As Introduced

131st General Assembly
Regular Session
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H. B. No. 598

Representative Terhar

A BILL

To enact sections 1321.62, 1321.63, 1321.631, 1321.632, 1321.64, 1321.641, 1321.642, 1321.643, 1321.644, 1321.65, 1321.651, 1321.66, 1321.661, 1321.662, 1321.663, 1321.664, 1321.665, 1321.666, 1321.667, 1321.668, 1321.669, 1321.67, 1321.671, 1321.672, 1321.673, 1321.674, 1321.68, 1321.681, 1321.69, 1321.70, 1321.701, and 1321.702 of the Revised Code to create the Ohio Consumer Installment Loan Act.

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

Section 1. That sections 1321.62, 1321.63, 1321.631, 1321.632, 1321.64, 1321.641, 1321.642, 1321.643, 1321.644, 1321.65, 1321.651, 1321.66, 1321.661, 1321.662, 1321.663, 1321.664, 1321.665, 1321.666, 1321.667, 1321.668, 1321.669, 1321.67, 1321.671, 1321.672, 1321.673, 1321.674, 1321.68, 1321.681, 1321.69, 1321.70,1321.701, and 1321.702 of the Revised Code be enacted to read as follows:

Sec. 1321.62. As used in sections 1321.62 to 1321.702 of the Revised Code:

(A) "Actuarial method" means the method of allocating

payments made on a loan between the principal amount and interest whereby a payment is applied first to the accumulated interest and the remainder to the unpaid principal amount.

(B) "Advertisement" and "advertising" mean all material printed, published, displayed, distributed, or broadcast, and all material displayed or distributed over the internet, telephone, facsimile, or other electronic transmission, for the purposes of obtaining applications for loans.

(C) "Affiliation" and "affiliated with" mean controlled by or under common control with another person or enterprise either directly or indirectly through one or more intermediaries.

(D) "Annual percentage rate" means the ratio of the interest on a loan to the unpaid principal balances on the loan for any period of time, expressed on an annual basis.

(E) "Applicable charge" means the amount of interest attributable to each monthly installment period of the loan contract, computed as if each installment period were one month and any charge for extending the first installment period beyond one month is ignored. In the case of loans originally scheduled to be repaid in sixty-one months or less, "applicable charge" for any installment period means that proportion of the total interest contracted for, as the balance scheduled to be outstanding during that period bears to the sum of all of the periodic balances, all determined according to the payment schedule originally contracted for. In all other cases, "applicable charge" for any installment period is that which would have been made for such period had the loan been made on an interest-bearing basis, based upon the assumption that all payments were made according to schedule.

(F) "Assets" means properties of value that are owned by the applicant or licensee, including cash on hand and in depository institutions, readily marketable securities, accounts receivable less allowances for uncollectible accounts, and real estate less liens and depreciation. "Assets" does not mean office premises, leasehold improvements, office furniture, fixtures, and equipment, or intangible assets.

(G) "Closed-end loan" means any extension of credit other than an open-end loan.

(H) "Collecting" and "collected" means the servicing of a loan or receipt of payments from a borrower for a loan made pursuant to sections 1321.62 to 1321.702 of the Revised Code.

(I) "Consumer report" and "consumer reporting agency" have the same meanings as in the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C. 1681a, as amended.

(J) "Control person" means a person that, in the determination of the superintendent of financial institutions, has the authority to direct and control the operations of the applicant.

(K) "Depository institution" has the same meaning as in section 3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813, and includes any credit union.

(L) "Direct mail" means a loan arranged via an application through the mail or internet where the loan proceeds are delivered through the mail or electronic transmission to the benefit of a borrower. A loan is not made by "direct mail" if it is facilitated by face-to-face, personal contact in this state between the lender, lender's employee or agent, or lender's attorney and the borrower or borrower's agent.

(M) "Federal banking agency" means the board of governors of the federal reserve system, the comptroller of the currency, the national credit union administration, and the federal deposit insurance corporation.

(N) "Final entry on a loan" means, as to a particular lender, the latter of the date the loan is paid in full, deemed uncollectible, assigned to another licensee or exempt entity and all records are transferred to the new lender, or discharged or otherwise settled by an order terminating litigation governing the loan transaction.

(O) "Interest" means all charges payable directly or indirectly by a borrower to a licensee as a condition to a loan or an application for a loan, however denominated, but does not include default charges, deferment charges, insurance charges or premiums, court costs, loan origination charges, check collection charges, credit investigation charges, credit line charges, points, or other fees and charges specifically authorized by law.

(P) "Interest-bearing loan" means a loan in which the debt is expressed as the principal amount and interest is computed, charged, and collected on unpaid principal balances outstanding from time to time.

(Q) "Instrument" means a personal check or authorization to transfer or withdraw funds from an account that is signed by the borrower and made payable to a person subject to sections 1321.62 to 1321.702 of the Revised Code.

(R) "License" means a license issued under sections 1321.62 to 1321.702 of the Revised Code.

(S) "Licensee" means any person that has been issued a

license.

(T) "Net worth" means the excess of assets over liabilities as determined by generally accepted accounting principles.

(U) "NMLSR" means a multistate licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators, or their successor entities, for the licensing and registration of loan originators, or any system established by the secretary of housing and urban development pursuant to the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.

(V) "Open-end loan" means consumer credit extended by a creditor under a plan to which all of the following conditions apply:

(1) The creditor reasonably contemplates repeated transactions.

(2) The creditor may impose a finance charge from time to time on an outstanding unpaid balance.

(3) The amount of credit that may be extended to the borrower during the term of the plan, up to any limit set by the creditor, is generally made available to the extent that any outstanding balance is repaid.

(W) "Person" means an individual, partnership, association, trust, corporation, or any other legal entity.

(X) "Precomputed loan" means a loan in which the debt is a sum comprising the principal amount and the amount of interest computed in advance on the assumption that all scheduled

payments will be made when due.

(Y) "Principal amount" means the amount of cash paid to, or paid or payable for the account of, the borrower, and includes any charge, fee, or expense that is financed by the borrower at origination of the loan or during the term of the loan.

(Z) "Refinance" means a loan the proceeds of which are used in whole or in part to pay the unpaid balance of a prior loan made by the same licensee or any employee or affiliate of the licensee to the same borrower under sections 1321.62 to 1321.702 of the Revised Code.

(AA) "Residential mortgage" means any credit transaction secured by an interest in the covered borrower's dwelling, including a transaction to finance the purchase or initial construction of a dwelling, any refinance transaction, home equity loan or home equity line of credit, or reverse mortgage.

(BB) "State" in the context of referring to states in addition to Ohio means any state of the United States, the district of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the trust territory of the Pacific islands, the virgin islands, and the northern Mariana islands.

(CC) "Superintendent of financial institutions" includes the deputy superintendent for consumer finance as provided in section 1181.21 of the Revised Code.

Sec. 1321.63. (A)(1) Subject to section 1321.631 of the Revised Code, no person shall do either of the following without first having obtained a license from the superintendent of financial institutions under sections 1321.62 to 1321.702 of the Revised Code:

(a) Engage in the business of lending money;

(b) Contract for, or receive, directly or indirectly, on or in connection with any such loan, any interest and charges that in the aggregate are greater than the interest and charges that the lender would be permitted to charge for a loan of money if the lender were not a licensee.

(2) Division (A)(1) of this section applies to any person, who by any device, subterfuge, or pretense, charges, contracts for, or receives greater interest, consideration, or charges than that authorized by this section for any such loan, or who for a fee or any manner of compensation arranges or offers to find or arrange for another person to make any such loan.

(B) This section does not preclude the acquiring, directly or indirectly, by purchase or discount, of a bona fide obligation for goods or services when such obligation is payable directly to the person who provided the goods or services.

(C) Any contract of a loan in the making or collection of which an act is done by the lender that violates this section is void and the lender has no right to collect, receive, or retain any principal, interest, or charges.

