FINANCE CODE

TITLE 4. REGULATION OF INTEREST, LOANS, AND FINANCED TRANSACTIONS

SUBTITLE C. PAWNSHOPS

CHAPTER 371. PAWNSHOPS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 371.001. SHORT TITLE. This chapter shall be known and may be cited as the "Texas Pawnshop Act."

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.002. PURPOSES. The purposes of this chapter are to:

(1) prevent fraud, unfair practices, discrimination, imposition, and abuse of state residents;

(2) exercise the state's police power to ensure a sound system of making pawn loans and transfers of personal property by and through pawnshops;

(3) prevent transactions in stolen property and other unlawful property transactions by licensing and regulating pawnbrokers;

(4) provide for licensing and investigation fees;

(5) provide minimum capital requirements for pawnbrokers;

(6) ensure financial responsibility to the state and its residents and compliance with federal, state, and local law, including rules and ordinances; and

(7) assist local governments in the exercise of their police power.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 63, eff. September 1, 2019.

Sec. 371.003. DEFINITIONS. In this chapter:

(1) "Applicable liabilities" include trade or other accounts payable; accrued sales, income, or other taxes; accrued

expenses; and notes or other payables that are unsecured or secured in whole or part by current assets. The term does not include a liability secured by assets other than current assets.

(2) "Commissioner" means the consumer credit commissioner.

(3) "Current assets" include an investment made in cash, bank deposits, merchandise inventory, and loans due from customers, excluding the pawn service charge. The term does not include an investment made in:

(A) fixed assets of real estate, furniture, fixtures, or equipment;

(B) stocks, bonds, or other securities; or

(C) prepaid expenses or other general intangibles.

(4) "Goods" means tangible personal property.

(5) "Net assets" means the book value of current assets less applicable liabilities.

(6) "Pawnbroker" means a person engaged in the business of:

(A) lending money on the security of pledged goods; or

(B) purchasing goods on condition that the goods may be redeemed or repurchased by the seller for a fixed price within a fixed period.

(7) "Pawnshop" means a location at which or premises in which a pawnbroker regularly conducts business.

(8) "Pawn transaction" means the pledging, by a person present in this state at the time of the transaction, with a pawnbroker of a single item of goods as security for a loan of money.

(9) "Pledged goods" means goods deposited with or otherwise delivered into the possession of a pawnbroker in connection with a pawn transaction.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 64, eff. September 1, 2019.

Sec. 371.004. COMPUTATION OF MONTH. (a) For the computation of time in this chapter, a month is the period from a date in a month to the corresponding date in the succeeding month. If the succeeding month does not have a corresponding date, the period ends on the last day of the succeeding month.

(b) For the computation of a fraction of a month, a day is equal to one-thirtieth of a month.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.005. REGULATORY AUTHORITY. The legislature has exclusive authority regarding the operation of pawnshops, except for a matter delegated by this chapter to the commissioner. The commissioner has the authority to regulate only a business practice that requires a pawnshop license.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 801, Sec. 1, eff. Sept. 1, 1999.

Sec. 371.006. RULEMAKING. (a) The Finance Commission of Texas may adopt rules to enforce this chapter.

(b) Repealed by Acts 2023, 88th Leg., R.S., Ch. 159 (S.B. 1371), Sec. 34(3), eff. September 1, 2023.

(c) Repealed by Acts 2023, 88th Leg., R.S., Ch. 159 (S.B. 1371), Sec. 34(3), eff. September 1, 2023.

(d) Repealed by Acts 2023, 88th Leg., R.S., Ch. 159 (S.B. 1371), Sec. 34(3), eff. September 1, 2023.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 801, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 867, Sec. 99, eff. Sept. 1, 2001.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 159 (S.B. 1371), Sec. 34(3), eff. September 1, 2023.

Sec. 371.007. STAGGERED RENEWAL OF LICENSES. (a) The Finance Commission of Texas by rule may adopt a system under which licenses issued under this chapter expire on various dates during the year.

(b) For a year in which an expiration date is changed, a license fee payable on the date of issuance shall be prorated according to the number of months during which the license is valid.

(c) On renewal of a license on the new expiration date, the total license fee is payable.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 100, eff. Sept. 1, 2001.

SUBCHAPTER B. PAWNSHOP LICENSE

Sec. 371.051. PAWNSHOP LICENSE REQUIRED. A person may not engage in business as a pawnbroker unless the person holds a pawnshop license.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.052. ELIGIBILITY.

(a) To be eligible for a pawnshop license, an applicant must:

(1) meet the net assets requirement of Section 371.072; and

(2) show that:

(A) the pawnshop will be operated lawfully and fairly under this chapter; and

(B) the applicant or the applicant's owners and managers have the financial responsibility, experience, character, and general fitness to command the confidence of the public in the pawnshop's operations.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 95(2), eff. September 1, 2019.

(c) For purposes of a disqualification under Chapter 53, Occupations Code, the commissioner is a licensing authority.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.748, eff. Sept. 1, 2001. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 65, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 95(2),

eff. September 1, 2019.

Sec. 371.053. VERIFICATION OF APPLICANT'S NET ASSETS. If the commissioner cannot verify that an applicant meets the net assets requirement of Section 371.072, the commissioner may require a finding, including a current balance sheet, by an independent certified public accountant that:

(1) the accountant has reviewed the applicant's books and records; and

(2) the applicant meets the net assets requirement.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.054. LICENSE APPLICATION. (a) This section applies to an application for:

(1) an original pawnshop license;

(2) relocation of a pawnshop; or

(3) transfer of a pawnshop license and approval of a change in the ownership of a pawnshop.

(b) An application must be made to the commissioner and must:

(1) be under oath;

(2) state:

(A) the full name and place of residence of the applicant;

(B) the full name and address of each member if the applicant is a partnership;

(C) except as provided by Subsection (c), the full name and address of each officer, shareholder, and director if the applicant is a corporation;

(D) the location where the business is to be conducted; and

(E) other relevant information required by the commissioner; and

(3) be accompanied by the fees and proof of insurance required by Section 371.055.

