

LOCAL LAW NO. 2-2012

“Revisions to the Village Code to Establish Procedures and Conditions for the Local Licensing of Collateral Loan Brokers in Accordance With New York Statute, General Business Law Article 5”

A LOCAL LAW amending the Code of the Village of Ossining to establish procedures, rules and requirements for the issuance of local licenses for Collateral Loan Brokers in accordance with NY General Business Law, including the addition of Chapter 110 entitled “Collateral Loan Brokers (Pawnbrokers)”,

BE IT ENACTED by the Board of Trustees of the Village of Ossining, as follows:

Section 1. Legislative Intent. New York State General Business Law requires a collateral loan broker to obtain a license from a licensing authority of the local governing body where the business is to be carried on. It is the intent of the Board of Trustees of the Village of Ossining to revise the Village Code to provide for such licensing, by requiring strict adherence to the provisions of General Business Law, and, pursuant to its home rule authority, by establishing additional requirements and conditions specific to the needs of the community at large, and by providing for enforcement and penalties. The purpose of this local law is to promote the public health, safety and welfare of the Village of Ossining by regulating the local licensing of collateral loan brokers to best protect the property rights of its residents and to assist law enforcement in the recovery of stolen property and the identification of individuals engaged in the illegal trafficking of stolen property.

Section 2. The Code of the Village of Ossining is hereby amended to add new Chapter 110 entitled “Collateral Loan Brokers (Pawnbrokers)” as follows:

A. Chapter 110 COLLATERAL LOAN BROKERS (PAWNBROKERS)

§110-1. Purpose.

The purpose of this local law is to promote the public health, safety, and welfare of the Village of Ossining by regulating the licensing of collateral loan brokers (Pawnbrokers), to protect the property rights of Village residents and to assist law enforcement in the recovery of stolen property and the identification of suspects.

§110-2. Definitions.

As used in this article, the following words shall have the indicated meanings, unless the context clearly indicates otherwise:

PAWNBROKER

A person that issues a collateral loan based upon the security of pledged goods left in pawn, or is in the business of purchasing tangible property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, pursuant to the licensing requirements contained herein.

PERSON

An individual, partnership, unincorporated association, corporation or other entity.

§110-3. Compliance with state and county law and regulations required.

Every Pawnbroker shall comply with all the provisions of Article 5 of New York State General Business Law, Westchester County Administrative Code, Article XI, as well as all rules and regulations promulgated by the State Comptroller pursuant to General Business Law § 55.

§110-4. License Required; Notarization Required; Fee.

- A. No Pawnbroker business described in this Chapter shall be established in the Village of Ossining until the issuance of an annual license in compliance with Article 5 of the General Business Law, this Chapter and Chapter 171, Licenses. An application for such annual license shall be made on forms provided by the Village in accordance with this Chapter and the provisions of §§ 171-4 and 171-5 of Chapter 171, Licenses.
- B. All applicants for a local Collateral Loan Broker (Pawnbroker) License from the Village of Ossining will submit to fingerprinting and shall be subject to a review of their criminal history record by the Chief of Police of the Village of Ossining Police Department, or his/her designee. All fingerprints and any applicable fees must be submitted in the form and manner as prescribed by Division of Criminal Justice Services ("DCJS"). Any decision regarding a prospective applicant's fitness for a license based upon a conviction contained in the criminal history background information obtained from the DCJS must be made upon consideration of New York State Correction Law Sections 701-703-b and Sections 751-753.
- C. The Application shall be signed and acknowledged before a notary public.
- D. The Applicant shall pay an initial, non-refundable application fee and an annual license fee to the Village Clerk for each year following the initial year, as set forth in the Fee Schedule of the Village of Ossining.

§ 110-5. Issuance of license; Display; Change of Location.

- A. If the applicant for a license hereunder possesses the required qualifications, the Village Clerk shall issue a license to said applicant. In the event that the application is denied, the applicant shall be entitled to a hearing in accordance with the provisions of Chapter 171, Licensing.

