

**Pawn Shop Analyses:
Legislation Series: A Model Collateral Loan Broker Code**



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Michelle Comeau
Center for Public Safety Initiatives
MichelleJComeau@gmail.com

John Klofas
Center for Public Safety Initiatives
Rochester Institute of Technology
(585) 475 - 2432
jmkgcj@rit.edu

Available online at: www.rit.edu/cpsi

INTRODUCTION

This is the final entry in our miniseries on collateral loan broker legislation within our ongoing analyses of pawn shops. Thus far, we have identified the extent to which pawn shop ordinances exist throughout New York State and how these local codes reflect their statewide counterpart. Now we draw upon this information for our model code for the operation of collateral loan broking businesses.

As demonstrated in our prior paper, there is no real conformity among jurisdictional codes at the village-, town-, and city-level. This poses a concern as it means certain jurisdictions will not cover important information that was excluded from Article 5 of the General Business Law – such as hours of operation and electronic reporting. There is also a lack of comprehensiveness in many codes; not one jurisdiction refers to all aspects of Article 5 in their code and only half of all jurisdictions so much as make a direct reference to Article 5 or the General Business Law.

The model collateral loan broker code was designed to address these concerns. It is a wholly comprehensive code that addresses all aspects of Article 5 and much of the information included in the thirty-eight jurisdictional codes. The code was written to apply at the village-, town-, city-, or county-level. It is our hope that this code would serve as a model for any jurisdiction looking to update or develop their own code. Because it was written to apply at several jurisdictional levels, the ordinance does not address any particular unique characteristics that may be present in certain municipalities. To promote the ease of reading this code, we have labeled this code as Article 77 for the fictional City of Burman, Everest County.

The code is divided into the following sections:

§ 77-1. Definitions.

§ 77-2. Legislative intent.

§ 77-3. Compliance with local, county, state law and regulations required; inconsistency; severability.

§ 77-4. Licensing Agent.

§ 77-5. Interpretation of provisions; disclaimer of liability.

§ 77-6. Collateral loan broker registration statement.

§ 77-7. License required; use of term “pawnbroker”; advertisements.

§ 77-7A. License: Application.

§ 77-7B. Fee.

§ 77-7C. Bond.

§ 77-7D. Issuance of license.

§ 77-7E. License use exclusive; renewal; duplicate licenses

§ 77-7F. Denial of license; reapplication after rejection.

§ 77-8. Hours of operation; business on Sunday prohibited.

§ 77-9. Under 18 prohibited; list of employees.

§ 77-10. Continuing education requirement.

§ 77-11. Zoning; open air business; provision of electronic security monitoring systems.

§ 77-12. Identity of person from whom purchase is made; purchase of property from certain persons prohibited.

§ 77-13. Rate of interest.

§ 77-14. Maintenance of records.

§ 77-14A. Availability of records for inspection.

§ 77-15. Memorandum to be given; tag; method of payment for used goods.

§ 77-16. Holding period.

§ 77-17. Redemption of pledged article; refusal to surrender articles.

- § 77-18. Sale of goods; disposition of proceeds.
- § 77-19. Illegal goods; alteration to articles.
- § 77-20. Lost and stolen property.
- § 77-21. Daily report to the Chief of Police required.
- § 77-21A. Electronic reporting of transactions to the Chief of Police required.
- § 77-22. Enforcement.
- § 77-23. Revocation and suspension procedure; hearings; appeals.
- § 77-24. Penalties for offenses.
- § 77-25. When effective.

All content for this model code was drawn upon from the thirty-eight jurisdictions previously identified in the prior two papers and from Article 5 of the General Business Law for the State of New York. For more explicit information on where particular sections of the code were drawn from please contact the author.

§ 77 – Collateral Loan Brokers

§ 77-1. Definitions.

When used in this chapter, unless otherwise expressly stated, the following terms shall have the meanings indicated:

COLLATERAL LOAN BROKER OR PAWNBROKER. As defined in §§ 40 and 52 of the General Business Law, the terms “collateral loan broker” or “pawnbroker” contained in this article shall be construed so as to include any person, partnership, or corporation:

- A. Lending money on deposit or pledge of personal property, other than securities or printed evidences of indebtedness; or
- B. Dealing in the purchasing of personal property on condition of selling back at a stipulated price; or
- C. Designated or doing business as furniture storage warehouseman, and lending and advancing money upon goods, wares, or merchandise pledged or deposited as security collateral.
- D. Nothing herein shall be construed to prohibit a collateral loan broker from employing the title pawnbroker in connection with the collateral loan business. The title pawnbroker shall be used exclusively by a collateral loan broker.

PERSON. One or more persons of either sex, natural persons, corporation, partnership, associations, joint-stock companies and all other entities capable of being sued.

§ 77-2. Legislative intent.

- A. General Business Law §40 authorizes the licensing authority of the local governing body to issue licenses to carry on the business of a collateral loan broker. Therefore, this chapter is being enacted, pursuant to the requirements and standards set forth in Article 5 of the General Business Law, to establish a procedure by which the City Clerk may issue said licenses.
- B. The purpose of this chapter is to promote the health, safety, peace, tranquility, and general welfare of the people of the City of Burman, New York, to protect the property rights of Burman City residents, to assist law enforcement in the recovery of stolen property and the identification of suspects, and to protect and preserve property values by regulating the licensing of collateral loan brokers and imposing requirements that insure that collateral loan brokerage businesses are operated by citizens of good character and are located in such

zoning districts as may be designated by the Zoning Board as appropriate for such activities.

§ 77-3. Compliance with local, county, state law and regulations required; inconsistency; severability.

- A. This chapter is enacted pursuant to the authority granted to the City of Burman by Article 5 of the General Business Law concerning collateral loan brokers and by Chapter 45 of the City Law concerning licensing.
- B. Every collateral loan broker shall comply with the all the provisions of the Municipal Home Rule Law of the State of New York, Article 9 of the Town Law of the State of New York, and Article 5 of the New York State General Business Law, the Everest County Administrative Code, as well as all rules and regulations promulgated by the State Comptroller pursuant to the General Business Law § 55.
- C. Each license hereunder shall be issued subject to compliance by the licensee with all rules, regulations, orders, or statutes now existing or which may hereafter be enacted affecting such business or the conduct thereof; and subject also to the compliance of the requirements of this chapter.
- D. Inconsistency. In the case of any conflict or inconsistency between the provisions of this chapter and the applicable provisions of the General Business Law of the State of New York, the provisions of the General Business Law or other laws of the State shall prevail.
- E. Severability. The invalidity of any word, section, clause, paragraph, sentence, part, or provision of this chapter shall not affect the validity of any other part of this chapter, which can be given effect without such invalid part or parts.

§ 77-4. Licensing Agent.

