

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2023-2024 Regular Session**

SB 1198 (Roth)  
Version: April 8, 2024  
Hearing Date: April 16, 2024  
Fiscal: Yes  
Urgency: No  
ID

**SUBJECT**

Pawnbrokers: fees and charges

**DIGEST**

This bill increases various fees that pawnbrokers can charge borrowers for a pawn loan, and creates a new remote transaction fee.

**EXECUTIVE SUMMARY**

Pawnbrokers provide small, short-term loans to individuals who often cannot qualify for other types of credit or need money quickly. Every pawnbroker must be registered and licensed with the state, state and law proscribes the minimum length of time of a pawn loan and the fees and rates a pawnbroker may charge for their loans. The last time the fees were raised by the Legislature was 2019. This bill proposes to increase by specified amounts the handling and storage charge a pawnbroker may charge, and proposes to rename the fee as a handling, storage, and security charge. This bill also proposes to increase the fee a pawnbroker may charge when they issue a borrower a notice of the expiration of the loan period from \$5 to \$7, and proposes a new remote transaction fee that a pawnbroker can charge when a borrower elects to extend or redeem a loan by electronic means. This charge as proposed may be up to three percent of the transaction amount.

SB 1198 is sponsored by the California Pawnbrokers Association, and the Committee has received no timely opposition to this bill. The California Pawnbrokers Association cites increased technological, labor, real estate, and governmental compliance costs to support SB 1198's increases. This bill passed out of the Senate Banking and Financial Institutions Committee on a vote of 7 to 0.

**PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Defines a “pawnbroker” as any person engaged in the business of receiving goods, including motor vehicles, in pledge as security for a loan. (Fin. Code § 21000.)
- 2) Defines pledged property as property held as security for a loan, the title to which remains with the pledgor (i.e., the borrower) and not the pawnbroker. (Fin. Code § 21002.)
- 3) Provides for the licensing of pawnbrokers by a chief of police, sheriff, or police commission. (Fin. Code § 21300.)
- 4) Requires that every loan made by a pawnbroker in which goods are received as security for the loan be evidenced by a written contract, a copy of which must be provided to the borrower, containing specified information. (Fin. Code § 21201.)
- 5) Specifies a minimum loan length of four months, and caps the compensation that may be charged by pawnbrokers on loans of up to \$2,499, as provided. (Fin. Code §§ 21200 et. seq.)
  - a) During the first three months of the loan, pawnbrokers may charge borrowers between \$3 and \$225, depending on the dollar amount of the loan. A charge of \$3 is allowed on a loan of up to \$19.99, \$6 for a loan of between \$20 and \$49.99, \$9 for a loan between \$50 and \$74.99, \$12 for a loan between \$75 and \$99.99, \$15 for a loan between \$100 and \$174.99, and a charge not exceeding nine percent of the loan amount for any loan between \$175 and \$2,499. (Fin. Code § 21200.5.)
  - b) During the fourth and subsequent months, pawnbrokers may charge a maximum of three percent or \$3 per month, whichever is greater. (Fin. Code §§ 21200 and 21201.4.)
  - c) Authorizes a loan setup fee for each loan not to exceed \$7.5 or 3.5 percent, whichever is greater; however, the maximum loan setup fee cannot exceed \$90. (Fin. Code § 21200.1.)
  - d) Authorizes a handling and storage fee upon redemption or issuance of a replacement loan as follows:
    - i. \$3 for any article that can be contained within one cubic foot;
    - ii. \$6 for any article that cannot be contained within one cubic foot, but can be contained within three cubic feet;
    - iii. \$12 for any article that cannot be contained within three cubic feet, but can be contained within six cubic feet; and
    - iv. \$24 for any article that cannot be contained within six cubic feet, and \$3 for each additional cubic foot in excess of six cubic feet. (Fin. Code § 21200.6(a)(1)-(4).)

