HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 3070 By: Worthen of the House

and

Treat of the Senate

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 2011, Section 1512, as amended by Section 16, State Question No. 780, Initiative Petition No. 404 (59 O.S. Supp. 2017, Section 1512), which relates to the Oklahoma Pawnshop Act; modifying penalties; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2011, Section 1512, as amended by Section 16, State Question No. 780, Initiative Petition No. 404 (59 O.S. Supp. 2017, Section 1512), is amended to read as follows:

Section 1512. A. Rule Making Power. The Administrator shall have the same authority to adopt, amend and repeal rules as is conferred upon him by paragraph (e) of subsection (1), and subsections (2) and (3) of Section 6-104 of Title 14A of the

Oklahoma Statutes, as applicable, and such rules shall have the same effect as provided in subsection (4) of Section 6-104 thereunder. In addition, the Administrator may adopt, amend and repeal such other rules as are necessary for the enforcement of the provisions of Section 1501 et seq. of this title and consistent with all its provisions.

B. Administrative Enforcement. Compliance with the provisions of this act may be enforced by the Administrator who may exercise, for such purpose, all the powers enumerated in Part 1 of Article 6, Title 14A of the Oklahoma Statutes, in the same manner as in relation to consumer credit transactions under that act, as well as those powers conferred in this act.

C. Criminal Penalties. 1. Any person who engages in the business of operating a pawn shop without first securing the license prescribed by this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not in excess of One Thousand Dollars ($1,000.00), by confinement in the county jail for not more than six (6) months or by both.

2. Any person selling or pledging property to a pawnbroker who uses false or altered identification or a false declaration of ownership as related to the provisions of Section 1515 of this title shall, if the value of the property is One Thousand Dollars ($1,000.00) or more, be guilty of a felony, and upon conviction shall be punished by imprisonment in the State Penitentiary not to

exceed five (5) years or in the county jail not to exceed one (1) year, or by a fine not to exceed Five Hundred Dollars ($500.00), or by both such imprisonment and fine. <u>If the value of the property received is less than One Thousand Dollars ($1,000.00), the person shall be guilty of a misdemeanor and shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment in the county jail for a term not to exceed six (6) months, or by both such fine and imprisonment.</u> However, if the property <u>is one or more firearms, or</u> was acquired by means of robbery or burglary, the person shall be punished by imprisonment in the State Penitentiary not to exceed five (5) years or in the county jail not to exceed one (1) year, or by a fine not to exceed Five Hundred Dollars ($500.00), or by both such imprisonment and fine, without regard to the value of the property.

3. Any person who fails to repay a pawnbroker the full amount received from a pawn or buy transaction after being officially notified by a peace officer that the goods he pledged or sold in that transaction were stolen or embezzled shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for a term not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars ($500.00), or by both such fine and imprisonment.

D. Private Enforcement. 1. If any person engages in the business of operating a pawnshop without first securing the license prescribed by this act, or if any pawnbroker contracts for, charges or receives a pawn finance charge in excess of that authorized by this act, the pawn transaction shall be void and the customer is not obligated to pay either the amount financed or the pawn finance charge in connection with the transaction, and upon the customer's demand, the pawnbroker shall be obligated to return to the customer, as a refund, all amounts paid in connection with the transaction by the customer and the pledged goods delivered to the pawnbroker in connection with the pawn transaction or their value if the goods cannot be returned. If a customer is entitled to a refund under this section and a pawnbroker liable to the customer refuses to make the refund within a reasonable time after demand, the customer shall have an action against the pawnbroker and in the case of a successful action to enforce such liability, the costs of the action together with ~~attorney's~~ <u>attorney</u> fees as determined by the court shall be awarded to the customer.

2. A pawnbroker who fails to disclose information to a customer entitled to the information under this act is liable to that person in an amount equal to the sum of:

a. twice the amount of the pawn finance charge in connection with the transaction, or One Hundred Dollars ($100.00), whichever is greater~~;~~<u>,</u> and

b. in the case of a successful action to enforce the liability under paragraph 1 of this subsection, the costs of the action together with reasonable ~~attorneys'~~ attorney fees as determined by the court.

SECTION 2. This act shall become effective November 1, 2018.

COMMITTEE REPORT BY: COMMITTEE ON BANKING AND BUSINESS, dated 02/27/2018 - DO PASS, As Coauthored.