

As Reported by the House Financial Institutions Committee

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Sub. H. B. No. 182

Representatives Hillyer, Barhorst

Cosponsors: Representatives Seitz, Holmes

A BILL

To amend sections 1321.632, 1321.68, and 1321.99 of
the Revised Code regarding precomputed consumer
installment loan acceleration and conversion,
interest rates, refinance charges, and immunity
from violations of lending laws under specified
circumstances.

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

Section 1. That sections 1321.632, 1321.68, and 1321.99 of
the Revised Code be amended to read as follows:

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;	18
(D) Pay to a borrower, credit to a borrower's account, or	19
pay to another person on the borrower's behalf the amount of an	20
instrument, less interest, fees, or any other charges permitted	21
by section 1321.68 of the Revised Code;	22
(E) Refinance the loan during the first one hundred twenty	23
days of the loan term;	24
(F) Except for the deferment charge permitted by section	25
1321.68 of the Revised Code <u>or in the case of a refinance,</u>	26
charge or collect any fee, charge, or remuneration of any sort	27
for renewing, amending, or extending a loan beyond its original	28
term.	29
Sec. 1321.68. (A) A licensee may contract for and receive	30
interest, calculated according to the actuarial method, at a	31
rate or rates not exceeding twenty-five <u>thirty-six</u> per cent per	32
year on the unpaid principal balances of the loan. Loans may be	33
interest-bearing or precomputed.	34
(B) For purposes of computation of time on interest-	35
bearing and precomputed loans, including, but not limited to,	36
the calculation of interest, a month is considered one-twelfth	37
of a year, and a day is considered one three hundred sixty-fifth	38
of a year when calculation is made for a fraction of a month. A	39
year is as defined in section 1.44 of the Revised Code. A month	40
is that period described in section 1.45 of the Revised Code.	41
Alternatively, a licensee may consider a day as one three	42
hundred sixtieth of a year and each month as having thirty days.	43
(C) With respect to interest-bearing loans:	44
(1) (a) Interest shall be computed on unpaid principal	45
balances outstanding from time to time, for the time	46

outstanding. 47

(b) As an alternative to the method of computing interest 48
set forth in division (C) (1) (a) of this section, a licensee may 49
charge and collect interest for the first installment period 50
based on elapsed time from the date of the loan to the first 51
scheduled payment due date, and for each succeeding installment 52
period from the scheduled payment due date to the next scheduled 53
payment due date, regardless of the date or dates the payments 54
are actually made. 55

(c) Whether a licensee computes interest pursuant to 56
division (C) (1) (a) or (b) of this section, each payment shall be 57
applied first to unpaid charges, then to interest, and the 58
remainder to the unpaid principal balance. However, if the 59
amount of the payment is insufficient to pay the accumulated 60
interest, the unpaid interest continues to accumulate to be paid 61
from the proceeds of subsequent payments and is not added to the 62
principal balance. 63

(2) Interest shall not be compounded, collected, or paid 64
in advance. However, both of the following apply: 65

(a) Interest may be charged to extend the first monthly 66
installment period by not more than fifteen days, and the 67
interest charged for the extension may be added to the principal 68
amount of the loan. 69

(b) If part or all of the consideration for a new loan 70
contract is the unpaid principal balance of a prior loan, the 71
principal amount payable under the new loan contract may include 72
any unpaid interest that has accrued. The resulting loan 73
contract shall be deemed a new and separate loan transaction for 74
purposes of this section. The unpaid principal balance of a 75

precomputed loan is the balance due after refund or credit of 76
unearned interest as provided in division (D) (3) of this 77
section. 78

(D) With respect to precomputed loans: 79

(1) Loans shall be repayable in monthly installments of 80
principal and interest combined, except that: 81

(a) The first installment period may exceed one month by 82
not more than fifteen days, and the first installment payment 83
amount may be larger than the remaining payments by the amount 84
of interest charged for the extra days. 85

(b) Monthly installment payment dates may be omitted to 86
accommodate borrowers with seasonal income. 87

(2) Payments may be applied to the combined total of 88
principal and precomputed interest until maturity of the loan. A 89
licensee may charge interest after the original or deferred 90
maturity of a precomputed loan at the rate specified in division 91
(A) of this section on all unpaid principal balances for the 92
time outstanding. 93

