Chapter 726

2003 EDITION

Pawnbrokers

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GENERAL PROVISIONS

726.010 Definitions. As used in this chapter, unless the context requires otherwise:

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

(2) "Pawnbroker" means any person, copartnership, association or corporation:

(a) Lending money at a higher rate of interest 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 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 back at a stipulated price that would amount to the payment of interest or consideration in excess of 10 percent per annum; or

(c) Doing business as storage warehouseman and lending money at a higher rate of interest 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.

(3) "Pledge" means any article deposited with a pawnbroker in the course of the business of the pawnbroker as defined in subsection (2) of this section.

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

(5) "Pledge loan" means a loan made by a pawnbroker to a pledgor and secured by a pledge. [Amended by 1971 c.168 §1; 1985 c.762 §135; 1987 c.373 §71; 1993 c.744 §27]

726.020 Short title; application of chapter. This chapter shall be known as the Pawnbrokers Act. It is applicable to any person who qualifies under its provisions, and to such other person as shall by violating any of its provisions be subject to the penalties provided in ORS 726.990.

726.030 Construction of chapter. Nothing in this chapter shall be construed or held to limit the rights, powers or privileges granted to any person by any law of this state or of the United States whereby the loaning of money or extending of credit is regulated, provided, that such person is operating in compliance with the provisions of such law.

LICENSING

726.040 Pawnbroker license required. No person shall engage or continue in the business of a pawnbroker, or use any assumed business name or advertising that in any way would lead the public to believe the person is a licensed pawnbroker, except as authorized by this chapter and without first procuring a license from the Director of the Department of Consumer and Business Services as provided in this chapter. [Amended by 1979 c.202 §1]

726.050 Residence qualifications of licensee. No license shall be granted to any person, partnership, association or corporation unless that person and all members of any such partnership or association are bona fide residents of this state and unless such corporation is an Oregon corporation in good standing or a foreign corporation legally qualified to do business in this state.

726.060 Application for license; notice of filing; fee. (1) Application for the license shall be in writing in the form prescribed by the Director of the Department of Consumer and Business Services and shall contain the name and both the residence and business addresses of the applicant, and if the applicant is a partnership or association, of every member thereof, and if a corporation, of each officer and director thereof. The application shall also show the county and city with street and number, if any, where the business is to be conducted and such other information that the director may require.

(2) Before issuing any license, the director shall post notice of filing of the application in the office of the Department of Consumer and Business Services for a period of 30 days. The director may waive posting of the notice if the application is made by an applicant for the same location as one for which a license has been surrendered because:

(a) The business has been transferred to the applicant;

(b) The licensee has died and the applicant is the licensee's personal representative or successor in interest; or

(c) The licensee is the applicant and has changed the name under which the licensee is doing business.

(3) The applicant at the time of making application for the applicant's first licensed location in this state shall pay to the director a nonrefundable application fee of $500. [Amended by 1971 c.218 §1; 1985 c.762 §136; 1997 c.842 §1]

726.070 Applicant to furnish bond or letter of credit; actions on bond or letter of credit. (1) A bond in the sum of $25,000 executed by the applicant as obligor, together with a surety company authorized to do business in this state as surety or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 in the amount of $25,000 shall accompany the application and be maintained by the pawnbroker licensee with the Director of the Department of Consumer and Business Services. This bond or letter of credit shall be executed to the State of Oregon and for the use of the state and of any person who may have a cause of action against the obligor of the bond or the letter of credit issuer under this chapter. The bond or letter of credit shall be conditioned that the obligor will faithfully conform to and abide by the provisions of this chapter and of all rules and regulations lawfully made by the director under this chapter, and will pay to the state and to any such person any and all moneys that may become due or owing to the state or to such person from the obligor under and by virtue of the provisions of this chapter. The Attorney General shall approve the form of any bond or letter of credit that may be accepted by the director under this section.