- e) Authorizes a processing charge of \$20 for each firearm pawned. (Fin. Code § 21200.8.)
- 6) Provides that the limits on rates and charges listed above do not apply to any loan of a bona fide principal amount of \$2,500 or more. (Fin. Code § 21051.)
- 7) Requires all licensed pawnbrokers to post their fees and charges in a place clearly visible to the general public. (Fin. Code §§ 21200.5(h) and 21200.7.)
- 8) Requires a pawnbroker to notify a borrower in writing, at the borrower's last known mailing or electronic address, regarding the termination of the borrower's loan period, as specified. (Fin. Code § 21201.)
  - a) This notification must inform the borrower that they are entitled to an extra 10 days in which to redeem their pawned item, beginning on the date the notice is mailed or electronically transmitted, and must clarify that if the tenth day falls on a day that the pawn shop is closed, the time period is extended to the next day the pawn shop is open. (Fin. Code § 21201.)
  - b) Authorizes a pawnbroker to charge a fee of up to \$5 to prepare this notice. (Fin. Code § 21201.2.)
- 9) Specifies that a borrower has a right to redeem their item at any time during the loan period, upon payment of the loan amount and any fees. (Fin. Code § 21201.)
- 10) Authorizes a borrower to request, and a pawnbroker to consent, to a replacement loan to take effect before title to the pawned property passes to the pawnbroker. To obtain a replacement loan, the borrower must pay all charges and interest due under the original loan. (Fin. Code § 21201.5.)
- 11) Permits a pawnbroker to charge a borrower, or their assignee, who loses a pawn ticket for the item, a fee of \$10 for services of verifying the identity of the claimant, fingerprinting the claimant, and having the claimant execute a declaration under penalty of perjury. (Fin. Code § 21201.1.)

This bill:

- 1) Changes the name of the allowable handling and storage charge to a handling, storage, and security charge.
- 2) Increases the allowable handling, storage, and security charge for pawned items to the following schedule:
  - a) \$5 or 2.5 percent of the loan amount for any item that can be contained within one cubic foot;
  - b) \$10 or 2.5 percent of the loan amount for any item that can be contained within three cubic feet;

- c) \$20 or 2.5 percent of the loan amount for any item that can be contained within six cubic feet; and
  - d) \$30 or 2.5 percent of the loan amount for any item that cannot be contained within six cubic feet, plus five dollars for each additional cubic foot in excess of six cubic feet.
- 3) Creates a remote transaction fee that a pawnbroker may collect from a borrower that elects to request a replacement loan or redeem a loan through electronic means, allowed to be up to three percent of the transaction amount to cover the recurring costs associated with software applications.
- 4) Increases the allowed fee from \$5 to \$7 that a pawnbroker may charge a borrower, who fails to redeem a pawned item during the loan period, for mailing or electronically transmitting the 10-day notice of the borrower's right of redemption.

### COMMENTS

#### 1. Author's statement

According to the author:

Every five years, the California Pawnbrokers come before the Legislature to request legislative approval to adjust their maximum fees to offset the increased costs of operation. The pawn industry holds significant importance in California as a crucial financial safety net for individuals lacking access to traditional credit such as short-term loans, credit cards or pay-day loans. Individuals engage in pawning possessions when seeking a brief loan to navigate challenging periods. In order for the industry to continue to provide financial services to its under-served clientele, they need a revenue increase that will keep up with the security, technological, labor, real estate, and governmental compliance costs they confront, or we will continue to see closures among retail lending businesses.

#### 2. The history and regulation of pawnbrokers

For many cash-strapped Californians in need of a short-term loan, options may be limited. Traditional loans typically require an application, assets to guarantee the loan, and good credit in order to be approved. If an individual cannot be approved for a traditional loan, their alternatives are often payday loans or loans from pawnbrokers.

