

PAWNBROKER REGULATION

28-200. Pawnbroker Certificate of Authority. [SC ADC 28-200]
(Statutory Authority: 1976 Code §§ 40-39-10 et seq.)

A. DEFINITIONS

Definitions shall be those contained in the S.C. Pawnbroker Act, S.C. Code Ann. Section 40-39-10 et seq. (1976 as amended).

B. CERTIFICATES OF AUTHORITY

(1) All organizations wish to provide pawnbroker services in this State must first obtain a Certificate of Authority from the Administrator of the Department of Consumer Affairs. Initial applications for the Certificate must be made on the form prescribed by the Administrator.

(2) Certificates of Authority expire each June 30 but may be renewed upon payment of a renewal fee of \$275.00 per location and submission of requisite financial responsibility declaration on or before June 30. The renewal period will be between May 1 and June 30 of each year. Renewal applications for the Certificate must be made on the form prescribed by the Administrator.

(3) Issuance of a Certificate of Authority does not indicate approval or acceptance of the terms of any contract, agreement or other document submitted in support of the application. No organization providing pawnbroker services will in any way represent that its services, payment schedules or terms are approved by the State or any state agency. Notwithstanding this, all pawnbrokers who are properly licensed and in good standing may indicate this fact to others. Each applicant must file such proof as is acceptable to the Administrator of his net worth which must be a minimum of \$35,000.00 until such time as liability insurance covering the pawn transaction inventory of the pawn location is secured by the pawnbroker. When the liability insurance is available, the amount of the liability insurance required must be at least enough to cover the pawn transaction inventory of each location operated by the pawnbroker. The liability insurance is to be comprehensive in nature.

(4) The Certificate of Authority must be made on a form prescribed by the administrator and must be posted in a conspicuous place at the business location. Certificates of Authority are not transferable or assignable.

(5) On application of any person and payment of the cost thereof, the Administrator will furnish a certified copy of any pawnbroker Certificate of Authority.

(6) Relocation of Pawnshops

(a) Notice to Department--The pawnbroker must forward written notice of the intended relocation to the Department not less than 30 days prior to the anticipated relocation date. The notice must include at a minimum the present name and address of the licensed pawnshop, the anticipated date of relocation and a sample copy of the notice to be mailed to pledgors on open pawn loans. A \$25.00 change of location fee must accompany these materials.

(b) Notice to Customers--Written notices must be mailed to all pledgors on open pawn loans at least 15 days prior to the date of relocation. Notices at a minimum must identify the pawnshop, identify both the old and new locations and the telephone number of the new location and date the location is effective. The Administrator or his designee may approve notification by signs in lieu of notification by mail if in his opinion no pledgors will be adversely affected.

C. RECORD KEEPING

(1)(a) Prescribed Form and Content--Each pawnbroker must file with the Department a sample of the pawn ticket to be used. In a manual records system, the pawn ticket must be at least a two part form on which entries to the top part are legible and simultaneously reproduced on the remaining parts. The ticket must contain all the information required in the South Carolina Pawnbroker Act, satisfy the requirements of the Truth-in-Lending Act and Regulation Z, and contain any additional information which the Department may prescribe by regulation.

(b) Distribution of Copies--The original must be maintained by the pawnbroker and made available to law enforcement and/or the Department of Consumer Affairs. A legible copy must also be given to the pledgor when a loan is made. A legible copy must be maintained in a file in numerical sequence. Voided tickets must be retained and filed with the numerical sequence file.

(c) Numerical Index of Redemptions--A legible copy of each pawn ticket returned to the pawnbroker for redemption must be filed in numerical sequence. In lieu of the copy of the ticket, other written evidence of redemption may be kept in numerical sequence. Separate lost ticket statement forms must be filed with the pawn tickets according to the number of the related ticket. If the pawnbroker or pledgor does not require a lost ticket statement, other written evidence may be used as a substitute. This file may be maintained separately or may be merged with the numerical index of loans.

(2) Records of Payment and Forfeiture--A written record of any payment on a loan must be made immediately upon receipt. Payments received must be posted on the day received to the back of the pawnbroker's retained copy of the pawn ticket. The payment record must show at least the following information:

(a) The date (month, day, year) of payment

(b) The actual amount received and itemized as applied to:

(i) principal (amount financed)

(ii) pawn finance charge

(iii) charge for lost ticket statement In lieu of (1)(c) and (2) above, the pawnbroker may maintain a ledger book containing the same information.

