

Re: Memorandum of Support for Substitute House Bill No. 251 (Representatives Lang and Hillyer)

Dear Chairman Hambley, Vice Chairman Patton, Ranking Member Brown and Members of the House Civil Justice Committee,

On behalf of the PRA Group, Inc. we respectfully submit this letter of support for Substitute House Bill No. 251 (“the substitute bill” or “HB 251”). We appreciate the significant work Representatives Lang and Hillyer have done to listen to the very real concerns we collectively raised at the October 8, 2019 hearing on HB 251, and we believe that the substitute bill would create much-needed clarification regarding Ohio’s borrowing statute.

Ohio’s borrowing statute was enacted in 2005, and since that time there has been an environment of significant uncertainty for litigants about the application of the borrowing statute. The substitute bill would address this concern by amending Section 2305.03(B) of the Revised Code to clarify the uncertainty left unresolved by the plurality decision in *Taylor v. First Resolution Invest. Corp.*, 2016-Ohio-3444, 148 Ohio St. 3d 627, 72 N.E.3d 573, cert. denied, 137 S. Ct. 398 (2016). The General Assembly intended the amendment to section 2305.03(B) in S.B. 80, 125th General Assembly, to apply only to tort claims. This substitute bill makes a curative amendment to that section to make that intent clear, and adds sections 2305.03(C) and (D) to provide a prospective limitation on certain contract and related actions. In sections 2305.03(C) and (D), the substitute bill subjects to the borrowing statute actions seeking post-default or post-charge-off interest at a rate governed by or provided in the laws of another state, and in excess of what section 5703.47 of the Revised Code allows.

In addition, 2305.07(C) of the Revised Code is added to address the uncertainty as to when a cause of action accrues on a credit card debt claim. The bill adopts the standard discussed in *Taylor* by the concurring opinion of Justice Kennedy, paragraphs 116-121, 2016-Ohio-3444. Under Section 2305.07(C), an action arising out of a consumer transaction incurred primarily for personal, family or household purposes, based upon any contract, agreement, obligation, liability, or promise, express or implied, including an account stated, whether or not reduced to writing or signed by the party to be charged by that transaction, shall be commenced within six years after the cause of action accrues. Additional clarification is provided that a cause of action starts to accrue after the consumer’s account is closed, settled to a single liability, and following the last pertinent entry of the account.

The substitute bill language described above will ensure that litigants have certainty regarding which types of actions the borrowing statute applies to, understand the applicable limitations period for a cause of action, and know how to start calculating when the cause of action accrues. Clearly establishing these fundamental aspects of the law will create a level playing field for all parties to litigation, and will put an end to costly litigation over what the borrowing statute means that does nothing to benefit Ohio consumers or the companies working with those consumers.

We urge the Committee to adopt the Substitute of House Bill No. 251.

Very truly yours,

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