



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Jeff Hobday

### **H.B. 67**

132nd General Assembly  
(As Introduced)

Rep. Young

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### **BILL SUMMARY**

- Prohibits a creditor from obtaining a confession of judgment from a debtor, unless the confession of judgment is entered in connection with the settlement of a dispute or in another state where the confession of judgment is enforceable.
  - Creates the offense of illegally obtaining a confession of judgment and classifies it as a first degree misdemeanor.
  - Eliminates all other forms of confession of judgment.
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### **CONTENT AND OPERATION**

#### **Background**

A confession of judgment is an agreement by a debtor to the entry of judgment on the happening of an event, such as default on the loan. A promissory note containing a confession of judgment and a warrant of attorney (an authorization for the creditor's attorney to enter judgment without notice to the debtor) is known as a cognovit note. Existing law prohibits the use of cognovit notes in consumer transactions and bars entry of judgment under a cognovit note unless it contains a notice to the debtor that by signing the note the debtor is giving up the right to a trial.<sup>1</sup>

#### **Criminal prohibition**

With only two exceptions, the bill prohibits knowingly causing another person who is indebted, or against whom a cause of action exists, to confess judgment with

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<sup>1</sup> R.C. 2323.13(E) and (F).

regard to the debt or cause of action. The first exception is for entry of judgment in another state where the confession of judgment is legally enforceable. The other exception is for a confession of judgment in connection with the settlement of a dispute. The bill provides that a violation of the prohibition above is the offense of "illegally obtaining a confession of judgment," punishable as a first degree misdemeanor.<sup>2</sup>

### **Other forms of confession of judgment abolished**

The bill eliminates another means of confessing judgment that is initiated by the debtor, rather than the creditor. Under current law, a debtor or person against whom a cause of action exists may personally appear in court and confess judgment without trial, with the assent of the creditor or another person with a cause of action.<sup>3</sup>

The bill also repeals a provision that specifies that a warrant of attorney to confess judgment against a person in custody, in favor of the person at whose suit the person is in custody, is unenforceable unless executed in the presence of an attorney expressly named by the person in custody.<sup>4</sup>

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	02-15-17

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<sup>2</sup> R.C. 1337.53(F)(2), 2323.12, and 2323.13(A).

<sup>3</sup> R.C. 2323.12 and 1907.09, repealed.

<sup>4</sup> R.C. 2323.14, repealed.

