

**As Reported by the House Consumer Affairs and Economic  
Protection Committee**

**128th General Assembly**

**Regular Session**

**2009-2010**

**Am. H. B. No. 486**

**Representatives Lundy, Stebelton**

**Cosponsors: Representatives Foley, Celeste, Skindell, Dyer, Stewart, Sykes,  
Harris, Murray, Driehaus, Heard, Belcher, Hagan, Garland, Letson, Yuko**

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**A B I L L**

To amend sections 1315.26, 1321.13, 1321.15, 1321.57, 1  
1321.59, 1321.99, and 4712.07 and to enact section 2  
4712.021 of the Revised Code to establish certain 3  
consumer protections with respect to small loans 4  
to be known as the Small Loan Consumer Protection 5  
Act. 6

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

**Section 1.** That sections 1315.26, 1321.13, 1321.15, 1321.57, 7  
1321.59, 1321.99, and 4712.07 be amended and section 4712.021 of 8  
the Revised Code be enacted to read as follows: 9

**Sec. 1315.26.** (A) No check-cashing business shall charge 10  
check-cashing fees or other check-cashing charges in an amount 11  
that exceeds three per cent of the face amount of the check for 12  
cashing checks issued by this state, a state agency, a political 13  
subdivision of this state, or the United States. 14

(B) Each check-cashing business shall conspicuously post and 15  
at all times display in every business location a schedule of its 16  
fees and charges for all services permitted under sections 1315.21 17

to 1315.28 of the Revised Code. 18

(C) No check-cashing business shall charge a fee for cashing 19  
a proceeds check or money order disbursed to fund a loan made by 20  
the licensee or an affiliate of the licensee. 21

**Sec. 1321.13.** (A) Notwithstanding any other provisions of the 22  
Revised Code, a licensee may contract for and receive interest, 23  
calculated according to the actuarial method, at a rate or rates 24  
not exceeding twenty-eight per cent per year on that portion of 25  
the unpaid principal balance of the loan not exceeding one 26  
thousand dollars and twenty-two per cent per year on any part of 27  
the unpaid principal balance exceeding one thousand dollars. A 28  
licensee may contract for and receive interest at the single 29  
annual rate that would earn the same total interest at maturity of 30  
the loan, when the loan is paid according to its agreed terms, as 31  
would be earned by the application of the graduated rates set 32  
forth in this division. Loans may be interest-bearing or 33  
precomputed. 34

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

(C) With respect to interest-bearing loans: 42

(1) Interest shall be computed on unpaid principal balances 43  
outstanding from time to time, for the time outstanding. Each 44  
payment shall be applied first to unpaid charges and fees, then to 45  
interest, and the remainder to the unpaid principal balance. 46  
However, if the amount of the payment is insufficient to pay the 47  
accumulated interest, the unpaid interest continues to accumulate 48

to be paid from the proceeds of subsequent payments and is not 49  
added to the principal balance. If the maturity of the loan is 50  
accelerated for any reason and judgment is entered, the licensee 51  
may thereafter charge the same rate or rates of interest as 52  
provided in the loan contract. 53

(2) Interest shall not be compounded. However, if part or all 54  
of the consideration for a new loan contract is the unpaid 55  
principal balance of a prior loan, then the principal amount 56  
payable under the new loan contract may include any unpaid 57  
interest that has accrued. The resulting loan contract shall be 58  
deemed a new and separate loan transaction for purposes of this 59  
section. The unpaid principal balance of a precomputed loan is the 60  
balance due after refund or credit of unearned interest as 61  
provided in division (D)(3) of this section. 62

(D) With respect to precomputed loans: 63

(1) Loans shall be repayable in substantially equal and 64  
consecutive monthly installments of principal and interest 65  
combined, except that the first installment period may exceed one 66  
month by not more than fifteen days, and the first installment 67  
payment amount may be larger than the remaining payments by the 68  
amount of interest charged for the extra days; and provided 69  
further that monthly installment payment dates may be omitted to 70  
accommodate borrowers with seasonal income. 71

(2) Payments may be applied to the combined total of 72  
principal and precomputed interest until maturity of the loan. A 73  
licensee may charge interest after the original or deferred 74  
maturity of a precomputed loan at the rate or rates provided in 75  
division (A) of this section on all unpaid principal balances for 76  
the time outstanding. 77

(3) When any loan contract is paid in full by cash, renewal, 78  
refinancing, or a new loan, one month or more before the final 79

installment due date, the licensee shall refund, or credit the 80  
borrower with, the total of the applicable charges for all fully 81  
unexpired installment periods, as originally scheduled or as 82  
deferred, that follow the day of prepayment. If the prepayment is 83  
made other than on a scheduled installment ~~installment~~ due date, 84  
the nearest scheduled due date shall be used in such computation. 85  
If the prepayment occurs prior to the first installment due date, 86  
the licensee may retain one-thirtieth of the applicable charge for 87  
a first installment period of one month for each day from date of 88  
loan to date of prepayment, and shall refund, or credit the 89  
borrower with, the balance of the total interest contracted for. 90  
If the maturity of the loan is accelerated for any reason and 91  
judgment is entered, the licensee shall credit the borrower with 92  
the same refund as if prepayment in full had been made on the date 93  
the judgment is entered and may thereafter convert the loan to an 94  
interest-bearing loan at the same rate or rates of interest as 95  
provided in the loan contract. If the maturity of the loan is 96  
accelerated for any reason, the licensee may convert the loan to 97  
an interest-bearing loan at the same rate or rates of interest as 98  
provided in the loan contract, provided the licensee credits the 99  
borrower with the same refund on the precomputed loan as if 100  
prepayment in full had been made on the date of the conversion. 101