(c) The full name and address of each shareholder is not required if the applicant is owned directly or beneficially by a

person who:

(1) is an issuer of securities who:

(A) has a class of securities registered under Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. Section 78l); or

(B) is required to file reports with the Securities and Exchange Commission by Section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(d)); and

(2) has filed with the commissioner the information, documents, and reports required by the Securities Exchange Act of 1934 (15 U.S.C. Section 77b et seq.) to be filed by the issuer with the Securities and Exchange Commission.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.055. FEES; PROOF OF INSURANCE. An applicant must submit with the application:

(1) an investigation fee of:

(A) $500 if the applicant does not hold a license; or

(B) $250 if the application:

(i) is for an additional license for a separate location; or

(ii) involves substantially identical principals and owners of a licensed pawnshop at a separate location;

(2) a fee in an amount determined as provided by Section 14.107; and

(3) proof of general liability and fire insurance in a reasonable amount and form required by the commissioner.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1235, Sec. 20, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 66, eff. September 1, 2019.

Sec. 371.056. BOND. (a) The commissioner may require that an applicant file a bond with the application. The bond must be:

(1) satisfactory to the commissioner;

(2) in the amount set by the commissioner not to exceed $5,000 for each license; and

(3) issued by a surety qualified to do business in this state.

(b) The aggregate liability of the surety may not exceed the amount of the bond.

(c) The bond must be in favor of this state for the use of this state and the use of a person who has a cause of action under this chapter against the pawnbroker.

(d) The bond must be conditioned on:

(1) the pawnbroker's compliance with this chapter and rules adopted under this chapter; and

(2) the payment of all amounts that become due to this state or to another person under this chapter.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.057. INVESTIGATION; NOTICE OF APPLICATION. (a) On receipt of an application and the required fees, the commissioner shall:

(1) conduct an investigation to determine whether to issue the license; and

(2) give notice of the application to:

(A) the Department of Public Safety of the State of Texas;

(B) each local law enforcement agency in the county in which the business is to be conducted; and

(C) each pawnbroker in the county in which the applicant pawnshop is to be located.

(b) The notice to the department of public safety and local law enforcement agencies must state the name and address of each person required by Section 371.054 to be listed on the license application.

(c) The commissioner shall give the department and local law enforcement agencies a reasonable time to respond with information concerning the listed persons or with any other relevant information.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.058. PUBLIC HEARING. (a) On request, the commissioner shall conduct a public hearing before issuing a pawnshop license.

(b) The commissioner shall give a pawnbroker that would be affected by the granting of an application for a pawnshop license an opportunity to appear, present evidence, and be heard for or against the application.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.059. APPROVAL; ISSUANCE OF LICENSE. (a) Subject to Subsection (b), the commissioner shall approve the application and issue a license if the commissioner finds that the applicant is eligible for the license.

(b) In a county with a population of 250,000 or more, the commissioner shall approve an application for:

(1) an original license to operate a pawnshop at a facility that is not an existing licensed pawnshop at the time the application is filed if the proposed facility is not located within two miles of a licensed pawnshop;

(2) the relocation of a licensed pawnshop to a facility that is not an existing licensed pawnshop at the time the application is filed if the facility where the pawnshop is to be relocated is not located within one mile of a licensed pawnshop; and

(3) the relocation of a licensed pawnshop if at the time the application is filed the pawnshop has been in operation at its current location for at least three years, and the facility where the pawnshop is to be relocated is either within one mile of its existing location or, if in excess of one mile from its existing location, not within one mile of another existing operating pawnshop.

(c) Notwithstanding Subsection (b)(3), the commissioner may approve an application for the relocation of a licensed pawnshop that needs to relocate marginally further than one mile from its existing location or that at the time the application is made has

not been in operation in its current location for at least three years if the necessity for relocation was caused by circumstances beyond the applicant's control.

(d) A determination of distance for purposes of this section is based on a measurement taken from the front door of a facility to the front door of the other facility. For a facility not in existence at the time the application is filed, the location of the front door of the proposed facility must be indicated on architectural drawings or comparable professionally prepared drawings depicting the facility and the entire boundary of the lot or parcel of land to which the facility is to be attached.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1399, Sec. 1, eff. Sept. 1, 1999.

Sec. 371.060. NOTICE OF DENIAL; HEARING. (a) If the commissioner does not make a finding described by Section 371.059, the commissioner shall notify the applicant.

(b) An applicant who requests a hearing on the application not later than the 30th day after the date of notification under Subsection (a) is entitled to a hearing within 60 days after the date of the request.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.061. PERIOD FOR FINAL DECISION TO APPROVE OR DENY. Unless the applicant and the commissioner agree in writing to a later date, the commissioner shall approve or deny the application before the 61st day after the later of the date on which:

(1) the application is filed and the required fees are paid; or

(2) a hearing on the application is completed.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.062. DISPOSITION OF FEES ON DENIAL OF APPLICATION. If the commissioner denies the application, the commissioner shall retain the investigation fee and shall return to the applicant the license fee submitted with the application.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 67, eff. September 1, 2019.

Sec. 371.0625. LICENSE TERM. A license issued under this subchapter is valid for the period prescribed by finance commission rule adopted under Section 14.112.

Added by Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 68, eff. September 1, 2019.

Sec. 371.063. LICENSE ISSUED BEFORE OCTOBER 1, 1981. A license issued to a pawnshop before October 1, 1981, remains valid as long as the pawnbroker complies with this chapter.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.064. LICENSE FEE; EXPIRATION. (a) Not later than the 30th day before the date the license expires, a pawnbroker shall pay to the commissioner for each license held a fee in an amount determined as provided by Section 14.107.

(b) If the fee for a license is not paid before the 16th day after the date on which written notice of delinquency of payment has been given to the pawnbroker by the commissioner, the license expires on that day.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1399, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1235, Sec. 21, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 69, eff. September 1, 2019.

Sec. 371.0645. GROUNDS FOR REFUSAL TO RENEW. The commissioner may refuse to renew the license of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 70, eff. September 1, 2019.

Sec. 371.066. TEMPORARY LICENSE. (a) The commissioner may issue a temporary pawnshop license on receipt of an application:

(1) to transfer a license from one person to another; or

(2) for a license involving principals and owners that are substantially identical to those of a pawnshop in operation at the time of receipt of the application.

(b) A temporary license is effective until a permanent license is issued or denied.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 801, Sec. 3, eff. Sept. 1, 1999.