(3) When any loan contract is paid in full by cash, 94
renewal, refinancing, or a new loan, one month or more before 95
the final installment due date, the licensee shall refund, or 96
credit the borrower with, the total of the applicable charges 97
for all fully unexpired installment periods, as originally 98
scheduled or as deferred, that follow the day of prepayment. If 99
the prepayment is made other than on a scheduled installment due 100
date, the nearest scheduled installment due date shall be used 101
in such computation. If the prepayment occurs prior to the first 102
installment due date, the licensee may retain one-thirtieth of 103
the applicable charge for a first installment period of one 104

month for each day from date of loan to date of prepayment, and 105
shall refund, or credit the borrower with, the balance of the 106
total interest contracted for. If the maturity of the loan is 107
accelerated for any reason and judgment is entered, the licensee 108
shall credit the borrower with the same refund as if prepayment 109
in full had been made on the date the judgment is entered and 110
may thereafter convert the loan to an interest-bearing loan at 111
the same rate or rates of interest as provided in the original 112
loan contract. If the maturity of the loan is accelerated for 113
any reason, but no judgment is entered, the licensee may convert 114
the loan to an interest-bearing loan at the same rate or rates 115
of interest as provided in the original loan contract, provided 116
the licensee credits the borrower with the same refund on the 117
precomputed loan as if prepayment in full had been made on the 118
date of conversion. 119

(4) If the parties agree in writing, either in the loan 120
contract or in a subsequent agreement, to a deferment of wholly 121
unpaid installments, a licensee may grant a deferment and may 122
collect a deferment charge as provided in this section. A 123
deferment postpones the scheduled due date of the earliest 124
unpaid installment and all subsequent installments as originally 125
scheduled, or as previously deferred, for a period equal to the 126
deferment period. The deferment period is that period during 127
which no installment is scheduled to be paid by reason of the 128
deferment. The deferment charge for a one-month period may not 129
exceed the applicable charge for the installment period 130
immediately following the due date of the last undeferred 131
installment. A proportionate charge may be made for deferment 132
for periods of more or less than one month. A deferment charge 133
is earned pro rata during the deferment period and is fully 134
earned on the last day of the deferment period. If a loan is 135

prepaid in full during a deferment period, the licensee shall 136
make, or credit to the borrower, a refund of the unearned 137
deferment charge in addition to any other refund or credit made 138
for prepayment of the loan in full. 139

(E) A licensee, at the request of the borrower, may 140
obtain, on one or more borrowers, credit life insurance, credit 141
accident and health insurance, and unemployment insurance. The 142
premium or identifiable charge for the insurance may be included 143
in the principal amount of the loan and may not exceed the 144
premium rate filed by the insurer with the superintendent of 145
insurance and not disapproved by the superintendent. If a 146
licensee obtains the insurance at the request of the borrower, 147
the borrower shall have the right to cancel the insurance for a 148
period of twenty-five days after the loan is made. If the 149
borrower chooses to cancel the insurance, the borrower shall 150
give the licensee written notice of this choice and shall return 151
all of the policies or certificates of insurance or notices of 152
proposed insurance to the licensee during such period, and the 153
full premium or identifiable charge for the insurance shall be 154
refunded to the borrower by the licensee. If the borrower 155
requests, in the notice to cancel the insurance, that this 156
refund be applied to reduce the balance of a precomputed loan, 157
the licensee shall credit the amount of the refund plus the 158
amount of interest applicable to the refund to the loan balance. 159
If the licensee obtains the insurance at the request of the 160
borrower, the licensee shall not charge or collect interest on 161
any insured amount that remains unpaid after the insured 162
borrower's date of death. 163

(F) A licensee may require the borrower to provide 164
insurance or a loss payable endorsement covering reasonable 165
risks of loss, damage, and destruction of property used as 166

security for the loan and with the consent of the borrower such 167
insurance may cover property of the borrower other than that 168
which is security for the loan. The amount and term of required 169
property insurance shall be reasonable in relation to the amount 170
and term of the loan contract and the type and value of the 171
security, and the insurance shall be procured in accordance with 172
the insurance laws of this state. The purchase of this insurance 173
through the licensee or an agent or broker designated by the 174
licensee shall not be a condition precedent to the granting of 175
the loan. If the borrower purchases the insurance from or 176
through the licensee or from another source, the premium may be 177
included in the principal amount of the loan. 178

