

*Veto*

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 879

42ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1995

AN ACT

RELATING TO SECURED INTERESTS; PROVIDING FOR ENFORCING CERTAIN  
SECURITY INTERESTS UNDER THE PAWNBROKERS ACT; PROVIDING A  
PENALTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 56-12-11 NMSA 1978 (being Laws 1985,  
Chapter 228, Section 11) is amended to read:

"56-12-11. DEFAULT--DISPOSITION OF PLEDGED PROPERTY.--

A. Except as otherwise specified in this section,  
upon default by the pledgor, the pawnbroker shall comply with  
the requirements of Sections 55-9-501 through 55-9-507 NMSA  
1978 in the disposition of the pledged goods.

B. Notwithstanding Subsection A of this section,  
the pawnbroker shall not dispose of the pledged property,  
except by redemption, until at least ninety days after the

1 indebtedness has become due.

2 C. Notwithstanding Subsection A of this section, if  
3 the pawnbroker disposes of the pledged property by sale in the  
4 regular course of his business, such sale shall conform to the  
5 requirements of Section 55-9-504 NMSA 1978 and, if a surplus  
6 remains after sale of the pledged property, the pawnbroker  
7 ~~[must]~~ shall make a record of the sale and the amount of the  
8 surplus and ~~[must]~~ notify the pledgor by first class mail sent  
9 to the pledgor's last known address of the amount of the  
10 surplus and the pledgor's right to claim it at a specified  
11 location within ninety days of the date of mailing of the  
12 notice if the surplus is one hundred dollars (\$100) or less or  
13 within twelve months of the date of mailing of the notice if  
14 the surplus is greater than one hundred dollars (\$100). In  
15 the event that the first class mail addressed to any person is  
16 returned unclaimed to the pawnbroker, then the pawnbroker  
17 ~~[must]~~ shall post and maintain on a conspicuous public part of  
18 his premises an appropriately entitled list naming each such  
19 person. Ninety days or twelve months, as applicable, after  
20 the date of ~~[such]~~ the mailing or posting, whichever is later,  
21 the pawnbroker may retain any surplus remaining unclaimed by  
22 the pledgor as his own property.

23 D. In the case of any conveyance subject to  
24 registration pursuant to the Motor Vehicle Code having a fair  
25 wholesale value of one thousand dollars (\$1,000) or more given

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[bracketed material] = delete

1 as security under the Pawnbrokers Act, there shall be a  
 2 rebuttable presumption that any sale or other disposition of  
 3 the collateral shall be commercially unreasonable if the value  
 4 realized is less than eighty percent of the fair wholesale  
 5 value of the vehicle, as reflected in national used vehicle  
 6 reporting service compilations, commonly known as "blue book",  
 7 applicable to the date and place of sale or other disposition  
 8 or based on estimates of the value of the collateral received  
 9 from no fewer than two qualified and competent sources for  
 10 vehicle appraisals after actual inspection of the collateral."

11 Section 2. Section 56-12-15 NMSA 1978 (being Laws 1985,  
 12 Chapter 228, Section 15) is amended to read:

13 "56-12-15. GENERAL PENALTIES.--

14 A. Any permit holder who is found guilty of a  
 15 violation of any provision of the Pawnbrokers Act shall be  
 16 guilty of a petty misdemeanor. Any permit holder who violates  
 17 any provision of the Pawnbrokers Act shall be subject to  
 18 having his permit revoked or suspended by the local government  
 19 pursuant to the provisions of Section [~~8 of the Pawnbrokers~~  
 20 ~~Act~~] 56-12-8 NMSA 1978. Revocation or suspension of [~~such~~]  
 21 the permit will not bar prosecution of the permit holder under  
 22 the penal provisions of the Pawnbrokers Act. Criminal  
 23 prosecution will not bar proceedings to revoke or suspend the  
 24 holder's permit.

25 B. Any permit holder or other person holding

1 himself out or engaging in business as a permit holder who  
2 fails to conduct any sale or other disposal of goods subject  
3 to registration pursuant to the provisions of the Motor  
4 Vehicle Code and having a fair wholesale value in excess of  
5 one thousand dollars (\$1,000) or more in accordance with the  
6 provisions of the Pawnbrokers Act and any other applicable law  
7 is guilty of a misdemeanor and shall be punished by a fine of  
8 not more than five thousand dollars (\$5,000) for each  
9 violation."

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State of New Mexico  
Senate

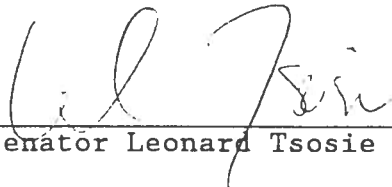
FORTY-SECOND LEGISLATURE  
FIRST SESSION, 1995


March 18, 1995

SENATE FLOOR AMENDMENT number 1 to HOUSE JUDICIARY COMMITTEE  
SUBSTITUTE FOR HOUSE  
BILL 879

AMENDMENT sponsored by SENATOR Leonard Tsosie

1. On page 4, line 8, strike "five thousand dollars (\$5,000)"  
and insert "one thousand dollars (\$1,000)"

  
\_\_\_\_\_  
Senator Leonard Tsosie

Adopted  (Chief Clerk)      Not Adopted \_\_\_\_\_ (Chief Clerk)

Date 3/18/95

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