- A. The City Clerk is hereby designated as the licensing authority of the City, consistent with the provisions of Article 5, § 41 of the General Business Law, or other applicable laws of the State of New York, and the rules and regulations of the comptroller of the State of New York adopted pursuant thereto, to adopt and amend rules and regulations fixing lawful extra care charges and as to other matters relating to the business of collateral loan brokers in the City.
- B. The City Clerk shall, consistent with the express standards, purposes and intent of this chapter, promulgate, adopt and issue such interpretations, procedural rules, regulations and forms as are in the City Clerk's opinion necessary to effective administration and enforcement of the provisions of this chapter. These interpretations, rules, regulations and forms shall be available to the public at the License Clerk's office. Such rules, regulations and forms shall be effective upon filing with the City Clerk as a communication to the City Council.
- C. The duty of the City Clerk will include but is not limited to the accepting of applications for such licensing, investigating the same and to cause issuance thereof only to reputable persons and to corporations controlled only by reputable persons to carry on and conduct the business of collateral loan broking only at a place or premises to be specified in said license, requiring the posting of the necessary bond and approval of same, administering oaths, examining under oath any collateral loan broker subject hereto or any other person having custody or control of books and records required to be kept by such collateral loan brokers, requiring the filing of the required report of sale of defaulted pledges, imposing fines and penalties for offenses against the General Business Law pertaining to collateral loan brokers, and suspending or revoking licenses for willful violation.
- D. Such license may be revoked by the City Clerk for misconduct on the part of the licensee or his agent after an appropriate hearing based on such charges.

§ 77-5. Interpretation of provisions; disclaimer of liability.

- A. Interpretation of provisions. In interpreting and applying the provisions of this chapter, the rule of interpretation applicable to remedial legislation shall be used so that the spirit and intent of this chapter shall be observed. All provisions shall be:
1. Considered as minimum requirements; and
 2. Deemed neither to limit nor repeal any other powers granted to the City of Burman under New York State statutes.
- B. Disclaimer of liability. This chapter shall not create any liability on the part of the City of Burman, its officers, agents or employees, or the Everest County Police Department, its officers, agents or employees, for any act or damage caused as a result from reliance on this chapter or any administrative decision lawfully made thereunder.

§ 77-6. Collateral loan broker registration statement.

As required by § 53 of the General Business Law, a copy of the collateral loan broker's registration statement shall be filed with the state comptroller prior to the establishment of any premise as a collateral loan broker business.

§ 77-7. License required; use of term "pawnbroker"; advertisements.

- A. License required. No person, corporation, partnership or firm shall establish, engage in or carry on the business of collateral loan broker, either separately or in connection with some other business, without having obtained a license from the City Clerk of the City of Burman authorizing such person to carry on such business in the manner and upon the conditions stated and set forth in the City Codes and Article 5 of the General Business Law of the State of New York as now existing or as the same may be hereafter amended. No pawnbroker shall carry on business without a license, or during the period in which his license has been suspended or revoked, or after it shall have expired.
- B. Use of term "pawnbroker". Only a person duly licensed as a collateral loan broker pursuant to this chapter shall be permitted to use the phrase "pawnbroker" in connection with the collateral loan business. No collateral loan broker, while licensed as such, shall be licensed as a secondhand dealer, junk dealer, or scrap metal processor.

§ 77-7A. License: Application.

- A. Every person who wishes to engage in business as a collateral loan broker must file an application with the City Clerk of the City of Burman, supplied by the City Clerk, containing the following information:
1. The name and description of the applicant. Individuals operating under a trade name must present a certified copy of the trade name certificate filed in the Everest County Clerk's office. A partnership conducting business, whether or not under a trade name, must submit a certified copy of the partnership certificate filed in the Everest County Clerk's office when the partnership was formed. A corporation must furnish a copy of the filing receipt for the certificate of incorporation from the New York State Secretary of State. A corporation from outside New York State must furnish a copy of its application for authority to do business in New York State from the New York State Secretary of State. A corporation from outside of the United States must furnish a copy of its application for authority to do business in New York State from the New York State Secretary of State.
 2. The address of the applicant (local and legal).
 3. That the applicant is of legal age.
 4. That the applicant is a citizen of the United States, whether by birth or naturalization, or an alien lawfully admitted for permanent residence in the United States; if by naturalization, the date and place where obtained. The naturalization certificate or

- permanent Board of Elections personal registration card may be used as proof of citizenship.
5. The length of time such applicant or applicants, if an individual, partnership or firm or the manager or person in charge, if the applicant is a firm, partnership, corporation or association, has or have resided in the State of New York and in the City of Burman, his or their places of previous employment or business, and whether married or single.
 6. A statement as to whether or not the applicant has ever been convicted of or is now under charge of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor, and such other facts or evidence as is deemed necessary to establish that the applicant is a person fit and capable of properly conducting the activity or business for which the license is sought.
 7. A description of the exact type of business the applicant intends to conduct.
 8. If the applicant shall employ more than three employees, the applicant shall designate one individual as the manager of the collateral loan broker business in accordance with General Business Law § 41-1.
 9. Whether the applicant or applicants or manager had, either alone or with someone else, ever engaged in the business of collateral loan broker.
 10. The applicant must demonstrate that he or she owns, leases or subleases his or her business premises by providing a deed, if the applicant owns such premises, or providing a copy of the lease or sublease agreement if the applicant leases or subleases such premises.
 11. The applicant shall submit a complete current schedule of fees for all services. The schedule of prices to be charged may be revised at any time but shall not be effective until filed with the City Clerk.
 12. Two photographs of the applicant taken not more than 60 days prior to the filing of the application. Said photographs shall be two by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner. Two photographs and fingerprints are required of each individual applicant: two photographs and fingerprints are required of each partner; no photographs are required of corporate applicants, but all officers must be fingerprinted, as well as any stockholder of 10% or more of the stock.
 13. If the applicant is a corporation, the name and address upon whom process or other legal notice may be served.
 14. Every applicant for a license shall file, together with the application, fingerprints of both hands. The fingerprints shall be placed upon cards provided by the Chief of Police and shall be taken under his or her supervision by a senior police officer, and at such a place as the Chief of Police shall designate. The Chief of Police shall have the authority to submit the fingerprints of the applicant, together with the required fees, to the New York State Division of Criminal Justice Services, Albany, New York or other appropriate agency for processing and investigation. The Chief of Police shall secure from the applicant the required fee in the form of a postal money order made payable to the New York State Division of Criminal Justice Services. No application for a collateral loan broker's license shall be approved nor will any license be issued under the provisions of this chapter until after the criminal history record information of the applicant has been reviewed. Any decision regarding a prospective applicant's fitness for a license based upon a conviction contained in the criminal history background information obtained from the Division of Criminal Justice Services must be made upon consideration of New York State Correction Law §§ 701 through 703-b and §§ 751 through 753.

