

As Introduced

135th General Assembly

Regular Session

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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 bona fide
errors.

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;

(D) Pay to a borrower, credit to a borrower's account, or 18
pay to another person on the borrower's behalf the amount of an 19
instrument, less interest, fees, or any other charges permitted 20
by section 1321.68 of the Revised Code; 21

(E) Refinance the loan during the first one hundred twenty 22
days of the loan term; 23

(F) Except for the deferment charge permitted by section 24
1321.68 of the Revised Code or in the case of a refinance, 25
charge or collect any fee, charge, or remuneration of any sort 26
for ~~renewing, amending,~~ or extending a loan beyond its original 27
term. 28

Sec. 1321.68. (A) A licensee may contract for and receive 29
interest, calculated according to the actuarial method, at a 30
rate or rates not exceeding ~~twenty-five-thirty-six~~ per cent per 31
year on the unpaid principal balances of the loan. Loans may be 32
interest-bearing or precomputed. 33

(B) For purposes of computation of time on interest- 34
bearing and precomputed loans, including, but not limited to, 35
the calculation of interest, a month is considered one-twelfth 36
of a year, and a day is considered one three hundred sixty-fifth 37
of a year when calculation is made for a fraction of a month. A 38
year is as defined in section 1.44 of the Revised Code. A month 39
is that period described in section 1.45 of the Revised Code. 40
Alternatively, a licensee may consider a day as one three 41
hundred sixtieth of a year and each month as having thirty days. 42

(C) With respect to interest-bearing loans: 43

(1) (a) Interest shall be computed on unpaid principal 44
balances outstanding from time to time, for the time 45
outstanding. 46

(b) As an alternative to the method of computing interest 47
set forth in division (C) (1) (a) of this section, a licensee may 48
charge and collect interest for the first installment period 49
based on elapsed time from the date of the loan to the first 50
scheduled payment due date, and for each succeeding installment 51
period from the scheduled payment due date to the next scheduled 52
payment due date, regardless of the date or dates the payments 53
are actually made. 54

(c) Whether a licensee computes interest pursuant to 55
division (C) (1) (a) or (b) of this section, each payment ~~shall~~ 56
may be applied first to unpaid charges, then to interest, and 57
the remainder to the unpaid principal balance. However, if the 58
amount of the payment is insufficient to pay the accumulated 59
interest, the unpaid interest continues to accumulate to be paid 60
from the proceeds of subsequent payments and is not added to the 61
principal balance. 62

(2) Interest shall not be compounded, collected, or paid 63
in advance. However, both of the following apply: 64

(a) Interest may be charged to extend the first monthly 65
installment period by not more than fifteen days, and the 66
interest charged for the extension may be added to the principal 67
amount of the loan. 68

(b) If part or all of the consideration for a new loan 69
contract is the unpaid principal balance of a prior loan, the 70
principal amount payable under the new loan contract may include 71
any unpaid interest that has accrued. The resulting loan 72
contract shall be deemed a new and separate loan transaction for 73
purposes of this section. The unpaid principal balance of a 74
precomputed loan is the balance due after refund or credit of 75
unearned interest as provided in division (D) (3) of this 76

section. 77

(D) With respect to precomputed loans: 78

(1) Loans shall be repayable in monthly installments of 79
principal and interest combined, except that: 80

(a) The first installment period may exceed one month by 81
not more than fifteen days, and the first installment payment 82
amount may be larger than the remaining payments by the amount 83
of interest charged for the extra days. 84

(b) Monthly installment payment dates may be omitted to 85
accommodate borrowers with seasonal income. 86

(2) Payments may be applied to the combined total of 87
principal and precomputed interest until maturity of the loan. A 88
licensee may charge interest after the original or deferred 89
maturity of a precomputed loan at the rate specified in division 90
(A) of this section on all unpaid principal balances for the 91
time outstanding. 92

(3) When any loan contract is paid in full by cash, 93
renewal, refinancing, or a new loan, one month or more before 94
the final installment due date, the licensee shall refund, or 95
credit the borrower with, the total of the applicable charges 96
for all fully unexpired installment periods, as originally 97
scheduled or as deferred, that follow the day of prepayment. If 98
the prepayment is made other than on a scheduled installment due 99
date, the nearest scheduled installment due date shall be used 100
in such computation. If the prepayment occurs prior to the first 101
installment due date, the licensee may retain one-thirtieth of 102
the applicable charge for a first installment period of one 103
month for each day from date of loan to date of prepayment, and 104
shall refund, or credit the borrower with, the balance of the 105

