

As Reported by the Senate Government Oversight and Reform Committee

131st General Assembly

Regular Session

2015-2016

Sub. S. B. No. 270

Senator Eklund

Cosponsors: Senators Hottinger, Seitz, Gardner, Coley, Patton, Uecker

A BILL

To amend sections 4727.02, 4727.03, 4727.06, 1
4727.10, 4727.11, 4727.12, 4727.19, and 4727.20 2
of the Revised Code to make changes to the law 3
relating to pawnbrokers. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4727.02, 4727.03, 4727.06, 5
4727.10, 4727.11, 4727.12, 4727.19, and 4727.20 of the Revised 6
Code be amended to read as follows: 7

Sec. 4727.02. No person shall act as a pawnbroker, or 8
advertise, transact, or solicit business as a pawnbroker, 9
without first having obtained a license from the superintendent 10
of financial institutions. A person shall obtain a separate 11
license for each place of business at which the person acts or 12
transacts business as a pawnbroker. 13

Sec. 4727.03. (A) As used in this section, "experience and 14
fitness in the capacity involved" means that the applicant for a 15
pawnbroker's license demonstrates sufficient financial 16
responsibility, reputation, and experience in the pawnbroker 17
business, or in a related business, to act as a pawnbroker in 18

compliance with this chapter. "Experience and fitness in the capacity involved" shall be determined by:

(1) Prior or current ownership or management of, or employment in, a pawnshop;

(2) Demonstration to the satisfaction of the superintendent of financial institutions of a thorough working knowledge of all pawnbroker laws and rules as they relate to the actual operation of a pawnshop.

A demonstration shall include a demonstration of an ability to properly complete forms, knowledge of how to properly calculate interest and storage charges, and knowledge of legal notice and forfeiture procedures. The final determination of whether an applicant's demonstration is adequate rests with the superintendent.

(3) A submission by the applicant and any stockholders, owners, managers, directors, or officers of the pawnshop, and employees of the applicant to a police record check; and

(4) Liquid assets in a minimum amount of one hundred twenty-five thousand dollars at the time of applying for initial licensure and demonstration of the ability to maintain the liquid assets at a minimum amount of fifty-seventy-five thousand dollars for the duration of holding a valid pawnbroker's license. If an applicant holds a pawnbroker's license at the time of application or is applying for more than one license, this requirement shall be met separately for each license.

(B) The superintendent may grant a license to act as a pawnbroker to any person of good character and having experience and fitness in the capacity involved to engage in the business of pawnbroking upon the payment to the superintendent of a

license fee determined by the superintendent pursuant to section 48
1321.20 of the Revised Code. A license is not transferable or 49
assignable. 50

(C) The superintendent may consider an application 51
withdrawn and may retain the investigation fee required under 52
division (D) of this section if both of the following are true: 53

(1) An application for a license does not contain all of 54
the information required under division (B) of this section. 55

(2) The information is not submitted to the superintendent 56
within ninety days after the superintendent requests the 57
information from the applicant in writing. 58

(D) The superintendent shall require an applicant for a 59
pawnbroker's license to pay to the superintendent a 60
nonrefundable initial investigation fee of two hundred dollars, 61
which is for the exclusive use of the state. 62

(E) (1) Except as otherwise provided in division (E) (2) of 63
this section, a pawnbroker's license issued by the 64
superintendent expires on the thirtieth day of June next 65
following the date of its issuance, and may be renewed annually 66
by the thirtieth day of June in accordance with the standard 67
renewal procedure set forth in Chapter 4745. of the Revised 68
Code. Fifty per cent of the annual license fee shall be for the 69
use of the state, and fifty per cent shall be paid by the state 70
to the municipal corporation, or if outside the limits of any 71
municipal corporation, to the county, in which the office of the 72
licensee is located. All such fees payable to municipal 73
corporations or counties shall be paid annually. 74

(2) A pawnbroker's license issued or renewed by the 75
superintendent on or after January 1, 2006, expires on the 76

thirtieth day of June in the even-numbered year next following 77
the date of its issuance or renewal, as applicable, and may be 78
renewed biennially by the thirtieth day of June in accordance 79
with the standard renewal procedure set forth in Chapter 4745. 80
of the Revised Code. Fifty per cent of the biennial license fee 81
shall be for the use of the state, and fifty per cent shall be 82
paid by the state to the municipal corporation, or if outside 83
the limits of any municipal corporation, to the county, in which 84
the office of the licensee is located. All such fees payable to 85
municipal corporations or counties shall be paid biennially. 86

