



## PAWNSHOP AND PAWNSHOP EMPLOYEE ADMINSTRATIVE ACTION REPORT

September 1, 2016 – August 31, 2017

### Overview

The OCCC has approximately 1,565 pawnshop licensees and 7,244 pawnshop employee licensees. During FY 2017, the OCCC issued 34 final orders against pawnshops and 64 final orders against pawnshop employees.

For pawnshops, the most common violation is employing an individual as a pawnshop employee for more than 75 days without the individual holding or applying for a pawnshop employee license. Of the 34 orders issued against pawnshops in FY 2017, 15 orders are for violation of the 75-day rule, 13 orders are for late annual reports, three orders are for inadequately describing pledged goods, two orders are for inaccurately recording the name of pledgors, and one order is for unlicensed activity.

For pawnshop employees, the most common violation is working as a pawnshop employee for more than 75 days without holding or applying for a license. Of the 64 orders issued against pawnshop employees, all 64 orders are for violation of the 75-day rule.

This report summarizes the statutes and rules that apply to the most common pawnshop and pawnshop employee violations. The report also describes the typical enforcement action taken by the OCCC to address each type of violation.

### I. PAWNSHOP ACTIONS

#### Violation of Pawnshop Employee 75-Day Rule

Texas law prohibits a pawnshop from employing an individual as a pawnshop employee for more than 75 days without the individual holding or applying for a pawnshop employee license.<sup>1</sup>

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<sup>1</sup> Section 371.101(c) of the Texas Finance Code.

In FY 2017, the OCCC initiated 15 enforcement actions against pawnshops for violating the pawnshop employee 75-day rule. In all 15 enforcement actions, the OCCC issued an injunctive order for a first-time violation.

### **Untimely Annual Report**

Texas law requires a pawnshop to file an annual report with the OCCC.<sup>2</sup> The annual report must provide certain information in a format prescribed by the OCCC and in accordance with the OCCC's instructions.<sup>3</sup> The OCCC's 2015 annual report instructions specified a deadline of June 1, 2016 to file the report.<sup>4</sup>

In FY 2017, the OCCC initiated 13 enforcement actions against pawnshops for failing to timely file their annual report. In all 13 enforcement actions, the OCCC issued an injunctive order for a first-time reporting violation.

### **Inadequate Description of Pledged Goods**

Texas law requires pawnshops to fully and accurately describe pledged goods.<sup>5</sup> The goods must be accurately and fully described including any identifying marks such as the item type, brand, make, model number, engraving, inscriptions, color, size, length, unique marking, and design.<sup>6</sup>

In FY 2017, the OCCC initiated three enforcement actions against pawnshops for failing to adequately describe pledged goods. Of the three enforcement actions, the OCCC issued an injunctive order against two pawnshops and issued an administrative penalty against one pawnshop.

### **Incorrect Pledgor Name**

Texas law requires pawnshops to record the pledgor's name on a pawn ticket.<sup>7</sup> A pawnbroker shall require identification of the pledgor and make its best effort to determine whether the identification properly identifies the pledgor.<sup>8</sup>

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<sup>2</sup> Section 371.201 of the Texas Finance Code; Title 7, Section 85.502 of the Texas Administrative Code.

<sup>3</sup> Title 7, Section 85.502 of the Texas Administrative Code.

<sup>4</sup> Pawnshop Annual Report Instructions available at: <http://occc.texas.gov/industry/pawnshops-and-pawn-employees/annual-reports>.

<sup>5</sup> Section 371.154(4) of the Texas Finance Code.

<sup>6</sup> Title 7, Section 84.405(e) of the Texas Administrative Code.

<sup>7</sup> Section 371.157(2) of the Texas Finance Code.

<sup>8</sup> Section 371.174(a) of the Texas Finance Code.

In FY 2017, the OCCC initiated two enforcement actions against pawnshops for failing to accurately identify the pledgor on pawn tickets. In both enforcement actions, the OCCC issued an injunctive order.

### **Unlicensed Activity**

Texas law requires a license from the OCCC to operate as a pawnshop.<sup>9</sup> A pawnshop is a place where a pawnbroker regularly conducts business.<sup>10</sup> A pawnbroker is a person engaged in the business of lending money on the security of pledged goods or purchasing goods on condition that the goods may be redeemed by the seller for a fixed price within a fixed period.<sup>11</sup>

In FY 2017, one person operated as a pawnshop without a license from the OCCC. The OCCC issued an injunctive order against the person.

## **II. PAWNSHOP EMPLOYEE ACTIONS**

### **Violation of Pawnshop Employee 75-Day Rule**

Texas law prohibits a person from working as a pawnshop employee for more than 75 days without the person holding or applying for a pawnshop employee license from the OCCC.<sup>12</sup>

In FY 2017, the OCCC initiated 64 enforcement actions against pawnshop employees for violating the 75-day rule. In all 64 enforcement actions, the OCCC issued an injunctive order for a first-time violation.

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<sup>9</sup> Section 371.051 of the Texas Finance Code.

<sup>10</sup> Section 371.003(7) of the Texas Finance Code.

<sup>11</sup> Section 371.003(6) of the Texas Finance Code.

<sup>12</sup> Section 371.101(a) of the Texas Finance Code.