A BILL

To amend sections 1343.01, 3781.10, 5313.02, and 5313.04 and to enact sections 5313.021, 5313.022, 5313.031, and 5313.12 of the Revised Code to make changes to the law relating to land installment contracts.

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

Section 1. That sections 1343.01, 3781.10, 5313.02, and 5313.04 be amended and sections 5313.021, 5313.022, 5313.031, and 5313.12 of the Revised Code be enacted to read as follows:

Sec. 1343.01. (A) The parties to a bond, bill, promissory note, or other instrument of writing for the forbearance or payment of money at any future time, may stipulate therein for the payment of interest upon the amount thereof at any rate not exceeding eight per cent per annum payable annually, except as authorized in division (B) of this section.

(B) Any party may agree to pay a rate of interest in excess of the maximum rate provided in division (A) of this section when:

(1) The original amount of the principal indebtedness
stipulated in the bond, bill, promissory note, or other instrument of writing exceeds one hundred thousand dollars;

(2) The payment is to a broker or dealer registered under the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78A, as amended, for carrying a debit balance in an account for a customer if such debit balance is payable on demand and secured by stocks, bonds or other securities;

(3) The instrument evidences a loan secured by a mortgage or deed of trust on real estate where the loan has been approved, insured, guaranteed, purchased, or for which an offer or commitment to insure, guarantee, or purchase has been received, in whole or in part, by the federal government or any agency or instrumentality thereof, the federal national mortgage association, the federal home loan mortgage corporation, or the farmers home administration, all of which is authorized pursuant to the "National Housing Act," 12 U.S.C. 1701; the "Serviceman's Readjustment Act," 38 U.S.C. 1801; the "Federal Home Loan Bank Act," 12 U.S.C. 1421; and the "Rural Housing Act," 42 U.S.C. 1471, amendments thereto, reenactments thereof, enactments parallel thereto, or in substitution therefor, or regulations issued thereunder; or by the state or any agency or instrumentality thereof authorized pursuant to Chapter 122. of the Revised Code, or rules issued thereunder.

(4) The instrument evidences a loan secured by a mortgage, or deed of trust, or land installment contract on real estate which does not otherwise qualify for exemption from the provisions of this section, except that such rate of interest shall not exceed eight per cent in excess of the discount rate on ninety-day commercial paper in effect at the federal reserve bank in the fourth federal reserve district at the time the
mortgage, or deed of trust, or land installment contract is executed.

(5) The instrument is payable on demand or in one installment and is not secured by household furnishings or other goods used for personal, family, or household purposes.

(6)(a) The loan is a business loan to a business association or partnership, a person owning and operating a business as a sole proprietor; any persons owning and operating a business as joint venturers, joint tenants, or tenants in common; any limited partnership; or any trustee owning or operating a business or whose beneficiaries own or operate a business, except that:

(i) Any loan which is secured by an assignment of an individual obligor's salary, wages, commissions, or other compensation for services or by household furniture or other goods used for household obligations shall be deemed not a loan within the meaning of division (B)(6) of this section;

(ii) Any loan which otherwise qualifies as a business loan within the meaning of division (B)(6) of this section shall not be deemed disqualified because of the inclusion, with other security consisting of business assets of any such obligor, of real estate occupied by an individual obligor solely as residence.

(b) As used in division (B)(6)(a) of this section, "business" means a commercial, agricultural, or industrial enterprise which is carried on for the purpose of investment or profit. "Business" does not mean the ownership or maintenance of
real estate occupied by an individual obligor solely as the individual obligor's residence.

Sec. 3781.10. (A)(1) The board of building standards shall formulate and adopt rules governing the erection, construction, repair, alteration, and maintenance of all buildings or classes of buildings specified in section 3781.06 of the Revised Code, including land area incidental to those buildings, the construction of industrialized units, the installation of equipment, and the standards or requirements for materials used in connection with those buildings. The board shall incorporate those rules into separate residential and nonresidential building codes. The standards shall relate to the conservation of energy and the safety and sanitation of those buildings.

