

H.B. 123
As Introduced

Topic: Lending laws and technical changes

_____ moved to amend as follows:

- In line 1 of the title, delete "1321.35, 1321.36, 1321.39," 1
- In line 2 of the title, delete "1321.40, 1321.41, 1321.422," 2
- and insert "121.085, 1321.01, 1321.02, 1321.09, 1321.13, 3
- 1321.14, "; after "1321.99," insert "1335.02," 4
- In line 3 of the title, delete "new section 1321.46 and" 5
- In line 4 of the title, delete "1321.141, 1321.401, 1321.402, 6
- 1321.403," 7
- In line 5 of the title, delete "1321.411," and insert 8
- "1321.021, 1321.121, 1321.132, 1321.133, 1321.134," 9
- In line 6 of the title, delete "1321.46 and 1321.461" and 10
- insert "1321.131 and 1321.16" 11
- In line 7 of the title, delete "Short-Term" and insert 12
- "Small" 13
- In line 9 of the title, delete "Small Loan Law and" 14
- In line 13, delete "1321.35, 1321.36, 1321.39," 15
- In line 14, delete "1321.40, 1321.41, 1321.422," and insert 16
- "121.085, 1321.01, 1321.02, 1321.09, 1321.13, 1321.14, "; after 17
- "1321.99," insert "1335.02," 18

In line 15, delete "new section 1321.46 and"; delete 19
"1321.141, 1321.401, 1321.402," 20

In line 16, delete "1321.403, 1321.411," and insert 21
"1321.021, 1321.121, 1321.132, 1321.133, 1321.134," 22

After line 17, insert: 23

"**Sec. 121.085.** The financial literacy education fund is 24
hereby created in the state treasury. The fund shall consist of 25
funds transferred to it from the consumer finance fund pursuant to 26
section 1321.21 of the Revised Code. The fund shall be used to 27
support various adult financial literacy education programs, 28
including a financial literacy test as described in section 29
1321.133 of the Revised Code, developed or implemented by the 30
director of commerce. The fund shall be administered by the 31
director of commerce who shall adopt rules for the distribution of 32
fund moneys. The director of commerce shall adopt a rule to 33
require that at least one-half of the financial literacy education 34
programs developed or implemented pursuant to this section, and 35
offered to the public, be presented by or available at public 36
community colleges or state institutions throughout the state. The 37
director of commerce shall deliver to the president of the senate, 38
the speaker of the house of representatives, the minority leader 39
of the senate, the minority leader of the house of 40
representatives, and the governor an annual report that includes 41
an outline of each adult financial literacy education program 42
developed or implemented, the number of individuals who were 43
educated by each program, and an accounting for all funds 44
distributed. 45

Sec. 1321.01. (A) As used in sections 1321.01 to 1321.19 of 46
the Revised Code: 47

- (1) "Person" includes individuals, partnerships, 48
associations, trusts, corporations, and all other legal entities. 49
- (2) "License" means a license issued under sections 1321.01 50
to 1321.19 of the Revised Code to make loans at a single place of 51
business. 52
- (3) "Licensee" means a person to whom one or more licenses 53
have been issued. 54
- (4) "Principal amount" means the amount of cash paid to, or 55
paid or payable for the account of, the borrower. 56
- (5) "Interest" means all charges payable directly or 57
indirectly by a borrower to a licensee as a condition to a loan ~~or~~ 58
~~an application for a loan, however denominated, including fees,~~ 59
service charges, and any ancillary product sold in connection with 60
a loan made pursuant to sections 1321.01 to 1321.19 of the Revised 61
Code, but does not include ~~default charges, deferment charges,~~ 62
~~insurance charges or premiums, court costs, loan origination~~ 63
~~charges, the monthly maintenance fees or the check collection~~ 64
~~charges, credit line charges, credit report charges, or other fees~~ 65
~~and charges specifically authorized by law.~~ 66
- (6) "Interest-bearing loan" means a loan in which the debt is 67
expressed as the principal amount and interest is computed, 68
charged, and collected on unpaid principal balances outstanding 69
from time to time. 70
- (7) "Precomputed loan" means a loan in which the debt is a 71
sum comprising the principal amount and the amount of interest 72
computed in advance on the assumption that all scheduled payments 73
will be made when due. 74
- (8) "Actuarial method" means the method of allocating 75
payments made on a loan between the principal amount and interest 76

whereby a payment is applied first to the accumulated interest and
the remainder to the unpaid principal amount.