(4) If the parties agree in writing, either in the loan 102  
contract or in a subsequent agreement, to a deferment of wholly 103  
unpaid installments, a licensee may grant a deferment and may 104  
collect a deferment charge as provided in this section. A 105  
deferment postpones the scheduled due date of the earliest unpaid 106  
installment and all subsequent installments as originally 107  
scheduled, or as previously deferred, for a period equal to the 108  
deferment period. The deferment period is that period during which 109  
no installment is scheduled to be paid by reason of the deferment. 110  
The deferment charge for a one-month period may not exceed the 111  
applicable charge for the installment period immediately following 112

the due date of the last undeferred installment. A proportionate 113  
charge may be made for deferment for periods of more or less than 114  
one month. A deferment charge is earned ~~prorata~~ pro rata during 115  
the deferment period and is fully earned on the last day of the 116  
deferment period. If a loan is prepaid in full during a deferment 117  
period, the licensee shall make, or credit to the borrower, a 118  
refund of the unearned deferment charge in addition to any other 119  
refund or credit made for prepayment of the loan in full. 120

(E) A licensee, at the request of the borrower, may obtain, 121  
on one or more borrowers, credit life insurance, credit accident 122  
and health insurance, and unemployment insurance. The premium or 123  
identifiable charge for the insurance may be included in the 124  
principal amount of the loan and may not exceed the premium rate 125  
filed by the insurer with the superintendent of insurance and not 126  
disapproved by ~~him~~ the superintendent. If a licensee obtains the 127  
insurance at the request of the borrower, the borrower shall have 128  
the right to cancel the insurance for a period of twenty-five days 129  
after the loan is made. If the borrower chooses to cancel the 130  
insurance, the borrower shall give the licensee written notice of 131  
this choice and shall return all of the policies or certificates 132  
of insurance or notices of proposed insurance to the licensee 133  
during such period, and the full premium or identifiable charge 134  
for the insurance shall be refunded to the borrower by the 135  
licensee. If the borrower requests, in the notice to cancel the 136  
insurance, that this refund be applied to reduce the balance of a 137  
precomputed loan, the licensee shall credit the amount of the 138  
refund plus the amount of interest applicable to the refund to the 139  
loan balance. 140

(F) A licensee may require the borrower to provide insurance 141  
or a loss payable endorsement covering reasonable risks of loss, 142  
damage, and destruction of property used as security for the loan 143  
and with the consent of the borrower such insurance may cover 144

property other than that which is security for the loan. The 145  
amount and term of required property insurance shall be reasonable 146  
in relation to the amount and term of the loan contract and the 147  
type and value of the security, and the insurance shall be 148  
procured in accordance with the insurance laws of this state. The 149  
purchase of this insurance through the licensee or an agent or 150  
broker designated by the licensee shall not be a condition 151  
precedent to the granting of the loan. If the borrower purchases 152  
the insurance from or through the licensee or from another source, 153  
the premium may be included in the principal amount of the loan. 154

(G) In addition to the interest and charges provided for by 155  
this section, no further or other amount shall be charged, 156  
received, or required by the licensee, including any fees assessed 157  
by a credit services organization that holds or is required to 158  
hold a certificate of registration under section 4712.02 of the 159  
Revised Code, except the amounts of fees authorized by law to 160  
record, file, or release security interests on a loan and fees for 161  
credit reports, which amounts may be included in the principal 162  
amount of the loan or collected at any time after the loan is 163  
made, and except costs and disbursements to which the licensee may 164  
become entitled by law in connection with any suit to collect a 165  
loan or any lawful activity to realize on a security interest 166  
after default. 167

(H) If the loan contract or security instrument contains 168  
covenants by the borrower to perform certain duties pertaining to 169  
insuring or preserving security and the licensee pursuant to the 170  
loan contract or security instrument pays for performance of the 171  
duties on behalf of the borrower, the licensee may add the amounts 172  
paid to the unpaid principal balance of the loan or collect them 173  
separately. A charge for interest may be made for sums advanced 174  
not exceeding the rate of interest permitted by division (A) of 175  
this section. Within a reasonable time after advancing a sum, the 176

licensee shall notify the borrower in writing of the amount 177  
advanced, any interest charged with respect to the amount 178  
advanced, any revised payment schedule, and shall include a brief 179  
description of the reason for the advance. 180

(I) ~~A~~ Except as prohibited in division (C) of section 1321.15 181  
of the Revised Code, a licensee may charge and receive loan 182  
origination charges not exceeding the following: 183

(1) On loans in the principal amount of five hundred dollars 184  
~~of~~ or less, the greater of fifteen dollars or one per cent of the 185  
principal amount of the loan and, on each refinancing made more 186  
than six months after the original loan and any previous 187  
refinancing, not exceeding fifteen dollars; 188

(2) On all other loans, the greater of thirty dollars or one 189  
percent of the principal amount of the loan and, on each 190  
refinancing, not exceeding thirty dollars. Loan origination 191  
charges may be paid by the borrower at the time of the loan or may 192  
be included in the principal amount of the loan. 193

