

Chapter 91

PAWNBROKER

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Sec. 91-1. Definitions.

As used in this chapter, the following definitions shall apply:

(a) *Pawn or pawn transaction* means 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.

(b) *Pawnbroker* means any 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.

(c) *Pawnshop* means the location at which, or premises in which a pawnbroker regularly conducts business.

(d) *Person* means any individual, corporation, joint venture, association, or any other legal entity, however organized.

(e) *Pledged goods* means 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.

(f) *Purchase* means any item purchased from an individual for the purpose of resale whereby the seller no longer has a vested interest in the item.

(Ord. No. 442, 12-5-1996)

Sec. 91-2. License.

(a) To be eligible for a pawnbroker's license an applicant must:

- (1) Be of good moral character; and
- (2) Not have been convicted of a felony within the last ten years.

(b) Every person, firm or corporation desiring to engage in the business of pawnbroker shall petition the Tribal Business Committee for a license to conduct such business. Such petitions shall provide:

- (1) The name and address of the person, and in a firm or corporation, the names and addresses of the persons composing such firm or of the officers, directors, and stock-

holders of such corporation, excluding shareholders of publicly traded companies;

- (2) The name of the business and the street and the mailing address where the business is to be operated;
- (3) A statement indicating the amount of net assets or capital proposed to be used by the petitioner in operation of the business; this statement shall be accompanied by an unaudited statement from an accountant or certified public accountant verifying the information contained in the accompanying statement;
- (4) An affidavit by the petitioner that he has not been convicted of a felony; and
- (5) A certificate from the Chief of Police or Sheriff of a North Carolina county, or the State Bureau of Investigation that the petitioner has not been convicted of a felony.

(c) Any license granted under this chapter may be revoked after a hearing before the Business Committee for substantial abuses of this chapter by the licensee. There is a right to appeal the decision of the Business Committee within ten days to the Tribal Council.

(Ord. No. 442, 12-5-1996)

Sec. 91-3. Bonding or surety requirement.

(a) Every person, firm, or corporation licensed under this chapter shall, at the time of receiving the license, file a bond payable to the Eastern Band of Cherokee Indians, the sum of \$5,000.00, to be executed by the licensee, and by two responsible sureties or a surety company licensed to do such business in the State of North Carolina to be approved by the Tribe which shall be for the faithful performance of the requirements and obligations pertaining to the business so licensed.

(b) The bond shall be forfeited to the Tribe upon breach thereof.

(c) Any person, who obtains a judgment against a pawnbroker and upon which judgment execution is returned unsatisfied, may maintain an action in his own name upon the bond, to satisfy the judgment.

(Ord. No. 442, 12-5-1996)

Sec. 91-4. Authorization of pawnbroker license.

A pawnbroker licensee is authorized to:

- (1) Make loans on pledges of tangible personal property;
- (2) Deal in bullion stocks;
- (3) Purchase merchandise for resale from dealers, traders, and wholesale suppliers; and
- (4) Use its capital and funds in any lawful manner within the general scope and purpose of its creation.

Notwithstanding the provisions of this section, no pawnbroker has the authority enumerated in this section, unless s/he has fully complied with the laws regulating the particular transactions involved.

(Ord. No. 442, 12-5-1996)

Sec. 91-5. Required records.

(a) Every pawnbroker shall keep consecutively numbered records of each and every pawn transaction, which shall correspond in all essential particulars to a detachable pawn ticket or copy thereof attached to the records.

(b) The pawnbroker shall, at the time of making the pawn or purchase transaction, enter upon the pawn ticket a record 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, including model and serial number if indicated on the property;
- (2) The name, residence address, phone number, and date of birth of the pledgor;
- (3) Date of the pawn transaction;
- (4) Type of identification and the identification number accepted from pledgor;
- (5) Description of the pledgor including approximate height, weight, sex, and race;
- (6) Amount of money advanced;
- (7) The date due and the amount due;

(8) All monthly pawn charges, including interest, annual percentage rate on interest and total recovery fee; and

(9) Agreed upon "stated value" between pledgor and pawnbroker in case of loss or destruction of pledged item; unless otherwise noted, "stated value" is the same as the loan value.

(c) The following shall be printed on all pawn tickets:

(1) The statement that "ANY PERSONAL PROPERTY PLEDGED TO A PAWNBROKER WITHIN CHEROKEE TERRITORY IS SUBJECT TO SALE OR DISPOSAL WHEN THERE HAS BEEN NO PAYMENT MADE ON THE ACCOUNT FOR A PERIOD OF 60 DAYS PAST MATURITY DATE OF THE ORIGINAL CONTRACT. NO FURTHER NOTICE IS NECESSARY";

(2) The statement that "THE PLEDGOR OF THIS ITEM ATTESTS THAT IT IS NOT STOLEN, HAS NO LIENS NOR ENCUMBRANCES, AND IS THE PLEDGOR'S TO SELL OR PAWN";

(3) The statement that "THE ITEM PAWNEED IS REDEEMABLE ONLY BY THE BEARER OF THIS TICKET OR BY IDENTIFICATION OF THE PERSON MAKING THE PAWN"; and

(4) A blank line for the pledgor's signature and the pawnbroker's signature or initials.

(d) The pledgor shall sign the pawn ticket and shall receive an exact copy of the pawn ticket which shall be signed or initialed by the pawnbroker or any employee of the pawnbroker.

(e) These records shall be a correct copy of the entries made of the pawn or purchase transaction and shall be carefully preserved without alteration, and shall be available during regular business hours.

(f) Except as otherwise provided in this chapter any person presenting a pawn ticket to a pawnbroker is presumed to be entitled to redeem the pledged goods described on the ticket.

(Ord. No. 442, 12-5-1996)