15. Any other relevant information that the City Clerk may deem necessary.
- B. The application shall be accompanied by a nonrefundable application fee as set forth in § 77-7B of the Code.
 - C. Completed applications must be submitted to the City Clerk's office with the application fee. Upon confirmation that an application is complete, the City Clerk will forward the application materials to the Chief of Police.
 - D. Upon receipt of a complete application, the Chief of Police or his or her designee shall conduct an investigation of the prospective licensee pursuant to the chapter for the purpose of determining the suitability of the applicant for licensing. Said investigation shall include but not be limited to the following:
 - 1. The experience of the applicant as a collateral loan broker, although nothing in this section shall be construed to warrant denial of a license solely on the basis of a lack of experience
 - 2. The reputation of the applicant for fair dealing in the community which shall be determined from credible sources, which sources shall be disclosed to the applicant in the event of a denial of any license.
 - 3. Any criminal record of the applicant, as well as the applicant's business partner(s) and employees, if any.
 - 4. The type of operation contemplated to be conducted by the applicant, particularly whether the licensed business will be of a fixed and permanent nature
 - 5. Whether the applicant has been subject to revocation of a prior collateral loan broker license in the State of New York within the past 10 years.
 - E. The Chief of Police or his or her designee shall complete any investigation commenced pursuant to this chapter within 90 days of the submission of the completed collateral loan broker license application.
 - F. The City Clerk or his or her designee shall, within 10 days after the investigation is completed, provide the applicant with written notice of such grant or denial. Any determination of the City Clerk or his or her designee shall be in writing and shall fully state and specifically the reasons for the grant or denial of the application. The applicant shall have 10 days after the mailing of any written denial to submit a written request for reconsideration by the City Clerk or his or her designee and may provide any additional relevant information or response. Such request for reconsideration must be submitted directly to the City Clerk or his or her designee.
 - G. Such application shall be signed and acknowledged before a notary public or other official authorized to administer oaths in the city.

§ 77-7B. Fee.

Any person receiving such license shall pay therefor to the City Clerk of Burman yearly the sum of two-hundred and fifty dollars (\$250.), and every such license shall expire one year from the date thereof and may be renewed on application to the City Clerk each and every year on payment of said sum and upon performance of the other conditions herein contained.

- A. The City Board may increase or decrease the application fee at its discretion at any time, but such changes will not apply retroactively.
- B. The fee for replacement of a lost license is \$25.

§ 77-7C. Bond.

- A. Every person so licensed shall, at the time of receiving such license, file with the City Clerk granting the same a bond to the City of Burman, to be executed by the person so licensed and by two (2) responsible sureties, or a surety company, in the penal sum of \$10,000, to be approved by the City Clerk.

- B. The bond shall be conditioned for the faithful performance of the duties and obligations pertaining to the business so licensed under the laws of New York State and the ordinances of the City in force and which may hereafter be adopted respecting the conduct of such business.
- C. Pursuant to General Business Law § 42, any person who shall be aggrieved by the misconduct of any such licensed collateral loan broker, and shall recover judgment against him therefor, may, after the return unsatisfied, either in whole or in part, of any execution issued upon said judgment, maintain an action of his own name upon the bond of said collateral loan broker in any court having jurisdiction of the amount claimed, provided such court shall, upon application made for the purpose, grant such leave to prosecute. Such bond shall provide that action thereon may be brought by any person to whom a judgment has been awarded because of loss caused by such licensee's fault or default.
- D. The bond shall contain the following language: THE OBLIGATION OF THIS BOND SHALL, IN ADDITION TO THE CITY OF BURMAN, INURE AND REMAIN FOR THE BENEFIT OF ANY PERSON WHO SHALL OBTAIN A JUDGMENT AGAINST OBLIGOR AS A RESULT OF DAMAGE SUSTAINED IN THE OPERATION PURSUANT TO ANY LICENSE GRANTED UNDER ARTICLE 77 OF THE CODE OF THE CITY OF BURMAN.
- E. The bond shall be kept for a minimum of one year from the date of issuance of the license. The bond must be renewed annually along with the license.

§ 77-7D. Issuance of license.

1. Upon the filing of the applicant, bond and information as provided in the previous sections, the City Clerk may, upon his or her approval of such application and bond as to the sufficiency of the sureties or collateral securities, and upon the payment to the City of the license fee hereinafter provided, issue the applicant a license to engage in the business as provided in § 77-7 Subsection A.
2. The City Clerk shall issue under the official seal of the City of Burman to such persons who produce satisfactory evidence of their good character, a license authorizing such person to carry on the business of a collateral loan broker, which license shall designate the place in which said person shall carry on said business.
3. All licenses shall be numbered in the order in which they are issued and shall state clearly the location of the place of business in which the person receiving such license shall be authorized to establish, engage in and carry on the business, the kind of business, the dates of issuance and expiration of the license, the fees paid and the name and address of the license.
4. The City Clerk shall keep a record of all licenses issued, as well as any other matters herein described.
5. Every collateral loan broker shall post his or her collateral loan broker license in a conspicuous location in his or her place of business so that it is visible to the general public or any enforcement officer or representative of the City. Failure to properly post the license shall constitute a violation of this chapter and be subject to the penalties set forth below.
6. In any print advertisement by a licensee, the license number shall appear in the lower right-hand corner of the advertisement and shall be in type no smaller than 5% of all advertising space and no smaller than one-square inch. In any advertisement by a licensee in the electronic media, the license number shall be visually or audibly stated. Failure to print or state the license number shall constitute a violation of this chapter and be subject to the penalties set forth below.
7. The City Clerk shall keep a record of all licenses issued, as well as any other matters herein described.

8. If any licensee shall move his or her place of business from the location designated in the license to an alternate location within the City, he or she shall immediately give notice to the City Clerk, who shall in turn notify staff, and upon a written confirmation that the substituted location within the City meets the standards as set forth in this chapter, the City Clerk shall have the new location enforced on the license. The license issued by the City of Burman shall become automatically null and void upon the relocation of the business outside of the City of Burman, or if the business shall close for a period of time exceeding 30 days.
9. A collateral loan broker purchasing articles from the general public shall display, in a conspicuous place in his or her shop, a sign made of a durable material, with letters being at least one inch high and having a stroke of at least ¼ inch. The letters and background shall be of contrasting colors stating:
 PURSUANT TO ARTICLE 5 OF THE NEW YORK STATE GENERAL BUSINESS LAW, A COLLATERAL LOAN BROKER IS AUTHORIZED TO PROVIDE LOANS ON ITEMS PLEDGED OR PURCHASE ITEMS OFFERED FOR SALE. YOU HAVE THE RIGHT TO USE AN ITEM AS COLLATERRAL FOR A LOAN OR SELL THE ITEM IN ACCORDANCE WITH STATE AND LOCAL LAW. ALL SALES MAY BE CANCELED WITHIN FIVE BUSINESS DAYS IN ACCORDANCE WITH SAID ARTICLE 5. A SALE OF JEWELRY, WATCHES, PRECIOUS STONES, PRECIOUS METALS OR COINS CAN BE CONVERTED TO A LOAN WITHIN 14 DAYS FROM THE DATE OF THE SALE.

