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CRIMINAL LAW AND PROCEDURE MANUAL

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STATUTES

Pawnbrokers Act amended to establish process for law enforcement officials to place hold order on property claimed to be misappropriated

Public Act 345 of 2018 amended the Pawnbrokers Act (Act) by adding [MCL 446.212](#) to establish a process by which an "appropriate law enforcement official," as defined under [MCL 446.212\(10\)](#), may place a written hold order on property possessed by a pawnbroker.

To place the hold order, a law enforcement official must have probable cause to believe the property was misappropriated, or a person must have filed an official police report alleging it was misappropriated. [MCL 446.212\(1\)](#).

Under [MCL 446.210](#), title to pledged or pawned property vests in the pawnbroker after 90 days, or after a longer period agreed to by the parties, if the borrower has not paid the debt, charges, or interest on the property, subject to fee restrictions under [MCL 446.209](#), as amended. The pawnbroker may not sell the property until the property has remained in the pawnbroker's possession for at least 90 days. [MCL 446.210\(2\)](#).

However, [MCL 446.212](#) creates an exception for property subject to a hold order properly placed by a law enforcement official and extended by a court. It requires that the hold order state a holding period that does not exceed 90 days, but a court may grant an extension of the holding period beyond 90 days if a person claiming an interest in the property adverse to the pawnbroker (or the pawner) had filed a police report, provided the court with a copy of the police report, and the police report is sent with notice from the court to the pawnbroker that the court granted an extension. [MCL 446.212\(1\), \(4\)](#).

If the pawnbroker does not receive notice from a court granting an extension, on the tenth day after the hold

order expires, title to the property vests in the pawnbroker, but remains subject to any restrictions in the parties' agreement and provisions in the Act. [MCL 446.212\(3\)](#).

A pawnbroker shall not release or dispose of property subject to a hold order unless directed by a court order, the holding period has expired, or the law enforcement official who placed the hold order provided a written release. [MCL 446.212\(5\)](#). See also [MCL 446.212\(1\)\(b\)](#) (stating a hold order may be rescinded in writing).

While a hold order is in effect, upon request, a pawnbroker shall release the property to the law enforcement official who placed the hold order for use in a criminal investigation or a proceeding regarding an ownership claim to the property. [MCL 446.212\(6\)](#).

A law enforcement official, or any other person obtaining the property under [MCL 446.212](#), shall not deliver the property to a person claiming ownership unless a court holds a hearing on the merits of the claim and finds in favor of the pawnbroker, or finds against the pawnbroker but orders the pawner or seller to pay restitution to the pawnbroker. [MCL 446.212\(7\), \(8\)](#).

A law enforcement official may only place one hold order on an item of property, and the law enforcement official placing the hold order is required to sign and date a copy as evidence he or she placed the hold order and of the date the holding period begins. [MCL 446.212\(1\),\(2\)](#).

Additionally, under [MCL 446.212\(1\)](#) the hold order must be in writing and include all of the following:

- The pawnbroker's name and mailing address.
- A complete description of the property, including model and serial number, if applicable.
- The name of the person who reported that the property was misappropriated unless otherwise prohibited by law.
- The name, title, and identification number of the law enforcement official who placed the hold order and, if applicable, the number assigned to the claim or report regarding the property.
- The length of the holding period, which must not exceed 90 days unless extended by a court order, and the hold order's expiration date.

A violation of the Act by an owner, clerk, agent, servant, or employee is punishable as a misdemeanor subject to a term of imprisonment not less than 10 days or more than three months. [MCL 446.218](#).