



# Ohio Legislative Service Commission

Tom Middleton

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## Fiscal Note & Local Impact Statement

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**Bill:** [H.B. 192 of the 130th G.A.](#)

**Date:** October 30, 2013

**Status:** As Introduced

**Sponsor:** Reps. McGregor and Slesnick

**Local Impact Statement Procedure Required:** Yes

**Contents:** Makes changes to the law regulating pawnbrokers

### State Fiscal Highlights

- The bill requires the Department of Commerce to approve a secure law enforcement database reporting system that will be used by pawnbrokers to report transactions to local law enforcement. Under current law, the Division of Financial Institutions within the Department is specifically responsible for regulating pawnbrokers.
- There would be some additional workload for the Department of Commerce in coordinating with interested parties and ensuring compliance with these responsibilities. Costs to the Department would be paid out of the Consumer Finance Fund (Fund 5530).

### Local Fiscal Highlights

- The bill replaces the current reporting system that pawnbrokers use to record pawn transactions with a secure law enforcement database reporting system. If local law enforcement agencies are made responsible for procurement and maintenance costs, those amounts could potentially be greater than a few thousand dollars per jurisdiction. However, a database reporting system may also bring about greater efficiencies in regulating pawnbrokers and investigating property crimes.
- The bill gives local law enforcement the authority to hold items suspected to have been stolen or involved in a court action for longer periods of time, from 30 days in current law to 60 days. This change could result in increased costs to local law enforcement in investigating stolen property cases for longer timeframes.
- The bill makes other changes involving how a pawnbroker is to conduct business. It is possible that these changes could result in some additional violations of the Pawnbrokers Law. While most violations committed under current law are minor and usually resolved through settlement agreements in lieu of formal disciplinary action, it is possible that some additional persons are prosecuted and convicted as a result of the bill. Court cost and fine revenue would offset some of any additional expense created for local criminal courts to adjudicate these matters.

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## Detailed Fiscal Analysis

### Overview

The bill makes a number of changes to the Pawnbrokers Law. Most notably for this fiscal analysis, the bill (1) replaces the reporting system pawnbrokers currently use to record transactions, and (2) gives local law enforcement the authority to hold items suspected to have been stolen or involved in a court action for longer periods of time. Other changes involve how a pawnbroker is to conduct business, provisions which have no direct fiscal effect outside of the potential for additional violations of the Pawnbrokers Law. Pawnbrokers are licensed by the Consumer Finance Section of the Division of Financial Institutions in the Ohio Department of Commerce. The licenses must be renewed biennially. There are approximately 330 pawnbroker locations holding an active license in Ohio.

### Fiscal effects

#### Database reporting system

Under current law, pawnbrokers are required to report certain transaction information to local law enforcement agencies. Local law enforcement furnishes the forms that pawnbrokers use to record the transactions. Pawnbrokers are to provide both (1) a description of all property pledged to the pawnbroker or purchased by the pawnbroker, and (2) the number of the pawn or purchase assigned by the pawnbroker to document the pledge or purchase. Pawnbrokers send this information, which may be in electronic form, to local law enforcement daily. Some law enforcement agencies use software reporting systems for pawnbrokers and related industries, while other jurisdictions receive transaction reports from pawnbrokers on paper or computer disks.

Generally, the bill retains the current law provision requiring pawnbrokers to make daily reports to law enforcement. However, the bill requires pawnbrokers to use a "secure law enforcement database reporting system" approved by the Department of Commerce to record the property description and pawn or purchase form number. This would replace the current method of reporting on paper forms or computer disks. The bill also requires the Department of Commerce to approve the form in which the information is reported to the database reporting system. Consequently, the bill is likely to create some additional workload for the Department to coordinate with the interested parties and comply with these responsibilities. The bill also prohibits pawnbrokers, pledgors, or sellers from being assessed a fee in relation to the pawnbroker reports. Any new costs the Department of Commerce incurs as a result of these provisions would be paid from the Consumer Finance Fund (Fund 5530).

