

INTERPRETIVE LETTER NO. 98-13 (September 29, 1998)

An establishment that purchases jewelry from an individual for refurbishing and reselling is not acting as a pawnbroker for purposes of the Pawnbroker Regulation Act if there is no condition or agreement that the establishment resell the property to that same individual at a stipulated price.

This letter is in response to your phone conversation with * and your subsequent written correspondence concerning the applicability of the Pawnbroker Regulation Act ("Act") to certain transactions at *. Specifically, you requested the Office of Banks and Real Estate's opinion on whether * needs a license under the Act to purchase and refurbish jewelry from customers and subsequently resell that jewelry as estate or secondhand jewelry.

Effective July 1, 1998, Section 1 of the Act provides as follows:

Every individual or business entity which lends money on the deposit or pledge of physically delivered personal property, other than property the ownership of which is subject to a legal dispute, securities, printed evidence of indebtedness or printed evidence of ownership of the personal property, or who deals in the purchase of such property on the condition of selling the property back again at a stipulated price, shall be held and is hereby declared and defined to be a pawnbroker. 205 ILCS 510/1.

It is clear from Section 1 that the Act applies only to those pawn transactions in which the pawnbroker lends money on pledged and delivered property or purchases property on the condition that the property will be sold back to the same customer at a stipulated price. This differs from the jewelry transactions in which * is involved. In those transactions, an individual will sell the jewelry to * rather than receive a loan on the deposit or pledge of that jewelry. The sale is not conditioned on * selling the property back to the same customer at a stipulated price. Rather, the sale is, in your words, "outright" and it is the final transaction involving that jewelry between * and the individual selling the jewelry. * is not acting as a pawnbroker and is not required to be licensed under the Act.

We trust this letter is responsive to your inquiry. If you have any further questions, please do not hesitate to contact us.