(9) "Applicable charge" means the amount of interest attributable to each monthly installment period of the loan contract. The applicable charge is computed as if each installment period were one month and any charge for extending the first installment period beyond one month is ignored. In the case of loans originally scheduled to be repaid in sixty-one months or less, the applicable charge for any installment period is that proportion of the total interest contracted for, as the balance scheduled to be outstanding during that period bears to the sum of all of the periodic balances, all determined according to the payment schedule originally contracted for. In all other cases, the applicable charge for any installment period is that which would have been made for such period had the loan been made on an interest-bearing basis at the single rate provided in division (A) of section 1321.13 of the Revised Code, based upon the assumption that all payments were made according to schedule.

(10) ~~"Annual percentage rate" means the ratio of the interest on a loan to the unpaid principal balances on the loan for any period of time, expressed on an annual basis~~ has the same meaning as in the "Truth in Lending Act," 82 Stat. 149 (1980), 15 U.S.C. 1606, as implemented by regulations of the consumer financial protection bureau. All fees and charges, including interest and the monthly maintenance fees, shall be included in the computation of the annual percentage rate.

(11) "Refinancing" means a loan the proceeds of which are used in whole or in part to pay the unpaid balance of a prior loan made by the same licensee to the same borrower under sections 1321.01 to 1321.19 of the Revised Code.

(12) "Superintendent of financial institutions" includes the 107
 deputy superintendent for consumer finance as provided in section 108
 1181.21 of the Revised Code. 109

(B) The division of financial institutions is responsible for 110
 the administration of sections 1321.01 to 1321.19 of the Revised 111
 Code. Neither the superintendent of the division, nor any deputy, 112
 assistant, clerk, examiner, or other person employed by the 113
 division to assist in the administration of such sections shall be 114
 interested, directly or indirectly, in the business licensed under 115
 the sections and any person so interested or who becomes so 116
 interested shall not be eligible to hold or retain any such 117
 position. 118

Sec. 1321.02. No person shall engage in the business of 119
 lending money, credit, or choses in action in amounts of five 120
 thousand dollars or less, or exact, contract for, or receive, 121
 directly or indirectly, on or in connection with any such loan, 122
 any interest and charges that in the aggregate are greater than 123
 the interest and charges that the lender would be permitted to 124
 charge for a loan of money if the lender were not a licensee, 125
 without first having obtained a license from the division of 126
 financial institutions under sections 1321.01 to 1321.19 of the 127
 Revised Code. 128

Sections 1321.01 to 1321.19 of the Revised Code do not apply 129
 to any person doing business under and as permitted by any law of 130
 this state, another state, or the United States relating to banks, 131
 savings banks, savings societies, trust companies, credit unions, 132
 savings and loan associations substantially all the business of 133
 which is confined to loans on real estate mortgages and evidences 134
 of their own indebtedness; to registrants conducting business 135
 pursuant to sections 1321.51 to 1321.60 of the Revised Code; to 136

licensees conducting business pursuant to sections 1321.62 to 137
 1321.702 of the Revised Code; to licensees conducting business 138
 pursuant to sections 1321.71 to 1321.83 of the Revised Code; to 139
 licensees doing business pursuant to sections 1321.35 to 1321.48 140
 of the Revised Code; to registrants conducting business as 141
 mortgage lenders under Chapter 1322. of the Revised Code; or to 142
 any entity who is licensed pursuant to Title XXXIX of the Revised 143
 Code, who makes advances or loans to any person who is licensed to 144
 sell insurance pursuant to that Title, and who is authorized in 145
 writing by that entity to sell insurance. No person engaged in the 146
 business of selling tangible goods or services related thereto may 147
 receive or retain a license under sections 1321.01 to 1321.19 of 148
 the Revised Code for such place of business. 149

The first paragraph of this section applies to any person, 150
 who by any device, subterfuge, or pretense, charges, contracts 151
 for, or receives greater interest, consideration, or charges than 152
 that authorized by this section for any such loan or use of money 153
 or for any such loan, use, or sale of credit, or who for a fee or 154
 any manner of compensation arranges or offers to find or arrange 155
 for another person to make any such loan, use, or sale of credit. 156
 This section does not preclude the acquiring, directly or 157
 indirectly, by purchase or discount, of a bona fide obligation for 158
 goods or services when such obligation is payable directly to the 159
 person who provided the goods or services. 160

Any contract of loan in the making or collection of which an 161
 act is done by the lender that violates this section is void and 162
 the lender has no right to collect, receive, or retain any 163
 principal, interest, or charges. 164

A violation of sections 1321.01 to 1321.19 of the Revised 165
Code constitutes an unfair or deceptive act or practice under 166

section 1345.02 of the Revised Code. A borrower injured by a 167
violation of any of these sections shall have a cause of action 168
and be entitled to the same relief available to a consumer under 169
section 1345.09 of the Revised Code, and all powers and remedies 170
available to the attorney general to enforce sections 1345.01 to 171
1345.13 of the Revised Code are available to the attorney general 172
to enforce this section." 173