(J) A licensee may charge and receive check collection 194  
charges not greater than twenty dollars plus any amount passed on 195  
from other financial institutions for each check, negotiable order 196  
of withdrawal, share draft, or other negotiable instrument 197  
returned or dishonored for any reason. 198

(K) If the loan contract so provides, a licensee may collect 199  
a default charge on any installment not paid in full within ten 200  
days after its due date. For this purpose, all installments are 201  
considered paid in the order in which they become due. Any amounts 202  
applied to an outstanding loan balance as a result of voluntary 203  
release of a security interest, sale of security on the loan, or 204  
cancellation of insurance shall be considered payments on the 205  
loan, unless the parties otherwise agree in writing at the time 206  
the amounts are applied. The amount of the default charge shall 207

not exceed the greater of five per cent of the scheduled 208  
installment or five dollars. 209

**Sec. 1321.15.** (A) No licensee shall knowingly induce or 210  
permit any person, jointly or severally, to be obligated, directly 211  
or contingently or both, under more than one contract of loan at 212  
the same time for the purpose or with the result of obtaining a 213  
higher rate of interest or greater charges than would otherwise be 214  
permitted upon a single loan made under sections 1321.01 to 215  
1321.19 of the Revised Code. 216

(B) No licensee shall charge, contract for, or receive, 217  
directly or indirectly, interest and charges greater than such 218  
licensee would be permitted to charge, contract for, or receive 219  
without a license under sections 1321.01 to 1321.19 of the Revised 220  
Code on any part of an indebtedness for one or more than one loan 221  
of money if the amount of such indebtedness is in excess of five 222  
thousand dollars. 223

(C) No licensee shall charge a person a loan origination 224  
charge, as otherwise authorized under section 1321.13 of the 225  
Revised Code more than once per any ninety-day period on any one 226  
or more loans with a principal amount of one thousand dollars or 227  
less that is made pursuant to a license issued under sections 228  
1321.01 to 1321.19 of the Revised Code or a registration issued 229  
under sections 1321.51 to 1321.60 of the Revised Code. 230

(D) With respect to a loan made under sections 1321.01 to 231  
1321.19 of the Revised Code, a licensee may not do any of the 232  
following: 233

(1) Charge or receive a fee for cashing a proceeds check or 234  
money order disbursed to fund the loan; 235

(2) Require or direct a borrower to cash a proceeds check or 236  
money order disbursed to fund the loan at the place of business of 237

the licensee, an affiliate of the licensee, or any third party; 238

(3) Seek or obtain directly or indirectly compensation from 239  
any affiliate or third party that provides check-cashing services 240  
to cash a proceeds check or money order disbursed to fund the loan 241  
by the licensee. 242

(E) No licensee shall require a borrower to obtain membership 243  
in an organization or pay a membership fee. 244

(F) For the purpose of the limitations set forth in this 245  
section, the amount of any such indebtedness shall be determined 246  
by including the entire obligation of any person to the licensee 247  
for principal, direct or contingent or both, as borrower, 248  
indorser, guarantor, surety for, or otherwise, whether incurred or 249  
subsisting under one or more than one contract of loan, except 250  
that any contract of indorsement, guaranty, or suretyship that 251  
does not obligate the indorser, guarantor, or surety for any 252  
charges in excess of eight per cent per annum, is not included in 253  
such entire obligation. If a licensee acquires, directly or 254  
indirectly, by purchase or discount, bona fide obligations for 255  
goods or services owed by the person who received such goods or 256  
services to the person who provided such goods or services, then 257  
the amount of such purchased or discounted indebtedness to the 258  
licensee shall not be included in computing the aggregate 259  
indebtedness of such borrower to the licensee for the purpose of 260  
the prohibitions set forth in this section. 261

**Sec. 1321.57.** (A) Notwithstanding any other provisions of the 262  
Revised Code, a registrant may contract for and receive interest, 263  
calculated according to the actuarial method, at a rate or rates 264  
not exceeding twenty-one per cent per year on the unpaid principal 265  
balances of the loan. Loans may be interest-bearing or 266  
precomputed. 267

(B) For purposes of computation of time on interest-bearing 268

and precomputed loans, including, but not limited to, the 269  
calculation of interest, a month is considered one-twelfth of a 270  
year, and a day is considered one three hundred sixty-fifth of a 271  
year when calculation is made for a fraction of a month. A year is 272  
as defined in section 1.44 of the Revised Code. A month is that 273  
period described in section 1.45 of the Revised Code. 274  
Alternatively, a registrant may consider a day as one three 275  
hundred sixtieth of a year and each month as having thirty days. 276

(C) With respect to interest-bearing loans: 277

(1)(a) Interest shall be computed on unpaid principal 278  
balances outstanding from time to time, for the time outstanding. 279

(b) As an alternative to the method of computing interest set 280  
forth in division (C)(1)(a) of this section, a registrant may 281  
charge and collect interest for the first installment period based 282  
on elapsed time from the date of the loan to the first scheduled 283  
payment due date, and for each succeeding installment period from 284  
the scheduled payment due date to the next scheduled payment due 285  
date, regardless of the date or dates the payments are actually 286  
made. 287

(c) Whether a registrant computes interest pursuant to 288  
division (C)(1)(a) or (b) of this section, each payment shall be 289  
applied first to unpaid charges, then to interest, and the 290  
remainder to the unpaid principal balance. However, if the amount 291  
of the payment is insufficient to pay the accumulated interest, 292  
the unpaid interest continues to accumulate to be paid from the 293  
proceeds of subsequent payments and is not added to the principal 294  
balance. 295

