

State of Wisconsin



2021 Assembly Bill 653

Date of enactment: **March 18, 2022**

Date of publication*: **March 19, 2022**

2021 WISCONSIN ACT 203

AN ACT to amend 138.10 (9) and 138.10 (11) of the statutes; relating to: the method of sending notices by pawnbrokers and modifying rules promulgated by the Department of Financial Institutions.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 138.10 (9) of the statutes is amended to read:

138.10 (9) NOTICE OF SALE. A pawnbroker shall not sell any pledge unless due notice of such contemplated sale has been ~~forwarded~~ sent to the pledgor, by registered mail or other means authorized by rule of the division of banking, to the address most recently given by the pledgor ~~at the time of obtaining the loan or to such new address of the pledgor~~, as shown ~~on~~ in the pawnbroker's record records. Notice of the contemplated sale of a pledge shall be mailed sent to the pledgor not less than 30 days prior to the date of sale. Such notice shall state total amount of principal, interest and charges due on the loan as of the date of the notice.

SECTION 2. 138.10 (11) of the statutes is amended to read:

138.10 (11) NOTICE OF SURPLUS. Notice of any surplus from the sale of a pledge shall be ~~forwarded~~ sent to the pledgor within 10 days of the date of sale ~~by registered mail to the address given by the pledgor at the time of obtaining the loan or to such new address of the pledgor, of which the pawnbroker has received notice. This notice may be sent by any means authorized for a notice of sale under sub. (9).~~

SECTION 3. DFI-Bkg 77.06 of the administrative code is renumbered DFI-Bkg 77.06 (1) and amended to read:

DFI-Bkg 77.06 (1) ~~A- Subject to sub. (2), a pawnbroker shall~~ may not sell any pledge unless notice of the sale has been forwarded to the pledgor at the address given by the pledgor at the time of obtaining the loan or to a new address of the pledgor, as shown in the pawnbroker's record. Notice of the sale shall be mailed sent to the pledgor not less fewer than 30 days ~~prior to~~ before the date of sale. The notice shall state the total amount of principal, interest, and charges due on the loan as of the date of the notice.

SECTION 4. DFI-Bkg 77.06 (2) of the administrative code is created to read:

DFI-Bkg 77.06 (2) The address to which notice is sent under sub. (1) may be any of the following:

(a) A physical mailing address.

(b) An electronic mail address or telephone number capable of receiving text messages if all of the following apply:

1. The pawnbroker receives the pledgor's written consent to receive notices by electronic mail or text message. The consent must be signed by the pledgor, and it must prominently state that the pledgor has the right to withdraw consent to receive notices by electronic mail or text message at any time. A separate signature for the

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

consent is not required if the pawnbroker receives direct authorization by electronic mail or text message from the pledgor's electronic mail address or telephone number.

2. The pawnbroker requires at the time of the consent under subd. 1. that the pledgor verify the electronic mail address or telephone number as follows:

a. With respect to consent for a notice sent by electronic mail, the pawnbroker requires the pledgor to verify the accuracy of the electronic mail address by writing or electronically entering the address 2 times, by receiving and replying to a test electronic mail from the pawnbroker, or by any other method approved by the division of banking.

b. With respect to consent for a notice sent by text message, the pawnbroker requires the pledgor to verify the pledgor's ability to receive a text message by receiv-

ing and replying to a test text message from the pawnbroker or by any other method approved by the division of banking.

3. The pawnbroker retains records of electronic mail or text message notices sent to that address, including the content and the time and date of the delivery.

4. The pawnbroker sends notice to the pledgor's physical mailing address if the electronic mail or text message delivery fails or if the pledgor withdraws consent to receive notice by electronic mail or text message.

SECTION 5. Initial applicability.

(1) This act first applies to notices sent on the effective date of this subsection.

SECTION 6. Effective date.

(1) Notwithstanding s. 227.265, this act takes effect on the day after publication.
