

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: H3/14/17 H3/20/17*

2 91st General Assembly

A Bill

3 Regular Session, 2017

HOUSE BILL 2164

4

5 By: Representative Tosh

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7

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING PAWNBROKERS; TO
9 CREATE THE ARKANSAS PAWNBROKER ACT; TO CREATE THE
10 PAWNBROKER LICENSURE COMMISSION; AND FOR OTHER
11 PURPOSES.

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Subtitle

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16 TO AMEND THE LAW CONCERNING PAWNBROKERS;
17 TO CREATE THE ARKANSAS PAWNBROKER ACT;
18 AND TO CREATE THE PAWNBROKER LICENSURE
19 COMMISSION.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

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25

Chapter 56

26

ARKANSAS PAWNBROKER ACT

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Subchapter 1 – General Provisions

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17-56-101. Title.

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

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

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

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1 legitimate business purpose of the pawn industry.

2 (b) The General Assembly declares that:

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

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

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

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

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

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

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

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

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

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

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

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

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8 17-56-103. Administration.

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

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12 Subchapter 2 – Pawnbroker Licensure Commission

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14 17-56-201. Pawnbroker Licensure Commission – Creation – Membership.

15 (a) There is created the Pawnbroker Licensure Commission.

16 (b) Membership of the commission shall include:

17 (1) One (1) resident of this state, appointed by the Governor;

18 (2) Two (2) law enforcement officers, appointed by the Governor;

19 and

20 (3) Two (2) residents of the state each of whom is actively
21 engaged in business as a pawnbroker, appointed by the Governor.

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

24 (d) The Governor shall select from the membership of the commission a
25 chair of the commission.

26 (e) Members of the commission shall serve staggered terms of seven (7)
27 years.

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29 17-56-202. Duties – Rulemaking authority.

30 (a) The Pawnbroker Licensure Commission shall:

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

34 (A) Eligibility and application requirements;

35 (B) Licensing and continuing education requirements;

36 (C) Licensing and application fees;

1 (D) Procedures concerning the suspension, revocation, and
2 surrender of a license;

3 (E) Prohibited acts under this chapter;

4 (F) The right to redeem;

5 (G) A pawnbroker's lien; and

6 (H) The procedure concerning hold orders;

7 (2) Define terms, whether or not used in this chapter, if
8 consistent with this chapter; and

9 (3) Promulgate rules to ensure that:

10 (A) The interest charged on a pawn transaction is
11 designated as an annual percentage rate that shall not exceed seventeen
12 percent (17%) of the amount financed per annum; and

13 (B) A pawnbroker may charge a pawn service charge that is
14 reasonably justifiable for the burden of all services related to maintenance
15 of the security in the pawnbroker's possession, including storing, insuring,
16 and investigating the title of the security, but the total pawn service
17 charge shall not exceed twenty-five percent (25%) of the amount financed for
18 each thirty-day period in a pawn transaction, except that the pawnbroker is
19 entitled to receive a minimum pawn service charge of five dollars (\$5.00) for
20 each fifteen-day period.

21 (b) A rule, form, or order shall not be made, amended, or rescinded
22 unless the commission finds that the action is:

23 (1) Necessary and appropriate in the public interest or for the
24 protection of consumers; and

25 (2) Consistent with the purposes fairly intended by the policy
26 and provisions of this chapter.

27 (c) All rules and forms of the commission shall be published.

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29 /s/Tosh
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