Sec. 1321.631. Sections 1321.62 to 1321.702 of the Revised Code do not apply to any of the following:

(A) Any credit transaction made without a license issued under sections 1321.62 to 1321.702 of the Revised Code;

(B) Any credit transaction with a loan term of less than six months from the loan transaction date;

(C) Any credit transaction that does not require equal monthly payments;

(D) Any credit transaction with an interest rate in excess of that provided for under section 1321.68 of the Revised Code;

(E) Any credit transaction secured by an interest in the covered borrower's dwelling, including a transaction to finance the purchase or initial construction of a dwelling, any refinance transaction, home equity loan or home equity line of credit, or reverse mortgage;

(F) Any credit transaction that is an exempt transaction for the purposes of Regulation Z under 15 U.S.C. 1601, other than a transaction exempt under 12 C.F.R. 1026.29, or otherwise is not subject to disclosure requirements under Regulation Z;

(G) Any credit transaction that originates as a result, directly or indirectly, of a referral from a person registered or acting as a credit services organization under sections 4712.01 to 4712.14 of the Revised Code;

(H) Any credit transaction made by a person licensed as a check-cashing business under sections 1315.21 to 1315.30 of the Revised Code;

(I) Any credit transaction made by a retail seller under Chapter 1317. of the Revised Code;

(J) Any credit transaction made by a person licensed or acting as a pawnbroker under Chapter 4727. of the Revised Code;

(K) Any credit transaction made by a person licensed under sections 1321.35 to 1321.48 of the Revised Code;

(L) Any credit transaction made by a collection agency pursuant to section 1319.12 of the Revised Code;

(M) Any credit transaction made by a premium finance company licensed under sections 1321.71 to 1321.83 of the

Revised Code;

(N) Any credit transaction made by a person chartered and lawfully doing business under the authority of any law of this state, another state, or the United States as a bank, savings bank, trust company, savings and loan association, or credit union, or a subsidiary of any such entity, which subsidiary is regulated by a federal banking agency and is owned and controlled by such a depository institution;

(O) Any credit transaction made by a life, property, or casualty insurance company licensed to do business in this state or any entity licensed under Title XXXIX of the Revised Code that makes advances or loans to any person who is licensed to sell insurance pursuant to that title and who is authorized in writing by that entity to sell insurance;

(P) Any licensee doing business under sections 1321.01 to 1321.19 of the Revised Code;

(Q) Any person making a business loan described in division (B)(6) of section 1343.01 of the Revised Code;

(R) Any political subdivision, or any governmental or other public entity, corporation, instrumentality, or agency, in or of the United States or any state of the United States, or any entity mentioned in division (B)(3) of section 1343.01 of the Revised Code;

(S) Any college or university, or controlled entity of a college or university, as those terms are defined in section 1713.05 of the Revised Code;

(T) Any person doing business under and as permitted by any law of this state, another state, or the United States relating to banks, savings banks, savings societies, trust

companies, credit unions, or savings and loan associations substantially all the business of which is confined to loans on real estate mortgages and evidences of their own indebtedness.

Sec. 1321.632. A licensee may engage in the business of making loans provided the licensee does not do any of the following:

(A) Assess an origination fee pursuant to section 1321.68 of the Revised Code more than three times in any twelve-month period;

(B) Accept a dated instrument from the borrower as security for a loan;

(C) Hold an instrument for a period of time prior to negotiation or deposit of the instrument;

(D) Pay to a borrower, credit to a borrower's account, or pay to another person on the borrower's behalf the amount of an instrument, less interest, fees, or any other charges permitted by section 1321.68 of the Revised Code;

(E) Refinance the loan during the first one hundred twenty days of the loan term;

(F) Except for the deferment charge permitted by section 1321.68 of the Revised Code, charge or collect any fee, charge, or remuneration of any sort for renewing, amending, or extending a loan beyond its original term.

Sec. 1321.64. (A) An application for a license shall contain an undertaking by the applicant to abide by those sections. The application shall be in writing, under oath, and in the form prescribed by the superintendent of financial institutions, and shall contain any information that the

superintendent may require. Applicants that are foreign corporations shall obtain and maintain a license pursuant to Chapter 1703. of the Revised Code before a license is issued or renewed.

(B) Upon the filing of the application and the payment by the applicant of a nonrefundable investigation fee of two hundred dollars, a nonrefundable annual registration fee of three hundred dollars, and any additional fee required by the NMLSR, the division of financial institutions shall investigate the relevant facts. If the application involves investigation outside this state, the applicant may be required by the division to advance sufficient funds to pay any of the actual expenses of the investigation when it appears that these expenses will exceed two hundred dollars. An itemized statement of any of these expenses which the applicant is required to pay shall be furnished to the applicant by the division. A license shall not be issued unless all the required fees have been submitted to the division.

(C)(1) The investigation undertaken upon receipt of an application shall include both a civil and criminal records check of any control person.

(2)(a) Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent shall obtain a criminal records check on each control person and, as part of that records check, request that criminal records information from the federal bureau of investigation be obtained. To fulfill this requirement, the superintendent shall do either of the following:

(i) Request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the

bureau, to conduct a criminal records check based on the control person's fingerprints or, if the fingerprints are unreadable, based on the control person's social security number, in accordance with section 109.572 of the Revised Code;

(ii) Authorize the NMLSR to request a criminal records check of the control person.

(b) Any fee required under division (C)(3) of section 109.572 of the Revised Code or by the NMLSR shall be paid by the applicant.

(D) If an application for a license does not contain all of the information required under division (A) of this section, and if such information is not submitted to the division or to the NMLSR within ninety days after the superintendent or the NMLSR requests the information in writing, including by electronic transmission or facsimile, the superintendent may consider the application withdrawn.

(E) If the superintendent of financial institutions finds that the financial responsibility, experience, character, and general fitness of the applicant command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of sections 1321.62 to 1321.702 of the Revised Code and the rules adopted thereunder, and that the applicant has the requisite net worth and assets required under section 1321.65 of the Revised Code, the superintendent shall issue a license to the applicant. The license shall be valid for one year.

(F) If the superintendent finds that the applicant does not meet the conditions set forth in this section, the superintendent shall issue a notice of intent to deny the

application, and promptly notify the applicant of the denial, the grounds for the denial, and the applicant's reasonable opportunity to be heard on the action in accordance with Chapter 119. of the Revised Code.

Sec. 1321.641. (A) A license issued under section 1321.64 of the Revised Code may be renewed annually on or before the thirty-first day of December by submitting a renewal application in the form prescribed by the superintendent of financial institutions. The application shall be accompanied by a nonrefundable renewal fee of three hundred dollars, any assessment as determined by the superintendent pursuant to division (B) of this section, and any additional fee required by the NMLSR. A licensee shall not be required to pay any other fee or assessment by the state or any political subdivision of the state.

(B) If the amount of renewal fees collected by the division of financial institutions is less than the estimated expenditures of the consumer finance section of the division, as determined by the superintendent, for the following fiscal year, the superintendent may assess each licensee at a rate sufficient to equal in the aggregate the difference between the renewal fees collected and the estimated expenditures. Each licensee shall pay the assessed amount to the superintendent prior to the last day of June. In no event shall the assessment exceed ten cents per each one hundred dollars of interest, excluding charge-off recoveries, loan origination charges, and credit line charges collected by that licensee during the previous calendar year. If such an assessment is imposed, it shall not be less than two hundred fifty dollars per licensee and shall not exceed thirty thousand dollars less the total renewal fees paid pursuant to division (A) of this section by each licensee.

(C) If a renewal application does not contain all of the information required, and if that information is not submitted to the division or to the NMLSR within ninety days after the superintendent or the NMLSR requests the information in writing, including by electronic transmission or facsimile, the superintendent may consider the renewal application withdrawn.

(D) An applicant's license shall not be renewed if it is subject to an order of suspension, revocation, or an unpaid and past due fine imposed by the superintendent.

Sec. 1321.642. (A) If there is a change of five per cent or more in the ownership of a licensee, the division of financial institutions may make any investigation necessary to determine whether any fact or condition exists that, if it had existed at the time of the original application for a license, the fact or condition would have warranted the division to deny the application under section 1321.64 of the Revised Code.

(B) If there is a change of fifty per cent or more in the ownership of a licensee, the licensee shall notify the division within fifteen calendar days, and the superintendent of financial institutions shall issue a provisional license that remains in effect for the lesser of six months after the date of receiving such notification, or until the division concludes any investigation necessary to determine whether any fact or condition exists that, if it had existed at the time of the original application for a license, the fact or condition would have warranted the division to deny the application under section 1321.64 of the Revised Code, at which time the superintendent shall either issue an amended license or revoke the license.

