A BILL

To enact section 1349.73 of the Revised Code relating to commercial credit reports.

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

Section 1. That section 1349.73 of the Revised Code be enacted to read as follows:

Sec. 1349.73. (A) As used in this section:

(1) "Business" means a sole proprietorship, partnership, corporation, limited liability company, or other commercial entity, whether for profit or not for profit.

(2) "Commercial credit report" means any report provided to a business for a legitimate business purpose, relating to the financial status or payment habits of a business that is the subject of the report. "Commercial credit report" does not include any of the following:

(a) A report prepared for commercial insurance underwriting, claims, or auditing purposes;

(b) A report containing information related to

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transactions or experiences between the subject and the person making the report;

(c) An authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;

(d) Any report in which a person that has been requested by a third party to make a specific extension of credit directly or indirectly to the subject conveys its decision with respect to that request.

(3) "Commercial credit reporting agency" means any person or entity that, for monetary fees, dues, or on a cooperative nonprofit basis, provides commercial credit reports on a business operating in this state to third parties.

(4) "Cure offer" means a written offer of one or more things of value, including the payment of money, that is all of the following:

(a) It is made by the commercial credit reporting agency and delivered to a person or entity claiming to have suffered a loss as a result of the commercial credit reporting agency failing to comply with division (C) of this section or to the attorney for the person or entity.

(b) It is reasonably calculated to remedy the loss claimed by the person or entity.

(c) It is accompanied by an offer of a minimum additional amount.

(5) "Loss" includes economic damages and any presumed reputational injury to the business that results from the publication of an inaccurate statement of fact.
(6) "Minimum additional amount" is an amount offered by a commercial credit reporting agency, in addition to the cure offer, as compensation for inconvenience, any attorney's or other fees, expenses, or other costs of any kind that a person or entity claiming to have suffered a loss as a result of the commercial credit reporting agency failing to comply with division (C) of this section may have incurred in relation to the loss. The minimum additional amount shall equal the greater of ten per cent of the value of the cure offer or five hundred dollars, but shall not exceed four thousand dollars.

(7) "Subject" means the business operating in this state about which a commercial credit report has been compiled.

(B) Upon the request of a representative of the subject of a commercial credit report, a commercial credit reporting agency shall provide, annually, a copy of the subject's commercial credit report. The report shall be provided at no cost to the subject and may be printed or in electronic form. The report shall be in a format routinely made available to third parties and include information identifying the source, date, and specific amount, if any, of negative information that was provided to the commercial credit reporting agency concerning the subject.

(C) Within thirty days after receipt of a commercial credit report, a representative of the subject of the report may file with the commercial credit reporting agency a written summary statement identifying each particular statement in the report that the subject of the report believes contains an inaccurate statement of fact and indicating the nature of the disagreement with the statement. Within thirty days after receipt of a subject's summary statement of disagreement, the
commercial credit reporting agency at no cost to the subject shall do either of the following:

(1) Delete the disputed statement of fact from the report and, thereafter, block any repeat reporting of that disputed statement unless its accuracy has been verified;

(2) Include in the report a notice of the subject's assertion that the statement of fact is inaccurate.

(D)(1) A person or entity that suffers a loss as the result of a commercial credit reporting agency violating division (C) of this section may initiate a civil action against the agency to recover actual damages, or five hundred dollars, whichever is greater. The person or entity may also seek a declaratory judgment, an injunction, or other appropriate relief and damages in an individual capacity or, where warranted, in a class action.

(2) If the trier of fact finds that the violation was willful, the trier of fact may increase damages to an amount not exceeding three times the actual damages sustained, or one thousand dollars, whichever is greater.

(3) In addition to any damages awarded, a person or entity also may be awarded reasonable attorney's fees and court costs.

(4) A civil action pursuant to division (D) of this section shall not be brought more than two years after the occurrence of the violation that is the subject of the action.

(E)(1) Any person or entity who accepts a cure offer under this section may not initiate or maintain any other action that is substantially based on the same allegations of fact on which the action initiated under division (D) of this section is based.
(2) A cure offer is admissible in an action initiated under division (D) of this section only if the cure offer is delivered by a representative of the commercial credit reporting agency:

(a) To the person or entity claiming a loss or to any attorney representing that person or entity; and

(b) Before the commercial credit reporting agency filed its initial responsive pleading in the action.

(3) If the commercial credit reporting agency timely delivers the cure offer, it may introduce the cure offer into evidence at trial in the action. The commercial credit reporting agency shall then be liable for such person's or entity's attorney's fees and court costs incurred following delivery of the cure offer only if the plaintiff's actual damages, excluding attorney's fees and court costs, exceed the value of the cure offer plus the minimum additional amount.