Overall, the cost of procuring and maintaining a database reporting system will depend on how it is implemented. Even so, such a system could impose new costs to local law enforcement agencies potentially exceeding the low several thousand dollars per jurisdiction if local law enforcement agencies are responsible for procuring and maintaining the reporting system mentioned in the bill. Though there could be costs for developing and implementing such a system, there would also be certain benefits and efficiencies associated with its use. Law enforcement agencies that begin using a database reporting system could see reduced workloads related to pawnbroker checks. For example, a police officer may currently have to review individual index cards or disks sent to them through the mail or make stops at pawnshops to collect or review pawn tickets or sale forms in investigating a property crime. A database reporting system would enable local law enforcement agencies to have at least some of this information at their fingertips. A database reporting system would also permit information to be shared between law enforcement agencies more readily, aiding in the investigation of property crimes and the recovery of stolen property.

### **Hold orders**

Current law allows local law enforcement to require pawnbrokers to hold items for which there is probable cause to believe are stolen. The notice informing the pawnbroker of the item to be held must be in writing. The bill lengthens the amount of time that a pawnbroker must hold the item from a maximum of 30 days to up to 60 days after the item was initially reported by the pawnbroker to local law enforcement. This change may cause an increase in local law enforcement costs by continuing an investigation related to stolen items for a longer period of time; however, these costs could be offset by a greater success rate in convicting offenders.

### **Biennial reports**

The bill allows the Department of Commerce to adopt rules requiring each pawnbroker to file a biennial report. The report, which would be due to the Department by March 1st of the pawnbroker's filing year, is to disclose all relevant pawn transaction activity during the previous two calendar years, including certain specific items of information. The bill specifies that the information disclosed is confidential and thus not a public record. However, the Department can publish information in aggregate, such as the overall number of items surrendered to local law enforcement. It may be that the Department aggregates and analyzes the information for general analytical purposes, much as it does for similar reports submitted by Ohio Mortgage Loan Act and Small Loan Act licensees. If the Department elects to collect the biennial reports from pawnbrokers and publish aggregate information, administrative costs to the Department would be paid from Fund 5530.

## **Enforcement of new requirements**

Other changes involve how a pawnbroker is to conduct business. The bill makes changes to the allowable interest and other charges that pawnbrokers can assess for a loan. In addition, the bill lengthens the time a pawnbroker is required to retain any goods or articles purchased from 15 to 30 days after the purchase is made. Also, in the case of a member of the military who is deployed after he or she has entered into a pawn loan, the bill requires a pawnbroker to waive unpaid interest and hold pledged property that is pawned until 60 days after the pledgor or the pledgor's spouse or dependent returns from deployment. Since Ohio requires pawnbrokers to complete at least 12 hours of continuing education every two years, these changes, along with the other adjustments to the Pawnbrokers Law included in the bill, would presumably be communicated to pawnbrokers through the required continuing education courses.

As a result of these new requirements, there could be an overall increase in violations resulting in enforcement actions by the Department of Commerce or local authorities. Nevertheless, there are typically only a handful of violations committed by pawnbrokers in any given year, based on recent information contained within the Department's enforcement actions database. These violations are usually resolved through settlement agreements with the Department in lieu of formal disciplinary action. Most violations appear to be relatively minor, an example being the failure to complete the required number of continuing education hours. In general, the pawnbroker agrees to correct the problem and pay a fine that may be part of the settlement agreement.

Should a violation not be resolved through a settlement agreement, current law provides for criminal penalties to be assessed. A violation of the Pawnbrokers Law that does not involve acting as a pawnbroker without a license is classified as a misdemeanor of the third degree, which carries a maximum fine of \$500 and a maximum jail stay of 60 days, on a first offense and a misdemeanor of the second degree, which carries a maximum fine of \$750 and a maximum jail stay of 90 days, on each subsequent offense. In spite of these penalties, local jurisdictions generally have considerable discretion in the arrest, prosecution, and sanctioning of offenders. As a result, many of the penalties imposed in these cases will vary from the maximums under state law. In addition, court cost and fine revenue would offset some of any additional expense created for local criminal courts to adjudicate these matters. Finally, for any new misdemeanor cases, the state receives court costs totaling \$29. Of that amount, \$20 is deposited into the Indigent Defense Support Fund (Fund 5DY0) and \$9 is deposited into the Victims of Crime/Reparations Fund (Fund 4020).