

Hall of the House of Representatives

91st General Assembly - Regular Session, 2017

Amendment Form

Subtitle of House Bill No. 2164

TO AMEND THE LAW CONCERNING PAWNBROKERS; TO CREATE THE ARKANSAS PAWNBROKER ACT; AND TO CREATE THE PAWNBROKER LICENSURE COMMISSION.

Amendment No. 1 to House Bill No. 2164

Amend House Bill No. 2164 as originally introduced:

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code Title 17 is amended to add an additional chapter to read as follows:

Chapter 56

ARKANSAS PAWNBROKER ACT

Subchapter 1 – General Provisions

17-56-101. Title.

This chapter shall be known and may be cited as the "Arkansas Pawnbroker Act".

17-56-102. Legislative declarations, findings, and intent.

(a) The General Assembly finds that the State of Arkansas recognizes and desires to protect the unique nature of a pawn transaction and the legitimate business purpose of the pawn industry.

(b) The General Assembly declares that:

(1) The pawn industry provides a valuable service to the citizens in the State of Arkansas that is not available in type, character, or convenience in the financing or banking industries;

(2) Most customers of the pawn industry are not able to engage in transactions in the financing and banking industries;

(3) The unique characteristics of a pawn include the following:

(A) A pawn is a non-recourse transaction in which the pawn customer pledges and delivers into the possession of the pawnbroker items of tangible personal property that secure the advancement of funds;

(B) Pawn transactions that are personal, face-to-face, and seldom take more than ten (10) minutes;

(C) Because there is no obligation on the part of the pawn customer to redeem the item of tangible personal property pledged, pawnbrokers do not have debt to collect or obligation to enforce, and the pawnbroker's sole recourse if the customer elects not to redeem the tangible



personal property is retention and disposal;

(D) Pawnbrokers do not obtain reports from credit reporting agencies and do not report customer experiences, so pawn transactions do not affect customer's credit scores either as credit inquiries or as credit history whatsoever; and

(E) Customers receive reasonable value for the item or items pledged as evidenced by the large number of customers who utilize the pawn model;

(4) Substantial and recurring overhead expense is required by persons in the pawn industry to be able to offer pawn service, and pawnbrokers must maintain, secure, and insure the property delivered throughout the time it remains in their possession; and

(5) The pawn industry substantially assists in the recovery of stolen property and is helpful to law enforcement agencies against those persons looking to capitalize on stolen property through the pawn model.

(c) Although the pawn industry's existence predates Arkansas, the pawn industry has modern challenges that need to be regulated for the common protection and interest of the pawn industry and the citizens of the State of Arkansas.

(d) It is the intent of the General Assembly to legislatively modernize the pawn industry, protect the citizens of the State of Arkansas, protect the ability of the pawn industry to operate in the State of Arkansas, recognize the distinction between persons in the pawn industry from persons engaged in financing and banking transactions, and encourage and facilitate the return of stolen property.

17-56-103. Administration.

The Arkansas Commission on Law Enforcement Standards and Training shall administer the provisions of this chapter.

Subchapter 2 – Pawnbroker Licensure Commission

17-56-201. Pawnbroker Licensure Commission – Creation – Membership.

(a) There is created the Pawnbroker Licensure Commission.

(b) Membership of the commission shall include:

- (1) One (1) resident of this state, appointed by the Governor;
- (2) Two (2) law enforcement officers who are employed by the Department of Arkansas State Police, appointed by the Governor; and
- (3) Two (2) residents of the state each of whom is actively engaged in business as a pawnbroker, appointed by the Governor.

(c) A vacancy in the membership of the commission shall be filled in the same manner under subsection (b) of this section.

(d) The commission shall select from its membership a chair of the commission.

(e) Members of the commission shall serve staggered terms of four (4) years.

17-56-202. Duties – Rulemaking authority.

(a) The Pawnbroker Licensure Commission shall:

(1) Promulgate, amend, and rescind rules, forms, and orders that the commission deems necessary or appropriate, including without limitation rules and forms governing:

(A) Eligibility and application requirements;
(B) Licensing and continuing education requirements;
(C) Licensing and application fees;
(D) Procedures concerning the suspension, revocation, and
surrender of a license;
(E) Prohibited acts under this chapter;
(F) The right to redeem;
(G) A pawnbroker's lien; and
(H) The procedure concerning hold orders;
(2) Define terms, whether or not used in this chapter, if
consistent with this chapter; and
(3) Promulgate rules to ensure that:
(A) The interest charged on a pawn transaction is
designated as an annual percentage rate that shall not exceed seventeen
percent (17%) of the amount financed per annum; and
(B) A pawnbroker may charge a pawn service charge that is
reasonably justifiable for the burden of all services related to maintenance
of the security in the pawnbroker's possession, including storing, insuring,
and investigating the title of the security, but the total pawn service
charge shall not exceed twenty-five percent (25%) of the amount financed for
each thirty-day period in a pawn transaction, except that the pawnbroker is
entitled to receive a minimum pawn service charge of five dollars (\$5.00) for
each fifteen-day period.
(b) A rule, form, or order shall not be made, amended, or rescinded
unless the commission finds that the action is:
(1) Necessary and appropriate in the public interest or for the
protection of consumers; and
(2) Consistent with the purposes fairly intended by the policy
and provisions of this chapter.
(c) All rules and forms of the commission shall be published."

The Amendment was read _____
By: Representative Tosh
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Chief Clerk