Sec. 371.067. CONTENTS AND DISPLAY OF LICENSE. (a) A license must state:

(1) the name of the pawnbroker; and

(2) the address at which the business is to be conducted.

(b) A pawnbroker shall display a license at the place of business provided on the license.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.068. MULTIPLE PLACES OF BUSINESS. (a) A separate pawnshop license is required for each place of business operated under this chapter.

(b) The commissioner may issue more than one license to a person if the person complies with this chapter for each license.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.069. CHANGE OF OWNERSHIP. (a) An application for an original pawnshop license or the transfer of a pawnshop license is required if a change in direct or beneficial ownership of a licensed pawnshop occurs.

(b) This section does not apply to a change in direct or beneficial ownership of a licensed pawnshop if the pawnshop is owned directly or beneficially by a person who:

(1) is an issuer of securities who is described by Section 371.054(c)(1);

(2) is described by Section 371.054(c)(2) and has submitted to the commissioner each filing required by Section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(d)) and paid a filing fee of $100 with each; and

(3) has filed information on officers and directors of the issuer or any licensed or intermediate subsidiary as required by Section 371.054 for officers and directors of a corporation.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.070. TRANSFER OR ASSIGNMENT OF LICENSE. A pawnshop license may be transferred or assigned only with the approval of the commissioner.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.071. APPLICATION FOR RELOCATION. A pawnbroker who wishes to move a pawnshop from the location provided on the license must make application to the commissioner before the 30th day preceding the date the pawnbroker moves.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1399, Sec. 3, eff. Sept. 1, 1999.

Sec. 371.072. NET ASSETS REQUIREMENT. (a) Except as provided by Subsection (b), a pawnbroker shall maintain net assets of at least $150,000 that are used or readily available for use in the business of each pawnshop.

(b) A pawnbroker who held a license under this chapter before September 1, 1999, shall maintain net assets that are used or readily available for use in the business for that existing license of at least the amount required on August 31, 1999. The net assets requirement of this subsection remains in effect without regard to a change in ownership or relocation of the license.

(c) Net assets must be represented by a capital investment unencumbered by a lien or other encumbrance and subject to a claim by a general creditor.

Text of subsec. (d) as amended by Acts 1999, 76th Leg., ch. 801, Sec. 4

(d) Subject to Subsection (b), a pawnbroker shall maintain for each pawnshop net assets, as that term was defined at the time the license was issued, that are used or readily available for use in the business of the pawnshop of at least the amount required on:

(1) August 31, 1981, if the pawnbroker held a license on that date; or

(2) June 20, 1987, if the pawnbroker held a license on that date but did not hold a license on August 31, 1981.

Text of subsec. (d) as relettered from subsec. (f) and amended by Acts 1999, 76th Leg., ch. 1399, Sec. 4

(d) In this section, "capital investment" means:

(1) common or preferred shares and capital or earned surplus as those terms are defined by the Texas Business Corporation Act if the pawnbroker is a corporation; or

(2) a substantial equivalent of items described by Subdivision (1), as determined by generally accepted accounting principles, if the pawnbroker is not a corporation.

Text of subsec. (e) as amended by Acts 1999, 76th Leg., ch. 801, Sec. 4

(e) Subject to Subsection (d), net assets must be represented by a capital investment unencumbered by a lien or other encumbrance and subject to a claim by a general creditor.

Text of subsec. (e) as relettered from subsec. (g) and amended by Acts 1999, 76th Leg., ch. 1399, Sec. 4

(e) Subsection (b) applies to a change in ownership that is:

(1) a transaction involving a different owner who had a significant family or business relationship with a prior owner before the transaction;

(2) a transaction in which:

(A) only the number or proportionate ownership of

owners of a business changes; and

(B) an individual who was not an owner before the transaction is not an owner after the transaction; or

(3) a change in ownership that occurs by testate or intestate disposition.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 801, Sec. 4, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1399, Sec. 4, eff. Sept. 1, 1999.

Sec. 371.073. APPOINTMENT OF AGENT. (a) A pawnbroker shall maintain on file with the commissioner the name and address of the pawnbroker's registered agent for service of process.

(b) Repealed by Acts 2023, 88th Leg., R.S., Ch. 159 (S.B. 1371), Sec. 34(4), eff. September 1, 2023.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 159 (S.B. 1371), Sec. 26, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 159 (S.B. 1371), Sec. 34(4), eff. September 1, 2023.

Sec. 371.074. PAWNBROKER RESPONSIBLE FOR EMPLOYEES AND AGENTS. A license holder under this subchapter is responsible for all acts of the license holder's officers, directors, employees, and agents acting on behalf of the pawnshop.

Added by Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 71, eff. September 1, 2019.

SUBCHAPTER C. PAWNSHOP EMPLOYEE LICENSE PROGRAM

Sec. 371.101. PAWNSHOP EMPLOYEE LICENSE PROGRAM. (a) A pawnbroker may, but is not required to, participate in the pawnshop employee license program by notifying the commissioner in writing on a form prescribed by the commissioner.

(a-1) A pawnbroker may submit a written notification to participate in the pawnshop employee license program under Subsection (a):

(1) at the time of the pawnbroker's original license application;

(2) at the time of a renewal of the pawnbroker's license; or

(3) at another time prescribed by the commissioner.

(a-2) A pawnbroker may notify the commissioner in writing of the pawnbroker's intention to no longer participate in the pawnshop employee license program at any time notification is permitted under Subsection (a-1). On receipt by the commissioner of a pawnbroker's notification under this subsection, the pawnbroker will no longer be a part of the pawnshop employee license program unless the pawnbroker resubmits a new notification for participation under Subsection (a-1).

(b) An individual who begins employment at a pawnshop for a pawnbroker that participates in the pawnshop employee license program under Subsection (a), as a condition of employment, must apply to the commissioner for a pawnshop employee license not later than the 75th day after the date employment begins. The individual may continue employment until the license is issued or denied.

(c) If a pawnbroker participates in the pawnshop employee license program under Subsection (a), the participating pawnbroker may not employ an individual to write a pawn transaction, buy or sell merchandise, or supervise another employee who writes pawn transactions or buys or sells merchandise unless the individual:

(1) has complied with Subsection (b) but has not been issued or denied a license; or

(2) holds a pawnshop employee license.

