

As Introduced

133rd General Assembly

Regular Session

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H. B. No. 38

Representative Hillyer

Cosponsors: Representatives Cross, Hood, Miller, J., Riedel, Weinstein

A BILL

To enact section 1349.73 of the Revised Code to 1
require a commercial credit reporting agency to 2
provide credit reports to businesses and to 3
establish a procedure whereby a business may 4
dispute statements on the report. 5

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

Section 1. That section 1349.73 of the Revised Code be 6
enacted to read as follows: 7

Sec. 1349.73. (A) As used in this section: 8

(1) "Business" means a sole proprietorship, partnership, 9
corporation, limited liability company, or other commercial 10
entity, whether for profit or not for profit. 11

(2) "Commercial credit report" means any report provided 12
to a business for a legitimate business purpose, relating to the 13
financial status or payment habits of a business that is the 14
subject of the report. "Commercial credit report" does not 15
include any of the following: 16

(a) A report prepared for commercial insurance 17

underwriting, claims, or auditing purposes; 18

(b) A report containing information related to 19
transactions or experiences between the subject and the person 20
making the report; 21

(c) An authorization or approval of a specific extension 22
of credit directly or indirectly by the issuer of a credit card 23
or similar device; 24

(d) Any report in which a person that has been requested 25
by a third party to make a specific extension of credit directly 26
or indirectly to the subject conveys its decision with respect 27
to that request. 28

(3) "Commercial credit reporting agency" means any person 29
or entity that, for monetary fees, dues, or on a cooperative 30
nonprofit basis, provides commercial credit reports on a 31
business operating in this state to third parties. 32

(4) "Cure offer" means a written offer of one or more 33
things of value, including the payment of money, that is all of 34
the following: 35

(a) It is made by the commercial credit reporting agency 36
and delivered to a person or entity claiming to have suffered a 37
loss as a result of the commercial credit reporting agency 38
failing to comply with division (C) of this section or to the 39
attorney for the person or entity. 40

(b) It is reasonably calculated to remedy the loss claimed 41
by the person or entity. 42

(c) It is accompanied by an offer of a minimum additional 43
amount. 44

(5) "Loss" includes economic damages and any presumed 45

reputational injury to the business that results from the 46
publication of an inaccurate statement of fact. 47

(6) "Minimum additional amount" is an amount offered by a 48
commercial credit reporting agency, in addition to the cure 49
offer, as compensation for inconvenience, any attorney's or 50
other fees, expenses, or other costs of any kind that a person 51
or entity claiming to have suffered a loss as a result of the 52
commercial credit reporting agency failing to comply with 53
division (C) of this section may have incurred in relation to 54
the loss. The minimum additional amount shall equal the greater 55
of ten per cent of the value of the cure offer or five hundred 56
dollars, but shall not exceed four thousand dollars. 57

(7) "Subject" means the business operating in this state 58
about which a commercial credit report has been compiled. 59

(B) Upon the request of a representative of the subject of 60
a commercial credit report, a commercial credit reporting agency 61
shall provide, annually, a copy of the subject's commercial 62
credit report. The report shall be provided at no cost to the 63
subject and may be printed or in electronic form. The report 64
shall be in a format routinely made available to third parties 65
and include information identifying the source, date, and 66
specific amount, if any, of negative information that was 67
provided to the commercial credit reporting agency concerning 68
the subject. 69

(C) Within thirty days after receipt of a commercial 70
credit report, a representative of the subject of the report may 71
file with the commercial credit reporting agency a written 72
summary statement identifying each particular statement in the 73
report that the subject of the report believes contains an 74
inaccurate statement of fact and indicating the nature of the 75

disagreement with the statement. Within thirty days after 76
receipt of a subject's summary statement of disagreement, the 77
commercial credit reporting agency at no cost to the subject 78
shall do either of the following: 79

(1) Delete the disputed statement of fact from the report 80
and, thereafter, block any repeat reporting of that disputed 81
statement unless its accuracy has been verified; 82

(2) Include in the report a notice of the subject's 83
assertion that the statement of fact is inaccurate. 84

(D) (1) A person or entity that suffers a loss as the 85
result of a commercial credit reporting agency violating 86
division (C) of this section may initiate a civil action against 87
the agency to recover actual damages, or five hundred dollars, 88
whichever is greater. The person or entity may also seek a 89
declaratory judgment, an injunction, or other appropriate relief 90
and damages in an individual capacity or, where warranted, in a 91
class action. 92

(2) If the trier of fact finds that the violation was 93
willful, the trier of fact may increase damages to an amount not 94
exceeding three times the actual damages sustained, or one 95
thousand dollars, whichever is greater. 96

(3) In addition to any damages awarded, a person or entity 97
also may be awarded reasonable attorney's fees and court costs. 98

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

(2) A cure offer is admissible in an action initiated 104

under division (D) of this section only if the cure offer is 105
delivered by a representative of the commercial credit reporting 106
agency: 107

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

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

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

(F) Whenever the attorney general has reasonable cause to 120
believe that any person or entity has engaged in, is engaging 121
in, or is about to engage in, any violation of division (C) of 122
this section, the attorney general may conduct an investigation 123
and bring a civil action upon an alleged failure by a person or 124
entity to comply with the requirements of this section. 125

(G) Any civil action under division (D) or (F) of this 126
section may not be brought more than two years after the 127
occurrence of the violation that is the subject of the action. 128