(G) (1) In addition to the interest and charges provided 179
for by this section, no further or other amount, whether in the 180
form of broker fees, placement fees, or any other fees 181
whatsoever, shall be charged or received by the licensee, except 182
that: 183

~~(a)(i) The licensee may charge and receive costs and 184
disbursements in connection with any suit to collect a loan or 185
any lawful activity to realize on a security interest after 186
default, including reasonable attorney's fees incurred by the 187
licensee as a result of the suit or activity and to which the 188
licensee becomes entitled by law. 189~~

(ii) A licensee may contract for reasonable attorney's 190
fees incurred as a result of a suit or lawful activity to 191
collect a loan or any lawful activity to realize on a security 192
interest after default. If attorney's fees are incurred in the 193
action, the fees may be recovered from the borrower only if 194
authorized by a court order. 195

(b) The licensee may include the following additional 196

charges in the principal amount of the loan or collect the	197
following additional charges at any time after the loan is made:	198
(i) The amounts of fees authorized by law to record, file,	199
or release security interests on a loan;	200
(ii) Fees received from borrowers to record, file, or	201
release a security interest on a loan for purposes either of	202
purchasing insurance to insure the licensee against losses for	203
failure to record or file or creating a self-insurance fund to	204
reimburse the licensee against losses for failure to record or	205
file;	206
(iii) Fees for credit investigations not exceeding twenty-	207
five dollars provided a licensee obtains a consumer report in	208
connection with an application for a grant, extension, or other	209
provision of credit to a consumer that is based in whole or in	210
part on the consumer report.	211
(2) Division (G) (1) of this section does not limit the	212
rights of licensees to engage in other transactions with	213
borrowers, provided the transactions are not a condition of the	214
loan. As used in this division, a transaction shall not be	215
considered a "condition of the loan" if it meets both of the	216
following conditions:	217
(a) It is not required for the extension of the credit.	218
(b) It is a charge that is not considered a "finance	219
charge" pursuant to 12 C.F.R. 1026.4.	220
(H) If the loan contract or security instrument contains	221
covenants by the borrower to perform certain duties pertaining	222
to insuring or preserving security and the licensee pursuant to	223
the loan contract or security instrument pays for performance of	224
the duties on behalf of the borrower, the licensee may add the	225

amounts paid to the unpaid principal balance of the loan or 226
collect them separately. A charge for interest may be made for 227
sums advanced not exceeding the rate of interest permitted by 228
division (A) of this section. Within a reasonable time after 229
advancing a sum, the licensee shall notify the borrower in 230
writing of the amount advanced, any interest charged with 231
respect to the amount advanced, and any revised payment 232
schedule, and shall include a brief description of the reason 233
for the advance. 234

(I) (1) In addition to any other permissible fees and 235
charges, a licensee may charge and receive the following: 236

(a) If the principal amount of the loan is five hundred 237
dollars or less, loan origination charges not exceeding fifteen 238
dollars; 239

(b) If the principal amount of the loan is more than five 240
hundred dollars but less than one thousand dollars, loan 241
origination charges not exceeding thirty dollars; 242

(c) If the principal amount of the loan is at least one 243
thousand dollars but less than two thousand dollars, loan 244
origination charges not exceeding one hundred dollars; 245

(d) If the principal amount of the loan is at least two 246
thousand dollars but less than five thousand dollars, loan 247
origination charges not exceeding two hundred dollars; 248

(e) If the principal amount of the loan is at least five 249
thousand dollars, loan origination charges not exceeding the 250
greater of two hundred fifty dollars or one per cent of the 251
principal amount of the loan. 252

(2) Loan origination charges may be paid by the borrower 253
at the time of the loan or may be included in the principal 254

amount of the loan. 255

(J) A licensee may charge and receive ~~check collection~~ 256
~~charges~~ returned payment fees not greater than twenty dollars 257
plus any amount passed on from other depository institutions or 258
payment processors for each check, negotiable order of 259
withdrawal, share draft, ~~or~~ other negotiable instrument, 260
electronic fund transfer, or electronic payment returned, 261
unpaid, or dishonored for any reason. 262