(d) Subsection (c) does not apply to an individual who:

(1) has an ownership interest in the pawnshop license; and

(2) is named on the application.

(e) Subject to Section 14.112, the Finance Commission of Texas shall adopt rules to administer the pawnshop employee license program.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1399, Sec. 5, eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 73, eff. September 1, 2019.

Sec. 371.102. ELIGIBILITY. (a) To be eligible for a pawnshop employee license, an individual must:

(1) be of good business repute;

(2) possess the character and general fitness necessary to warrant belief that the individual will operate the business lawfully and fairly under this chapter; and

(3) be employed by a pawnbroker that participates in the pawnshop employee license program under Section 371.101.

(b) For purposes of a disqualification under Chapter 53, Occupations Code, the commissioner is a licensing authority.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.749, eff. Sept. 1, 2001. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 74, eff. September 1, 2019.

Sec. 371.103. LICENSE APPLICATION; FEES. (a) An application for a pawnshop employee license must state:

(1) the applicant's name and address;

(2) the name of the pawnshop at which the applicant is employed;

(3) whether the applicant has:

(A) been convicted of or is under indictment for a crime;

(B) had a license to engage in an occupation, business, or profession revoked or suspended; or

(C) been denied an occupational, business, or professional license, including a pawnshop employee license, in this or another state;

(4) if the applicant has had a license described by Subdivision (3)(B) revoked or suspended, the reason for the action;

(5) each business or occupation in which the applicant engaged for the five years preceding the date of application; and

(6) other relevant information the commissioner

requires.

(b) The application must be accompanied by an investigation and annual fee in an amount determined as provided by Section 14.107.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 75, eff. September 1, 2019.

Sec. 371.104. APPROVAL OR DENIAL OF APPLICATION. (a) Not later than the 60th day after the date an application is filed, the commissioner shall determine whether the applicant qualifies for a pawnshop employee license.

(b) The commissioner shall approve the application and issue a license if the commissioner finds that the applicant qualifies for a license.

(c) If the commissioner does not make the finding required by Subsection (b), the commissioner in writing shall notify the applicant and the employing pawnbroker that the application will be denied unless the applicant, in writing and not later than the 30th day after the date of the notice, requests a hearing on the application.

(d) An application is denied on the 31st day after the date of the notice if the applicant does not request a hearing in the time allowed.

(e) If an applicant requests a hearing in the time allowed, the commissioner shall conduct a hearing on the application. On the conclusion of the hearing, the commissioner shall approve or deny the application.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.105. LICENSE TERM. A pawnshop employee license is valid for the period prescribed by finance commission rule adopted under Section 14.112.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 76, eff.

September 1, 2019.

Sec. 371.106. LICENSE FEE; EXPIRATION. (a) Not later than the 30th day before the date the license expires, a pawnshop employee license holder shall pay to the commissioner a fee in an amount determined as provided by Section 14.107.

(b) The commissioner shall send written notice of delinquency to a license holder who does not pay the fee on or before the 30th day before the date the license expires.

(c) If the fee for a license is not paid before the 16th day after the date of the delinquency notice, the license expires on that day.

(d) A pawnshop employee license expires on the 30th day after the last day of employment if the license holder:

(1) ceases to be employed by a pawnbroker that participates in the pawnshop employee license program under Section 371.101; and

(2) is not employed within that time by another pawnbroker that participates in the pawnshop employee license program.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1399, Sec. 6, eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 77, eff. September 1, 2019.

Sec. 371.107. GROUNDS FOR REFUSAL TO RENEW. The commissioner may refuse to renew the pawnshop employee license of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 78, eff. September 1, 2019.

SUBCHAPTER D. OPERATION OF PAWNSHOPS

Sec. 371.151. HOURS OF OPERATION. (a) A pawnbroker shall maintain normal business hours of at least four hours a day for five

days a week.

(b) A pawnbroker may not do business before 7 a.m. or after 9 p.m.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.152. RECORDKEEPING. (a) A pawnbroker, consistent with accepted accounting practices, shall keep adequate books and records relating to the pawnbroker's pawn transactions and any other business regulated by this chapter.

(b) Books and records shall be preserved at least until the second anniversary of the date of the last transaction recorded.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.153. NOTICE OF OPERATION OF OTHER BUSINESS. (a) A pawnbroker shall notify the commissioner before the pawnbroker allows another person to conduct at the pawnshop a business other than the business of a pawnbroker or the business of buying and selling goods.

(b) The commissioner may refuse to permit a person other than the pawnbroker to operate the other business on the pawnshop premises if the commissioner finds that the operation is inconsistent with this chapter.

(c) A pawnbroker shall notify the commissioner of any location at which the pawnbroker or an applicant for a pawnshop license operates a buy shop, secondhand merchandise store, retail outlet, or similar business or any business to which the pawnbroker regularly transfers goods from the pawnshop.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 801, Sec. 5, eff. Sept. 1, 1999.

Sec. 371.154. INSURANCE AND BOND. (a) A pawnbroker shall maintain general liability and fire insurance:

(1) in a reasonable amount and form required by the commissioner; and

(2) sufficient to protect pledged goods, including jewelry, at the pawnshop.

(b) A pawnbroker shall secure a bond:

(1) in the amount, not to exceed $5,000, required by the commissioner;

(2) in the form required by the commissioner; and

(3) conditioned on compliance with this chapter and rules adopted under this chapter.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 801, Sec. 6, eff. Sept. 1, 1999.

Sec. 371.155. PAWNSHOP SECURITY. A pawnshop shall have:

(1) one or more alarm systems sufficient to detect and signal unauthorized entry or the presence of an unauthorized person to provide for the security of pledged goods; and

(2) a safe to provide for the security of pledged jewelry.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 801, Sec. 7, eff. Sept. 1, 1999.

Sec. 371.156. PAWN TRANSACTION. (a) Items that are usually sold as a set are considered a single item and must be included in the same pawn transaction.

(b) A pledged item together with items that are accessories to the pledged item are considered a single item and must be included in the same pawn transaction.

(c) A separate pawn transaction retains its separate character when it is renewed, unless the parties agree otherwise.

