan amount for any item that cannot be contained within six cubic feet, plus \$5 (increased from \$3) for each additional cubic foot in excess of six cubic feet.
- 2) Authorizes a pawnbroker to collect a remote transaction fee, if the pledgor elects to request a replacement loan or to redeem a loan through electronic means, of up to 3.0 percent of the transaction amount to cover the recurring costs associated with software applications.
- 3) Increases the allowed fee from \$5 to \$7 that a pawnbroker may charge a borrower, who fails to redeem a pawned item during the loan period, for mailing or electronically transmitting the 10-day notice of the borrower's right of redemption.

EXISTING LAW:

- 1) Defines a pawnbroker as any person engaged in the business of receiving goods, including motor vehicles, in pledge as security for a loan, and defines pledged property as property held as security for a loan, the title to which remains with the pledgor (i.e., the borrower) and not the pawnbroker (Financial Code Sections 21000 and 21002).
- 2) Provides for the licensing of pawnbrokers by a chief of police, sheriff, or police commission (Financial Code Section 21300).

FISCAL EFFECT: Unknown. This bill is keyed Fiscal by Legislative Counsel.

COMMENTS:1) Purpose

According to the author:

Every five years, the California Pawnbrokers come before the Legislature to request approval to adjust maximum fees that can be charged on a pawn loan to keep pace with rising operational costs. We are at that five-year mark. SB 1198 ensures the financial viability of the pawn industry by increasing handling and storage fees to account for increased security costs, allowing for a new remote transaction fee, and increasing the fee to prepare a loan expiration notice. Pawnshops throughout the state serve as a reliable source of short-term loans, allowing someone to access much-needed cash without the hassle often associated with traditional lending institutions. Whether it's covering medical bills, car repairs, or other urgent expenses, pawnshops offer an instant and accessible solution for those in need. Current law limits the amount of compensation pawnbrokers may charge or receive for providing their services. Without these fee increases, lending businesses will continue to close throughout the state; having an immediate and dramatic impact on the low-income communities they serve.

2) Background on pawn loans.a) How do pawn loans work?

Pawn loans allow individuals to obtain immediate cash by offering collateral to a pawn shop. Typically, the loan amount is determined as a percentage of the item's value, assessed by the pawnbroker. Pawn loans commonly amount to approximately 50% of the item's resale value, though this percentage may vary depending on the type of item.

Every pawn loan for which goods are received as security must be evidenced by a written contract, with a copy provided to the customer. Legally, the loan agreement must specify a minimum loan period of four months. Pawnbrokers are obligated to keep every pledged item throughout the designated loan period as outlined in the contract.

State law establishes the timeline for when, and the process by which, a pledged article can be sold. If any pledged article is not redeemed during the loan period and the customer and pawnbroker do not mutually agree in writing to extend that period, the pawnbroker must notify the customer within one month after the loan period expires. This notice works to extend the right of redemption for 10 days from the date of mailing or electronic transmission of that notice.

If any pledged article is not redeemed within the 10-day notice period, the pawnbroker becomes automatically vested with title to the pledged article. The pawnbroker may then sell or dispose of the property as he or she wishes.

b) Who uses pawn loans?

When consumers face difficulty qualifying for credit from traditional sources such as banks and credit unions, they often resort to alternative financial services (AFS)

providers like payday lenders or auto title lenders. These borrowers pose higher risks for lenders, leading many AFS providers to offer credit at significantly higher costs compared to mainstream credit products. A pawnbroker is another type of AFS provider that offers a financial solution to consumers who may have few options.

Surveys conducted by the Consumer Financial Protection Bureau (CFPB) and the Federal Deposit Insurance Corporation (FDIC) indicate that pawn loan borrowers are more likely to be unbanked, often unable to qualify for more economical credit alternatives, and likely grappling with significant income or expense shocks.

In 2021, the CFPB analyzed consumer behavior in their use of three AFS products: auto title loans, payday loans, and pawn loans. Based on the survey results, CFPB concluded that those who rely on these products valued the speed, discretion, and the lack of a credit check as key reasons for deciding on their choice, and 77% of the consumers using these AFS products had experienced a financial shock and had difficulty paying a bill. Moreover, while just a small share of consumers use these products, those who do use them tend to use them repeatedly.

Pawn loans are also more likely to be used by those without traditional bank accounts. According to the FDIC, 5.6% of unbanked households used a pawnshop loan in 2019 compared to 1.1% of banked households.¹

c) How are pawn shops regulated?

Under state law, California's Department of Justice (DOJ) regulates pawnbrokers and enforces California's Financial Code provisions governing the industry. However, in practice, the bulk of pawnbroker oversight occurs at the local level, with the chief of police, sheriff, or police commissioner running the licensing process and administering and enforcing state law. Under this model, the DOJ provides pertinent information to local licensing agencies, such as background check results and a license number. Moreover, the DOJ has implemented a statewide uniform electronic reporting system called the California Automated Pawn and Secondhand Dealer System, for pawnbrokers to use to submit transaction information to DOJ.

d) How much do pawn loans cost?

