

# AN ACT

To amend, for the purpose of adopting a new section number as indicated in parentheses, section 1349.72 (1349.78), and to enact new section 1349.72 and sections 1349.65, 1349.66, 1349.67, 1349.68, 1349.69, 1349.70, 1349.71, 1349.73, 1349.74, 1349.75, and 1349.76 of the Revised Code to require online marketplaces to verify certain information regarding high-volume third party sellers of consumer products on such online marketplaces and to disclose to consumers certain contact and other information regarding such high-volume third party sellers.

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

SECTION 1. That section 1349.72 (1349.78) be amended for the purpose of adopting a new section number as indicated in parentheses and new section 1349.72 and sections 1349.65, 1349.66, 1349.67, 1349.68, 1349.69, 1349.70, 1349.71, 1349.73, 1349.74, 1349.75, and 1349.76 of the Revised Code be enacted to read as follows:

Sec. 1349.65. As used in sections 1349.65 to 1349.76 of the Revised Code:

(A) "Consumer product" has the same meaning as in section 101 of the "Magnuson-Moss Warranty—Federal Trade Commission Improvement Act," 15 U.S.C. 2301 and 16 C.F.R. 700.1.

(B) "High-volume third party seller" means a participant on an online marketplace's platform that is a third party seller and that, in any continuous twelve-month period during the previous twenty-four months, has entered into two hundred or more discrete sales or transactions of new or unused consumer products through the online marketplace, and for which payment was processed by the online marketplace, either directly or through its payment processor, with an aggregate total of five thousand dollars or more in gross revenues.

(C) "Online marketplace" means any person or entity that operates a consumer-directed electronically based or accessed platform that meets all of the following criteria:

(1) It includes features that allow for, facilitate, or enable third party sellers to engage in the sale, purchase, payment, storage, shipping, or delivery of a consumer product in this state.

(2) It is used by one or more third party sellers for such purposes.

(3) It has a contractual or similar relationship with consumers governing their use of the platform to purchase consumer products.

(D) "Seller" means a person that sells, offers to sell, or contracts to sell a consumer product through an online marketplace's platform. "Seller" does not include a new motor vehicle dealer licensed under Chapter 4517. of the Revised Code.

(E)(1) "Third party seller" means any seller, independent of an online marketplace, that sells, offers to sell, or contracts to sell a consumer product in this state through such online marketplace's.

platform.

(2) "Third party seller" does not include, with respect to an online marketplace, either of the following:

(a) A seller that operates the online marketplace's platform;

(b) A business entity to which all of the following apply:

(i) It has made available to the general public the entity's name, business address, and working contact information.

(ii) It has an ongoing contractual relationship with the online marketplace to provide the online marketplace with the manufacture, distribution, wholesaling, or fulfillment of shipments of consumer products.

(iii) It has provided to the online marketplace identifying information, as described in section 1349.66 of the Revised Code, that has been verified in accordance with that section.

(F) "Verify" means to confirm information provided to an online marketplace pursuant to section 1349.66 of the Revised Code, which may include the use of one or more methods that enable the online marketplace to reliably determine that any information and documents provided are valid, corresponding to the seller or an individual acting on the seller's behalf, not misappropriated, and not falsified.

Sec. 1349.66. (A) An online marketplace shall require any high-volume third party seller on such online marketplace's platform to provide, not later than ten days after qualifying as a high-volume third party seller on the platform, all of the following information to the online marketplace:

(1)(a) A bank account number, or, if such seller does not have a bank account, the name of the payee for payments issued by the online marketplace to such seller.

(b) The bank account or payee information required under division (A)(1)(a) of this section may be provided by the seller in either of the following ways:

(i) To the online marketplace;

(ii) To a payment processor or other third party contracted by the online marketplace to maintain such information, provided that the online marketplace ensures that it can obtain such information on demand from such payment processor or other third party.

(2) Contact information for such seller as follows:

(a) With respect to a high-volume third party seller that is an individual, the individual's name.

(b) With respect to a high-volume third party seller that is not an individual, one of the following forms of contact information:

(i) A copy of a valid government-issued identification for an individual acting on behalf of such seller that includes the individual's name;

(ii) A copy of a valid government-issued record or tax document that includes the business name and physical address of such seller.

(c) A business tax identification number, or, if such seller does not have a business tax identification number, a taxpayer identification number.

(d) A current working electronic mail address and telephone number for such seller.

(B) An online marketplace shall do both of the following:

(1) Periodically, but not less than annually, notify any high-volume third party seller on such

online marketplace's platform of the requirement to keep any information collected under division (A) of this section current;

(2) Require any high-volume third party seller on such online marketplace's platform to, not later than ten days after receiving the notice under division (B)(1) of this section, electronically certify one of the following:

(a) The seller has provided any changes to such information to the online marketplace, if any such changes have occurred;

(b) There have been no changes to such seller's information;

(c) Such seller has provided any changes to such information to the online marketplace.