(F) The fee for renewal of a license shall be equivalent 87
to the fee for an initial license established by the 88
superintendent pursuant to section 1321.20 of the Revised Code. 89
Any licensee who wishes to renew the pawnbroker's license but 90
who fails to do so on or before the date the license expires 91
shall reapply for licensure in the same manner and pursuant to 92
the same requirements as for initial licensure, unless the 93
licensee pays to the superintendent on or before the thirty- 94
first day of August of the year the license expires, a late 95
renewal penalty of one hundred dollars in addition to the 96
regular renewal fee. Any licensee who fails to renew the license 97
on or before the date the license expires is prohibited from 98
acting as a pawnbroker until the license is renewed or a new 99
license is issued under this section. Any licensee who renews a 100
license between the first day of July and the thirty-first day 101
of August of the year the license expires is not relieved from 102
complying with this division. The superintendent may refuse to 103
issue to or renew the license of any licensee who violates this 104
division. 105

(G) No license shall be granted to any person not a 106
resident of or the principal office of which is not located in 107

the municipal corporation or county designated in such license 108
unless that applicant, in writing and in due form approved by 109
and filed with the superintendent, first appoints an agent, a 110
resident of the state, and city or county where the office is to 111
be located, upon whom all judicial and other process, or legal 112
notice, directed to the applicant may be served. In case of the 113
death, removal from the state, or any legal disability or any 114
disqualification of any such agent, service of such process or 115
notice may be made upon the superintendent. 116

The superintendent may, upon notice to the licensee and 117
reasonable opportunity to be heard, suspend or revoke any 118
license or assess a penalty against the licensee if the 119
licensee, or the licensee's officers, agents, or employees, has 120
violated this chapter. Any penalty shall be appropriate to the 121
violation but in no case shall the penalty be less than two 122
hundred nor more than two thousand dollars. Whenever, for any 123
cause, a license is suspended or revoked, the superintendent 124
shall not issue another license to the licensee nor to the legal 125
spouse of the licensee, nor to any business entity of which the 126
licensee is an officer or member or partner, nor to any person 127
employed by the licensee, until the expiration of at least two 128
years from the date of revocation or suspension of the license. 129
The superintendent shall deposit all penalties allocated 130
pursuant to this section into the state treasury to the credit 131
of the consumer finance fund. 132

Any proceedings for the revocation or suspension of a 133
license or to assess a penalty against a licensee are subject to 134
Chapter 119. of the Revised Code. 135

(H) If a licensee surrenders or chooses not to renew the 136
pawnbroker's license, the licensee shall notify the 137

superintendent thirty days prior to the date on which the 138
licensee intends to close the licensee's business as a 139
pawnbroker. Prior to the date, the licensee shall do either of 140
the following with respect to all active loans: 141

(1) Dispose of an active loan by selling the loan to 142
another person holding a valid pawnbroker's license issued under 143
this section; 144

(2) Reduce the rate of interest on pledged articles held 145
as security for a loan to eight per cent per annum or less 146
effective on the date that the pawnbroker's license is no longer 147
valid. 148

Sec. 4727.06. (A) No pawnbroker shall charge, receive, or 149
demand interest for any loan in excess of ~~five~~six per cent per 150
month or fraction of a month on the unpaid principal. Interest 151
shall be computed on a monthly basis on the amount of the 152
principal remaining unpaid on the first day of the month and 153
shall not be compounded. 154

(B) In addition to the rate of interest limitation imposed 155
pursuant to division (A) of this section, the licensee may 156
charge no more than: 157

(1) ~~Four~~Six dollars per month or fraction of a month for 158
all pledged articles held as security or stored for a loan, to 159
be agreed to in writing at the time the loan is made; 160

(2) Four dollars plus the actual cost of shipping, when 161
the licensee is to deliver or forward the pledged article by 162
express or parcel post to the pledgor; 163

(3) ~~Two dollars for the loss of the original statement~~ 164
~~issued to the pledgor by the licensee pursuant to section~~ 165
~~4727.07 of the Revised Code upon redemption of the pledged~~ 166

~~articles,~~ 167

~~(4) Two~~ Five dollars for the cost of notifying a pledgor 168
by mail that the pledged articles may be forfeited to the 169
licensee pursuant to section 4727.11 of the Revised Code. 170

(C) A licensee who complies with the requirements or 171
procedures of this state pursuant to the application of the 172
"Brady Handgun Violence Protection Act," 107 Stat. 1536 (1993), 173
18 U.S.C.A. 922, as amended, may charge any fee the licensee is 174
required by law to pay in order to comply with such requirements 175
or procedures. The licensee may charge no more than ~~two~~ ten 176
dollars for providing services in compliance with such 177
requirements or procedures. 178