(K) If the loan contract so provides, a licensee may 263
collect a default charge on any installment not paid in full 264
within ten days after its due date. For this purpose, all 265
installments are considered paid in the order in which they 266
become due. Any amounts applied to an outstanding loan balance 267
as a result of voluntary release of a security interest, sale of 268
security on the loan, or cancellation of insurance shall be 269
considered payments on the loan, unless the parties otherwise 270
agree in writing at the time the amounts are applied. A licensee 271
shall not collect more than one default charge per unpaid 272
installment regardless of the number of months the installment 273
remains fully unpaid. The amount of the default charge shall not 274
exceed the greater of five per cent of the scheduled installment 275
or fifteen dollars. 276

Sec. 1321.99. (A) Whoever violates section 1321.02 of the 277
Revised Code is guilty of a felony of the fifth degree. 278

(B) Whoever violates section 1321.13 of the Revised Code 279
shall be fined not less than one hundred nor more than five 280
hundred dollars or imprisoned not more than six months, or both. 281

(C) Whoever violates section 1321.14 of the Revised Code 282
shall be fined not less than fifty nor more than two hundred 283

dollars for a first offense; for a second offense such person 284
shall be fined not less than two hundred nor more than five 285
hundred dollars and imprisoned for not more than six months. 286

(D) Whoever willfully violates section 1321.57, 1321.58, 287
division (A), (B), or (C) of section 1321.59, 1321.591, or 288
1321.60 of the Revised Code is guilty of a minor misdemeanor and 289
shall be fined not less than one nor more than five hundred 290
dollars. 291

(E) (1) Whoever violates section 1321.63 or division (H), 292
(I), or (K) of section 1321.69 of the Revised Code is guilty of 293
a felony of the fifth degree. 294

(2) A violation of section 1321.63 or division (K) of 295
section 1321.69 of the Revised Code is a strict liability 296
offense and section 2901.20 of the Revised Code does not apply. 297

(F) Whoever violates division (A) of section 1321.73 of 298
the Revised Code shall be fined not more than five hundred 299
dollars or imprisoned not more than six months, or both. 300

(G) Whoever violates section 1321.41 of the Revised Code 301
is guilty of a misdemeanor of the first degree. 302

(H) Whoever violates section 1321.141 or 1321.592 of the 303
Revised Code is guilty of a minor misdemeanor and shall be fined 304
not less than one hundred nor more than five hundred dollars. 305

(I) The offenses established under sections 1321.141, 306
1321.41, and 1321.592 of the Revised Code are strict liability 307
offenses and section 2901.20 of the Revised Code does not apply. 308
The designation of these offenses as strict liability offenses 309
shall not be construed to imply that any other offense for which 310
there is no specified degree of culpability, whether in this 311
section or another section of the Revised Code, is not a strict 312

liability offense. 313

(J) The imposition of fines pursuant to this section does 314
not preclude the imposition of any administrative fines or civil 315
penalties authorized under section 1321.54 or any other section 316
of the Revised Code. 317

(K) A lender that makes an error in connection with a loan 318
made pursuant to this chapter, which error would otherwise 319
constitute a violation of this chapter, shall not be held liable 320
for that violation under this chapter if any of the following 321
apply: 322

(1) The lender shows, by a preponderance of evidence, that 323
the violation was not intentional and resulted from a bona fide 324
error, notwithstanding the maintenance of procedures the lender 325
reasonably adapts to avoid any such error. 326

(2) The lender notifies the superintendent of financial 327
institutions within sixty days after discovering the bona fide 328
error and corrects the error within a reasonable time after such 329
discovery by doing the following: 330

(a) Crediting a loan account with a remaining balance with 331
the amount of overcharge plus applicable interest on the 332
overcharge at the same rate charged to the balance of the 333
underlying loan account as of the date of the overcharge, 334
calculated from the date of the overcharge to the date of 335
correction; 336

(b) For a loan account that is closed without a remaining 337
balance, returning to the customer, by mailing a check to the 338
consumer's last known address or some other method, the amount 339
of any overcharge plus applicable interest on the overcharge at 340
the same rate charged to the balance of the underlying loan 341

account as of the date of the overcharge, calculated from the 342
date of the overcharge to the date of correction. Overcharge 343
interest shall be calculated from the date of the overcharge to 344
the earlier of the following: 345

(i) The date of correction; 346

(ii) The date the account balance is reduced to zero. 347

(3) The bona fide error is discovered after the record 348
retention period required by division (C) of section 1321.66 of 349
the Revised Code. 350

Section 2. That existing sections 1321.632, 1321.68, and 351
1321.99 of the Revised Code are hereby repealed. 352