

1 **ENROLLED**

2 **COMMITTEE SUBSTITUTE**

3 **FOR**

4 **H. B. 2534**

5 (By Delegates Morgan, Stephens, Diserio, Jones,  
6 Paxton and P. Smith)

7  
8 [Passed April 13, 2013; in effect ninety days from passage.]  
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11 AN ACT to amend the Code of West Virginia, 1931, as amended by  
12 adding thereto a new article, designated §47-26-1, §47-26-2,  
13 §47-26-3 and §47-26-4, all relating to the regulation of pawn  
14 brokers; defining terms; requiring transaction records;  
15 creating offenses; specifying misdemeanor criminal penalty for  
16 violations; requiring record retention; and allowing for  
17 additional local regulation by municipalities or counties.

18 *Be it enacted by the Legislature of West Virginia:*

19 That the Code of West Virginia, 1931, as amended, be amended  
20 by adding thereto a new article, designated §47-26-1, §47-26-2,  
21 §47-26-3 and §47-26-4, all to read as follows:

22 **ARTICLE 26. PAWNBROKERS.**

23 **§47-26-1. Definitions.**

24 (a) "Pawnbroker" means any person, partnership, association or  
25 corporation or employee thereof advancing money in a pawn  
26 transaction in exchange for collateral in the property of the

1 pledgor. Pawnbroker does not mean any bank which is regulated by  
2 the West Virginia Division of Financial Institutions; the  
3 Comptroller of the Currency of the United States; the Federal  
4 Deposit Insurance Corporation; the Board of Governors of the  
5 Federal Reserve System or any other federal or state authority; and  
6 all affiliates thereof and any bank or savings and loan association  
7 whose deposits or accounts are eligible for insurance by the Bank  
8 Insurance Fund or the Savings Association Insurance Fund or other  
9 fund administered by the Federal Deposit Insurance Corporation all  
10 affiliates thereof, any state or federally chartered credit union,  
11 and any finance company subject to licensing and regulation by the  
12 West Virginia Division of Financial Institutions.

13 (b) "Pawn transaction" means a transaction between a  
14 pawnbroker and a pledgor where the pledgor's property is placed in  
15 the possession of the pawnbroker as security for money or other  
16 valuable consideration provided to the pledgor on the condition  
17 that the pledgor may pay a pawn charge and redeem his or her  
18 property within a predetermined time frame. Pawn transactions do  
19 not include those transactions where securities, titles or printed  
20 evidence of indebtedness are used as security for the transaction.

21 (c) "Pledgor" means a person who delivers the pledge into the  
22 possession of a pawnbroker.

23 (d) "purchase" or "purchase transaction" means the transfer  
24 and delivering of goods by a person to a pawnbroker by acquisition  
25 for value, consignment or trade for other goods. This definition  
26 does not include purchases by pawnbrokers of items not used or

1 intended for resale, consignment or trade of the item to another.

2 **§47-26-2. Purchase and Pawn Transaction Records.**

3 (a) All pawnbrokers shall make and maintain a transaction  
4 report on all purchase or pawn transactions, except for refinance  
5 pawn transactions or merchandise bought from a manufacturer or  
6 wholesaler with an established place of business. The required  
7 transaction report shall include the following:

8 (1) The date of the transaction;

9 (2) The name of the seller;

10 (3) The name of the clerk who handled the transaction;

11 (4) The corresponding pawn ticket number;

12 (5) The terms of the loan or purchase;

13 (6) A copy of the seller's or pledger's government photo  
14 identification and type; Provided, That if the seller or pledger  
15 does not have a government issued photo identification, the  
16 pawnbroker shall have a photograph of the seller or pledger; and

17 (8) A detailed description of the property.

18 (b) For purposes of meeting the requirements of subsection (a)  
19 of this section, a detailed description of the property shall  
20 include the following:

21 (1) In the case of firearms, the description shall include the  
22 brand, model, caliber, type, and serial number;

23 (2) In the case of jewelry, the type of jewelry presented, the  
24 karat weight, whether it is made of white gold, yellow gold or  
25 other precious metals, and other description of the stones, shape,  
26 cut, and oddities, etc. which are sufficient to describe the

1 article of jewelry;

2 (3) In the case of other types of articles and property, the  
3 description shall include the type of article, brand, model and  
4 serial number on the article, or any other such identifying  
5 information or description to which is sufficient to specifically  
6 describe the item or property.

7 (c) The seller or pledger shall be required to sign the pawn  
8 transaction statement or purchase transaction statement; and a  
9 signed statement from the seller or pledger affirming ownership  
10 shall appear on the bill of sale or pawn ticket that is completed  
11 by the seller or pledger at the time of the transaction.

12 (d) The pawnbroker shall maintain the original of all purchase  
13 or pawn transaction statements for three years, and shall make the  
14 original copies of the purchase or pawn transaction statements  
15 available for inspection by law enforcement officers and law  
16 enforcement agencies upon request during the posted hours of  
17 operation of the business.

18 (e) The information required to be collected pursuant to this  
19 section is confidential, is not public record, and should only be  
20 disclosed as provided in this section or otherwise provided by law:  
21 Provided, That the confidential nature of this information in no  
22 way impedes the pawnbroker's duty to accurately collect and timely  
23 provide the information to law enforcement.

24 **§47-26-3. Penalties; pawnbroker.**

25 A pawnbroker who violates the provisions of this article is  
26 guilty of a misdemeanor, and shall be fined not less than \$100 and

1 not more than \$200 for each offense.

2 **§47-26-4. County and municipal regulation of pawnbrokers.**

3       This article may not be construed to prohibit or otherwise  
4 limit any county or municipality of this state from adopting an  
5 ordinance, to the extent that the ordinance does not conflict or  
6 create lesser requirements than this article or any other provision  
7 of this code, establishing additional requirements of pawnbrokers  
8 within its jurisdiction. Pawnbrokers located in a county or  
9 municipality in which an ordinance establishes reporting  
10 requirements to local law-enforcement officials are not required to  
11 provide duplicate information to other law-enforcement officials  
12 pursuant to section three of this article.