Sec. 1321.643. (A)(1) Not more than one place of business

shall be maintained under the same license, but the superintendent of financial institutions may issue additional licenses to the same licensee upon compliance with sections 1321.62 to 1321.702 of the Revised Code.

(2) Each licensed place of business shall be located in a state.

(B)(1) When a licensee wishes to change its place of business, it shall give written notice of the change in advance to the division of financial institutions. The division shall provide a license for the new address without cost.

(2) If a licensee changes its name, it shall give written notice of the change to the division prior to making loans under the new name. The division shall provide a license in the new name without cost.

(C) Each license shall be kept conspicuously posted in the place of business of the licensee and is not transferable or assignable.

Sec. 1321.644. No person engaged in the business of selling tangible goods or services related to tangible goods may receive or retain a license under sections 1321.62 to 1321.702 of the Revised Code for such place of business.

Sec. 1321.65. Each licensee that conducts business under sections 1321.62 to 1321.702 of the Revised Code shall maintain both of the following:

(A) A net worth of at least fifty thousand dollars;

(B) For each license, assets of at least fifty thousand dollars either in use or readily available for use in the conduct of the business.

Sec. 1321.651. All of the following apply to advertising for loans made under sections 1321.62 to 1321.702 of the Revised Code:

(A) Every advertisement shall state and clearly indicate the identity of the licensee and shall do so in such a manner that prevents confusion with the name of any other unrelated licensee. Licensees shall be identified by means of trade names, service marks, or business names that are filed with the division of financial institutions and the secretary of state.

(B) Advertising shall not be false, misleading, or deceptive. False, misleading, or deceptive advertising includes, but is not limited to, the following:

(1) Placing, or causing to be placed, any advertisement indicating that special terms, reduced rates, guaranteed rates, particular rates, or any other special feature of loans is available unless the advertisement clearly states any limitations that apply;

(2) Placing, or causing to be placed, any advertisement containing a rate or special fee offer that is not a bona fide available rate or fee.

(C) A licensee shall comply with 12 C.F.R. 1026.16, as amended, for open-end loans, or 12 C.F.R. 1026.24, as amended, for closed-end loans.

(D) A licensee shall not use loan advertisements that provide only telephone or facsimile numbers or newspaper box addresses and that do not clearly indicate the identity of the licensee.

(E) A licensee shall not advertise that loans will be made within a specified time after the loan application is received,

unless it is the general practice of the licensee to make loans within the specified time.

(F) A licensee shall not advertise special terms, reduced rates, reduced payments, or any other special feature of a loan within a specified limited time, unless the advertisement clearly states any limitations that apply to the offer.

(G) A licensee shall not advertise by the use of unqualified superlatives, including, but not limited to, "lowest rates," "lowest costs," "lowest payment plan," or "cheapest loans," or by making offers that cannot be reasonably fulfilled.

(H) A licensee shall not advertise the words "new" or "reduced," or words of similar import, in connection with rates, costs, payments, or plans, for more than ninety days after the rates, costs, payments, or plans have become effective.

(I) Any licensee specifying in any advertisement charges on loans in dollars shall also state the length of time required to repay the loans as well as the method of repayment, and shall, when the rate of interest is stated, do so in a manner to prevent misunderstanding.

(J) Any licensee advertising flat or average payments on loans that include principal and interest shall specify the number and frequency of payments required to repay the loans. Whenever the amounts of periodic payments are advertised, the amounts shall include all interest to the borrower, as well as principal. The principal payments alone may be shown separately provided the interest charges are also clearly stated with equal prominence.

(K) A licensee shall not advertise rebates, rates, or charges below the maximum lawful rate of interest that are

conditioned upon prompt payment unless the condition is clearly indicated.

(L) A licensee shall not advertise either of the following:

(1) Waiver of payments in the event of sickness or disability or other contingency, without advertising that the interest and other charges, if assessed, continue during the waiver period;

(2) That the first payment on any loan may be made more than thirty days after the date of loan closing, without advertising that the interest and other charges, if assessed, will accrue from the date of disbursement of the loan funds until the first payment is due.

(M) A licensee shall not advertise for loans for illegal purposes.

(N) A licensee shall not advertise the availability of credit-related insurance without disclosing the charge, if any, for the insurance.

(O) Each licensee shall maintain in each licensed office or in a central location a records file of all advertising for a period of three years from the date disseminated. This requirement includes newspaper, magazine, direct mailing, and facsimile advertising and solicitations, roadside advertising, internet advertising, and scripts of radio and television commercials. A record or other file shall be readily available for inspection by the division at all times. Each licensee shall notify the division in writing of the location of the record or file. Each licensee shall, upon the request of the superintendent of financial institutions, provide to the

division any printed or electronic advertising it has used regarding any business conducted under sections 1321.62 to 1321.702 of the Revised Code. The text of the advertising shall be maintained by the licensee for three years from the date of usage.

Sec. 1321.66. (A) Each licensee shall keep records pertaining to loans made under sections 1321.62 to 1321.702 of the Revised Code. Such records shall be segregated from records pertaining to transactions that are not subject to those sections of the Revised Code.

(B) Records pertaining to business conducted pursuant to sections 1321.62 to 1321.702 of the Revised Code may be maintained in their original paper form or, if all of the following conditions apply, on an electronic storage media or system:

(1) The electronic storage media or system preserves the records in a nonrewritable, nonerasable format.

(2) The electronic storage media or system verifies automatically the quality and accuracy of the storage media recording process.

(3) The electronic storage media or system serializes the original and the duplicate units of storage media, and affixes a date and time for the required period of retention on both the original and duplicate.

(4) The electronic storage media or system must have the capacity to readily download indices and records preserved on the electronic storage media or system to any medium acceptable to the superintendent of financial institutions.

(5) Acceptable facilities and appropriate equipment are,

at all times during normal business hours, available to the superintendent for immediate, easily readable projection or production of electronic storage media or system images and for producing easily readable images.

(6) Immediate facsimile enlargement is available upon the superintendent's request.

(7) A duplicate copy of the electronic record stored on any electronic media or system for the time required is stored separately from the original electronic record.

(8) The electronic storage media or system organizes and indexes accurately all information maintained on both the original and duplicate storage media or system.

(9) At all times, indices of the electronic records being stored are available for examination by the superintendent.

(10) Each index is duplicated and the duplicate copies are stored separately from the original copy of each index.

(11) Original and duplicate indices are preserved for the time required for the indexed records.

(12) An audit system is in place providing for accountability regarding inputting of records and inputting of any changes made to every original and duplicate record maintained and preserved.

(13) At all times, the results of the audit system are available for examination by the superintendent.

(14) The audit results are preserved for the time required for the audited records.

(15) All information necessary to access records and

indices stored on the electronic storage media or system, a copy of the physical and logical file format of the electronic storage media or system, the field format of all different information types written on the electronic storage media or system, together with the appropriate documentation and information necessary to access records and indices, are maintained, kept current, and provided promptly to the superintendent, upon request.

(16) Paper documents produced or reproduced by means of an electronic storage media or system are not destroyed until the conditions set forth in division (B) of this section have been met with regard to each paper document that is to be destroyed.

(17) At the request of the division of financial institutions, the records will be printed on paper for inspection or examination without cost to the division within seventy-two hours after the request or, upon receipt of a request for additional time from the licensee, by any additional time the superintendent may grant for good cause shown.

(C) Each licensee shall preserve records pertaining to loans made under sections 1321.62 to 1321.702 of the Revised Code for at least three years after making the final entry on the records.

Sec. 1321.661. (A) All records required to be maintained by a licensee shall be kept current and shall be available at all times during normal business hours for review by the division of financial institutions. Records shall be legible and maintained in a type size that is clearly readable without magnification, and in conformity with any specific typeface or font size that may be required by state or federal law. Except where otherwise provided by federal or state law, records shall

be maintained in English. When records are allowed to be in a language other than English, the licensee, at its expense, shall be responsible for providing the division with a full and accurate translation. For purposes of record keeping, "current" means within thirty business days from the date of the occurrence of the event required to be recorded.

(B) The division shall make or cause to be made an examination of records pertaining to loans made under sections 1321.62 to 1321.702 of the Revised Code at least once every twenty-four months for the purpose of determining whether the licensee is complying with those sections and verifying the licensee's annual report.

