

As Reported by the Senate Judiciary Committee

125th General Assembly

Regular Session

2003-2004

Sub. H. B. No. 401

Representatives Raga, Latta, D. Evans, Aslanides, Beatty, Book, Brown, Buehrer, Carano, Carmichael, Cirelli, Daniels, DeBose, DeGeeter, Distel, Domenick, Driehaus, C. Evans, Flowers, Gibbs, Hagan, Hartnett, Harwood, Hollister, Hoops, Hughes, Martin, Miller, Olman, Otterman, T. Patton, Perry, Price, Reidelbach, Schaffer, Schmidt, Seaver, Slaby, G. Smith, Webster, Willamowski, Wilson, Wolpert

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A B I L L

To amend sections 1315.39, 1315.40, and 2913.11 of
the Revised Code to increase the authorized amount
of a check-cashing loan from \$500 to \$800, to
modify the fee for such a loan if it is \$500 or
more, to expand the offense of passing bad checks
to apply to electronic transactions, to include in
the offense a provision regarding stop payment
orders on checks, and to include in the offense a
provision regarding aggregation of checks issued
within 180 days for purposes of determining an
offender's penalty.

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

Section 1. That sections 1315.39, 1315.40, and 2913.11 of the
Revised Code be amended to read as follows:

Sec. 1315.39. (A) A check-cashing business licensed under
sections 1315.35 to 1315.44 of the Revised Code may engage in the

business of making loans provided that each loan meets all of the 16
following conditions: 17

(1) The total amount of the loan does not exceed ~~five~~ eight 18
hundred dollars. 19

(2) The duration of the loan does not exceed six months. 20

(3) The interest on the loan is calculated in compliance 21
with, and does not exceed the amount permitted by, division (B) of 22
this section. 23

(4) The loan is made pursuant to a written loan contract that 24
sets forth the terms and conditions of the loan, and discloses in 25
a clear and concise manner all of the following: 26

(a) The total amount of fees and charges the borrower will be 27
required to pay in connection with the loan pursuant to the loan 28
contract; 29

(b) The rate of interest contracted for under the loan 30
contract, calculated both as an annual percentage rate based 31
solely on the principal of the loan and as an annual percentage 32
rate based on the sum of the principal of the loan and the loan 33
origination fee, check collection charge, and all other fees or 34
charges contracted for under the loan contract; 35

(c) The total amount of each payment, when each payment is 36
due, and the total number of payments that the borrower will be 37
required to make under the loan contract; 38

(d) A statement, printed in boldface type of the minimum size 39
of ten points, as follows: "WARNING: The rate of interest charged 40
on this loan is higher than the average rate of interest charged 41
by financial institutions on substantially similar loans." 42

(5) The loan is not being made to a borrower for purposes of 43
retiring an existing loan between the check-cashing business and 44
that borrower, which existing loan was made pursuant to sections 45

1315.35 to 1315.44 of the Revised Code. 46

(B) A check-cashing business may contract for and receive 47
interest at a rate of five per cent per month or fraction of a 48
month on the unpaid principal of a loan made under sections 49
1315.35 to 1315.44 of the Revised Code. Any unearned interest 50
shall not be deducted from the proceeds of the loan or paid in 51
advance, and interest shall be computed on the unpaid balance and 52
shall not be compounded. If, after the first month of the loan 53
contract, the loan is paid in full before the final date on which 54
payment is due on the loan pursuant to the loan contract, the 55
licensee shall refund or credit the borrower with the amount of 56
the unearned interest for the unexpired period of the loan 57
contract that follows the date of the borrower's payment in full. 58

Sec. 1315.40. In addition to the interest authorized to be 59
contracted for and received pursuant to section 1315.39 of the 60
Revised Code, a check-cashing business licensed pursuant to 61
sections 1315.35 to 1315.44 of the Revised Code may charge, 62
collect, and receive the following fees and charges in connection 63
with a loan made under sections 1315.35 to 1315.44 of the Revised 64
Code: 65

(A) Loan origination fees not exceeding an amount equal to 66
five dollars per fifty dollars up to five hundred dollars of the 67
amount of the loan and three dollars and seventy-five cents per 68
fifty dollars of the amount of the loan between five hundred one 69
and eight hundred dollars; 70

