



# Ohio Legislative Service Commission

## Bill Analysis

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### **S.B. 270**

131st General Assembly  
(As Introduced)

**Sens.** Eklund, Hottinger, Seitz, Gardner, Coley, Patton, Uecker

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### **BILL SUMMARY**

- Expands the definition of "pawnbroker" for purposes of the Ohio Pawnbroker's Law.
- Permits a pawnbroker to operate multiple offices or places of business under one license.
- Increases the amount of liquid assets or surety bonds a licensed pawnbroker is required to maintain.
- Increases the amount of interest and fees a pawnbroker can charge for a loan.
- Eliminates a pawnbroker's authority to charge a fee for a lost pledge statement.
- Clarifies that the records required under the Pawnbroker's Law must be available for inspection at the licensed location upon the reasonable request of certain local law enforcement officers.
- Specifies that a pawnbroker is only required to report certain information to the local chief of police or sheriff, as required under current law, unless the local chief of police or sheriff requests additional information in the investigation of a crime.
- Requires the report to be provided directly to the applicable law enforcement officer.
- Repeals the requirement that the report be submitted to law enforcement daily.
- Requires that all information reported directly to the local chief of police or sheriff must be purged after two years from the date of the transaction.

- Provides that all reported information must remain confidential, is proprietary information, and can only be used for confidential and legitimate law enforcement purposes.
- Specifies that a pawnbroker cannot be required to supply information to a third party, except to law enforcement as required under the bill.
- Clarifies that any information reported to local law enforcement agencies is not a public record for purposes of Ohio's Public Records Law.
- Enumerates prohibited activities with respect to the bill's reporting requirements.
- Eliminates the requirement that a pawnbroker retain pledged goods for 72 hours after the pledge is made and permits a pledgor to redeem a loan any time after the pledge is made.
- Prohibits prepayment of interest and storage charges at the time a pawn loan is originated.
- Adds new procedures if property was leased by the pledgor or seller at the time the property was pledged or sold but there is no mark identifying it as the lessor's property.
- Reduces the continuing education requirements for pawnbrokers from 12 to 8 hours and repeals other current law requirements relating to continuing education.
- Specifies that it is not a violation law for a pawnbroker to comply with the Pawnbroker's Law.

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## **CONTENT AND OPERATION**

### **Definition of "pawnbroker"**

The bill expands the definition of "pawnbroker" for purposes of the Ohio Pawnbroker's Law. Under the bill and current law, a pawnbroker is a person engaged in the business of lending money on deposit or pledges of certain personal property, at a total charge, rate of interest, or discount or other remuneration in excess of 8% per year.

Under the bill, "pawnbroker" includes a person engaged in the business of purchasing personal property from another person for resale. It also includes a person who purchases personal property from another person with an agreement that the property will be made available to that other person for repurchase within an agreed-to

time and for a price greater than the original purchase price. This provision appears to be more expansive than current law, which states that "pawnbroker" includes a person engaged in the business of purchasing personal property from another person with an agreement that the personal property will be made available to that other person for repurchase within an agreed-to time and for a price greater than the original purchase price.<sup>1</sup>

## **Multiple business locations**

The bill permits a licensed pawnbroker to operate multiple offices or places of business under one license. Specifically, the bill requires an applicant for a pawnbroker's license to state the address of each of the offices or places of business where the applicant conducts business. Likewise, the bill prohibits a licensed pawnbroker from transacting or soliciting business at any location other than the addresses stated in the person's license. Finally, the bill requires a licensed pawnbroker to post the license in each office and post the business hours on the main door of each of the licensee's places of business. Current law includes these same requirements, but refers to a singular office or business location for each pawnbroker.<sup>2</sup>

## **Liquid asset and bond requirements**

The bill increases the amount of liquid assets that an applicant for a pawnbroker's license must demonstrate the ability to maintain from \$100,000 to \$125,000. Additionally, the bill increases the amount of liquid assets and surety bonds that a licensed pawnbroker must maintain in order to conduct business in Ohio. Under the bill, a pawnbroker is required to (1) maintain liquid assets of at least \$75,000, increased from \$50,000 under current law, or (2) obtain a surety bond meeting certain requirements in the sum of at least \$50,000, increased from \$25,000 under current law.<sup>3</sup>

## **Interest and fees**

The bill also increases the interest rates and fees a licensed pawnbroker can charge. The bill prohibits a pawnbroker from charging interest more than 6% per month for any loan. Current law prohibits interest more than 5%.

Additionally, the bill modifies the fees a pawnbroker can charge as follows:

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<sup>1</sup> R.C. 4727.01(A).

<sup>2</sup> R.C. 4727.04(A) and (C) with conforming changes in R.C. 4727.08(I), 4727.11(D), and 4727.12(A).