(2) Interest shall not be compounded, collected, or paid in 296  
advance. However, both of the following apply: 297

(a) Interest may be charged to extend the first monthly 298  
installment period by not more than fifteen days, and the interest 299

charged for the extension may be added to the principal amount of 300  
the loan. 301

(b) If part or all of the consideration for a new loan 302  
contract is the unpaid principal balance of a prior loan, the 303  
principal amount payable under the new loan contract may include 304  
any unpaid interest that has accrued. The resulting loan contract 305  
shall be deemed a new and separate loan transaction for purposes 306  
of this section. The unpaid principal balance of a precomputed 307  
loan is the balance due after refund or credit of unearned 308  
interest as provided in division (D)(3) of this section. 309

(D) With respect to precomputed loans: 310

(1) Loans shall be repayable in monthly installments of 311  
principal and interest combined, except that the first installment 312  
period may exceed one month by not more than fifteen days, and the 313  
first installment payment amount may be larger than the remaining 314  
payments by the amount of interest charged for the extra days; and 315  
provided further that monthly installment payment dates may be 316  
omitted to accommodate borrowers with seasonal income. 317

(2) Payments may be applied to the combined total of 318  
principal and precomputed interest until maturity of the loan. A 319  
registrant may charge interest after the original or deferred 320  
maturity of a precomputed loan at the rate specified in division 321  
(A) of this section on all unpaid principal balances for the time 322  
outstanding. 323

(3) When any loan contract is paid in full by cash, renewal, 324  
refinancing, or a new loan, one month or more before the final 325  
installment due date, the registrant shall refund, or credit the 326  
borrower with, the total of the applicable charges for all fully 327  
unexpired installment periods, as originally scheduled or as 328  
deferred, that follow the day of prepayment. If the prepayment is 329  
made other than on a scheduled installment due date, the nearest 330

scheduled installment due date shall be used in such computation. 331  
If the prepayment occurs prior to the first installment due date, 332  
the registrant may retain one-thirtieth of the applicable charge 333  
for a first installment period of one month for each day from date 334  
of loan to date of prepayment, and shall refund, or credit the 335  
borrower with, the balance of the total interest contracted for. 336  
If the maturity of the loan is accelerated for any reason and 337  
judgment is entered, the registrant shall credit the borrower with 338  
the same refund as if prepayment in full had been made on the date 339  
the judgment is entered. 340

(4) If the parties agree in writing, either in the loan 341  
contract or in a subsequent agreement, to a deferment of wholly 342  
unpaid installments, a registrant may grant a deferment and may 343  
collect a deferment charge as provided in this section. A 344  
deferment postpones the scheduled due date of the earliest unpaid 345  
installment and all subsequent installments as originally 346  
scheduled, or as previously deferred, for a period equal to the 347  
deferment period. The deferment period is that period during which 348  
no installment is scheduled to be paid by reason of the deferment. 349  
The deferment charge for a one-month period may not exceed the 350  
applicable charge for the installment period immediately following 351  
the due date of the last undeferred installment. A proportionate 352  
charge may be made for deferment for periods of more or less than 353  
one month. A deferment charge is earned pro rata during the 354  
deferment period and is fully earned on the last day of the 355  
deferment period. If a loan is prepaid in full during a deferment 356  
period, the registrant shall make, or credit to the borrower, a 357  
refund of the unearned deferment charge in addition to any other 358  
refund or credit made for prepayment of the loan in full. 359

(E) A registrant, at the request of the borrower, may obtain, 360  
on one or more borrowers, credit life insurance, credit accident 361  
and health insurance, and unemployment insurance. The premium or 362

identifiable charge for the insurance may be included in the 363  
principal amount of the loan and may not exceed the premium rate 364  
filed by the insurer with the superintendent of insurance and not 365  
disapproved by the superintendent. If a registrant obtains the 366  
insurance at the request of the borrower, the borrower shall have 367  
the right to cancel the insurance for a period of twenty-five days 368  
after the loan is made. If the borrower chooses to cancel the 369  
insurance, the borrower shall give the registrant written notice 370  
of this choice and shall return all of the policies or 371  
certificates of insurance or notices of proposed insurance to the 372  
registrant during such period, and the full premium or 373  
identifiable charge for the insurance shall be refunded to the 374  
borrower by the registrant. If the borrower requests, in the 375  
notice to cancel the insurance, that this refund be applied to 376  
reduce the balance of a precomputed loan, the registrant shall 377  
credit the amount of the refund plus the amount of interest 378  
applicable to the refund to the loan balance. 379

If the registrant obtains the insurance at the request of the 380  
borrower, the registrant shall not charge or collect interest on 381  
any insured amount that remains unpaid after the insured 382  
borrower's date of death. 383

(F) A registrant may require the borrower to provide 384  
insurance or a loss payable endorsement covering reasonable risks 385  
of loss, damage, and destruction of property used as security for 386  
the loan and with the consent of the borrower such insurance may 387  
cover property other than that which is security for the loan. The 388  
amount and term of required property insurance shall be reasonable 389  
in relation to the amount and term of the loan contract and the 390  
type and value of the security, and the insurance shall be 391  
procured in accordance with the insurance laws of this state. The 392  
purchase of this insurance through the registrant or an agent or 393  
broker designated by the registrant shall not be a condition 394

precedent to the granting of the loan. If the borrower purchases 395  
the insurance from or through the registrant or from another 396  
source, the premium may be included in the principal amount of the 397  
loan. 398

