



# Ohio Legislative Service Commission

## Bill Analysis

Nick Thomas

### **S.B. 262**

129th General Assembly  
(As Introduced)

**Sens.** Daniels, Bacon, Coley, Lehner, Balderson, LaRose, Beagle

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### **BILL SUMMARY**

- Increases the number of days that an item that is purchased by a pawnbroker must be held before it can be disposed of from 15 days to 25.
- Requires pawnbrokers to file a report of all transactions on a biennial basis.
- Replaces the current procedure for requiring that pawnbrokers hold items believed to be misappropriated or needed as evidence.
- Replaces the current procedure for reclaiming stolen goods that have been sold or pledged to a pawnbroker.
- Allows pawnbrokers to provide notification that a pledged item is to be forfeited by electronic means.
- Consolidates the required daily transaction report under the Superintendent of Insurance, authorizes pawnbrokers to submit this report electronically.
- Requires pawnbrokers to waive any unpaid interest and to hold items pledged by enlisted persons, or such a person's spouse or dependent, deployed overseas relating to a military conflict, until 60 days after that person returns to the United States.
- Authorizes pledgors of a pawned item to prepay interest or storage charges for the item.

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## CONTENT AND OPERATION

### Overview

The bill replaces the existing procedures for holding pawned items that are believed to be stolen or related to a crime, as well as the procedure for returning pawned items that have been stolen to their original owner. The bill also contains changes related to persons in the military service, electronic notification and submission of reports, and prepaying interest charges and storage fees.

Note that under continuing law, pawnbrokers are required to submit a daily report to law enforcement officials detailing the day's pawn transactions and purchases, including a description of each item obtained. The bill does not change this requirement, but does make related changes.

### Holding pawned or purchased items – current requirements

The following is a general description of the procedures for holding pawned items or items purchased by a pawn broker. A pawnbroker must hold a purchased item (as opposed to an item that a pawnbroker has gained possession of due to lack of repayment of a loan) for 15 days before the item can be resold. Items that are obtained as security against a loan must be held for at least 72 hours.<sup>1</sup>

If the police have probable cause to believe that an item reported to them by a pawnbroker is stolen property, the police are required to notify the pawnbroker in writing of their suspicions. Upon receiving such a notice, a pawnbroker must hold the item in question for 30 days, starting from the day the pawnbroker originally submitted the description of the item in question. The police may notify a pawnbroker that the item is not required to be held for this entire period.<sup>2</sup>

If the police determine that an item held by a pawnbroker is stolen, and inform the pawnbroker of the item's true owner, the pawnbroker may, but is not required, to return the item to the true owner. If a pawnbroker does not return such an item, the true owner has a cause of action to acquire the item.<sup>3</sup> If the pawnbroker does return the item to the true owner, the pawnbroker may charge the person who originally pledged or sold the item, and anyone who acted in collusion with that person to defraud the

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<sup>1</sup> R.C. 4727.12(A).

<sup>2</sup> R.C. 4727.12(B).

<sup>3</sup> R.C. 4727.12(C).

pawnbroker, for the amount that the pawnbroker paid for, or loaned against the item, plus any applicable interest fees or storage charges.<sup>4</sup>

## **New requirements**

### **Purchased items**

The bill increases the number of days that an item that is purchased by a pawnbroker must be held before it can be disposed of from 15 days to 25.<sup>5</sup>

### **Biennial report**

The bill requires pawnbrokers to file biennial reports with the Superintendent of Financial Institutions under the Department of Commerce (Superintendent), disclosing all pawn transactions during the previous two calendar years. The report is due on the first day of March, but the report is only considered to be delinquent if it is not filed before the first day of April of the pawnbroker's filing year.<sup>6</sup> All information submitted in the report is considered confidential and is not a public record.<sup>7</sup>

The report must include all of the following:

- The number of pawn transactions made each year and the aggregate amount financed on the transactions;
- The number of pledged property items redeemed during each year and the amount financed on the items;
- The number of items surrendered to law enforcement;
- The total dollar amount of pawn loans surrendered to law enforcement;
- The number of pawn loans that were not redeemed;
- The total dollar amount of pawn loans not redeemed;
- The total number of full-time equivalent employees at the pawnshop, as of the last day of December of the preceding year.<sup>8</sup>

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<sup>4</sup> R.C. 4727.12(D).

