As Passed by the Senate

131st General Assembly

Regular Session 2015-2016

Am. Sub. S. B. No. 270

Senator Eklund

Cosponsors: Senators Hottinger, Seitz, Gardner, Coley, Patton, Uecker, Bacon, Hackett, Hite, Lehner, Sawyer, Yuko

A BILL

То	amend sections 4727.02, 4727.03, 4727.06,	1
	4727.10, 4727.11, 4727.12, 4727.19, and 4727.20	2
	of the Revised Code to make changes to the law	3
	relating to pawnbrokers.	4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4727.02, 4727.03, 4727.06,	5
4727.10, 4727.11, 4727.12, 4727.19, and 4727.20 of the Revised	6
Code be amended to read as follows:	7
Sec. 4727.02. No person shall act as a pawnbroker, or	8
advertise, transact, or solicit business as a pawnbroker,	9
without first having obtained a license from the superintendent	10
of financial institutions. A person shall obtain a separate	11
license for each place of business at which the person acts or	12
transacts business as a pawnbroker.	13
Sec. 4727.03. (A) As used in this section, "experience and	14
fitness in the capacity involved" means that the applicant for a	15
pawnbroker's license demonstrates sufficient financial	16
responsibility, reputation, and experience in the pawnbroker	17

business, or in a related business, to act as a pawnbroker in	18
compliance with this chapter. "Experience and fitness in the	19
capacity involved" shall be determined by:	20
(1) Prior or current ownership or management of, or	21
employment in, a pawnshop;	22
(2) Demonstration to the satisfaction of the	23
superintendent of financial institutions of a thorough working	24
knowledge of all pawnbroker laws and rules as they relate to the	25
actual operation of a pawnshop.	26
A demonstration shall include a demonstration of an	27
ability to properly complete forms, knowledge of how to properly	28
calculate interest and storage charges, and knowledge of legal	29
notice and forfeiture procedures. The final determination of	30
whether an applicant's demonstration is adequate rests with the	31
superintendent.	32
(3) A submission by the applicant and any stockholders,	33
owners, managers, directors, or officers of the pawnshop, and	34
employees of the applicant to a police record check; and	35
(4) Liquid assets in a minimum amount of one hundred	36
<pre>twenty-five thousand dollars at the time of applying for initial</pre>	37
licensure and demonstration of the ability to maintain the	38
liquid assets at a minimum amount of <pre>fifty seventy-five</pre> thousand	39
dollars for the duration of holding a valid pawnbroker's	40
license. If an applicant holds a pawnbroker's license at the	41
time of application or is applying for more than one license,	42
this requirement shall be met separately for each license.	43
(B) The superintendent may grant a license to act as a	44
pawnbroker to any person of good character and having experience	45

and fitness in the capacity involved to engage in the business

of pawnbroking upon the payment to the superintendent of a	47
license fee determined by the superintendent pursuant to section	48
1321.20 of the Revised Code. A license is not transferable or	49
assignable.	50
(C) The superintendent may consider an application	51
withdrawn and may retain the investigation fee required under	52
division (D) of this section if both of the following are true:	53
(1) An application for a license does not contain all of	54
the information required under division (B) of this section.	55
(2) The information is not submitted to the superintendent	56
within ninety days after the superintendent requests the	57
information from the applicant in writing.	58
(D) The superintendent shall require an applicant for a	59
pawnbroker's license to pay to the superintendent a	60
nonrefundable initial investigation fee of two hundred dollars,	61
which is for the exclusive use of the state.	62
(E)(1) Except as otherwise provided in division (E)(2) of	63
this section, a pawnbroker's license issued by the	64
superintendent expires on the thirtieth day of June next	65
following the date of its issuance, and may be renewed annually	66
by the thirtieth day of June in accordance with the standard	67
renewal procedure set forth in Chapter 4745. of the Revised	68
Code. Fifty per cent of the annual license fee shall be for the	69
use of the state, and fifty per cent shall be paid by the state	70
to the municipal corporation, or if outside the limits of any	71
municipal corporation, to the county, in which the office of the	72
licensee is located. All such fees payable to municipal	73
corporations or counties shall be paid annually.	74

(2) A pawnbroker's license issued or renewed by the

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superintendent on or after January 1, 2006, expires on the thirtieth day of June in the even-numbered year next following the date of its issuance or renewal, as applicable, and may be renewed biennially by the thirtieth day of June in accordance with the standard renewal procedure set forth in Chapter 4745. of the Revised Code. Fifty per cent of the biennial license fee shall be for the use of the state, and fifty per cent shall be paid by the state to the municipal corporation, or if outside the limits of any municipal corporation, to the county, in which the office of the licensee is located. All such fees payable to municipal corporations or counties shall be paid biennially.