(G) On loans secured by an interest in real estate, all of 399  
the following apply: 400

(1) A registrant, if not prohibited by section 1343.011 of 401  
the Revised Code, may charge and receive up to two points, and a 402  
prepayment penalty not in excess of one per cent of the original 403  
principal amount of the loan. Points may be paid by the borrower 404  
at the time of the loan or may be included in the principal amount 405  
of the loan. On a refinancing, a registrant may not charge under 406  
division (G)(1) of this section either of the following: 407

(a) Points on the portion of the principal amount that is 408  
applied to the unpaid principal amount of the refinanced loan, if 409  
the refinancing occurs within one year after the date of the 410  
refinanced loan on which points were charged; 411

(b) A prepayment penalty. 412

(2) As an alternative to the prepayment penalty described in 413  
division (G)(1) of this section, a registrant may contract for, 414  
charge, and receive the prepayment penalty described in division 415  
(G)(2) of this section for the prepayment of a loan prior to two 416  
years after the date the loan contract is executed. This 417  
prepayment penalty shall not exceed two per cent of the original 418  
principal amount of the loan if the loan is paid in full prior to 419  
one year after the date the loan contract is executed. The penalty 420  
shall not exceed one per cent of the original principal amount of 421  
the loan if the loan is paid in full at any time from one year, 422  
but prior to two years, after the date the loan contract is 423  
executed. A registrant shall not charge or receive a prepayment 424  
penalty under division (G)(2) of this section if any of the 425

following applies:	426
(a) The loan is a refinancing by the same registrant or a registrant to whom the loan has been assigned;	427 428
(b) The loan is paid in full as a result of the sale of the real estate that secures the loan;	429 430
(c) The loan is paid in full with the proceeds of an insurance claim against an insurance policy that insures the life of the borrower or an insurance policy that covers loss, damage, or destruction of the real estate that secures the loan.	431 432 433 434
(3) Division (G) of this section is not a limitation on discount points or other charges for purposes of section 501(b)(4) of the "Depository Institutions Deregulation and Monetary Control Act of 1980," 94 Stat. 161, 12 U.S.C.A. 1735f-7 note.	435 436 437 438
(H)(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, <u>including any fees assessed by a credit services organization that holds or is required to hold a certificate of registration under section 4712.02 of the Revised Code</u> , placement fees, or any other fees whatsoever, shall be charged, <u>required</u> , or received by the registrant, except costs and disbursements in connection with any suit to collect a loan or any lawful activity to realize on a security interest or mortgage after default, including reasonable attorney fees incurred by the registrant as a result of the suit or activity and to which the registrant becomes entitled by law, and except the following additional charges which may be included in the principal amount of the loan or collected at any time after the loan is made:	439 440 441 442 443 444 445 446 447 448 449 450 451 452
(a) The amounts of fees authorized by law to record, file, or release security interests and mortgages on a loan;	453 454
(b) With respect to a loan secured by an interest in real estate, the following closing costs, if they are bona fide,	455 456

reasonable in amount, paid to third parties, and not for the 457  
purpose of circumvention or evasion of this section: 458

(i) Fees or premiums for title examination, abstract of 459  
title, title insurance, surveys, title endorsements, title 460  
binders, title commitments, home inspections, or pest inspections; 461  
settlement or closing costs paid to unaffiliated third parties; 462  
courier fees; and any federally mandated flood plain certification 463  
fee; 464

(ii) If not paid to the registrant, an employee of the 465  
registrant, or a person affiliated with the registrant, fees for 466  
preparation of a mortgage, settlement statement, or other 467  
documents, fees for notarizing mortgages and other documents, 468  
appraisal fees, and fees for any federally mandated inspection of 469  
home improvement work financed by a second mortgage loan; 470

(c) Fees for credit investigations not exceeding ten dollars. 471

(2) Division (H)(1) of this section does not limit the rights 472  
of registrants to engage in other transactions with borrowers, 473  
provided the transactions are not a condition of the loan. 474

(I) If the loan contract or security instrument contains 475  
covenants by the borrower to perform certain duties pertaining to 476  
insuring or preserving security and the registrant pursuant to the 477  
loan contract or security instrument pays for performance of the 478  
duties on behalf of the borrower, the registrant may add the 479  
amounts paid to the unpaid principal balance of the loan or 480  
collect them separately. A charge for interest may be made for 481  
sums advanced not exceeding the rate of interest permitted by 482  
division (A) of this section. Within a reasonable time after 483  
advancing a sum, the registrant shall notify the borrower in 484  
writing of the amount advanced, any interest charged with respect 485  
to the amount advanced, any revised payment schedule, and shall 486  
include a brief description of the reason for the advance. 487

(J)(1) In addition to points authorized under division (G) of 488  
this section and except as prohibited in section 1321.59 of the 489  
Revised Code, a registrant may charge and receive the following: 490

