Chapter 726

1979 REPLACEMENT PART

Pawnbrokers

GENERAL PROVISIONS

726.010 Definitions
726.020 Short title; application of chapter
726.030 Construction of chapter

LICENSING

726.040 Pawnbroker license required
726.050 Residence qualifications of licensee
726.060 Application for license; notice of filing; annual fee
726.070 Applicant to furnish bond; actions on bond
726.075 Grounds for denial of license
726.080 Issuance and denial of license
726.090 Form of license; posting; transferability
726.100 Additional licenses to same applicant
726.110 Change of place of business
726.120 Annual fee
726.130 Annual report of licensee
726.150 Revocation and suspension of license
726.155 License denial procedure; review of orders
726.170 Reinstatement and reissue of license; fee
726.180 Expiration of license; effect of expiration, revocation or surrender
726.190 Surrender of license
726.250 Investigation and examination of licensee
726.255 Investigation of pawnbrokers by Superintendent of Banks; oaths; witnesses; subpenas; depositions

REGULATION

726.260 Rules and regulations
726.270 Prohibited transactions
726.280 Register and records of licensee
726.285 Records of transactions by pawnbroker; delivery of copies to local police agency
726.290 Signing of card, stub or record by pledgor
726.300 Contents of pawn ticket; effect
726.310 Holder presumed entitled to redeem
726.320 Redemption by mail
726.330 Delivery of pledge upon surrender of pawn ticket
726.340 Loss, destruction or theft of pawn ticket; liability
726.350 Alteration
726.360 Spurious pawn tickets
726.370 Multiple claimants of pledge; interpleader
726.380 Loss of or injury to pledge; lien on pledge
726.390 Interest rates and charges
726.395 Charge for pledge of firearm required by law to be registered
726.400 Loan period; forfeiture of pledge; notice; period for redeeming pledge
726.410 Record of forfeited pledges
726.420 Effect of charging excessive interest or fees

PENALTIES

726.910 Civil penalties
726.990 Penalties

CROSS REFERENCES

Administrative procedures and rules of state agencies, 183.310 to 183.500
Consumer finance, Ch. 725
Credit life and credit health insurance, 743.561 to 743.588
Debt consolidating, 697.615

726.390
Usurious interest, 82.010

GENERAL PROVISIONS

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

(1) "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 Motor Vehicles Division of 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 Motor Vehicles Division of the Department of Transportation, securities or printed evidences of indebtedness on the direct or implied condition of selling it back at a stipulated price which 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 Motor Vehicles Division of the Department of Transportation.

(2) "Pledge" means any article deposited with a pawnbroker in the course of his business as defined in subsection (1) of this section.

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

(4) "Pledge loan" means a loan made by a pawnbroker to a pledgor and secured by a pledge. [Amended by 1971 c.168 §1]

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 he is a licensed pawnbroker, except as authorized by this chapter and without first procuring a license from the Superintendent of Banks 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; annual fee. (1) Application for the license shall be in writing in the form prescribed by the Superintendent of Banks 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 or town with street and number, if any, where the business is to be conducted and such other information which the Superintendent of Banks may require.

(2) Before issuing any license, the Superintendent of Banks shall post notice of filing of the application in his office for a period of 30 days. The Superintendent of Banks, in his discretion, 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 his personal representative or successor in interest; or

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

(3) The applicant at the time of making application shall pay to the Superintendent of Banks for the State Banking Fund the sum of $100 as an annual license fee for a period terminating on the last day of the current calendar year. However, if the application is filed after June 30 in any year the license fee shall be $50.

(4) In case the license is not issued, the Superintendent of Banks shall refund to the applicant all the license fee except $25 which shall be retained to cover expenses incurred; otherwise, no part of any license fee shall be refunded. [Amended by 1971 c.218 §1]

726.070 Applicant to furnish bond; actions on bond. (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 shall accompany the application and be maintained by the pawnbroker licensee with the Superintendent of Banks. This bond 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 under this chapter. The bond 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 Superintendent of Banks 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. Before the bond is finally accepted by the Superintendent of Banks it shall be approved by the Attorney General.