<sup>3</sup> R.C. 4727.03(A)(4) and 4727.20(A).



- Increases from \$4 to \$6 per month the fee for all pledged articles held as security or stored for a loan;
- Increases from \$2 to \$5 the fee for the cost of notifying the pledgor by mail that the pledged articles may be forfeited to the pawnbroker in accordance with the Pawnbroker's Law.
- Increases from \$2 to \$10 the fee for providing services for compliance with the federal Brady Handgun Violence Protection Act;
- Eliminates the \$2 fee for a lost pledge statement issued by the pawnbroker.<sup>4</sup>

## **Recordkeeping requirements**

The Ohio Pawnbroker's Law imposes recordkeeping requirements on licensed pawnbrokers, including requiring a pawnbroker to keep certain records and forms at the licensed location. The bill clarifies the requirement that the mandated records and forms be available for inspection by specified local law enforcement officers to state that the records and forms must be available for inspection at the licensed location. The bill also provides that a licensee must produce and show any required records and forms upon reasonable request by local law enforcement officers, instead of at the request of local law enforcement officers as under current law. Finally, the bill clarifies that the place of business listed in required records, forms, and documents is the place of business where the pawn transaction was conducted.<sup>5</sup>

## **Pawnbroker daily report**

Continuing law requires a licensed pawnbroker to furnish certain information to the local police chief, or to the county sheriff if there is no local police chief. A pawnbroker must provide in the report (1) a description of all property pledged with the pawnbroker and (2) the form number documenting the transaction. However, the bill permits the applicable law enforcement officer to request additional information in the investigation of a crime. If the law enforcement officer requests additional information in the investigation of a crime, the officer must provide the pawnbroker with the investigation's case number and the pawnbroker must include that number in the customer file.

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<sup>4</sup> R.C. 4727.06(A) and (B).

<sup>5</sup> R.C. 4727.08(D) and (I).



Under the bill, the report must be provided directly to the applicable law enforcement officer; current law has no such requirement. The bill also repeals the current law requirement that the report be made daily by electronic transfer or magnetic media format on the form furnished by the requesting law enforcement officer.<sup>6</sup>

### **Confidentiality of report information**

The bill requires that all information submitted directly to the applicable law enforcement agency that is used for a law enforcement database reporting system must be purged two years from the date of the transaction. A pawnbroker cannot be required to provide any information regarding a pawn or purchase transaction directly to any third party, except to a police chief or sheriff as required by the Pawnbroker's Law.

Additionally, the information provided to the applicable law enforcement officer under the reporting requirements described above or at the request of the law enforcement officer in the investigation of a crime must be kept confidential and is proprietary information of the pawnbroker. Further, the information can only be used for confidential and legitimate law enforcement purposes. Any information provided to the law enforcement officer is not a public record for purposes of Ohio's Public Records Law.<sup>7</sup>

### **Fees**

No fee may be assessed to a pawnbroker, a pledgor, or a seller for compliance with the bill's reporting requirements.<sup>8</sup>

### **Prohibitions relating to reports**

The bill prohibits a person from knowingly obtaining access to a law enforcement database reporting system under false pretenses. It also provides that police chiefs and sheriffs do not have the authority to regulate the electronic transmission of reportable data in a manner that is inconsistent with the bill's reporting requirements.<sup>9</sup>

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<sup>6</sup> R.C. 4727.09(A) and (B).

<sup>7</sup> R.C. 4727.09(C)(1) and(D).

<sup>8</sup> R.C. 4727.09(C)(1).

<sup>9</sup> R.C. 4727.09(C)(2) and (E).



## **Prohibited pledgors**

The bill narrows the list of persons prohibited from engaging in a transaction with a pawnbroker. It prohibits a licensed pawnbroker from recklessly receiving any pledge or purchasing any articles from a minor or from any person identified to the licensee by a court of law as prohibited from pledging or selling articles to a pawnbroker. Current law, repealed by the bill, additionally prohibits a pawnbroker from receiving pledges or purchasing articles from (1) a person who at the time is intoxicated or under the influence of a controlled substance, (2) a person who is known or believed by the licensee to be a thief or receiver of stolen property, or (3) a person identified in writing to the licensee by certain local law enforcement officials as a known or suspected thief or receiver of stolen property.<sup>10</sup>

## **Holding pledged or purchased items**

The bill eliminates the requirement that a licensed pawnbroker retain any and all pledged goods or articles until 72 hours after the pledge is made. It does, however, retain the requirement that the pawnbroker retain any purchased goods or articles for 15 days.<sup>11</sup>

