

As Introduced

**127th General Assembly
Regular Session
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H. B. No. 248

Representative Blessing

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A B I L L

To enact section 1349.55 of the Revised Code to set 1
forth requirements governing non-recourse civil 2
litigation advance contracts. 3

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

Section 1. That section 1349.55 of the Revised Code be 4
enacted to read as follows: 5

Sec. 1349.55. (A) As used in this section: 6

(1) "Non-recourse civil litigation advance" means a 7
transaction in which a company makes a cash payment to a consumer 8
who has a pending civil claim or action in exchange for the right 9
to receive an amount out of the proceeds of any realized 10
settlement, judgment, award, or verdict the consumer may receive 11
in the civil lawsuit. 12

(2) "Company" means a person or entity that enters into a 13
non-recourse civil litigation advance transaction with a consumer. 14

(3) "Consumer" means a person or entity residing or domiciled 15
in Ohio and represented by an attorney with a pending civil claim 16
or action. 17

(B) All contracts for a non-recourse civil litigation advance 18
shall comply with the following requirements: 19

(1) The contract shall be completely filled in and contain on 20
the front page appropriately headed and in at least twelve-point 21
bold type, the following disclosures: 22

(a) The total dollar amount to be advanced to the consumer; 23

(b) An itemization of one-time fees; 24

(c) The total dollar amount to be repaid by the consumer, in 25
six-month intervals for thirty-six months, and including all fees 26
as well as any minimum monthly required payment amount; 27

(d) The annual percentage rate of return, calculated as of 28
the last day of each six-month interval, including frequency of 29
compounding. 30

(2) The contract shall provide that the consumer may cancel 31
the contract within five business days following the consumer's 32
receipt of funds, without penalty or further obligation. The 33
contract shall contain the following notice written in a clear and 34
conspicuous manner: "CONSUMER'S RIGHT TO CANCELLATION: YOU MAY 35
CANCEL THIS CONTRACT WITHOUT PENALTY OR FURTHER OBLIGATION WITHIN 36
FIVE BUSINESS DAYS FROM THE DATE YOU RECEIVE FUNDING FROM [insert 37
name of company]." The contract also shall specify that in order 38
for the cancellation to be effective, the consumer must either 39
return to the company the full amount of disbursed funds by 40
delivering the company's uncashed check to the company's offices 41
in person, within five business days of the disbursement of funds, 42
or mail a notice of cancellation and include in that mailing a 43
return of the full amount of disbursed funds in the form of the 44
company's check, or a registered or certified check or money 45
order, by insured, registered or certified United States mail, 46
postmarked within five business days of receiving funds from the 47
company, at the address specified in the contract for such 48
cancellation. 49

(3) The contract shall contain the following statement in at 50

least twelve-point boldface type: "THE COMPANY AGREES THAT IT 51
SHALL HAVE NO RIGHT TO AND WILL NOT MAKE ANY DECISIONS WITH 52
RESPECT TO THE CONDUCT OF THE UNDERLYING CIVIL ACTION OR CLAIM OR 53
ANY SETTLEMENT OR RESOLUTION THEREOF AND THAT THE RIGHT TO MAKE 54
SUCH DECISIONS REMAIN SOLELY WITH THE CONSUMER AND THE CONSUMER'S 55
ATTORNEY." 56

(4) The contract shall contain the initials of the consumer 57
on each page. 58

(5) The contract shall contain the following statement in at 59
least twelve-point boldface type located immediately above the 60
place on the contract where the consumer's signature is required: 61
"DO NOT SIGN THIS CONTRACT BEFORE YOU READ IT COMPLETELY OR IF IT 62
CONTAINS ANY BLANK SPACES. BEFORE YOU SIGN THIS CONTRACT YOU 63
SHOULD OBTAIN THE ADVICE OF YOUR ATTORNEY. YOU ARE ENTITLED TO A 64
COMPLETELY FILLED IN COPY OF THIS CONTRACT." 65

(6) The contract shall contain a written acknowledgment by an 66
attorney that states all of the following: 67

(a) The attorney has reviewed the contract and all costs and 68
fees have been disclosed including the annualized rate of return 69
applied to calculate the amount to be paid by the consumer. 70

(b) The attorney is being paid on a contingency basis per a 71
written fee agreement. 72

(c) All proceeds of the civil litigation will be disbursed 73
via the attorney's trust account. 74

(d) The attorney is following the written instructions of the 75
consumer with regard to the non-recourse civil litigation advance. 76

(7) For English, French, and Spanish speaking consumers, the 77
contract shall be written in the same language in which the oral 78
negotiations are conducted between the company and the consumer. 79
For consumers whose primary language is neither English, French, 80

nor Spanish, the principal terms of the contract shall be 81
translated in writing into the consumer's native language, the 82
consumer shall sign the translated document containing the 83
principal terms and initial each page, and the translator shall 84
sign a notarized affirmation confirming that the principal terms 85
have been presented to the consumer in the consumer's native 86
language and acknowledged by the consumer, in writing. Principal 87
terms shall include all items that must be disclosed by this 88
section. 89

(8) To the extent the contract provides for the company to 90
pay the consumer's attorney's fees and costs, in addition to any 91
amount due and owing under the contract, the contract shall 92
provide, in the case of a breach of the contract by either party, 93
that reasonable attorney's fees and costs may be recoverable by 94
the other party. Any contractual cap on such attorney's fees and 95
costs shall apply equally to both parties. 96