§ 77-7E. License use exclusive; renewal; duplicate licenses

- A. Use exclusive. Each license is personal to the licensee. It does not go with the title of the land, nor may it be sold, assigned, transferred, or disposed of. No license shall be used by any person other than the original licensee; and any holder of such license who permits it to be used by any other person, and nay person who uses such licenses granted to any other person, shall be guilty of a violation of this chapter. In the event of any change involving the owner or operator of the business, the type of business, the name of the business or the business location, a new collateral loan broker's license shall be required. A collateral loan broker's license shall not be transferred to any person who holds power of attorney.
- B. A collateral loan broker's license shall be deemed null and void when the licensee is not found operating the business for a period of one month and fails to respond in person to the City Clerk or his or her designee after having been sent a seven-day notification letter.
- C. Renewal. Any license issued by the City Clerk may be renewed annually, for additional periods of one year each from the date of expiration, upon the filing, at least 30 days prior to the expiration date of the current license, of an application containing all the information required by the provisions of this chapter for original applications and the payment of the annual license fee.
- D. Duplicate licenses. Whenever a license shall be lost or destroyed without fault on the part of the holder or his/her agent or employee, a duplicate license in lieu thereof under the original application and bond may be issued by the City Clerk in his/her discretion, upon the filing with it of an affidavit by the licensee, setting forth the circumstances of the loss and what, if any, search has been made for its recovery. No person shall destroy, deface or injure a license in any manner, or change the name, number, or dates therein.

§ 77-7F. Denial of license; reapplication after rejection.

- A. No license shall be granted under this chapter to any applicant:
 1. Who has been convicted of any offense which, under the laws of the State of New York, constitutes a crime involving moral turpitude, larceny, fraud or sale or possession of stolen property.

2. Who has been found by any court of the state to have practiced any fraud, deceit or misrepresentation in the conduct of the collateral loan business unless the City Clerk, after City Board approval, shall decide in any particular case upon the facts there presented that it is proper to issue the license applied for.
 3. Whose license under this chapter has been revoked at any time during the year prior to the time of the application for the license.
 4. Whose license has been suspended under this chapter and the period of such suspension has not expired at the time of this application for the license.
 5. No license shall be granted to any applicant who has been convicted of any felony or any misdemeanor involving violence, dishonesty, or deceit.
- B. The City Clerk may deny a license or deny the renewal of a license to any applicant who does not comply with the provisions of this chapter or any rule or regulation promulgated under this chapter or who makes a material misrepresentation on the license application.
 - C. The City Clerk shall give a written notification to an applicant of the reasons for the denial of a license. No license shall be refused except for a specific reason and for the protection of the public safety, health, or good order or morals or welfare. The City Clerk shall state the grounds for such refusal, in writing, and mail the same, together with the fee, back to the applicant.
 - D. Said notice to the applicant shall include the information regarding the right to appeal and contest any claimed ground for disqualification in accordance with § 77-23 Subsection H. Any challenge to information contained in criminal records provided by DCJS shall be conducted in accordance with the applicable DCJS rules and regulations.
 - E. No applicant to whom a license has been refused shall make further application until a period of at least six months shall have elapsed since the last previous rejection, unless he or she can show that the reason for such rejection no longer exists.
 - F. When an investigation reveals that the applicant has violated either federal, state or local laws or rules and regulations, the City Clerk may authorize the issuance of a conditional license. The conditional license shall state the grounds for the conditional license, the conditions under which the applicant shall operate his or her business, be signed by the applicant, and contain a provision which provides that any violation of the conditional license, as solely determined by the City of Burman, shall be deemed to be grounds for revoking the conditional license.

§ 77-8. Hours of operation; business on Sunday prohibited.

- A. Hours of operation. No licensee shall have his or her place of business open for the transaction of business, nor shall he or she purchase any used items, nor transact business as a collateral loan broker within the City, except between the hours of 8:00 a.m. and 9:00 p.m. on weekdays, except Saturday and then only between the hours of 8:00 a.m. and 11:00 p.m.
- B. Business on Sunday prohibited. No licensed collateral loan broker shall have his or her place of business open for the transaction of business, nor shall he or she purchase any used item, nor shall he or she transact business on Sunday.

§ 77-9. Under 18 prohibited; list of employees.

- A. Under 18 prohibited. Pursuant to Article 5 § 47-A, no collateral loan broker so licensed shall employ at such place of business any person under the age of 18 years in any capacity, which shall include accepting the pledge or pawn of merchandise or the purchase of secondhand property.
- B. List of employees. Every licensee shall keep on file a current list of employees which shall be available to the City of Burman Police Department or any other law enforcement agency upon reasonable request.

§ 77-10. Continuing education requirement.

- A. All collateral loan brokers shall comply with the continuing education requirements of General Business Law § 41-A, and proof of such compliance shall be filed with the Chief of Police.
- B. The failure to comply with the provisions of this section shall be grounds for the suspension, revocation, or refusal to issue any license issued pursuant to this article.

§ 77-11. Zoning; open air business; provision of electronic security monitoring systems.

- A. Zoning. Collateral Loan establishments, as herein defined, shall only be allowed in Retail Districts as set forth in Article 8, § 2 of the Zoning Code of the City of Burman, and only to the extent that it is consistent with local law and the New York State General Business Law relating to the operation as a collateral loan broker.
- B. Open air business. No collateral loan broker may conduct business in the open air, outside or on any premises on which a structure has been erected having no walls or enclosures. All such business must be conducted within a permanent structure, store or building. Satisfactory proof of compliance with this section shall be made by the applicant to the building inspector prior to the issuance of a license hereunder. No licensee hereunder shall permit any of his goods, wares or merchandise to be displayed on a sidewalk in front of the place where he conducts his business.
- C. Provision of electronic security monitoring systems. Every collateral loan broker shall install a video surveillance camera inside the place of business in a location and positioning that provides a view of each transaction and shall maintain each video recording for a period of not less than 45 days. Video recordings shall be made available to the City of Burman Police Department upon request.

§ 77-12. Identity of person from whom purchase is made; purchase of property from certain persons prohibited.

- A. Identity of person from whom purchase is made. It shall be the duty of every collateral loan broker to verify the identity of every person from whom he or she purchases an article, and to make and keep a written record of the evidence submitted by such person to prove his or her identity.
- B. Only the following shall be deemed acceptable evidence of identity:
 - 1. Any official document, except a social security account number card, issued by the United States Government, any state, county, municipality or subdivision thereof, any public agency or department thereof, or any public or private employer, which requires and bears signature of the person to whom issued.
 - 2. Other identification documentation which, under the circumstances of any particular purchase, would lead a reasonable person to believe to be accurate and reliable, when identification under Subsection B (1) hereof is not available.
- C. It shall be the duty of every collateral loan broker to require that every person from whom an article is purchased sign his or her name in the presence of the collateral loan broker, and to compare the signature with the signature on the identifying document, if any, and retain on his or her premises the person's signature together with the number and description of the identifying document, if any.
- D. Purchase of property from certain persons prohibited. Pursuant to Article 5 of the General Business Law, no collateral loan broker or person in the employ of a collateral loan broker shall receive or purchase any goods, chattels, wares or merchandise from, or make any loan or advance or payment to be loaned or advanced to any child, actually or apparently under the age of eighteen years any money, or in any manner directly or indirectly receive any goods, chattels, wares or merchandise from any such child in pledge for loans made or to

be made to it or to any other person or otherwise howsoever. It shall be no defense to a prosecution for a violation of this section, that in the transaction upon which the prosecution is based the child acted as the agent or representative of another, or that the defendant dealt with such child as the representative or agent of another.

