(125th General Assembly)
(Substitute House Bill Number 401)

AN ACT

To amend sections 1315.39, 1315.40, and 2913.11 of the Revised Code to increase the authorized amount of a check-cashing loan from $500 to $800, to modify the fee for such a loan if it is $500 or more, to expand the offense of passing bad checks to apply to electronic transactions, to include in the offense a provision regarding stop payment orders on checks, and to include in the offense a provision regarding aggregation of checks issued within 180 days for purposes of determining an offender's penalty.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 1315.39, 1315.40, and 2913.11 of the Revised Code be amended to read as follows:

Sec. 1315.39. (A) A check-cashing business licensed under sections 1315.35 to 1315.44 of the Revised Code may engage in the business of making loans provided that each loan meets all of the following conditions:

(1) The total amount of the loan does not exceed ~~five~~ eight hundred dollars.

(2) The duration of the loan does not exceed six months.

(3) The interest on the loan is calculated in compliance with, and does not exceed the amount permitted by, division (B) of this section.

(4) The loan is made pursuant to a written loan contract that sets forth the terms and conditions of the loan, and discloses in a clear and concise manner all of the following:

(a) The total amount of fees and charges the borrower will be required to pay in connection with the loan pursuant to the loan contract;

(b) The rate of interest contracted for under the loan contract, calculated both as an annual percentage rate based solely on the principal of the loan and as an annual percentage rate based on the sum of the principal of the loan and the loan origination fee, check collection charge, and all other fees

or charges contracted for under the loan contract;

(c) The total amount of each payment, when each payment is due, and the total number of payments that the borrower will be required to make under the loan contract;

(d) A statement, printed in boldface type of the minimum size of ten points, as follows: "WARNING: The rate of interest charged on this loan is higher than the average rate of interest charged by financial institutions on substantially similar loans."

(5) The loan is not being made to a borrower for purposes of retiring an existing loan between the check-cashing business and that borrower, which existing loan was made pursuant to sections 1315.35 to 1315.44 of the Revised Code.

(B) A check-cashing business may contract for and receive interest at a rate of five per cent per month or fraction of a month on the unpaid principal of a loan made under sections 1315.35 to 1315.44 of the Revised Code. Any unearned interest shall not be deducted from the proceeds of the loan or paid in advance, and interest shall be computed on the unpaid balance and shall not be compounded. If, after the first month of the loan contract, the loan is paid in full before the final date on which payment is due on the loan pursuant to the loan contract, the licensee shall refund or credit the borrower with the amount of the unearned interest for the unexpired period of the loan contract that follows the date of the borrower's payment in full.

Sec. 1315.40. In addition to the interest authorized to be contracted for and received pursuant to section 1315.39 of the Revised Code, a check-cashing business licensed pursuant to sections 1315.35 to 1315.44 of the Revised Code may charge, collect, and receive the following fees and charges in connection with a loan made under sections 1315.35 to 1315.44 of the Revised Code:

(A) Loan origination fees not exceeding an amount equal to five dollars per fifty dollars up to five hundred dollars of the amount of the loan and three dollars and seventy-five cents per fifty dollars of the amount of the loan between five hundred one and eight hundred dollars;

(B) Check collection charges not exceeding an amount equal to twenty dollars plus any amount passed on from other financial institutions for each check, negotiable order of withdrawal, share draft, or other negotiable instrument returned or dishonored for any reason, provided that the terms and conditions upon which check collection charges will be charged to the borrower are set forth in the written loan contract described in division (A)(4) of section 1315.39 of the Revised Code;

(C) Damages, costs, and disbursements to which the check-cashing

business may become entitled to by law in connection with any civil action to collect a loan after default.

Sec. 2913.11. (A) As used in this section:

(1) "Check" includes any form of debit from a demand deposit account, including, but not limited to any of the following:

(a) A check, bill of exchange, draft, order of withdrawal, or similar negotiable or non-negotiable instrument;

(b) An electronic check, electronic transaction, debit card transaction, check card transaction, substitute check, web check, or any form of automated clearing house transaction.

(2) "Issue a check" means causing any form of debit from a demand deposit account.

(B) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored or knowing that a person has ordered or will order stop payment on the check or other negotiable instrument.

~~(B)~~(C) For purposes of this section, a person who issues or transfers a check or other negotiable instrument is presumed to know that it will be dishonored if either of the following occurs:

(1) The drawer had no account with the drawee at the time of issue or the stated date, whichever is later;

(2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within thirty days after issue or the stated date, whichever is later, and the liability of the drawer, indorser, or any party who may be liable thereon is not discharged by payment or satisfaction within ten days after receiving notice of dishonor.

~~(C)~~(D) For purposes of this section, a person who issues or transfers a check, bill of exchange, or other draft is presumed to have the purpose to defraud if the drawer fails to comply with section 1349.16 of the Revised Code by doing any of the following when opening a checking account intended for personal, family, or household purposes at a financial institution:

(1) Falsely stating that the drawer has not been issued a valid driver's or commercial driver's license or identification card issued under section 4507.50 of the Revised Code;

(2) Furnishing such license or card, or another identification document that contains false information;

(3) Making a false statement with respect to the drawer's current address or any additional relevant information reasonably required by the financial institution.

~~(D)~~(E) In determining the value of the payment for purposes of division (F) of this section, the court may aggregate all checks and other negotiable instruments that the offender issued or transferred or caused to be issued or transferred in violation of division (A) of this section within a period of one hundred eighty consecutive days.

(F) Whoever violates this section is guilty of passing bad checks. Except as otherwise provided in this division, passing bad checks is a misdemeanor of the first degree. If the check or checks or other negotiable instrument ~~is~~ or instruments are issued or transferred to a single vendor or single other person for the payment of five hundred dollars or more ~~and is for the payment of~~ but less than five thousand dollars or if the check or checks or other negotiable instrument or instruments are issued or transferred to multiple vendors or persons for the payment of one thousand dollars or more but less than five thousand dollars, passing bad checks is a felony of the fifth degree. If the check or checks or other negotiable instrument ~~is~~ or instruments are for the payment of five thousand dollars or more ~~and is for the payment of~~ but less than one hundred thousand dollars, passing bad checks is a felony of the fourth degree. If the check or checks or other negotiable instrument ~~is~~ or instruments are for the payment of one hundred thousand dollars or more, passing bad checks is a felony of the third degree.

SECTION 2. That existing sections 1315.39, 1315.40, and 2913.11 of the Revised Code are hereby repealed.

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Speaker _____ *of the House of Representatives.*

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President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

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Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

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Secretary of State.

File No. _____ Effective Date _____