

## **Rules and Procedures**

### **Rule 402**

**December 26, 1990**

#### **Rule 402 - PAWNBROKERS**

This rule establishes Boston Police Department regulations for the licensing of Pawnbrokers. Its provisions are effective immediately, replacing Rule No. 68, of the 1950 Boston Police Department Manual, and superseding all previously issued bulletins, orders and regulations concerning Pawnbrokers.

Sec. 1 The Police Commissioner may license suitable persons to be pawnbrokers, pursuant to law. Such licenses shall not be valid to protect the holders thereof in a building or place other than that designated in the license, unless consent to removal is granted by the Police Commissioner.

Applications for new licenses under this rule may be filed at any time with the Licensing Unit. Applications for the reissue of licenses already existing should be filed at least thirty days before the expiration of such licenses. All licenses issued under this rule shall expire annually on the first day of May, except that licenses may be issued in April to be valid for twelve months beginning the next succeeding first day of May. Persons whose licenses have expired and have not been reissued will be liable to prosecution if carrying on the business for which the license is required.

Every person so licensed shall, at the time of receiving such license, file a bond in the sum of three thousand dollars, as provided in M.G.L. ch. 140, s. 77.

Persons who engage in or carry on the business of lending money on mortgages, deposits or pledges or wearing apparel, jewelry, ornaments, household goods or other personal property, or of purchasing such property on condition of selling the same back again at a stipulated price, when the property so mortgaged, pledged or purchased is deposited with the lender, must be licensed as pawnbrokers. This provision, however, does not apply to loans made on stock, bonds, notes or other written or printed evidence of ownership of property or of indebtedness to the holder or owner of such securities (G.L. c. 140, ss 70-85).

Sec. 2 Licensed pawnbrokers may charge the following rates of interest:

(a) For loans up to and including twenty-five dollars (\$25), one percent a week (and each fraction thereof at the same rate).

(b) For loans over twenty-five dollars (\$25), three percent (3%) per month (and each fraction thereof at the same rate).

No such pawnbrokers shall charge or receive any greater rate of interest and interest shall be determined on the precise sum advanced by the lender.

No pawnbroker shall make or receive any extra charge or fee for storage, care or safe-keeping of any goods, articles or thing pawned with him (G.L. c. 140, s. 78).

Sec. 3 Any officer of the department may, at any time, enter upon any premises used by a licensed pawnbroker for the purpose of his business, ascertain how he conducts his business and examine all articles taken in pawn or kept or stored in or upon said premises and all books and inventories shall be exhibited to any officer whenever a demand shall be made for such exhibition (G.L. c. 140, s. 78) (Penalty for refusal, G.L. c. 140, s. 74).

Sec. 4 Every licensed pawnbroker shall, at the time of making any loan, attach a number to the article taken in pawn, and shall make entry of such number in the book provided for by section 5.

Sec. 5 Every licensed pawnbroker shall keep a book of a style and size to be approved by the Police Commissioner, in which shall be legibly written in the English language, at the time of making each loan, an account and description, including all distinguishing marks and numbers, of the goods, articles or things pledged or pawned, the amount of money loaned thereon, the day and hour when it was pawned, the rate of interest to be paid on such loan, the number of such articles as provided for by section 4, and the name, age and residence of the person pawning same. No entry made in said book shall be erased, obliterated or defaced.

Every such pawnbroker shall take a digital photograph of any person pawning or pledging articles. The digital photograph of the person pawning or pledging articles must be of sufficient quality to allow a viewer to distinguish facial characteristics of the person. The digital photograph of the person pawning or pledging articles shall be linked to the corresponding transaction in the pawnbroker's records and transmitted pursuant to Section 8. Each transaction shall be assigned a number and the records shall be maintained in numerical order corresponding to the date and time of the transaction.

For all loans, every pawnbroker shall require positive identification and shall record the type of identification presented and the date of birth of any person pawning or pledging any article. Positive identification shall mean any picture identification card issued by a governmental agency.

Sec. 6 Each pledger shall be required by the pawnbroker to sign his name, age and address on a card, the style and size of which shall be approved by the Police Commissioner. In the event that the pledgor is unable to write, the pawnbroker shall fill in the name, age and address on such card, together with a notation stating that the pledgor was unable to do so. Such card shall be retained seven years in an alphabetical index file by licensed pawnbrokers.

