

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)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Revises various provisions concerning pawnbrokers.

A BILL FOR AN ACT

1
2 Relating to pawnbroker regulation; amending ORS 726.050, 726.060, 726.070, 726.080, 726.110, 726.250
3 and 726.280.

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

5 **SECTION 1.** ORS 726.050 is amended to read:

6 726.050. [*No license shall be granted to any person, partnership, association or corporation*] **The**
7 **Director of the Department of Consumer and Business Services may not issue a license to**
8 **a corporation, limited liability company or limited liability partnership or to a person using**
9 **an assumed business name** unless [*that person and all members of any such partnership or associ-*
10 *ation are bona fide residents of this state and unless such*]:

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

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

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

17 **SECTION 2.** ORS 726.060 is amended to read:

18 726.060. (1) **An** application for the license shall be in writing in [*the*] **a** form prescribed by the
19 Director of the Department of Consumer and Business Services. [*and*]

20 (2) **The application** shall contain:

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

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

26 (c) **If the applicant is a corporation, the name and both the residence and business ad-**
27 **dresses of each officer and director of the corporation;**

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

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

31 [(2) *Before issuing any license, the director shall post notice of filing of the application in the office*]

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 of the Department of Consumer and Business Services for a period of 30 days. The director may waive
 2 posting of the notice if the application is made by an applicant for the same location as one for which
 3 a license has been surrendered because:]

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

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

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

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

11 **SECTION 3.** ORS 726.070 is amended to read:

12 726.070. (1) A bond in the sum of \$25,000 executed by the applicant as obligor, together with a
 13 surety company authorized to do business in this state as surety or an irrevocable letter of credit
 14 issued by an insured institution as defined in ORS 706.008 in the amount of \$25,000 shall accompany
 15 the application and be maintained by the pawnbroker licensee with the Director of the Department
 16 of Consumer and Business Services. This bond or letter of credit shall be executed to the State of
 17 Oregon and for the use of the state and of any person who may have a cause of action against the
 18 obligor of the bond or the letter of credit issuer under this chapter. The bond or letter of credit shall
 19 be conditioned that the obligor will faithfully conform to and abide by the provisions of this chapter
 20 and of all rules and regulations lawfully made by the director under this chapter, and will pay to
 21 the state and to any such person any and all moneys that may become due or owing to the state
 22 or to such person from the obligor under and by virtue of the provisions of this chapter. The At-
 23 torney General shall approve the form of any bond or letter of credit that may be accepted by the
 24 director under this section.

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

34 **SECTION 4.** ORS 726.080 is amended to read:

35 726.080. (1) Conditioned upon the applicant's compliance with this chapter, the payment of the
 36 license fee[,] **and** the filing of a bond **or letter of credit** [*and approval thereof*] **on a form approved**
 37 by the Attorney General, and in the absence of any reason or condition [*which*] **that** in the judgment
 38 of the Director of the Department of Consumer and Business Services might warrant the refusal of
 39 the granting of a license, including the reasons set out in ORS 726.075, the director shall issue a
 40 license within [*10 days after the expiration of the required 30-day filing period or, if the director has*
 41 *waived the filing period, within 10*] **45** days after the date [*the*] **a complete** application was received.

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

45 **SECTION 5.** ORS 726.110 is amended to read:

1 726.110. Whenever a pawnbroker changes the place of business to another location within the
 2 same city or town, the pawnbroker shall at once give written notice *[thereof]* **of the change** to the
 3 Director of the Department of Consumer and Business Services and shall surrender the
 4 pawnbroker's license for cancellation¹, *together with the payment of a fee of \$5 for a new license*.
 5 Thereupon a new license shall be issued by the director for the new location. *[No]* **A** change in the
 6 place of business of a pawnbroker to a location outside of the city or town named in the original
 7 license *[shall be]* **is not** permitted under the same license.

8 **SECTION 6.** ORS 726.250 is amended to read:

9 726.250. (1)(a) For the purpose of discovering violations of this chapter or securing information
 10 required by the Director of the Department of Consumer and Business Services under this chapter,
 11 the director at any time, either personally or by an examiner or other employee of the Department
 12 of Consumer and Business Services, may investigate the pledge loans and business and examine the
 13 books, accounts, records and files used in the pledge loans and business of every pawnbroker and
 14 of every person that the director has reason to believe is acting as a pawnbroker without a license,
 15 whether that person acts or claims to act as principal or agent, or under or without the authority
 16 of this chapter.

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

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

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

- 23 (i) Compel the attendance of witnesses and examine the witnesses under oath; and
- 24 (ii) Require the production of documents or records.

25 (c) The actual cost of each examination shall be paid to the director by every person examined.
 26 The director may maintain an action for recovery of costs in any court of competent jurisdiction.

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

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

35 **SECTION 7.** ORS 726.280 is amended to read:

36 726.280. (1) Every pawnbroker shall keep a register in which shall be recorded in ink **or in**
 37 **electronic form**:

- 38 (a) The date of the transaction.
- 39 (b) The serial number of the pledge loan.
- 40 (c) The name and address of the pledgor, or if the pledge is made by a person acting as agent
 41 for a disclosed principal, the name and address of principal and agent.
- 42 (d) An identifying description of the article or articles pledged.
- 43 (e) The amount of the pledge loan.
- 44 (f) The date on which such pledge loan was canceled.
- 45 (g) A notation as to whether it was redeemed or renewed, or whether the pledge was forfeited.

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

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

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

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