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133rd General Assembly  
Regular Session  
2019-2020

Sub. H. B. No. 38

**A BILL**

To enact section 1349.73 of the Revised Code 1  
relating to commercial credit reports. 2

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

**Section 1.** That section 1349.73 of the Revised Code be 3  
enacted to read as follows: 4

**Sec. 1349.73.** (A) As used in this section: 5

(1) "Business" means a sole proprietorship, partnership, 6  
corporation, limited liability company, or other commercial 7  
entity, whether for profit or not for profit. 8

(2) "Commercial credit report" means any report provided 9  
to a business for a legitimate business purpose, relating to the 10  
financial status or payment habits of a business that is the 11  
subject of the report. "Commercial credit report" does not 12  
include any of the following: 13

(a) A report prepared for commercial insurance 14  
underwriting, claims, or auditing purposes; 15

(b) A report containing information related to 16



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transactions or experiences between the subject and the person 17  
making the report; 18

(c) An authorization or approval of a specific extension 19  
of credit directly or indirectly by the issuer of a credit card 20  
or similar device; 21

(d) Any report in which a person that has been requested 22  
by a third party to make a specific extension of credit directly 23  
or indirectly to the subject conveys its decision with respect 24  
to that request. 25

(3) "Commercial credit reporting agency" means any person 26  
or entity that, for monetary fees, dues, or on a cooperative 27  
nonprofit basis, provides commercial credit reports on a 28  
business operating in this state to third parties. 29

(4) "Cure offer" means a written offer of one or more 30  
things of value, including the payment of money, that is all of 31  
the following: 32

(a) It is made by the commercial credit reporting agency 33  
and delivered to a person or entity claiming to have suffered a 34  
loss as a result of the commercial credit reporting agency 35  
failing to comply with division (C) of this section or to the 36  
attorney for the person or entity. 37

(b) It is reasonably calculated to remedy the loss claimed 38  
by the person or entity. 39

(c) It is accompanied by an offer of a minimum additional 40  
amount. 41

(5) "Loss" includes economic damages and any presumed 42  
reputational injury to the business that results from the 43  
publication of an inaccurate statement of fact. 44

(6) "Minimum additional amount" is an amount offered by a 45  
commercial credit reporting agency, in addition to the cure 46  
offer, as compensation for inconvenience, any attorney's or 47  
other fees, expenses, or other costs of any kind that a person 48  
or entity claiming to have suffered a loss as a result of the 49  
commercial credit reporting agency failing to comply with 50  
division (C) of this section may have incurred in relation to 51  
the loss. The minimum additional amount shall equal the greater 52  
of ten per cent of the value of the cure offer or five hundred 53  
dollars, but shall not exceed four thousand dollars. 54

(7) "Subject" means the business operating in this state 55  
about which a commercial credit report has been compiled. 56

(B) Upon the request of a representative of the subject of 57  
a commercial credit report, a commercial credit reporting agency 58  
shall provide, annually, a copy of the subject's commercial 59  
credit report. The report shall be provided at no cost to the 60  
subject and may be printed or in electronic form. The report 61  
shall be in a format routinely made available to third parties 62  
and include information identifying the source, date, and 63  
specific amount, if any, of negative information that was 64  
provided to the commercial credit reporting agency concerning 65  
the subject. 66

(C) Within thirty days after receipt of a commercial 67  
credit report, a representative of the subject of the report may 68  
file with the commercial credit reporting agency a written 69  
summary statement identifying each particular statement in the 70  
report that the subject of the report believes contains an 71  
inaccurate statement of fact and indicating the nature of the 72  
disagreement with the statement. Within thirty days after 73  
receipt of a subject's summary statement of disagreement, the 74

commercial credit reporting agency at no cost to the subject 75  
shall do either of the following: 76

(1) Delete the disputed statement of fact from the report 77  
and, thereafter, block any repeat reporting of that disputed 78  
statement unless its accuracy has been verified; 79

(2) Include in the report a notice of the subject's 80  
assertion that the statement of fact is inaccurate. 81

(D) (1) A person or entity that suffers a loss as the 82  
result of a commercial credit reporting agency violating 83  
division (C) of this section may initiate a civil action against 84  
the agency to recover actual damages, or five hundred dollars, 85  
whichever is greater. The person or entity may also seek a 86  
declaratory judgment, an injunction, or other appropriate relief 87  
and damages in an individual capacity or, where warranted, in a 88  
class action. 89

(2) If the trier of fact finds that the violation was 90  
willful, the trier of fact may increase damages to an amount not 91  
exceeding three times the actual damages sustained, or one 92  
thousand dollars, whichever is greater. 93

(3) In addition to any damages awarded, a person or entity 94  
also may be awarded reasonable attorney's fees and court costs. 95

(4) A civil action pursuant to division (D) of this 96  
section shall not be brought more than two years after the 97  
occurrence of the violation that is the subject of the action. 98

(E) (1) Any person or entity who accepts a cure offer under 99  
this section may not initiate or maintain any other action that 100  
is substantially based on the same allegations of fact on which 101  
the action initiated under division (D) of this section is 102  
based. 103

(2) A cure offer is admissible in an action initiated 104  
under division (D) of this section only if the cure offer is 105  
delivered by a representative of the commercial credit reporting 106  
agency: 107

(a) To the person or entity claiming a loss or to any 108  
attorney representing that person or entity; and 109

(b) Before the commercial credit reporting agency filed 110  
its initial responsive pleading in the action. 111

(3) If the commercial credit reporting agency timely 112  
delivers the cure offer, it may introduce the cure offer into 113  
evidence at trial in the action. The commercial credit reporting 114  
agency shall then be liable for such person's or entity's 115  
attorney's fees and court costs incurred following delivery of 116  
the cure offer only if the plaintiff's actual damages, excluding 117  
attorney's fees and court costs, exceed the value of the cure 118  
offer plus the minimum additional amount. 119