

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Department of Commerce, Division of Financial Institutions

Regulation/Package Title: Pawnbroker Rules 2014

Rule Number(s): 1301:8-5-01; 1301:8-5-02; 1301:8-5-03; 1301:8-5-04; 1301:8-5-05
1301:8-5-06; 1301:8-5-07; 1301:8-5-08

Date: December 7, 2014

Rule Type:

- ☐ New
☐ Amended

- ☒ 5-Year Review
☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

These draft regulations amplify the Ohio Pawnbroker Act codified at Chapter 4727 of the Ohio Revised Code. These regulations are being filed as a no-change rule package with a

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review date shorter than 5 years. The Division is submitting them without changes and intends to begin the process of reviewing the regulations with stakeholders in 2015.

1301:8-5-01, Definitions (No change): The rule defines numerous terms used in R.C. Chapter 4727. Defining the terms "liquid assets," "each pawn or purchase," "month," "fraction of a month," "redeem/redemption," "employee," and "verify" provides clarity for stakeholders and those otherwise affected by the Pawnbroker Act.

1301:8-5-02, Advertising (No change): This rule defines "advertisement" and requires that the licensee's name, address and license number be included on all advertisements. A licensee must maintain a file of all advertisements for two years. This rule also clarifies requirements for internet advertising.

1301:8-5-03, Notifications (No change): This rule sets forth requirements to alert the superintendent concerning changes to business location, changes to posted hours of operation, surrender or non-renewal of license, and changes of designated individuals or salespeople. The rule also requires licensees that are going to sell active pawn loans to notify the pledgors/sellers within 30 days prior to the sale of the loan. The rule also sets forth that written notifications may be delivered by postal mail, in person, email or fax.

1301:8-5-04, Obstruction of inspection; statement to pledgor; authorized fees (No change): This rule prohibits licensees from obstructing Division examinations, requires fees and interest to appear on the licensee's copy of the pawn statement, requires licensees to maintain proof of third-party fees, and prohibits licensees from charging, demanding or receiving fees other than those authorized by R.C. 4727.06.

1301:8-5-05, Unlicensed pawnbrokers (No change): This rule prohibits an unlicensed pawnbroker from profiting from unlicensed loans and from continuing to possess the property pledged for such unlicensed loans.

1301:8-5-06, Purchases; list of property held for sale (No change): This rule requires an owner, officer, member, partner, stockholder, agent, or employee of a licensee who purchases personal property from the licensee must comply with the recordkeeping requirements and document the sale on the appropriate form.

1301:8-5-07, Payments on a pawn loan (No change): This rule clarifies how to properly charge interest and storage fees when a pledgor makes a principle reduction on a loan. This rule prohibits refinancing or establishing a new pawn date on a loan if a pledgor is unable to pay the monthly interest and storage fee, or to redeem the pledged item at the end of the pawn month. It clarifies how to calculate "thirty days from the date the notice was mailed" as used in R.C. 4727.11(A).

1301:8-5-08, Continuing education (No change): This rule clarifies the continuing education requirements in R.C. 4727.19. It sets forth the requirements for persons applying

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to offer continuing education courses, course approval criteria, and who needs to take continuing education on behalf of the licensee.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

R.C. 4727.13(A)

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program? If yes, please briefly explain the source and substance of the federal requirement.

No, these regulations do not implement a federal requirement.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The public purpose of this rule package is to provide clarity to licensed pawnbrokers as to the requirements of the Pawnbroker Act. In addition, the regulations protect consumers in pawnbroker transactions by ensuring that licensees have the requisite experience and fitness to act as a pawnbroker in compliance with the requirements of the Pawnbroker Act.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The rules will not affect the output of pawnbroker licenses issued by the Division. Rather, the Division will measure the success of these regulations by continuing to receive industry feedback on the licensing and regulation of pawnbrokers and by reviewing consumer complaints submitted to the Division.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

The Division contacted members of the Ohio Pawnbrokers Association listed below in person, via phone and email.

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Ohio Pawnbrokers Association:

Lou Tansky, President
Uncle Ben's Pawn Shop
2600 St. Clair Avenue
Cleveland, Ohio 44114

Raph Tincher, Treasurer
Ted's Pawn Shop
2026 Delaware Ave.
Norwood, Ohio 45212

Robert Lambert
85 E. Gay St. Suite 11C
Columbus, OH 43215

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

There was no opposition to filing this no-change rule package. Stakeholders are looking forward to the process of amending the rules in 2015.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Not applicable.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

Not applicable because this is a no-change rule package. The Division will begin the process of engaging stakeholders in 2015 and will be considering alternative regulations at that time.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

Not applicable.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

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Not applicable because this is a no-change rule package. The Division will begin the process of meeting with stakeholders to make substantive revisions in 2015 and will review all Ohio regulations to ensure there are no duplicative regulations.

13. Please describe the Agency’s plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The Division will post these rules on the Department of Commerce website, and send a notice to all licensees advising them of this no-change rule package.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

This rule package applies to licensed pawnbrokers. There are currently 145 licensed pawnbrokers with a total of 323 business locations.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

- Maintaining records of advertisements requires employee time for compliance.
- Notifications to the Division or to the pledgor or seller of an item require employee time for compliance
- Creating and maintaining records of pawn transactions requires employee time for compliance.
- Attending continuing education courses requires an expenditure of employee time and money.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative *business*.” Please include the source for your information/estimated impact.

- Maintaining copies of advertisements takes a minimal amount of time—5 minutes per advertisement. It requires the employee to file a copy of the advertisement in a filing system.

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- The cost of various notifications is minimal because all notifications may be delivered via email. The cost is the employee time necessary to email the notification to the Division or to the pledgor or seller of an item.
- It takes approximately 5 minutes to complete the appropriate pawnbroker form. Filling out forms documenting pawnbroker transactions is the only way the Division can verify a pawnbroker's compliance with the interest and fee limitations set forth in R.C. 4727.06 as well as the redemption and forfeiture of pawned property in R.C. 4727.11. Filling out pawn forms is integral to the business of a pawnbroker and is required by R.C. 4727.08.
- R.C. 4727.19 requires a pawnbroker to complete 12 hours of continuing education for every two-year license period, and salespersons must complete 8 hours for every two-year period. The cost of completing continuing education ranges from \$99 to \$395 dollars plus the employee time in the classroom. Many of the continuing education hours can be taken at the Ohio Pawnbroker Association's annual conference and the price is included in the registration fee. There are also approved online courses that cost \$140 for 8 hours of continuing education credit.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

Any adverse impacts to licensed pawnbrokers are justified in order to ensure that pawnbrokers are charging the legally permissible interest and fees set forth in the Pawnbroker Act, to protect consumers in pawnbroker transactions, to facilitate the return of stolen goods to the victims of theft, and to reduce crimes such as theft, money laundering and the fencing of stolen goods.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

The Division allows certain notifications to be made via email which saves time and postage.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

The Division resolves first-time recordkeeping violations involving incorrect pawn or purchase tickets through the examination process and imposes no fines.

18. What resources are available to assist small businesses with compliance of the regulation?

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The Chief Examiner of the Division speaks to the members of the Ohio Pawnbrokers Association at least once per year at their annual conference regarding compliance with the Pawnbroker Act and other laws affecting pawnbrokers. The Division and all examiners are available via telephone and at on-site examinations to answer questions and promote compliance with the Pawnbroker Act and its rules.

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