<sup>5</sup> R.C. 4727.12.

<sup>6</sup> R.C. 4727.22(A).

<sup>7</sup> R.C. 4727.22(C).

<sup>8</sup> R.C. 4727.22(B).

## **Hold orders**

### **Misappropriated items**

If a law enforcement officer has a reasonable suspicion that an item at a pawnshop has been misappropriated, the officer may issue a hold order requiring the pawnbroker to hold the item until the hold order terminates or a court orders the release or disposal of the property. The law enforcement officer is required to request that the pawnbroker, or the pawnbroker's designee, sign the hold order. If the pawnbroker signs the order, the order takes effect when the pawnbroker receives the police order. If the broker does not sign the order, the hold begins at the time of the refusal.<sup>9</sup>

The duration of misappropriated item hold orders are not to exceed 60 days. However, the order may be extended by one 60-day period by giving written notification to the pawnbroker before the expiration of the original period.<sup>10</sup> A law enforcement officer may not issue an additional misappropriated item hold order for the same property. However, the expiration of such an order does not affect any evidentiary hold orders (discussed below), nor does the issuance of a misappropriated item hold order preclude the issuance of an evidentiary hold order.<sup>11</sup>

A law enforcement officer may release a hold order before the end of the 60-day period by issuing a written release.

### **Items as evidence**

For those items needed as evidence in a court action, a law enforcement agency may issue an evidentiary hold order, directing a pawnbroker to hold the item in question until the order terminates or a court orders the release or disposal of the item. A pawnbroker is required to hold such an item until the pawnbroker receives notification in writing of the outcome of the court action. The courts are required to provide such notice within 15 days after the disposition of the court action in question.<sup>12</sup>

### **Hold order form**

A hold order for an item believed to be misappropriated or needed as evidence must be in writing and contain all of the following:

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<sup>9</sup> R.C. 4727.23.

<sup>10</sup> R.C. 4727.26(A).

<sup>11</sup> R.C. 4727.26(B).

<sup>12</sup> R.C. 4727.24.

- The name of the pawnbroker;
- A complete description of the property being held, including the model and serial number;
- The mailing address of the pawnshop.<sup>13</sup>

Hold orders for items believed to be misappropriated must also contain the following additional information:

- The name, title, and identification number of the law enforcement officer issuing the hold order, and the name and address of the agency for which the officer is acting;
- The number, if any, assigned to the relevant case;
- The expiration date of the hold order.<sup>14</sup>

Hold orders for items needed as evidence must contain the following additional information:

- The name and address of the law enforcement agency issuing the order;
- The number and caption of the court action.

### **Reclaiming stolen goods**

If a person believes that an item in the possession of a pawnbroker has been misappropriated from them, the person is required to notify the pawnbroker of the person's claim on the item in writing.<sup>15</sup> This notice must contain a complete and accurate description of the item and must be accompanied by proof that the claimant owns the property and, if the claimant alleges that the item was stolen, a legible copy of a law enforcement agency's report indicating that the property was stolen, such as a police report.<sup>16</sup> A pawnbroker is prohibited from disposing of such an item for 30 days, unless the claim is resolved prior to the end of that period.

If a claimant and a pawnbroker do not resolve a claim within ten days, the claimant may bring an action in court to require the pawnbroker to return the property to the claimant. After a pawnbroker is notified that a court action has been filed, the

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<sup>13</sup> R.C. 4727.25(A).

<sup>14</sup> R.C. 4727.25(B).

<sup>15</sup> R.C. 4727.27(A).