## **Notice of forfeiture**

If a pledgor fails to pay interest and fees to a pawnbroker on a pawn loan for three months from the date of the loan or the date on which the last interest payment is due, the bill requires a pawnbroker to send a forfeiture notice to the pledgor by United States postal mail. The notice must indicate that unless the pledgor redeems the pledged property or pays all interest and fees due within 30 days, the pledged property will be forfeited to the pawnbroker. Current law requires such notice to be sent if the pledgor fails to pay interest for only two months and only specifies that the notice must be sent by mail. Current law also does not require that the notice include that "fees" must be paid, and instead specifies that "storage charges" must be paid.<sup>12</sup>

## **Pawn loan redemption**

The Pawnbroker Law includes provisions specifying when and how a pledgor can repay a pawn loan balance and redeem pledged property. The bill permits a licensee to accept from a pledgor a portion of the outstanding principal loan balance at any time and permits a pledgor to redeem a pawn loan any time after the pledge was

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<sup>10</sup> R.C. 4727.10.

<sup>11</sup> R.C. 4727.12(A).

<sup>12</sup> R.C. 4727.11.



made. This repeals the current law requirement that a pledgor can only redeem a pawn loan beginning 72 hours after the pledge. The bill also adds an exception for the current month to the current law prohibition that a pledgor may not prepay interest or storage charges except when the pledgor redeems the pledged property. The bill also adds a provision of law prohibiting prepayment of interest and storage charges at the time the loan is originated.<sup>13</sup>

## **Reclaiming stolen property**

The bill changes the terminology and adds a new procedure relating to returning stolen property that has been purchased or pawned and is held by a pawnbroker. The bill clarifies that if the local chief of police or sheriff receives a report that property has been stolen and determines the identity of the person claiming to be the true owner and informs the licensed pawnbroker, the pawnbroker may restore the allegedly stolen property to the claimant directly. Current law refers to the person claiming to be the true owner and the claimant as the "true owner."<sup>14</sup>

The bill adds a new procedure if property was leased from a lessor to a pledgor or seller when the pledgor or seller pledged or sold the property but the property does not have a permanent label or other conspicuous mark identifying it as the lessor's property. In such a circumstance, the licensed pawnbroker must return the property to the lessor-claimant if the lessor-claimant does both of the following:

- Provides the pawnbroker with evidence that the property is owned by the lessor and was leased to the pledgor or seller at the time the property was pledged or sold;
- Pays the pawnbroker either (1) the amount financed and the finance fees for the pawn transaction, if the property was pledged, or (2) an amount equal to the amount the licensee paid the seller plus 10%, if the property was sold.

A licensed pawnbroker is not liable to the pledgor or the seller of property that is recovered by a lessor-claimant under this procedure.<sup>15</sup>

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<sup>13</sup> R.C. 4727.06(D).

<sup>14</sup> R.C. 4727.12(C) and (D).

<sup>15</sup> R.C. 4727.12(E).



## Continuing education requirements

The bill reduces the continuing education requirements for pawnbrokers. Under the bill, for each two year period beginning June 30, 2016, each location or branch licensed as a pawnbroker must have at least one person employed at each of the licensee's offices or places of business who has completed at least eight hours of continuing education (see **COMMENT**). The continuing education must be completed by the end of each two year period and must be a course or program approved by the Superintendent of Financial Institutions after consultation with an industry representative selected by the Superintendent. Current law requires each licensed pawnbroker to complete 12 hours of continuing education every two year period.

The bill also repeals the current law requirements that (1) any licensed pawnbroker who has more than three employees must designate an individual to the Superintendent as a salesperson, (2) each location with three or more employees must have at least one salesperson, and (3) each salesperson must complete at least eight hours of continuing education in accordance with the Pawnbroker's Law.<sup>16</sup>

## Application to other laws

Under the bill, it is not a violation of law for a licensed pawnbroker to comply with the provisions of the Ohio Pawnbroker's Law.<sup>17</sup>

## Penalties

The bill's provisions will become part of the Ohio Pawnbroker's Law. Under current law unchanged by the bill, a violation of the Pawnbroker's Law (with the exception of a person acting as a pawnbroker without a license) is guilty of a third degree misdemeanor, punishable by a fine of up to \$500 and up to 60 days in jail. Each subsequent offense is a second degree misdemeanor, punishable by a fine of up to \$750 and up to 90 days in jail.<sup>18</sup>

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## COMMENT

A pawnbroker license attaches to a person, not a location. This sentence refers to "each location or branch licensed as a pawnbroker" but then switches to "each of the licensee's offices or places of business." Consequently, it is a bit unclear.

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<sup>16</sup> R.C. 4727.19.

<sup>17</sup> R.C. 4727.151.

<sup>18</sup> R.C. 2929.24, 2929.28, and 4727.99, not in the bill.



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## HISTORY

ACTION

DATE

Introduced

02-04-16

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