

A-Engrossed
House Bill 2066

Ordered by the House March 14
Including House Amendments dated March 14

Sponsored by Representative NATHANSON (at the request of Oregon Pawnbrokers Association) (Pre-session filed.)

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.

Allows certain personal property to be used as pledge for pledge loan from pawnbroker. Excludes certain other personal property from use as pledge.

Requires pawnbroker to note in register whether lien search in connection with pledge has been conducted in county of pledgor's residence or with state agency that records liens for category of property to which pledge belongs.

Specifies that pawnbroker's exemption from liability for refusing to deliver pledge when competing claims to pledge have not been adjudicated does not apply if pledge is specified types of personal property. Specifies security requirements that pawnbroker must have in place for specified types of personal property.

A BILL FOR AN ACT

Relating to pawnbrokers; amending ORS 726.010, 726.280, 726.370 and 726.380.

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

SECTION 1. ORS 726.010 is amended to read:

726.010. As used in this chapter[, *unless the context requires otherwise*]:

[(1) "*Director*" means the Director of the Department of Consumer and Business Services.]

[(2)] (1) "Pawnbroker" means [*any*] a person, copartnership, association or corporation **that**:

(a) [*Lending*] **Lends** money at a [*higher*] rate of interest **greater** than 10 percent per annum on the deposit or pledge of personal property [*other than choses in action, vehicles required by law to be registered with the Department of Transportation, securities or printed evidences of indebtedness*];

(b) [*Purchasing any*] **Purchases** personal property [*other than choses in action, vehicles required by law to be registered with the Department of Transportation, securities or printed evidences of indebtedness*] on the direct or implied condition of selling [*it*] **the personal property** back at a stipulated price that would amount to [*the payment of*] **paying** interest or consideration in excess of 10 percent per annum; or

(c) [*Doing*] **Does** business as a storage [*warehouseman*] **warehouse operator** and [*lending*] **lends** money at a [*higher*] rate of interest **greater** than 10 percent per annum upon goods, wares, merchandise or personal property pledged or deposited as collateral security [*other than vehicles required by law to be registered with the Department of Transportation*].

(2)(a) "**Personal property**" means **tangible property a person owns, including:**

(A) **Chattels and moveables, such as merchandise, furniture, goods, machinery, tools and equipment, supplies and media;**

(B) **Pledges that are not required to be registered with the Department of Transportation;**

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 (C) Snowmobiles, as defined in ORS 801.490;

2 (D) Trailers that have a loaded weight of not more than 8,000 pounds and that are de-
3 signed or manufactured, or are otherwise suitable, for carrying a boat, snowmobile or all-
4 terrain vehicle; and

5 (E) Equipment used for farming.

6 (b) "Personal property" does not include:

7 (A) Pledges that are required to be registered with the Department of Transportation,
8 unless the pledge is a snowmobile or a trailer described in paragraph (a) of this subsection;

9 (B) Choses in action;

10 (C) Securities or printed evidence of indebtedness; or

11 (D) Intangible property.

12 (3) "Pledge" means *[any article]* **personal property** deposited with a pawnbroker in the course
13 of the business of the pawnbroker *[as defined in subsection (2) of this section]*.

14 (4) "Pledgor" means *[the]* a person who delivers a pledge into the possession of a pawnbroker,
15 unless the person discloses that the person is or was acting for another, in which event "pledgor"
16 means the disclosed principal.

17 (5) "Pledge loan" means a loan *[made by]* **that** a pawnbroker **makes** to a pledgor and **that is**
18 secured by a pledge.

19 **SECTION 2.** ORS 726.280 is amended to read:

20 726.280. (1) Every pawnbroker shall keep a register in which *[shall be recorded]* **the pawnbroker**
21 **records** in ink or in electronic form:

22 (a) The date of the transaction.

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

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

26 (d) An identifying description of the *[article or articles pledged]* **pledge**.

27 (e) The amount of the pledge loan.

28 (f) The date on which *[such]* **the** pledge loan was canceled.

29 (g) A notation as to whether *[it]* **the pledge** was redeemed or renewed, or whether the pledge
30 was forfeited.

31 (h) **A notation that indicates that a lien search of the pledge has been conducted in the**
32 **pledgor's county of residence or with the state agency that is responsible for recording liens**
33 **on the category of property to which the pledge belongs.**

34 (2) All entries in the register *[shall]* **must** be made in the English language and *[shall]* **must**
35 be open to the inspection of any public official, police officer or any other person who is duly au-
36 thorized or empowered by the laws of this state to make *[such]* **an** inspection.

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

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

43 **SECTION 3.** ORS 726.370 is amended to read:

44 726.370. (1) If more than one person claims the right to redeem a pledge, the pawnbroker *[shall*
45 *incur no liability]* **is not liable** for refusing to deliver the pledge until the respective rights of the

1 claimants have been adjudicated **unless the pawnbroker fails to verify whether the pledge is**
2 **subject to a lien or other encumbrance, if the pledge is:**

3 (a) **A boat, as defined in ORS 830.005;**

4 (b) **A snowmobile, as defined in ORS 801.490;**

5 (c) **A trailer, as described in ORS 726.010 (2)(a)(D); or**

6 (d) **An all-terrain vehicle that is not required to be registered with the Department of**
7 **Transportation.**

8 (2) In [case of] an action brought against the pawnbroker for recovery of the pledge, the
9 pawnbroker may as a defense require all known claimants to interplead.

10 (3) If [no action is brought against the pawnbroker by either claimant] **either claimant does not**
11 **bring an action against the pawnbroker** within 30 days after notice of an adverse claim, the
12 pawnbroker may [proceed to] dispose of the pledge as provided in this chapter.

13 **SECTION 4.** ORS 726.380 is amended to read:

14 726.380. (1) A pawnbroker [shall be] **is** liable for the loss of a pledge or a part [thereof] **of a**
15 **pledge** or for [injury thereto resulting] **an injury to a pledge that results** from failure to exercise
16 reasonable care. [Such care shall include] **Reasonable care includes** maintaining sufficient insur-
17 ance coverage against possible loss [due to] **as a result of** fire, theft and burglary so as to protect
18 the interest of the pledgor for the amount of the loan. [In case of loss the burden of proof to establish
19 due care shall be upon the pawnbroker.]

20 (2) **A pawnbroker shall hold a pledge in a gated, secured facility that is designed, con-**
21 **structed, furnished and maintained to present physical deterrents to a person's ability to**
22 **enter into the facility without authorization and remove the pledge, if the pledge is:**

23 (a) **A boat, as defined in ORS 830.005;**

24 (b) **A snowmobile, as defined in ORS 801.490;**

25 (c) **A trailer, as described in ORS 726.010 (2)(a)(D); or**

26 (d) **An all-terrain vehicle that is not required to be registered with the Department of**
27 **Transportation.**

28 (3) **The pawnbroker has the burden of proof to establish due care if a pledge is lost.**

29 (4) The pawnbroker [shall have] **has** a first lien on any pledge for the amount of the pledge loan
30 and interest in all cases except where goods are stolen or where a prior lien exists by virtue of any
31 provision of law.

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