

Date of Hearing: April 1, 2024

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Timothy Grayson, Chair

AB 2231 (Gipson) – As Introduced February 8, 2024

SUBJECT: Pawnbrokers: education

SUMMARY: Establishes the California Pawnbroker Education Council (Council) for the purposes of creating a required curriculum for licensed pawnbrokers.

Specifically, **this bill:**

- 1) Establishes the Council, comprised of at least the following members serving a two-year term:
 - a) A representative of the California Police Chiefs Association or the California State Sheriffs' Association, unless those entities choose not to appoint a member.
 - b) Someone appointed by the Secondhand Dealer and Pawnbroker Unit of the Department of Justice (DOJ), unless the DOJ chooses not to appoint a member.
 - c) Four licensed pawnbrokers and one licensed attorney selected by a professional society, association, or other entity whose membership is comprised of licensed pawnbrokers and has at least 200 individual members and was established prior to 2000.
- 2) Authorizes the Council to take any reasonable actions necessary to carry out the required duties and responsibilities, including hiring staff, entering into contracts, and developing policies, procedures, rules, and bylaws. The Council may also establish fees sufficient to support its functions.
- 3) Requires the Council to develop and establish a standard course and curriculum in pawnbroker transactions that include at least eight hours of pre-licensing education and eight hours of continuing education, to be taken by an applicant for licensure or a licensee, or their designated representative. The curriculum shall cover, at a minimum, the following topics:
 - a) Compliance with federal laws applicable to the pawnbroker business, including, but not limited to, bankruptcy, search and seizure, anti-money laundering, and lending laws.
 - b) Compliance with state laws applicable to the pawnbroker business and the reporting requirements imposed upon secondhand dealers.
- 4) Requires, as a condition for licensure, an applicant for a pawnbroker's license to complete at least eight hours of education approved by the Council, and requires an applicant for license renewal to complete at least eight hours of continuing education. The applicant must submit to the licensing agency a certificate of completion issued by the Council.
- 5) Requires the Council to develop policies, procedures, rules, or bylaws governing the process for applying to become, approving, denying the approval of, imposing correction action

upon, or withdrawing the approval of, an educational course provider. These policies, procedures, rules, or bylaws shall address topics including, but not limited to, what constitutes an acceptable curriculum and facility requirements.

EXISTING LAW:

- 1) Defines a pawnbroker as any person engaged in the business of receiving goods, including motor vehicles, in pledge as security for a loan, and defines pledged property as property held as security for a loan, the title to which remains with the pledgor (i.e., the borrower) and not the pawnbroker (Financial Code Sections 21000 and 21002).
- 2) Provides for the licensing of pawnbrokers by a chief of police, sheriff, or police commission (Financial Code Section 21300).

FISCAL EFFECT: Unknown. This bill is keyed Fiscal by Legislative Counsel.

COMMENTS:

1) **Purpose.**

According to the author:

AB 2231 proposes mandatory education for all pawnbrokers before receiving licensure, and continuing education every two years coinciding with the pawnbroker's license renewal. Mandatory education will establish and maintain professional standards essential to protecting both consumers and pawnbrokers. Pawnbrokers have long served as an essential service to underserved communities that are unbanked, or have insufficient credit scores, to acquire short term loans from traditional banks. Ensuring that Pawnbrokers have adequate training in laws and regulations, business practices, security, and ethics will help them service their communities to their fullest capabilities. Educated pawnbrokers are also better able to provide advice and guidance to consumers.

2) **Background on pawn loans.**

a) **How do pawn loans work?**

Pawn loans allow individuals to obtain immediate cash by offering collateral to a pawn shop. Typically, the loan amount is determined as a percentage of the item's value, assessed by the pawnbroker. Pawn loans commonly amount to approximately 50% of the item's resale value, though this percentage may vary depending on the type of item.

Every pawn loan for which goods are received as security must be evidenced by a written contract, with a copy provided to the customer. Legally, the loan agreement must specify a minimum loan period of four months. Pawnbrokers are obligated to keep every pledged item throughout the designated loan period as outlined in the contract.

State law establishes the timeline for when, and the process by which, a pledged article can be sold. If any pledged article is not redeemed during the loan period and the customer and pawnbroker do not mutually agree in writing to extend that period, the

pawnbroker must notify the customer within one month after the loan period expires. This notice works to extend the right of redemption for a period of 10 days from the date of mailing or electronic transmission of that notice.

If any pledged article is not redeemed within the 10-day notice period, the pawnbroker becomes automatically vested with title to the pledged article. The pawnbroker may then sell or dispose of the property as he or she wishes.

b) Who uses pawn loans?

