

CHAPTER 16**PAWNBROKING LAW REGULATIONS****Authority**

N.J.S.A. 17:1-8 and 15e, 17:1C-33 et seq. and 45:22-11 et seq.

Source and Effective Date

R.2001 d.213, effective June 3, 2001.
See: 33 N.J.R. 930(a), 33 N.J.R. 2279(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 16, Pawnbroking Law Regulations, expires on November 30, 2006. See: 38 N.J.R. 2771(a).

Chapter Historical Note

Chapter 16, Pawnbroking Law Regulations, was adopted and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 16, Pawnbroking Law Regulations, expired on June 18, 1995.

Chapter 16, Pawnbroking Law Regulations, was adopted as R.1995 d.655, effective December 18, 1995. See: 27 N.J.R. 3655(a), 27 N.J.R. 5011(a).

Chapter 16, Pawnbroking Law Regulations, was repealed and a new Chapter 16, Pawnbroking Law Regulations, was adopted as R.1996 d.261, effective June 3, 1996. See: 28 N.J.R. 1095(a), 28 N.J.R. 2837(a).

Pursuant to Executive Order No. 66(1978), Chapter 16, Pawnbroking Law Regulations, was readopted as R.2001 d.213, effective June 3, 2001. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS**3:16-1.1 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Act” means the Pawnbroker Act, N.J.S.A. 45:22-1 et seq.

“Commercially reasonable manner” means that display and sale of goods shall be made in keeping with prevailing trade practices among reputable and responsible business and commercial enterprises engaged in the same or similar businesses.

“Commissioner” means the Commissioner of the New Jersey Department of Banking and Insurance.

“Department” means the New Jersey Department of Banking and Insurance.

“Licensee” means a licensee under the Act.

“Substantial stockholder” means any person who beneficially owns or controls more than 10 percent of the outstanding voting shares of an applicant or a licensee.

“Unredeemed pledge” means an item of personal property on which the licensee has loaned a sum of money to a pledgor for a specified time period, and which, after proper notice, the pledgor has failed to redeem.

Amended by R.2001 d.213, effective July 2, 2001.
See: 33 N.J.R. 930(a), 33 N.J.R. 2279(a).

3:16-1.2 Licensing

(a) No person shall engage in the business of a pawnbroker in this State without first obtaining a license.

(b) A person is engaged in the business of a pawnbroker if such person:

1. Advertises, causes to be advertised, solicits, negotiates, offers to make or makes a loan on deposit or pledge of personal property;

2. Does business as a furniture storage warehouseman and lends money on goods, wares or merchandise pledged or deposited as collateral security; or

3. Purchases property on condition of selling it back at a stipulated price.

(c) No applicant for a license shall commence pawnbroker operations until a license has been issued by the Department.

(d) An applicant for a license shall apply on a form supplied by the Commissioner, which shall require the following information:

1. The full name and residence address of each owner, substantial stockholder, officer, director, partner and manager of the business to be licensed;
2. The location of the place or places of business;
3. The application fee of \$500.00;
4. A statement of net worth;
5. An original surety bond as required by this subchapter;
6. A copy of the insurance policy as required by this subchapter;
7. For corporate applicants, a copy of the certificate of incorporation showing the filing or recording stamp of the New Jersey Department of the Treasury, Division of Revenue, and identifying the registered agent for service of process; and
8. Any other information or supporting documentation which the Commissioner may require.

(e) Application fees are not refundable.

Amended by R.2001 d.213, effective July 2, 2001.

See: 33 N.J.R. 930(a), 33 N.J.R. 2279(a).

In (d)3, inserted "of \$400.00"; in (d)7, substituted "Department of the Treasury, Division of Revenue" for "Secretary of State".

Amended by R.2006 d.235, effective June 19, 2006.

See: 38 N.J.R. 10(a), 38 N.J.R. 2674(a).

In (d)3, substituted "application" for "license" and "\$500.00" for "\$400.00"; and added "(e)".

