

Enrolled House Bill 2753

Sponsored by COMMITTEE ON CONSUMER PROTECTION (at the request of Oregon Pawnbrokers Association)

CHAPTER

AN ACT

Relating to pawnbrokers; creating new provisions; and amending ORS 726.300, 726.340, 726.390, 726.395 and 726.400.

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

SECTION 1. ORS 726.300 is amended to read:

726.300. (1) *[The]* **A pawnbroker** *[shall]* at the time **the pawnbroker makes** *[of making]* a pledge loan **shall** deliver to the pledgor or *[the]* **an** agent of the pledgor a memorandum or pawn ticket on which **the pawnbroker** shall *[be legibly written or printed]* **legibly write or print** the following:

- (a) The date of the transaction.
- (b) The serial number of the pledge loan.
- (c) The article or articles pledged.
- (d) The amount of the pledge loan.
- (e) The rate of interest charged on the loan.
- (f) The name and address of the pawnbroker.
- (g) An accurate summary of the notice requirements of ORS 726.400 *[(2)]*.
- (h) *[Such]* Other terms and conditions **the pawnbroker may wish to insert that are** not inconsistent with this chapter *[as the pawnbroker may wish to insert]*.

(2) Nothing *[appearing]* **that appears** on the pawn ticket *[shall relieve]* **relieves** the pawnbroker of the obligation *[of exercising]* **to exercise** reasonable care in *[the safe keeping of]* **safekeeping** articles pledged with the pawnbroker.

SECTION 2. ORS 726.340 is amended to read:

726.340. If *[the]* **a** pawn ticket or memorandum is lost, destroyed or stolen, the pledgor shall *[so]* notify the pawnbroker **of the loss, destruction or theft** in writing. The pawnbroker shall treat receipt of *[such]* **the** notice as a stop against the pledge loan, and thereafter the provisions of ORS 726.310 and 726.320 *[shall]* **do** not apply to *[such]* **the** 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]* **and may charge a fee of not more than \$3 for the lost, destroyed or stolen ticket**. Not more than five days after receiving notice of the loss, **destruction or theft** of the ticket, the pawnbroker shall permit the pledgor either to redeem the pledge or to receive a new ticket upon *[the payment of]* **paying** accrued interest¹, *and*. The pawnbroker shall incur no liability for *[so doing]* **permitting the pledgor to redeem the pledge or receive a new ticket** unless the pawnbroker has previously received written notice of an adverse claim. This section does not limit or affect the pawnbroker's legal liability in cases

where goods are stolen or other legal defects **exist in the pledgor's** [of] title [exist in the pledgor] **with respect to the pledge.**

SECTION 3. ORS 726.390 is amended to read:

726.390. (1) A pawnbroker may not charge, contract for or receive interest at a rate in excess of three percent per month. However, on pledge loans redeemed within the first month the pawnbroker may charge a month's interest[,] or the pawnbroker may charge \$3 when the interest accumulated amounts to less. The **pawnbroker may not compound the interest and** may not [be compounded and no] **deduct or receive an** amount [whatsoever may be deducted or received] in advance.

(2) **A pawnbroker may charge a set-up fee of 10 percent** [may be charged on all] **for loans and** [on all] loan renewals with a minimum charge of \$2 and a maximum charge of \$100.

(3) **A pawnbroker may charge a storage fee of [up to two] not more than three percent** [may be charged on all] **for loans and** [on all] loan renewals, with a minimum charge of \$2 **and a maximum charge of \$100.**

(4) Except as provided by law, **a pawnbroker may not charge, contract for or receive** [no further or other charge or] **an** amount [whatsoever may be charged, contracted for or received] in addition to the interest provided for in this section.

SECTION 4. ORS 726.395 is amended to read:

726.395. [A charge of \$3 may be charged a pledgor or customer who places with the pawnbroker firearms required to be registered under the laws of the United States. In addition, a pledgor or customer may be charged any fee imposed by any governmental entity upon a pawnbroker for holding or transferring a firearm.]