(a) With respect to loans secured by goods or real estate: if 491  
the principal amount of the loan is five hundred dollars or less, 492  
loan origination charges not exceeding fifteen dollars; if the 493  
principal amount of the loan is more than five hundred dollars but 494  
less than one thousand dollars, loan origination charges not 495  
exceeding thirty dollars; if the principal amount of the loan is 496  
at least one thousand dollars but less than two thousand dollars, 497  
loan origination charges not exceeding one hundred dollars; if the 498  
principal amount of the loan is at least two thousand dollars but 499  
less than five thousand dollars, loan origination charges not 500  
exceeding two hundred dollars; and if the principal amount of the 501  
loan is at least five thousand dollars, loan origination charges 502  
not exceeding the greater of two hundred fifty dollars or one per 503  
cent of the principal amount of the loan. 504

(b) With respect to loans that are not secured by goods or 505  
real estate: if the principal amount of the loan is five hundred 506  
dollars or less, loan origination charges not exceeding fifteen 507  
dollars; if the principal amount of the loan is more than five 508  
hundred dollars but less than one thousand dollars, loan 509  
origination charges not exceeding thirty dollars; if the principal 510  
amount of the loan is at least one thousand dollars but less than 511  
five thousand dollars, loan origination charges not exceeding one 512  
hundred dollars; and if the principal amount of the loan is at 513  
least five thousand dollars, loan origination charges not 514  
exceeding the greater of two hundred fifty dollars or one per cent 515  
of the principal amount of the loan. 516

(2) If a refinancing occurs within ninety days after the date 517  
of the refinanced loan, a registrant may not impose loan 518  
origination charges on the portion of the principal amount that is 519

applied to the unpaid principal amount of the refinanced loan. 520

(3) Loan origination charges may be paid by the borrower at 521  
the time of the loan or may be included in the principal amount of 522  
the loan. 523

(K) A registrant may charge and receive check collection 524  
charges not greater than twenty dollars plus any amount passed on 525  
from other depository institutions for each check, negotiable 526  
order of withdrawal, share draft, or other negotiable instrument 527  
returned or dishonored for any reason. 528

(L) If the loan contract so provides, a registrant may 529  
collect a default charge on any installment not paid in full 530  
within ten days after its due date. For this purpose, all 531  
installments are considered paid in the order in which they become 532  
due. Any amounts applied to an outstanding loan balance as a 533  
result of voluntary release of a security interest, sale of 534  
security on the loan, or cancellation of insurance shall be 535  
considered payments on the loan, unless the parties otherwise 536  
agree in writing at the time the amounts are applied. The amount 537  
of the default charge shall not exceed the greater of five per 538  
cent of the scheduled installment or fifteen dollars. 539

**Sec. 1321.59.** (A) No registrant under sections 1321.51 to 540  
1321.60 of the Revised Code shall permit any borrower to be 541  
indebted for a loan made under sections 1321.51 to 1321.60 of the 542  
Revised Code at any time while the borrower is also indebted to an 543  
affiliate or agent of the registrant for a loan made under 544  
sections 1321.01 to 1321.19 of the Revised Code for the purpose or 545  
with the result of obtaining greater charges than otherwise would 546  
be permitted by sections 1321.51 to 1321.60 of the Revised Code. 547

(B) No registrant shall induce or permit any person to become 548  
obligated to the registrant under sections 1321.51 to 1321.60 of 549  
the Revised Code, directly or contingently, or both, under more 550

than one contract of loan at the same time for the purpose or with 551  
the result of obtaining greater charges than would otherwise be 552  
permitted by sections 1321.51 to 1321.60 of the Revised Code. 553

(C) No registrant shall refuse to provide information 554  
regarding the amount required to pay in full a loan under sections 555  
1321.51 to 1321.60 of the Revised Code when requested by the 556  
borrower or by another person designated in writing by the 557  
borrower. 558

(D) On any loan or application for a loan under sections 559  
1321.51 to 1321.60 of the Revised Code secured by a mortgage on a 560  
borrower's real estate which is other than a first lien on the 561  
real estate, no person shall pay or receive, directly or 562  
indirectly, fees or any other type of compensation for services of 563  
a mortgage broker that, in the aggregate, exceed the lesser of one 564  
thousand dollars or one per cent of the principal amount of the 565  
loan. 566

(E) No registrant or licensee shall obtain a certificate of 567  
registration or license through any false or fraudulent 568  
representation of a material fact or any omission of a material 569  
fact required by state or federal law, or make any substantial 570  
misrepresentation in the registration or license application, to 571  
engage in lending secured by real estate. 572

(F) No registrant or licensee, in connection with the 573  
business of making or offering to make residential mortgage loans, 574  
shall knowingly make false or misleading statements of a material 575  
fact, omissions of statements required by state or federal law, or 576  
false promises regarding a material fact, through advertising or 577  
other means, or engage in a continued course of 578  
misrepresentations. 579

(G) No registrant, licensee, or person making loans without a 580  
certificate of registration in violation of division (A) of 581

section 1321.52 of the Revised Code, shall knowingly engage in 582  
conduct, in connection with the business of making or offering to 583  
make residential mortgage loans, that constitutes improper, 584  
fraudulent, or dishonest dealings. 585

(H) No registrant, licensee, or applicant involved in the 586  
business of making or offering to make residential mortgage loans 587  
shall fail to notify the division of financial institutions within 588  
thirty days after knowing any of the following: 589

(1) That the registrant, licensee, or applicant has been 590  
convicted of or pleaded guilty or nolo contendere to a felony 591  
offense in a domestic, foreign, or military court; 592