(C)(1) A licensee may designate a primary location at which all records required to be maintained under sections 1321.62 to 1321.702 of the Revised Code may be accessed and reviewed by the division by providing notice to the superintendent of financial institutions at any time.

(2) The following records for all loans made under sections 1321.62 to 1321.702 of the Revised Code shall be maintained at either the licensed premises or any other location approved in advance in writing by the superintendent:

(a) Copies of loan statements, which shall be maintained in one file, in chronological order, and kept available for examination. Loan statements shall disclose all of the following information:

(i) The principal borrower's name;

(ii) The account number;

(iii) The date of the loan;

(iv) An itemization of the charges for all credit-related insurances provided pursuant to section 1321.68 of the Revised Code;

(v) The type of security.

(b) A ledger record, which shall be kept for each outstanding loan and loan paid in full within the last two years. The ledger record shall disclose the following information, if applicable:

(i) Account number;

(ii) Principal borrower's name and residence address;

(iii) Date of the loan;

(iv) Date finance charges begin to accrue;

(v) Contractual rate of loan interest;

(vi) Federal annual percentage rate;

(vii) Loan origination charge;

(viii) Original principal amount;

(ix) Scheduled or precomputed interest;

(x) Total of payments;

(xi) Type of security;

(xii) Terms of repayment;

(xiii) Types and amounts of credit-related insurance;

(xiv) Unit default charge;

(xv) Chronological entry of all debits, credits, payments, and charges received, assessed, or disbursed in connection with

the loan, recorded in an identifiable manner that shows the actual date of receipt, the assessment or disbursement, and the balance due on the account;

(xvi) The amount of points charged to the borrower.

(c) All loan agreements, notes, disclosure forms, closing statements, security agreements, and other documents signed by the obligors and taken in connection with loans made, which shall be identified by the loan number and maintained in a separate file for each borrower.

(d) The cash receipt and disbursement record, which shall include the account number and name of the principal borrowers, all transactions involving either the receipt or disbursement of money on the account of borrowers, and the actual date of the transaction.

(e) An alphabetical index of all borrowers, co-makers, guarantors, and other obligors identified by account number.

(f) A litigation record that records all loans in litigation, which shall be maintained for at least two years after the final entry has been made on the loan, kept current, and include all of the following information:

(i) Loan number and name of principal borrower;

(ii) Date litigation proceedings were initiated, the date and amount of the judgment, and the judgment rate of interest;

(iii) All original litigation records and documents, including pleadings, court orders, judgments, and documentation of all court costs paid by the borrower to or through the licensee, or copies thereof, which shall be maintained in the file of original papers;

(iv) In cases of garnishment or attachment, all notices served on employers, or copies thereof, and the amounts collected, which shall be maintained in the file of original loan papers.

(g) A repossession record that records all loans in repossession, which shall be maintained for at least two years after the final entry has been made on the loan, kept current, and include all of the following information:

(i) Loan number and name of principal borrower;

(ii) Type of security attached, replevied, repossessed, or surrendered;

(iii) Date of repossession, date of sale of the security, the gross amount received from the sale of the security, the expenses deducted from the sale of the security, and the amount of money applied to the outstanding loan balance;

(iv) All original repossession legal documents and other records, including bills for all expenses or copies thereof, which shall be maintained in the file of original loan papers;

(v) In instances where the security is offered for private sale, not less than three bona fide written bids or appraisals in order to establish that the terms of sale were fair to the borrower and, where the security is offered for private or public sale, evidence that the sale was consummated in compliance with sections 1309.610, 1309.611, 1309.615, 1309.617, and 1309.624 of the Revised Code.

(h) A credit life claims record, which shall cover all loans upon which a credit life claim has been paid by the insurer, be maintained for at least two years after the final entry has been made on the loan, be kept current, and include

all of the following information:

(i) Loan number and name of principal borrower;

(ii) Date of death and certified copy of the death certificate or a copy thereof;

(iii) Name and address of second beneficiary, if any;

(iv) Copies of all checks received or paid pertaining to a credit life claim.

(i) Histories of nonpublished indices used to establish interest rates for variable rate loans, which shall be maintained for two years from the date of usage and be available for review by the division.

(j) Due bills, receipts, invoices, or other evidence, which shall be maintained in the file of loan papers for any amount in excess of twenty dollars paid by the borrower to or through the licensee for any dishonored check, negotiable order of withdrawal, share draft, or any other negotiable instrument.

Sec. 1321.662. (A) Each licensee shall submit to the NMLSR call reports or other reports of condition, which reports shall be in such form and shall contain such information as the NMLSR may require.

(B)(1) As required by the superintendent of financial institutions, each licensee shall file with the division of financial institutions an annual report under oath or affirmation, on forms supplied by the division, concerning the business and operation of the licensee for the preceding calendar year.

(2) The superintendent shall annually publish an analysis of the information required under division (B)(1) of this

section, but the individual reports shall not be public records and shall not be open to public inspection.

Sec. 1321.663. (A)(1) The following information is confidential:

(a) Examination information, and any information leading to or arising from an examination;

(b) Investigation information, and any information arising from or leading to an investigation.

(2) The information described in division (A)(1) of this section shall remain confidential for all purposes except when it is necessary for the superintendent of financial institutions to take official action regarding the affairs of a licensee, or in connection with criminal or civil proceedings to be initiated by a prosecuting attorney or the attorney general. This information may also be introduced into evidence or disclosed when and in the manner authorized by section 1181.25 of the Revised Code.

(B) All application information, except social security numbers, employer identification numbers, financial account numbers, the identity of the institution where financial accounts are maintained, personal financial information, fingerprint cards and the information contained on such cards, and criminal background information, is a public record as defined in section 149.43 of the Revised Code.

(C) This section does not prevent the division of financial institutions from releasing to or exchanging with other financial institution regulatory authorities information relating to licensees. For this purpose, a "financial institution regulatory authority" includes a regulator of a

business activity in which a licensee is engaged, or has applied to engage in, to the extent that the regulator has jurisdiction over a licensee engaged in that business activity. A licensee is engaged in a business activity, and a regulator of that business activity has jurisdiction over the licensee, whether the licensee conducts the activity directly or a subsidiary or affiliate of the licensee conducts the activity.

(D)(1) Any confidentiality or privilege arising under federal or state law with respect to any information or material provided to the NMLSR shall continue to apply to the information or material after the information or material has been provided to the NMLSR. The information and material so provided may be shared with all state and federal regulatory officials with oversight authority without the loss of confidentiality or privilege protections provided by federal law or the law of any state. Information or material described in division (D)(1) of this section to which confidentiality or privilege applies shall not be subject to any of the following:

(a) Disclosure under any federal or state law governing disclosure to the public of information held by an officer or an agency of the federal government or of the respective state;

(b) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless the person to whom such information or material pertains waives, in whole or in part and at the discretion of the person, any privilege held by the NMLSR with respect to that information or material.

(2) The superintendent, in order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, may enter into sharing arrangements with

other governmental agencies, the conference of state bank supervisors, and the American association of residential mortgage regulators.

(3) Any state law, including section 149.43 of the Revised Code, relating to the disclosure of confidential supervisory information or any information or material described in division (A)(1) or (D)(1) of this section that is inconsistent with this section shall be superseded by the requirements of this section.

(E) This section does not prevent the division from releasing information relating to licensees to the attorney general, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the commissioner of securities for purposes relating to the administration of Chapter 1707. of the Revised Code, or to local law enforcement agencies and local prosecutors. Information the division releases pursuant to this section remains confidential.

(F) The superintendent of financial institutions shall, by rule adopted in accordance with Chapter 119. of the Revised Code, establish a process by which licensees may challenge information provided to the NMLSR by the superintendent.

Sec. 1321.664. No person, in connection with any examination or investigation conducted by the superintendent of financial institutions under sections 1321.62 to 1321.702 of the Revised Code shall knowingly do any of the following:

(A) Circumvent, interfere with, obstruct, or fail to cooperate with the superintendent, including making a false or misleading statement, failing to produce records, or intimidating or suborning any witness;

(B) Withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information;

(C) Tamper with, alter, or manufacture any evidence.