Pawnbrokers provide short-term loans outside the traditional loan process, giving a loan in exchange for a valuable item that the borrower gives to the pawnbroker as security for the loan. In order to obtain their item back from the pawnbroker at the end of the loan period, the borrower must pay back the loan and the pawnbroker's fees and interest. Because the loan is secured through an item of value, if a borrower does not

repay the loan, the loan is not recouped through collections and the default does not affect the borrower's credit score. Instead, if the borrower does not repay the loan at the end of the loan period and does not extend the loan period with the pawnbroker, the title to the item will transfer to the pawnbroker, and the pawnbroker can sell the item to recoup the value of the loan. Thus, the loan is guaranteed for the pawnbroker in the borrower's pawned item. One analogy to this arrangement is the context of an automotive loan, in which the loan company can repossess the vehicle if the borrower fails to pay the loan; however, with a pawnbroker loan, the pawnbroker holds onto the item until repayment takes place, and can assume title and sell the item automatically if the borrower does not repay by the specified time. Historically, the fees and interest charged by pawnbrokers can be relatively high, and loan amounts are typically only a fraction of the value of the item provided as security. If the borrower does not pay the loan and the pawnbroker sells the item for an excess of the value of the loan, the borrower does not get the excess amount. While typical loan amounts nationally average 150 dollars, loans amount can be as large as tens of thousands of dollars.<sup>1</sup> Pawned items often include purses, watches, jewelry, musical instruments, firearms, and even cars.

Data regarding consumers who use pawnbrokers for loans reveals that many cannot access traditional types of credit, and tend to be unbanked or underbanked consumers. Roughly 60 percent of borrowers of a pawn, payday, or auto title loan were declined entirely or partially for traditional credit options.<sup>2</sup> Over 60 percent of users of pawn, payday, and auto title loans have either poor or very poor credit scores.<sup>3</sup> Additionally, while pawn loans tend to be short-term, the same study found that 72.7 percent of borrowers still owed money on a pawn loan if they had taken one out in the previous six months, suggesting that many consumers of pawn loans extend these loans or rollover the loans into a new loan. The use of alternative financial services like pawn loans continues to be more prevalent among households that are unbanked, meaning no one in the household has a credit or savings account at a bank or credit union.<sup>4</sup> Thus, many who utilize pawn loans do not have access to other forms of credit and do so out of necessity.

In order to protect such consumers from unscrupulous business practices and curtail the sale of stolen property, California regulates the pawnbroker industry and the permissible fees that pawnbrokers can charge borrowers. California law requires every

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<sup>1</sup> Pawn Industry Statistics, National Pawnbrokers Association, available at <https://www.nationalpawnbrokers.org/>.

<sup>2</sup> Scott Fulford & Cortnie Shupe, Making Ends Meet series: Consumer use of payday, auto title, and pawn loans, Consumer Financial Protection Bureau, Office of Research, Brief No. 2021-1 (May 5, 2021), p. 17, available at <https://www.consumerfinance.gov/about-us/blog/making-ends-meet-series-consumer-use-payday-auto-title-pawn-loans/>.

<sup>3</sup> *Id.*, at 15.

<sup>4</sup> 2021 FDIC National Survey of Unbanked and Underbanked Households, Federal Deposit Insurance Corporation (Jul. 24, 2023), available at <https://www.fdic.gov/analysis/household-survey/index.html>.

pawnbroker to be registered and licensed with local law enforcement agencies, and that pawn brokers share with the Department of Justice information relating to every personal property transaction at the pawn shop.<sup>5</sup> California law also requires that every loan made by a pawnbroker in exchange for goods be made by a written contract containing specified information and notices to the borrower, including the loan period and the date on which the loan is due, and that the borrower has a right to redeem their property during the loan period. (Fin. Code § 21201.) If a borrower does not repay the loan by the date the loan is due, California law requires the pawnbroker to notify the borrower within one month of the expiration of the loan, and provide the borrower ten days from the notice to redeem their property. (Fin. Code § 21201(d).) Only after the expiration of that ten-day period will title to the item vest with the pawnbroker. California law also requires pawnbrokers to keep records of every transaction, and display various notices on the premises of their shop regarding the maximum charge of compensation allowed by law, whether the shop insures pawned items, and the right of a borrower to have their items returned to them within two days if stored off-site. (Fin. Code §§ 21202, 21201.3.) An individual who knows or should know that they are violating the provisions relating to pawnbrokers is guilty of a misdemeanor. (Fin. Code § 21209.)