(D) A ~~pledgor licensee may pay~~ accept a portion of the 179
outstanding principal loan balance at any time. A pledgor may 180
redeem a pawn loan at any time after ~~seventy two hours have~~ 181
~~passed since the pledge was made.~~ A pledgor may not prepay 182
interest or storage charges, other than the current month, 183
except when the pledgor redeems the pledged property. Prepayment 184
of interest and storage charges may not occur at the time the 185
loan is originated. 186

Sec. 4727.10. No person licensed as a pawnbroker shall 187
recklessly receive any pledge or purchase any articles from any 188
minor, from any person who is at the time intoxicated or under 189
the influence of a controlled substance, from any person who is 190
known or believed by the licensee to be a thief or a receiver of 191
stolen property, or from any person identified in writing to the 192
licensee by the chief of police of a municipal corporation or 193
township, the sheriff, or the state highway patrol as a known or 194
suspected thief or receiver of stolen property. 195

Sec. 4727.11. (A) If a pledgor fails to pay interest and 196
fees to a person licensed as a pawnbroker on a pawn loan for ~~two~~ 197
three months from the date of the loan or the date on which the 198
last interest payment is due, the licensee shall notify the 199
pledgor by United States postal mail, with proof of mailing, to 200
the last place of address given by the pledgor, that unless the 201
pledgor redeems the pledged property or pays all interest due 202
and ~~storage charges~~ fees within thirty days from the date the 203
notice is mailed, the pledged property shall be forfeited to the 204
licensee. If the pledgor fails to redeem or pay all interest due 205
and ~~storage charges~~ fees within the period specified in the 206
notice, the licensee becomes the owner of the pledged property. 207

(B) In the event that any article or property is redeemed 208
by a person other than the pledgor, the pledgor shall sign the 209
pledgor's copy of the statement required under section 4727.07 210
of the Revised Code, which copy shall be presented by the person 211
to the licensee. The licensee shall verify the name of the 212
person redeeming the article or property, and shall record the 213
person's name and driver's license number, or other personal 214
identification number, on the licensee's copy of the statement, 215
and shall require the person to sign this copy. 216

(C) In the event that any articles or property pledged are 217
lost or rendered inoperable due to negligence of the licensee, 218
the licensee shall replace the articles or property with 219
identical articles or property, except that if the licensee 220
cannot reasonably obtain identical articles or property, the 221
licensee shall replace the articles or property with like 222
articles or property. 223

(D) When an account is paid in full, the licensee shall 224
return the pledged article immediately to the pledgor. In the 225

event the pledgor sells, transfers, or assigns the pledge, the 226
licensee shall verify the name of the person redeeming the 227
pledge and record that person's name, driver's license number, 228
and signature on the permanent copy of the statement of pledge 229
required pursuant to section 4727.07 of the Revised Code. The 230
licensee also shall obtain the signature of the pledgor, or 231
other person redeeming the pledge, upon a separate record of the 232
transaction, that acknowledges the total dollar amount paid for 233
redemption and the date of redemption. All records shall be kept 234
in the licensee's place of business. 235

Sec. 4727.12. (A) A person licensed as a pawnbroker ~~shall~~ 236
~~retain any and all goods or articles pledged with the licensee~~ 237
~~until the expiration of seventy two hours after the pledge is~~ 238
~~made, and shall retain any goods or articles purchased by the~~ 239
licensee until the expiration of fifteen days after the purchase 240
is made. The licensee may dispose of such goods or articles 241
sooner with the written permission of the chief of police of the 242
municipal corporation or township in which the licensee's place 243
of business is located or, if the place of business is not 244
located within a municipal corporation or township that has a 245
chief of police, with the written permission of the sheriff of 246
the county in which the business is located. 247

(B) If the chief of police or sheriff to whom the licensee 248
makes available the information required by section 4727.09 of 249
the Revised Code has probable cause to believe that the article 250
described therein is stolen property, the chief or sheriff shall 251
notify the licensee in writing. Upon receipt of such a notice, 252
the licensee shall retain the article until the expiration of 253
thirty days after the day on which the licensee is first 254
required to make available the information required by section 255
4727.09 of the Revised Code, unless the chief or sheriff 256

notifies the licensee in writing that the licensee is not 257
required to retain the article until such expiration. 258

(C) If the chief or sheriff receives a report that 259
property has been stolen and determines the identity of the 260
person claiming to be the true owner of the allegedly stolen 261
property that has been purchased or pawned and is held by a 262
licensee, and informs the licensee of the ~~true owner's~~ 263
claimant's identity, the licensee may restore the allegedly 264
stolen property to the ~~true owner~~ claimant directly. 265

