



Ohio Legislative Service Commission

Bill Analysis

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H.B. 192

130th General Assembly
(As Introduced)

Reps. McGregor and Slesnick, Hackett, Blair, Ruhl

BILL SUMMARY

- Increases the amount of liquid assets and surety bonds a pawnbroker is required to maintain and the amount of an applicant's initial investigation fee.
- Reduces the amount of interest a pawnbroker can charge, receive, or demand for a loan.
- Changes the amount a pawnbroker may charge, in addition to interest, for other activities relating to a pawn loan.
- Authorizes pledgors of a pawned item to prepay interest or storage charges for an item.
- 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.
- Requires additional information to be included on pawn forms and purchase forms and makes changes to the provisions governing the manner in which a pawnbroker keeps statements, forms, and files.
- Allows pawnbrokers to provide notification that a pledged item is to be forfeited by electronic means in a shorter time period.
- Consolidates the required daily transaction report under the Superintendent of Financial Institutions and authorizes pawnbrokers to submit the report electronically.

- Requires the Superintendent to approve a secure law enforcement database reporting system for use by a pawnbroker to make records available to law enforcement officers.
- Permits the Superintendent to require pawnbrokers to file a report of all transactions on a biennial basis.
- Permits the Superintendent to adopt rules that allow for remote examinations of electronic data and that describe data to be used in the secure law enforcement database reporting system.
- Increases the number of days that an item that is purchased by a pawnbroker, or an item that is held by the pawnbroker that the chief of police or sheriff has probable cause to believe is stolen, must be held.
- Changes the current procedure for reclaiming stolen goods that have been sold or pledged to a pawnbroker.
- Extends existing law's penalties for violation to the new provisions regarding pawnbrokers.

CONTENT AND OPERATION

Assets, fees, and bonds required for applicants and licensees

The bill increases the amount of liquid assets that an applicant for a pawnbroker's license must demonstrate the ability to maintain to a minimum of \$100,000. Current law requires this amount to be \$50,000.¹ The bill also increases the nonrefundable initial investigation fee an applicant must pay the Superintendent of Financial Institutions (Superintendent) to \$300. Current law requires a fee of \$200.²

Additionally, the bill increases the amount of liquid assets and surety bonds a licensed pawnbroker, in order to conduct business in Ohio, must maintain and obtain. A pawnbroker is required, by the bill, to maintain liquid assets in a minimum amount of \$100,000, rather than \$50,000 as required under current law.³ Under the bill, a pawnbroker must obtain a surety bond issued by a bonding company or insurance

¹ R.C. 4727.03(A)(4).

² R.C. 4727.03(D).

³ R.C. 4727.20(A)(1).

company licensed to do business in Ohio in the penal sum of at least \$100,000. Current law requires a penal sum of at least \$25,000.⁴

Allowable interest and other charges

Continuing law limits the amount of interest and other charges a pawnbroker may charge for a loan. The bill decreases the amount of interest a pawnbroker may charge, receive, or demand from a maximum of 5% to a maximum of 3% per month or fraction of a month on the unpaid principal.⁵

In addition to the limitation of interest, the bill allows a pawnbroker to charge, contract for, or receive a reasonable fee, not to exceed $\frac{1}{10}$ of the value of the loan per month for (1) investigating a title, (2) appraising pledged or purchased items, (3) storing and insuring property, (4) closing a loan, and (5) other expenses, losses, and incidental costs associated with servicing loans. The bill states that this fee when made and collected may not be considered interest for any purpose. Current law, repealed by the bill, limits charges other than interest to (1) \$4 per month or fraction of a month for all pledged articles held as security or stored for a loan, (2) \$4 plus the actual cost of shipping, when the pawnbroker is to deliver or forward the pledged article by express or parcel post to the pledgor, (3) \$2 for the loss of the original statement issued to the pledgor by the pawnbroker upon redemption of the pledged articles, and (4) \$2 for the cost of notifying a pledgor by mail that the pledged articles may be forfeited to the pawnbroker.⁶

The bill expressly prohibits a pawnbroker from directly or indirectly charging, receiving, or contracting for any interest or fees greater than those described above, in addition to the allowable fee of up to \$2 for a pawnbroker who provides services in compliance with the Brady Handgun Violence Protection Act, as permitted by continuing law.⁷

⁴ R.C. 4727.20(A)(2).

⁵ R.C. 4727.06(A).

⁶ R.C. 4727.06(B).

⁷ R.C. 4727.06(C) and (D).



