



Ohio Legislative Service Commission

Bill Analysis

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Sub. S.B. 270

131st General Assembly

(As Reported by S. Government Oversight and Reform)

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

BILL SUMMARY

- Specifies that a pawnbroker must obtain a separate license for each place of business.
- 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.
- 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.
- Reduces the continuing education requirements for pawnbrokers from 12 to 8 hours and repeals other current law requirements relating to continuing education.

CONTENT AND OPERATION

Licensure for multiple business locations

The bill requires each person to obtain a separate license for each place of business where the person acts or transacts business as a pawnbroker.¹ This clarifies, rather than changes, the operation of the Pawnbroker Law.

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.²

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:

- 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.³

¹ R.C. 4727.02 and 4727.03(A)(4).

² R.C. 4727.03(A)(4) and 4727.20(A).

³ R.C. 4727.06(A), (B), and (C).



Prohibited pledgors

The Pawnbroker's Law prohibits a licensed pawnbroker from receiving any pledge or purchasing any articles from:

- A minor;
- Any person who is at the time intoxicated or under the influence of a controlled substance;
- Any person who is known or believed by the pawnbroker to be a thief or receiver of stolen property;
- Any person identified to the licensee by certain local law enforcement officials as a known or suspected thief or receiver of stolen property.

The bill retains this list of prohibited pledgors or sellers, and prohibits the conduct if the pawnbroker recklessly pledges or purchases from the prohibited persons. For existing offenses, when language defining an element of an offense that is related to a criminal mental state could fairly be applied neither specifies culpability nor plainly indicates a purpose to impose strict liability, the element of the offense is established only if a person acts recklessly.⁴

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.⁵

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

⁴ R.C. 4727.10 and R.C. 2901.21(C), not in the bill.

⁵ R.C. 4727.12(A).



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.⁶

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 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.⁷

Reclaiming stolen property

The bill changes the terminology 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."⁸

Continuing education requirements

The bill reduces the continuing education requirements for pawnbrokers. Under the bill, for each two year period beginning June 30, 2017, each person 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. 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.

⁶ R.C. 4727.11.

⁷ R.C. 4727.06(D).

⁸ R.C. 4727.12(C) and (D).



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.⁹

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.¹⁰

HISTORY

ACTION	DATE
Introduced	02-04-16
Reported, S. Gov't Oversight and Reform	11-17-16

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⁹ R.C. 4727.19.

¹⁰ R.C. 2929.24, 2929.28, and 4727.99, not in the bill.

