

State of Tennessee

PUBLIC CHAPTER NO. 862

HOUSE BILL NO. 2256

By Representatives Powers, Hardaway

Substituted for: Senate Bill No. 2337

By Senator McNally

AN ACT to amend Tennessee Code Annotated, Title 45, Chapter 6, relative to pawnbrokers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 45, Chapter 6, is amended by adding the following language as a new part:

45-6-301.

This part shall be known and may be cited as the "Pawnbroker Restitution Act".

45-6-302.

Notwithstanding § 40-24-105, all moneys paid by a conveying customer pursuant to § 45-6-213(c), § 40-35-301, or § 40-35-304, or pursuant to an order by any court of this state, whether civil or criminal in nature, shall be credited as follows:

(1) If the misappropriated or stolen goods are returned to the claimant of the property, the pawnbroker shall first receive payment until the full amount the conveying customer received from the pawnbroker for the property, plus all applicable pawn service charges, and all fees and costs incurred by the pawnbroker in defending a replevin action or civil matter, are paid. Only after the pawnbroker is repaid in full shall payments be credited toward litigation taxes, costs, fines, or any other payment specified by the court; or

(2) If the misappropriated or stolen goods are not returned to the claimant of the property, the claimant shall first receive payment in an amount specified by the court. After the claimant receives payment in full, all other payments shall be made in accordance with subdivision (1).

45-6-303.

A pawnbroker shall not be required to relinquish to a claimant an item believed to be misappropriated or stolen unless a court has ordered the pawnbroker to do so; provided, that the pawnbroker shall be subject to any hold order issued pursuant to § 45-6-213.

SECTION 2. Tennessee Code Annotated, Section 45-6-213(b), is amended by deleting the subsection and substituting instead the following:

(b)

(1) To obtain possession of purchased or pledged goods held by a pawnbroker which a claimant claims to be misappropriated or stolen, the claimant shall notify the pawnbroker by certified mail, return receipt requested, or in person evidenced by signed receipt, of the claimant's claim to the purchased or pledged goods. The notice shall contain a complete and accurate description of the purchased or pledged goods and shall be accompanied by a legible copy of the applicable law enforcement agency's report on the misappropriation or theft of such property.

(2) The claimant and the pawnbroker shall, in good faith, attempt to resolve the claimant's claim to the purchased or pledged goods within ten (10) days after the claimant notifies the pawnbroker pursuant to subdivision (b)(1). If, after the ten-day period, the claimant and pawnbroker do not resolve the claimant's claim, then:

(A) The claimant may petition a court of competent jurisdiction to order the return of the property, naming the pawnbroker as a defendant, and must serve the pawnbroker with a copy of the petition. The pawnbroker shall hold the property described in the petition until either the pawnbroker and the claimant resolve the claim, or a court specifically orders disposition of the property. The court shall waive any filing fee for the petition to recover the property, and the sheriff shall waive the service fees; or

(B) An appropriate law enforcement official may place a hold order on the property pursuant to subsection (f).

SECTION 3. Tennessee Code Annotated, Section 45-6-213(c), is amended by adding the following language as a new subdivision:

(4) Notwithstanding § 40-24-105, all moneys paid by the conveying customer shall be distributed in accordance with § 45-6-302.

SECTION 4. Tennessee Code Annotated, Section 45-6-213(f), is amended by deleting the first sentence and substituting instead the following:

When an appropriate law enforcement official has probable cause to believe that property in the possession of a pawnbroker is misappropriated or stolen, the official shall, upon expiration of the ten-day period required by subdivision (b)(2), place a written hold order on the property.

SECTION 5. This act shall take effect July 1, 2016, the public welfare requiring it.

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PASSED: April 7, 2016

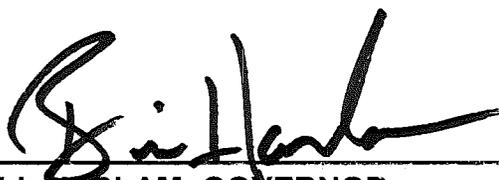


BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 19th day of April 2016



BILL HASLAM, GOVERNOR