(C) In the event that a high-volume third party seller does not provide the information or certification required under this section, the online marketplace shall, after providing the seller with written or electronic notice and an opportunity to provide such information or certification not later than ten days after the issuance of such notice, suspend any future sales activity of such seller until such seller provides such information or certification.

Sec. 1349.67. (A) An online marketplace shall do both of the following:

(1) Verify the information collected under division (A) of section 1349.66 of the Revised Code not later than ten days after such collection;

(2) Verify any change to such information not later than ten days after being notified of such change by a high-volume third party seller under division (B) of section 1349.66 of the Revised Code.

(B) In the case of a high-volume third party seller that provides a copy of a valid government-issued tax document, any information contained in such document shall be presumed to be verified as of the date of issuance of such document.

Sec. 1349.68. Data collected solely to comply with the requirements of this chapter shall not be used for any other purpose unless required by law.

Sec. 1349.69. An online marketplace shall implement and maintain reasonable security procedures and practices, including administrative, physical, and technical safeguards, appropriate to the nature of the data and the purposes for which the data will be used, to protect the data collected to comply with the requirements of this chapter from unauthorized use, disclosure, access, destruction, or modification.

Sec. 1349.70. (A) An online marketplace shall do both of the following:

(1) Require any high-volume third party seller with an aggregate total of twenty thousand dollars or more in annual gross revenues on such online marketplace, and that uses such online marketplace's platform, to provide the information described in division (B) of this section to the online marketplace;

(2) Disclose the information described in division (B) of this section to consumers in a clear and conspicuous manner both in:

(a) The order confirmation message or other document or communication made to a consumer after a purchase is finalized;

(b) The consumer's account transaction history.

(B) The information required to be provided and disclosed by division (A) of this section is both of the following:

(1) Except as provided in section 1349.71 of the Revised Code, the identity of the high-volume third party seller, including all of the following:

(a) The full name of the seller, which may include the seller name or seller's company name, or the name by which the seller or company operates on the online marketplace;

(b) The physical address of the seller;

(c) Contact information for the seller, to allow for the direct, unhindered communication with high-volume third party sellers by users of the online marketplace, including any of the following:

(i) A current working telephone number;

(ii) A current working electronic mail address; or

(iii) Other means of direct electronic messaging, which may be provided to such seller by the online marketplace.

(2) Whether the high-volume third party seller used a different seller to supply the consumer product to the consumer upon purchase, and, upon the request of an authenticated purchaser, the information described in division (B)(1) of this section relating to any such seller that supplied the consumer product to the purchaser, if such seller is different than the high-volume third party seller listed on the product listing prior to purchase.

Sec. 1349.71. (A) Subject to division (B) of this section, upon the request of a high-volume third party seller, an online marketplace may provide for partial disclosure of the identity information required under division (B)(1) of section 1349.70 of the Revised Code in the following situations:

(1) If such seller certifies to the online marketplace that the seller does not have a business address and only has a residential street address, or has a combined business and residential address, the online marketplace may both:

(a) Disclose only the country and, if applicable, the state in which such seller resides;

(b) Inform consumers that there is no business address available for the seller and that consumer inquiries should be submitted to the seller by telephone, electronic mail, or other means of electronic messaging provided to such seller by the online marketplace.

(2) If such seller certifies to the online marketplace that the seller is a business that has a physical address for product returns, the online marketplace may disclose the seller's physical address for product returns.

(3) If such seller certifies to the online marketplace that the seller does not have a telephone number other than a personal telephone number, the online marketplace shall inform consumers that there is no telephone number available for the seller and that consumer inquiries should be submitted to the seller's electronic mail address or other means of electronic messaging provided to such seller by the online marketplace.

(B) If an online marketplace becomes aware that a high-volume third party seller has made a false representation to the online marketplace in order to justify the provision of a partial disclosure under division (A) of this section or that a high-volume third party seller who has requested and received a provision for a partial disclosure under division (A) of this section has not provided responsive answers within a reasonable time frame to consumer inquiries submitted to the seller by telephone, electronic mail, or other means of electronic messaging provided to such seller by the online marketplace, the online marketplace shall, after providing the seller with written or electronic notice and an opportunity to respond not later than ten days after the issuance of such notice, suspend

any future sales activity of such seller unless such seller consents to the disclosure of the identity information required under division (B)(1) of section 1349.70 of the Revised Code.