(d) A pawnbroker may not divide a pawn transaction into more than one transaction to obtain, or with the effect of obtaining, a total pawn service charge that exceeds the charge authorized for an amount financed that is equal to the total of the amounts financed in the resulting transactions.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.157. PAWN TICKET. A pawnbroker, at the time a pawn transaction is entered, shall deliver to the pledgor a pawn ticket or other memorandum that clearly shows:

(1) the name and address of the pawnshop;

(2) the pledgor's name, address, and physical

description and a driver's license number, military identification number, identification certificate number, or other official number that can identify the pledgor;

(3) the date of the transaction;

(4) an identification and description of the pledged goods, including serial numbers if reasonably available;

(5) the amount of cash advanced or credit extended to the pledgor, designated as "Amount Financed";

(6) the amount of the pawn service charge, designated as "Finance Charge";

(7) the total amount, consisting of the amount financed plus the finance charge, that must be paid to redeem the pledged goods on the maturity date, designated as "Total of Payments";

(8) the "Annual Percentage Rate," computed according to Regulation Z (12 C.F.R. Part 1026) adopted by the Consumer Financial Protection Bureau under the Truth in Lending Act (15 U.S.C. Section 1601 et seq.), as amended;

(9) the maturity date of the pawn transaction; and

(10) a statement that:

(A) the pledgor is not obligated to redeem the pledged goods; and

(B) the pledged goods may be forfeited to the pawnbroker on the 31st day after the maturity date.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1199, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 159 (S.B. 1371), Sec. 27, eff. September 1, 2023.

Sec. 371.158. AMOUNT FINANCED. The amount financed by a pawn transaction may not exceed the amount computed under Subchapter C, Chapter 341, using the reference amount of $2,500.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.159. PAWN SERVICE CHARGE. (a) A pawnbroker may not contract for, charge, or receive an amount, other than a pawn

service charge, as a charge for credit in connection with a pawn transaction.

(b) A pawn service charge may not exceed the charge disclosed in the pawn ticket or other memorandum delivered to the pledgor.

(c) A pawn service charge may not exceed an amount equal to:

(1) 20 percent of the total amount financed for one month if that amount is less than or equal to the amount computed under Subchapter C, Chapter 341, using the reference amount of $30;

(2) 15 percent of the total amount financed for one month if that amount is more than the amount computed for Subdivision (1) but less than or equal to the amount computed under Subchapter C, Chapter 341, using the reference amount of $200;

(3) 2-1/2 percent of the total amount financed for one month if that amount is more than the amount computed for Subdivision (2) but less than or equal to the amount computed under Subchapter C, Chapter 341, using the reference amount of $300; or

(4) 1 percent of the total amount financed for one month if that amount is more than the amount computed for Subdivision (3).

(d) A rate set by Subsection (c) shall be proportionately adjusted for a finance period of less than one month.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1235, Sec. 22, eff. Sept. 1, 2001.

Sec. 371.160. MATURITY DATE; MEMORANDUM OF EXTENSION. (a) A pawnbroker may not enter a pawn transaction that has a maturity date later than one month after the date of the transaction.

(b) The pledgor and the pawnbroker by written agreement may change the maturity date of a pawn transaction to a subsequent date.

(c) The written agreement must clearly set out:

(1) the new redemption date; and

(2) the amount of any additional pawn service charge.

(d) The pawnbroker must provide a copy of the written agreement to the pledgor.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.161. EARLY REDEMPTION: REDUCTION OF PAWN SERVICE CHARGE. If a pledgor redeems the pledged goods before the maturity date of the pawn transaction, any part of the pawn service charge that exceeds $15 shall be reduced by an amount equal to one-thirtieth of the total pawn service charge for each day between the date on which redemption occurs and the original maturity date.
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.162. PRESENTATION OF TICKET; PRESUMPTION. Except as provided by Section 371.163(a), a person who presents proper identification and a pawn ticket to the pawnbroker is presumed to be entitled to redeem the pledged goods described by the pawn ticket.
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 801, Sec. 8, eff. Sept. 1, 1999.

Sec. 371.163. LOST OR DESTROYED TICKET. (a) If a pawn ticket is lost, destroyed, or stolen, the pledgor may notify the pawnbroker of that fact in writing. Receipt of this notice invalidates the pawn ticket if the pledged goods have not been redeemed.

(b) The pawnbroker shall require the pledgor to make a written statement of the loss, destruction, or theft before the pawnbroker delivers the pledged goods or issues a new pawn ticket.

(c) The pawnbroker shall record on the written statement:

(1) the date the statement is made; and

(2) the number of the pawn ticket lost, destroyed, or stolen.

(d) The statement must be signed by the pawnbroker or the pawnshop employee who accepts the statement from the pledgor.

(e) A pawnbroker is entitled to a fee of not more than $1 in connection with the accepting of a written statement under this section.
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 801, Sec. 9, eff. Sept. 1, 1999.

Sec. 371.164. DUTY OF REASONABLE CARE. A pawnbroker shall exercise reasonable care to protect pledged goods from loss or

damage.
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.165. RETURN OF PLEDGED GOODS. A pawnbroker shall return pledged goods to the pledgor on payment of the total amount due the pawnbroker in connection with the pawn transaction.
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.166. REDEMPTION BY MAIL. A pawnbroker shall permit a pledgor to redeem pledged goods by mail.
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.167. LOST OR DAMAGED GOODS. (a) A pawnbroker shall replace pledged goods that are lost or damaged while in the pawnbroker's possession with like kind merchandise. The replacement is subject to approval by the commissioner and the pledgor must exhaust this administrative remedy with respect to the lost or damaged pledged goods before seeking a remedy in court. If the commissioner does not approve a replacement before the 91st day after the date on which the commissioner receives a complaint from the pledgor concerning the lost or damaged goods, or if the pledgor does not accept the commissioner's determination, the pledgor may seek a remedy in court.

(b) For purposes of this section, goods are considered lost if the goods are destroyed or have disappeared and are unavailable for return to the pledgor.
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1399, Sec. 7, eff. Sept. 1, 1999.

Sec. 371.168. EXEMPTION FROM CRIMINAL LIABILITY. A pawnbroker is not criminally liable for damages or loss due to an act of God or circumstances beyond the pawnbroker's control.
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.169. UNREDEEMED PLEDGED GOODS; FORFEITURE. (a) A pawnbroker shall hold pledged goods not redeemed by the pledgor on or before the maturity date stated in the pawn ticket issued in

connection with a pawn transaction for at least 30 days after that date.