Sec. 1321.665. In order to reduce the risk of consumer fraud and related harms, including identity theft, licensees shall comply with the provisions of the "Fair and Accurate Credit Transactions Act of 2003," 117 Stat. 1952, 15 U.S.C. 1681w, as in effect on January 1, 2008, the "Gramm Leach Bliley Act," 113 Stat. 1138 (1999), 15 U.S.C. 6801, as in effect on January 1, 2008, and the rules promulgated pursuant to those federal acts, including 16 C.F.R. 682, as in effect January 1, 2008, pertaining to the maintenance, security, and disposal of consumer information and records.

Sec. 1321.666. Before ceasing to conduct or discontinuing business as a licensee, the licensee shall arrange for and be responsible for the preservation of the books and records required to be maintained and preserved under sections 1321.62 to 1321.702 of the Revised Code and shall notify the division of financial institutions in writing of the exact address where the books and records will be maintained during the required period.

Sec. 1321.667. The superintendent of financial institutions may suspend, revoke, or refuse to renew any license issued by the superintendent under sections 1321.62 to 1321.702 of the Revised Code, or bring any other authorized administrative enforcement action in accordance with section 1321.70 of the Revised Code, against any person for failure to maintain records in accordance with sections 1321.66 and 1321.661 of the Revised Code.

Sec. 1321.668. (A) Except as otherwise provided in section 9.02 of the Revised Code, any party, including a governmental authority, that requires or requests a licensee to assemble or provide a customer's financial records shall pay the licensee for all actual and necessary costs directly incurred in searching for, reproducing, or transporting those records according to the following schedule:

(1) Reimbursement of search and processing costs shall be the total amount of personnel direct time incurred in locating and retrieving, reproducing, packaging, and preparing financial records for shipment. The rate for search and processing costs shall be eleven dollars per hour per person, computed on the basis of two dollars and seventy-five cents per quarter hour or fraction thereof, and shall be limited to the total amount of personnel time spent in locating and retrieving documents or information or reproducing or packaging and preparing documents for shipment where required or requested by a party. Specific salaries of such persons shall not be included in search costs. In addition, search and processing costs shall not include salaries, fees, or similar costs for analysis of material or for managerial or legal advice, expertise, research, or time spent for any of these activities. If itemized separately, search and processing costs may include the actual cost of extracting information stored by computer in the format in which it is normally produced, based on computer time and necessary supplies; however, personnel time for computer search may be paid for only at the rate specified in division (A)(1) of this section.

(2) Reimbursement for reproduction costs shall be for costs incurred in making copies of documents required or requested. The rate for reproduction costs for making copies of

required or requested documents shall be twenty-five cents for each page, including copies produced by reader or printer reproduction processes. Photographs, films, and other materials shall be reimbursed at actual cost.

(3) Reimbursement for transportation costs shall be for necessary costs, directly incurred, to transport personnel to locate and retrieve the information required or requested and for necessary costs, directly incurred, solely by the need to convey the required or requested material to the place of examination.

(B) A licensee shall not be entitled to reimbursement for costs incurred in assembling or providing the following records or information:

(1) Any financial records provided as an incident to perfecting a security interest, proving a claim in bankruptcy, or otherwise collecting on a debt owing to the licensee;

(2) Financial records that are not identified with or identifiable as being derived from the financial records of a particular customer.

(C) Payment shall be made only for costs that are directly incurred, actual, and necessary. No payment shall be made until the licensee satisfactorily complies with the request or requirement, except that in the case where the request or requirement is withdrawn or revoked, the licensee shall be reimbursed for the actual and necessary costs directly incurred in assembling financial records required or requested to be produced prior to the time the party notifies the licensee that the request or requirement is withdrawn or revoked. No payment shall be made unless the licensee submits an itemized bill or

invoice showing specific details concerning search and processing, reproduction, and transportation costs. Search and processing time shall be billed in fifteen-minute increments.

(D) As used in this section:

(1) "Costs directly incurred" means costs incurred solely and necessarily as a consequence of searching for, reproducing, or transporting books, papers, records, or other data, in order to comply with a request or requirement to produce a customer's financial records. The term does not include any allocation of fixed costs, such as overhead, equipment, and depreciation. If a licensee has financial records that are stored at an independent storage facility that charges a fee to search for, reproduce, or transport particular records requested, these costs shall be considered to be directly incurred by the licensee.

(2) "Customer," "financial record," and "governmental authority" have the same meanings as in section 9.02 of the Revised Code.

Sec. 1321.669. (A) In the event books, records, data, and documents of a licensee are located outside this state, the division of financial institutions shall issue a records request to the licensee requesting any books, records, data, and documents the division may require to conduct its examination, and providing a date by which the records requested must be provided. The licensee may provide any requested records using such methods and medium as the licensee chooses, including, but not limited to the transmission of electronic records as defined in section 1306.01 of the Revised Code. The licensee shall reimburse the division for any expenses the division may incur in assembling, printing, or otherwise reproducing the materials provided for under this division.

(B) In the event a licensee is unable or unwilling to provide books, records, data, and documents located outside this state to the division pursuant to division (A) of this section, the division may require the licensee to pay in advance the estimated costs of the examination of the licensee outside the state, including the proportionate cost of the salaries of division employees who conduct the examination. The licensee shall deposit the estimated costs of an out-of-state examination, as determined by the superintendent of financial institutions, with the division upon demand. After the actual costs of the out-of-state examination have been determined, any funds in the deposit account in excess of costs as itemized by the division shall be returned to the licensee.

Sec. 1321.67. (A) For purposes of sections 1321.62 to 1321.702 of the Revised Code, a loan shall be considered closed upon the signature of the obligor or obligors, unless the loan contract is not executed by signature, in which case the loan is considered closed upon disbursement of loan funds.

(B) All loans made under sections 1321.62 to 1321.702 of the Revised Code by direct mail shall be made from a place of business for which the licensee holds a valid license.

(C) Licensees have an ongoing duty to notify the division of financial institutions of material changes in the information contained in the application and exhibits, schedules, and other documentation submitted in conjunction with the application, and to report all changes or additions to information in the application within thirty days of the change. Material changes in the information include changes in affiliations, controlling interest, officers, directors, criminal record, and any change in net worth below the requirements set forth in section 1321.65

of the Revised Code.

(D) Each licensee shall do all of the following:

(1) Obtain the written consent of the borrower for any purchase of insurance on property of the borrower other than that which is used as security for the loan;

(2) Permit payment to be made in advance in any amount on any contract at any time, but the licensee may apply the payment first to interest and charges due up to the date of payment;

(3) Notify the borrower in writing of any interest rate change at least thirty but not more than one hundred twenty days prior to the effective date of the changes, provided that if the interest rate is tied to a published and verifiable index and the contractual rate of interest is adjusted within forty-five days of change in the published index rate, the licensee shall notify the borrower in writing of any interest rate change at least thirty days prior to the effective date of the change. The notice required under division (D)(3) of this section shall include all of the following:

(a) A statement of the borrower's current interest rate and corresponding monthly payment prior to the reset date;

(b) A good faith statement of the borrower's anticipated future interest rate and corresponding monthly payment following the reset date;

(c) A statement that notifies the borrower to contact the licensee for workout options in the event that there is a possible problem of repayment at the new interest rate and monthly payment following the reset;

(d) A toll-free number by which borrowers can discuss

possible payment problems and workout options;

(e) An explanation of the index or formula that is being used to reset the interest rate and the source of that index or formula.

(4) In the instance of a non-amortized or partially amortized interest-bearing loan, provide the borrower with written notice of maturity at least ninety but not more than one hundred twenty days prior to the expected maturity date;

(5) Clearly indicate by prominently disclosing on, or in, the loan documents, the federal or state statutory authority pursuant to which the loan is made. This prominent disclosure shall be provided on loans made:

(a) Solely in reliance on the provisions of sections 1321.62 to 1321.702 of the Revised Code;

(b) Partially in reliance on the provisions of sections 1321.62 to 1321.702 of the Revised Code; or

(c) In reliance on any combination of federal or state provisions that do not include sections 1321.62 to 1321.702 of the Revised Code.

(6) In providing any payment history requested by the borrower or by the division, provide a clear and accurate payment statement in a manner a reasonable borrower should understand that sets forth the dates and amounts due and owing and the dates and amounts received and paid.