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

(4) If the parties agree in writing, either in the loan 119
contract or in a subsequent agreement, to a deferment of wholly 120
unpaid installments, a licensee may grant a deferment and may 121
collect a deferment charge as provided in this section. A 122
deferment postpones the scheduled due date of the earliest 123
unpaid installment and all subsequent installments as originally 124
scheduled, or as previously deferred, for a period equal to the 125
deferment period. The deferment period is that period during 126
which no installment is scheduled to be paid by reason of the 127
deferment. The deferment charge for a one-month period may not 128
exceed the applicable charge for the installment period 129
immediately following the due date of the last undeferred 130
installment. A proportionate charge may be made for deferment 131
for periods of more or less than one month. A deferment charge 132
is earned pro rata during the deferment period and is fully 133
earned on the last day of the deferment period. If a loan is 134
prepaid in full during a deferment period, the licensee shall 135
make, or credit to the borrower, a refund of the unearned 136

deferment charge in addition to any other refund or credit made 137
for prepayment of the loan in full. 138

(E) A licensee, at the request of the borrower, may 139
obtain, on one or more borrowers, credit life insurance, credit 140
accident and health insurance, and unemployment insurance. The 141
premium or identifiable charge for the insurance may be included 142
in the principal amount of the loan and may not exceed the 143
premium rate filed by the insurer with the superintendent of 144
insurance and not disapproved by the superintendent. If a 145
licensee obtains the insurance at the request of the borrower, 146
the borrower shall have the right to cancel the insurance for a 147
period of twenty-five days after the loan is made. If the 148
borrower chooses to cancel the insurance, the borrower shall 149
give the licensee written notice of this choice and shall return 150
all of the policies or certificates of insurance or notices of 151
proposed insurance to the licensee during such period, and the 152
full premium or identifiable charge for the insurance shall be 153
refunded to the borrower by the licensee. If the borrower 154
requests, in the notice to cancel the insurance, that this 155
refund be applied to reduce the balance of a precomputed loan, 156
the licensee shall credit the amount of the refund plus the 157
amount of interest applicable to the refund to the loan balance. 158
If the licensee obtains the insurance at the request of the 159
borrower, the licensee shall not charge or collect interest on 160
any insured amount that remains unpaid after the insured 161
borrower's date of death. 162

(F) A licensee may require the borrower to provide 163
insurance or a loss payable endorsement covering reasonable 164
risks of loss, damage, and destruction of property used as 165
security for the loan and with the consent of the borrower such 166
insurance may cover property of the borrower other than that 167

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 197
reimburse the licensee against losses for failure to record or 198
file; 199

(iii) Fees for credit investigations not exceeding twenty- 200
five dollars provided a licensee obtains a consumer report in 201
connection with an application for a grant, extension, or other 202
provision of credit to a consumer that is based in whole or in 203
part on the consumer report. 204

(2) Division (G)(1) of this section does not limit the 205
rights of licensees to engage in other transactions with 206
borrowers, provided the transactions are not a condition of the 207
loan. As used in this division, a transaction shall not be 208
considered a "condition of the loan" if it meets both of the 209
following conditions: 210

(a) It is not required for the extension of the credit. 211

(b) It is a charge that is not considered a "finance 212
charge" pursuant to 12 C.F.R. 1026.4. 213

(H) If the loan contract or security instrument contains 214
covenants by the borrower to perform certain duties pertaining 215
to insuring or preserving security and the licensee pursuant to 216
the loan contract or security instrument pays for performance of 217
the duties on behalf of the borrower, the licensee may add the 218
amounts paid to the unpaid principal balance of the loan or 219
collect them separately. A charge for interest may be made for 220
sums advanced not exceeding the rate of interest permitted by 221
division (A) of this section. Within a reasonable time after 222
advancing a sum, the licensee shall notify the borrower in 223
writing of the amount advanced, any interest charged with 224
respect to the amount advanced, and any revised payment 225

schedule, and shall include a brief description of the reason 226
for the advance. 227

(I) (1) In addition to any other permissible fees and 228
charges, a licensee may charge and receive the following: 229

(a) If the principal amount of the loan is five hundred 230
dollars or less, loan origination charges not exceeding fifteen 231
dollars; 232

(b) If the principal amount of the loan is more than five 233
hundred dollars but less than one thousand dollars, loan 234
origination charges not exceeding thirty dollars; 235

(c) If the principal amount of the loan is at least one 236
thousand dollars but less than two thousand dollars, loan 237
origination charges not exceeding one hundred dollars; 238

(d) If the principal amount of the loan is at least two 239
thousand dollars but less than five thousand dollars, loan 240
origination charges not exceeding two hundred dollars; 241