3:16-1.3 Posting requirements

The licensee shall post and at all times display in a conspicuous place on the premises the license and the schedule of fees to be charged. The fee schedule shall be printed in bold type, in both English and Spanish, except where the Department deems it necessary that a different or additional language be used.

3:16-1.4 Surety bond

(a) An applicant shall file with the Commissioner a surety bond in the amount of \$1,000 for each place of business in this State. The surety bond shall be obtained from an insurance company authorized to do business in New Jersey.

(b) The bond shall run to the State, pro rata, for the benefit of the Department and for the benefit of all consumers injured by the wrongful act, omission, default, fraud or misrepresentation of the pawnbroker in the course of activity as a licensee. The bond shall not be payable for claims made by business creditors.

3:16-1.5 Insurance

(a) A licensee shall maintain adequate fire and liability insurance to cover any pledge in the event of loss by fire, theft, burglary or otherwise, or his liability to the pledgor resulting from the licensee's failure to exercise reasonable care. The burden of proof to establish reasonable care shall be on the pawnbroker.

(b) A licensee shall include a statement, printed on every pledge ticket, which informs the pledgor that the licensee's insurance may not cover the replacement value of the pledged article.

3:16-1.6 Change of location; change of name

A licensee shall notify the Commissioner in writing of a change in name or the location of any licensed place of business, at least 10 days prior to the move or name change.

SUBCHAPTER 2. CONDUCT OF BUSINESS; RECORDKEEPING

3:16-2.1 Recordkeeping; reporting

(a) In addition to the records required to be maintained by the Act, a licensee shall maintain a cash book and general ledger. The cash book shall be a record of each amount paid out and the purpose for which it was paid, and each amount received and on what account it was received. The cash book shall be balanced daily.

(b) A licensee shall file an annual report with the Commissioner on or before March 1 of every year on a form supplied by the Commissioner. The annual report shall supply the following:

1. The number and amount of loans made during the preceding year;
2. The range of interest rates charged;
3. The number of pledges redeemed;
4. The number of pledges unredeemed;
5. The date(s) of sales of unredeemed pledges;
6. The number of pledges sold at each public auction;
7. The number or purchases made during the preceding year at public auction;
8. The number or purchases made during the preceding year on condition of resale at a stipulated price;
9. Balance sheets and income statements for the current year; and
10. A notarized certification by the licensee that he or she is in compliance with N.J.S.A. 45:22-34, which requires a daily reporting to the police.

(c) In accordance with N.J.A.C. 3:1-7.6, the Department shall assess a penalty against any licensee for each report the licensee files late.

(d) A licensee shall maintain its records on the licensed premises available for inspection by the Department or the police. Records shall be retained on file for five years.

Amended by R.2006 d.235, effective June 19, 2006.

See: 38 N.J.R. 10(a), 38 N.J.R. 2674(a).

Recodified the second occurrence of (b) as (c) and former (c) as (d); and in present (c), substituted "In accordance with N.J.A.C. 3:1-7.6, the" for "The licensee shall remit a fee of \$100.00 for each such report filed. The" and deleted "\$50.00" preceding "penalty".

3:16-2.2 Display of merchandise; inspection; prohibition

(a) A licensee shall make available for inspection by the Department all pledged and purchased items, including those items which the licensee has acquired as the result of a sale of unredeemed pledges. A licensee shall allow inspection by all law enforcement authorities of all pledged and purchased items upon reasonable suspicion that one of the items listed in the report filed under N.J.S.A. 45:22-34 is stolen or other evidence of a crime. If the licensee fails to file a report as required by N.J.S.A. 45:22-34, law enforcement authorities may inspect all pledged and purchased items, including those items which the licensee has acquired as the result of unredeemed pledges.

(b) A licensee shall conduct his business in a commercially reasonable manner.

3:16-2.3 Advertising

(a) No licensee shall make, publish disseminate, circulate or place before the public, or cause directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, computer modem, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement which is inaccurate, untrue, deceptive or misleading.