(E) A licensee shall not be prohibited from holding other licenses or registrations issued by the division as long as the licensee is in compliance with section 1321.63 of the Revised Code and other applicable provisions of state and federal laws.

(F) A licensee is liable for payment of the annual assessment described in division (B) of section 1321.641 of the Revised Code on any loan made by the licensee that has been sold, transferred, or assigned to another person if servicing rights have been retained by the licensee.

Sec. 1321.671. (A) Upon repayment of the loan in full, the original note signed by any obligor or copy, photograph, or stored representation of the original note as retained in accordance with sections 1321.66 and 1321.661 of the Revised Code shall be plainly marked "paid" or "canceled" and the note or the reproduction of the note shall be returned to the obligor or, if there are two or more obligors, to one of them.

(B) If requested, the licensee shall give to the borrower a receipt for each payment made on account of any interest-bearing or precomputed loan.

Sec. 1321.672. (A) When, in connection with a loan, a licensee furnishes or places insurance written on behalf of the borrower at the borrower's expense, a policy or certificate of insurance properly executed shall be furnished to the borrower within fifteen days of the closing date of the loan. The policy or certificate shall state the name of the insurance company, the nature of the insurance, the extent of the coverage, the amount of the premium, and the effective and expiration dates of the policy.

(B) If a licensee furnishes or places credit life insurance, credit accident and health insurance, or unemployment insurance on behalf of the borrower at the borrower's expense, the licensee shall give written notice to the borrower at the time the loan is made. The notice shall disclose the borrower's right to cancel the insurance within twenty-five days after the

purchase of the insurance with a full refund of the premium or identifiable charge for the insurance. The notice shall further disclose that the cancellation may be effected upon the written request of the borrower together with the return of the policy or certificate of insurance to the licensee.

(C) All insurance sold or obtained in connection with the making of a loan shall be governed by Title XXXIX of the Revised Code.

(D) In any transaction in which the licensee furnishes or places insurance on behalf of the borrower at the borrower's expense, the licensee shall, prior to furnishing or placing the insurance, provide written disclosure to the borrower of the business relationship, beneficial ownership or affiliation, whether direct or indirect, between the licensee and the insurer.

Sec. 1321.673. No licensee shall conduct the business of making loans under sections 1321.62 to 1321.702 of the Revised Code in any office, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction with any other such business, if the superintendent of financial institutions finds, pursuant to a hearing conducted in accordance with Chapter 119. of the Revised Code, that the other business is of such a nature that the conduct tends to conceal evasion of sections 1321.62 to 1321.702 of the Revised Code, and orders the licensee in writing to desist from the conduct.

Sec. 1321.674. Any person that willfully violates section 1321.68 of the Revised Code shall forfeit to the borrower the amount of interest paid by the borrower. The maximum rate of interest applicable to any loan transaction that does not comply

with section 1321.68 of the Revised Code shall be the rate that would be applicable in the absence of sections 1321.62 to 1321.702 of the Revised Code.

Sec. 1321.68. (A) A licensee may contract for and receive interest, calculated according to the actuarial method, at a rate or rates not exceeding twenty-five per cent per year on the unpaid principal balances of the loan. Loans may be interest-bearing or precomputed.

(B) For purposes of computation of time on interest-bearing and precomputed loans, including, but not limited to, the calculation of interest, a month is considered one-twelfth of a year, and a day is considered one three hundred sixty-fifth of a year when calculation is made for a fraction of a month. A year is as defined in section 1.44 of the Revised Code. A month is that period described in section 1.45 of the Revised Code. Alternatively, a licensee may consider a day as one three hundred sixtieth of a year and each month as having thirty days.

(C) With respect to interest-bearing loans:

(1)(a) Interest shall be computed on unpaid principal balances outstanding from time to time, for the time outstanding.

(b) As an alternative to the method of computing interest set forth in division (C)(1)(a) of this section, a licensee may charge and collect interest for the first installment period based on elapsed time from the date of the loan to the first scheduled payment due date, and for each succeeding installment period from the scheduled payment due date to the next scheduled payment due date, regardless of the date or dates the payments are actually made.

(c) Whether a licensee computes interest pursuant to division (C)(1)(a) or (b) of this section, each payment shall be applied first to unpaid charges, then to interest, and the remainder to the unpaid principal balance. However, if the amount of the payment is insufficient to pay the accumulated interest, the unpaid interest continues to accumulate to be paid from the proceeds of subsequent payments and is not added to the principal balance.

(2) Interest shall not be compounded, collected, or paid in advance. However, both of the following apply:

(a) Interest may be charged to extend the first monthly installment period by not more than fifteen days, and the interest charged for the extension may be added to the principal amount of the loan.

(b) If part or all of the consideration for a new loan contract is the unpaid principal balance of a prior loan, the principal amount payable under the new loan contract may include any unpaid interest that has accrued. The resulting loan contract shall be deemed a new and separate loan transaction for purposes of this section. The unpaid principal balance of a precomputed loan is the balance due after refund or credit of unearned interest as provided in division (D)(3) of this section.

(D) With respect to precomputed loans:

(1) Loans shall be repayable in monthly installments of principal and interest combined, except that:

(a) The first installment period may exceed one month by not more than fifteen days, and the first installment payment amount may be larger than the remaining payments by the amount

of interest charged for the extra days;

(b) Monthly installment payment dates may be omitted to accommodate borrowers with seasonal income.

(2) Payments may be applied to the combined total of principal and precomputed interest until maturity of the loan. A licensee may charge interest after the original or deferred maturity of a precomputed loan at the rate specified in division (A) of this section on all unpaid principal balances for the time outstanding.

(3) When any loan contract is paid in full by cash, renewal, refinancing, or a new loan, one month or more before the final installment due date, the licensee shall refund, or credit the borrower with, the total of the applicable charges for all fully unexpired installment periods, as originally scheduled or as deferred, that follow the day of prepayment. If the prepayment is made other than on a scheduled installment due date, the nearest scheduled installment due date shall be used in such computation. If the prepayment occurs prior to the first installment due date, the licensee may retain one-thirtieth of the applicable charge for a first installment period of one month for each day from date of loan to date of prepayment, and shall refund, or credit the borrower with, the balance of the total interest contracted for. If the maturity of the loan is accelerated for any reason and judgment is entered, the licensee shall credit the borrower with the same refund as if prepayment in full had been made on the date the judgment is entered.

(4) If the parties agree in writing, either in the loan contract or in a subsequent agreement, to a deferment of wholly unpaid installments, a licensee may grant a deferment and may collect a deferment charge as provided in this section. A

deferment postpones the scheduled due date of the earliest unpaid installment and all subsequent installments as originally scheduled, or as previously deferred, for a period equal to the deferment period. The deferment period is that period during which no installment is scheduled to be paid by reason of the deferment. The deferment charge for a one-month period may not exceed the applicable charge for the installment period immediately following the due date of the last undeferred installment. A proportionate charge may be made for deferment for periods of more or less than one month. A deferment charge is earned pro rata during the deferment period and is fully earned on the last day of the deferment period. If a loan is prepaid in full during a deferment period, the licensee shall make, or credit to the borrower, a refund of the unearned deferment charge in addition to any other refund or credit made for prepayment of the loan in full.

(E) A licensee, at the request of the borrower, may obtain, on one or more borrowers, credit life insurance, credit accident and health insurance, and unemployment insurance. The premium or identifiable charge for the insurance may be included in the principal amount of the loan and may not exceed the premium rate filed by the insurer with the superintendent of insurance and not disapproved by the superintendent. If a licensee obtains the insurance at the request of the borrower, the borrower shall have the right to cancel the insurance for a period of twenty-five days after the loan is made. If the borrower chooses to cancel the insurance, the borrower shall give the licensee written notice of this choice and shall return all of the policies or certificates of insurance or notices of proposed insurance to the licensee during such period, and the full premium or identifiable charge for the insurance shall be

refunded to the borrower by the licensee. If the borrower requests, in the notice to cancel the insurance, that this refund be applied to reduce the balance of a precomputed loan, the licensee shall credit the amount of the refund plus the amount of interest applicable to the refund to the loan balance. If the licensee obtains the insurance at the request of the borrower, the licensee shall not charge or collect interest on any insured amount that remains unpaid after the insured borrower's date of death.