(e) If the principal amount of the loan is at least five 242
thousand dollars, loan origination charges not exceeding the 243
greater of two hundred fifty dollars or one per cent of the 244
principal amount of the loan. 245

(2) Loan origination charges may be paid by the borrower 246
at the time of the loan or may be included in the principal 247
amount of the loan. 248

(J) A licensee may charge and receive ~~check collection~~ 249
~~charges~~ returned payment fees not greater than twenty dollars 250
plus any amount passed on from other depository institutions or 251
payment processors for each check, negotiable order of 252
withdrawal, share draft, ~~or~~ other negotiable instrument, 253

electronic fund transfer, or electronic payment returned, 254
unpaid, or dishonored for any reason. 255

(K) If the loan contract so provides, a licensee may 256
collect a default charge on any installment not paid in full 257
within ten days after its due date. For this purpose, all 258
installments are considered paid in the order in which they 259
become due. Any amounts applied to an outstanding loan balance 260
as a result of voluntary release of a security interest, sale of 261
security on the loan, or cancellation of insurance shall be 262
considered payments on the loan, unless the parties otherwise 263
agree in writing at the time the amounts are applied. A licensee 264
shall not collect more than one default charge per unpaid 265
installment regardless of the number of months the installment 266
remains fully unpaid. The amount of the default charge shall not 267
exceed the greater of five per cent of the scheduled installment 268
or fifteen dollars. 269

Sec. 1321.99. (A) Whoever violates section 1321.02 of the 270
Revised Code is guilty of a felony of the fifth degree. 271

(B) Whoever violates section 1321.13 of the Revised Code 272
shall be fined not less than one hundred nor more than five 273
hundred dollars or imprisoned not more than six months, or both. 274

(C) Whoever violates section 1321.14 of the Revised Code 275
shall be fined not less than fifty nor more than two hundred 276
dollars for a first offense; for a second offense such person 277
shall be fined not less than two hundred nor more than five 278
hundred dollars and imprisoned for not more than six months. 279

(D) Whoever willfully violates section 1321.57, 1321.58, 280
division (A), (B), or (C) of section 1321.59, 1321.591, or 281
1321.60 of the Revised Code is guilty of a minor misdemeanor and 282

shall be fined not less than one nor more than five hundred 283
dollars. 284

(E) (1) Whoever violates section 1321.63 or division (H), 285
(I), or (K) of section 1321.69 of the Revised Code is guilty of 286
a felony of the fifth degree. 287

(2) A violation of section 1321.63 or division (K) of 288
section 1321.69 of the Revised Code is a strict liability 289
offense and section 2901.20 of the Revised Code does not apply. 290

(F) Whoever violates division (A) of section 1321.73 of 291
the Revised Code shall be fined not more than five hundred 292
dollars or imprisoned not more than six months, or both. 293

(G) Whoever violates section 1321.41 of the Revised Code 294
is guilty of a misdemeanor of the first degree. 295

(H) Whoever violates section 1321.141 or 1321.592 of the 296
Revised Code is guilty of a minor misdemeanor and shall be fined 297
not less than one hundred nor more than five hundred dollars. 298

(I) The offenses established under sections 1321.141, 299
1321.41, and 1321.592 of the Revised Code are strict liability 300
offenses and section 2901.20 of the Revised Code does not apply. 301
The designation of these offenses as strict liability offenses 302
shall not be construed to imply that any other offense for which 303
there is no specified degree of culpability, whether in this 304
section or another section of the Revised Code, is not a strict 305
liability offense. 306

(J) The imposition of fines pursuant to this section does 307
not preclude the imposition of any administrative fines or civil 308
penalties authorized under section 1321.54 or any other section 309
of the Revised Code. 310

(K) A lender that makes a bona fide error in connection 311
with a loan made pursuant to this chapter, which error would 312
otherwise constitute a violation of this chapter, shall not be 313
considered to have violated this chapter if the lender corrects 314
the error within a reasonable time after discovery of the error. 315
Any such correction shall include the following as applicable: 316

(1) Crediting a loan account with a remaining balance with 317
the amount of overcharge plus applicable interest on the 318
overcharge at the same rate charged to the balance of the 319
underlying loan account as of the date of the overcharge, 320
calculated from the date of the overcharge to the date of 321
correction; 322

(2) For a loan account that is closed without a remaining 323
balance, returning to the customer, by mailing a check to the 324
consumer's last known address or some other method, the amount 325
of any overcharge plus applicable interest on the overcharge at 326
the same rate charged to the balance of the underlying loan 327
account as of the date of the overcharge, calculated from the 328
date of the overcharge to the date of correction. 329

Section 2. That existing sections 1321.632, 1321.68, and 330
1321.99 of the Revised Code are hereby repealed. 331