2015 ASSEMBLY BILL 779

January 22, 2016 – Introduced by Representatives SWARINGEN and AUGUST, cosponsored by Senator LASEE. Referred to Committee on State Affairs and Government Operations.

AN ACT to renumber and amend 138.10 (9); to amend 138.10 (11); and to create 138.10 (9) (a) 2., 3. and 4. of the statutes; relating to: the method of sending notices by pawnbrokers.

Analysis by the Legislative Reference Bureau

This bill allows pawnbrokers to send certain notices by electronic mail, text message, or other means.

Under current law, pawnbrokers receive security for loans to customers by taking possession of the customer’s personal property. If the customer defaults on the loan, the pawnbroker may sell the personal property, subject to certain conditions. At least 30 days before selling the personal property, the pawnbroker must send to the customer, by registered mail, a notice of the contemplated sale, which notice must also state the amount due on the loan. If the sale is completed and results in a surplus, the pawnbroker must send to the customer, by registered mail, notice of the surplus from the sale. These provisions, however, do not apply if the pawnbroker is a “licensed lender,” which is a lender, other than a financial institution, licensed by the Department of Financial Institutions to assess a greater than 18 percent finance charge for a consumer loan.

This bill allows pawnbrokers to send notices of sale and notices of surplus by means other than registered mail. Under the bill, these notices may be sent by electronic mail or text message if the customer agrees to receive notices by electronic
mail or text message, or they may be sent by any other method agreed to by the pawnbroker and the customer.

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 renumbered 138.10 (9) (a) (intro.) and amended to read:

138.10 (9) (a) (intro.) A pawnbroker shall not sell any pledge unless due notice of such contemplated sale has been forwarded sent to the pledgor by. This notice may be sent in any of the following ways:

1. By registered mail 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.

   (b) 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 (9) (a) 2., 3. and 4. of the statutes are created to read:

138.10 (9) (a) 2. By electronic mail to the electronic mail address most recently given by the pledgor, as shown in the pawnbroker’s records, if the pledgor agrees to receive notices by electronic mail.

   3. By text message to the telephone number for receiving text messages most recently given by the pledgor, as shown in the pawnbroker’s records, if the pledgor agrees to receive notices by text message.

   4. By any other method agreed to by the pawnbroker and pledgor.

SECTION 3. 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 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 in any of the ways described in sub. (9) (a).

Section 4. Initial applicability.

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