<sup>16</sup> R.C. 4727.27(B).

pawnbroker may not dispose of the item until the court disposes of the action, disposes of the property, or allows the pawnbroker to dispose of the property.<sup>17</sup>

Any person who pledged or sold such an item to a pawnbroker is liable for the full amount that the person received from the pawnbroker for the item, all charges owed by the person for the transaction (interest, holding fees, etc.). The person is also liable for any attorney fees and other costs allowed by the rules of the court if the matter is brought to a court action and if the court determines that the person misappropriated the property from the claimant and the court orders the pawnbroker to return the item to the claimant.<sup>18</sup>

If a person pawns or sells an item to a pawnbroker that has been leased, and the property did not have any mark identifying it as a leased item, the pawnbroker may return the item to the lessor. The lessor must provide the pawnbroker with evidence that the item is the lessor's property and was leased to the person at the time the item was pawned or sold. The lessor must also pay the pawnbroker either of the following:

- The amount financed and the financed fee for the pawn transaction;
- The amount that the pawnbroker paid the seller for the item.<sup>19</sup>

A pawnbroker is not liable to the pledgor or seller of an item that is recovered by a lessor.<sup>20</sup>

### **Authorization to conduct business electronically**

The bill authorizes pawnbrokers and law enforcement officials to conduct both of the following required transactions via electronic means:

- The daily report of items purchased or pawned;<sup>21</sup>
- Notification that loan interest on a pledged item has not been paid and that the item will be forfeited if these amounts are not paid, if the pledgor agrees to receive such notifications by electronic means.<sup>22</sup>

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<sup>17</sup> R.C. 4727.27(C) and 4727.28.

<sup>18</sup> R.C. 4727.29.

<sup>19</sup> R.C. 4727.30(A).

<sup>20</sup> R.C. 4727.30(B).

<sup>21</sup> R.C. 4727.09(B).

<sup>22</sup> R.C. 4727.11(A).

## Daily report

The bill consolidates oversight of the daily report pawnbrokers must make under the Superintendent and clarifies that these reports are for the purpose of a legitimate investigation of property crime.<sup>23</sup> Currently, local law enforcement officials are responsible for these reports independently, meaning that there is likely little uniformity from jurisdiction to jurisdiction in the form of the report. The completed report may be communicated by electronic transfer or be in a digital media format.<sup>24</sup> The bill prohibits a fee from being assessed to a licensee, pledgor, or seller in relation to this report and stipulates that the report is confidential and not a public record. The bill also requires the Superintendent to approve a secure law enforcement database reporting system for pawnbrokers to submit the required daily descriptions of items acquired to law enforcement officials.<sup>25</sup>

Similarly, the bill authorizes the Superintendent to adopt rules that allow for remote examinations of electronic accounts and records held by pawnbrokers.<sup>26</sup>

## Provisions related to military personnel

The following provisions apply to any person who is deployed abroad for service relating to a military conflict, or the spouse or dependent of such a person. If a pawnbroker receives notification that such a person, who has pledged an item as security against a loan, is to be deployed abroad, the pawnbroker is required to waive any unpaid interest charges and to hold such an item until 60 days after the person returns to the United States. This provision does not apply under the circumstances described above under "**Hold orders.**"<sup>27</sup>

## Prepaying interest or storage charges

The bill authorizes pledgors of a pawned item to prepay interest or storage charges for the item. Current law allows pledgors to prepay for these charges only when the pledgor redeems the pawned property.<sup>28</sup>

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<sup>23</sup> R.C. 4727.09(A) and (B).

<sup>24</sup> R.C. 4727.09(B).

<sup>25</sup> R.C. 4727.13(H).

<sup>26</sup> R.C. 4727.13(G).

<sup>27</sup> R.C. 4727.061.

<sup>28</sup> R.C. 4727.06(D).

## Redeemers signature

The bill eliminates the requirement that the signature of the redeemer of pledged property that acknowledges the date of redemption and the amount paid for redemption be on a separate record of the transaction.<sup>29</sup>

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## HISTORY

ACTION	DATE
Introduced	11-23-11

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<sup>29</sup> R.C. 4727.11(D).