Delete lines 18 through 25 and insert: 174

"Sec. 1321.021. Notwithstanding any provision of the Revised 175
Code to the contrary, an entity chartered and lawfully doing 176
business under the authority of any law of this state as a bank, 177
savings bank, trust company, savings and loan association, or 178
credit union, or a subsidiary of any such entity, may make or 179
offer loans pursuant to sections 1321.01 to 1321.19 of the Revised 180
Code as if such entity were a licensee and, when making or 181
offering such loans, shall comply with those sections. 182

Sec. 1321.09. (A)(1) Every licensee shall keep and use in the 183
licensee's business such books, accounts, and records as will 184
enable the division of financial institutions to determine whether 185
the licensee is complying with sections 1321.01 to 1321.19 of the 186
Revised Code and with the orders and rules made by the division 187
under those sections. Every licensee shall preserve such books, 188
accounts, and records for at least two years after making the 189
final entry on any loan recorded therein. Accounting systems 190
maintained in whole or in part by mechanical or electronic data 191
processing methods that provide information equivalent to that 192
otherwise required are acceptable for this purpose. 193

As required by the superintendent of financial institutions, 194
every licensee each year shall file a report with the division 195

giving such relevant information concerning the business and operations, during the preceding calendar year, of each licensed place of business conducted by the licensee within the state. If a licensee has more than one place of business within this state it is optional with the licensee to furnish the report for each location, or a composite report for all locations. Such report shall be made under oath in the form prescribed by the division, which shall make and publish annually an analysis and recapitulation of such reports. Such licensee reports are not public records and shall only be used by the division for the purpose of enforcing sections 1321.01 to 1321.19 of the Revised Code or any rules or orders made in compliance with those sections. Such licensee reports may be introduced into evidence or disclosed when and in the manner authorized in section 1181.25 of the Revised Code, or in connection with criminal proceedings.

This section does not prevent the division from releasing to or exchanging with other financial institution regulatory authorities information relating to licensees.

(2) The division shall publish annually and make available to the public an analysis of the information in the reports required under division (A)(1) of this section, but the individual reports shall not be public records and shall not be open to public inspection. The published analysis shall include all of the following:

(a) The total number of borrowers, loans, defaulted loans, and charged-off loans and the total dollar value of the charged-off loans;

(b) The average loan size, average contracted and average experienced annual percentage rate, average charges per loan, total contracted loan charges, and total loan charges actually

<u>paid;</u>	226
<u>(c) The total number of check collection charges and the total dollar value of those charges;</u>	227
<u>(d) The total number of licensee business locations and the average number of borrowers per location;</u>	228
<u>(e) Any other nonprivate information determined by the superintendent.</u>	229
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(B) For purposes of this section, "financial institution regulatory authority" includes a regulator of a business activity in which a licensee is engaged, or has applied to engage in, to the extent that the regulator has jurisdiction over a licensee engaged in that business activity. A licensee is engaged in a business activity, and a regulator of that business activity has jurisdiction over the licensee, whether the licensee conducts the activity directly or a subsidiary or affiliate of the licensee conducts the activity.	231
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<u>Sec. 1321.121. A licensee under sections 1321.01 to 1321.19 of the Revised Code may engage in the business of making loans provided that each loan meets all of the following conditions:</u>	242
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<u>(A) The minimum duration of the loan is not less than forty-five days.</u>	245
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<u>(B) The licensee makes a reasonable and good faith determination that the borrower has the ability to repay the loan.</u>	247
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<u>(C) A licensee does not require a borrower to pay a monthly payment that exceeds one-twelfth of ten per cent of the borrower's gross annual income.</u>	249
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<u>(D) The loan is made pursuant to a written loan contract that sets forth the terms and conditions of the loan. A copy of the</u>	252
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<u>loan contract must be provided to the borrower. The loan contract</u>	254
<u>shall disclose in a clear and concise manner all of the following:</u>	255
<u>(1) The total amount of fees and charges, including the</u>	256
<u>annual percentage rate, the borrower will be required to pay in</u>	257
<u>connection with the loan pursuant to the loan contract;</u>	258
<u>(2) The total amount of each payment, when each payment is</u>	259
<u>due, and the total number of payments that the borrower will be</u>	260
<u>required to make under the loan contract;</u>	261
<u>(3) A statement, printed in boldface type of the minimum size</u>	262
<u>of ten points, as follows: "WARNING: The cost of this loan is</u>	263
<u>higher than the average cost charged by financial institutions on</u>	264
<u>substantially similar loans."</u>	265
<u>(4) A statement, printed in a minimum font size of ten</u>	266
<u>points, which informs the borrower that complaints regarding the</u>	267
<u>loan or lender may be submitted to the department of commerce</u>	268
<u>division of financial institutions and includes the correct</u>	269
<u>telephone number and mailing address for the department.</u>	270
<u>(5) A statement, printed in a minimum font size of ten</u>	271
<u>points, as follows: "You have the right to rescind or cancel this</u>	272
<u>loan if you do so by five p.m. of the third business day following</u>	273
<u>the day you receive this contract. If you rescind or cancel the</u>	274
<u>loan, you must repay in full any money received in connection with</u>	275
<u>the loan. The lender may retain any fees permitted under law."</u>	276
<u>(6) A statement, printed in a minimum font size of ten</u>	277
<u>points, as follows: "Electronic payment is optional. You have the</u>	278
<u>right to revoke or remove your authorization for electronic</u>	279
<u>payment at any time."</u>	280
<u>(E) The loan is a precomputed loan and is payable in</u>	281
<u>substantially equal installments of principal, fees, and interest</u>	282