(F) A licensee may require the borrower to provide insurance or a loss payable endorsement covering reasonable risks of loss, damage, and destruction of property used as security for the loan and with the consent of the borrower such insurance may cover property of the borrower other than that which is security for the loan. The amount and term of required property insurance shall be reasonable in relation to the amount and term of the loan contract and the type and value of the security, and the insurance shall be procured in accordance with the insurance laws of this state. The purchase of this insurance through the licensee or an agent or broker designated by the licensee shall not be a condition precedent to the granting of the loan. If the borrower purchases the insurance from or through the licensee or from another source, the premium may be included in the principal amount of the loan.

(G)(1) In addition to the interest and charges provided for by this section, no further or other amount, whether in the form of broker fees, placement fees, or any other fees whatsoever, shall be charged or received by the licensee, except that:

(a) The licensee may charge and receive costs and

disbursements in connection with any suit to collect a loan or any lawful activity to realize on a security interest after default, including reasonable attorney's fees incurred by the licensee as a result of the suit or activity and to which the licensee becomes entitled by law.

(b) The licensee may include the following additional charges in the principal amount of the loan or collect the following additional charges at any time after the loan is made:

(i) The amounts of fees authorized by law to record, file, or release security interests on a loan;

(ii) Fees received from borrowers to record, file, or release a security interest on a loan for purposes either of purchasing insurance to insure the licensee against losses for failure to record or file or creating a self-insurance fund to reimburse the licensee against losses for failure to record or file;

(iii) Fees for credit investigations not exceeding twenty-five dollars provided a licensee obtains a consumer report in connection with an application for a grant, extension, or other provision of credit to a consumer that is based in whole or in part on the consumer report.

(2) Division (G)(1) of this section does not limit the rights of licensees to engage in other transactions with borrowers, provided the transactions are not a condition of the loan.

(H) If the loan contract or security instrument contains covenants by the borrower to perform certain duties pertaining to insuring or preserving security and the licensee pursuant to the loan contract or security instrument pays for performance of

the duties on behalf of the borrower, the licensee may add the amounts paid to the unpaid principal balance of the loan or collect them separately. A charge for interest may be made for sums advanced not exceeding the rate of interest permitted by division (A) of this section. Within a reasonable time after advancing a sum, the licensee shall notify the borrower in writing of the amount advanced, any interest charged with respect to the amount advanced, and any revised payment schedule, and shall include a brief description of the reason for the advance.

(I)(1) In addition to any other permissible fees and charges, a licensee may charge and receive the following:

(a) If the principal amount of the loan is five hundred dollars or less, loan origination charges not exceeding fifteen dollars;

(b) If the principal amount of the loan is more than five hundred dollars but less than one thousand dollars, loan origination charges not exceeding thirty dollars;

(c) If the principal amount of the loan is at least one thousand dollars but less than two thousand dollars, loan origination charges not exceeding one hundred dollars;

(d) If the principal amount of the loan is at least two thousand dollars but less than five thousand dollars, loan origination charges not exceeding two hundred dollars;

(e) If the principal amount of the loan is at least five thousand dollars, loan origination charges not exceeding the greater of two hundred fifty dollars or one per cent of the principal amount of the loan.

(2) Loan origination charges may be paid by the borrower

at the time of the loan or may be included in the principal amount of the loan.

(J) A licensee may charge and receive check collection charges not greater than twenty dollars plus any amount passed on from other depository institutions for each check, negotiable order of withdrawal, share draft, or other negotiable instrument returned or dishonored for any reason.

(K) If the loan contract so provides, a licensee may collect a default charge on any installment not paid in full within ten days after its due date. For this purpose, all installments are considered paid in the order in which they become due. Any amounts applied to an outstanding loan balance as a result of voluntary release of a security interest, sale of security on the loan, or cancellation of insurance shall be considered payments on the loan, unless the parties otherwise agree in writing at the time the amounts are applied. A licensee shall not collect more than one default charge per unpaid installment regardless of the number of months the installment remains fully unpaid. The amount of the default charge shall not exceed the greater of five per cent of the scheduled installment or fifteen dollars.

Sec. 1321.681. (A) For open-end loans, "billing cycle" means the time interval between periodic billing dates. A billing cycle shall be considered monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from such date.

(B) A licensee may make open-end loans pursuant to an agreement between the licensee and the borrower whereby:

(1) The licensee may permit the borrower to obtain

advances of money from the licensee from time to time or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower.

(2) The amount of each advance and permitted interest, charges, and costs are debited to the borrower's account and payments and other credits are credited to the same account.

(3) The interest and charges are computed on the unpaid balance or balances of the account from time to time.

(4) The borrower has the privilege of paying the account in full at any time or, if the account is not in default, in installments of determinable amounts as provided in the agreement.

(C) A licensee may contract for and receive interest for open-end loans at a rate or rates not exceeding twenty-eight per cent per year and may compute interest in each billing cycle by either of the following methods:

(1) By multiplying the daily rate by the daily unpaid balance of the account, in which case the daily rate is determined by dividing the annual rate by three hundred sixty-five;

(2) By multiplying the monthly rate by the average daily unpaid balance of the account in the billing cycle, in which case the average daily unpaid balance is the sum of all of the daily unpaid balances each day during the cycle divided by the number of days in the cycle. The monthly rate is determined by dividing the annual rate by twelve.

(D) The billing cycle shall be monthly and the unpaid balance on any day shall be determined by adding to any balance unpaid as of the beginning of that day all advances and

permitted interest, charges, and costs and deducting all payments and other credits made or received that day.

(E) In addition to the interest permitted in division (C) of this section, a licensee may charge and receive or add to the unpaid balance any or all of the following:

(1) All charges and costs authorized by divisions (E), (F), (G), (H), and (J) of section 1321.68 of the Revised Code;

(2) An annual credit line charge, for the privilege of maintaining a line of credit, as follows:

(a) For the first year:

(i) If the original credit line is less than five thousand dollars, an amount not exceeding one hundred fifty dollars;

(ii) If the original credit line is at least five thousand dollars, an amount not exceeding the greater of one per cent of the original credit line or two hundred fifty dollars.

(b) For subsequent years, an amount not exceeding the greater of one-half per cent of the credit line on the anniversary date or fifty dollars.

(3) A default charge on any required minimum payment not paid in full within ten days after its due date. For this purpose, all required minimum payments are considered paid in the order in which they become due. The amount of the default charge shall not exceed the greater of five per cent of the required minimum payment or twenty dollars.

(F) The borrower at any time may pay all or any part of the unpaid balance on the account or, if the account is not in default, the borrower may pay the unpaid balance in installments subject to minimum payment requirements as determined by the

licensee and set forth in the open-end loan agreement.

(G) If credit life insurance or credit accident and health insurance is obtained by the licensee and if the insured dies or becomes disabled when there is an outstanding open-end loan indebtedness, the insurance shall be sufficient to pay the unpaid balance on the loan due on the date of the borrower's death in the case of credit life insurance or all minimum payments that become due on the loan during the covered period of disability in the case of credit accident and health insurance. The additional charge for credit life insurance, credit accident and health insurance, or unemployment insurance shall be calculated each billing cycle by applying the current monthly premium rate for the insurance, filed by the insurer with the superintendent of insurance and not disapproved by the superintendent, to the unpaid balances in the borrower's account, using one of the methods specified in division (C) of this section for the calculation of interest. No credit life insurance, credit accident and health insurance, or unemployment insurance written in connection with an open-end loan shall be canceled by the licensee because of delinquency of the borrower in making the required minimum payments on the loan unless one or more such payments is past due for a period of thirty days or more. The licensee shall advance to the insurer the amounts required to keep the insurance in force during such period, which amounts may be debited to the borrower's account.

(H) Whenever there is no unpaid balance in an open-end loan account, the account may be terminated by written notice, by the borrower or the licensee, to the other party.

Sec. 1321.69. (A) A licensee shall not permit any borrower to be indebted for a loan made under sections 1321.62 to

1321.702 of the Revised Code at any time while the borrower is also indebted to an affiliate or agent of the licensee for a loan made under sections 1321.01 to 1321.19 or sections 1321.51 to 1321.60 of the Revised Code for the purpose or with the result of obtaining greater charges than otherwise would be permitted by sections 1321.62 to 1321.702 of the Revised Code.