(2) That the registrant, licensee, or applicant has been 593  
convicted of or pleaded guilty or nolo contendere to any criminal 594  
offense involving theft, receiving stolen property, embezzlement, 595  
forgery, fraud, passing bad checks, money laundering, breach of 596  
trust, dishonesty, or drug trafficking, or any criminal offense 597  
involving money or securities, in a domestic, foreign, or military 598  
court; 599

(3) That the registrant, licensee, or applicant has had a 600  
mortgage lender registration or mortgage loan originator license, 601  
or comparable authority, revoked in any governmental jurisdiction. 602

(I) No registrant or licensee shall knowingly make, propose, 603  
or solicit fraudulent, false, or misleading statements on any 604  
mortgage document or on any document related to a mortgage loan, 605  
including a mortgage application, real estate appraisal, or real 606  
estate settlement or closing document. For purposes of this 607  
division, "fraudulent, false, or misleading statements" does not 608  
include mathematical errors, inadvertent transposition of numbers, 609  
typographical errors, or any other bona fide error. 610

(J) No registrant or licensee shall knowingly instruct, 611  
solicit, propose, or otherwise cause a borrower to sign in blank a 612

loan-related document in connection with a residential mortgage 613  
loan. 614

(K) No registrant or licensee shall knowingly compensate, 615  
instruct, induce, coerce, or intimidate, or attempt to compensate, 616  
instruct, induce, coerce, or intimidate, a person licensed or 617  
certified as an appraiser under Chapter 4763. of the Revised Code 618  
for the purpose of corrupting or improperly influencing the 619  
independent judgment of the person with respect to the value of 620  
the dwelling offered as security for repayment of a mortgage loan. 621

(L) No registrant or licensee shall willfully retain original 622  
documents provided to the registrant or licensee by the borrower 623  
in connection with the residential mortgage loan application, 624  
including income tax returns, account statements, or other 625  
financial-related documents. 626

(M) No registrant or licensee shall, in connection with 627  
making residential mortgage loans, receive, directly or 628  
indirectly, a premium on the fees charged for services performed 629  
by a bona fide third party. 630

(N) No registrant or licensee shall, in connection with 631  
making residential mortgage loans, pay or receive, directly or 632  
indirectly, a referral fee or kickback of any kind to or from a 633  
bona fide third party or other party with a related interest in 634  
the transaction, including a home improvement builder, real estate 635  
developer, or real estate broker or agent, for the referral of 636  
business. Nothing in this division shall prevent remuneration to a 637  
registrant or licensee for the licensed sale of any insurance 638  
product that is permitted under section 1321.57 of the Revised 639  
Code, provided there is no additional fee or premium added to the 640  
cost for the insurance and paid directly or indirectly by the 641  
borrower. 642

(O) No registrant, licensee, or person making loans without a 643

certificate of registration in violation of division (A) of 644  
section 1321.52 of the Revised Code shall, in connection with 645  
making or offering to make residential mortgage loans, engage in 646  
any unfair, deceptive, or unconscionable act or practice 647  
prohibited under sections 1345.01 to 1345.13 of the Revised Code. 648

(P) No registrant shall charge a person a loan origination 649  
charge or a credit investigation fee, as otherwise authorized 650  
under section 1321.57 of the Revised Code, more than once per any 651  
ninety-day period on any one or more loans with a principal amount 652  
of one thousand dollars or less that is made pursuant to a license 653  
issued under sections 1321.01 to 1321.19 of the Revised Code or a 654  
registration issued under sections 1321.51 to 1321.60 of the 655  
Revised Code. 656

(Q) With respect to a loan made under sections 1321.51 to 657  
1321.60 of the Revised Code, a registrant may not do any of the 658  
following: 659

(1) Charge or receive a fee for cashing a proceeds check or 660  
money order disbursed to fund the loan; 661

(2) Require or direct a borrower to cash a proceeds check or 662  
money order disbursed to fund the loan at the place of business of 663  
the registrant, an affiliate of the registrant, or any third 664  
party; 665

(3) Seek or obtain directly or indirectly compensation from 666  
any affiliate or third party that provides check-cashing services 667  
to cash a proceeds check or money order disbursed to fund the loan 668  
by the registrant. 669

(R) No registrant shall require a borrower to obtain 670  
membership in an organization or pay a membership fee. 671

**Sec. 1321.99.** (A) Whoever violates section 1321.02 of the 672  
Revised Code is guilty of a felony of the fifth degree. 673

(B) Whoever violates section 1321.13 of the Revised Code 674  
shall be fined not less than one hundred nor more than five 675  
hundred dollars or imprisoned not more than six months, or both. 676

(C) Whoever violates section 1321.14 of the Revised Code 677  
shall be fined not less than fifty nor more than two hundred 678  
dollars for a first offense; for a second offense such person 679  
shall be fined not less than two hundred nor more than five 680  
hundred dollars and imprisoned for not more than six months. 681

(D) Whoever willfully violates section 1321.15, 1321.57, 682  
1321.58, division (A), (B), (C), ~~or~~ (D), (P), (Q), or (R) of 683  
section 1321.59, 1321.591, or 1321.60 of the Revised Code is 684  
guilty of a minor misdemeanor and shall be fined not less than ~~one~~ 685  
five hundred nor more than ~~five hundred~~ one thousand dollars. 686

(E) Whoever violates section 1321.52 or division (I), (J), 687  
(K), (L), or (M) of section 1321.59 of the Revised Code is guilty 688  
of a felony of the fifth degree. 689

