

House Bill 2463

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

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**.

Permits pawnbroker to store large pledge items at single storage location off premises of business location at which pawnbroker makes pledge loan if pawnbroker and pledgor agree in writing that pawnbroker may do so. Requires pawnbroker that stores pledges off premises to maintain business location that displays pawnbroker license and to maintain off-premises location that complies with security, bonding, insurance and notice requirements that apply to pawnbroker's business location. Requires pawn ticket or memorandum to state whether pawnbroker is storing or will store pledge at off-premises location.

Permits Director of Department of Consumer and Business Services to define by rule "large items" for purpose of Act.

Becomes operative January 1, 2020.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to requirements for pawnbrokers wishing to store large pledge items off premises; creating
3 new provisions; amending ORS 726.300, 726.310 and 726.380; and prescribing an effective date.

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) A pawnbroker at the time the pawnbroker makes a pledge loan shall deliver to the
7 pledgor or an agent of the pledgor a memorandum or pawn ticket on which the pawnbroker shall
8 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.

16 **(h) A statement as to whether the pawnbroker is storing or will store the pledge off the**
17 **premises of the business location at which the pawnbroker makes the pledge loan.**

18 *[(h)]* (i) Other terms and conditions the pawnbroker may wish to insert that are not inconsistent
19 with this chapter.

20 (2) Nothing that appears on the pawn ticket relieves the pawnbroker of the obligation to exer-
21 cise reasonable care in safekeeping articles pledged with the pawnbroker.

22 **SECTION 2.** ORS 726.310 is amended to read:

23 726.310. (1) Except as otherwise provided in this chapter, *[the holder of the]* **a person that holds**
24 **a memorandum or pawn ticket** *[shall be presumed to be]* **is** the person entitled to redeem the pledge
25 **associated with the memorandum or pawn ticket.** *[The]* **A** pawnbroker shall deliver the pledge

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 to the person presenting such memorandum or pawn ticket upon payment of principal and interest
 2 due on the pledge loan.

3 **(2) If a pawnbroker holds a pledge at a location that is off the premises of the business
 4 location at which the pawnbroker made the pledge loan or at which a person redeems the
 5 pledge, the pawnbroker shall return the pledge within two business days after the date on
 6 which the person redeems the pledge.**

7 **SECTION 3.** ORS 726.380 is amended to read:

8 726.380. (1) A pawnbroker is liable for the loss of a pledge or a part of a pledge or for an injury
 9 to a pledge that results from failure to exercise reasonable care. Reasonable care includes main-
 10 taining sufficient insurance coverage against possible loss as a result of fire, theft and burglary so
 11 as to protect the interest of the pledgor for the amount of the loan.

12 **(2)(a) A pawnbroker may store large items, including items identified in paragraph (c) of
 13 this subsection, off the premises of the business location at which the pawnbroker makes the
 14 pledge loan only if:**

15 **(A) The pawnbroker and the pledgor agree in writing that the pawnbroker may store the
 16 large item as described in this paragraph;**

17 **(B) The pawnbroker maintains a business location at which the pawnbroker displays a
 18 license the Director of the Department of Consumer and Business Services issued under ORS
 19 726.080; and**

20 **(C) The off-premises location complies with all requirements this chapter or the director
 21 sets forth for pawnbroker business locations with respect to security, bonding, insurance and
 22 notice.**

23 **(b) A pawnbroker may have only one off-premises location at which the pawnbroker
 24 stores large items for each business location for which the pawnbroker has the license de-
 25 scribed in paragraph (a)(B) of this subsection.**

26 (c) A pawnbroker shall hold a pledge in a gated, secured facility that is designed, constructed,
 27 furnished and maintained to present physical deterrents to a person's ability to enter into the fa-
 28 cility without authorization and remove the pledge, if the pledge is:

29 [(a)] **(A)** A boat, as defined in ORS 830.005;

30 [(b)] **(B)** A snowmobile, as defined in ORS 801.490;

31 [(c)] **(C)** A trailer, as described in ORS 726.010 (2)(a)(D); or

32 [(d)] **(D)** An all-terrain vehicle that is not required to be registered with the Department of
 33 Transportation.

34 **(d) The director by rule may define "large items" for the purposes of this subsection.**

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

36 (4) The pawnbroker has a first lien on any pledge for the amount of the pledge loan and interest
 37 in all cases except where goods are stolen or where a prior lien exists by virtue of any provision
 38 of law.

39 **SECTION 4.** The amendments to ORS 726.300, 726.310 and 726.380 by sections 1 to 3 of this
 40 2019 Act apply to pledge loans that a pawnbroker makes or redeems on or after the operative
 41 date specified in section 5 of this 2019 Act.

42 **SECTION 5.** (1) The amendments to ORS 726.300, 726.310 and 726.380 by sections 1 to 3
 43 of this 2019 Act become operative on January 1, 2020.

44 (2) The Director of the Department of Consumer and Business Services may adopt rules
 45 and take any other action before the operative date specified in subsection (1) of this section

1 that is necessary to enable the director, on and after the operative date specified in sub-
2 section (1) of this section, to exercise all of the duties, functions and powers conferred on
3 the director by the amendments to ORS 726.300, 726.310 and 726.380 by sections 1 to 3 of this
4 2019 Act.

5 SECTION 6. This 2019 Act takes effect on the 91st day after the date on which the 2019
6 regular session of the Eightieth Legislative Assembly adjourns sine die.

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