State law limits what pawnbrokers can charge borrowers for a pawn loan. Because these fee caps do not adjust automatically according to economic conditions, the allowable fees can become more restrictive for pawnbrokers over time due to inflation or increased operational costs.

Under existing state law, a pawnbroker may only charge a specified amount based on the size of the loan for the first three months of the four-month loan. For example, a pawnbroker may charge up to \$3 a month for a loan not more than \$19.99, compared to no more than 9% on a loan between \$175 and \$2,499. Beginning on the fourth month, the pawnbroker may then charge 3% per month on the unpaid principal balance.

¹ <https://www.fdic.gov/analysis/household-survey/index.html>

In addition to the interest and fees on the loan amount, there are set charges for storing, securing, and handling the pawned items. Even with these fees, pawn loans are generally more affordable than other types of consumer loans offered by AFS providers. A \$300 pawn loan with a four-month term has an annual percentage rate (APR) of approximately 50%, while a payday loan with a two-week term carries an APR of more than 450%.

3) What does SB 1198 do?

SB 1198 increases the allowable fees a pawnbroker can charge. Specifically, this bill increases the cap on storage fees and authorizes an additional “remote transaction fee” for when the pledger redeems the loan electronically. This fee is meant to cover the costs associated with new software procurement.

The below table summarizes the new proposed fee structure for two hypothetical pawn loans. These loans are assumed to be for an item that can be contained within six cubic feet.

Loan amount	\$100		\$1,000	
	Current Fee Schedule	Proposed Fee Schedule	Current Fee Schedule	Proposed fee schedule
Months 1-3	\$15	\$15	\$90	\$90
Month 4	\$3	\$3	\$30	\$30
Setup Fee	\$7.50	\$7.50	\$35	\$35
Storage/handling security fee	\$12	\$20	\$12	\$25
Remote transaction fee	\$--	\$3	\$--	\$30
Total fees	\$37.50	\$48.50	\$167	\$210
Fee for 10-day notice	\$5	\$7	\$5	\$7

The California Pawnbrokers Association (CAPA), the sponsor of this bill, argues this bill necessary for pawnbrokers to remain competitive. High inflation and increased costs have put additional financial pressures on the industry, and CAPA argues that roughly one-third of pawn shops have closed in the past five years.

4) Prior Legislation

- a) AB 1186 (Medina, Chapter 189, Statutes of 2019) increased the loan setup fee to \$7.50 or 3.5% of the loan amount, whichever is greater, not to exceed \$90 (up from \$5 or 3% of the loan amount, not to exceed \$30); increased maximum allowed storage and handling fees; increased the firearms processing charge to \$20 per firearm (up from \$4 per firearm); and increased the charge that may be imposed to prepare a loan expiration notice to \$5 (up from \$3).

- b) SB 285 (Block, Chapter 245, Statutes of 2015) increased the maximum monthly interest rate to 3%; increased the loan setup fee to \$5 or 3%, not to exceed \$30; collapsed the prior 21-tier fee schedule to the current 6-tier fee schedule; added a new storage charge for small items (those that can be contained within one cubic foot), and required representatives of the pawnbroker industry to poll their members annually to gather data relating to the current financial condition of the California pawn industry.
- c) SB 300 (Mendoza, Chapter 417, Statutes of 2015) allowed pawnbrokers to conduct business transactions electronically, as specified, except when establishing an original loan.
- d) AB 424 (Eng, Chapter 318, Statutes of 2011) defined a month for purposes of the Pawnbroker Law as a period of thirty consecutive days, and replaced a tiered interest rate model that had previously applied to loans older than three months with a uniform charge equal to the greater of \$3 per month or 2.5% per month on the unpaid principal balance of the loan.
- e) SB 580 (Calderon, Chapter 340, Statutes of 2008) increased the minimum monthly interest charge from \$1 to \$3 on loans older than 90 days and changed the cap on loan set-up fees to the greater of \$5 or 2%, capped at \$10 (up from \$3 on loans of \$50 and below and \$5 on loans above \$50).

5) Arguments in support

CAPA writes the following:

For Californians seeking to obtain a relatively small dollar loan, pawnbrokers provide short-term credit without a credit check so that everyone who seeks a pawn loan can borrow money. The ability for a borrower to secure a small dollar loan through personal property allows the consumer to manage the risk of default and limit the financial damage, should a default occur. Most pawn loans are relatively small, and the vast majority of pawned items are redeemed. An industry survey conducted in the last 6 months, revealed that 91% of all pawn transactions were for loan sizes of less than \$400.

In order for the industry to continue to provide financial services, a revenue increase is needed to keep up with the technological, labor, real estate, and governmental compliance costs. Without this fee increase, lending businesses will continue to close.

REGISTERED SUPPORT / OPPOSITION:

Support

California Pawnbrokers Association (CAPA)

Opposition

None on file.

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