

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1878
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Economic Development
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Committee Report (Substituted)

DIGEST

Currently, the license reinstatement period for a pawnshop and the license filing period for a pawnshop employee create delays for the pawnshop industry and its regulators. The licensing requirement for new pawnshops entails an investigational process by which the commissioner of consumer credit (commissioner) determines eligibility for a pawnshop license. Additionally, disputes regarding lost or damaged goods have crowded court dockets. C.S.H.B. 1878 would set forth provisions regarding applications for new pawnshops; relocation of pawnshops; license reinstatement period for pawnshops; and license requirements for pawnshop employees; and would clarify the requirements for net assets.

PURPOSE

As proposed, C.S.H.B. 1878 sets forth provisions regarding the regulation of pawnshops and pawnshop employees.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 371.059, Finance Code, as follows:

Sec. 371.059. APPROVAL; ISSUANCE OF LICENSE. Requires the commissioner of consumer credit (commissioner) to approve the application and issue a license, subject to Subsection (b).

(b) Requires the commissioner to approve an application for an original license to operate a pawnshop at a facility that is not an existing licensed pawnshop at the time the application is filed if the proposed facility is not located within two miles of a licensed pawnshop; the relocation of a licensed pawnshop to a facility that is not an existing licensed pawnshop at the time the application is filed if the facility where the pawnshop is to be relocated is not located within one mile of a licensed pawnshop; and the relocation of a licensed pawnshop if at the time the application is filed the pawnshop has been in operation at its current location for at least three years, and the facility where the pawnshop is to be relocated either within one mile of its existing location, or if in excess of one mile from its existing location, not within one mile of another existing operating pawnshop, in a county with a population of 250,000 or more. Makes conforming changes.

(c) Authorizes the commissioner to approve an application for the relocation of a licensed pawnshop that needs to relocate marginally further than one mile from its existing location, or that at the time the application is made has not been in operation in its current location for at least three years if the necessity for relocation was caused by circumstances beyond the applicant's control, notwithstanding Subsection (b)(3).

(d) Provides that a determination of distance for purposes of this section is based on a measurement taken from the front door of a facility to the front door of the other facility. Requires the location of the front door of the proposed facility to be indicated on architectural drawings or comparable professionally prepared drawings depicting the facility and the entire boundary of the lot or parcel of land to which the facility is to be attached, for a facility not in existence at the time the application is filed. Deletes text regarding the relocation of a pawnshop

in a county with a population of at least 250,000. Makes conforming and nonsubstantive changes.

SECTION 2. Amends Section 371.064(a), Finance Code, to require a pawnbroker, no later than December 1, to pay to the commissioner for each license held an annual fee of \$125, rather than \$100, for the year beginning the next January 1.

SECTION 3. Amends Section 371.071, Finance Code, as follows:

Sec. 371.071. New heading: APPLICATION FOR RELOCATION. Requires a pawnbroker who wishes to move a pawnshop from the location provided on the license to make application to the commissioner. Deletes text regarding submitting an application to the commissioner to relocate a pawnshop. Makes a nonsubstantive change.

SECTION 4. Amends Section 371.072, Finance Code, to require a pawnbroker to maintain net assets of at least \$150,000 that are used or readily available for use in the business of each pawnshop, except as provided by Subsection (b). Requires a pawnbroker who held a license under this chapter before September 1, 1999, to maintain net assets that are used or readily available for use in the business for that existing license of at least the amount required on August 31, 1999. Provides that the net assets requirement of this subsection remains in effect without regard to a change in ownership or relocation of the license. Provides that Subsection (b) applies to a change in ownership under certain conditions. Deletes text regarding net assets. Makes conforming changes.

SECTION 5. Amends Section 371.101(a), Finance Code, to require an individual who begins employment at a pawnshop to apply to the commissioner for a pawnshop employee license no later than the 75th day, rather than 30th, after the date employment begins.

SECTION 6. Amends Section 371.106(a), Finance Code, to require a pawnshop employee license holder, no later than December 1, to pay the commissioner an annual fee of \$15, rather than \$10, for the year beginning the next January 1.

SECTION 7. Amends Section 371.167(a), Finance Code, to provide that the replacement is subject to approval by the commissioner and the pledgor must exhaust this administrative remedy with respect to the lost or damaged pledged goods before seeking a remedy in court. Authorizes the pledgor to seek a remedy in court, if the commissioner does not approve a replacement before the 91st day after the date on which the commissioner receives a complaint from the pledgor concerning the lost or damaged goods, or if the pledgor does not accept the commissioner's determination.

SECTION 8. Amends Section 371.258, Finance Code, by adding Subsection (c), to require the commissioner to reinstate an expired pawnbroker license if, no later than the 180th day after the date on which the license expired, the pawnbroker pays the commissioner the delinquent \$125 annual fee plus a reinstatement fee of \$1,000. Requires the commissioner to promptly send notice of reinstatement rights to the delinquent pawnbroker by certified mail, after a pawnbroker's license has expired.

SECTION 9. (a) Effective date: September 1, 1999.

(b) Makes application of this Act prospective.

(c) Provides that the net assets requirement under Section 371.072, Finance Code, as amended by this Act, for an existing license on the effective date of this Act remain in effect as the net assets requirement that existed immediately before the effective date of this Act.

SECTION 10. Emergency clause.