### 3. The permissible fees that a pawnbroker may charge

California law also tightly proscribes the interest and fees that pawnbrokers are allowed to charge borrowers. For the first three months of the loan, pawnbrokers may only charge specified fees based on the size of the loan, from \$3 for loans not more than \$19.99, to no more than nine percent on loans between \$175 and \$2,499. (Fin. Code § 21200.5.) For the fourth month and months thereafter, a pawnbroker may charge three percent per month on the unpaid principal balance, or \$3 per month if a three percent charge would be less than \$3. (Fin. Code § 21200.) These limitations on monthly charges for the first three months and any months thereafter do not apply to pawn loans of \$2,500 or more. (Fin. Code § 21051.)

In addition to these charges, pawnbrokers are allowed to charge a variety of fees. They are permitted to charge a loan setup fee of \$7.50 or 3.5 percent, whichever is greater, up to a maximum setup fee of \$90. (Fin. Code § 21200.1.) They can also charge a storage and handling charge for the item being kept as security by the pawnbroker. This fee is defined by the size of the item: \$3 may be charged for any item that can fit within one cubic foot; \$6 for any item that can be contained within three cubic feet; \$12 for any item that can be contained within six cubic feet; and \$24 for any item that cannot be contained within six cubic feet, with \$3 allowed for each additional cubic foot. (Fin. Code § 21200.6.)

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<sup>5</sup> Fin. Code § 21300; Bus. & Prof. Code § 21626. *See also*, Secondhand Dealer and Pawnbroker Unit, California Office of the Attorney General (accessed April 6, 2024) available at <https://oag.ca.gov/secondhand>.

While a loan setup fee and storage and handling fees may apply to every loan, California law also allows for certain fees in specific circumstances. A pawnbroker may charge a \$10 fee when a borrower loses the pawn ticket corresponding to their item, to cover the services of verifying the identity of the borrower. (Fin. Code § 21201.1.) If a borrower fails to redeem their item and repay the loan by the date the loan is due, the pawnbroker may charge the borrower an extra \$5 for the costs of preparing the required 10-day notice of a borrower's right of redemption. (Fin. Code § 21201.2.) If the item being pawned is a firearm, the pawnbroker may charge an additional \$20 processing fee for each firearm pawned. (Fin. Code § 21200.8.)

4. This bill increases the fees a pawnbroker is able to charge, and adds new fees for remote transactions

SB 1198 proposes to increase the allowable fees that a pawnbroker may charge a borrower, and proposes a new fee for remote transactions. First, the bill proposes increasing the handling and storage charge, and renaming the charge a storage, handling, and security charge, from: \$3 per item that fits within a cubic foot to \$5 or 2.5 percent of the loan amount; \$6 to \$10 or 2.5 percent of the loan amount for items within three cubic feet; \$12 to \$20 or 2.5 percent of the loan amount for items within six cubic feet; and \$24 plus \$3 per extra cubic foot to \$30 or 2.5 percent of the loan amount and \$5 per extra cubic foot for items that fit in an a space beyond six cubic feet.

SB 1198 also proposes to increase the fee a pawnbroker may charge for the preparing of a 10-day notice from \$5 to \$7, and specifies that this fee is for the preparation and mailing or electronic transmission of the notice.

Lastly, SB 1198 proposes a new fee that a pawnbroker may charge. This new fee would be called a "remote transaction fee," that would be chargeable by the pawnbroker when a borrower elects to request a replacement loan or to redeem the loan electronically. The fee allowed would be three percent of the transaction amount.