Sec. 7 Every pawnbroker shall, at the time of making such loan, deliver to the person who pawns or pledges any goods, article or thing, a memorandum or note signed by him, containing the substance of the entry required to be made in his book by the provisions of Section 5; and no charge shall be made or required by any pawnbroker for any such entry, memorandum or note (G.L. c. 140, s. 80).

Sec. 8 Every such pawnbroker shall transmit a record of his transactions electronically to the Boston Police Department via the Regional Information Sharing Systems (RISS). Such transmissions shall be made every business day before the hour of 10 a.m. The record transmitted must include all articles pawned or pledged the preceding business day, a number for each transaction, the date and time of the transaction, the person pledging or pawning the article's name, address, age, an accurate description of all items pledged or pawned, the amount of money loaned thereon, the rate and interest to be paid on such loan, and the digital photograph described in Section 5.

In order to access RISS, every such pawnbroker shall complete an authorization form provided by the Boston Police Department and allow a representative of the New England State Police Information Network (NESPIN) to enter his shop and install the software necessary on the pawnbroker's computing device to allow the pawnbroker to electronically transmit a record of his transactions.

Sec. 9 Every licensed pawnbroker shall post in a conspicuous place in his shop or office a copy of the statutes, ordinances and police regulations relating to pawnbrokers, to be furnished by the police department, and shall put in some suitable and conspicuous place on his shop a sign having his name and occupation legibly inscribed thereon in large letters.

No pawnbroker shall place or maintain any signs or devices upon or in connection with his licensed premises indicating or tending to indicate that any form of business is conducted therein which he is not legally authorized to pursue.

Every licensed pawnbroker shall conspicuously display his pawnbroker's license in his shop.

Sec. 10 No pawnbroker shall have his shop open for the transaction of business, except between sunrise and 9 o'clock in the evening of any weekday except Saturday, on which day such shop may be kept open from sunrise until 10 o'clock in the evening.

Sec. 11 Articles deposited in pawn with a licensed pawnbroker shall, unless redeemed, be retained by him on the premises occupied by him for his business for at least four months after the date of deposit, if not of a perishable nature; and, if perishable, for at least one month after said date or be retained in a bank vault within the City of Boston so long as the pawnbroker is able to produce said goods on demand of a police officer.

After the expiration of the applicable period of time, he may sell the article by public auction, apply the proceeds thereof in satisfaction of the debt or demand and the expense of the notice and sale, and pay any surplus to the person entitled thereto on demand.

No such sale of any article which is not of a perishable nature shall be made unless not less than ten days prior to the sale a written notice of the intended sale shall have been sent by registered mail to the person entitled to the payment of any surplus as aforesaid, addressed to his residence, as appearing in the records of such pawnbrokers. Proof of registered mail shall be kept on file for one (1) year after the date of sale.

No article taken in pawn by such pawnbroker shall be disposed of otherwise than as above provided, any agreement or contract between the parties thereto to the contrary notwithstanding.

Articles of personal apparel shall not be deemed to be of a perishable nature within the meaning of this section (G.L. c. 140, s. 71).

Sec. 12 No pawnbroker shall make a loan, directly or indirectly, to a minor, knowing or having reason to believe him to be such.

No pawnbroker shall loan money secured by deposit or pledge of a firearm, rifle, shotgun or machine gun (G.L. c. 140, s. 131B).

No pawnbroker shall hold a license to sell, rent, or lease a firearm, rifles, shotguns or machine guns.

Sec. 13 Complaints concerning licensed pawnbrokers shall be investigated by the Licensing Unit of the Boston Police Department. An investigation shall be made in all such instances and a report with recommendations shall be forwarded to the Police Commissioner.

In the event the Police Commissioner determines that disciplinary action should be instituted against a licensed pawnbroker, the Licensing Unit shall cause to be served upon the licensed pawnbroker notice as to the time, date and place of hearing of the charges with a statement of the reasons for the proposed disciplinary action. Hearings shall be conducted in accordance with the applicable sections of Department Rule 108.

Sec. 14 The Police Commissioner may suspend or revoke licenses provided for by this rule for any cause which the Police Commissioner deems sufficient. Offenses which may result in the suspension or revocation of a pawnbroker's license include, but are not limited to the following:

(a) A violation of any section of this department rule.

(b) Violation of any provision of any statute or ordinance.

Notes: Amended by SO 13-007, issued March 1, 2013, amended section 5, 8 and 9.