- (F) The fee for renewal of a license shall be equivalent to the fee for an initial license established by the superintendent pursuant to section 1321.20 of the Revised Code. Any licensee who wishes to renew the pawnbroker's license but who fails to do so on or before the date the license expires shall reapply for licensure in the same manner and pursuant to the same requirements as for initial licensure, unless the licensee pays to the superintendent on or before the thirtyfirst day of August of the year the license expires, a late renewal penalty of one hundred dollars in addition to the regular renewal fee. Any licensee who fails to renew the license on or before the date the license expires is prohibited from acting as a pawnbroker until the license is renewed or a new license is issued under this section. Any licensee who renews a license between the first day of July and the thirty-first day of August of the year the license expires is not relieved from complying with this division. The superintendent may refuse to issue to or renew the license of any licensee who violates this division.
 - (G) No license shall be granted to any person not a

resident of or the principal office of which is not located in	107
the municipal corporation or county designated in such license	108
unless that applicant, in writing and in due form approved by	109
and filed with the superintendent, first appoints an agent, a	110
resident of the state, and city or county where the office is to	111
oe located, upon whom all judicial and other process, or legal	112
notice, directed to the applicant may be served. In case of the	113
death, removal from the state, or any legal disability or any	114
disqualification of any such agent, service of such process or	115
notice may be made upon the superintendent.	116

The superintendent may, upon notice to the licensee and 117 reasonable opportunity to be heard, suspend or revoke any 118 license or assess a penalty against the licensee if the 119 licensee, or the licensee's officers, agents, or employees, has 120 violated this chapter. Any penalty shall be appropriate to the 121 violation but in no case shall the penalty be less than two 122 hundred nor more than two thousand dollars. Whenever, for any 123 cause, a license is suspended or revoked, the superintendent 124 shall not issue another license to the licensee nor to the legal 125 spouse of the licensee, nor to any business entity of which the 126 licensee is an officer or member or partner, nor to any person 127 employed by the licensee, until the expiration of at least two 128 years from the date of revocation or suspension of the license. 129 The superintendent shall deposit all penalties allocated 130 pursuant to this section into the state treasury to the credit 131 of the consumer finance fund. 132

Any proceedings for the revocation or suspension of a 133 license or to assess a penalty against a licensee are subject to 134 Chapter 119. of the Revised Code. 135

(H) If a licensee surrenders or chooses not to renew the

pawnbroker's license, the licensee shall notify the	137
superintendent thirty days prior to the date on which the	138
licensee intends to close the licensee's business as a	139
pawnbroker. Prior to the date, the licensee shall do either of	140
the following with respect to all active loans:	141
(1) Dispose of an active loan by selling the loan to	142
another person holding a valid pawnbroker's license issued under	143
this section;	144
(2) Reduce the rate of interest on pledged articles held	145
as security for a loan to eight per cent per annum or less	146
effective on the date that the pawnbroker's license is no longer	147
valid.	148
Sec. 4727.06. (A) No pawnbroker shall charge, receive, or	149
demand interest for any loan in excess of <pre>five six per cent per</pre>	150
month or fraction of a month on the unpaid principal. Interest	151
shall be computed on a monthly basis on the amount of the	152
principal remaining unpaid on the first day of the month and	153
shall not be compounded.	154
(B) In addition to the rate of interest limitation imposed	155
pursuant to division (A) of this section, the licensee may	156
charge no more than:	157
(1) Four Six dollars per month or fraction of a month for	158
all pledged articles held as security or stored for a loan, to	159
be agreed to in writing at the time the loan is made;	160
(2) Four dollars plus the actual cost of shipping, when	161
the licensee is to deliver or forward the pledged article by	162
express or parcel post to the pledgor;	163
(3) Two dollars for the loss of the original statement-	164
issued to the pledgor by the licensee pursuant to section-	165

<u>recklessly</u> receive any pledge or purchase any articles from any

(B) No person licensed as a pawnbroker shall receive any

pledge or purchase any articles from any person who is known or

believed by the licensee to be a thief or a receiver of stolen

 $minor_{7}$ or from any person who is at the time intoxicated or

under the influence of a controlled substance.

property, or .