(b) A licensee is prohibited from using on his stationery, records, forms literature or advertising the words "bank" or "banking," or any other words which might imply that the licensee is a bank or is engaged in the banking business.

(c) An advertisement for public auction of unredeemed pledges shall be placed in three consecutive issues of a daily or weekly newspaper of general circulation in the city or county where the pawnbroker's business is conducted. In addition, the licensee may place advertisements in such other publications as he or she deems appropriate. Each advertisement shall include notice of the time and site of the public auction. Copies of all advertisements shall be retained for examination by the Department.

(d) The licensee shall conspicuously post a list of items available for sale on the licensee's principal business premises at least three days prior to the date of sale, and the licensee shall make the list available to members of the public upon request.

3:16-2.4 Public auction; notice

(a) A licensee shall obtain the name and address of each person who makes a purchase as a result of a public auction. The purchasers' names and addresses shall be retained for examination by the Department and the police.

(b) A licensee shall prepare and maintain a list containing a description of each item which the licensee acquires as a result of an auction of unredeemed pledges.

(c) A licensee shall allow public inspection of all unredeemed pledges at the site of the public auction for not less than one hour prior to the commencement of the auction.

(d) A licensee shall mail a notice of public auction to each pledgor of record of items to be sold.

3:16-2.5 Service charges

On loans secured by the pledge of articles, a licensee may levy a service charge equal to eight percent of the amount of the loan, but such service charge shall not exceed \$4.00. The service charge shall not be levied on the renewal of a pledge more than once during any 12-month period following the date of the initial pledge. A licensee shall levy a service charge only with the knowledge and consent of the pledgor.

Amended by R.1998 d.202, effective April 20, 1998.

See: 30 N.J.R. 261(a), 30 N.J.R. 1402(a).

Increased the service charge limit from \$3.00 to \$4.00 in the first sentence.

3:16-2.6 Lost, stolen or destroyed pledge tickets; fees

A licensee may charge a fee for services provided in connection with a lost, stolen or destroyed pledge ticket, not to exceed \$5.00.

New Rule, R.1998 d.202, effective April 20, 1998.

See: 30 N.J.R. 261(a), 30 N.J.R. 1402(a).

SUBCHAPTER 3. LAWSUITS; CLAIMS; REPORTING

3:16-3.1 Reports of legal actions

(a) A licensee shall provide the Commissioner with a copy of every legal process bringing a lawsuit, claim or suit upon a surety bond, which involves the licensee's pawnbroker business, not later than 10 days from the time of service upon the licensee.

(b) A licensee shall report to the Commissioner in writing within three days the disposition of a lawsuit, claim or suit

upon a bond, whether by settlement, judgment or court order, involving the licensee's pawnbroker business. The licensee shall provide the Commissioner with a copy of the settlement agreement, judgment or court order.

SUBCHAPTER 4. REVOCATION OR SUSPENSION OF
LICENSE

3:16-4.1 Revocation; causes

(a) The Commissioner may revoke or suspend a license if, after notice and hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, the Commissioner determines that the licensee:

1. Has violated any provision of N.J.S.A. 45:22-1 et seq., or any order, rule or regulation made or issued pursuant thereto, or has violated any other law in connection with the operation of the pawnbroker business;

2. Has failed to pay any fee imposed by the Commissioner;

3. Has withheld information from the police or from the Department, or has made a material misstatement in the application for the license, or any other submission to the Department;

4. Has been convicted of an offense involving breach of trust, moral turpitude or fraudulent or dishonest dealing, or has had a final judgment entered against him in a civil action upon grounds of fraud, misrepresentation or deceit;

5. Has become insolvent or has acted in a way that indicates the licensee's business is not being operated in a financially responsible manner;

6. Has demonstrated unworthiness, incompetence, bad faith or dishonesty in transacting business or otherwise; or

7. Has engaged in any other conduct which would be deemed by the Commissioner to be grounds to deny, revoke or suspend a license.