- E. It shall not be lawful within the limits of the City of Burman for any collateral loan broker or person in the employ of a collateral loan broker to receive or take any goods in pledge from any person who shall be known to him as such to be a thief or to have been convicted of larceny or burglary, intoxicated, a habitual drunkard, any person providing obviously false information, or any person who is mentally incompetent.

§ 77-13. Rate of interest.

- A. In accordance with General Business Law, Article 5, § 45, no collateral loan broker shall ask, demand or receive any greater rate of interest than 3% per month or any fraction of a month for the first six months and 2% per month or any fraction of a month for each succeeding month upon any part of a loan not exceeding the sum of \$100, nor more than 2% per month or any fraction of a month for the first six months and 1% per month or any fraction of a month for each succeeding month or any part of any loans in excess of the sum of \$100, and a notice containing a list of such rates of interest as herein provided and in accordance with the Act of Congress entitled "Truth in Lending Act" (15 U.S.C. § 1601 et seq.) and the regulations thereunder, as such Act and regulations may from time to time be amended, shall be printed in large type in English and Spanish and conspicuously displayed within the premises of such collateral loan broker in such manner as to be clearly visible to all persons transacting business at such location. A minimum interest charge of \$0.25 per month may be made on a loan.
- B. No collateral loan broker shall receive or be entitled to any interests or charges as provided by this code on any loan for any period of time exceeding fifteen months from the date of the making of such loan, provided however that where a loan is extended at the direct request of the pledger, the collateral loan broker may receive and be entitled to any interest or charges provided by this article on such loan for any period of time not to exceed fifteen months from the date of such extension.
- C. No such collateral loan broker shall make any charge for packing, storing, keeping or caring for any article, goods, or thing pledged or upon which a loan has been made.

§ 77-14. Maintenance of records.

- A. Every collateral loan broker shall keep a secure record of consecutively numbered transactions, in a form prescribed by the appropriate police agency. At the time of making a transaction the collateral loan broker shall immediately and legibly record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the City:
 - 1. The name, business address, and license number of the licensee;
 - 2. The name of the clerk or employee of the licensee making the transaction;
 - 3. The pledge number of said pawn ticket or other evidence;
 - 4. The time (in 24-hour time) and date of the transaction;
 - 5. The name, date of birth, residence address, telephone number, place of employment, business telephone number, signature, and a physical description of the person or persons from whom said property or merchandise was accepted in pawn or by pledge or to whom merchandise was sold, including approximate weight, height, sex, and race;
 - 6. The identification number and state of issue from one of the following forms of identification of the seller or pledger:
 - i. Current valid New York State driver's license;

- ii. Current valid New York State identification card; or
 - iii. Current valid photo identification card issued by another state;
 - 7. An account and description of every article, goods, thing, or merchandise pawned, pledged, purchased, or sold;
 - 8. Brand name, make, serial and model numbers, monograms, inscriptions or other marks or identification that may appear thereon such article, color and size; in case of any article of jewelry or containing jewels, the description shall also include setting, shape, color, number of karats, type of metal, number and type of stones, and then a complete and accurate description of any initials, dates or inscription found therein;
 - 9. A description of the articles or pieces comprising old gold, silver, platinum, other metals or coins, stamps or currency and any monogram, inscription, or marks of identification thereon; and
 - 10. If the item is pawned, pledged or purchased by weight, the troy ounce weight of the item;
 - 11. The quantity of secondhand property purchased;
 - 12. Whether the person claims to be the owner, consignee or agent of the owner;
 - 13. The amount of money loaned thereon;
 - 14. The amount of money received or paid for such pawn ticket or other evidence;
 - 15. The maturity date of the collateral loan and the amount due; and
 - 16. The monthly and annual interest rates, including all pawn fees and charges.
- B. Every collateral loan broker on purchasing or receiving any article or property capable for use for the purpose originally intended, or bearing any device, name, initial or initials indicating any prior owner other than the manufacturer, or from which article or property it appears that any such device, name, initial, or initials have been removed, obliterated or effaced, shall:
- 1. Cause to be subscribed by the person from whom purchased or received a statement as to when, where and from whom he obtained such article or property.
 - 2. His or her age, residence by city, village or town, and the street number thereof, if any, and otherwise such description as will reasonably locate the same, his or her occupation and name of his or her employer and place of employment or business, which statement the collateral loan broker shall forthwith file in the office of the chief of police of the city.
- C. Every collateral loan broker who receives secondhand merchandise on consignment shall keep a record of the above-described book, describing the merchandise and the name and description of the person or dealer who consigned such merchandise. Transactions between collateral loan brokers shall also be recorded in the above-described book in the same manner as heretofore described.
- D. The above-described book shall be kept on the business premises of the licensee or at the place designated on the license at all times during normal business hours.
- E. No entry in such book shall be erased, obliterated, altered or defaced.
- F. When a person licensed as a collateral loan broker shall refuse or neglect to make the reports hereby required or shall make any false entry in such report or in any manner report falsely or shall omit to make a full and complete report, he shall incur a penalty of not less than twenty-five dollars (\$25.) nor more than one hundred dollars (\$100.) for each and every such offense.

§ 77-14A. Availability of records for inspection.

- A. A copy of the records of any purchase of secondhand property shall be immediately available at the request of the Police Department. If records are recorded in book, the record book shall be securely bound, not less than six inches in either length or width and legibly

written in permanent ink in the English language. The records required herein shall be at all reasonable times opened to the inspection of:

1. The Mayor;
 2. The City Clerk;
 3. Any Inspector of Licenses duly appointed by the City;
 4. The Chief of Police and any Police Officer of the appropriate police agency;
 5. Any Judge of the criminal courts;
 6. The City Court;
 7. The Corporation Counsel;
 8. Any person duly authorized in writing by any of the above for that purpose.
- B. Such books and records shall be retained in the possession of the collateral loan broker, in good condition and in an orderly fashion, for at least a period of six years.
- C. Every licensed collateral loan broker shall permit representatives of the appropriate police agency or inspector of licenses appointed by the City Clerk to inspect all rooms and merchandise on the premises designated on the license of the dealer during regular business hours when such inspection is requested by such representative of the appropriate police agency or inspector of licenses.

§ 77-15. Memorandum to be given; tag; method of payment for used goods.

