The Pawned Property (Recording) Act

being

Chapter P-4.2 of The Statutes of Saskatchewan, 2003 (effective March 15, 2004) as amended by the Statutes of Saskatchewan, 2018, c.42.

NOTE:
This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.
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CHAPTER P-4.2
An Act respecting Pawned Property

Short title
1 This Act may be cited as The Pawned Property (Recording) Act.

Interpretation
2 In this Act:
   (a) “chief of police” means one of the following who is responsible for directing policing services in the municipality where a pawnbroker carries on business or where a pawn transaction or unconditional sale takes place:
      (i) the chief of police for a municipal police service;
      (ii) the officer in charge of a detachment for the Royal Canadian Mounted Police;

and includes a person to whom the person mentioned in subclause (i) or (ii) has delegated his or her authority;

(b) “licence” means a licence or other authorization that:
      (i) is required for the lawful operation of a business by a pawnbroker; and
      (ii) is issued by a municipality;

(c) “licensor” means a person who issues a licence to carry on business pursuant to a bylaw of a municipality;

(d) “pawn transaction” means:
      (i) the depositing of an article by a person with a pawnbroker at interest or in the expectation of a profit or reward by the pawnbroker if it is express or implied from the nature of the transaction that the article may be redeemed or repurchased by the person who deposited the article on any terms; or
      (ii) a buy-sell agreement pursuant to which a pawnbroker purchases an article from a seller and agrees to hold that article for him or her for a specified period, subject to an exclusive right of the seller to redeem or repurchase that article within a specified period;

and includes any prescribed transaction;

(e) “pawnbroker” means a person who regularly conducts more than 10 pawn transactions per month and includes any prescribed person and any class of prescribed persons;

(f) “prescribed” means prescribed in the regulations;

(g) “unconditional sale” means the purchasing of an article by a pawnbroker through an unconditional sale.

2003, c.P-4.2, s.2.
Non-application of Act
3 All or any prescribed provision of this Act does not apply:
   (a) to any prescribed person or any class of prescribed persons; or
   (b) in any prescribed circumstance.
2003, c.P-4.2, s.3.

Responsibility for employees' activities
4 For the purposes of this Act:
   (a) anything done or attempted to be done by an employee, apprentice or agent of a pawnbroker in the course of or with respect to the business of the pawnbroker is deemed to be done or attempted to be done by the pawnbroker; and
   (b) anything authorized to be done by a pawnbroker may be done by an employee, apprentice or agent of a pawnbroker.
2003, c.P-4.2, s.4.

Prohibition
5 No person shall act as a pawnbroker unless the requirements of this Act are met.
2003, c.P-4.2, s.5.

Compliance with other laws still required
6(1) Compliance with this Act and the regulations does not relieve a pawnbroker from complying with any other relevant Act, regulations or bylaw or relieve the pawnbroker from obtaining any licence that may be required.
(2) Compliance with this Act and the regulations by the licensee is deemed to be a term and condition of a licence.
(3) Notwithstanding any other Act, regulation, municipal bylaw or licence, a licensor may suspend, cancel or revoke a licence if the licensee fails to comply with all or any provision of this Act, the regulations, a bylaw or a term or condition of the licence.
2003, c.P-4.2, s.6.

Reporting of information
7(1) A pawnbroker shall obtain and record the prescribed information in the prescribed manner:
   (a) before entering into a pawn transaction with respect to any article; or
   (b) before purchasing an article through an unconditional sale.
(2) If a person seeking to enter into a pawn transaction or unconditional sale with a pawnbroker refuses or is unable to provide the information required pursuant to subsection (1), the pawnbroker shall not complete the pawn transaction or unconditional sale.
(3) On completion of a pawn transaction or unconditional sale, a pawnbroker shall provide the information obtained pursuant to subsection (1) to the chief of police and to any other prescribed person or class of prescribed persons in the prescribed manner.

(4) This section applies to a pawnbroker only if the chief of police has provided at least 90 days’ notice in the prescribed manner that this section will apply to pawnbrokers operating in the municipality that is the subject of the notice as of a date specified in the notice.

(5) If a notice mentioned in subsection (4) is provided in the prescribed manner:
   (a) every pawnbroker who is operating in the municipality is deemed to have received the notice;
   (b) every pawnbroker who commences operating in the municipality after the date on which notice has been given is deemed to have received the notice; and
   (c) every pawnbroker mentioned in clauses (a) and (b) shall comply with this section.

(6) If a pawnbroker to whom this section applies has any employees, apprentices or agents, the pawnbroker shall ensure that the pawnbroker’s employees, apprentices and agents:
   (a) are made aware of the notice; and
   (b) comply with this section.

Investigation

8(1) In this section and sections 9,10, 11 and 13:
   (a) “licensor” includes any person authorized by the licensor pursuant to subsection (2);
   (b) “record” means a book, paper, document or thing, whether in electronic form or otherwise, that may contain information respecting the business of a pawnbroker, a pawn transaction or an unconditional sale.

(2) The chief of police or licensor may authorize any person that he or she considers appropriate to conduct any investigation or inquiry and to exercise any of his or her powers and perform any of his or her duties pursuant to this section and sections 9 to 11.