(B) Check collection charges not exceeding an amount equal to 71
twenty dollars plus any amount passed on from other financial 72
institutions for each check, negotiable order of withdrawal, share 73
draft, or other negotiable instrument returned or dishonored for 74
any reason, provided that the terms and conditions upon which 75
check collection charges will be charged to the borrower are set 76

forth in the written loan contract described in division (A)(4) of 77
section 1315.39 of the Revised Code; 78

(C) Damages, costs, and disbursements to which the 79
check-cashing business may become entitled to by law in connection 80
with any civil action to collect a loan after default. 81

Sec. 2913.11. (A) As used in this section: 82

(1) "Check" includes any form of debit from a demand deposit 83
account, including, but not limited to any of the following: 84

(a) A check, bill of exchange, draft, order of withdrawal, or 85
similar negotiable or non-negotiable instrument; 86

(b) An electronic check, electronic transaction, debit card 87
transaction, check card transaction, substitute check, web check,
or any form of automated clearing house transaction. 88
89

(2) "Issue a check" means causing any form of debit from a 90
demand deposit account. 91

(B) No person, with purpose to defraud, shall issue or 92
transfer or cause to be issued or transferred a check or other 93
negotiable instrument, knowing that it will be dishonored or 94
knowing that a person has ordered or will order stop payment on 95
the check or other negotiable instrument. 96

~~(B)~~(C) For purposes of this section, a person who issues or 97
transfers a check or other negotiable instrument is presumed to 98
know that it will be dishonored if either of the following occurs: 99

(1) The drawer had no account with the drawee at the time of 100
issue or the stated date, whichever is later; 101

(2) The check or other negotiable instrument was properly 102
refused payment for insufficient funds upon presentment within 103
thirty days after issue or the stated date, whichever is later, 104
and the liability of the drawer, indorser, or any party who may be 105

liable thereon is not discharged by payment or satisfaction within 106
ten days after receiving notice of dishonor. 107

~~(C)~~(D) For purposes of this section, a person who issues or 108
transfers a check, bill of exchange, or other draft is presumed to 109
have the purpose to defraud if the drawer fails to comply with 110
section 1349.16 of the Revised Code by doing any of the following 111
when opening a checking account intended for personal, family, or 112
household purposes at a financial institution: 113

(1) Falsely stating that the drawer has not been issued a 114
valid driver's or commercial driver's license or identification 115
card issued under section 4507.50 of the Revised Code; 116

(2) Furnishing such license or card, or another 117
identification document that contains false information; 118

(3) Making a false statement with respect to the drawer's 119
current address or any additional relevant information reasonably 120
required by the financial institution. 121

~~(D)~~(E) In determining the value of the payment for purposes 122
of division (F) of this section, the court may aggregate all 123
checks and other negotiable instruments that the offender issued 124
or transferred or caused to be issued or transferred in violation 125
of division (A) of this section within a period of one hundred 126
eighty consecutive days. 127

(F) Whoever violates this section is guilty of passing bad 128
checks. Except as otherwise provided in this division, passing bad 129
checks is a misdemeanor of the first degree. If the check or 130
checks or other negotiable instrument is or instruments are issued 131
or transferred to a single vendor or single other person for the 132
payment of five hundred dollars or more ~~and is for the payment of~~ 133
but less than five thousand dollars or if the check or checks or 134
other negotiable instrument or instruments are issued or 135
transferred to multiple vendors or persons for the payment of one 136

thousand dollars or more but less than five thousand dollars, 137
passing bad checks is a felony of the fifth degree. If the check 138
or checks or other negotiable instrument ~~is~~ or instruments are for 139
the payment of five thousand dollars or more ~~and is for the~~ 140
~~payment of~~ but less than one hundred thousand dollars, passing bad 141
checks is a felony of the fourth degree. If the check or checks or 142
other negotiable instrument ~~is~~ or instruments are for the payment 143
of one hundred thousand dollars or more, passing bad checks is a 144
felony of the third degree. 145

Section 2. That existing sections 1315.39, 1315.40, and 146
2913.11 of the Revised Code are hereby repealed. 147