(2) The rules governing nonresidential buildings are the lawful minimum requirements specified for those buildings and industrialized units, except that no rule other than as provided in division (C) of section 3781.108 of the Revised Code that specifies a higher requirement than is imposed by any section of the Revised Code is enforceable. The rules governing residential buildings are uniform requirements for residential buildings in any area with a building department certified to enforce the state residential building code. In no case shall any local code or regulation differ from the state residential building code unless that code or regulation addresses subject matter not addressed by the state residential building code or is adopted pursuant to section 3781.01 of the Revised Code.

(3) The rules adopted pursuant to this section are complete, lawful alternatives to any requirements specified for buildings or industrialized units in any section of the Revised Code. Except as otherwise provided in division (I) of this
section, the board shall, on its own motion or on application
made under sections 3781.12 and 3781.13 of the Revised Code,
formulate, propose, adopt, modify, amend, or repeal the rules to
the extent necessary or desirable to effectuate the purposes of
sections 3781.06 to 3781.18 of the Revised Code.

(B) The board shall report to the general assembly
proposals for amendments to existing statutes relating to the
purposes declared in section 3781.06 of the Revised Code that
public health and safety and the development of the arts require
and shall recommend any additional legislation to assist in
carrying out fully, in statutory form, the purposes declared in
that section. The board shall prepare and submit to the general
assembly a summary report of the number, nature, and disposition
of the petitions filed under sections 3781.13 and 3781.14 of the
Revised Code.

(C) On its own motion or on application made under
sections 3781.12 and 3781.13 of the Revised Code, and after
thorough testing and evaluation, the board shall determine by
rule that any particular fixture, device, material, process of
manufacture, manufactured unit or component, method of
manufacture, system, or method of construction complies with
performance standards adopted pursuant to section 3781.11 of the
Revised Code. The board shall make its determination with regard
to adaptability for safe and sanitary erection, use, or
construction, to that described in any section of the Revised
Code, wherever the use of a fixture, device, material, method of
manufacture, system, or method of construction described in that
section of the Revised Code is permitted by law. The board shall
amend or annul any rule or issue an authorization for the use of
a new material or manufactured unit on any like application. No
department, officer, board, or commission of the state other
than the board of building standards or the board of building
appeals shall permit the use of any fixture, device, material,
method of manufacture, newly designed product, system, or method
of construction at variance with what is described in any rule
the board of building standards adopts or issues or that is
authorized by any section of the Revised Code. Nothing in this
section shall be construed as requiring approval, by rule, of
plans for an industrialized unit that conforms with the rules
the board of building standards adopts pursuant to section
3781.11 of the Revised Code.

(D) The board shall recommend rules, codes, and standards
to help carry out the purposes of section 3781.06 of the Revised
Code and to help secure uniformity of state administrative
rulings and local legislation and administrative action to the
bureau of workers' compensation, the director of commerce, any
other department, officer, board, or commission of the state,
and to legislative authorities and building departments of
counties, townships, and municipal corporations, and shall
recommend that they audit those recommended rules, codes, and
standards by any appropriate action that they are allowed
pursuant to law or the constitution.

(E)(1) The board shall certify municipal, township, and
county building departments and the personnel of those building
departments, and persons and employees of individuals, firms, or
corporations as described in division (E)(7) of this section to
exercise enforcement authority, to accept and approve plans and
specifications, and to make inspections, pursuant to sections
3781.03, 3791.04, and 4104.43 of the Revised Code.

(2) The board shall certify departments, personnel, and
persons to enforce the state residential building code, to
enforce the nonresidential building code, or to enforce both the residential and the nonresidential building codes. Any department, personnel, or person may enforce only the type of building code for which certified.

(3) The board shall not require a building department, its personnel, or any persons that it employs to be certified for residential building code enforcement if that building department does not enforce the state residential building code. The board shall specify, in rules adopted pursuant to Chapter 119. of the Revised Code, the requirements for certification for residential and nonresidential building code enforcement, which shall be consistent with this division. The requirements for residential and nonresidential certification may differ. Except as otherwise provided in this division, the requirements shall include, but are not limited to, the satisfactory completion of an initial examination and, to remain certified, the completion of a specified number of hours of continuing building code education within each three-year period following the date of certification which shall be not less than thirty hours. The rules shall provide that continuing education credits and certification issued by the council of American building officials, national model code organizations, and agencies or entities the board recognizes are acceptable for purposes of this division. The rules shall specify requirements that are consistent with the provisions of section 5903.12 of the Revised Code relating to active duty military service and are compatible, to the extent possible, with requirements the council of American building officials and national model code organizations establish.

