



Common Sense Initiative

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Business Impact Analysis

Agency, Board, or Commission Name: Department of Commerce, Division of Financial Institutions

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Regulation/Package Title (a general description of the rules' substantive content):

Pawnbroker Rules 2023

Rule Number(s): 1301:8-5-01 (Amend); 1301:8-5-02 (Amend); 1301:8-5-03 (Amend); 1301:8-5-04 (Amend); 1301:8-5-05 (No Change); 1301:8-5-06 (Amend); 1301:8-5-07 (Amend); 1301:8-5-08 (Amend).

Date of Submission for CSI Review: June 27, 2023

Public Comment Period End Date: July 21, 2023

Rule Type/Number of Rules:

New/_0_ rules

No Change/_1_ rules (FYR? _Yes_)

Amended/_7_ rules (FYR? _Yes_)

Rescinded/_0_ rules (FYR? _)

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The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☐ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☐ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☒ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☐ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. 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 Revised Code.

1301:8-5-01 Definitions (Amend): The rule defines numerous terms used in Chapter 4727. of the Revised Code. Changes are being made to clarify the definition of the term “picture identification.”

1301:8-5-02 Advertising (Amend): This rule defines "advertisement" and requires that the licensee's name, address, and license number be included on all advertisements. A licensee

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must maintain a file of all advertisements for two years. This rule also clarifies requirements for internet advertising.

1301:8-5-03 Notifications (Amend): This rule sets forth requirements that licensees must comply with when advertising and how records of advertisements must be maintained. This rule is being amended to simplify the requirements and clarify the language contained in the rule.

1301:8-5-04 Obstruction of inspection; statement to pledgor; authorized fees (Amend): This rule is being amended to clarify the language used regarding compliance with the Brady Handgun Violence Protection Act of 1993, 107 Stat. 1536, 18 U.S.C. 922.

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 (Amend): This rule prohibits licensees from purchasing personal property in such a manner as to circumvent the recordkeeping requirements set forth in Chapter 4727. of the Revised Code and requires them to document the acquisition of all property held for sale and specifies the acceptable methods for that documentation. This rule is being amended to clarify that the pledgor must sign all of the forms reference in paragraph (B) of this rule, and to require the documentation of certain information when a pawn is redeemed. This rule is being amended to clarify these requirements and to remove language that is duplicitious with Chapter 4727. of the Revised Code.

1301:8-5-07 Payments on a pawn loan (Amend):

This rule sets forth requirements regarding interest payments, refinancing, payment procedures, and the process for providing notice to the pledgor when the item is to be forfeited for nonpayment. This rule is being amended to remove duplicitious language and to clarify the procedure for counting the 30-day waiting period after notice of forfeiture is sent to the pledgor.

1301:8-5-08 Continuing education (Amend): This rule clarifies the continuing education requirements in section 4727.19 of the Revised Code. It sets forth the requirements for persons applying to offer continuing education courses, course approval criteria, and who needs to take continuing education on behalf of the licensee.

3. **Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

Section 4727.13(A) of the Revised Code.

4. **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.

5. **If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not Applicable.

6. **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 and comply with the requirements of the Pawnbroker Act.

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

The rules will not affect the number 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.

8. **Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

Development of the Regulation

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- 9. 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 proposed rules were sent to all of the main and branch licensees for review and comment, consisting of approximately 215 locations / 106 licensees.

The stakeholders were emailed on February 1, 2023 and were provided a link to the draft rules. They were given until February 23, 2023 to provide comments to the Division.

Comments could be submitted by regular mail, email, or telephone.

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

No comments were received by stakeholders.

- 11. 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.

- 12. 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? *Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.***

These regulations are subject to their five-year rule review; therefore, every rule was reviewed, and numerous alternatives were considered as part of the process. Ultimately, these regulations clarify and amplify the provisions in Chapter 4727. of the Revised Code and are constrained by the statutory requirements.

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

The Division is the primary regulator of licensees under the Pawnbroker Act and is not aware of any duplicative regulations.

- 14. 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 regulations have been available to stakeholders throughout the rule review process and will continue to be available to them through the Division's website throughout the JCARR process. Once finalized, the regulations will be brought to the attention of stakeholders at every available opportunity. Additionally, Division staff will be trained on the regulations to ensure their consistent application.

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Adverse Impact to Business

16. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

a. Identify the scope of the impacted business community, and

This rule package applies to licensed pawnbrokers. There are currently 106 licensed pawnbroker companies and 109 branch offices, for a total of 215 licensed business locations.

b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).

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.

1301:8-5-01 Definitions (Amend): This rule does not create an adverse impact as it simply defines the terms that are used throughout chapter 4727. of the Revised Code, and the Administrative Code.

1301:8-5-02 Advertising (Amend): Section 4727.16(A) of the Revised Code requires a licensee to include the name, address and license number in all advertisements, offers, and solicitations. In order to allow the Division to verify compliance with the statute this rule requires the licensee to maintain advertisements for two years from the date last disseminated. This rule requires a minimal expenditure of employee time in order to comply.

1301:8-5-03 Notifications (Amend): The adverse impact of this rule is minimal because all notifications may be delivered via email. This rule requires the employee time necessary to email the notification to the Division or the pledgor or seller of an item.

1301:8-5-04 Obstruction of inspection; statement to pledgor; authorized fees (Amend): There is no adverse impact associated with paragraphs (A) and (C) of this rule. Paragraph (B) of this rule requires a minimal expenditure of employee time to record the information on the licensee's copy of the pawn ticket. This is necessary to ensure that the licensee is not charging impermissible fees and that the consumer fully understands those fees.

1301:8-5-05 Unlicensed pawnbrokers (No Change): There is no adverse impact associated with this rule because it applies to unlicensed persons, and simply prevents them from profiting from unlicensed activity. This rule is necessary to protect consumers who obtain a loan from an unlicensed person. It also protects licensed pawnbrokers from unfair competition by unlicensed persons making pawn loans.

1301:8-5-06 Purchases; list of property held for sale (Amend): The rule requires a minimal expenditure of owner, officer, member, partner, stockholder, agent or employee time to comply. In order to document the acquisition of property and obtain the signature

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of the pledgor, it takes an individual approximately 5 minutes to complete the appropriate forms.

1301:8-5-07 Payments on a pawn loan (Amend): There is no adverse impact associated with this rule. It clarifies procedures for charging interest and storage fees and for calculating the number of days before a pledged item is forfeited.

1301:8-5-08 Continuing education (Amend): Section 4727.19 of the Revised Code, requires a pawnbroker licensee to designate one employee at each pawnbroker place of business to complete 8 hours of continuing education for every two-year period. The adverse impact of this rule is in the form of the fees charged for continuing education courses and licensee and/or employee time to complete the requirement.

- 17. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. *(Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors).***

The rules below are being amended to reduce regulatory requirements by clarifying the requirements, eliminating regulations that are duplicitous with statute and/or rule, and by simplifying the rules to make them more readable and easier to understand.

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- 18. 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

- 19. 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.

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20. 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.

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

Employees of the Division speak to the members of the Ohio Pawnbrokers Association periodically regarding compliance with the Pawnbroker Act and other laws and administrative rules affecting pawnbrokers. The Division also speaks with individual pawnbrokers when they have questions regarding compliance or the proper interpretation of the regulation. The Division's legal counsel, employees, licensing staff, and all examiners are available via telephone, email, and at on-site examinations to answer questions and promote compliance with the Pawnbroker Act and its rules.