Prepayment of interest or storage charges

The bill allows any pledgor of a pawned item to prepay interest or storage charges for the item. Current law prohibits this prepayment, except when the pledgor redeems the pledged property.⁸

Provisions related to military personnel

The following provision applies to any person who is deployed for service as a member of the United States armed forces or in the military service of a state relating to a military conflict, or the spouse or dependent of such a person. If a pawnbroker receives a copy of military orders indicating that such a person, who has pledged an item as a security against a loan, was or is to be deployed abroad, the pawnbroker is required to waive any unpaid interest charges and hold the pledged item until 60 days after the person returns to the United States.⁹

Recordkeeping

Continuing law requires a pawnbroker to keep and use separate pawn forms and purchase forms approved by the Superintendent. In addition to the information required to be recorded by continuing law, the bill requires that a pawnbroker record (1) the name of the pawnbroker, and if applicable, the employee identification number of the employee involved in the pawn transaction and (2) a photocopy or scanned image of the pledgor's or seller's personal identification card. "Personal identification card" means a current and valid driver's license, military identification card, state identification card issued by Ohio, or a state identification card issued by another state if that card contains information substantially similar to that of Ohio's identification card and contains a photograph of the pledgor or seller.¹⁰

Under the bill, a pawnbroker may record information on forms specific to (1) new loans, (2) loan redemptions, (3) loan extensions, (4) partial payments on loans, (5) forfeited loans, (6) merchandise purchase receipts, (7) merchandise sales receipts, (8) lost ticket affidavits, (9) requested police copies not picked up by the appropriate law enforcement agency, and (10) other circumstances the pawnbroker encounters.¹¹ The bill allows a pawnbroker to maintain the statements, which a pawnbroker is required to give to a pledgor or seller by continuing law, as well as all forms recorded

⁸ R.C. 4727.06(E).

⁹ R.C. 4727.061.

¹⁰ R.C. 4727.08(B).

¹¹ R.C. 4727.08(C).



and maintained in numerical order by transaction number in separate files. Current law allows the statements and forms to be maintained in numerical order in active and inactive files.¹²

Daily report

Continuing law requires a pawnbroker to furnish certain information to the chief of police of the municipal corporation or township in which the pawnbroker's place of business is located or to the sheriff of the county in which the place of business is located if the place of business is not within a municipal corporation or township with a chief of police. The bill requires that, in addition to the information in the property description report required by continuing law, the report also include the name of the pawnbroker, and if applicable, the employee identification number of the employee involved in the transaction.¹³

The bill consolidates oversight of the daily report pawnbrokers must make under the Superintendent. Currently, local law enforcement officials are responsible for these reports independently. The bill requires the daily report to be on a form approved by the Superintendent for a database reporting system created pursuant to the bill by the Superintendent. The bill also requires that the form be communicated by electronic transfer or be in digital (as opposed to magnetic under current law) media format, unless the chief of police or sheriff requests a paper copy of the approved form. The bill prohibits a fee from being assessed to a pawnbroker, a pledgor, or a seller for compliance with these reporting requirements. If a pawnbroker electronically files the daily report, the bill shortens the period of time that a pawnbroker must wait to notify a pledgor who fails to pay interest on a pawn loan from two months to one month from the date of the loan or the date on which the last interest payment is due.¹⁴

Except for information collected under continuing law for the daily report (the description of pledged or sold property and the number of the pawn or purchase form used to document the pledge), the bill stipulates that all information furnished to law enforcement officers to meet the daily report requirements is confidential and not a public record.¹⁵

¹² R.C. 4727.07 and 4727.08(D).

¹³ R.C. 4727.09(A).

¹⁴ R.C. 4727.09(B) and 4727.11(E).

¹⁵ R.C. 4727.09(D).



Duties of the Superintendent of Financial Institutions

The bill requires the Superintendent to approve a secure law enforcement database reporting system for use by pawnbrokers to make the required daily records available to law enforcement officers. All information submitted to the database must be purged two years from the date of the transaction.¹⁶ The Superintendent may adopt rules that allow for remote examination of electronic data held by a pawnbroker and rules describing the data to be used in the secure law enforcement database reporting system.¹⁷

Biennial report

The bill allows the Superintendent to adopt rules that require a pawnbroker to file a biennial report, which discloses all relevant pawn transaction activity occurring during the previous two calendar years, with the Superintendent before the first day of March of the filing year. All information submitted in the report is confidential and not a public record except that the Superintendent is allowed to furnish a report containing aggregate numbers from all licenses. The aggregate report is a public record.

If the Superintendent requires such a biennial report, the report must include all of the following:

- The number of pawn transactions made by the pawnbroker during the previous calendar year and the aggregate amount financed on the pawn transactions;
- The number of pledged property items redeemed during the previous calendar year and the amount financed on the redeemed property;
- 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 that were not redeemed;

¹⁶ R.C. 4727.09(C).

