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132nd General Assembly
Regular Session
2017-2018

Sub. H. B. No. 67

A BILL

To amend section 2323.13 of the Revised Code to
limit the use of a confession of judgment to
resolve the settlement of certain disputes or in
response to monetary default and to allow for a
post-judgment hearing if the defendant disputes
whether timely payments were made.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2323.13 of the Revised Code be
amended to read as follows:

Sec. 2323.13. (A) A confession of judgment may be made
under this section only in connection with a settlement of
litigation involving an alleged outstanding payment obligation
or for monetary default under the terms of an instrument
evidencing indebtedness.

(B) An attorney who confesses judgment in a case, at the
time of making ~~such the~~ confession, ~~must shall~~ produce the
warrant of attorney for making it to the court before which ~~he~~
the attorney makes the confession. Notwithstanding any agreement



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to the contrary, if the maker or any of several makers resides 18
within the territorial jurisdiction of a municipal court 19
established under section 1901.01 of the Revised Code, or signed 20
the warrant of attorney authorizing confession of judgment in 21
~~such that~~ territory, judgment on ~~such the~~ warrant of attorney 22
shall be confessed in the municipal court having jurisdiction in 23
~~such that~~ territory, provided the court has jurisdiction over 24
the subject matter; otherwise, judgment may be confessed in any 25
court in the county where the maker or any of several makers 26
resides or signed the warrant of attorney. The original or a 27
copy of the warrant shall be filed with the clerk. 28

~~(B)~~ (C) The attorney who represents the judgment creditor 29
shall include in the petition a statement setting forth to the 30
best of ~~his~~ the attorney's knowledge the last known address of 31
the defendant. 32

~~(C)~~ (D) Immediately upon entering any ~~such~~ judgment under 33
this section, the court shall notify the defendant of the entry 34
of the judgment and of the defendant's right to a hearing under 35
division (E) of this section by personal service or by 36
registered or certified letter mailed to ~~him~~ the defendant at 37
the address set forth in the petition. 38

~~(D)~~ (E) (1) Within thirty days after receipt of the notice 39
described in division (D) of this section, or within thirty days 40
after the entry of judgment if the notice is mailed and returned 41
as undeliverable, the defendant may request a hearing to 42
determine whether the defendant has defaulted in the payments 43
due under the terms of the instrument of indebtedness. The 44
request shall be made by motion to the court in writing. The 45
defendant simultaneously shall send a copy of the request to the 46
judgment creditor's attorney by certified mail, return receipt 47

requested. The hearing shall be held not later than seven days 48
after the request for a hearing is received by the court, except 49
that the court may continue the hearing for good cause shown. 50
The parties may call witnesses and offer evidence at the hearing 51
in accordance with the Rules of Evidence. If the court 52
determines after a hearing that the creditor has not 53
demonstrated the defendant's monetary default, it shall vacate 54
the judgment and award to the defendant court costs, reasonable 55
attorney's fees incurred in connection with the hearing, and any 56
actual, consequential, and incidental damages resulting from the 57
judgment. 58

(2) Nothing in this section shall limit the right of a 59
party to seek relief from a judgment or order under Civil Rule 60
60. 61

(F) A warrant of attorney to confess judgment contained in 62
any promissory note, bond, security agreement, lease, contract, 63
or other evidence of indebtedness executed on or after ~~January~~ 64
~~1, 1974,~~ the effective date of this amendment is invalid and the 65
courts are without authority to render a judgment based upon 66
~~such a the~~ warrant unless there appears on the instrument 67
evidencing the indebtedness, directly above or below the space 68
or spaces provided for the signatures of the makers, or other 69
person authorizing the confession, in such type size or 70
distinctive marking that it appears more clearly and 71
conspicuously than anything else on the document: 72

"Warning--By signing this paper you give up your right to 73
notice and court trial. If you do not pay on time, a court 74
judgment may be taken against you without your prior knowledge 75
and the powers of a court can be used to collect from you 76
regardless of any claims you may have against the creditor 77

whether for returned goods, faulty goods, failure on ~~his~~the 78
creditor's part to comply with the agreement, or any other 79
cause. If a judgment is entered, the court will send you a 80
notice of judgment at your last known address informing you of 81
your right to request a court hearing to determine whether you 82
have defaulted in the payments due under the terms of the 83
agreement." 84

~~(E)~~(G) A warrant of attorney to confess judgment 85
contained in any instrument executed on or after January 1, 86
1974, arising out of a consumer loan or consumer transaction, is 87
invalid and the courts shall have no jurisdiction to render a 88
judgment based upon ~~such a~~the warrant. An action founded upon 89
an instrument arising out of a consumer loan or a consumer 90
transaction as defined in this section is commenced by the 91
filing of a complaint as in any ordinary civil action. 92

Notice of the filing shall be served on the defendant and 93
returned in the same manner as in other cases and shall read as 94
follows: 95

"To: (HERE INSERT THE NAME OF THE DEFENDANT OR DEFENDANTS) 96

"(HERE INSERT THE NAME OF PLAINTIFF OR PLAINTIFFS) ask 97
judgment in this court against you for (HERE INSERT THE AMOUNT 98
CLAIMED IN DOLLARS AND CENTS) upon the following claim (HERE 99
INSERT THE NATURE OF THE CLAIM AND DESCRIPTION OF THE 100
INSTRUMENT). 101

"The court may enter judgment upon this claim if no answer 102
is filed within the time allowed by law. If an answer is filed, 103
a trial shall be held within sixty days of the date of filing of 104
the answer. 105

"You have a right to retain an attorney. If you do not 106

file an answer, judgment may be entered against you by default, 107
and your earnings may be subjected to garnishment or your 108
property may be attached to satisfy the judgment. If your 109
defense is supported by witnesses, account books, receipts, or 110
other documents, you must produce them at the trial. Subpoenas 111
for witnesses and subpoenas duces tecum, if requested by a 112
party, will be issued by the clerk." 113

If an answer is filed, a trial shall be held within sixty 114
days of the date of filing of the answer, unless for good cause 115
shown the court may continue the same. 116

(H) As used in this section: 117

(1) "Consumer loan" means a loan to a natural person and 118
the debt incurred is primarily for a personal, family, 119
educational, or household purpose. The term "consumer loan" 120
includes the creation of debt by the lender's payment of or 121
agreement to pay money to the debtor or to a third party for the 122
account of the debtor; the creation of a debt by a credit to an 123
account with the lender upon which the debtor is entitled to 124
draw; and the forbearance of debt arising from a consumer loan. 125

(2) "Consumer transaction" means a sale, lease, 126
assignment, award by chance, or other transfer of an item of 127
goods, a service, franchise, or an intangible, to an individual 128
for purposes that are primarily personal, family, educational, 129
or household. 130

(3) "Monetary default" means failure to make payments due 131
under the terms of an instrument of indebtedness as originally 132
agreed to, amended, or modified by the parties. 133

Section 2. That existing section 2323.13 of the Revised 134
Code is hereby repealed. 135