

Enrolled House Bill 2220

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Consumer and Business Services and Office of Regulatory Streamlining of Department of Consumer and Business Services)

CHAPTER

AN ACT

Relating to pawnbroker regulation; amending ORS 726.050, 726.060, 726.070, 726.080, 726.110, 726.250, 726.280 and 726.340.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 726.050 is amended to read:

726.050. *[No license shall be granted to any person, partnership, association or corporation]* **The Director of the Department of Consumer and Business Services may not issue a license to a corporation, limited liability company or limited liability partnership or to a person using an assumed business name unless *[that person and all members of any such partnership or association are bona fide residents of this state and unless such]:***

(1) The limited liability company or limited liability partnership has filed the required documents under ORS chapter 63 or 67;

(2) The person using the assumed business name has registered the name under ORS chapter 648; or

(3) The corporation is an Oregon corporation in good standing or a foreign corporation legally qualified to do business in this state.

SECTION 2. ORS 726.060 is amended to read:

726.060. (1) **An** application for the license shall be in writing in *[the]* a form prescribed by the Director of the Department of Consumer and Business Services. *[and]*

(2) The application shall contain:

(a) If the applicant is an individual, the name and both the residence and business addresses of the applicant, *and*;

(b) If the applicant is a partnership or association, the name and both the residence and business addresses of every member *[thereof, and if a corporation, of each officer and director thereof. The application shall also show]* **of the partnership or association;**

(c) If the applicant is a corporation, the name and both the residence and business addresses of each officer and director of the corporation;

(d) The county and city with street and number, if any, where the business is to be conducted; and

(e) *[such]* Any other information that the director may require.

[(2) Before issuing any license, the director shall post notice of filing of the application in the office of the Department of Consumer and Business Services for a period of 30 days. The director may waive

posting of the notice if the application is made by an applicant for the same location as one for which a license has been surrendered because:]

[*(a) The business has been transferred to the applicant;*]

[*(b) The licensee has died and the applicant is the licensee's personal representative or successor in interest; or*]

[*(c) The licensee is the applicant and has changed the name under which the licensee is doing business.*]

(3) The applicant at the time of making application for the applicant's first licensed location in this state shall pay to the director a nonrefundable application fee of \$500.

SECTION 3. ORS 726.070 is amended to read:

726.070. (1) A bond in the sum of \$25,000 executed by the applicant as obligor, together with a surety company authorized to do business in this state as surety or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 in the amount of \$25,000 shall accompany the application and be maintained by the pawnbroker licensee with the Director of the Department of Consumer and Business Services. This bond or letter of credit shall be executed to the State of Oregon and for the use of the state and of any person who may have a cause of action against the obligor of the bond or the letter of credit issuer under this chapter. The bond or letter of credit shall be conditioned that the obligor will faithfully conform to and abide by the provisions of this chapter and of all rules and regulations lawfully made by the director under this chapter, and will pay to the state and to any such person any and all moneys that may become due or owing to the state or to such person from the obligor under and by virtue of the provisions of this chapter. The Attorney General shall approve the form of any bond or letter of credit that may be accepted by the director under this section.

(2) If any person is aggrieved by the misconduct of a pawnbroker or by the pawnbroker's violation of any law and recovers judgment therefor, [*such*] **the** person may, after the return unsatisfied either in whole or in part of any execution issued upon [*such*] **the** judgment, maintain an action for the person's own use upon the bond or letter of credit of the pawnbroker in any court having jurisdiction of the amount claimed. The director shall furnish to anyone applying therefor, a certified copy of any such bond or letter of credit filed with the director [*upon the payment of a fee of \$5 and*]. The certified copy [*shall be*] **is** prima facie evidence in any court that the bond or letter of credit was duly executed and delivered by each pawnbroker whose name appears [*thereon*] **on the bond or letter of credit.**

SECTION 4. ORS 726.080 is amended to read:

726.080. (1) Conditioned upon the applicant's compliance with this chapter, the payment of the license fee[,] **and** the filing of a bond **or letter of credit** [*and approval thereof*] **on a form approved** by the Attorney General, and in the absence of any reason or condition [*which*] **that** in the judgment of the Director of the Department of Consumer and Business Services might warrant the refusal of the granting of a license, including the reasons set out in ORS 726.075, the director shall issue a license within [*10 days after the expiration of the required 30-day filing period or, if the director has waived the filing period, within 10*] **45** days after the date [*the*] **a complete** application was received.