(b) On or before the 30th day after the original maturity date, the pledgor may redeem the pledged goods by paying:

(1) the originally agreed redemption price; and

(2) an additional pawn service charge equal to one-thirtieth of the original monthly pawn service charge for each day after the original maturity date, including the day on which the pledged goods are finally redeemed.

(c) Pledged goods not redeemed on or before the 30th day after the original maturity date may, at the option of the pawnbroker, be forfeited to the pawnbroker.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1235, Sec. 23, eff. Sept. 1, 2001.

Sec. 371.170. REDEMPTION OR PAYMENT BY PLEDGOR NOT REQUIRED. A pledgor is not obligated to redeem pledged goods or to make a payment on a pawn transaction.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.171. AGREEMENT REQUIRING PLEDGOR'S PERSONAL LIABILITY PROHIBITED. A pawnbroker may not enter an agreement requiring the personal liability of the pledgor in connection with a pawn transaction.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.172. WAIVER OF PLEDGOR'S RIGHTS PROHIBITED. A pawnbroker may not accept a waiver of a right or protection of a pledgor under this chapter.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.173. INSURANCE CHARGE LIMITED. A pawnbroker may not impose a charge for insurance in connection with a pawn transaction, except that a pawnbroker may impose a charge in the amount of the actual cost to insure pledged goods being shipped to a pledgor who redeemed the goods by mail.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.174. IDENTIFICATION OF PLEDGOR OR SELLER REQUIRED. (a) A pawnbroker shall require identification of:

(1) the pledgor if a transaction is a pawn transaction; or

(2) the seller if a transaction is a purchase of goods by the pawnbroker.

(b) Identification is acceptable only if it contains a photograph of the pledgor or seller and is:

(1) a state driver's license;

(2) a state identification card;

(3) a passport;

(4) a military identification;

(5) a certificate of identification from the Mexican Consulate, certificado de matricula consular; or

(6) identification issued by the agency of the United States responsible for citizenship and immigration.

(c) A pawnbroker shall make the pawnbroker's best effort to determine whether the identification:

(1) is apparently genuine and unaltered; and

(2) properly identifies the pledgor or seller.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1199, Sec. 2, eff. Sept. 1, 2003.

Sec. 371.175. PROPERTY IDENTIFICATION TAGS REQUIRED. (a) A pawnshop shall identify by a tag or similar means each item of goods located in the pawnshop that:

(1) has a retail or sale value of more than $25; and

(2) can be tagged or similarly identified.

(b) This section does not apply to:

(1) the personal effects of a person in the pawnshop; or

(2) furniture, fixtures, or equipment of the pawnshop.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 801, Sec. 10, eff. Sept. 1, 1999.

Sec. 371.176. TRANSACTIONS WITH MINORS OR PERSONS UNDER THE

INFLUENCE OF ALCOHOL OR DRUGS PROHIBITED. A pawnbroker may not:

(1) accept a pledge or purchase property from a person under 18 years of age; or

(2) transact business with a person believed to be under the influence of alcohol or drugs.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 801, Sec. 11, eff. Sept. 1, 1999.

Sec. 371.177. PURCHASE OF USED PERSONAL PROPERTY. A pawnbroker may not purchase used personal property from a person other than another pawnbroker unless a record is established that contains:

(1) the seller's name, address, and physical description and a driver's license number, military identification number, identification certificate number, or other official number that can identify the seller;

(2) a complete description of the property, including the serial number, if reasonably available, or other identifying characteristics; and

(3) the seller's signed statement that the seller has the right to sell the property.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.178. ACCEPTANCE OF BUILDING CONSTRUCTION MATERIALS. (a) A pawnbroker may not accept the pledge of building construction materials unless a record is established that contains the information required by Section 371.177.

(b) In this section, "building construction materials" includes:

(1) copper pipe, tubing, or wiring;

(2) aluminum wire;

(3) plumbing supplies;

(4) electrical supplies;

(5) window glass;

(6) lumber; and

(7) other similar materials.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.179. DISPLAYS OF CERTAIN WEAPONS PROHIBITED. A pawnbroker may not display for sale in a storefront window or sidewalk display case or depict on a sign or advertisement in such a way that the item, sign, or advertisement may be viewed from a street:

(1) a pistol;

(2) a dirk;

(3) a dagger;

(4) a blackjack;

(5) a hand chain;

(6) a sword cane;

(7) knuckles made of metal or any other hard substance; or

(8) a switchblade, springblade, or throwblade knife.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.180. ADVERTISEMENTS. (a) A person who does not hold a pawnshop license may not:

(1) advertise or cause to be advertised the making, arranging, or negotiating of a loan subject to this chapter; or

(2) use in an advertisement a word, symbol, or statement that states or suggests that the person is a pawnbroker.

(b) In each advertisement that purports to offer credit subject to this chapter, the advertiser shall disclose the legal or registered name of the advertiser and the physical address of the advertiser's place of business. This subsection does not apply to an advertisement located on the premises of the advertiser's place of business.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.181. STOLEN GOODS. (a) A pawnbroker shall monitor goods purchased, accepted in pawn, or otherwise acquired by the pawnbroker in order to identify and prohibit transactions involving stolen goods.

(b) The Finance Commission of Texas shall adopt rules that allow:

(1) a consumer who has filed an offense report with a local law enforcement agency to request that a pawnbroker search the records of the pawnshop; and

(2) the pawnbroker to assist the consumer and the local law enforcement agency in locating and recovering stolen property.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 101, eff. Sept. 1, 2001.

Sec. 371.182. HOLD PERIOD. The commissioner may designate a reasonable hold period during which a pawnbroker may not sell or otherwise dispose of an item of goods acquired and offered for sale or other disposition by the pawnbroker.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 801, Sec. 12, eff. Sept. 1, 1999.

Sec. 371.183. CONSUMER INFORMATION. The Finance Commission of Texas by rule may require a pawnshop to display, in an area in the pawnshop accessible to a consumer, materials provided by the commissioner that are designed to:

(1) inform a consumer of the duties, rights, and responsibilities of parties to a transaction regulated by the commissioner; and

(2) inform and assist a robbery, burglary, or theft victim.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 102, eff. Sept. 1, 2001.

