

As Introduced

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H. B. No. 358

Representative Yates

**Cosponsors: Representatives Barrett, Bolon, Celeste, Chandler, Dyer,
Fende, Harwood, Heard, Luckie, Mallory, Williams, B.**

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A B I L L

To amend sections 1315.39, 1315.40, 1315.41, and 1
1343.01 of the Revised Code to modify the 2
provisions for making a loan under the 3
Check-Cashing Business Loan law. 4

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

Section 1. That sections 1315.39, 1315.40, 1315.41, and 5
1343.01 of the Revised Code be amended to read as follows: 6

Sec. 1315.39. ~~(A)~~ A check-cashing business licensed under 7
sections 1315.35 to 1315.44 of the Revised Code may engage in the 8
business of making loans provided that each loan meets all of the 9
following conditions: 10

~~(1)(A)~~ The total amount of the loan does not exceed eight 11
hundred dollars. 12

~~(2)(B)~~ The duration of the loan does not exceed six months. 13

~~(3)(C)~~ The interest on the loan is calculated in compliance 14
with, and does not exceed the amount permitted by, division (B) of 15
~~this~~ section 2905.22 of the Revised Code and is calculated to 16
include any loan origination fee and all other fees and charges 17

contracted for under the loan contract. 18

~~(4)(D)~~ The loan is made pursuant to a written loan contract 19
that sets forth the terms and conditions of the loan, and 20
discloses in a clear and concise manner all of the following: 21

~~(a)(1)~~ The total amount of fees and charges the borrower will 22
be required to pay in connection with the loan pursuant to the 23
loan contract; 24

~~(b)(2)~~ The rate of interest contracted for under the loan 25
contract, ~~calculated both as an annual percentage rate based~~ 26
~~solely on the principal of the loan and~~ as an annual percentage 27
rate based on the sum of the principal of the loan and the loan 28
origination fee, ~~check collection charge,~~ and all other fees or 29
charges contracted for under the loan contract; 30

~~(c)(3)~~ The total amount of each payment, when each payment is 31
due, and the total number of payments that the borrower will be 32
required to make under the loan contract; 33

~~(d)(4)~~ A statement, printed in boldface type of the minimum 34
size of ten points, as follows: "WARNING: The rate of interest 35
charged on this loan is higher than the average rate of interest 36
charged by financial institutions on substantially similar loans." 37
38

~~(5)(E)~~ The loan is not being made to a borrower for purposes 39
of retiring an existing loan between the check-cashing business 40
and that borrower, which existing loan was made pursuant to 41
sections 1315.35 to 1315.44 of the Revised Code. 42

~~(B) A check cashing business may contract for and receive~~ 43
~~interest at a rate of five per cent per month or fraction of a~~ 44
~~month on the unpaid principal of a loan made under sections~~ 45
~~1315.35 to 1315.44 of the Revised Code. Any unearned interest~~ 46
~~shall not be deducted from the proceeds of the loan or paid in~~ 47
~~advance, and interest shall be computed on the unpaid balance and~~ 48

~~shall not be compounded. If, after the first month of the loan
contract, the loan is paid in full before the final date on which
payment is due on the loan pursuant to the loan contract, the
licensee shall refund or credit the borrower with the amount of
the unearned interest for the unexpired period of the loan
contract that follows the date of the borrower's payment in full.~~

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

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

~~(B) Check One check collection ~~charges~~ charge per loan not
exceeding an amount equal to twenty dollars plus any amount passed
on from other financial institutions for each check, negotiable
order of withdrawal, share draft, or other negotiable instrument
returned or dishonored for any reason, provided that the terms and
conditions upon which check collection charges will be charged to
the borrower are set forth in the written loan contract described
in division ~~(A)(4)~~(D) of section 1315.39 of the Revised Code;~~

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

Sec. 1315.41. No check-cashing business licensed pursuant to

sections 1315.35 to 1315.44 of the Revised Code shall do any of 79
the following: 80

(A) Violate section 1315.36 of the Revised Code; 81

(B) Make a loan that does not comply with ~~division (A) of~~ 82
section 1315.39 of the Revised Code; 83

(C) Charge, collect, or receive, directly or indirectly, any 84
additional fees or charges in connection with a loan, other than 85
fees and charges permitted by sections 1315.39 and 1315.40 of the 86
Revised Code and costs or disbursements to which the check-cashing 87
business may become entitled to by law in connection with any 88
civil action to collect a loan after default; 89