<u>combined.</u>	283
<u>(F) A licensee accepts and immediately credits a check from a</u>	284
<u>third-party nonprofit organization when submitted on behalf of the</u>	285
<u>borrower.</u>	286
<u>(G) If the borrower had previously borrowed from the</u>	287
<u>licensee, at least three days have elapsed after the prior loan</u>	288
<u>was paid off before the licensee issues another loan to the</u>	289
<u>borrower.</u>	290
<u>(H) The loan may be rescinded or canceled on or before five</u>	291
<u>p.m. of the third business day following the day of the loan</u>	292
<u>transaction, however the borrower shall repay in full any money</u>	293
<u>received in connection with loan, and the licensee may retain any</u>	294
<u>permissible fees paid by the borrower in connection with the loan.</u>	295
Sec. 1321.13. (A) Notwithstanding any other provisions of the	296
Revised Code, a <u>A licensee may contract for charge, collect, and</u>	297
receive interest, calculated according to the actuarial method,	298
<u>only the following fees and charges in connection with a loan made</u>	299
<u>pursuant to sections 1321.01 to 1321.19 of the Revised Code:</u>	300
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<u>(A) Interest</u> at a rate or rates not exceeding twenty-eight	302
per cent per year on that portion of the unpaid principal balance	303
of the loan not exceeding one thousand dollars and twenty two per	304
cent per year on any part of the unpaid principal balance	305
exceeding one thousand dollars. A licensee may contract for and	306
receive interest at the single annual rate that would earn the	307
same total interest at maturity of the loan, when the loan is paid	308
according to its agreed terms, as would be earned by the	309
application of the graduated rates set forth in this division.	310
Loans may be interest bearing or precomputed.	311

(B) For purposes of computation of time on ~~interest bearing~~ 312
~~and~~ precomputed loans, including, but not limited to, the 313
 calculation of interest, a month is considered one-twelfth of a 314
 year, and a day is considered one three hundred sixty-fifth of a 315
 year when calculation is made for a fraction of a month. A year is 316
 as defined in section 1.44 of the Revised Code. A month is that 317
 period described in section 1.45 of the Revised Code. 318

(C) ~~With respect to interest bearing loans:~~ 319

~~(1) Interest shall be computed on unpaid principal balances 320~~
~~outstanding from time to time, for the time outstanding. Each 321~~
~~payment shall be applied first to unpaid charges and fees, then to 322~~
~~interest, and the remainder to the unpaid principal balance. 323~~
~~However, if the amount of the payment is insufficient to pay the 324~~
~~accumulated interest, the unpaid interest continues to accumulate 325~~
~~to be paid from the proceeds of subsequent payments and is not 326~~
~~added to the principal balance. If the maturity of the loan is 327~~
~~accelerated for any reason and judgment is entered, the licensee 328~~
~~may thereafter charge the same rate or rates of interest as 329~~
~~provided in the loan contract. 330~~

~~(2) Interest shall not be compounded. However, if part or all 331~~
~~of the consideration for a new loan contract is the unpaid 332~~
~~principal balance of a prior loan, then the principal amount 333~~
~~payable under the new loan contract may include any unpaid 334~~
~~interest that has accrued. The resulting loan contract shall be 335~~
~~deemed a new and separate loan transaction for purposes of this 336~~
~~section. The unpaid principal balance of a precomputed loan is the 337~~
~~balance due after refund or credit of unearned interest as 338~~
~~provided in division (D)(3) of this section. 339~~

~~(D) With respect to precomputed loans: 340~~

(1) Loans shall be repayable in substantially equal and 341

consecutive monthly installments of principal and interest 342
combined, except that the first installment period may exceed one 343
month by not more than fifteen days, and the first installment 344
payment amount may be larger than the remaining payments by the 345
amount of interest charged for the extra days; and provided 346
further that monthly installment payment dates may be omitted to 347
accommodate borrowers with seasonal income. 348