(4) The board shall establish and collect a certification and renewal fee for building department personnel, and persons
and employees of persons, firms, or corporations as described in this section, who are certified pursuant to this division.

(5) Any individual certified pursuant to this division shall complete the number of hours of continuing building code education that the board requires or, for failure to do so, forfeit certification.

(6) This division does not require or authorize the board to certify personnel of municipal, township, and county building departments, and persons and employees of persons, firms, or corporations as described in this section, whose responsibilities do not include the exercise of enforcement authority, the approval of plans and specifications, or making inspections under the state residential and nonresidential building codes.

(7) Enforcement authority for approval of plans and specifications and enforcement authority for inspections may be exercised, and plans and specifications may be approved and inspections may be made on behalf of a municipal corporation, township, or county, by any of the following who the board of building standards certifies:

(a) Officers or employees of the municipal corporation, township, or county;

(b) Persons, or employees of persons, firms, or corporations, pursuant to a contract to furnish architectural, engineering, or other services to the municipal corporation, township, or county;

(c) Officers or employees of, and persons under contract with, a municipal corporation, township, county, health district, or other political subdivision, pursuant to a contract
to furnish architectural, engineering, or other services.

(8) Municipal, township, and county building departments have jurisdiction within the meaning of sections 3781.03, 3791.04, and 4104.43 of the Revised Code, only with respect to the types of buildings and subject matters for which they are certified under this section.

(9) A certified municipal, township, or county building department may exercise enforcement authority, accept and approve plans and specifications, and make inspections pursuant to sections 3781.03, 3791.04, and 4104.43 of the Revised Code for a park district created pursuant to Chapter 1545. of the Revised Code upon the approval, by resolution, of the board of park commissioners of the park district requesting the department to exercise that authority and conduct those activities, as applicable.

(10) Certification shall be granted upon application by the municipal corporation, the board of township trustees, or the board of county commissioners and approval of that application by the board of building standards. The application shall set forth:

(a) Whether the certification is requested for residential or nonresidential buildings, or both;

(b) The number and qualifications of the staff composing the building department;

(c) The names, addresses, and qualifications of persons, firms, or corporations contracting to furnish work or services pursuant to division (E)(7)(b) of this section;

(d) The names of any other municipal corporation, township, county, health district, or political subdivision
under contract to furnish work or services pursuant to division (E)(7) of this section;

(e) The proposed budget for the operation of the building department.

(11) The board of building standards shall adopt rules governing all of the following:

(a) The certification of building department personnel and persons and employees of persons, firms, or corporations exercising authority pursuant to division (E)(7) of this section. The rules shall disqualify any employee of the department or person who contracts for services with the department from performing services for the department when that employee or person would have to pass upon, inspect, or otherwise exercise authority over any labor, material, or equipment the employee or person furnishes for the construction, alteration, or maintenance of a building or the preparation of working drawings or specifications for work within the jurisdictional area of the department. The department shall provide other similarly qualified personnel to enforce the residential and nonresidential building codes as they pertain to that work.

(b) The minimum services to be provided by a certified building department.

(12) The board of building standards may revoke or suspend certification to enforce the residential and nonresidential building codes, on petition to the board by any person affected by that enforcement or approval of plans, or by the board on its own motion. Hearings shall be held and appeals permitted on any proceedings for certification or revocation or suspension of
certification in the same manner as provided in section 3781.101 of the Revised Code for other proceedings of the board of building standards.

(13) Upon certification, and until that authority is revoked, any county or township building department shall enforce the residential and nonresidential building codes for which it is certified without regard to limitation upon the authority of boards of county commissioners under Chapter 307 of the Revised Code or boards of township trustees under Chapter 505 of the Revised Code.

(F) In addition to hearings sections 3781.06 to 3781.18 and 3791.04 of the Revised Code require, the board of building standards shall make investigations and tests, and require from other state departments, officers, boards, and commissions information the board considers necessary or desirable to assist it in the discharge of any duty or the exercise of any power mentioned in this section or in sections 3781.06 to 3781.18, 3791.04, and 4104.43 of the Revised Code.