(2) If any person is aggrieved by the misconduct of a pawnbroker or by the pawnbroker's violation of any law and recovers judgment therefor, such person may, after the return unsatisfied either in whole or in part of any execution issued upon such judgment, maintain an action for the person's own use upon the bond or letter of credit of the pawnbroker in any court having jurisdiction of the amount claimed. The director shall furnish to anyone applying therefor, a certified copy of any such bond or letter of credit filed with the director upon the payment of a fee of $5 and the certified copy shall be prima facie evidence in any court that the bond or letter of credit was duly executed and delivered by each pawnbroker whose name appears thereon. [Amended by 1971 c.218 §2; 1979 c.202 §2; 1991 c.331 §125; 1993 c.18 §155; 1997 c.631 §544; 2003 c.176 §1]

726.075 Grounds for denial of license. The Director of the Department of Consumer and Business Services may not grant a license to engage in the business of pawnbroker to any person if any person named in the application submitted pursuant to ORS 726.060:

(1) Is insolvent, either in the sense that the person's liabilities exceed the person's assets or that the person cannot meet obligations as they mature, or is in such financial condition that the person cannot continue in business with safety to the person's customers;

(2) Has engaged in dishonest, fraudulent or illegal practices or conduct in any business or profession;

(3) Has willfully or repeatedly violated or failed to comply with any provision of the Oregon Bank Act, the Savings Association Act, the Oregon Credit Union Act, the Oregon Consumer Finance Act or the Pawnbrokers Act, or any administrative rule or order adopted pursuant to any such Act;

(4) Has been convicted of a crime, an essential element of which is fraud;

(5) Is not qualified to conduct a pawnbroker business on the basis of such factors as training, experience and knowledge of the business;

(6) Is permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the pawnbroker business;

(7) Is the subject of an order of the director, subjecting the person to a fine or other civil penalty, or removing the person from an office in any entity regulated by either director; or

(8) Is the subject of an order entered within the past five years, subjecting the person to a fine or other civil penalty, or removing the person from an office in a state banking institution, a national bank, a state or federal savings association, a state or federal credit union or a consumer finance company, issued by the regulatory authority of another state or of the federal government with authority over such banking institutions, credit unions, consumer finance companies or savings associations. [1977 c.135 §55; 1985 c.762 §137]

726.080 Issuance and denial of license. (1) Conditioned upon the applicant's compliance with this chapter, the payment of the license fee, the filing of a bond and approval thereof by the Attorney General and in the absence of any reason or condition which in the judgment of the Director of the Department of Consumer and Business Services might warrant the refusal of the granting of a license, including the reasons set out in ORS 726.075, the director shall issue a license within 10 days after the expiration of the required 30-day filing period or, if the director has waived the filing period, within 10 days after the date the application was received.

(2) If the application is denied, the director shall indorse thereon with the date the word "Disapproved" and shall immediately advise the applicant by registered mail or by certified mail with return receipt of the reason therefor. [Amended by 1971 c.218 §3; 1977 c.135 §56; 1991 c.249 §69]

726.090 Form of license; posting; transferability. The licenses shall be in a form prescribed by the Director of the Department of Consumer and Business Services and shall state the address at which the business is to be conducted and the full name of the pawnbroker. The license shall be kept conspicuously posted in the place of business of the pawnbroker and shall not be transferable or assignable. [Amended by 1971 c.218 §4]

726.100 Additional licenses to same applicant. No pawnbroker shall transact any business within the scope of this chapter except under the name at the place of business named in the license. The Director of the Department of Consumer and Business Services may issue more than one license to the same pawnbroker upon the pawnbroker's compliance with all the provisions of this chapter governing an original issuance of a license for each such additional license. Each additional license shall be for a separate and distinct place of business for the making and completing of pledge loans as provided in this chapter.