(2) Payments may be applied to the combined total of 349
principal and precomputed interest until maturity of the loan. A 350
licensee may charge interest after the original or deferred 351
maturity of a precomputed loan at the rate or rates provided in 352
division (A) of this section on all unpaid principal balances for 353
the time outstanding. 354

~~(3) When any loan contract is paid in full by cash, renewal, 355
refinancing, or a new loan, one month or more before the final 356
installment due date, the licensee shall refund, or credit the 357
borrower with, the total of the applicable charges for all fully 358
unexpired installment periods, as originally scheduled or as 359
deferred, that follow the day of prepayment. If the prepayment is 360
made other than on a scheduled installment due date, 361
the nearest scheduled due date shall be used in such computation. 362
If the prepayment occurs prior to the first installment due date, 363
the licensee may retain one thirtieth of the applicable charge for 364
a first installment period of one month for each day from date of 365
loan to date of prepayment, and shall refund, or credit the 366
borrower with, the balance of the total interest contracted for. 367
If the maturity of the loan is accelerated for any reason and 368
judgment is entered, the licensee shall credit the borrower with 369
the same refund as if prepayment in full had been made on the date 370
the judgment is entered and may thereafter convert the loan to an 371
interest bearing loan at the same rate or rates of interest as 372~~

provided in the loan contract. If the maturity of the loan is accelerated for any reason, the licensee may convert the loan to an interest bearing loan at the same rate or rates of interest as provided in the loan contract, provided the licensee credits the borrower with the same refund on the precomputed loan as if prepayment in full had been made on the date of the conversion.

(4) If the parties agree in writing, either in the loan contract or in a subsequent agreement, to a deferment of wholly unpaid installments, a licensee may grant a deferment and may collect a deferment charge as provided in this section. A deferment postpones the scheduled due date of the earliest unpaid installment and all subsequent installments as originally scheduled, or as previously deferred, for a period equal to the deferment period. The deferment period is that period during which no installment is scheduled to be paid by reason of the deferment. The deferment charge for a one month period may not exceed the applicable charge for the installment period immediately following the due date of the last undeferred installment. A proportionate charge may be made for deferment for periods of more or less than one month. A deferment charge is earned prorata during the deferment period and is fully earned on the last day of the deferment period. If a loan is prepaid in full during a deferment period, the licensee shall make, or credit to the borrower, a refund of the unearned deferment charge in addition to any other refund or credit made for prepayment of the loan in full.

(E) A licensee, at the request of the borrower, may obtain, on one or more borrowers, credit life insurance, credit accident and health insurance, and unemployment insurance. The premium or identifiable charge for the insurance may be included in the principal amount of the loan and may not exceed the premium rate filed by the insurer with the superintendent of insurance and not

~~disapproved by him. If a licensee obtains the insurance at the request of the borrower, the borrower shall have the right to cancel the insurance for a period of twenty five days after the loan is made. If the borrower chooses to cancel the insurance, the borrower shall give the licensee written notice of this choice and shall return all of the policies or certificates of insurance or notices of proposed insurance to the licensee during such period, and the full premium or identifiable charge for the insurance shall be refunded to the borrower by the licensee. If the borrower requests, in the notice to cancel the insurance, that this refund be applied to reduce the balance of a precomputed loan, the licensee shall credit the amount of the refund plus the amount of interest applicable to the refund to the loan balance.~~

~~(F) A licensee may require the borrower to provide insurance or a loss payable endorsement covering reasonable risks of loss, damage, and destruction of property used as security for the loan and with the consent of the borrower such insurance may cover property other than that which is security for the loan. The amount and term of required property insurance shall be reasonable in relation to the amount and term of the loan contract and the type and value of the security, and the insurance shall be procured in accordance with the insurance laws of this state. The purchase of this insurance through the licensee or an agent or broker designated by the licensee shall not be a condition precedent to the granting of the loan. If the borrower purchases the insurance from or through the licensee or from another source, the premium may be included in the principal amount of the loan.~~

~~(G) In addition to the interest and charges provided for by this section, no further or other amount shall be charged or required by the licensee, except the amounts of fees authorized by law to record, file, or release security interests on a loan and~~

~~fees for credit reports, which amounts may be included in the principal amount of the loan or collected at any time after the loan is made, and except costs and disbursements to which the licensee may become entitled by law in connection with any suit to collect a loan or any lawful activity to realize on a security interest after default.~~