- A. Memorandum. Every such collateral loan broker shall, at the time of each loan, deliver to the person pawning or pledging any goods, articles or things, a memorandum or note, signed by him, containing the substance of the entry required to be made in his book, as provided in § 77-14 and in Article 5 of the General Business Law, and no charge shall be made or received by any collateral loan broker for any such entry, memorandum, or note. The ticket and/or memorandum shall also contain the notices described in Article 5, which must include, among other things, the following information:
1. All sales of articles by the general public may be canceled within five days;
 2. A sale of jewelry, watches, precious stones, precious metals or coins can be converted to a loan within 14 days from the date of sale;
 3. The pawn ticket holder may redeem the article pledged at any time prior to sale at private sale or public auction;
 4. The item(s) pledged may not be sold until four months have passed;
 5. Upon sale of the pledged item(s), the holder of the ticket/memorandum is entitled to any profit from the sale in excess of the original loan amount after deduction of interest on the loan, lawful auctioneer's commission, any lawful care charges, and the expenses of the advertisement of sale.
 6. There is an additional time period for redeeming the pledged item if the collateral loan broker purchases it at auction; and
 7. The holder has the right to sell the ticket/memorandum to a third party or the collateral loan broker prior to sale.
- B. The holder of the memorandum or note shall be presumed to be the person entitled to redeem the pledge, and the collateral loan broker shall deliver such article to the person so presenting such memorandum or note on payment of interest and principal.
- C. Should the ticket be lost or mislaid, the pledger shall at once apply to the collateral loan broker to permit such person to examine his or her books, and on finding the entry for such ticket, note or memorandum so lost and upon his or her giving to the collateral loan broker an exact description of the article pawned, the collateral loan broker shall issue a second or stop ticket for the same. In case such pledger neglects to so apply and examine such books and receive such memorandum or note in the manner above stated, the collateral loan broker will be bound to deliver the pledge to any person producing such ticket for the redemption thereof.

- D. This chapter is not to be construed as in any manner limiting or affecting a collateral loan broker's common-law liability in cases where goods are stolen or other legal defects of title exist in the pledger.
- E. Tag. At the time of receiving any items in exchange for a loan or making any purchase, every licensee and/or his or her employee shall attach a tag or otherwise legible number and date to each item bought and make a corresponding entry to such number in the record book. In the event of an error, a single red line shall be made through the entry, but not in such a way as to prevent legibility.
- F. Method of payment for used goods. All used goods purchased by a licensee shall be paid for with a check drawn on the licensee's account and made out in the name of the person selling the item. The collateral loan broker shall record on the face of the check the number affixed to the item purchased pursuant to section § 77-15 Subsection B. This section shall not apply to items purchased from a single individual for fair market value.

§ 77-16. Holding period.

- A. Each collateral loan broker shall retain possession of any secondhand property purchased by that broker in an unaltered condition for a period of 10 calendar days following the purchase. However, this section may not be interpreted to limit the right of the collateral loan broker to transfer ownership of the secondhand property before the end of the ten-day holding period. Further, this section shall not prevent collateral loan brokers from allowing the true owner of an article of secondhand property to redeem, repurchase or recover the article at any time within the ten-day holding period.
- B. No collateral loan broker shall permit the redemption of any article received by him in pawn until 48 hours after the same has been received by him in pawn.

§ 77-17. Redemption of pledged article; refusal to surrender articles.

- A. Redemption of pledged article. Upon presentation of such memorandum ticket by the holder thereof or his agent and the tender of the full amount due to the pawnbroker, said pledged article shall be delivered to the owner thereof or to his agent. The failure of the collateral loan broker, without reasonable cause, to deliver said pledged article or to promptly make complete satisfaction thereof shall be a violation of this chapter.
- B. Refusal to surrender property. No collateral loan broker shall, without reasonable cause, at any time before a loan becomes due or at any time within three (3) months after a loan becomes due refuse to surrender any pawned articles to any person who shall tender the memorandum therefor, together with the amount borrowed and the interest thereon.
- C. No collateral loan broker shall sell any item received by him in pledge before the time to redeem the same has expired, nor willfully disclose the name of the purchaser nor the price paid for any article sold.

§ 77-18. Sale of goods; disposition of proceeds.

- A. Sale of goods. Pursuant to Article 5 of the General Business Law no such collateral loan broker shall sell any pawned or pledged article until the same shall have remained four (4) months or more in arrears in his or her possession. All sales of defaulted pledges shall be public or private with each such pledge being individually offered for sale. No pledge shall be sold unless written or printed notice of intention to sell, with a statement of the article to be sold, has been first mailed by letter addressed to the pledger, at the address given at the time of pledging, at least 10 days prior to the date of sale. All sales shall be in absolute conformity with applicable laws, regulations and rules, including but not limited to the provisions of the General Business Law pertaining to public and private sale and the Uniform Commercial Code provisions pertaining to the disposal of collateral after default.

- B. If at a public sale, then it shall be by public auction, and shall be conducted by licensed auctioneers within the state of New York.
1. All bids for the purchase of any defaulted pledge offered at such sale shall be oral, and expressed in dollars and cents without the use of any special signs, signals, or motions, if less than eleven people attend such sale. Any person, including the collateral loan broker, may become the purchaser of any and all goods, articles or things to be sold at any such sale.
 2. If the pledge, at a sale, shall be purchased by the collateral loan broker, the pledger shall be entitled to redeem the same within 10 days thereafter by tendering to the collateral loan broker the amount of the loan with the interest due thereon.
 3. Notice of every such sale shall be published for at least six (6) days previous thereto in the official newspaper or newspapers printed in the City of Burman, and each such notice shall specify the time and place at which such sale shall take place, the name of the auctioneer by whom the same is to be conducted and a general description of the kind of article to be sold, together with a statement of the inclusive dates of the pawn tickets representing the pledges to be sold.
 4. A collateral loan broker that sells defaulted pledges at public auction shall file a verified report with the Chief of Police as provided in Article 5 of the General Business Law.
- C. A private sale may be at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place and terms must be commercially reasonable and conducted in conformity with applicable uniform commercial code provisions regarding the disposal of collateral after default.
- D. Every collateral loan broker shall enter in a book kept for that purpose a true account of the sale of all goods sold by him or her at auction or otherwise, stating the day of the month when pledged, the name of the person pledging, the day when and the amount for which each pledge was sold and the name of the auctioneer. Any person who shall have pledged any unredeemed goods, or his assigns, administrators and executors, shall at all reasonable times be permitted to inspect such entry book of sale.
- E. Every collateral loan broker shall give notice of the expiration of the six (6) months from the date of the loan after which a public sale of the article pledged may take place, by letter directed to the borrower at his or her last known residence at least 10 days and not more than 20 days after the expiration of such six months.
- F. In addition to any other provision contained in this article and article 22-A of the General Business Law, § 349 of the General Business Law shall apply to a violation of the private and public sale provisions of this article.
- G. Disposition of proceeds. The surplus money, if any, arising from any such sale, after deducting the amount of the loan, the interest then due on the same, the auctioneer's commissions, if applicable, lawful extra care charges and the expense of the advertisement of the sale, if applicable, shall be paid over by the collateral loan broker to the person who would be entitled to redeem the pledge in case no such sale had taken place.
- H. In the event that there is any surplus money due to a pledger after such sale, the collateral loan broker shall give the pledger written notice thereof, by mailing to such pledger, directed to him at the address given at the time of pledging or in the event such pledger has notified the collateral loan broker, in writing, of a change of address, to such new address, within thirty days after such sale, a notice which shall state the name and address of the collateral loan broker, the number of the pledge, the date of sale and the amount of any surplus. In the event any person entitled to such surplus fails to make claim for the same within one year from the date of such sale, such surplus shall be paid over, by the collateral loan broker, to the state comptroller in accordance with the provisions of § 1301 of the Abandoned Property Law.