The sponsor asserts that these increases are necessary to offset increased costs for pawnbrokers related to security, technology, labor, real estate, and governmental compliance. While newer data is not yet available, the sponsors provide data relating to the pawnbroker industry from the period from 2015 to 2017. According to the sponsors, the survey a 144 California pawn shops reported increases in expenses related to employee parking (73 percent increase), security (71 percent increase), employee medical insurance (45 percent increase), storage (39 percent increase), payroll (35 percent increase), lease and rent payments (35 percent increase), and local business license fees (35 percent increase), during the two-year period. The sponsors note that this data does not include costs for continuing education of employees related to the evolution of the items accepted as collateral, ID changes, computer system upgrades and enhancements, and other miscellaneous costs.

The proposed changes to pawnbrokers' allowable fees are summarized in the table below. It presents the fees currently allowable and what would be allowed under SB 1198 for a loan of various amounts for a four-month loan. However, it should be noted that an additional monthly fee would apply for every month beyond four months, if the period is greater than four months. Additional fees, as previously described, would apply in certain circumstances.

	<b>Current law</b>	<b>SB 1198</b>	<b>Current law</b>	<b>SB 1198</b>	<b>Current law</b>	<b>SB 1198</b>
<b>Loan amount</b>	\$100		\$2,499		\$10,000	
Fee for first 3 months	\$15	\$15	\$224.91	\$224.91	Not regulated	Not regulated
Fee for the fourth month	\$3	\$3	\$74.97	\$74.97	Not regulated	Not regulated
Loan setup fee	\$7.50	\$7.50	\$87.46	\$87.46	\$90	\$90
Storage/handling security fee <sup>6</sup>	\$3	\$5	\$3	\$62.47	\$3	\$250
	\$12	\$20	\$12	\$62.47	\$12	\$250
Remote Transaction fee <sup>7</sup> (New)	\$--	\$3	\$--	\$74.97	\$--	\$300
<b>Total fees</b>	\$28.5	\$33.5	\$390.34	\$524.78	\$93+	\$640+
	\$37.5	\$48.5	\$399.34	\$524.78	\$102+	\$640
<b>Total repayment amount</b>	\$128.5	\$133.5	\$2,889.34	\$3,023.78	\$10,093+	\$10,640+
	\$137.5	\$148.5	\$2,898.34	\$3,023.78	\$10,102+	\$10,640+
Fees as percent of total loan	28.5%	33.5%	15.6%	21%	1%+	6.4%+
	37.5%	48.5%	16%	21%	1%+	6.4%+
Fee for 10-day notice	\$5	\$7	\$5	\$7	\$5	\$7

## 5. Arguments in support

The California Pawnbrokers Association, the sponsors of SB 1198, write:

SB 1198 seeks to ensure the financial viability of the pawn industry in California by doing the following:

- Increasing handling and storage fees to account for increased security costs;
- Allow for a new remote transaction fee, and;

<sup>6</sup> Storage and handling fee numbers present two scenarios, the first based on an item that can be contained within one cubic foot, and the second on an item that can be contained within six cubic feet.

<sup>7</sup> The proposed remote transaction fee is based on the amount of the specific remote transaction. For the purposes of this table, the transaction amount is assumed to be the full amount of the loan. The remote transaction fee may not always be applicable, as it is only available for remote transactions when a borrower requests a replacement loan or to redeem the loan.



- Increase the fee to prepare a loan expiration notice.

Current law limits the amount of compensation pawnbrokers may charge or receive for providing their services. Unlike most businesses in California, pawnbrokers must come before the Legislature in order to adjust what they can charge to meet increases in the cost of doing business. The last time the pawnbroker industry requested adjustments to their fees was in 2019 (AB 1189, Medina).

A Pawnbroker may charge a fixed interest rate for the first 3 months based upon how much is borrowed. For example, a loan not exceeding \$19.99 may only incur a \$3 interest charge for the first three months, and a loan not exceeding \$99.99 may only incur a \$10 interest charge for the first three months. If a client cannot repay the loan within 3 months, 3% is the maximum monthly interest rate that can be charged thereafter.