726.110 Change of place of business; fee. Whenever a pawnbroker changes the place of business to another location within the same city or town, the pawnbroker shall at once give written notice thereof to the Director of the Department of Consumer and Business Services and shall surrender the pawnbroker's license for cancellation, together with the payment of a fee of $5 for a new license. Thereupon a new license shall be issued by the director for the new location. No change in the place of business of a pawnbroker to a location outside of the city or town named in the original license shall be permitted under the same license. [Amended by 1971 c.218 §5]

726.120 [Amended by 1971 c.218 §6; repealed by 1985 c.762 §196]

726.125 License fees; fees for extra service. (1) Each pawnbroker shall pay to the Director of the Department of Consumer and Business Services each year the license fee determined by the director under subsection (2) of this section.

(2) The director may charge and collect a license fee from each pawnbroker, according to a license fee schedule established by the director by rule, for the purpose of defraying the costs of performing supervision, enforcement and other duties imposed by law upon the director in respect to pawnbrokers. In setting the license fee schedule and allocating license fees among pawnbrokers, the director shall take into consideration the costs of performing the duties of the director relative to each pawnbroker, the amount of all other moneys paid to the director under this chapter and the cost of developing and maintaining a reasonable emergency fund. License fees under this subsection shall be assessed and paid not later than December 15 of each year or upon approval of a new license application.

(3) In addition to the license fee collected under subsection (2) of this section, whenever the director devotes any extra attention to the affairs of a pawnbroker, either upon determination by the director or upon request of the pawnbroker, the fee for the extra service shall be the actual cost thereof. [1985 c.762 §139; 1997 c.842 §2]

726.130 Annual report of licensee. Every pawnbroker, on or before January 15, shall submit to the Director of the Department of Consumer and Business Services an annual report under oath in such form as may be prescribed by the director, giving the following information:

(1) The number of pledge loans and total amount outstanding at the beginning of the year.

(2) The number of pledge loans made during the year and the aggregate amount thereof.

(3) The number of pledge loans canceled during the year and the aggregate amount thereof.

(4) The number of pledge loans and total amount outstanding at the close of the year.

(5) Any other information which may be called for by the director.

726.140 [Repealed by 1971 c.743 §432]

726.150 Revocation and suspension of license. (1) The Director of the Department of Consumer and Business Services may revoke any license under this chapter if the director finds that:

(a) The pawnbroker has failed to pay the annual license fee or to maintain in effect the required bond or to comply with any demand, ruling or requirement of the director lawfully made pursuant to and within the authority of this chapter or to comply with the provisions of law to keep the corporation in good standing if such pawnbroker is a corporation;

(b) The pawnbroker has violated any provision of this chapter or any rule or regulation lawfully made by the director under and within the authority of this chapter; or

(c) Any fact or condition exists which, if it had existed at the time of the original application for a license, would have warranted the director in refusing originally to issue the license.

(2) The director may, without notice or hearing, suspend any license for a period not exceeding 30 days, pending investigation.

(3) The director may revoke or suspend only the particular license with respect to which grounds for revocation or suspension occur or exist, or, if the director finds that such grounds for revocation or suspension are of general application to all offices or to more than one office operated by the pawnbroker, the director shall revoke or suspend all the licenses issued to the pawnbroker or such number of licenses as such grounds apply to, as the case may be. [Amended by 1971 c.734 §177; 1977 c.135 §57]

726.155 Procedure for license denial, revocation or suspension. (1) Where the Director of the Department of Consumer and Business Services proposes to refuse to issue a license, or proposes to revoke or suspend a license, opportunity for hearing shall be accorded as provided in ORS chapter 183.

(2) Judicial review of orders under subsection (1) of this section shall be as provided in ORS chapter 183. [1971 c.734 §179]

726.160 [Repealed by 1971 c.734 §21]

726.170 Reinstatement and reissue of license; fee. The Director of the Department of Consumer and Business Services may reinstate any suspended license or issue a new license to a pawnbroker whose license has been revoked, upon the pawnbroker's compliance with the provisions of law or any demand, ruling or requirement lawfully made by the director pursuant to and within the authority of this chapter. For such reinstatement or issuance of a new license a fee of $25 shall be paid.