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(C) No person licensed as a pawnbroker shall receive any	195
pledge or purchase any articles from any person identified in	196
writing to the licensee by the chief of police of a municipal	197
corporation or township, the sheriff, or the state highway	198
patrol as a known or suspected thief or receiver of stolen	199
property.	200
(D) Division (C) of this section is a strict liability	201
offense and section 2901.20 of the Revised Code does not apply.	202
Sec. 4727.11. (A) If a pledgor fails to pay interest and	203
<u>fees</u> to a person licensed as a pawnbroker on a pawn loan for two	204
three months from the date of the loan or the date on which the	205
last interest payment is due, the licensee shall notify the	206
pledgor by <u>United States postal</u> mail, with proof of mailing, to	207
the last place of address given by the pledgor, that unless the	208
pledgor redeems the pledged property or pays all interest due	209
and storage charges <u>fees</u> within thirty days from the date the	210
notice is mailed, the pledged property shall be forfeited to the	211
licensee. If the pledgor fails to redeem or pay all interest due	212
and storage charges <u>fees</u> within the period specified in the	213
notice, the licensee becomes the owner of the pledged property.	214
(B) In the event that any article or property is redeemed	215
by a person other than the pledgor, the pledgor shall sign the	216
pledgor's copy of the statement required under section 4727.07	217
of the Revised Code, which copy shall be presented by the person	218
to the licensee. The licensee shall verify the name of the	219
person redeeming the article or property, and shall record the	220
person's name and driver's license number, or other personal	221
identification number, on the licensee's copy of the statement,	222
and shall require the person to sign this copy.	223
(C) In the event that any articles or property pledged are	224

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lost or rendered inoperable due to negligence of the licensee,	225
the licensee shall replace the articles or property with	226
identical articles or property, except that if the licensee	227
cannot reasonably obtain identical articles or property, the	228
licensee shall replace the articles or property with like	229
articles or property.	230

(D) When an account is paid in full, the licensee shall return the pledged article immediately to the pledgor. In the event the pledgor sells, transfers, or assigns the pledge, the licensee shall verify the name of the person redeeming the pledge and record that person's name, driver's license number, and signature on the permanent copy of the statement of pledge required pursuant to section 4727.07 of the Revised Code. The licensee also shall obtain the signature of the pledgor, or other person redeeming the pledge, upon a separate record of the transaction, that acknowledges the total dollar amount paid for redemption and the date of redemption. All records shall be kept in the licensee's place of business.

Sec. 4727.12. (A) A person licensed as a pawnbroker shall 243 retain any and all goods or articles pledged with the licensee-244 until the expiration of seventy-two hours after the pledge is 245 made, and shall retain any goods or articles purchased by the 246 licensee until the expiration of fifteen days after the purchase 247 is made. The licensee may dispose of such goods or articles 248 sooner with the written permission of the chief of police of the 249 municipal corporation or township in which the licensee's place 250 of business is located or, if the place of business is not 251 located within a municipal corporation or township that has a 252 chief of police, with the written permission of the sheriff of 253 the county in which the business is located. 254

(B) If the chief of police or sheriff to whom the licensee	255
makes available the information required by section 4727.09 of	256
the Revised Code has probable cause to believe that the article	257
described therein is stolen property, the chief or sheriff shall	258
notify the licensee in writing. Upon receipt of such a notice,	259
the licensee shall retain the article until the expiration of	260
thirty days after the day on which the licensee is first	261
required to make available the information required by section	262
4727.09 of the Revised Code, unless the chief or sheriff	263
notifies the licensee in writing that the licensee is not	264
required to retain the article until such expiration.	265
(C) If the chief or sheriff receives a report that	266
property has been stolen and determines the identity of the	267
person claiming to be the true owner of the allegedly stolen	268
property that has been purchased or pawned and is held by a	269
licensee, and informs the licensee of the true owner's	270
<pre>claimant's identity, the licensee may restore the allegedly</pre>	271
stolen property to the true owner claimant directly.	272
If a licensee fails to restore the allegedly stolen	273
property, the <pre>true owner claimant may recover the property from</pre>	274
the licensee in an action at law.	275
(D) If the licensee returns the allegedly stolen property	276
to the true owner claimant, the licensee may charge the person	277
who pledged or sold the allegedly stolen property to the	278
licensee, and any person who acted in consort with the pledgor	279
or the seller to defraud the licensee, the amount the licensee	280
paid or loaned for the allegedly stolen property, plus interest	281
and storage charges provided for in section 4727.06 of the	282
Revised Code.	283