~~(H) If the loan contract or security instrument contains covenants by the borrower to perform certain duties pertaining to insuring or preserving security and the licensee pursuant to the loan contract or security instrument pays for performance of the duties on behalf of the borrower, the licensee may add the amounts paid to the unpaid principal balance of the loan or collect them separately. A charge for interest may be made for sums advanced not exceeding the rate of interest permitted by division (A) of this section. Within a reasonable time after advancing a sum, the licensee shall notify the borrower in writing of the amount advanced, any interest charged with respect to the amount advanced, any revised payment schedule, and shall include a brief description of the reason for the advance.~~

~~(I) A licensee may charge and receive loan origination charges not exceeding the following:~~

~~(1) On loans in the principal amount of five hundred dollars or less, the greater of fifteen dollars or one per cent of the principal amount of the loan and, on each refinancing made more than six months after the original loan and any previous refinancing, not exceeding fifteen dollars;~~

~~(2) On all other loans, the greater of thirty dollars or one percent of the principal amount of the loan and, on each refinancing, not exceeding thirty dollars. Loan origination charges may be paid by the borrower at the time of the loan or may~~

~~be included in the principal amount of the loan.~~

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~~(J)(D) A licensee may charge and receive one check collection charges not greater than charge per loan not exceeding an amount equal to twenty dollars plus any amount passed on from other financial institutions for each check, negotiable order of withdrawal, share draft, or other negotiable instrument returned or dishonored for any reason, provided that the terms and conditions upon which check collection charges will be charged to the borrower are set forth in the written loan contract described in division (D) of section 1321.121 of the Revised Code.~~

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~~(K) If the loan contract so provides, a licensee may collect a default charge on any installment not paid in full within ten days after its due date. For this purpose, all installments are considered paid in the order in which they become due. Any amounts applied to an outstanding loan balance as a result of voluntary release of a security interest, sale of security on the loan, or cancellation of insurance shall be considered payments on the loan, unless the parties otherwise agree in writing at the time the amounts are applied. The amount of the default charge shall not exceed the greater of five per cent of the scheduled installment or five dollars.~~

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~~(E)(1) A maintenance fee that shall not exceed the following amounts for unsecured loans:~~

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~~(a) For loans one thousand dollars or less, not more than eleven and one-half per cent for fourteen days.~~

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~~(b) For loans greater than one thousand dollars and not exceeding two thousand dollars, not more than ten per cent for fourteen days.~~

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~~(c) For loans greater than two thousand dollars and not~~

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<u>exceeding three thousand dollars, not more than nine per cent for</u>	494
<u>fourteen days.</u>	495
<u>(d) For loans greater than three thousand dollars and not</u>	496
<u>exceeding four thousand dollars, not more than eight per cent for</u>	497
<u>fourteen days.</u>	498
<u>(e) For loans greater than four thousand dollars, not more</u>	499
<u>than five per cent for fourteen days.</u>	500
<u>(2) A maintenance fee that shall not exceed the following</u>	501
<u>amounts for secured loans:</u>	502
<u>(a) For loans one thousand five hundred dollars or less, not</u>	503
<u>more than nine and one-half per cent.</u>	504
<u>(b) For loans greater than one thousand five hundred dollars</u>	505
<u>and not exceeding three thousand dollars, not more than eight per</u>	506
<u>cent for fourteen days.</u>	507
<u>(c) For loans greater than three thousand dollars and not</u>	508
<u>exceeding four thousand five hundred dollars, not more than six</u>	509
<u>per cent for fourteen days.</u>	510
<u>(d) For loans greater than four thousand five hundred</u>	511
<u>dollars, not more than four per cent for fourteen days.</u>	512
<u>(F) Notwithstanding division (E) of this section, a licensee</u>	513
<u>shall not charge, collect, or receive a monthly maintenance fee if</u>	514
<u>the borrower is a person on active duty in the armed forces of the</u>	515
<u>United States or a dependent of that person.</u>	516
<u>Sec. 1321.132.</u> (A) A licensee may refinance a loan provided	517
<u>that all of the following apply to the refinanced loan:</u>	518
<u>(1) The loan is a loan made pursuant to sections 1321.01 to</u>	519
<u>1321.19 of the Revised Code.</u>	520

(2) Interest on the loan does not exceed a rate of 521
twenty-eight per cent per annum. 522

(3) The licensee does not charge, collect, or receive the 523
monthly maintenance fee described in division (E) of section 524
1321.13 of the Revised Code. 525

(B) Except as otherwise provided in this section, a licensee 526
shall not make a loan to a borrower if there exists an outstanding 527
loan between that borrower and any of the following: 528

(1) The licensee; 529

(2) A person related to the licensee by common ownership or 530
control; 531

(3) A person in whom the licensee has any financial interest 532
of ten per cent or more; 533

(4) Any employee or agent of the licensee. 534

(C) A licensee shall not make a loan to a borrower that 535
includes a demand feature that permits the licensee, in the event 536
the borrower fails to meet the repayment terms for any outstanding 537
balance, to terminate the loan in advance of the original maturity 538
date and to demand repayment of the entire outstanding balance, 539
unless both of the following requirements are met: 540

(1) Not earlier than ten days after the borrower's payment 541
was due, the licensee provides written notice to the borrower of 542
the termination of the loan. 543

(2) In addition to the outstanding balance, the licensee 544
collects only prorated interest and the fees earned up to the 545
termination of the loan. For purposes of this division, the 546
outstanding balance and prorated interest and fees shall be 547
calculated as if the borrower had voluntarily prepaid the loan in 548

full on the date of termination.