- B. Every Pawnbroker shall display the license in a prominent location at the place of business so that it is visible to the general public.
- C. Licenses issued pursuant to this Chapter may not be transferred, assigned or sold. If any licensee shall move his/her place of business from the location designated in the license to an alternate location within the Village, he or she shall immediately give notice to the Village Clerk, who shall in turn notify staff and upon a written confirmation that the substituted location within the Village meets the standards as set forth in this Chapter, the Clerk shall have the new location endorsed on the license. The license issued by the Village of Ossining shall become automatically null and void upon the relocation of the business outside the Village of Ossining, or if the business shall close for a period of time exceeding thirty days.

§110-6. Bond Required.

The license application shall be accompanied by a bond to the Village of Ossining, approved as to form by the Corporation Counsel, in the penal sum of \$10,000, with two responsible sureties or sufficient collateral security, conditioned on the faithful performance of the duties and obligations pertaining to the business so licensed, the due observance during the term of the license of any and all ordinances and laws which are now in force or may be hereafter be adopted or enacted respecting the business of collateral loan brokering or Pawnbroking as defined in Section 110-2 of this Chapter, and the accounting for and paying over of all moneys which the licensee shall be liable to pay as such Pawnbroker to the Village of Ossining.

§110-7. Permitted Locations.

After due consideration, it has been determined that the Village of Ossining's Route 9 corridor, more specifically its associated business districts, is the most conducive area for the location of licensed Pawnbroker businesses, as the parcels located along this corridor provide superior parking and loading options as well as superior visibility more so than other areas of the Village. No Pawnbroker business shall be permitted to operate in any historic district, nor shall a Pawnbroker business be permitted in any zoning district of the Village of Ossining, except a PC Planned Center, GB General Business, or NC-1 Neighborhood Center District. A Pawnbroker license shall be issued only in connection with and accessory to a permitted use under the Zoning Code of the Village of Ossining for said enumerated zoning districts, such as but not limited to "retail".

§110-8. Record of Transactions.

At the time of making the pawn transaction, the Pawnbroker shall immediately and legibly record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the Village:

- A. A complete and accurate description of the property, including model and serial number if indicated on the property;
- B. The full name, residence address, residence telephone number, and date of birth of the pledgor or seller;
- C. The date and time of pawn or purchase transaction;
- D. The identification number and state of issue from one of the following forms of identification of the seller or pledgor:
 - 1. Current valid New York State driver's license;
 - 2. Current valid New York State identification card;
 - 3. Current valid photo identification card issued by another state
- E. A description of the pledgor including approximate height, sex, and race;
- F. The amount advanced or paid;
- G. The maturity date of the collateral loan and the amount due; and
- H. The monthly and annual interest rates, including all pawn fees and charges.

§110-9. Report to the Village of Ossining Police Department.

Every Pawnbroker shall, at such times as the Chief of Police, or his designee, may prescribe in a written notice to be served upon such Pawnbroker by a sworn member of the Police Department on forms to be furnished/approved by the Police Department, a description of all goods, articles, or things, or the identity or proof or ownership of pledgors, such as is required to be kept under Section 110-8 of this Chapter, which have been pawned or pledged in the course of business of the Pawnbroker during the days specified in such notice and, if such notice from the Chief of Police prescribes, such Pawnbroker shall, at that time and until he/she is so notified to discontinue so doing, keep and furnish on blank forms such information, as well as a general description of every person depositing such pledge.

§110-10. Note Required for Redemption.