Sec. 4727.19. (A) Effective with the two-year period that

begins June 30, $\frac{2000}{2017}$, and every two-year period thereafter,	285
each person licensed as a pawnbroker under this chapter shall	286
<pre>complete have at least one person employed at the licensee's</pre>	287
place of business who has completed by the end of the period at	288
least twelve eight hours of continuing education instruction	289
offered in a course or program approved by the superintendent of	290
financial institutions after consultation with an industry	291
representative selected by the superintendent.	292
(B) Any person licensed under this chapter who has more	293
than three employees shall designate an individual to the	294
superintendent as a salesperson. Effective with the two-year	295
period that begins June 30, 2000, and every two-year period	296
thereafter, a salesperson shall complete by the end of the	297
period at least eight hours of continuing education instruction	298
offered in a course or program approved by the superintendent in	299
consultation with a designated industry representative.	300
(C) Each location of those persons licensed under this	301
chapter who have three or more employees shall have at least one-	302
salesperson who meets the continuing education requirements of	303
this section.	304
(D)—The superintendent, in accordance with—chapter_Chapter_	305
119. of the Revised Code, may suspend, revoke, or refuse to	306
renew the license of any licensee who fails to comply with this	307
section.	308
(E) (C) The superintendent, in accordance with chapter	309
<u>Chapter</u> 119. of the Revised Code, may adopt rules regarding	310
continuing education fees, locations, times, frequency, and	311
waivers of requirements.	312

Sec. 4727.20. (A) No person licensed as a pawnbroker under 313

this chapter shall conduct business in this state, unless the	314
licensee does either of the following:	315
(1) Maintains liquid assets in a minimum amount of fifty	316
<pre>seventy-five thousand dollars;</pre>	317
(2) Obtains a surety bond issued by a bonding company or	318
insurance company authorized to do business in this state. The	319
bond shall be in favor of the superintendent of financial	320
institutions and in the penal sum of at least twenty five fifty	321
thousand dollars. The licensee shall file a copy of the bond	322
with the superintendent. The bond shall be for the exclusive	323
benefit of any person injured by a licensee's violation of this	324
chapter. The aggregate liability of the surety for any and all	325
breaches of the conditions of the bond shall not exceed the	326
penal sum of the bond.	327
(B) The licensee shall give notice to the superintendent	328
by certified mail, return receipt requested, of any action that	329
is brought against the licensee and of any judgment that is	330
entered against the licensee by a person injured by a violation	331
of this chapter. The notice shall provide details sufficient to	332
identify the action or judgment and shall be filed with the	333
superintendent within ten days after the commencement of the	334
action or notice to the licensee of entry of a judgment. The	335
surety, within ten days after it pays any claim or judgment,	336
shall give notice to the superintendent by certified mail,	337
return receipt requested, of the payment, with details	338
sufficient to identify the person and the claim or judgment	339
paid.	340
(C) Whenever the penal sum of the surety bond is reduced	341
by one or more recoveries or payments, the licensee shall	342

furnish a new or additional bond under this section, so that the

total or aggregate penal sum of the bond or bonds equals the sum	344
required by this section, or shall furnish an endorsement	345
executed by the surety reinstating the bond to the required	346
penal sum of the bond.	347
(D) The liability of the surety on the bond to the	348
superintendent and to any person injured by a violation of this	349
chapter is not affected in any way by any misrepresentation,	350
breach of warranty, or failure to pay the premium, by any act or	351
omission upon the part of the licensee, by the insolvency or	352
bankruptcy of the licensee, or by the insolvency of the	353
licensee's estate. The liability for any act or omission that	354
occurs during the term of the surety bond shall be maintained	355
and in effect for at least two years after the date on which the	356
surety bond is terminated or canceled.	357
(E) The licensee shall not cancel the surety bond except	358
upon notice to the superintendent by certified mail, return	359
receipt requested. The cancellation is not effective prior to	360
thirty days after the superintendent receives the notice.	361
(F) No licensee shall fail to comply with this section.	362
Section 2. That existing sections 4727.02, 4727.03,	363
4727.06, 4727.10, 4727.11, 4727.12, 4727.19, and 4727.20 of the	364
Revised Code are hereby repealed.	365