
Wisconsin Legislative Council

ACT MEMO



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2021 Wisconsin Act 203
[2021 Assembly Bill 653]

**Method of Sending Notices by
Pawnbrokers**

BACKGROUND

State law regulates the relationship between pawnbrokers and pledgors. A pledgor is a person who obtains a loan from a pawnbroker and deposits an item, referred to as a pledge, into the possession of a pawnbroker as security for a loan. If a pledgor defaults on a loan, the pawnbroker may sell the pledge but must comply with certain requirements, including providing the pledgor with due notice of the sale and any surplus from the sale by registered mail.

A pawnbroker may not sell a pledge without providing due notice of the sale to the pledgor. The notice must be sent by registered mail to the address provided by the pledgor. The notice must be sent at least 30 days prior to the sale and must include the total amount of principal, interest, and charges due on the loan as of the date of the notice.

A pawnbroker also must notify a pledgor of any surplus from the sale of a pledge. The notice must be sent by registered mail to the address provided by the pledgor within 10 days of the sale. If the pledgor does not claim the surplus within one year, the surplus reverts to the pawnbroker.

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2021 Wisconsin Act 203 modifies the sale and surplus notification requirements to allow a pawnbroker to send notices by electronic mail or text message instead of registered mail. Specifically, the act requires the notice of a sale or surplus to be sent to the pledgor by registered mail or by other means authorized by rule by the Division of Banking of the Department of Financial Institutions and amends the administrative code to specify other manners in which notices may be sent.

Under the act, a pawnbroker may send a notice of sale or surplus to an electronic email address or telephone number that is capable of receiving text messages, rather than by registered mail, if the pawnbroker does all of the following:

- Receives the pledgor's written consent to receive notices by electronic mail or text message, if the written consent is signed by the pledgor and prominently states that the pledgor has the right to withdraw consent to receive notices by electronic mail or text message at any time.
- Verifies the electronic email address or telephone number at the time of obtaining the pledgor's consent.
 - For a notice sent by electronic mail, the pawnbroker must require the pledgor to verify the accuracy of the pledgor's electronic mail address by: (1) writing or electronically entering the address twice; (2) receiving and replying to a test electronic mail from the pawnbroker; or (3) using any other method approved by the Division of Banking.

- For a notice sent by text message, the pawnbroker must require the pledgor to verify the pledgor's ability to receive a text message by: (1) receiving and replying to a test text message from the pawnbroker; or (2) using any other method approved by the Division of Banking.
- Retains records of electronic mail or text message notices sent to that address, including the content and time and date of delivery.
- Sends notices 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.

The act does not modify the requirements in current law regarding the timing and content of the notices.

Effective date: March 20, 2021. The act first applies to notices sent on the effective date.

TK:jal