¹⁷ R.C. 4727.13(A)(2) and (3).



- The total number of full-time equivalent employees at the pawnshop as of the last day of December of the preceding year.¹⁸

Notice of forfeiture

If a pledgor fails to pay interest to a pawnbroker on a pawn loan for two months from the date of the loan or the date on which the last interest payment is due, or for one month in the case of a pawnbroker who submits daily reports electronically (see "**Daily report**"), the bill allows a pawnbroker to send a forfeiture notice to a pledgor by electronic communication, if the pledgor agrees to such communication at the time the loan is made. The pledgor must send the electronic communication to the electronic mail address given by the pledgor and the notice must indicate that unless the pledgor redeems the pledged property or pays all interest and fees due and storage charges within 30 days from the date the notice is electronically mailed, the pledged property will be forfeited to the pawnbroker. Continuing law allows such notice to be sent by regular mail. Current law does not require that the notice include that "fees due" must be paid.¹⁹

Holding pawned or purchased items

The bill lengthens the amount of time, from 15 to 30 days after a purchase is made, that a pawnbroker must retain any goods or articles the pawnbroker purchases.²⁰ The bill also lengthens the amount of time, from the expiration of 30 days to the expiration of 60 days after the day on which the pawnbroker is first required to make available a daily report, that a pawnbroker must retain any article if the appropriate chief of police or sheriff has probable cause to believe that the article is stolen property and notifies the pawnbroker in writing.²¹

Reclaiming stolen property

The bill changes the procedures for returning stolen property that has been purchased or pawned and is held by a pawnbroker. The bill requires a pawnbroker to restore allegedly stolen property that the pawnbroker holds through purchase or pawn to the true owner of the property if all of the following occur:

- (1) The chief or sheriff receives a report that the property has been stolen;

¹⁸ R.C. 4727.13(G).

¹⁹ R.C. 4727.11(A); conforming changes in R.C. 4505.102.

²⁰ R.C. 4727.12(A).

²¹ R.C. 4727.12(B).



(2) The chief or sheriff determines the identity of the true owner;

(3) The chief or sheriff informs the pawnbroker of the true owner's identity;

(4) The true owner fully cooperates with the prosecution of an action against the pledgor or seller.

Under the bill, if a true owner does not wish to cooperate with the prosecution of the pledgor or seller, the pawnbroker is required to restore the allegedly stolen property to the true owner only upon receipt from the true owner of an amount equal to the amount the pawnbroker paid for or loaned on the allegedly stolen property plus interest and fees.

Current law permits a pawnbroker to return allegedly stolen property to a true owner directly if (1) through (3) above are satisfied. Continuing law allows a true owner to recover property from a pawnbroker in an action at law if a pawnbroker does not restore the allegedly stolen property.²²

The bill allows a pawnbroker to charge the person who pledged or sold the allegedly stolen property to the pawnbroker, and any person who acted in consort with such person, the amount the pawnbroker paid or loaned for the allegedly stolen property, plus interest and storage charges, only if the pawnbroker does not receive payment from the true owner of the property.²³

Leased property

If a person pledges or sells an item to a pawnbroker that has been leased, and the property did not have any mark identifying it as a lessor's item, the pawnbroker is required to return the item to the lessor if the lessor does both of the following:

- Provides the pawnbroker with evidence that the item is the lessor's property and was leased to the pledgor or seller at the time the property was pledged or sold to the pawnbroker;
- Pays the pawnbroker one of the following:
 - The amount financed and the finance fee for the pawn transaction if the property was pledged to the pawnbroker;

²² R.C. 4727.12(C).

²³ R.C. 4727.12(D).

- The amount the pawnbroker paid the seller if the property was sold to the pawnbroker.

A pawnbroker is not liable to the pledgor or seller of an item that a lessor recovers for returning the property to the lessor.²⁴

Redeemer signature

The bill eliminates the requirement that the signature of the redeemer of pledged property that acknowledges the date of redemption and the total dollar amount paid for redemption be on a separate record of the transaction.²⁵

Penalties

The bill extends existing law's penalties to the new provisions of the bill; whoever violates the provisions of the Pawnbrokers Law, with the exception of a person acting as a pawnbroker without a license, is guilty of a third degree misdemeanor on a first offense and a second degree misdemeanor on each subsequent offense.²⁶

HISTORY

ACTION	DATE
Introduced	06-04-13

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²⁴ R.C. 4727.23.

²⁵ R.C. 4727.11(D).

²⁶ R.C. 4727.99.

