



Ohio Legislative Service Commission

Jason Phillips

Fiscal Note & Local Impact Statement

Bill: [S.B. 262 of the 129th G.A.](#)

Date: December 13, 2011

Status: As Introduced

Sponsor: Sen. Daniels

Local Impact Statement Procedure Required: Yes

Contents: Makes changes to the law regulating pawnbrokers

State Fiscal Highlights

- The bill requires the Director of Commerce to approve a secure law enforcement database reporting system that will be used by pawnbrokers to report transactions to local law enforcement. There would be some additional workload for the Department of Commerce to coordinate with the interested parties and comply with these responsibilities. The Department would also be responsible for receiving biennial reports submitted by pawnbrokers, though the bill does not require any action on the part of the Department with respect to the reports.

Local Fiscal Highlights

- The bill replaces the reporting system pawnbrokers currently use to record pawn transactions with a secure law enforcement database reporting system. Costs for the system would depend on how it is implemented. If local law enforcement agencies are made responsible for procurement and maintenance costs, those amounts could exceed minimal levels, both for individual agencies or in aggregate across the state. However, a database reporting system may also bring about greater efficiencies in regulating pawnbrokers and investigating property crimes.
- The bill gives local law enforcement the authority to hold items suspected to have been stolen or involved in a court action for longer periods of time. Yet the new processes proposed in the bill, specifically the requirements to include certain written information in the hold orders, could increase the administrative burden on law enforcement officers working on pawnshop detail, resulting in a potential increase in the staff time needed to fulfill pawnshop-related duties.
- The bill makes other changes involving how a pawnbroker is to conduct business. It is possible that these changes could result in some additional violations of the Pawnbrokers Law. While most violations committed under current law are relatively minor and are usually resolved through settlement agreements with the Department of Commerce in lieu of formal disciplinary action, it is possible that

some additional persons are prosecuted and convicted as a result of the bill. Court cost and fine revenue would offset some of any additional expense created for local criminal courts to adjudicate these matters.

Detailed Fiscal Analysis

Overview

The bill makes a number of changes to the laws governing pawnbrokers. For the purposes of this fiscal analysis, the bill most notably replaces the reporting system pawnbrokers currently use to record transactions and gives local law enforcement the authority to hold items suspected to have been stolen or involved in a court action for longer periods of time. Other changes involve how a pawnbroker is to conduct business, which have no direct fiscal effect outside of the potential for additional violations of the Pawnbrokers Law. Pawnbrokers are licensed by the Consumer Finance Section of the Division of Financial Institutions (DFI) in the Ohio Department of Commerce. The licenses must be renewed biennially. There are approximately 300 pawnbroker locations holding an active license in Ohio.

Fiscal effects

Database reporting system

Under current law, pawnbrokers are required to report certain transaction information to local law enforcement agencies. Local law enforcement furnishes the forms that pawnbrokers use to record the transactions. On these forms, pawnbrokers only provide a description of all property pledged with or purchased by the pawnbroker and the number of the pawn or purchase from the pawnbroker used to document the pledge or purchase. Pawnbrokers send this information, which may be in electronic form, to local law enforcement daily. Some law enforcement agencies use software reporting systems for pawnbrokers and related industries, while other jurisdictions still receive transaction reports from pawnbrokers on paper (e.g., index cards) or disks.

Generally, the bill retains the current law provision requiring pawnbrokers to make daily reports to law enforcement. However, the bill requires pawnbrokers to use a "secure law enforcement database reporting system" approved by the Director of Commerce to record the property description and pawn or purchase form number. This would replace the current system of reporting on paper forms or computer disks. The Superintendent of Financial Institutions would approve the form in which the information is reported to the database reporting system. Thus, the bill is likely to create some additional workload for the Department of Commerce to coordinate with the interested parties and comply with these responsibilities. The bill also prohibits pawnbrokers, pledgors, or sellers from being assessed a fee in relation to the

pawnbroker reports. However, the bill provides no further detail concerning the database reporting system.

Overall, the cost of procuring and maintaining a database reporting system will depend on how it is implemented. Even so, such a system could pose new costs to local law enforcement agencies that exceed minimal levels if these entities are made responsible for procuring and maintaining the reporting system mentioned in the bill. This could be the case for individual agencies or in aggregate across the state. It is unclear how the bill would affect software systems currently used by local law enforcement agencies for pawnbroker transaction reporting.