(2) If any person is aggrieved by the misconduct of a pawnbroker or by his 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 his own use upon the bond of the pawnbroker in any court having jurisdiction of the amount claimed. The Superintendent of Banks shall furnish to anyone applying therefor, a certified copy of any such bond filed with him upon the payment of a fee of $5 and the certified copy shall be prima facie evidence in any court that the bond was duly executed and delivered by each pawnbroker whose name appears thereon. [Amended by 1971 c.218 §2; 1979 c.202 §2]

726.075 Grounds for denial of license. The Superintendent of Banks 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 his liabilities exceed his assets or that he cannot meet his obligations as they mature, or is in such financial condition that he cannot continue in business with safety to his customers;

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

(3) Has wilfully 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 felony or of a misdemeanor, an essential element of either 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 superintendent or of any other regulatory authority of this state subjecting him to a fine or other civil penalty, or removing him from an office in a financial institution, credit union, consumer finance company or savings association; or

(8) Is the subject of an order entered within the past five years, subjecting him to a fine or other civil penalty, or removing him from an office in a financial institution, issued by the regulatory authority of another state or of the Federal Government with authority over financial institutions. [1977 c.135 §55]

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 Superintendent of Banks might warrant the refusal of the granting of a license, including the reasons set out in ORS 726.075, he shall issue a license within 10 days after the expiration of the required 30-day filing period or, if he has waived the filing period, within 10 days after the date the application was received.

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

726.090 Form of license; posting; transferability. The licenses shall be in a form prescribed by the Superintendent of Banks 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 his license. The Superintendent of Banks may issue more than one license to the same pawnbroker upon his 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. Whenever a pawnbroker changes his place of business to another location within the same city or town, he shall at once give written notice thereof to the Superintendent of Banks and shall surrender his 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 Superintendent of Banks 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 Annual fee. Every pawnbroker, on or before December 15 of each year, shall pay to the Superintendent of Banks the annual license fee of $100 for the next succeeding calendar year. [Amended by 1971 c.218 §6]

726.130 Annual report of licensee. Every pawnbroker, on or before January 15, shall submit to the Superintendent of Banks an annual report under oath in such form as may be prescribed by the superintendent, 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 Superintendent of Banks.

726.140 [Repealed by 1971 c.743 §432]

726.150 Revocation and suspension of license. (1) The Superintendent of Banks may revoke any license under this chapter if he 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 Superintendent of Banks 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 superintendent 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 Superintendent of Banks in refusing originally to issue the license.

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

(3) The Superintendent of Banks may revoke or suspend only the particular license

with respect to which grounds for revocation or suspension occur or exist, or, if he 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, he 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 License denial procedure; review of orders. (1) Where the superintendent 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 183.310 to 183.500.

(2) Judicial review of orders under subsection (1) of this section shall be as provided in ORS 183.310 to 183.500. [1971 c.734 §179]

726.160 [Repealed by 1971 c.734 §21]

726.170 Reinstatement and reissue of license; fee. The Superintendent of Banks 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 superintendent 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 expiration, revocation or surrender. 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 Superintendent of Banks written notice that he 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 lawfully required by him under this chapter, the Superintendent of Banks may at any time, either personally or by a duly appointed examiner or deputy, investigate the pledge loans and business and examine the books, accounts, records and files used therein of every pawnbroker and of every person who he 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 Superintendent of Banks or his duly appointed examiner or deputy 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, or the sum of $20, whichever is larger, shall be paid to the Superintendent of Banks for the State Banking Fund by every licensee so examined. The Superintendent of Banks may maintain an action for recovery of such costs in any court of competent jurisdiction. The Superintendent of Banks or his duly appointed examiner or deputy may examine under oath all persons whose testimony he may require relative to such pledge loans or business.

(2) At least once a year or as often as he may deem necessary the Superintendent of Banks or a duly appointed examiner or deputy shall make an examination of the pledge loans and business, office records and files of each licensed pawnbroker. [Amended by 1973 c 449 §1]

726.255 Investigation of pawnbrokers by Superintendent of Banks; oaths; witnesses; subpenas; depositions. (1) For the purpose of an investigation or proceeding under the Pawnbrokers Act, the Superintendent of Banks may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence and require the production of books, papers, correspondence, memoranda, agreements or other documents or records which the Superintendent of Banks considers relevant or material to the inquiry.