726.180 Expiration of license; effect of revocation, suspension or surrender of license. Every license issued under this chapter shall remain in force until it has been surrendered, revoked or suspended in accordance with the provisions of this chapter. No revocation, suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the pawnbroker and any borrower. [Amended by 1971 c.218 §7]

726.190 Surrender of license. Any pawnbroker may surrender any license by delivering to the Director of the Department of Consumer and Business Services written notice that the pawnbroker thereby surrenders such license, but such surrender shall not affect the pawnbroker's civil or criminal liability for acts committed prior to the surrender.

726.250 Investigation and examination of licensee. (1) For the purpose of discovering violations of this chapter or securing information required by the Director of the Department of Consumer and Business Services under this chapter, the director at any time, either personally or by an examiner or other employee of the Department of Consumer and Business Services, may investigate the pledge loans and business and examine the books, accounts, records and files used therein of every pawnbroker and of every person who the director has reason to believe is doing the business described in ORS 726.010, whether that person acts or claims to act as principal or agent, or under or without the authority of this chapter. For such purpose the director, examiner or other employee of the department shall have free access to the place of business, books, accounts, papers, records, files, safes and vaults of all such persons. The actual cost of each examination shall be paid to the director by every licensee so examined. The director may maintain an action for recovery of such costs in any court of competent jurisdiction. The director, examiner or other employee of the department may examine under oath all persons whose testimony may be required relative to such pledge loans or business.

(2) At least once every two calendar years or as often as the director determines necessary, the director, examiner or other employee of the department shall make an examination of the pledge loans and business, office records and files of each licensed pawnbroker. The examination shall occur at the licensed location of the pawnbroker.

(3) At least once during any calendar year in which an examination is not conducted under subsection (2) of this section, each licensed pawnbroker shall submit to the director for examination, at the office of the director, those books, records and documents prescribed by the director by rule. [Amended by 1973 c.449 §1; 1985 c.762 §140; 2003 c.176 §2]

726.255 Investigation of pawnbrokers; oaths; witnesses; subpoenas; depositions. (1) For the purpose of an investigation or proceeding under the Pawnbrokers Act, the Director of the Department of Consumer and Business Services may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of books, papers, correspondence, memoranda, agreements or other documents or records that the director considers relevant or material to the inquiry.

(2) If a person fails to comply with a subpoena issued under subsection (1) of this section or a party or witness refuses to testify on any matter, the judge of the circuit court for any county, on the application of the director, shall compel obedience in the manner provided by law in the case of disobedience to a subpoena issued in a civil action in the circuit court.

(3) Each witness who appears before the director under a subpoena shall receive the fees and mileage provided for witnesses in

ORS 44.415 (2), except a witness subpoenaed at the instance of parties other than the director or an examiner shall not be compensated for attendance or travel unless the director certifies that the testimony of the witness was material to the matter investigated.

(4) The director in any investigation may cause the depositions of witnesses to be taken in the manner prescribed by law for like depositions in civil suits in the circuit court. [1979 c.202 §9; 1985 c.762 §141; 1989 c.980 §21]

REGULATION

726.260 Rules and rulings. (1) The Director of the Department of Consumer and Business Services shall administer and enforce this chapter.

(2) In accordance with ORS chapter 183, the director may adopt rules and make any specific rulings, demands and findings as may be necessary for the proper conduct of the pawnbroker business and the enforcement of this chapter.

(3) In addition to the notice requirements of ORS chapter 183, before the director adopts a rule, the director shall submit a copy of the rule to each pawnbroker. [Amended by 1985 c.762 §142]

726.270 Prohibited transactions. No pawnbroker shall:

(1) Transact any business between the hours of 9 p.m. and 7 a.m. except that on Saturday the pawnbroker may transact business up to the hour of 10 p.m.

(2) Accept a pledge from any person who is under the age of 18 years.

(3) Convert or dispose of any unredeemed pledge before the time to redeem it has expired or before the pledge has been forfeited to the pawnbroker as provided in ORS 726.400. [Amended by 1975 c.739 §1]

726.280 Register and records of licensee. (1) Every pawnbroker shall keep a register in which shall be recorded in ink:

(a) The date of the transaction.

