

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 144
Commerce Committee Substitute Adopted 4/28/11
House Committee Substitute Favorable 6/15/11

Short Title: Cash Converters Must Keep Purchase Records.

(Public)

Sponsors:

Referred to:

February 28, 2011

A BILL TO BE ENTITLED

AN ACT TO REQUIRE CASH CONVERTER BUSINESSES TO KEEP RECORDS OF PURCHASES AND TO MAKE THOSE RECORDS AVAILABLE TO LOCAL LAW ENFORCEMENT AGENCIES, AND TO EXEMPT CERTAIN LICENSED CHECK CASHERS FROM THE REPORTING REQUIREMENTS OF THE CHECK-CASHING BUSINESSES ACT.

The General Assembly of North Carolina enacts:

SECTION 1. The title of Chapter 91A of the General Statutes reads as rewritten:

"Pawnbrokers and Cash Converters Modernization Act of 1989-Act."

SECTION 2. G.S. 91A-1 reads as rewritten:

"§ 91A-1. Short title.

This Chapter shall be known and may be cited as the Pawnbrokers and Cash Converters Modernization Act of 1989-Act."

SECTION 3. G.S. 91A-2 reads as rewritten:

"§ 91A-2. Purpose.

The making of pawn loans and the acquisition and disposition of tangible personal property by and through pawnshops and cash converters vitally affects the general economy of this State and the public interest and welfare of its citizens. In recognition of these facts, it is the policy of this State and the purpose of the Pawnbrokers and Cash Converters Modernization Act of 1989 to do all of the following:

(1) Ensure a sound system of making loans and acquiring and disposing of tangible personal property by and through pawnshops, and to prevent unlawful property transactions, particularly in stolen property, through licensing and regulating pawnbrokers; pawnbrokers.

(1a) Ensure a sound system of acquiring and disposing of tangible personal property by and through cash converters and to prevent unlawful property transactions, particularly in stolen property, by requiring record keeping by cash converters.

(2) Provide for pawnbroker licensing fees and investigation fees of licensees; licensees.

(3) Ensure financial responsibility to the State and the general public; public.

(4) Ensure compliance with federal and State laws; and laws.

(5) Assist local governments in the exercise of their police authority."

SECTION 4. G.S. 91A-3 reads as rewritten:

"§ 91A-3. Definitions.



As used in this Article, the following definitions shall apply: The following definitions apply in this Chapter:

- (1) Cash. – Lawful currency of the United States.
- (2) Cash converter. – A person engaged in the business of purchasing goods from the public for cash at a permanently located retail store who holds himself or herself out to the public by signs, advertising, or other methods as engaging in that business. The term does not include any of the following:
- a. Pawnbrokers.
 - b. Persons whose goods purchases are made directly from manufacturers or wholesalers for their inventories.
 - c. Precious metals dealers, to the extent that their transactions are regulated under Article 25 of Chapter 66 of the General Statutes.
 - d. Purchases by persons primarily in the business of obtaining from the public, either by purchase or exchange, used clothing, children's furniture, and children's products, provided the amount paid for the individual item purchased is less than fifty dollars (\$50.00).
 - e. Purchases by persons primarily in the business of obtaining from the public, either by purchase or exchange, sporting goods and sporting equipment, provided the amount paid for the individual item purchased is less than fifty dollars (\$50.00).
- ~~(1)(3) "Pawn" or "Pawn transaction" means a Pawn or pawn transaction. – A written bailment of personal property as security for a debt, redeemable on certain terms within 180 days, unless renewed, and with an implied power of sale on default.~~
- ~~(2)(4) "Pawnbroker" means any Pawnbroker. – A person engaged in the business of lending money on the security of pledged goods and who may also purchase merchandise for resale from dealers and traders.~~
- ~~(3)(5) "Pawnshop" means the Pawnshop. – The location at which, or premises in which, a pawnbroker regularly conducts business.~~
- ~~(4)(6) "Person" means any Person. – Any individual, corporation, joint venture, association, or any other legal entity, however organized.~~
- ~~(5)(7) "Pledged goods" means tangible Pledged goods. – Tangible personal property which is deposited with, or otherwise actually delivered into, the possession of a pawnbroker in the course of his business in connection with a pawn transaction.~~
- ~~(6)(8) "Purchase" means any Purchase. – An item purchased from an individual for the purpose of resale whereby the seller no longer has a vested interest in the item."~~

SECTION 5. The catch line of G.S. 91A-7 reads as rewritten:

"§ 91A-7. ~~Record-keeping requirements.~~ Record-keeping requirements for pawnbrokers."

SECTION 6. Chapter 91A of the General Statutes is amended by adding a new section to read:

"§ 91A-7.1. Record-keeping requirements for cash converters.

(a) Every cash converter shall keep consecutively numbered records of each cash purchase. The cash converter shall, at the time of making the purchase, enter upon each record all of the following information, which shall be typed or written in ink and in the English language:

- (1) A clear and accurate description of the property purchased by the cash converter from the seller, including model and serial number if indicated on the property.

- 1 (2) The name, residence address, phone number, and date of birth of the seller.
 2 (3) The date of the purchase.
 3 (4) The type of identification and the identification number accepted from the
 4 seller.
 5 (5) A description of the seller, including approximate height, weight, sex, and
 6 race.
 7 (6) The purchase price.
 8 (7) The statement that 'THE SELLER OF THIS ITEM ATTESTS THAT IT IS
 9 NOT STOLEN, HAS NO LIENS OR ENCUMBRANCES, AND IS THE
 10 SELLER'S TO SELL.'