SUBCHAPTER E. INSPECTIONS AND EXAMINATIONS

Sec. 371.201. EXAMINATION BY COMMISSIONER. At any time the commissioner considers necessary, the commissioner or the commissioner's representative may:

(1) examine a pawnbroker's place of business;

(2) inquire into and examine a pawnbroker's transactions, books, accounts, papers, correspondence, or other records that relate to the business of the pawnbroker; and

(3) examine or inspect pledged goods and goods required to be identified by Section 371.177.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.202. ACCESS TO RECORDS; COPIES. (a) During an examination the pawnbroker shall give the commissioner or the commissioner's representative free access to the pawnbroker's office, place of business, files, safe, or vault.

(b) The commissioner or the representative is entitled to copy any book, account, paper, correspondence, or other record that relates to the business of the pawnbroker.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.203. OATHS. During an examination the commissioner or the commissioner's representative may administer an oath and examine a person under oath on a subject relating to a matter regarding which the commissioner is authorized or required by this chapter to consider, investigate, or secure information.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.204. INSPECTION BY PEACE OFFICER. A pawnbroker shall allow a peace officer to inspect the pawnbroker's books, accounts, papers, correspondence, or other records that relate to the business of the pawnbroker at any reasonable time without judicial writ or other process.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.205. REFUSAL TO ALLOW EXAMINATION OR INSPECTION. A pawnbroker who fails or refuses to permit an examination or copying of books or other documents or an examination or inspection of goods authorized by this subchapter violates this chapter. The failure or refusal is grounds for the suspension or revocation of the license.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.206. CONFIDENTIALITY. Information obtained during an examination or inspection authorized by this subchapter

is confidential and privileged except for use by the commissioner or in a criminal investigation or prosecution.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.207. FEE. A pawnbroker shall pay to the commissioner an amount assessed by the commissioner to cover the direct and indirect costs of an examination and a proportionate share of general administrative expenses.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.208. VERIFICATION OF NET ASSETS. If the commissioner questions the amount of a pawnbroker's net assets, the commissioner may require certification by an independent certified public accountant that:

(1) the accountant has reviewed the pawnbroker's books, other records, and transactions during the reporting year;

(2) the books and other records are maintained using generally accepted accounting principles; and

(3) the pawnbroker meets the net assets requirement of Section 371.072.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER F. LICENSE REVOCATION, SUSPENSION, AND SURRENDER

Sec. 371.251. REVOCATION OR SUSPENSION OF PAWNSHOP LICENSE. (a) After notice and opportunity for a hearing, the commissioner may revoke or suspend a pawnshop license if the commissioner finds that:

(1) the pawnbroker has not paid a fee or charge imposed by the commissioner under this chapter;

(2) the pawnbroker, knowingly or without exercising due care to prevent the violation, has violated this chapter or a rule adopted or an order issued under this chapter;

(3) a fact or condition exists that, if it had existed or had been known to exist at the time of the original license application, clearly would have justified refusal to issue the license;

(4) the pawnbroker has established an association with an unlicensed person who, with the knowledge of the pawnbroker, has violated this chapter;

(5) the pawnbroker has aided or conspired with a person to circumvent this chapter;

(6) the pawnbroker or a legal or beneficial owner of the pawnbroker has been convicted of a crime that the commissioner finds directly relates to the duties and responsibilities of the occupation of pawnbroker or would otherwise make the person unfit for a pawnshop license under Section 371.052;

(7) the financial responsibility, experience, character, or general fitness of the pawnbroker or its owners and managers do not command the confidence of the public or warrant the belief that the business will be operated lawfully, fairly, and within the purposes of this chapter; or

(8) the pawnbroker has not maintained the minimum net assets required by Section 371.072.

(b) The commissioner may:

(1) place on probation a person whose license is suspended; or

(2) reprimand a pawnbroker for violating this chapter or a rule adopted under this chapter.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 79, eff. September 1, 2019.

Sec. 371.252. EFFECT OF REVOCATION, SUSPENSION, OR SURRENDER OF PAWNSHOP LICENSE. Revocation, suspension, or surrender of a pawnshop license does not affect a preexisting contract between the pawnbroker and a pledgor.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.253. NOTICE OF REVOCATION. (a) On revocation of a pawnshop license by the commissioner, the pawnbroker shall send notice of the revocation to each pledgor with goods in the possession of, but not forfeited to, the pawnbroker on the

revocation date.

(b) The notice must be:

(1) in a form prescribed by the commissioner; and

(2) mailed not later than the fifth day after the revocation date to the pledgor at the address recorded on the pawn ticket.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.254. REDEMPTION OF GOODS AFTER LICENSE REVOCATION OR SUSPENSION. (a) After revocation of a pawnshop license, the pawnbroker, for the sole purpose of allowing a pledgor to redeem pledged goods, shall maintain usual business hours at the pawnshop for 60 days after the latest maturity date of any pawn transaction made at that pawnshop.

(b) If after the revocation of a license and within the period provided by Section 371.169 a pledgor requests an extension of that period, the pawnbroker shall grant an extension not to exceed 30 days.

(c) The commissioner may exercise any authority conferred on the commissioner to protect the interest of a pledgor of goods in the possession of a pawnbroker whose license has been revoked, including assessment of a penalty or administrative enforcement under this chapter.

(d) On suspension of a pawnshop license by the commissioner, the pawnbroker shall maintain the pawnshop's usual business hours during the suspension for the sole purpose of allowing a pledgor to redeem goods or to renew a pawn transaction that matures during the suspension.

(e) A pawnbroker shall renew a pawn transaction that matures during a suspension if, not later than the 60th day after the maturity date, the pledgor requests a renewal.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.255. REVOCATION OR SUSPENSION OF PAWNSHOP EMPLOYEE LICENSE. After notice and opportunity for a hearing, the commissioner may revoke or suspend a pawnshop employee license if the commissioner finds that:

(1) the license holder knowingly or recklessly violated this chapter or a rule adopted or order issued under this chapter;

(2) a fact or condition exists that, if it had existed or had been known to exist at the time of the original license application, clearly would have justified refusal to issue the license; or

(3) the business repute and general fitness of the license holder do not warrant belief that the license holder will operate the business lawfully and fairly within the provisions of this chapter.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 80, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 159 (S.B. 1371), Sec. 28, eff. September 1, 2023.