(b) The serial number of the pledge loan.

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

(d) An identifying description of the article or articles pledged.

(e) The amount of the pledge loan.

(f) The date on which such pledge loan was canceled.

(g) A notation as to whether it was redeemed or renewed, or whether the pledge was forfeited.

(2) All entries in the register shall be made in the English language and shall be open to the inspection of any public official, police officer or any other person who is duly authorized or empowered by the laws of this state to make such inspection.

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

(4) Subject to the provisions of this chapter the Director of the Department of Consumer and Business Services may prescribe the form of other books and records to be kept by the pawnbroker. All records shall be preserved and available for at least two years after making the final entry on any pledge loan recorded therein. [Amended by 1979 c.202 §3; 1987 c.373 §72]

726.285 Records of transactions by pawnbroker; delivery of copies to local police agency. (1) In addition to the register required under ORS 726.280, a pawnbroker shall record, for each transaction, the date, the name and address of the pledgor, the type and number of any proof of identification presented by the pledgor, a physical description of the pledgor and an identifying description of the article pledged.

(2) The pawnbroker shall deliver each record, or a copy thereof, made under this section, within three days after the date of the transaction, to the local police agency that has jurisdiction over the location at which the pawnbroker has a place of business. [1979 c.202 §10]

726.290 Signing of card, stub or record by pledgor. The pawnbroker shall at the time of making a loan require the pledgor or agent of the pledgor to write the signature and address of the pledgor or the agent of the pledgor on a card, ticket, stub or any other approved record, bearing the serial number of the loan corresponding to that recorded in the pawnbroker's register as provided in ORS 726.280. If the person is unable to write, the person shall sign the person's mark, and in such event the pawnbroker shall record on the signature card, stub or record such information as will enable the pawnbroker to identify the person in case of the loss of the ticket.

726.300 Contents of pawn ticket; effect. (1) The pawnbroker shall at the time of making a pledge loan deliver to the pledgor or the agent of the pledgor a memorandum or pawn ticket on which shall be legibly written or printed 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 (2).

(h) Such other terms and conditions not inconsistent with this chapter as the pawnbroker may wish to insert.

(2) Nothing appearing on the pawn ticket shall relieve the pawnbroker of the obligation of exercising reasonable care in the safe keeping of articles pledged with the pawnbroker. [Amended by 1979 c.202 §4]

726.310 Holder presumed entitled to redeem. Except as otherwise provided in this chapter, the holder of the memorandum or pawn ticket shall be presumed to be the person entitled to redeem the pledge. The 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.

726.320 Redemption by mail. When a pawn ticket, instead of being presented in person, is sent to the pawnbroker by mail, accompanied with a money order, bank draft or cash for the amount due including the cost of shipment and packing as desired, the pledge shall be securely packed and forwarded by the pawnbroker in accordance with the remitter's instructions. If the remittance is insufficient to cover the amount due and the cost of shipment and packing as desired, the pawnbroker shall either notify the remitter of the amount of the deficiency or send the pledge subject to the payment of the deficiency by the consignee. The pawnbroker's liability for the pledge shall cease upon delivery thereof to the carrier or the agent of the carrier. [Amended by 1973 c.449 §4; 1981 c.192 §43]

726.330 Delivery of pledge upon surrender of pawn ticket. Except as otherwise provided in this chapter, a pawnbroker shall not be required to deliver a pledge except upon surrender of the pawn ticket, unless the ticket is impounded or its negotiation enjoined by a court of competent jurisdiction.

