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CONSENT

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Bill No: AB 296  
Author: Gipson (D), et al.  
Introduced: 1/25/21  
Vote: 21

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SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/24/21  
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/29/21 (Consent) - See last page for vote

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**SUBJECT:** Sales and use taxes: exclusion: pawnbrokers: transfer of vested property

**SOURCE:** California Pawnbrokers Association

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**DIGEST:** This bill extends the sunset on the sales and use tax exemption for customers who repurchase their property from a pawnbroker until January 1, 2027.

**ANALYSIS:**

Existing law:

- 1) Imposes the sales tax on every retailer “engaged in business in this state” that sells tangible personal property, and requires retailers to register with the California Department of Tax and Fee Administration (CDTFA), as well as collect appropriate tax at purchase and remit the amount to CDTFA.
- 2) Provides that the sales tax applies whenever a retail sale occurs, which is generally any sale other than one for resale in the regular course of business.
- 3) Sets the current sales and use tax rate at 7.25%, and additionally permits cities, counties, and specified special districts to increase the sales and use tax rate applicable within their jurisdictions.

- 4) Includes pawnbrokers as retailers under the Sales and Use Tax Law, so tax applies to pawnbroker sales to the same extent as sales by any other retailer of property in the state.
- 5) Defines and regulates pawnbrokers under the Financial Code, which allows them to offer collateral-based loans that include related interest charges and fees in exchange for holding onto a customer's property.
- 6) Requires pawnbrokers to provide a written contract and specified loan terms for every loan, and retain possession of every article pledged to them for the duration of the loan period, which existing law describes as "pledged property."
- 7) Allows pledgors to redeem their property upon complete payment of the loan and the applicable charges, and requires that if a pledgor does not redeem pledged property within a specified period, the title becomes automatically vested with the pawnbroker, which existing law describes as "vested property."
- 8) Provides for a sales and use tax exemption when customers who defaulted on their loans repurchase their property within six months of when the pawnbroker vested the property, until January 1, 2022. The exemption applies when:
  - a) The transfer occurs no more than six months after the title to the property has been transferred to the pawnbroker when the loan contract expires.
  - b) The customer shows proof in the form of a receipt or a similar document to confirm the customer originally paid sales tax on the item.
  - c) The customer pays the pawnbroker the remaining unpaid balance of the amount borrowed under the loan and the accrued charges and fees as of the date the pawnbroker vests title to the property.

This bill:

- 1) Extends the sunset for the sales and use tax exemption for a transfer of title of vested property by a pawnbroker to a person who originally pledged the property as collateral for a loan, until January 1, 2027.
- 2) Declares that the purpose of this tax expenditure is to prevent a customer from paying double sales tax when redeeming vested property from a pawnbroker, and that CDTFA's estimate of utilization of the exemption should be used by the Legislature to assess if the tax exclusion is meeting, failing to meet, or exceeding its specified goals, purposes, and objectives.

**Comments**

- 1) *Temporary fix for a permanent issue.* Retail sales of tangible personal property are generally taxable. When a customer repurchases their property from a pawnbroker, double taxation can occur; a customer pays sales tax when originally purchasing the item, and is taxed a second time when repurchasing the vested property from the pawnbroker. Because the title is vested with the pawnbroker after the loan defaults, when a customer subsequently seeks to repurchase the collateral and reobtain the title, the transaction constitutes a separate taxable retail sale. Pawnbrokers and customers are often surprised that the sale is subject to sales tax, and the additional sales tax sometimes serves as an impediment to regaining ownership. This bill provides temporary relief for transactions that take place before January 1, 2027. Although a five-year sunset extension is fairly common and completely removing a sunset happens less frequently, the Legislature may wish to consider whether a longer-term solution is preferable to a sunset extension to address this sales tax irregularity within the pawnbroker industry.
- 2) *Revenue loss.* AB 296 creates a new tax expenditure by way of a sales tax exemption that will result in approximately \$34,000 less revenue for the General Fund. With less General Fund money, the state has less funding to pay for important public services such as education and public safety. As a result, the state will have to reduce spending or increase taxes to compensate for the foregone revenue. The Legislature may wish to consider whether AB 296 is worth the revenue loss.

**FISCAL EFFECT:** Appropriation: No    Fiscal Com.: Yes    Local: No

**SUPPORT:** (Verified 7/21/21)

California Pawnbrokers Association

**OPPOSITION:** (Verified 7/21/21)

None received

**ARGUMENTS IN SUPPORT:** According to the author, “Assembly Bill 296 seeks to continue to ensure that borrowers are not charged twice when recovering property seized as collateral relating to a pawnshop loan by extending the sunset to exempt sales tax to pledgers who can prove sales tax was already paid on the item. In the process of getting a loan from a pawnshop, a borrower provides collateral that may be seized by the pawnshop if the borrower defaults on paying back the

loan. If this sunset is not extended, when a consumer defaults and seeks to reacquire their seized collateral, they must pay a sales tax on the item they are reacquiring, even though they already have paid the sales tax on their initial purchase. This bill seeks to extend the sunset to provide a sales tax exemption for purchases of seized collateral and provide a fair taxing structure for consumers.”

ASSEMBLY FLOOR: 77-0, 4/29/21

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Luz Rivas

Prepared by: Jaleel Baker / GOV. & F. / (916) 651-4119  
8/18/21 14:13:51

\*\*\*\* END \*\*\*\*