(B) A licensee shall not induce or permit any person to become obligated to the licensee under sections 1321.62 to 1321.702 of the Revised Code, directly or contingently, or both, under more than one contract of loan at the same time for the purpose or with the result of obtaining greater charges than would otherwise be permitted by sections 1321.62 to 1321.702 of the Revised Code.

(C) A licensee shall not fail to provide information regarding the amount required to pay in full a loan made under sections 1321.62 to 1321.702 of the Revised Code within five business days after the receipt of a written request from a borrower or by another person designated in writing by the borrower.

(D) A licensee shall not obtain a license through any false or fraudulent representation of a material fact or any omission of a material fact required by state or federal law, or make any substantial misrepresentation in the application to engage in lending under sections 1321.62 to 1321.702 of the Revised Code.

(E) A licensee, in connection with the business of making or offering to make a loan, shall not knowingly make false or misleading statements of a material fact, omissions of statements required by state or federal law, or false promises regarding a material fact, through advertising or other means,

or knowingly engage in a continued course of misrepresentations.

(F) A licensee, or person making loans without a license in violation of section 1321.63 of the Revised Code, shall not knowingly engage in conduct, in connection with the business of making or offering to make loans under sections 1321.62 to 1321.702 of the Revised Code, that constitutes improper, fraudulent, or dishonest dealings.

(G) A licensee or applicant for a license shall not fail to notify the division of financial institutions within thirty days after having a license, or comparable authority, revoked in any governmental jurisdiction.

(H) A licensee shall not knowingly make, propose, or solicit fraudulent, false, or misleading statements on any loan document or on any document related to a loan. For purposes of this division, "fraudulent, false, or misleading statements" does not include mathematical errors, inadvertent transposition of numbers, typographical errors, or any other bona fide error.

(I) A licensee shall not knowingly instruct, solicit, propose, or otherwise cause a borrower to sign in blank a loan-related document in connection with a loan.

(J) A licensee shall not take any note or other promise to pay that does not set forth the entire agreement made with the borrower.

(K) A licensee shall not take any note or promise to pay in which blanks are left to be filled in after execution.

(L) A licensee shall not charge or collect interest prior to the date of disbursement of the loan funds to the borrower.

(M) A licensee shall not make a new loan for the purpose

of paying any part of the interest or principal due on an existing loan with the same licensee unless the interest and principal balance of the existing loan is paid in full from the proceeds of the new loan.

(N) Notwithstanding any provision of sections 1321.62 to 1321.702 of the Revised Code to the contrary, no licensee shall give, or advertise an offer to give, any article, merchandise, reward-program benefit, or any other thing of value, as inducement to a borrower or prospective borrower to obtain a loan, unless the cost of the thing of value is absorbed by the licensee as general overhead, rather than directly charged to the borrower who received the thing of value.

Sec. 1321.70. (A) The division of financial institutions may, upon written notice to the licensee stating the contemplated action, the grounds for the action, and the licensee's reasonable opportunity to be heard on the action in accordance with Chapter 119. of the Revised Code, revoke, suspend, or refuse to renew any license issued under sections 1321.62 to 1321.702 of the Revised Code if it finds a violation of or failure to comply with any provision of sections 1321.62 to 1321.702 of the Revised Code or the rules adopted thereunder, any federal lending law, or any other law applicable to the business conducted under a license.

(B) In addition to, or in lieu of, any revocation, suspension, or denial, the division may impose a monetary fine after administrative hearing or in settlement of matters subject to claims under division (A) of this section.

(C) The revocation, suspension, or refusal to renew shall not impair the obligation of any pre-existing lawful contract made under sections 1321.62 to 1321.702 of the Revised Code;

provided, however, that a prior licensee shall make good faith efforts to promptly transfer the licensee's collection rights to another licensee or person exempt from licensing, or be subject to additional monetary fines and legal or administrative action by the division. Nothing in this division shall limit a court's ability to impose a cease-and-desist order preventing any further business or servicing activity.

(D)(1) The superintendent of financial institutions may impose a fine for a violation of sections 1321.62 to 1321.702 of the Revised Code committed by a licensee. All fines collected pursuant to this section shall be paid to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code. In determining the amount of a fine to be imposed pursuant to this division, the superintendent may consider all of the following to the extent it is known to the division:

(a) The seriousness of the violation;

(b) The licensee's good faith efforts to prevent the violation;

(c) The licensee's history regarding violations and compliance with division orders;

(d) The licensee's financial resources;

(e) Any other matters the superintendent considers appropriate in enforcing sections 1321.62 to 1321.702 of the Revised Code.

(2) Monetary fines imposed under division (D)(1) of this section shall not exceed twenty-five thousand dollars.

(E) The superintendent may investigate alleged violations

of sections 1321.62 to 1321.702 of the Revised Code, or the rules adopted thereunder, or complaints concerning any such violation. The superintendent may make application to the court of common pleas for an order enjoining any violation and, upon a showing by the superintendent that a person has committed, or is about to commit, a violation, the court shall grant an injunction, restraining order, or other appropriate relief. The superintendent, in making application to the court of common pleas for an order enjoining a person from acting as a licensee in violation of section 1321.63 of the Revised Code, may also seek and obtain civil penalties for that unlicensed conduct in an amount not to exceed five thousand dollars per violation.

(F) In conducting an investigation pursuant to this section, the superintendent may compel, by subpoena, witnesses to testify in relation to any matter over which the superintendent has jurisdiction, and may require the production or photocopying of any book, record, or other document pertaining to such matter. If a person fails to file any statement or report, obey any subpoena, give testimony, produce any book, record, or other document as required by such a subpoena, or permit photocopying of any book, record, or other document subpoenaed, the court of common pleas of any county in this state, upon application made to it by the superintendent, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court, or a refusal to testify therein.

(G) If the superintendent determines that a person is engaged in, or is believed to be engaged in, activities that may constitute a violation of sections 1321.62 to 1321.702 of the Revised Code, the superintendent may, after notice and a hearing conducted in accordance with Chapter 119. of the Revised Code,

issue a cease-and-desist order. The superintendent, in taking administrative action to enjoin a person from acting as a licensee in violation of section 1321.63 of the Revised Code, may also seek and impose fines for those violations in an amount not to exceed five thousand dollars per violation. Such an order shall be enforceable in the court of common pleas.

(H) The superintendent shall regularly report violations of sections 1321.62 to 1321.702 of the Revised Code, as well as enforcement actions and other relevant information, to the NMLSR.

(I)(1) To protect the public interest, the superintendent may, without a prior hearing, do either of the following:

(a) Suspend any licensee who violates section 1321.65 of the Revised Code;

(b) Suspend any licensee who fails to comply with a request made by the superintendent under this section.

(2) The superintendent may, in accordance with Chapter 119. of the Revised Code, subsequently revoke any license suspended under division (I)(1) of this section.

Sec. 1321.701. (A) The attorney general may directly bring an action to enjoin a violation of sections 1321.62 to 1321.702 of the Revised Code with the same rights, privileges, and powers as those described in section 1345.06 of the Revised Code. The prosecuting attorney of the county in which the action may be brought may bring an action to enjoin a violation of sections 1321.62 to 1321.702 of the Revised Code only if the prosecuting attorney first presents any evidence of the violation to the attorney general and, within a reasonable period of time, the attorney general has not agreed to bring the action.

(B) These powers of the attorney general shall be in addition to any other applicable powers of the attorney general.

Sec. 1321.702. The superintendent of financial institutions may adopt, in accordance with Chapter 119. of the Revised Code, rules that are necessary for the enforcement of sections 1321.62 to 1321.702 of the Revised Code and that are consistent with those sections. Each rule shall contain a reference to the section, division, or paragraph of the Revised Code to which it applies. The superintendent shall send by regular mail to each licensee a copy of each rule that is adopted pursuant to this section.

Section 2. (A) Section 1 of this act shall take effect on July 1, 2017.

(B) Beginning on the effective date of this section, the Superintendent of Financial Institutions may take whatever actions the Superintendent considers necessary to ensure full compliance with this act by July 1, 2017, including the acceptance of applications for a license under sections 1321.62 to 1321.702 of the Revised Code, as enacted by this act.