Sec. 371.256. HEARING. (a) The commissioner shall send written notice of a pawnshop employee license revocation or suspension hearing to:

(1) the license holder; and

(2) the employing pawnbroker.

(b) The commissioner shall hold the hearing not earlier than the 21st day after the date the notice was sent.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.257. SURRENDER OF LICENSE. (a) The holder of a pawnshop license or a pawnshop employee license may surrender the license by complying with the commissioner's written instructions relating to license surrender.

(b) Surrender does not affect a license holder's civil or criminal liability for an act committed before the surrender.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 159 (S.B. 1371), Sec. 29, eff. September 1, 2023.

Sec. 371.258. REINSTATEMENT OF LICENSE. (a) This section applies to a pawnshop license or a pawnshop employee license.

(b) The commissioner may reinstate a suspended pawnshop license or pawnshop employee license or issue a new license to the person whose license or licenses have been revoked if no fact or condition exists that clearly would have justified refusal to issue the license originally.

(c) The commissioner shall reinstate an expired pawnbroker license if, not later than the 180th day after the date on which the license expired, the pawnbroker pays the commissioner the delinquent $125 fee plus a reinstatement fee of $1,000. After a pawnbroker's license has expired, the commissioner shall promptly send notice of reinstatement rights to the delinquent pawnbroker by certified mail.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 801, Sec. 13, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1399, Sec. 8, eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 81, eff. September 1, 2019.

Sec. 371.259. CERTIFICATE OF STANDING; COPIES. The commissioner, under the commissioner's seal and signature, shall provide a certificate of good standing or a certified copy of a pawnshop license or a pawnshop employee license to a person who applies and pays for the certificate or copy.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER G. ENFORCEMENT; PENALTIES

Sec. 371.301. COMMISSIONER'S ENFORCEMENT POWERS. For purposes of enforcing this chapter, the commissioner:

(1) has the powers granted to the commissioner under Chapter 14;

(2) may exercise those powers in the same manner as those powers may be exercised under:

(A) Chapters 14, 392, and 394;

(B) Subtitle B, Title 4; and

(C) Chapters 51, 302, 601, and 621, Business & Commerce Code; and

(3) has any authority granted the commissioner by other law.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.19, eff. April 1, 2009.

Sec. 371.302. ORDER TO END VIOLATION; INJUNCTION; DAMAGES. (a) If the commissioner has reasonable cause to believe that a person is violating this chapter, the commissioner, in addition to and without prejudice to other authority provided by this chapter, may enter an order requiring the person to stop or to refrain from the violation.

(b) At the commissioner's request, the attorney general or an attorney authorized to represent this state in district court shall sue in any district court with venue or in a district court of Travis County to enjoin a person from violating or continuing a violation of this chapter or from acting to further a violation. The court may enter an order or judgment awarding a preliminary or permanent injunction. The court may issue an additional order or judgment for actual damages suffered by a person as a result of the violation.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.303. ADMINISTRATIVE PENALTY. (a) The commissioner may assess an administrative penalty against a person who violates this chapter or a rule adopted under this chapter.

(b) The commissioner may assess the administrative penalty in an amount not to exceed $1,000.

(c) Each day a violation continues or occurs may be considered a separate violation for purposes of this section. The aggregate amount of penalties that may be assessed under this section against a person during one calendar year may not exceed

$10,000 for violations an element of which occurred at the same business location.

(d) In determining the amount of a penalty, the commissioner shall consider:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the prohibited act;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) efforts to correct the violation; and

(5) any other matter that justice may require.

(e) If, after investigation of a possible violation and the facts relating to that possible violation, the commissioner determines that a violation has occurred, the commissioner shall issue a preliminary report that states:

(1) the facts on which the conclusion is based;

(2) the fact that an administrative penalty is to be imposed; and

(3) the amount to be assessed.

(f) Not later than the 10th day after the date on which the commissioner issues the preliminary report, the commissioner shall send to the person charged with the violation a copy of the report and a statement that the person has a right to a hearing on the alleged violation and the amount of the penalty.

(g) Not later than the 20th day after the date on which the report is sent, the person charged may make a written request for a hearing or may pay to the commissioner the amount of the administrative penalty. A person who does not request a hearing or pay the amount of the penalty within the prescribed time waives the right to a hearing.

(h) If the person charged accepts the commissioner's determination, the commissioner shall issue an order approving the determination and ordering payment of the recommended penalty.

(i) If it is determined after a hearing that the person has committed the alleged violation, the commissioner shall give written notice to the person of each finding established by the hearing and the amount of the penalty and shall enter an order requiring the person to pay the penalty.

(j) Not later than the 30th day after the date on which the notice is received, the person charged shall pay the administrative penalty in full.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 4.06, eff. September 1, 2005.

Sec. 371.304. ACTING WITHOUT A LICENSE; OFFENSES. (a) A person who violates Section 371.051 commits an offense.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 95(3), eff. September 1, 2019.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 95(3), eff. September 1, 2019.

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 95(3), eff. September 1, 2019.

(e) An offense under Subsection (a) is a misdemeanor punishable by:

(1) a fine not to exceed $10,000;

(2) confinement in county jail for a term not to exceed one year; or

(3) both the fine and confinement.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 95(3), eff. September 1, 2019.

Sec. 371.305. WILFUL VIOLATION OF CHAPTER; OFFENSE. (a) A person commits an offense if the person holds a license under this chapter and:

(1) wilfully violates this chapter; or

(2) wilfully makes a false entry in a record specifically required by this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed $1,000.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 371.306. PENALTY FOR CERTAIN VIOLATIONS. (a) A pawnbroker who contracts for, charges, or collects a pawn service charge that is greater than the amount authorized by this chapter or otherwise violates this chapter:

(1) is liable for twice the amount of the pawn service charge contracted for; and

(2) shall return the goods pledged in connection with the pawn transaction on request of the pledgor and payment of the balance due.

(b) A pawnbroker who contracts for, charges, or collects a pawn service charge that is greater than twice the amount authorized by this chapter:

(1) is not entitled to collect any amount on the pawn transaction; and

(2) shall return the goods pledged in connection with the pawn transaction on request of the pledgor.

(c) Subsection (a) or (b) does not apply to a violation that results from an accidental and bona fide error, corrected upon discovery.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.