§ 77-19. Illegal goods; alteration to articles.

- A. Illegal goods. No collateral loan broker shall receive as a pledge or purchase any revolver, pistol, blackjack or sawed-off shotgun or any instrument or weapon mentioned in § 265 of the Penal Law of the State, and no collateral loan broker shall display in his window or shop any such weapons for sale. Nor shall any collateral loan broker accept in pawn or pledge any partly manufactured article of wearing apparel, any article intended for consumption or otherwise, or any material plainly intended for the manufacture of said article. It shall be unlawful for any collateral loan broker to purchase any secondhand furniture, metals, clothing or other article or thing whatever, offered to him or her as a pawn or pledge.
- B. Alteration of articles. No articles purchased or received for sale or resale by any collateral loan broker shall be altered or changed in any manner or be permitted to be altered or changed in any manner by any secondhand dealer until the police have been afforded a reasonable opportunity to inspect the same for evidence of crime or in the interest of criminal investigation.

§ 77-20. Lost and stolen property.

- A. No collateral loan broker shall make any purchase or otherwise receive any articles from any person without first ascertaining that such articles are the property of the person offering to sell them and were not stolen.
- B. It shall be the duty of every collateral loan broker to report to the Chief of Police or his or her agent any article pledged with him or which is sought to be pledged with him if he shall have reason to believe that the article was stolen or, in the case of a lost article, lost and found by the person attempting to pledge it. If any article shall be advertised in any newspaper printed in the County of Burman as having been lost or stolen, and if any goods or articles as such advertised description or any part thereof shall be or come into the possession of any collateral loan broker, upon receiving actual written or oral notice of the similarity of description of such articles, such broker shall immediately give information relating thereto to the Chief of Police, or his or her agent.
- C. A collateral loan broker, when notified by the Chief of Police or his or her agent that property in his or her possession is stolen or is alleged to be stolen, shall take immediate steps to secure that property, and it shall be marked "Police Stop." Thereafter, such property shall not be sold or removed from the premises until notification is made to the collateral loan broker in writing by the Chief of Police or his or her agent allowing such removal or sale. Upon request of the Chief of Police, the collateral loan broker shall report in writing the name and residence of the person from whom said article or merchandise was purchased or received in pawn and pledge.
- D. Every collateral loan broker who shall have or receive any articles alleged or supposed to have been lost or stolen shall exhibit the same, on demand, to the Chief of Police or any authorized Inspector of Licenses, to any police officer or to any person duly authorized in writing by the Chief of Police to examine such articles, who shall exhibit such written authority to the dealer.
- E. When any person is found to be the owner of stolen property which has been obtained in connection with the collateral loan broking business, such property shall be returned to the owner thereof without the payment of the amount advanced by the collateral loan broker thereon or any costs or charges of any kind which the collateral loan broker may have placed upon the same.

§ 77-21. Daily report to the Chief of Police required.

- A. Every collateral loan broker so licensed shall prepare a report for the Police Department of the City of Burman before 10:00 a.m. of every business day, upon blank forms to be furnished by said Department, wherein shall be provided the following:
 - 1. A brief description of all goods, articles, or things purchased or received in the preceding business day including a copy of any serial number and any monograms, inscriptions or other marks or identification that may appear thereon such article;
 - 2. The name, date of birth, residence address, and a physical description of the person or persons from whom said property or merchandise was accepted in pawn or by pledge, including approximate height, weight, sex, and race;
 - 3. The date and time when the articles were received;
 - 4. The pawn ticket numbers or memorandum numbers issued therefor;
 - 5. The amount paid, loaned, or advanced thereto;
 - 6. And the name of the employee receiving the articles.
- B. The collateral loan broker shall deliver such record to the Chief of Police, or his or her representative, by mail or in person until required to do so by computer transmission as proscribed in § 77-21A, on the same day in which the record is completed.
- C. The contents of such report shall not be communicated to any person for the purpose of publication, but shall be used expressly for the purpose of protecting the public.
- D. No person shall make any false entry in such report, and whenever the Chief of Police shall notify any collateral loan broker not to sell or permit to be redeemed any property so received on deposit, such property shall not be sold or permitted to be redeemed until the said Chief of Police shall so direct.

§ 77-21A. Electronic reporting of transactions to the Chief of Police required.

- A. From and after the date called for by the phase-in schedule in Subsection E, every collateral loan broker, except those exempted by operation of Subsection F, shall, by close of business each day, upload to the Chief of Police electronic records of all reportable transactions occurring the same business day. Each transaction record shall contain all information required by § 77-21 and shall be uploaded via Internet connection to an electronic reporting service provided by the Burman City Police Department according to the following procedures:
 - 1. Collateral loan brokers using point-of-sale software shall review compatibility of their software with the electronic reporting service provided by the Police Department, and dealers with compliant point-of-sale software shall electronically upload all required information from their point-of-sale software to the specified electronic reporting service via Internet connection using the upload process of the reporting service; or
 - 2. Collateral loan brokers using noncompliant point-of-sale software, or not using point-of-sale software, shall manually enter all reportable transactions into the electronic reporting service via Internet connection.
- B. The Chief of Police shall establish by rule the format and requirements of the transmission of data and may restrict the scope of the items that are to be electronically reported. A transaction reported by electronic transmission under Subsection A shall not be reported on paper forms unless the Chief of Police so requests.
- C. In the event that the collateral loan broker is unable to successfully upload transaction records via the electronic reporting service, the collateral loan broker shall, within 24 hours, notify the Police Department of the reason for the submission failure and shall provide the Police Department with an estimated time of compliance. For every day the collateral loan broker is unable to upload electronic transactions records via the electronic reporting service, the collateral loan broker shall provide the Chief of Police a daily electronic table or spreadsheet of all transactions that would otherwise have been submitted via the electronic

reporting service. This data shall be either hand delivered or e-mailed to the Police Department no later than one business day after the transaction date.