(D) Collect treble damages pursuant to division (A)(1)(b)(ii) 90
of section 2307.61 of the Revised Code in connection with any 91
civil action to collect a loan after a default due to a check, 92
negotiable order of withdrawal, share draft, or other negotiable 93
instrument that was returned or dishonored for insufficient funds; 94

(E) Make a loan to a borrower if there exists an outstanding 95
loan between the check-cashing business and that borrower and if 96
the outstanding loan was made pursuant to sections 1315.35 to 97
1315.43 of the Revised Code; 98

(F) Accept a check or other method of access to a deposit 99
account maintained by the borrower, or the title of a vehicle as 100
security for the obligation. 101

Sec. 1343.01. (A) The parties to a bond, bill, promissory 102
note, or other instrument of writing for the forbearance or 103
payment of money at any future time, may stipulate therein for the 104
payment of interest upon the amount thereof at any rate not 105
exceeding eight per cent per annum payable annually, except as 106
authorized in division (B) of this section. 107

(B) Any party may agree to pay a rate of interest in excess 108

of the maximum rate provided in division (A) of this section when: 109

(1) The original amount of the principal indebtedness 110
stipulated in the bond, bill, promissory note, or other instrument 111
of writing exceeds one hundred thousand dollars; 112

(2) The payment is to a broker or dealer registered under the 113
"Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78A, as 114
amended, for carrying a debit balance in an account for a customer 115
if such debit balance is payable on demand and secured by stocks, 116
bonds or other securities; 117

(3) The instrument evidences a loan secured by a mortgage or 118
deed of trust on real estate where the loan has been approved, 119
insured, guaranteed, purchased, or for which an offer or 120
commitment to insure, guarantee, or purchase has been received, in 121
whole or in part, by the federal government or any agency or 122
instrumentality thereof, the federal national mortgage 123
association, the federal home loan mortgage corporation, or the 124
farmers home administration, all of which is authorized pursuant 125
to the "National Housing Act," 12- U.S.C. 1701; the "Serviceman's 126
Readjustment Act," 38 U.S.C. 1801; the "Federal Home Loan Bank 127
Act," 12 U.S.C. 1421; and the "Rural Housing Act," 42 U.S.C. 1471, 128
amendments thereto, reenactments thereof, enactments parallel 129
thereto, or in substitution therefor, or regulations issued 130
thereunder; or by the state or any agency or instrumentality 131
thereof authorized pursuant to Chapter 122. of the Revised Code, 132
or rules issued thereunder. 133

(4) The instrument evidences a loan secured by a mortgage, 134
deed of trust, or land installment contract on real estate which 135
does not otherwise qualify for exemption from the provisions of 136
this section, except that such rate of interest shall not exceed 137
eight per cent in excess of the discount rate on ninety-day 138
commercial paper in effect at the federal reserve bank in the 139
fourth federal reserve district at the time the mortgage, deed of 140

trust, or land installment contract is executed. 141

(5) The instrument is payable on demand or in one installment 142
and is not secured by household furnishings or other goods used 143
for personal, family, or household purposes, or the instrument is 144
payable in any number of installments and is a written loan 145
contract made under sections 1315.35 to 1315.44 of the Revised 146
Code. 147

(6)(a) The loan is a business loan to a business association 148
or partnership, a person owning and operating a business as a sole 149
proprietor; any persons owning and operating a business as joint 150
venturers, joint tenants, or tenants in common; any limited 151
partnership; or any trustee owning or operating a business or 152
whose beneficiaries own or operate a business, except that: 153

(i) Any loan which is secured by an assignment of an 154
individual obligor's salary, wages, commissions, or other 155
compensation for services or by ~~his~~ the individual obligor's 156
household furniture or other goods used for ~~his~~ the individual 157
obligor's personal, family, or household purposes shall be deemed 158
not a loan within the meaning of division (B)(6) of this section; 159

(ii) Any loan which otherwise qualifies as a business loan 160
within the meaning of division (B)(6) of this section shall not be 161
deemed disqualified because of the inclusion, with other security 162
consisting of business assets of any such obligor, of real estate 163
occupied by an individual obligor solely as ~~his~~ the individual 164
obligor's residence. 165

(b) As used in division (B)(6)(a) of this section, "business" 166
means a commercial, agricultural, or industrial enterprise which 167
is carried on for the purpose of investment or profit. "Business" 168
does not mean the ownership or maintenance of real estate occupied 169
by an individual obligor solely as ~~his~~ the individual obligor's 170
residence. 171

Section 2. That existing sections 1315.39, 1315.40, 1315.41, 172
and 1343.01 of the Revised Code are hereby repealed. 173