Every licensed Pawnbroker shall, at the time of each loan, deliver to the person pawning or pledging any goods, articles, or things a memorandum or note signed by him/her containing his/her address and the substance of the entry required to be made or received by any Pawnbroker for any such entry, memorandum, or note. The holder of such memorandum or note shall be presumed to be the person entitled to redeem the pledge, and the Pawnbroker shall deliver such article to the person so presenting such memorandum or note upon payment of principal or interest; should such memorandum or note be lost or mislaid, the pledgor shall at once apply to the Pawnbroker, in which case it shall be the duty of the Pawnbroker to permit such person to examine his/her records, and upon funding the entry for such memorandum or note so lost and upon giving to the Pawnbroker an exact description of the article pawned, the Pawnbroker

shall issue a second or stop ticket for the same. In case such pledgor neglects to so apply and examine such records and receive such memorandum or note in the manner above stated, the Pawnbroker shall be bound to deliver the pledge to any person producing such memorandum or note for redemption thereof. This section is not to be construed as in any manner limiting or affecting such Pawnbroker's common-law liability in cases where goods are stolen or other legal defects of title exist in the pledge.

§110-11. Sale of Unclaimed Pledge.

No licensed Pawnbroker shall sell or otherwise dispose of any pawn or pledge unless the interest shall be four months or more in arrears, and all such sales of defaulted pledges shall be at public auction or by private sale in absolute conformity with applicable laws, regulations and rules, including but not limited to the provisions of General Business Law pertaining to public auctions and the Uniform Commercial Code provisions pertaining to the disposal of collateral after default.

§110-12. Notice of Sale.

Notice of every such public sale shall be published for at least six days previous thereto in the official newspaper of the Village of Ossining, and such notice shall specify the time and place at which such public sale is to take place and a description of the goods or articles to be sold. Every Pawnbroker shall enter into records kept for that purpose a true account of the sale of all goods sold by him/her at auction or otherwise, stating the day of the month when pledged, the name of the person pledging, the day when and the amount for which each pledge was sold and the name of the auctioneer. Any person who shall have pledged any unredeemed goods, or his/her assigns, administrators and executors, shall at reasonable times be permitted to inspect such record of sale. Every Pawnbroker shall give notice of the expiration of the six months from the date of the loan after which a public sale of the article pledged may take place, by letter directed to the borrower at his/her last known residence at least ten days and not more than twenty days after the expiration of such six months.

§110-13. Disposition of Proceeds of Sale.

- A. The surplus money, if any, arising from any such sale, after deducting the amount of the loan, the interest then due on the same and the expense of advertising and sale shall be paid over by the Pawnbroker to the person who would be entitled to redeem the pledge in case no such sale had taken place, provided that demand therefore is made within one year after such sale shall have taken place.
- B. In the event that there is any surplus money due to a pledgor after such sale, the Pawnbroker shall give the pledgor written notice thereof, by mailing to such pledgor, directed to him/her at the address given at the time of pledging or in the event such pledgor has notified the Pawnbroker, in writing, of a change of address, to such new address, within thirty days after such a sale, a notice which shall state the name and address of the Pawnbroker, the number of the pledge, the date of sale, and the amount of any surplus. In the event any person entitled to such surplus fails to make claim for the same within one year from the date of

such sale, such surplus shall be paid over, by the collateral loan broker, to the State Comptroller in accordance with the provisions of NYS Abandoned Property Law, Section 1301.

§110-14. Maximum Rate of Interest; Term of Interest; Storage Charge Prohibited

- A. In accordance with General Business Law, Article 5, Section 46, no Pawnbroker shall ask, demand, or receive any greater rate of interest than four per centum per month, or any fraction of a month. A notice containing a list of such rates of interest as herein provided and in accordance with the Act of Congress entitled, "Truth in Lending Act (15 U.S.C. 1601 et seq.) and the regulations thereunder as such Act and regulations may from time to time be amended, shall be printed in large type in English and Spanish and conspicuously displayed within the premises of such Pawnbroker. A minimum interest charge of \$0.25 per month may be made on any loan.
- B. No Pawnbroker shall receive or be entitled to any interest or charges as provided by this section on any loan for any period of time exceeding fifteen months from the date of the making of such loan, provided, however, that where a loan is extended at the direct request of the pledgor, the Pawnbroker may receive and be entitled to any interest or charges provided by Article 5 of the General Business Law on such loans for any period of time not to exceed fifteen months from the date of such extension.
- C. No such Pawnbroker shall make any charge for packing, storing, keeping, or caring for any article, goods, or things pledged or upon which a loan has been made.