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(D)(1) The licensee shall not draft funds electronically from any depository financial institution in this state without written approval of the borrower.

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(2) A licensee shall not attempt to collect from a borrower's account after two consecutive attempts have failed, unless the licensee obtains new written authorization from the borrower to electronically transfer or withdraw funds from the borrower's account.

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(E) The licensee shall make a reasonable attempt to coordinate with the borrower to determine the optimal time for the borrower to make a payment or for when payment shall be withdrawn from the borrower's bank account in connection with the loan.

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Sec. 1321.133. (A) The loan terms shall permit borrowers to request and obtain twice in any twelve-month period an interest-free extended repayment plan. The request shall be made by the borrower to the licensee prior to the end of the business day when the final payment is due. Before extending the interest-free payment plan a second time in any twelve-month period, the borrower shall pass a financial literacy test as prescribed by the director of commerce under division (B) of this section. The extended payment plan shall consist of at least four substantially equal payments over not fewer than sixty days and the licensee or registrant shall do both of the following:

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(1) Provide the plan to the borrower without any interest or additional cost to the borrower;

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(2) Not report any negative information to a credit reporting agency while the repayment is not in default.

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(B) The director shall create the financial literacy test and 577
adopt rules regarding its implementation and administration. The 578
director may use moneys from the financial literacy education fund 579
under section 121.085 of the Revised Code to implement and 580
administer the test. 581

Sec. 1321.134. If a loan pursuant to sections 1321.01 to 582
1321.19 of the Revised Code is prepaid in full or refinanced prior 583
to the loan's maturity date, the licensee shall refund to the 584
borrower a prorated portion of the interest, monthly maintenance 585
fees, and all other charges based on a ratio of the number of days 586
the loan was outstanding and the number of days for which the loan 587
was originally contracted. For purposes of this section, the 588
monthly maintenance fee is not considered to be fully earned at 589
the beginning of a month. 590

Sec. 1321.14. Licensees under section 1321.01 of the Revised 591
Code shall: 592

~~(A) At the time any interest-bearing or precomputed loan is~~ 593
~~made, deliver to the borrower or, if there are two or more~~ 594
~~borrowers, to one of them, a statement in the English language~~ 595
~~disclosing in clear and distinct terms the amount and date of the~~ 596
~~loan, a schedule of payments or a description thereof, the type of~~ 597
~~the security, if any, for the loan, the name and address of the~~ 598
~~licensed office and of each borrower, and the agreed rate of~~ 599
~~interest, or in lieu thereof, a copy of the instrument evidencing~~ 600
~~the debt signed by the borrower;~~ 601

~~(B) For each payment made on account of any such~~ 602
~~interest-bearing or precomputed loan, give to the person making it~~ 603
~~a receipt if requested;~~ 604

~~(C)~~(B) Permit payment to be made in advance in any amount on 605
any contract of loan at any time, but the licensee may apply the 606
payment first to all interest and charges due up to the date of 607
the payment; 608

~~(D)~~(C) Upon repayment of the loan in full, mark plainly every 609
obligation signed by any obligor, or a copy of the signed 610
obligation, "paid" or "canceled" and return it and any pledge to 611
the borrower or, if there are two or more borrowers, to one of 612
them; provided that a continuing obligation in whole or in part is 613
not repayment in full thereof. 614

No licensee shall take any note or promise to pay in which 615
blanks are left to be filled in after execution. 616

Any licensee or other person who willfully violates section 617
1321.13 of the Revised Code shall forfeit to the borrower twice 618
the amount of interest contracted for. The maximum rate of 619
interest applicable to any loan transaction that does not comply 620
with all provisions of section 1321.13 of the Revised Code shall 621
be the rate that would be applicable in the absence of sections 622
1321.01 to 1321.19 of the Revised Code. 623

No licensee shall pledge or hypothecate any note or security 624
given by any borrower except with a person residing or maintaining 625
a place of business in this state or with a bank authorized to 626
transact business in this state, under an agreement permitting the 627
division of financial institutions to examine the papers so 628
hypothecated. 629

The tender by the borrower, or at the borrower's request, of 630
an amount equal to the unpaid balance less the required rebate on 631
a precomputed loan shall be accepted by the licensee in full 632
payment of the loan obligation. 633

A licensee shall not, directly or indirectly, make any payment, or cause to be made any payment, whether in cash or otherwise, to a dealer in tangible goods or services, or to a retail seller as defined in section 1317.01 of the Revised Code, in connection with the making of a loan to a customer, patron, or other person who has done, or is doing, business with the dealer in tangible goods or services, or the retail seller. This section does not prohibit bona fide advertising practices involving only the borrowers."