(1) **A pawnbroker may charge a pledgor or customer \$3 if the pledgor or customer places with the pawnbroker firearms required to be registered under the laws of the United States. The pawnbroker may not charge this \$3 fee to renew the pledgor's or customer's placement of the firearm with the pawnbroker.**

(2) **In addition to the fee described in subsection (1) of this section, a pawnbroker may charge a pledgor or customer any fee that a government entity imposes on the pawnbroker for holding or transferring a firearm.**

SECTION 5. ORS 726.400 is amended to read:

726.400. (1) Unless **a pledgor and a pawnbroker agree to** a longer loan period **and the longer loan period is written on the pawn ticket,** [is agreed upon by the pledgor and the pawnbroker, all loans shall] **a pledge loan shall** be made for a period of 60 days. [However,] A pledge may be redeemed and the pledge loan repaid at any time before the loan period expires. [All pawn tickets shall] **A pawn ticket must** clearly state the expiration date of the loan.

(2) **A pledgor and a pawnbroker may agree to renew a pledge loan for successive periods of 60 days or for successive periods of a length upon which the pledgor and pawnbroker agree. A loan is a renewal of the original loan if the pledgor pays only the interest and the fees on the loan or pays the principal, the interest and the fees on the loan but accepts another pledge loan from the pawnbroker on the same pledge on the same day.**

[(2)] (3) Except for a pledge [securing] **that secures** a pledge loan of [less than] \$500 **or less,** [before any pledge may be deemed forfeited,] the pawnbroker **may not deem a pledge to be forfeited until:**

(a) **The pawnbroker notifies the pledgor that the pledge is at risk of forfeiture** after [the expiration of] the period [mentioned] **described** in subsection (1) of this section **expires; and**

(b) **The pledgor has had an opportunity to redeem the pledge as provided in this section.** [must cause a notice to be given the pledgor as provided in this section. The notice shall notify the pledgor of the forfeiture of the pledge.]

(4) The notice **described in subsection (3) of this section** [shall] **must** be in writing and delivered postpaid **in a securely closed envelope addressed to the pledgor at the last-known address shown on the pawnbroker's record** by:

(a) [certified] **Regular** mail, [return receipt required, in a securely closed envelope addressed to the pledgor at the last-known address shown on the pawnbroker's record.] **if the pledge secures a loan of more than \$500 but less than \$1,500; or**

(b) **Certified mail, return receipt requested, and regular mail, if the pledge secures a loan of \$1,500 or more.**

(5) Delivery of a notice under this [subsection] **section** occurs when the notice is mailed as provided in this [subsection] **section**. [The certified return receipt card or the returned envelope shall be kept on file by the pawnbroker for at least two years from date of mailing thereof as evidence of the notification. The postal costs and a reasonable charge for preparing the notice shall be borne by the pledgor.] **As evidence of the notification, the pawnbroker shall keep a copy of each notice the pawnbroker sends by regular or certified mail, together with the certified return receipt card or the returned envelope for the notice, for at least two years. The pledgor shall bear the postal costs and a reasonable charge for preparing a notice for delivery by certified mail.**

(6) A pledgor [shall have] **has** a grace period of 30 days after the delivery of the notice required by this subsection in which to redeem the pledge[,] or to renew the loan [for one additional 60-day period, or less,] by paying any renewal fee and all the accrued interest and fees to date. There [shall be] **is** no grace period [following the expiration of any] **after a renewal expires.**

[3] (7) [Any] **A** pledge that is not redeemed within 30 days after the **mailing date of a notice given under this section** [expiration of the 60-day loan period,] or within the [period of] renewal period, if any, [shall be deemed forfeited and] **is forfeited.** The pawnbroker [shall thereby acquire all] **acquires** the **pledgor's** [right,] title and interest in [of the pledgor therein] **the forfeited pledge and the right** to hold and dispose of the pledge as the pawnbroker's own property.

SECTION 6. Section 7 of this 2009 Act is added to and made a part of ORS chapter 726.

SECTION 7. A city or county may impose and collect from a pawnbroker a fee of not more than \$1 for each pledge loan the pawnbroker makes in a calendar year, except a renewal of a pledge loan, for the purpose of administering and using a system, including an electronic database, to track pledged articles. The pawnbroker may charge a pledgor only the amount of the fee that the city or county imposes under this section.

SECTION 8. Section 7 of this 2009 Act and the amendments to ORS 726.300, 726.340, 726.390, 726.395 and 726.400 by sections 1 to 5 of this 2009 Act apply to transactions that occur on or after the effective date of this 2009 Act.

Passed by House April 23, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate May 18, 2009

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President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State