When consumers face difficulty qualifying for credit from traditional sources such as banks and credit unions, they often resort to alternative financial services (AFS) providers like payday lenders or auto title lenders. These borrowers pose higher risks for lenders, leading many AFS providers to offer credit at significantly higher costs compared to mainstream credit products. A pawnbroker is another type of AFS provider that offers a financial solution to consumers who may have few options.

Surveys conducted by the Consumer Financial Protection Bureau (CFPB) and the Federal Deposit Insurance Corporation (FDIC) indicate that pawn loan borrowers are more likely to be unbanked, often unable to qualify for more economical credit alternatives, and likely grappling with significant income or expense shocks.

In 2021, the CFPB analyzed consumer behavior in their use of three AFS products: auto title loans, payday loans, and pawn loans. Based on the survey results, CFPB concluded that those who rely on these products valued the speed, discretion, and the lack of a credit check as key reasons for deciding on their choice, and 77% of the consumers using these AFS products had experienced a financial shock and had difficulty paying a bill. Moreover, while just a small share of consumers use these products, those who do use them tend to use them repeatedly.

Pawn loans are also more likely to be used by those without traditional bank accounts. According to the FDIC, 5.6% of unbanked households used a pawnshop loan in 2019 compared to 1.1% of banked households.¹

c) How are pawn shops regulated?

Under state law, California's Department of Justice (DOJ) regulates pawnbrokers and enforces California's Financial Code provisions governing the industry. However, in practice, the bulk of pawnbroker oversight occurs at the local level, with the chief of police, sheriff, or police commissioner running the licensing process and administering and enforcing state law. Under this model, the DOJ provides pertinent information to local licensing agencies, such as background check results and a license number. Moreover, the DOJ has implemented a statewide uniform electronic reporting system called the California Automated Pawn and Secondhand Dealer System (CAPPS), for pawnbrokers to use to submit transaction information to DOJ.

3) What does AB 2231 do?

¹ <https://www.fdic.gov/analysis/household-survey/index.html>

AB 2231 creates new continuing education requirements for licensed pawnbrokers. According to the bill's sponsor, these requirements will help uphold the integrity of California's pawn industry, protect consumers, and enhance the quality of service. Council membership would include representatives from DOJ and local licensing authorities, but a majority of members will be industry representatives.

This bill will also align California with a handful of other states that require some form of continuing education for licensed pawnbrokers. For example, Ohio requires pawnbrokers to have eight hours of continuing education every two years as a condition for licensure. However, unlike AB 2231, Ohio's curriculum must be directly approved by the Superintendent of Financial Institution after consulting with an industry representative.²

One key policy consideration for committee members is whether the proposed Council, primarily comprised of industry representatives, will effectively achieve the stated objectives and meaningfully improve outcomes for both industry and borrowers. Or, to put it another way: why can't the industry educate itself? The implication of AB 2231's continuing education requirement is that some portion of the pawnbroker industry would greatly benefit from required training on topics such as federal anti-money laundering laws, and this need justifies the creation of a quasi-governmental body with dedicated staff and new procedures.

As the bill moves through the legislative process, the author may wish to consider the following changes to strengthen the continuing education requirement so that it is a meaningful policy intervention. First, as currently drafted, AB 2231 requires only one "designated representative" of a licensee to complete the education requirement. This means that in many cases a pawnbroker's employees interacting with customers may not receive this education and may not be fully up to speed on these topics. The author may wish to consider expanding this bill to apply to all of a licensee's employees. Second, the author may wish to assign greater control over the curriculum to the DOJ, similar to the process seen in Ohio.

Importantly, AB 2231 does not supplant the existing rules for pawnbrokers, nor does it allow "education" to replace compliance with federal or state laws. AB 2231's education requirement is purely additive to the many rules that pawnbrokers must follow.

4) **Support.**

AB 2231 is sponsored by the California Pawnbroker Association, whose letter argues:

Pawnbrokers who are properly educated and trained are better able to assess the value of items that are pawned, detect counterfeit items commonly used as collateral, and therefore protect themselves from making a loan not supported by the collateral. Educated pawnbrokers are also better able to provide advice and guidance to consumers. Mandatory education will establish and maintain professional standards essential to protecting both consumers and pawnbrokers.

² <https://codes.ohio.gov/ohio-revised-code/section-4727.19>

REGISTERED SUPPORT / OPPOSITION:

Support

The California Pawnbrokers Association (Sponsor)

Opposition

None on file.

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