If a licensee fails to restore the allegedly stolen 266
property, the ~~true owner~~ claimant may recover the property from 267
the licensee in an action at law. 268

(D) If the licensee returns the allegedly stolen property 269
to the ~~true owner~~ claimant, the licensee may charge the person 270
who pledged or sold the allegedly stolen property to the 271
licensee, and any person who acted in consort with the pledgor 272
or the seller to defraud the licensee, the amount the licensee 273
paid or loaned for the allegedly stolen property, plus interest 274
and storage charges provided for in section 4727.06 of the 275
Revised Code. 276

Sec. 4727.19. (A) Effective with the two-year period that 277
begins June 30, ~~2000~~ 2017, and every two-year period thereafter, 278
each person licensed as a pawnbroker under this chapter shall 279
~~complete~~ have at least one person employed at the licensee's 280
place of business who has completed by the end of the period at 281
least ~~twelve~~ eight hours of continuing education instruction 282
offered in a course or program approved by the superintendent of 283
financial institutions after consultation with an industry 284
representative selected by the superintendent. 285

~~(B) Any person licensed under this chapter who has more than three employees shall designate an individual to the superintendent as a salesperson. Effective with the two year period that begins June 30, 2000, and every two year period thereafter, a salesperson shall complete by the end of the period at least eight hours of continuing education instruction offered in a course or program approved by the superintendent in consultation with a designated industry representative.~~

~~(C) Each location of those persons licensed under this chapter who have three or more employees shall have at least one salesperson who meets the continuing education requirements of this section.~~

~~(D) The superintendent, in accordance with ~~chapter~~ Chapter 119. of the Revised Code, may suspend, revoke, or refuse to renew the license of any licensee who fails to comply with this section.~~

~~(E) (C) The superintendent, in accordance with ~~chapter~~ Chapter 119. of the Revised Code, may adopt rules regarding continuing education fees, locations, times, frequency, and waivers of requirements.~~

Sec. 4727.20. (A) No person licensed as a pawnbroker under this chapter shall conduct business in this state, unless the licensee does either of the following:

(1) Maintains liquid assets in a minimum amount of ~~fifty~~ seventy-five thousand dollars;

(2) Obtains a surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the superintendent of financial institutions and in the penal sum of at least ~~twenty-five~~ fifty

thousand dollars. The licensee shall file a copy of the bond 315
with the superintendent. The bond shall be for the exclusive 316
benefit of any person injured by a licensee's violation of this 317
chapter. The aggregate liability of the surety for any and all 318
breaches of the conditions of the bond shall not exceed the 319
penal sum of the bond. 320

(B) The licensee shall give notice to the superintendent 321
by certified mail, return receipt requested, of any action that 322
is brought against the licensee and of any judgment that is 323
entered against the licensee by a person injured by a violation 324
of this chapter. The notice shall provide details sufficient to 325
identify the action or judgment and shall be filed with the 326
superintendent within ten days after the commencement of the 327
action or notice to the licensee of entry of a judgment. The 328
surety, within ten days after it pays any claim or judgment, 329
shall give notice to the superintendent by certified mail, 330
return receipt requested, of the payment, with details 331
sufficient to identify the person and the claim or judgment 332
paid. 333

(C) Whenever the penal sum of the surety bond is reduced 334
by one or more recoveries or payments, the licensee shall 335
furnish a new or additional bond under this section, so that the 336
total or aggregate penal sum of the bond or bonds equals the sum 337
required by this section, or shall furnish an endorsement 338
executed by the surety reinstating the bond to the required 339
penal sum of the bond. 340

(D) The liability of the surety on the bond to the 341
superintendent and to any person injured by a violation of this 342
chapter is not affected in any way by any misrepresentation, 343
breach of warranty, or failure to pay the premium, by any act or 344

omission upon the part of the licensee, by the insolvency or 345
bankruptcy of the licensee, or by the insolvency of the 346
licensee's estate. The liability for any act or omission that 347
occurs during the term of the surety bond shall be maintained 348
and in effect for at least two years after the date on which the 349
surety bond is terminated or canceled. 350

(E) The licensee shall not cancel the surety bond except 351
upon notice to the superintendent by certified mail, return 352
receipt requested. The cancellation is not effective prior to 353
thirty days after the superintendent receives the notice. 354

(F) No licensee shall fail to comply with this section. 355

Section 2. That existing sections 4727.02, 4727.03, 356
4727.06, 4727.10, 4727.11, 4727.12, 4727.19, and 4727.20 of the 357
Revised Code are hereby repealed. 358