726.340 Loss, destruction or theft of pawn ticket; liability. If the pawn ticket or memorandum is lost, destroyed or stolen, the pledgor shall so notify the pawnbroker in writing. The receipt of such notice shall be treated by the pawnbroker as a stop against the pledge loan, and thereafter the provisions of ORS 726.310 and 726.320 shall not apply to such pledge loan. Before delivering the pledge or issuing a new pawn ticket in such event, the pawnbroker may require the pledgor to make an affidavit of the alleged loss, destruction or theft of the ticket. Upon receipt of the affidavit, or in case no affidavit is required, then within not less than three nor more than five days from receipt of notice of the loss of the ticket, the pawnbroker shall permit the pledgor either to redeem the pledge or to receive a new ticket upon the payment of accrued interest, and the pawnbroker shall incur no liability for so doing unless the pawnbroker has previously received written notice of an adverse claim. This section shall not be construed as in any manner limiting or affecting the pawnbroker's legal liability in cases where goods are stolen or other legal defects of title exist in the pledgor.

726.350 Alteration. The alteration of a pawn ticket shall not excuse the pawnbroker who issued it from liability to deliver the pledge according to the terms of the pawn ticket as originally issued, but shall relieve the pawnbroker of any other liability to the pledgor or holder of the pawn ticket.

726.360 Spurious pawn tickets. If a pawn ticket is presented to a pawnbroker which purports to be the one issued by the pawnbroker, but which is found to be spurious, the pawnbroker may seize and retain it without any liability whatsoever to the holder thereof. Any such pawn ticket so seized shall be delivered or mailed immediately to the Director of the Department of Consumer and Business Services accompanied by a letter of explanation. [Amended by 1987 c.373 §73]

726.370 Multiple claimants of pledge; interpleader. If more than one person claims the right to redeem a pledge, the pawnbroker shall incur no liability for refusing to deliver the pledge until the respective rights of the claimants have been adjudicated. In case of an action brought against the pawnbroker for recovery of the pledge, the pawnbroker may as a defense require all known claimants to interplead. If no action is brought against the pawnbroker by either claimant within 30 days after notice of an adverse claim the pawnbroker may proceed to dispose of the pledge as provided in this chapter.

726.380 Loss of or injury to pledge; lien on pledge. A pawnbroker shall be liable for the loss of a pledge or a part thereof or for injury thereto resulting from failure to exercise reasonable care. Such care shall include maintaining sufficient insurance coverage against possible loss due to fire, theft and burglary so as to protect the interest of the pledgor for the amount of the loan. In case of loss the burden of proof to establish due care shall be upon the pawnbroker. The pawnbroker shall have 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. [Amended by 1979 c.202 §5]

726.390 Interest rates and charges. (1) A pawnbroker may not charge, contract for or receive interest at a rate in excess of three percent per month. However, on pledge loans redeemed within the first month the pawnbroker may charge a month's interest, or the pawnbroker may charge $3 when the interest accumulated amounts to less. The interest may not be compounded and no amount whatsoever may be deducted or received in advance.

(2) A set-up fee of 10 percent may be charged on all loans and on all loan renewals with a minimum charge of $2 and a maximum charge of $100.

(3) A storage fee of up to two percent may be charged on all loans and on all loan renewals, with a minimum charge of $2.

(4) Except as provided by law, no further or other charge or amount whatsoever may be charged, contracted for or received in addition to the interest provided for in this section. [Amended by 1973 c.449 §5; 1979 c.202 §6; 1981 c.192 §44; 1985 c.795 §1; 1997 c.842 §3]

726.395 Charges related to firearms. A charge of $3 may be charged a pledgor or customer who places with the pawnbroker firearms required to be registered under the laws of the United States. In addition, a pledgor or customer may be charged any fee imposed by any governmental entity upon a pawnbroker for holding or transferring a firearm. [1973 c.449 §3; 1997 c.842 §4]

726.400 Loan period; forfeiture of pledge; notice; period for redeeming pledge. (1) Unless a longer loan period is agreed upon by the pledgor and the pawnbroker, all loans shall be made for a period of 60 days. However, a pledge may be redeemed and the pledge loan repaid at any time before the loan period expires. All pawn tickets shall clearly state the expiration date of the loan.