(G) The board shall adopt rules and establish reasonable fees for the review of all applications submitted where the applicant applies for authority to use a new material, assembly, or product of a manufacturing process. The fee shall bear some reasonable relationship to the cost of the review or testing of the materials, assembly, or products and for the notification of approval or disapproval as provided in section 3781.12 of the Revised Code.

(H) The residential construction advisory committee shall provide the board with a proposal for a state residential building code that the committee recommends pursuant to division (D)(1) of section 4740.14 of the Revised Code. Upon receiving a
recommendation from the committee that is acceptable to the board, the board shall adopt rules establishing that code as the state residential building code.

(I)(1) The committee may provide the board with proposed rules to update or amend the state residential building code that the committee recommends pursuant to division (E) of section 4740.14 of the Revised Code.

(2) If the board receives a proposed rule to update or amend the state residential building code as provided in division (I)(1) of this section, the board either may accept or reject the proposed rule for incorporation into the residential building code. If the board does not act to either accept or reject the proposed rule within ninety days after receiving the proposed rule from the committee as described in division (I)(1) of this section, the proposed rule shall become part of the residential building code.

(J) The board shall cooperate with the director of job and family services when the director promulgates rules pursuant to section 5104.05 of the Revised Code regarding safety and sanitation in type A family day-care homes.

(K) The board shall adopt rules to implement the requirements of section 3781.108 of the Revised Code.

(L) The board shall adopt rules to implement the requirements of section 5313.021 of the Revised Code.

Sec. 5313.02. (A) Every land installment contract shall be executed in duplicate, and a copy of the contract shall be provided to the vendor and the vendee and, if applicable, the vendor's attorney and vendee's attorney. The contract shall contain at least the following provisions:
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(1) A notice in at least twelve-point type, at the beginning of the contract, stating all of the following:

(a) That the vendor is responsible for all of the following:

(i) The payment of taxes, assessments, and other charges against the property from the date of the contract;

(ii) The payment of homeowner's insurance premiums;

(iii) All repairs and maintenance on the property.

(b) That the vendee has a cause of action pursuant to section 5313.04 of the Revised Code, if the vendor does not comply with the provisions of this chapter.

(2) The full names and then current mailing addresses of all the parties to the contract;

(2) (3) The date when the contract was signed by each party;

(3) (4) A legal description of the property conveyed;

(4) (5) The contract price of the property conveyed;

(5) (6) Any charges or fees for services that are includable in the contract separate from the contract price;

(6) (7) The amount of the vendee's down payment;

(7) (8) The principal balance owed, which is the sum of the specified in divisions (A) (4) (5) and (5) (6) of this section less the specified in division (A) (6) (7) of this section;

(8) (9) The amount and due date of each installment payment;
(9)–(10) The interest rate on the unpaid balance and the method of computing the rate, in accordance with section 5313.031 of the Revised Code;

(10)–(11) A statement of any encumbrances against the property conveyed;

(11)–(12) A statement requiring the vendor to deliver a general warranty deed on completion of the contract, or another deed that is available when the vendor is legally unable to deliver a general warranty deed;

(12)–(13) A provision that the vendor provide evidence of title in accordance with the prevailing custom in the area in which the property is located;

(13)–(14) A provision stating that the vendor shall not hold any mortgage on the property, if the vendor defaults on any mortgage on the property, the vendee can pay on the mortgage and receive credit on the land installment contract;

(14)–(15) A provision that the vendor shall cause a copy of the contract to be recorded, and a copy of the recorded contract shall be provided to the vendee and the vendee’s attorney, if applicable;

(15) A requirement that the vendee be responsible for the payment of taxes, assessments, and other charges against the property from the date of the contract, unless agreed to the contrary;

(16) A statement of any pending order of any public agency against the property;

(17) That homeowners insurance shall be obtained for the property, the extent of the coverage, and to whom the insurance
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is payable.

(B) No vendor shall hold a mortgage on property sold by a
land installment contract in an amount greater than the balance
due under the contract, except a mortgage that covers real
property in addition to the property that is the subject of the
contract where the vendor has made written disclosure to the
vendee of the amount of the mortgage and the release price, if
any, attributable to the property in question.

No vendor shall place a mortgage on the property in an
amount greater than the balance due on the contract without the
consent of the vendee.

