

House Bill 2753

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

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**.

Authorizes changes in fees pawnbroker may collect for certain items. Provides that pawnbroker and pledgor may agree on renewal periods for pledge loans. Requires certain notices to pledgor before pawnbroker may deem pledge forfeited.

Permits local government that regulates pawnbrokers to impose maximum fee of 10 cents for each pledge loan made, except renewal of pledge loan, for purpose of administering and enforcing local government regulations.

A BILL FOR AN ACT

1
2 Relating to pawnbrokers; creating new provisions; and amending ORS 726.300, 726.340, 726.390,
3 726.395 and 726.400.

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

5 **SECTION 1.** ORS 726.300 is amended to read:

6 726.300. (1) [*The*] **A** pawnbroker [*shall*] at the time **the pawnbroker makes** [*of making*] a pledge
7 loan **shall** deliver to the pledgor or [*the*] **an** agent of the pledgor a memorandum or pawn ticket on
8 which **the pawnbroker** shall [*be legibly written or printed*] **legibly write or print** the following:

9 (a) The date of the transaction.

10 (b) The serial number of the pledge loan.

11 (c) The article or articles pledged.

12 (d) The amount of the pledge loan.

13 (e) The rate of interest charged on the loan.

14 (f) The name and address of the pawnbroker.

15 (g) An accurate summary of the notice requirements of ORS 726.400 [(2)].

16 (h) [*Such*] Other terms and conditions **the pawnbroker may wish to insert that are** not in-
17 consistent with this chapter [*as the pawnbroker may wish to insert*].

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

21 **SECTION 2.** ORS 726.340 is amended to read:

22 726.340. If [*the*] **a** pawn ticket or memorandum is lost, destroyed or stolen, the pledgor shall
23 [*so*] notify the pawnbroker **of the loss, destruction or theft** in writing. The pawnbroker shall treat
24 receipt of [*such*] **the** notice as a stop against the pledge loan, and thereafter the provisions of ORS
25 726.310 and 726.320 [*shall*] **do** not apply to [*such*] **the** pledge loan. Before delivering the pledge or
26 issuing a new pawn ticket [*in such event*], the pawnbroker may require the pledgor to make an affi-
27 davit of the alleged loss, destruction or theft [*of the ticket*] **and may charge a fee of not more than**
28 **\$5 for the lost ticket**. Not more than five days after receiving notice of the loss of the ticket, the
29 pawnbroker shall permit the pledgor either to redeem the pledge or to receive a new ticket upon

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 [the payment of] **paying** accrued interest[, and]. The pawnbroker shall incur no liability for [so
 2 doing] **permitting the pledgor to redeem the pledge or receive a new ticket** unless the
 3 pawnbroker has previously received written notice of an adverse claim. This section does not limit
 4 or affect the pawnbroker's legal liability in cases where goods are stolen or other legal defects **exist**
 5 **in the pledgor's** [of] title [exist in the pledgor] **with respect to the pledge.**

6 **SECTION 3.** ORS 726.390 is amended to read:

7 726.390. (1) A pawnbroker may not charge, contract for or receive interest at a rate in excess
 8 of three percent per month. However, on pledge loans redeemed within the first month the
 9 pawnbroker may charge a month's interest[,] or the pawnbroker may charge \$3 when the interest
 10 accumulated amounts to less. The **pawnbroker may not compound the interest and** may not [be
 11 compounded and no] **deduct or receive an** amount [whatsoever may be deducted or received] in ad-
 12 vance.

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

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

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

21 **SECTION 4.** ORS 726.395 is amended to read:

22 726.395. A **pawnbroker may** charge [of \$3 may be charged] a pledgor or customer **\$5 if the**
 23 **pledgor or customer** [who] places with the pawnbroker firearms required to be registered under
 24 the laws of the United States. In addition, **the pawnbroker may charge** a pledgor or customer
 25 [may be charged] any fee [imposed by any] **a** governmental entity [upon] **imposes on** a pawnbroker
 26 for holding or transferring a firearm.