(3) Records Maintained on Electronic Data Processing (EDP) Systems

(a) Filing of Description of Systems and Programs--Records and account systems maintained in whole or in part by electronic data processing may be used in lieu of the books, files and records required by these regulations if they contain equivalent information. Each system must receive prior written approval from the Department. Pawnbrokers seeking such approval must file a complete and detailed written description of the system proposed to be utilized, including user instructions and an enumeration of all features that do not meet the requirements of the regulations and a full explanation as to how the equivalent information is maintained with the proposed system. User instructions must provide a clear and concise section of procedures which must be followed to operate the system as contemplated by the Department in approving the system.

(b) Filing of Amendments--All changes or updates to a pawnbroker's electronic data processing system must be filed with the Department within 30 days after use by a pawnbroker.

(c) Withdrawal of Approval by the Department--If based on examinations and practical experience with an EDP system and its records the Department finds that such system and records do not

function and provide information as anticipated at the time of approval and are unsatisfactory, approval may be withdrawn by the Department. A pawnbroker will have 60 days to make modifications in accordance with directives of the Department concerning a satisfactory record system.

(4) Identification of Source of Pledged Goods in Pawnshop--All pledged goods must be tagged or otherwise marked to identify the source of the goods and/or the transaction through which the goods were obtained. Once ownership of the goods has lawfully passed to the pawnbroker, the goods no longer need to be so identified.

(5) Every pawnbroker must preserve and make available in this State such books and records relating to each of its pawn transactions for two (2) years from the date of the transaction, or one (1) year from the date of the final entry made thereon, which is later.

(6) Any person properly identifying himself as the original customer in the pawn transaction or as the assignee thereof; and presenting a pawn transaction memorandum (pawn ticket) to the pawnbroker will be presumed to be entitled to redeem the pledged goods described therein. The pawnbroker and customer may agree that the pawn transaction memorandum (pawn ticket) cannot be assigned by the customer. A statement to this effect must be conspicuous on the pawn transaction memorandum (pawn ticket).

Assignment of pawn tickets is achieved, if at all, by including a statement, written, printed or stamped, in close proximity to the pledgor's signature on the pawn ticket. The statement must be signed by the original pledgor. A statement in substantially the following form complies with this requirement.

Please give article(s) pawned by me to bearer of this ticket. Signed _____.

(7) If the pawn transaction memorandum (pawn ticket) is lost, destroyed or stolen, the customer may so notify the pawnbroker in writing, and receipt of the notice will invalidate such pawn transaction memorandum, if the pledged goods have not previously been redeemed. Before delivering the pledged goods or issuing a new pawn transaction memorandum (pawn ticket), the pawnbroker may require the customer to make affidavit of the loss, destruction or theft of the memorandum.

(8) Any pawnbroker must make available records of any buy transaction for inspection by the court and its officials, law enforcement officers, the Administrator of the Department of Consumer Affairs, and their designees; provided, merchandise bought on invoice from a manufacturer or wholesaler with an established place of business is exempt from this reporting requirement. However, such invoice must be shown upon request to the court and its officials, law enforcement officers, the Administrator of the Department of Consumer Affairs, and their designees.

D. AGREEMENTS AND PRACTICES

(1) A pawnbroker must not accept a pledge or purchase property from a person under the age of eighteen (18) years or other unemancipated minor.

(2) Items purchased by a pawnbroker, except on invoice from a manufacturer or wholesaler with an established place of business, must be held for seven (7) days before being disposed of, sold, altered or moved from the location at which it was purchased in this State.

(3) A pawnbroker must upon request give a payor a written receipt for any payment on a loan.

(4) A pawnbroker must not use or permit any other person to use pledged goods.

(5) A pawnbroker must segregate pledged goods and purchased items that are being held during the seven day waiting period from public areas of the pawn shop, placing them in a back room or warehouse if one is available. If such an item is left in the public area because of size, value or other characteristics making it difficult or inappropriate to store outside the public area, the item will be clearly tagged as required by C. (4) above and identified as pledged goods, not for sale.

(6) A pawnbroker must segregate personal goods which are not for sale from public areas of the pawn shop, placing them in a back room or warehouse if one is available. If such an item is left in the public area because of size, value or other characteristics making it difficult or inappropriate to store outside the public area the item will be clearly tagged as required by C. (4) above and identified as personal goods, not for sale. These goods do not include personal items used to carry on the business of the pawnbroker.