(C) Within twenty days after a land installment contract
has been signed by both the vendor and the vendee, the vendor
shall cause a copy of the contract to be recorded as provided in
section 5301.25 of the Revised Code and a copy of the contract
to be delivered to the county auditor, the vendee, and the
vendee's attorney, if applicable.

(D) Every land installment contract shall conform to
the formalities required by law for the execution of deeds and
mortgages. The vendor of any land installment contract that
contains a metes and bounds legal description shall have that
description reviewed by the county engineer. The county engineer
shall indicate his approval of the description on
the contract.

Sec. 5313.021. (A) A vendor shall pay off any liens on the
property subject to the land installment contract prior to
executing a contract with the vendee.

(B) No vendor shall do either of the following:

(1) Hold a mortgage on property sold by a land installment
contract;

(2) Place a mortgage on the property during the course of the contract.

(C) A vendor shall do both of the following during the course of the contract:

(1) Comply with the requirements of any applicable building code;

(2) Make all repairs and do whatever is reasonably necessary to put and keep the premises in a fit and habitable condition.

(D)(1) Prior to the execution of the contract the vendor shall do both of the following, in accordance with rules implemented by the board of building standards under division (L) of section 3781.10 of the Revised Code:

(a) Contact the local building department or other entity responsible for code enforcement in the jurisdiction where the property subject to the land installment contract is located and request an inspection;

(b) Verify that the property complies with the requirements of the applicable building code.

(2) If, after an inspection, the inspector determines that a violation of the applicable building code exists, the vendor shall be responsible for fixing any violation prior to entering into a contract with the vendee. The vendor shall have the property inspected again to determine that all repairs have been made and the property complies with the applicable building code prior to executing the contract. If the property complies with the applicable building code, the entity providing the
inspection shall issue a certificate to the vendor indicating this fact.

(3) The vendor shall provide to the vendee, prior to the execution of the contract, the certificate issued by the entity providing the inspection that indicates the property complies with the applicable building code.

(4) The board of building standards shall adopt rules, pursuant to division (L) of section 3781.10 of the Revised Code, to implement this section, including procedures a vendor shall follow to obtain an inspector to inspect the property, issuance of a certificate indicating successful compliance with the applicable building code, and any fees associated with these procedures.

(5) The vendor shall be responsible for any fines associated with any code violation and any fees associated with the inspection.

(E)(1) Prior to executing a land installment contract, the vendor shall obtain and pay for an appraisal of the property by an appraiser listed on the department of commerce web site, as described in division (E)(2) of this section. The vendor shall provide a copy of the appraisal report to the vendee prior to execution of the contract.

(2) The department of commerce shall post on its web site a list of real estate appraisers certified or licensed in this state who can provide a certified or licensed real estate appraisal as defined under section 4763.01 of the Revised Code for the purposes of providing an independent appraisal of the property subject to the land installment contract.

(3) The department of commerce may adopt rules to
implement this section.

Sec. 5313.022. The parties to a land installment contract may agree to terms contrary to any provisions in section 5313.02 or 5313.021 of the Revised Code, but only if both the vendor and the vendee are each separately represented by an attorney licensed to practice law in this state.

Sec. 5313.031. No interest on a land installment contract shall be more than two per cent above the treasury bill rate for loans of the same maturity on the date of the contract.

Sec. 5313.04. (A) Upon the failure of any vendor to comply with Chapter 5313. of the Revised Code, the vendee may enforce such provisions in a municipal court, county court, or court of common pleas. Upon the determination of the court that the vendor has failed to comply with these provisions, the court shall grant appropriate relief, which shall include relief described in division (B) of this section.

(B) A court shall award a vendee who is successful in an action against a vendor for violation of a provision of Chapter 5313. of the Revised Code both of the following:

(1) Money damages that include any of the following:

(a) Two per cent of the principal amount of the contract debt;

(b) Equity in the property;

(c) Return of all moneys paid by vendee.

(2) Court costs and reasonable attorney fees.

(C) A court may also grant an injunction, order specific performance, or other relief, including rescission of the
contract.

(D) Nothing in this section shall prevent a vendor or vendee from settling disputes through mediation or arbitration.


Section 2. That existing sections 1343.01, 3781.10, 5313.02, and 5313.04 of the Revised Code are hereby repealed.

Section 3. Section 5313.02 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 95 and Am. Sub. H.B. 473 of the 119th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.