(2) Except for a pledge securing a pledge loan of less than $500, before any pledge may be deemed forfeited, the pawnbroker after the expiration of the period mentioned in subsection (1) of this section must cause a notice to be given the pledgor as provided in this section. The notice shall notify the pledgor of the forfeiture of the pledge. The notice shall be in writing and delivered postpaid by certified mail, return receipt required, in a securely closed envelope addressed to the pledgor at the last-known address shown on the pawnbroker's record. Delivery of a notice under this subsection occurs when the notice is mailed as provided in this subsection. The certified return receipt card or the returned envelope shall be kept on file by the pawnbroker for at least two years from date of mailing thereof as evidence of the notification. The postal costs and a reasonable charge for preparing the notice shall be borne by the pledgor. A pledgor shall have a grace period of 30 days after the delivery of the notice required by this subsection in which to redeem the pledge, or to renew the loan for one additional 60-day period, or less, by paying any renewal fee and all the accrued interest and fees to date. There shall be no grace period following the expiration of any renewal.

(3) Any pledge that is not redeemed within 30 days after the expiration of the 60-day loan period, or within the period of renewal, if any, shall be deemed forfeited and the pawnbroker shall thereby acquire all the right, title and interest of the pledgor therein to hold and dispose of the pledge as the pawnbroker's own property. [Amended by 1973 c.449 §6; 1979 c.202 §7; 1981 c.192 §45; 1985 c.795 §2; 1997 c.842 §5]

726.410 Record of forfeited pledges. Every pawnbroker shall keep an indelible record, fully itemized, of all forfeited pledges. The record shall contain the following information:

(1) The number of the pledge.

(2) The name and address of the pledgor.

(3) The date of the pledge loan or the date of the last payment received as interest or principal.

(4) The date of mailing notice.

(5) The date of forfeiture. [Amended by 1985 c.795 §3]

726.420 Effect of charging excessive interest or fees. If any pawnbroker or agent, member, officer or employee thereof, or any other person is found by the Director of the Department of Consumer and Business Services to have charged, contracted for or received any interest, fees or other charges in excess of those permitted by ORS 726.390, then the pledge loan shall be void. The pawnbroker shall forfeit the right to collect or receive any principal, interest or charges whatsoever. The pawnbroker shall upon order of the director return to the pledgor free from the pawnbroker's lien the pledge pledged by the pledgor without tender of principal and interest and shall pay into the county school fund of the county wherein the loan is made all payments and all fees or other charges previously collected under such pledge loan. [Amended by 1975 c.544 §59a; 1987 c.373 §74]

726.430 [Repealed by 1975 c.544 §62]

PENALTIES

726.910 Civil penalties. (1) Any person who violates ORS 726.040, 726.100, 726.110, 726.270, 726.390 or 726.400 or any rule adopted under ORS 726.260 shall forfeit a civil penalty in an amount determined by the Director of the Department of Consumer and Business Services of not more than $2,500. The civil penalty forfeited shall be paid into the State Treasury and credited as provided in ORS 705.145. In addition, the director may revoke the license of any licensee who violates any such provision.

(2) The civil penalty may be recovered in an action brought thereon in the name of the State of Oregon in any court of appropriate jurisdiction or may be imposed as provided in ORS 183.745.

(3) In any court action with respect to a civil penalty, including judicial review under ORS 183.745, the court may review the penalty as to both liability and reasonableness of amount. [1975 c.544 §61; 1985 c.762 §143; 1991 c.734 §99]

726.990 Criminal penalties. (1) Violation, or participation in the violation, of any provision of this chapter by any pawnbroker or any agent, member, officer or employee thereof, or any other person is punishable, upon conviction, by a fine of not less than $100 nor more than $500 or by imprisonment in the county jail for not less than one month and not more than six months, or both.

(2) Upon conviction under subsection (1) of this section, no license shall be granted to such person, nor to the husband or wife of such person, nor to any partnership, association or corporation of which the person is an agent or member, until two years after the date of the conviction. [Amended by 1971 c.743 §425; 1987 c.373 §75]