(3) The chief of police or licensor may conduct an investigation or inquiry with respect to any matter that he or she considers necessary respecting:
   (a) the administration of this Act or the regulations;
   (b) a pawnbroker who is subject to this Act; and
   (c) a pawn transaction or unconditional sale that is subject to this Act.
(4) For the purposes of an investigation or inquiry pursuant to this section, the chief of police or the licensor may, at any reasonable time, inquire into and examine:

(a) the business affairs of the person being investigated or inquired into;
(b) any record of the person with respect to whom the investigation or inquiry is being made and any payments to, by or on behalf of, in relation to or in connection with that person; and
(c) any property or assets of, or things owned, acquired or alienated in whole or in part by, the person with respect to whom the investigation or inquiry is being made or by any person acting on behalf of or as agent for that person.

(5) The person with respect to whom the investigation or inquiry is being made shall promptly provide detailed answers to the chief of police or licensor with respect to all inquiries pertaining to the investigation or inquiry made pursuant to this section.

2003, c.P-4.2, s.8.

Production of records

9 The chief of police or licensor may, at any reasonable time, demand the production of and inquire into and examine any record of the person with respect to whom the investigation or inquiry is being made, and any person who has the custody, possession or control of that record shall produce it and permit examination of it by the chief of police or licensor.

2003, c.P-4.2, s.9.

Copies of records

10(1) If a record has been examined pursuant to section 8 or 9, the chief of police or licensor may make copies of that record.

(2) A copy of a record certified by the chief of police or licensor to be a copy made pursuant to this section:

(a) is admissible in evidence without proof of the office or signature of the person purporting to have signed the certificate; and
(b) has the same probative force as the original record.

(3) The chief of police or licensor shall ensure that, after copies of any records examined pursuant to section 8 or 9 are made, the originals are promptly returned to:

(a) the place they were removed from; or
(b) any other place that may be agreed to by the chief of police or licensor and the person who had custody, possession or control of the record.

2003, c.P-4.2, s.10.
Warrant authorizing entry

11(1) If the chief of police or licensor, pursuant to section 8 or 9, requires the production of any record and the person from whom the record is required refuses or neglects to produce that record, the chief of police or licensor may apply without notice to a justice of the peace or a judge of the provincial court for a warrant authorizing a person named in the warrant to:

(a) enter and search any premises named in the warrant for the record that the person refused or neglected to produce; and

(b) seize and take possession of the record.

(2) A justice of the peace or judge of the provincial court, if satisfied on oath of the chief of police or licensor that he or she has required production of a record and the person from whom production was required has refused or neglected to produce that record, may issue the warrant.

2003, c.P-4.2, s.11; 2018, c 42, s.65.

Confidentiality

12(1) In this section, “personal information” means personal information as defined in The Local Authority Freedom of Information and Protection of Privacy Act.

(2) The chief of police, or any member of a police service, shall hold all personal information received by him or her pursuant to this Act confidential, except as required for the performance of policing services as authorized by The Police Act, 1990.

2003, c.P-4.2, s.12.

Immunity

13 No action or proceeding lies or shall be commenced against the chief of police, any member of a police service or a licensor where that person is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations.

2003, c.P-4.2, s.13.
Offence and penalties

14(1) No person shall fail to comply with any provision of this Act or the regulations.

(2) No licensee shall fail to comply with the terms and conditions of the licensee’s licence.

(3) Every person who contravenes subsection (1) or (2) is guilty of an offence and liable on summary conviction:

(a) for a first offence:

(i) in the case of an individual, to a fine not exceeding $5,000, to imprisonment for a term not exceeding one year, or to both;

(ii) in the case of a corporation, to a fine not exceeding $15,000; and

(b) in the case of a second or subsequent offence:

(i) in the case of an individual, to a fine not exceeding $15,000, to imprisonment for a term not exceeding one year, or to both;

(ii) in the case of a corporation, to a fine not exceeding $50,000.

(4) Every director, officer, or agent of a corporation who directed, authorized or assented to, acquiesced in or participated in an act or omission by the corporation that would constitute an offence by the corporation is guilty of that offence and is liable on summary conviction to the penalties provided for the offence whether or not the corporation has been prosecuted or convicted.


Regulations

15 The Lieutenant Governor in Council may make regulations:

(a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;

(b) prescribing transactions for the purposes of clause 2(d);

(c) prescribing other persons or classes of persons for the purposes of clause 2(e);

(d) exempting any person or any class of persons from all or any provision of this Act, and prescribing any circumstance in which all or any provision of this Act does not apply;

(e) for the purposes of section 7, prescribing:

(i) the information that must be obtained and recorded with respect to a pawn transaction or unconditional sale and the manner of recording that information; and

(ii) the manner in which the information mentioned in subclause (i) shall be provided to the persons required pursuant to subsection 7(3);
(f) for the purposes of subsection 7(3), prescribing other persons or classes of persons to whom the information obtained pursuant to subsection 7(1) must be provided;

(g) prescribing the manner in which a notice mentioned in subsection 7(4) must be provided;

(h) prescribing and requiring the payment of fees that are to be paid with respect to any matter regulated by this Act and the regulations;

(i) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;

(j) respecting any other matter or thing the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

2003, c.P-4.2, s.15.

Coming into force

16 This Act comes into force on proclamation.

2003, c.P-4.2, s.16.