(2) If the application is denied, the director shall indorse [*thereon*] **on the application** with the date the word "Disapproved" and shall immediately advise the applicant by registered mail or by certified mail with return receipt of the reason [*therefor*] **for the denial.**

SECTION 5. ORS 726.110 is amended to read:

726.110. Whenever a pawnbroker changes the place of business to another location within the same city or town, the pawnbroker shall at once give written notice [*thereof*] **of the change** to the Director of the Department of Consumer and Business Services and shall surrender the pawnbroker's license for cancellation[, *together with the payment of a fee of \$5 for a new license*]. Thereupon a new license shall be issued by the director for the new location. [*No*] **A** change in the place of business of a pawnbroker to a location outside of the city or town named in the original license [*shall be*] **is not** permitted under the same license.

SECTION 6. ORS 726.250 is amended to read:

726.250. (1)(a) For the purpose of discovering violations of this chapter or securing information required by the Director of the Department of Consumer and Business Services under this chapter, the director at any time, either personally or by an examiner or other employee of the Department of Consumer and Business Services, may investigate the pledge loans and business and examine the books, accounts, records and files used in the pledge loans and business of every pawnbroker and of every person that the director has reason to believe is acting as a pawnbroker without a license, whether that person acts or claims to act as principal or agent, or under or without the authority of this chapter.

(b) For the purposes of paragraph (a) of this subsection:

(A) Every pawnbroker and person that the director has reason to believe is acting as a pawnbroker without a license shall give the director, examiner or other employee of the department free access to the person's place of business, books, accounts, papers, records, files, safes and vaults; and

(B) The director, examiner or other employee may:

(i) Compel the attendance of witnesses and examine the witnesses under oath; and

(ii) Require the production of documents or records.

(c) The actual cost of each examination shall be paid to the director by every person examined.

The director may maintain an action for recovery of costs in any court of competent jurisdiction.

(2) [At least once every two calendar years or] As often as the director determines necessary, the director, examiner or other employee of the department shall make an examination of the pledge loans and business, office records and files of each licensed pawnbroker. The examination shall occur at the licensed location of the pawnbroker.

(3) [At least once during any calendar year in which an examination is not conducted under subsection (2) of this section,] **As often as the director determines necessary**, each licensed pawnbroker shall submit to the director for examination, at the office of the director, those books, records and documents prescribed by the director by rule.

SECTION 7. ORS 726.280 is amended to read:

726.280. (1) Every pawnbroker shall keep a register in which shall be recorded in ink **or in electronic form**:

(a) The date of the transaction.

(b) The serial number of the pledge loan.

(c) The name and address of the pledgor, or if the pledge is made by a person acting as agent for a disclosed principal, the name and address of principal and agent.

(d) An identifying description of the article or articles pledged.

(e) The amount of the pledge loan.

(f) The date on which such pledge loan was canceled.

(g) A notation as to whether it was redeemed or renewed, or whether the pledge was forfeited.

(2) All entries in the register shall be made in the English language and shall be open to the inspection of any public official, police officer or any other person who is duly authorized or empowered by the laws of this state to make such inspection.

(3) Every pawnbroker shall maintain an alphabetical file from which can be determined the total obligations of any one pledgor.

(4) Subject to the provisions of this chapter, the Director of the Department of Consumer and Business Services may prescribe the form of other books and records to be kept by the pawnbroker. All records shall be preserved and available for at least two years after making the final entry on any pledge loan recorded therein.

SECTION 8. ORS 726.340 is amended to read:

726.340. If the pawn ticket or memorandum is lost, destroyed or stolen, the pledgor shall so notify the pawnbroker in writing. The **pawnbroker shall treat** receipt of such notice [*shall be treated by the pawnbroker*] as a stop against the pledge loan, and thereafter the provisions of ORS 726.310 and 726.320 shall not apply to such pledge loan. Before delivering the pledge or issuing a new pawn

ticket in such event, the pawnbroker may require the pledgor to make an affidavit of the alleged loss, destruction or theft of the ticket. [Upon receipt of the affidavit, or in case no affidavit is required, then within not less than three nor more than five days from receipt of] **Not more than five days after receiving** notice of the loss of the ticket, the pawnbroker shall permit the pledgor either to redeem the pledge or to receive a new ticket upon the payment of accrued interest, and the pawnbroker shall incur no liability for so doing unless the pawnbroker has previously received written notice of an adverse claim. This section [shall not be construed as in any manner limiting or affecting] **does not limit or affect** the pawnbroker's legal liability in cases where goods are stolen or other legal defects of title exist in the pledgor.

Passed by House February 13, 2007

Received by Governor:

Repassed by House May 22, 2007

.....M.,....., 2007

Approved:

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Chief Clerk of House

.....M.,....., 2007

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Speaker of House

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Governor

Passed by Senate May 18, 2007

Filed in Office of Secretary of State:

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President of Senate

.....M.,....., 2007

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Secretary of State