(F) Whoever violates division (A) of section 1321.73 of the 690  
Revised Code shall be fined not more than five hundred dollars or 691  
imprisoned not more than six months, or both. 692

(G) Whoever violates section 1321.41 of the Revised Code is 693  
guilty of a misdemeanor of the first degree. 694

(H) Whoever violates division (N) of section 1321.59 of the 695  
Revised Code is guilty of a felony of the fourth degree. 696

(I) The imposition of fines pursuant to this section does not 697  
preclude the imposition of any administrative fines or civil 698  
penalties authorized under section 1321.54 or any other section of 699  
the Revised Code. 700

Sec. 4712.021. (A) As often as the superintendent of 701  
financial institutions considers it necessary, the superintendent 702  
may examine the credit services organization's records, including 703

all records created or processed by the organization, pertaining 704  
to business transacted pursuant to sections 1321.01 to 1321.19 or 705  
sections 1321.51 to 1321.60 of the Revised Code. 706

(B) A credit services organization shall maintain records 707  
pertaining to business transacted pursuant to sections 1321.01 to 708  
1321.19 or sections 1321.51 to 1321.60 of the Revised Code for 709  
four years. For purposes of this division, "credit services 710  
organization" includes any person whose certificate of 711  
registration is cancelled, surrendered, or revoked or who 712  
otherwise ceases to engage in business. 713

No credit services organization shall fail to comply with 714  
this division. 715

**Sec. 4712.07.** No credit services organization, salesperson, 716  
agent, or representative of a credit services organization, or 717  
independent contractor that sells or attempts to sell the services 718  
of a credit services organization shall do any of the following: 719

(A) Charge or receive directly or indirectly from a buyer 720  
money or other consideration readily convertible into money until 721  
all services the organization has agreed to perform for the buyer 722  
are completed within the time periods described in division (A)(3) 723  
of section 4712.05 of the Revised Code. 724

(B) Charge or receive directly or indirectly from a buyer 725  
money or other consideration readily convertible into money for 726  
the referral of the buyer to a person that makes an extension of 727  
credit or to a consumer reporting agency, except when credit has 728  
actually been extended as a result of that referral; 729

(C) Make or use a false or misleading representation in the 730  
offer or sale of the services of the organization, including 731  
either of the following: 732

(1) Guarantying or otherwise stating that the organization is 733

able to delete an adverse credit history, unless the 734  
representation clearly discloses that this can be done only if the 735  
credit history is inaccurate or obsolete; 736

(2) Guarantying or otherwise stating that the organization is 737  
able to obtain an extension of credit regardless of the buyer's 738  
previous credit problems or credit history, unless the 739  
representation clearly discloses the eligibility requirements for 740  
obtaining an extension of credit. 741

(D) Engage, directly or indirectly, in an unconscionable, 742  
unfair, or deceptive act or practice, as those terms are used and 743  
defined in Chapter 1345. of the Revised Code, in connection with 744  
the offer or sale of the services of a credit services 745  
organization; 746

(E)(1) Make or advise a buyer to make a false or misleading 747  
statement concerning the buyer's creditworthiness, identification, 748  
credit standing, or credit capacity to any of the following: 749

(a) A consumer reporting agency; 750

(b) A person that has made an extension of credit to the 751  
buyer; 752

(c) A person to which the buyer is applying for an extension 753  
of credit. 754

(2) Division (E)(1) of this section applies to any statement 755  
that the organization, salesperson, agent, representative, or 756  
independent contractor knows or should know to be false or 757  
misleading through the exercise of reasonable care. 758

(F) Advertise or cause to be advertised, in any manner, the 759  
services of a credit services organization without being 760  
registered with the division of financial institutions; 761

(G) Fail to maintain a statutory agent as required under 762  
division (E) of section 4712.02 of the Revised Code; 763

(H) Transfer or assign a certificate of registration issued	764
by the division pursuant to section 4712.02 of the Revised Code;	765
(I) Submit the buyer's disputes to a consumer reporting	766
agency without the buyer's knowledge as evidenced by positive	767
identification, including the buyer's correct current residence	768
address, and written authorization personally signed by the buyer;	769
(J) Fail to maintain, for a period of time as determined by	770
the superintendent of financial institutions, all of the	771
following:	772
(1) A log of all contracts;	773
(2) Copies of each contract;	774
(3) Documentation that substantiates the validity of the	775
representation made pursuant to division (A)(5) of section 4712.05	776
of the Revised Code;	777
(4) Any other record specified by the superintendent.	778
(K) Contact a consumer reporting agency, by telephone or	779
otherwise, for the purpose of submitting or obtaining information	780
relative to any buyer, and state or imply that he or she is the	781
buyer or the buyer's attorney, guardian, or other legal	782
representative;	783
(L) Engage, directly or indirectly, in any fraudulent or	784
deceptive act, practice, or course of business in connection with	785
the offer or sale of the services of a credit services	786
organization, <u>including knowingly acting in or abetting a scheme</u>	787
<u>to create an evasion of restrictions on fees or charges as set</u>	788
<u>forth in Chapter 1321. of the Revised Code.</u>	789
<b>Section 2.</b> That existing sections 1315.26, 1321.13, 1321.15,	790
1321.57, 1321.59, 1321.99, and 4712.07 of the Revised Code are	791
hereby repealed.	792