27 **SECTION 5.** ORS 726.400 is amended to read:

28 726.400. (1) Unless **a pledgor and a pawnbroker agree to** a longer loan period **and the longer**
 29 **loan period is written on the pawn ticket,** [is agreed upon by the pledgor and the pawnbroker, all
 30 loans shall] **a pledge loan shall** be made for a period of 60 days. [However,] A pledge may be re-
 31 deemed and the pledge loan repaid at any time before the loan period expires. [All pawn tickets
 32 shall] **A pawn ticket must** clearly state the expiration date of the loan.

33 (2) **A pledgor and a pawnbroker may agree to renew a pledge loan for successive periods**
 34 **of 60 days or for successive periods of a length upon which the pledgor and pawnbroker**
 35 **agree. A loan is a renewal of the original loan if the pledgor pays only the interest on the**
 36 **original loan or pays the principal and the interest on the original loan but accepts another**
 37 **pledge loan from the pawnbroker on the same day the pledgor makes the final payment on**
 38 **the original loan.**

39 [(2)] (3) Except for a pledge [securing] **that secures** a pledge loan of [less than] \$500 **or less,**
 40 [before any pledge may be deemed forfeited,] the pawnbroker **may not deem a pledge to be forfeited**
 41 **until:**

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

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

1 *pledgor of the forfeiture of the pledge.]*

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

5 (a) *[certified]* **Regular** mail, *[return receipt required, in a securely closed envelope addressed to the*
 6 *pledgor at the last-known address shown on the pawnbroker’s record.]* **if the pledge secures a loan**
 7 **of more than \$500 but less than \$2,500; or**

8 (b) **Certified mail, return receipt requested, if the pledge secures a loan of \$2,500 or more.**

9 (5) Delivery of a notice under this *[subsection]* **section** occurs when the notice is mailed as
 10 provided in this *[subsection]* **section**. The **pawnbroker shall keep the** certified return receipt card
 11 or the returned envelope *[shall be kept]* on file *[by the pawnbroker]* for at least two years *[from]*
 12 **after the date** *[of mailing thereof]* **on which the pawnbroker mailed the notice** as evidence of the
 13 notification. The **pledgor shall bear the** postal costs and a reasonable charge for preparing *[the]* **a**
 14 **notice for delivery by certified mail** *[shall be borne by the pledgor]*.

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

19 *[(3)]* (7) *[Any]* **A** pledge that is not redeemed within 30 days after the **mailing date of a notice**
 20 **given under this section** *[expiration of the 60-day loan period,]* or within the *[period of]* renewal
 21 **period**, if any, *[shall be deemed forfeited and]* **is forfeited.** The pawnbroker *[shall thereby acquire*
 22 *all]* **acquires the pledgor’s** *[right,]* title and interest **in** *[of the pledgor therein]* **the forfeited pledge**
 23 **and the right** to hold and dispose of the pledge as the pawnbroker’s own property.

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

25 **SECTION 7.** (1) As used in this section, “local government” means a city, county, special
 26 district or other authority or entity organized under the statutes of this state or under a city
 27 or county charter for the purpose of governing a political subdivision of this state.

28 (2) A local government that regulates pawnbrokers for the purpose of paying the costs
 29 of administering and enforcing the local government’s regulations may impose and collect
 30 from a pawnbroker a fee of not more than 10 cents for each pledge loan that the pawnbroker
 31 makes, except a renewal of a pledge loan. The pawnbroker may charge a pledgor the amount
 32 of the fee that the local government imposes.

33 **SECTION 8.** Section 7 of this 2009 Act and the amendments to ORS 726.300, 726.340,
 34 726.390, 726.395 and 726.400 by sections 1 to 5 of this 2009 Act apply to transactions that occur
 35 on or after the effective date of this 2009 Act.

36