By comparison, the costs associated with a loan from a pawnbroker are lower than a bounced check or credit card late fee. For example, the cost to borrow \$150 from a pawn shop is \$20.25. The fee for a bounced check is \$20 to \$40 from the merchant, plus a \$27 to \$35 Non-Sufficient Funds Fee from the Bank. Similarly, the late fee for a credit card could run between \$25 to \$39.

For Californians seeking to obtain a relatively small dollar loan, pawnbrokers provide short-term credit without a credit check so that everyone who seeks a pawn loan can borrow money. The ability for a borrower to secure a small dollar loan through personal property allows the consumer to manage the risk of default and limit the financial damage, should a default occur. Most pawn loans are relatively small, and the vast majority of pawned items are redeemed. An industry survey conducted in the last 6 months, revealed that 91% of all pawn transactions were for loan sizes of less than \$400.

In order for the industry to continue to provide financial services, a revenue increase is needed to keep up with the technological, labor, real estate, and governmental compliance costs. Without this fee increase, lending businesses will continue to close. Accordingly, CAPA respectfully asks for your support of SB 1198 (Roth).

### SUPPORT

California Pawnbrokers Association (sponsor)

### OPPOSITION

None received

### RELATED LEGISLATION

Pending Legislation: AB 2231 (Gipson, 2024) establishes the California Pawnbroker Education Council and requires the council to develop and establish a standard course and curriculum in pawnbroker transactions, as specified, to be completed by an applicant for licensure as a condition precedent to being issued or renewing a pawnbroker's license. AB 2231 is currently in the Assembly Business and Professions Committee.

Prior Legislation:

AB 296 (Gipson, Ch. 164, Stats. 2021) extended the exclusion from state sales and use taxes to the transfer of vested property from a pawnbroker to the person who pledged the property to the pawnbroker as security for a loan from January 1, 2022 to January 1, 2027, among other changes.

AB 1186 (Medina, Ch. 189, Stats. 2019) adjusted the loan setup fee allowed to be charged by a pawnbrokers from \$5 or three percent of the loan amount, not to exceed \$30 to \$7.50, or 3.5 percent of the loan amount, not to exceed \$90. AB 1186 also increased the permitted handling and storage charge, processing charge, and the fee for preparing a 10-day notice when an item is not redeemed that a pawnbroker may charge.

AB 1978 (Gipson, 2019) would have extended the exclusion from state sales and use taxes to the transfer of vested property from a pawnbroker to the person who pledged the property to the pawnbroker as security for a loan from January 1, 2022 to January 1, 2027. AB 1978 died in the Assembly Revenue and Tax Committee.

AB 327 (Gipson, 2017) would have provided an exclusion from state sales and use taxes to the transfer of vested property from a pawnbroker to the person who pledged the property to the pawnbroker as security for a loan, until January 1, 2022. AB 327 was subsequently amended to relate to a different subject.

SB 300 (Mendoza, Ch. 417, Stats. 2015) allowed pawnbrokers to conduct business transactions electronically, as specified, except when establishing an original loan.

SB 285 (Block, Ch. 245, Stats. 2015) increased the maximum monthly interest rate for a pawn loan to 3 percent; increased the loan setup fee to \$5 or 3 percent, not to exceed \$30; collapsed the prior 21-tier fee schedule to the current 6-tier fee schedule; added a new storage charge for small items that can be contained within one cubic foot, and required representatives of the pawnbroker industry to poll their members annually to gather data relating to the current financial condition of the California pawn industry.

AB 1751 (Low, Ch. 793, Stats. 2015) created the California Pawn and Secondhand Dealer System ("CAPSS") as a single, statewide electronic reporting system operated by the

Department of Justice for the submission of specified information about pawnbroker transactions and property to the Department of Justice.

**PRIOR VOTES:**

Senate Banking and Financial Institutions Committee (Ayes 7, Noes 0)

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