- D. If the upload problem is determined by the Police Department to be the fault of the collateral loan broker, the collateral loan broker shall be charged a daily reporting failure fee of \$10 until the error is corrected. The fee is to offset the City Police Department's costs in converting the data from the paper format into electronic format. If the problem is determined by the Police Department to be due to factors not associated with the collateral loan broker, the collateral loan broker shall not be charged with the reporting failure fee. Upon correction of the problem, the collateral loan broker shall electronically upload the required information.
- E. Collateral loan brokers shall report their transactions electronically to the Chief of Police as required by Subsections A and B from and after the following dates:
 - 1. For each collateral loan broker business for which a collateral loan broker license is first obtained on or after the effective date of the ordinance codified in this section, effective upon commencing business or one month after the effective date of the initial rules adopted pursuant to Subsection B, whichever is later;
 - 2. For each collateral loan broker business for which a collateral loan broker license was first obtained before the effective date of the ordinance codified in this section, no later than one month after the effective date of the initial rules adopted pursuant to Subsection B;
 - 3. The Chief of Police may, for good cause shown, grant a collateral loan broker dealer an extension of the otherwise applicable deadline to a date not later than six months after the effective date of this ordinance. An extension may only be granted upon written application by the collateral loan broker; upon showing that the collateral loan broker is making satisfactory progress toward acquiring computer programs and equipment to make the necessary transmission; and upon agreement by the collateral loan broker to pay the City of Burman a daily reporting fee of \$10 to offset the City Police Department's costs in converting the data from paper format into electronic form.
- F. If, after establishing the format and requirements for the transmission of computerized reports of transactions, the Chief of Police alters the required format, collateral loan brokers shall be given at least 30 days to comply with the new format requirements.

§ 77-22. Enforcement.

- A. Pursuant to the General Business Law § 51, the City Clerk shall have full power and authority after notice and hearing before the City Board to impose fines and penalties of not less than \$25 nor more than \$100 upon persons offending against any of the provisions of the General Business Law Article 5, §§ 42 through 50, and may also suspend or revoke the license of the collateral loan broker willfully violating any of the aforesaid provisions. Each day of continued violation is a separate and distinct offense.
- B. The City Clerk, the Building Inspector, the Code Enforcement Officers, the Zoning Administrator and any police officer or peace officer as defined in the New York State Criminal Procedure Law shall have the authority to enforce the provisions of this chapter.
- C. Any member of the City of Burman Police Department shall have the authority, pursuant to New York State Criminal Procedure Law, to issue an appearance ticket subscribed by him/her directing a designated person to appear in a designated criminal court at a designated future time in connection with the alleged violation of this chapter or any order made hereunder.

§ 77-23. Revocation and suspension procedure; hearings; appeals.

- A. Revocation and suspension procedure. A license issued under the provisions of this Article may be revoked or suspended by the City Clerk after notice for any of the following causes:
1. Fraud, misrepresentation or a false statement contained in the application for the license;
 2. Any violation of either this chapter or Article 5 of the General Business Law;
 3. Conviction of any crime or offense involving moral turpitude;
 4. Conducting the activity as a collateral loan broker in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- B. Notice of revocation or suspension of a license shall be given in writing, setting forth specifically the grounds of the complaint. Before revoking any license granted herein, the City Clerk shall give the licensee 10 days' notice of a hearing before the City Clerk. Such notice shall be mailed, postage prepaid, to the licensee at his last known address.
- C. In addition to the above-provided penalties and punishment, the City of Burman also may maintain an action or proceeding in the name of the City in a court of competent jurisdiction to compel compliance with the provisions of this chapter or to restrain by injunction any offense against this chapter.
- D. The Chief of Police, City Clerk and/or City Board may, after notice and hearing, revoke the license of any licensee convicted of robbery, burglary, theft, receiving stolen goods or any other crime involving moral turpitude after the license is granted.
- E. It shall be the duty of any police officer of the City of Burman to require any person seen to engage in collateral loan broking who is not known by such police officer to be duly licensed, to produce or display his or her collateral loan broker's license and to enforce the provisions of this article against any person found to be violating the same.
- F. Whenever any license shall be revoked, no refund of any unearned portion thereof shall be made, and no license shall be granted to any person whose license has been revoked within a period of one year from the date of such revocation. Notice of such revocation and the reason or reasons therefor in writing shall be served by the City Clerk upon the person named in the application by personal service or by mailing the same to the address given in the application and upon filing a copy of such with the City Clerk.
- G. The City Clerk shall record all convictions for violations of this article which are officially brought to his or her attention by any authorized agency or person.
- H. Hearings. Whenever it shall be provided herein that a hearing shall or may be held with respect to any matter:
1. Such hearing shall be held on a date, at a place and hour designated by the City Board.
 2. The City Clerk shall give notice thereof, stating the name and address of the applicant or license holder concerned, the subject matter of the hearing and the date, place and hour thereof designated therefor, by mailing a copy thereof to the applicant or license holder concerned at the address shown on the most recent application of such applicant or licensee, at least 10 days before such hearing.
 3. If an applicant or licensee requires a hearing, the City Board shall designate two or more members of the Board to conduct said hearing.
 4. The applicant or license holder involved shall be entitled to be represented by legal counsel and to present such competent and material testimony or other evidence in his own behalf as may be relevant to the subject matter of the hearing.
 5. All witnesses shall be examined under oath.
- I. Appeals. The holder of any license which has been suspended or revoked and any applicant who shall have been denied a license under this Article may apply for a review of the action of the City Clerk as hereinafter provided:

1. Such application shall be in writing, signed and acknowledged by the applicant, and shall state the ground or grounds on which the applicant claims that the determination of the City Clerk was erroneous.
2. Such application shall be filed with the City Clerk by the applicant within 20 days after notice of denial of his application, or notice of suspension or revocation of his permit by the City Clerk has been mailed to him or delivered to him in person.
3. Upon the filing of such application, a hearing shall be held therein pursuant to the provisions of (section – hearings) hereof.
4. At such hearing, the City Board shall consider the applicant's application upon the record before the City Clerk in connection with the City Clerk's consideration thereof, and, in its discretion, receive new or additional evidence in support thereof or in opposition thereto.
5. After the hearing, the City Board may sustain the decision of the City Clerk or his or her designee or reverse the decision of the City Clerk or his or her designee and direct that a license be issued.

§ 77-24. Penalties for offenses.

- A. Any person who, by himself or by his or her clerk, agent or employee, shall establish, engage in or carry on the business of collateral loan broker and shall violate any of the provisions of this chapter or shall fail to comply with any of its requirements shall, upon conviction thereof, be subject to the penalties provided in Chapter 24 of the City of Burman Municipal Code.
- B. In addition to the penalties imposed, the license of the person violating the same shall be canceled or revoked, and the bond upon such license shall be forfeited. Upon such forfeiture, the amount of the bond shall thereupon be due and payable to the City of Burman, and the amount thereof may be recovered in a civil action based upon such forfeiture.
- C. Notice to the licensee by personal service or by certified mail at the address set forth on the application is sufficient notice for the purpose of this section.

§ 77-25. When effective.

- A. This chapter shall become effective upon immediately filing in the office of the Secretary of State of New York and with the City Clerk of the City of Burman and otherwise in accordance with and pursuant to the City Law of the State of New York.
- B. Any person lawfully operating as a collateral loan broker as of the effective date of this chapter shall have a period of 90 days to apply for a license to operate as set forth herein, and comply with the terms of this chapter.