Delete lines 26 through 394

In line 428, delete "1321.141 or"

In line 431, delete "sections 1321.141,"

In line 432, delete "1321.41, and" and insert "section"

After line 442, insert:

"**Sec. 1335.02.** (A) As used in this section:

(1) "Debtor" means a person that obtains credit or seeks a loan agreement with a financial institution or owes money to a financial institution.

(2) "Financial institution" means any of the following:

(a) A federally or state-chartered bank, savings bank, savings and loan association, or credit union, or a holding company, subsidiary, or affiliate of a bank, savings bank, or savings and loan association;

(b) A licensee under sections 1321.01 to 1321.19 of the Revised Code, or a registrant under sections 1321.51 to 1321.60 of the Revised Code, or a parent company, subsidiary, or affiliate of a licensee or registrant;

(c) A person registered as a mortgage lender under Chapter 1322. of the Revised Code or a parent company, subsidiary, or affiliate of such a person.

(3) "Loan agreement" means one or more promises, promissory notes, agreements, undertakings, security agreements, mortgages, or other documents or commitments, or any combination of these documents or commitments, pursuant to which a financial institution loans or delays, or agrees to loan or delay, repayment of money, goods, or anything of value, or otherwise extends credit or makes a financial accommodation. "Loan agreement" does not include a promise, promissory note, agreement, undertaking, or other document or commitment relating to a credit card, a charge card, a revolving budget agreement subject to section 1317.11 of the Revised Code, an open-end loan agreement subject to section ~~1321.16~~ or 1321.58 of the Revised Code, or an open-end credit agreement subject to section 1109.18 of the Revised Code.

(B) No party to a loan agreement may bring an action on a loan agreement unless the agreement is in writing and is signed by the party against whom the action is brought or by the authorized representative of the party against whom the action is brought. However, a loan agreement need not be signed by an officer or other authorized representative of a financial institution, if the loan agreement is in the form of a promissory note or other document or commitment that describes the credit or loan and the loan agreement, by its terms, satisfies all of the following conditions:

(1) The loan agreement is intended by the parties to be signed by the debtor but not by an officer or other authorized representative of the financial institution.

(2) The loan agreement has been signed by the debtor.

(3) The delivery of the loan agreement has been accepted by 691
the financial institution. 692

(C) The terms of a loan agreement subject to this section, 693
including the rights and obligations of the parties to the loan 694
agreement, shall be determined solely from the written loan 695
agreement, and shall not be varied by any oral agreements that are 696
made or discussions that occur before or contemporaneously with 697
the execution of the loan agreement. Any prior oral agreements 698
between the parties are superseded by the loan agreement. 699

(D) This section does not apply to any loan agreement in 700
which the proceeds of the loan agreement are used by the debtor 701
primarily for personal, household, or family purposes and either 702
of the following applies: 703

(1) The proceeds of the loan agreement are less than forty 704
thousand dollars; 705

(2) A security interest securing the loan agreement is or 706
will be acquired in the primary residence of the debtor." 707

In line 467, delete "1321.35, 1321.36," 708

In line 468, delete "1321.39, 1321.40, 1321.41, 1321.422," 709
and insert "121.085, 1321.01, 1321.02, 1321.09, 1321.13, 710
1321.14, "; after "1321.99," insert "1335.02," 711

In line 469, delete "1321.46 and 1321.461" and insert 712
"1321.131 and 1321.16" 713

After line 478, insert: 714

"**Section 4.** The General Assembly, applying the principle 715
stated in division (B) of section 1.52 of the Revised Code that 716
amendments are to be harmonized if reasonably capable of 717
simultaneous operation, finds that the following sections, 718

presented in this act as composites of the sections as amended by 719
the acts indicated, are the resulting versions of the sections in 720
effect prior to the effective date of the sections as presented in 721
this act: 722

Section 1321.02 of the Revised Code as amended by both Sub. 723
H.B. 199 and Sub. S.B. 24 of the 132nd General Assembly. 724

Section 1321.14 of the Revised Code as amended by both Sub. 725
H.B. 495 and Am. Sub. S.B. 293 of the 121st General Assembly." 726

The motion was _____ agreed to.