(C) If a high-volume third-party seller is a program participant as defined in section 111.41 of the Revised Code, the only address of which the online marketplace may require disclosure is the address designated by the secretary of state under section 111.42 of the Revised Code.

Sec. 1349.72. An online marketplace shall disclose to consumers in a clear and conspicuous manner on the product listing of any high-volume third-party seller a reporting mechanism that allows for electronic and telephonic reporting of suspicious marketplace activity to the online marketplace.

Sec. 1349.73. If a high-volume third-party seller does not comply with the requirements to provide and disclose information under sections 1349.70 and 1349.71 of the Revised Code, the online marketplace shall, after providing the seller with written or electronic notice and an opportunity to provide or disclose such information not later than ten days after the issuance of such notice, suspend any future sales activity of such seller until the seller complies with such requirements.

Sec. 1349.74. (A) A violation of sections 1349.66 to 1349.73 of the Revised Code is an unfair or deceptive act or practice in violation of section 1345.02 of the Revised Code.

(B)(1) The attorney general shall enforce sections 1349.66 to 1349.73 of the Revised Code in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of sections 1345.01 to 1345.13 of the Revised Code were incorporated and made part of sections 1349.66 to 1349.73 of the Revised Code.

(2) There is no private right of action, pursuant to section 1345.09 of the Revised Code, to enforce sections 1349.66 to 1349.73 of the Revised Code.

(C) The attorney general may adopt rules with respect to the collection, verification, or disclosure of information under sections 1349.66, 1349.67, and 1349.70 to 1349.73 of the Revised Code, provided that such regulations are limited to what is necessary to collect, verify, and disclose such information.

(D) Nothing in sections 1349.66 to 1349.74 of the Revised Code shall be construed to limit the authority of the attorney general under any other provision of law.

Sec. 1349.75. If any provision of sections 1349.65 to 1349.74 of the Revised Code, or the application thereof to any person or circumstance, is held invalid, the remainder of those provisions and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected by the invalidation.

Sec. 1349.76. The intent of the general assembly in enacting sections 1349.65 to 1349.76 of the Revised Code is to establish a statewide, comprehensive enactment that applies to all parts of the state, operates uniformly throughout the state, and sets forth police regulations. No political subdivision as defined in section 2744.01 of the Revised Code shall establish, mandate, or otherwise require online marketplaces or sellers to undertake different or additional measures to verify or disclose the same information as or information similar to that which is the subject of sections 1349.65 to 1349.73 of the Revised Code.

Sec. ~~1349.72~~ 1349.78. (A) Not less than thirty days prior to a person filing a foreclosure action to collect on a debt secured by residential real property, the person shall first send a written

notice as described in division (B) of this section via United States mail to the residential address of the debtor, if both of the following apply:

(1) The debt is secured by a mortgage lien on the debtor's residential real property that is not in the first mortgage position.

(2) The debt has either been accelerated or is in default in accordance with the terms set forth in the promissory note.

(B) The written notice may be included on, or accompany, any other communication, and shall be printed in at least twelve-point type and include the following:

(1) The name and contact information of the person collecting the debt;

(2) A statement of the amount of the debt;

(3) A statement that the debtor has a right to engage an attorney;

(4) A statement that the debtor may qualify for debt relief under Chapter 7 or 13 of the United States Bankruptcy Code, 11 U.S.C. Chapter 7 or 13, as amended;

(5) A statement that a debtor that qualifies under Chapter 13 of the United States Bankruptcy Code may be able to protect their residential real property from foreclosure.

(C) Upon written request of the debtor, the owner of the debt shall provide a copy of the note and the loan history to the debtor.

(D)(1) As used in this division:

(a) "Bona fide error" means an unintentional clerical, calculation, computer malfunction or programming, or printing error.

(b) "Restitution" means either of the following:

(i) A waiver of all fees, costs, or expenses proximately associated with the failure to provide the notice to the debtor; or

(ii) Actual damages.

(2) Any owner of debt subject to divisions (A), (B), and (C) of this section shall not be held civilly liable in any action, if all of the following are met:

(a) The owner of the debt shows by a preponderance of evidence that the compliance failure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(b) Within sixty days after discovering the error, and prior to the initiation of any action, the owner of the debt notifies the debtor of the error and the manner in which the owner of the debt intends to make full restitution to the debtor.

(c) The owner of the debt promptly makes reasonable restitution to the debtor.

(3) If, in the event of a compliance failure, the owner of the debt does not meet the conditions set forth in division (D)(2) of this section, a debtor injured by the error has a cause of action to recover damages. Such an action shall not, however, be maintained as a class action.

SECTION 2. That existing section 1349.72 of the Revised Code is hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

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

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*Director, Legislative Service Commission.*

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

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_