

Enrolled
House Bill 2463

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

CHAPTER

AN ACT

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

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

SECTION 1. ORS 726.300 is amended to read:

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

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

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

(2) Nothing that appears on the pawn ticket relieves the pawnbroker of the obligation to exercise reasonable care in safekeeping articles pledged with the pawnbroker.

SECTION 2. ORS 726.310 is amended to read:

726.310. (1) Except as otherwise provided in this chapter, *[the holder of the]* **a person that holds a memorandum or pawn ticket *[shall be presumed to be]* is the person entitled to redeem the pledge associated with the memorandum or pawn ticket. *[The]* A pawnbroker shall deliver the pledge to the person presenting such memorandum or pawn ticket upon payment of principal and interest due on the pledge loan.**

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

SECTION 3. ORS 726.380 is amended to read:

726.380. (1) A pawnbroker is liable for the loss of a pledge or a part of a pledge or for an injury to a pledge that results from failure to exercise reasonable care. Reasonable care includes main-

taining sufficient insurance coverage against possible loss as a result of fire, theft and burglary so as to protect the interest of the pledgor for the amount of the loan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The Director of the Department of Consumer and Business Services may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the director, on and after the operative date specified in subsection (1) of this section, to exercise all of the duties, functions and powers conferred on the director by the amendments to ORS 726.300, 726.310 and 726.380 by sections 1 to 3 of this 2019 Act.

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

Passed by House January 31, 2019

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate March 19, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Secretary of State