Though there would be a cost for the system, there are also certain benefits associated with their use. Police departments that begin using a database reporting system may experience increases in efficiency or reduced workloads in regulating pawnbrokers. For example, a police officer currently may have to review individual index cards or disks sent to them through the mail or make stops at pawnshops to collect or review pawn tickets or sale forms in investigating a property crime. A database reporting system enables local law enforcement agencies to have at least some of this information at their fingertips. A database reporting system would also permit greater and quicker sharing of information between law enforcement agencies, which would aid in the investigation of property crimes and the recovery of stolen property.

Hold orders

Current law allows local law enforcement to require pawnbrokers to hold items for which there is probable cause to believe are stolen. The notice informing the pawnbroker of the item to be held must be in writing. The pawnbroker must hold the item for up to 30 days after the item was initially reported by the pawnbroker to local law enforcement. The bill replaces these provisions with language authorizing police hold orders and evidentiary hold orders to be issued. The police hold order allows police to prohibit a pawnbroker from disposing of an allegedly stolen item for up to 60 days. The hold order may be extended for another 60 days, for a total holding period of up to 120 days. An evidentiary hold order allows police to prohibit a pawnbroker from disposing of such an item until a court action involving the item has concluded. Based on discussions with the Ohio Association of Chiefs of Police, the hold orders in the bill could increase the administrative burden on law enforcement officers working on pawnshop detail. This is so because the hold orders may require more information to be submitted than is included in the types of notices issued currently. The result of this change is the potential for an increase in the staff time needed for officers on pawnshop detail to fulfill their duties. There would also be some new costs for local law enforcement agencies to print the hold order forms.

Biennial reports

The bill also requires each pawnbroker to file a biennial report with DFI. The report, which is due by March 1 of the pawnbroker's filing year, is to disclose all relevant pawn transaction activity during the previous two calendar years, including certain specific items of information. The bill specifies that the information disclosed is confidential and thus, is not a public record. The bill does not require any action on the part of the Department in relation to the reports. Even so, it may be that the Department aggregates and analyzes the information for general analytical purposes, much as it does for similar reports submitted by Ohio Mortgage Loan Act and Small Loan Act licensees.

Enforcement of new requirements

Other changes involve how a pawnbroker is to conduct business. For instance, in addition to requiring pawnbrokers to file the biennial report, the bill lengthens the time a pawnbroker is required to retain any goods or articles purchased from 15 to 25 days after the purchase is made. Also, in the case of a member of the military deployed after he or she has entered into a pawn loan, the bill requires a pawnbroker to waive unpaid interest and hold pledged property that is pawned until 60 days after the pledgor or the pledgor's spouse or dependent returns from deployment. It is worth noting that Ohio pawnbrokers must complete at least 12 hours of continuing education every two years. It is presumed then that these changes would be communicated to pawnbrokers through the courses.

As a result of these new requirements, there could be some additional violations of the Pawnbrokers Law that require enforcement actions by the Department of Commerce or local authorities. Nevertheless, there are typically only a handful of violations committed by pawnbrokers in any given year, based on information contained within DFI's enforcement actions database. These violations are usually resolved through settlement agreements with the Department in lieu of formal disciplinary action. Most violations appear to be relatively minor, an example being the failure to complete the required number of continuing education hours. In general, the pawnbroker agrees to correct the problem and pay a fine that may be part of the settlement agreement.

Should a violation not be resolved through a settlement agreement, current law provides for criminal penalties to be assessed. A violation of the Pawnbrokers Law that does not involve acting as a pawnbroker without a license is classified as a misdemeanor of the third degree, which carries a maximum fine of \$500 and a maximum jail stay of 60 days, on a first offense and a misdemeanor of the second degree, which carries a maximum fine of \$750 and a maximum jail stay of 90 days, on each subsequent offense. In spite of these penalties, local jurisdictions generally have considerable discretion in the arrest, prosecution, and sanctioning of offenders. As a result, many of the penalties imposed in these cases will vary from the maximums under state law. In addition, court cost and fine revenue would offset some of any

additional expense created for local criminal courts to adjudicate these matters. Further, for any new misdemeanor cases, the state receives court costs totaling \$29. Of that amount, \$20 is deposited into the Indigent Defense Support Fund (Fund 5DY0) and \$9 is deposited into the Victims of Crime/Reparations Fund (Fund 4020).

SB0262IN.docx / lb