§110-15. Hours of Operation.

No Pawnbroker business shall operate beyond the hours of 7:00am and 7:00pm, Monday through Sunday.

§110-16. Provision of Electronic Security Monitoring Systems.

- A. Every Pawnbroker shall install a video surveillance camera inside the place of business in a location and positioning that provides a view of each pawn transaction and shall maintain each video recording for a period of not less than 45 days. Video recordings shall be made available to the Village of Ossining Police Department upon request.

§110-17. Prohibited Acts.

- A. No Pawnbroker shall:
 - 1. Permit the redemption of any article received by him/her in pawn until 48 hours after the same has been received by him/her in pawn;
 - 2. Fail to deliver to the borrower a plain and complete receipt for all payments on account at the time such payments are made;

3. Carry on business at any physical address within the Village of Ossining other than the one designated in his/her license;
 4. Continue to carry on business after his/her license is revoked, shall have expired, or shall have become null and void;
 5. Receive any firearm or other weapon as regulated under Article 256 of the New York Penal Law "Firearms and Other Dangerous Weapons".
- B. No Pawnbroker or person in the employ of a Pawnbroker shall receive or purchase any goods, chattels, wares, or merchandise from, or make any loan or advance or permit to be loaned or advanced to any child, actually, or apparently under the age of 18 years, any money, or in any manner directly or indirectly receive any goods, chattels, wares, or merchandise from any such child in pledge for loans made or to be made to it or to any other person or otherwise howsoever. It shall be no defense to a prosecution for a violation of this section that in the transaction upon which the prosecution is based the child acted as the agent or representative of another or that the defendant dealt with such child as the agent or representative of another.
- C. No Pawnbroker or person in the employ of a Pawnbroker shall take any article or buy from any person appearing to be intoxicated, or from any person known to be a thief or to have been convicted of larceny or burglary; and when any person is found to be the owner of stolen property which has been obtained in connection with the Pawnbroker business, such property shall be returned to the owner thereof without the payment of the amount advanced by the Pawnbroker thereon or any costs or charges of any kind which the Pawnbroker may have placed upon the same.

§110-18. Suspension or revocation.

No certificate, license or permit issued in accordance with this Chapter shall be suspended or revoked, except in accordance with the procedures established in Chapter 171, Licenses.

§110-19. Penalties for offenses.

- A. Any person who, him/herself or by his/her clerk, agent or employee, shall establish or engage in or carry on the business of collateral loan broker or shall violate any of the provisions of this Chapter, or who, having has his/her license revoked, shall continue to engage in or carry on the business of collateral loan broker, shall be guilty, upon conviction, of a violation punishable by a fine of not less than \$250 nor more than \$1,000 or by imprisonment for a period not exceeding 15 days, or by both such fine and imprisonment.

- B. In addition to the penalty imposed, the license of the person violating the same shall be canceled or revoked, and the bond forfeited. Upon such forfeiture, the amount of the bond shall thereupon become due and payable to the Village of Ossining, and the amount thereof may be recovered in a civil action based upon such forfeiture.

Section 3. Chapter 171 entitled "Licenses" is hereby amended at Section 171-3 to include a subsection (18) as follows, with new matter underlined:

(18) Collateral Loan Brokers (Pawnbrokers) (Chapter 110).

Section 4. Except as otherwise provided herein, all other provisions of the Code of the Village of Ossining shall remain the same.

Section 5. The provisions of this Introductory Local Law are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this Local Law

Section 6. This Local Law shall take effect upon the filing and publication as required by applicable law, including filing with the Secretary of State.