11 (b) The seller shall sign the record and shall receive an exact copy of the record, which
 12 shall be signed or initialed by the cash converter or any employee of the cash converter. These
 13 records shall be available for inspection and pickup each regular workday by the sheriff of the
 14 county or the sheriff's designee or the chief of police or the chief's designee of the municipality
 15 in which the cash converter is located. These records may be electronically reported to the
 16 sheriff of the county or the chief of police of the municipality in which the cash converter is
 17 located by transmission over the Internet or by facsimile transmission in a manner authorized
 18 by the applicable sheriff or chief of police. These records shall be a correct copy of the entries
 19 made of the purchase transaction, shall be carefully preserved without alteration, and shall be
 20 available during regular business hours.

21 (c) This section does not apply to purchases directly from a manufacturer or wholesaler
 22 for a cash converter's inventory."

23 **SECTION 7.** G.S. 91A-10 reads as rewritten:

24 "**§ 91A-10. Prohibitions.**

25 (a) A pawnbroker shall not:

- 26 (1) Accept a pledge from a person under the age of 18 ~~years;~~years.
 27 (2) Make any agreement requiring the personal liability of a pledgor in
 28 connection with a pawn ~~transaction;~~transaction.
 29 (3) Accept any waiver, in writing or otherwise, of any right or protection
 30 accorded a pledgor under this ~~Chapter;~~ Chapter.
 31 (4) Fail to exercise reasonable care to protect pledged goods from loss or
 32 ~~damage;~~ damage.
 33 (5) Fail to return pledged goods to a pledgor upon payment of the full amount
 34 due the pawnbroker on the pawn transaction. In the event such pledged
 35 goods are lost or damaged while in the possession of the pawnbroker, it shall
 36 be the responsibility of the pawnbroker to replace the lost or damaged goods
 37 with merchandise of like kind and equivalent value. In the event the pledgor
 38 and pawnbroker cannot agree as to replacement, the pawnbroker shall
 39 reimburse the pledgor in the amount of the value agreed upon pursuant to
 40 ~~G.S. 91A-7(b);~~ G.S. 91A-7(b).
 41 (6) Take any article in pawn, pledge, or as security from any person, which is
 42 known to such pawnbroker to be stolen, unless there is a written agreement
 43 with local or State ~~police;~~ police.
 44 (7) Sell, exchange, barter, or remove from the pawnshop any goods pledged,
 45 pawned, or purchased before the earlier of seven days after the date the pawn
 46 ticket record is electronically reported in accordance with G.S. 91A-7(d) or
 47 30 days after the transaction, except in case of redemption by pledgor or
 48 items purchased for resale from ~~wholesalers;~~ wholesalers.
 49 (8) Operate more than one pawnshop under one license, and such shop must be
 50 at a permanent place of ~~business;~~ business.

1 (9) Take as pledged goods any manufactured mobile home, recreational vehicle,
2 or motor vehicle other than a motorcycle.

3 (b) A cash converter shall not purchase from any person property which is known to the
4 cash converter to be stolen, unless there is a written agreement with local or State police."

5 **SECTION 8.** G.S. 91A-11 reads as rewritten:

6 "**§ 91A-11. Penalties.**

7 (a) Every person, firm, or corporation, their guests or employees, who shall knowingly
8 violate any of the provisions of this Chapter, shall, on conviction thereof, be deemed guilty of a
9 Class 2 misdemeanor. If the violation is by an owner or major stockholder or managing partner
10 of the pawnshop and the violation is knowingly committed by the owner, major stockholder, or
11 managing partner of the pawnshop, then the license of the pawnshop may be suspended at the
12 discretion of the court.

13 (b) The provision of subsection (a) shall not apply to violations of ~~G.S. 91A-10(6)~~
14 G.S. 91A-10(a)(6) or (b) which shall be prosecuted under the North Carolina criminal statutes.

15 (c) Any contract of pawn the making or collecting of which violates any provision of
16 this Chapter, except as a result of accidental or bona fide error of computation, shall be void,
17 and the licensee shall have no right to collect, receive or retain any interest or fee whatsoever
18 with respect to such pawn."

19 **SECTION 9.** G.S. 25-9-201(b) reads as rewritten:

20 "(b) Applicable consumer laws and other law. – A transaction subject to this Article is
21 subject to any applicable rule of law which establishes a different rule for consumers, to any
22 other statute, rule, or regulation of this State that regulates the rates, charges, agreements, and
23 practices for loans, credit sales, or other extensions of credit, and to any consumer-protection
24 statute, rule, or regulation of this State, including Chapter 24 of the General Statutes, the Retail
25 Installment Sales Act (Chapter 25A of the General Statutes), the North Carolina Consumer
26 Finance Act (Article 15 of Chapter 53 of the General Statutes), and the Pawnbrokers and Cash
27 Converters Modernization Act of 1989 (Chapter 91A of the General Statutes)."

28 **SECTION 10.** G.S. 53-282(a) reads as rewritten:

29 "(a) Every person required to be licensed under this Article shall maintain in its offices
30 such books, accounts, and records as the Commissioner may reasonably require. The books,
31 accounts, and records shall be maintained separate from any other business in which the person
32 is engaged, and shall be retained for a period prescribed by the Commissioner. A person
33 required to be licensed under this Article that derives less than twenty percent (20%) of the
34 person's annual gross revenues from check cashing shall not be required to maintain separate
35 accounts and records."

36 **SECTION 11.** This act becomes effective December 1, 2011, and applies to
37 purchases by cash converters on or after that date.