(2) If a person fails to comply with a subpena 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 Superintendent of Banks, shall compel obedience in the manner provided by law in the case of disobedience to a subpena issued in a civil action in the circuit court.

(3) Each witness who appears before the Superintendent of Banks under a subpena shall receive the fees and mileage provided for witnesses in civil cases, except a witness sub-

penaed at the instance of parties other than the Superintendent of Banks or his examiner shall not be compensated for attendance or travel unless the Superintendent of Banks certifies that his testimony was material to the matter investigated.

(4) The Superintendent of Banks may, in any investigation, 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]

REGULATION

726.260 Rules and regulations. The Superintendent of Banks may make such general rules and regulations and such specific rulings, demands and findings as may be necessary for the proper conduct of the pawnbroker business and the enforcement of this chapter, in addition and not inconsistent with this chapter.

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 he 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 him 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 Superintendent of Banks 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]

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 his 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 his agent to write his signature and address 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 he shall sign his mark, and in such event the pawnbroker shall record on the signature card, stub or record such information as will enable him 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 his agent 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 subsection (2) of ORS 726.400.

(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 him. [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 as desired and $2 for packing, 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, the cost of shipment as desired and $2 for packing, 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 his agent. [Amended by 1973 c.449 §4]

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 he 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 him 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 him, 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 to the Superintendent of Banks accompanied by a letter of explanation.

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, he 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 he 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 his 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. He 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) No pawnbroker shall charge, contract for or receive interest at a rate in excess of three percent per month on that part of the unpaid principal balance not in excess of $500, and one and three-fourths percent per month on that part of the unpaid principal balance in excess of $500 but not in excess of $2,500, to be computed exactly on the total aggregate of all unpaid balances on pledge loans to any person. However, on pledge loans redeemed within the first month the pawnbroker may charge a month's interest, or he may charge $2 where the interest accumulated amounts to less. The interest shall not be compounded and no amount whatsoever shall be deducted or received in advance.

(2) A set-up fee of 10 percent may be charged on all loans of $25 or more with a maximum charge of $5.

(3) No further or other charge or amount whatsoever shall be charged, contracted for or received in addition to the interest provided for in this section.

(4) No pawnbroker shall charge, contract for or receive any interest, discount or consideration at a rate greater than 10 percent per annum on pledge loans to any person in the aggregate sum of more than $2,500. [Amended by 1973 c.449 §5; 1979 c.202 §6]

726.395 Charge for pledge of firearm required by law to be registered. A charge of $1 may be charged a pledgor or customer who places with the pawnbroker firearms required to be registered under the laws of the United States. [1973 c.449 §3]

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 six months, but a pledge may be redeemed and the pledge loan repaid at any time prior to the expiration of the loan period. All pawn tickets shall clearly state the expiration date of the loan.

(2) Except for a pledge securing a pledge loan of less than $100, 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 delivered in writing in a securely closed, postpaid, registered or certified letter, return receipt required, directed to the pledgor at the last-known address shown on the pawnbroker's record, notifying such pledgor of the forfeiture of the pledge. The registered or 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 six-month period, or less, by paying all the accrued interest to date. There shall be no grace period following the expiration of any renewal.

(3) Any pledge which is not redeemed within 30 days after the expiration of the six-month 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 his own property. [Amended by 1973 c.449 §6; 1979 c.202 §7]

726.410 Record of forfeited pledges. Every pawnbroker shall keep a separate record in ink, 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.

726.420 Effect of charging excessive interest or fees. If any pawnbroker or agent, member, officer or employe thereof, or any other person is found by the Superintendent of Banks 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. He shall upon order of the Superintendent of Banks 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]

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 and pay to the State Treasurer to be deposited in the State Banking Fund a civil penalty in an amount determined by the Superintendent of Banks of not more than $2,500. In addition, the Superintendent of Banks 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.

(3) In any court action with respect to a civil penalty, the court may review the penalty as to both liability and reasonableness of amount. [1975 c.544 §61]

726.990 Penalties. (1) Violation, or participation in the violation, of ORS 726.040, 726.100, 726.110, 726.270, 726.390 or 726.400 by any pawnbroker or any agent, member, officer or employe 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 he is an agent or member, until two years after the date of the conviction. [Amended by 1971 c.743 §425]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
October 1, 1979.

Thomas G. Clifford
Legislative Counsel