

AN ACT

To amend sections 109.572, 135.63, 1181.05, 1181.21, 1181.25, 1315.99, 1321.02, 1321.15, 1321.21, 1321.99, 1345.01, 1349.71, 1349.72, 1733.25, and 2307.61, to enact sections 121.085, 135.68, 135.69, 135.70, 1321.35, 1321.36, 1321.37, 1321.38, 1321.39, 1321.40, 1321.41, 1321.42, 1321.421, 1321.422, 1321.43, 1321.44, 1321.45, 1321.46, 1321.461, 1321.47, and 1321.48, and to repeal sections 1315.35, 1315.36, 1315.37, 1315.38, 1315.39, 1315.40, 1315.41, 1315.42, 1315.43, and 1315.44 of the Revised Code to repeal the Check-Cashing Lender Law, to establish the Short-Term Lender Law, to create a short-term installment loan linked deposit program, to further restrict the making of multiple loans under the Small Loan Law, to expand the responsibilities of the Consumer Finance Education Board, and to make other related changes.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 109.572, 135.63, 1181.05, 1181.21, 1181.25, 1315.99, 1321.02, 1321.15, 1321.21, 1321.99, 1345.01, 1349.71, 1349.72, 1733.25, and 2307.61 be amended, and sections 121.085, 135.68, 135.69, 135.70, 1321.35, 1321.36, 1321.37, 1321.38, 1321.39, 1321.40, 1321.41, 1321.42, 1321.421, 1321.422, 1321.43, 1321.44, 1321.45, 1321.46, 1321.461, 1321.47, and 1321.48 of the Revised Code be enacted to read as follows:

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to section 121.08, 3301.32, 3301.541, 3319.39, 5104.012, or 5104.013 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau

of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(1)(a) of this section.

(2) On receipt of a request pursuant to section 5123.081 of the Revised Code with respect to an applicant for employment in any position with the department of mental retardation and developmental disabilities, pursuant to section 5126.28 of the Revised Code with respect to an applicant for employment in any position with a county board of mental retardation and developmental disabilities, or pursuant to section 5126.281 of the Revised Code with respect to an applicant for employment in a direct services position with an entity contracting with a county board for employment, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2903.341, 2905.01, 2905.02,

2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, or 3716.11 of the Revised Code;

(b) An existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(2)(a) of this section.

(3) On receipt of a request pursuant to section 173.27, 173.394, 3712.09, 3721.121, or 3722.151 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person who has applied for employment in a position for which a criminal records check is required by those sections. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code;

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(3)(a) of this section.

(4) On receipt of a request pursuant to section 3701.881 of the Revised Code with respect to an applicant for employment with a home health agency as a person responsible for the care, custody, or control of a child, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any

information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(4)(a) of this section.

(5) On receipt of a request pursuant to section 5111.032, 5111.033, or 5111.034 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.48, 2913.49, 2913.51, 2917.11, 2919.12, 2919.22, 2919.24, 2919.25, 2921.13, 2921.36, 2923.02, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the

Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(5)(a) of this section.

(6) On receipt of a request pursuant to section 3701.881 of the Revised Code with respect to an applicant for employment with a home health agency in a position that involves providing direct care to an older adult, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code;

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(6)(a) of this section.

(7) When conducting a criminal records check upon a request pursuant to section 3319.39 of the Revised Code for an applicant who is a teacher, in addition to the determination made under division (A)(1) of this section, the superintendent shall determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any offense specified in section 3319.31 of the Revised Code.

(8) On receipt of a request pursuant to section 2151.86 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records

check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(8)(a) of this section.

(9) When conducting a criminal records check on a request pursuant to section 5104.013 of the Revised Code for a person who is an owner, licensee, or administrator of a child day-care center or type A family day-care home, an authorized provider of a certified type B family day-care home, or an adult residing in a type A or certified type B home, or when conducting a criminal records check or a request pursuant to section 5104.012 of the Revised Code for a person who is an applicant for employment in a center, type A home, or certified type B home, the superintendent, in addition to the determination made under division (A)(1) of this section, shall determine whether any information exists that indicates that the person has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2921.11, 2921.13, or 2923.01 of the Revised Code, a violation of section 2923.02 or 2923.03 of the Revised Code that relates to a crime specified in this division or division (A)(1)(a) of this section, or a second violation of section 4511.19 of the Revised Code within

five years of the date of application for licensure or certification.

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in division (A)(9)(a) of this section.

(10) Upon receipt of a request pursuant to section 5153.111 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(10)(a) of this section.

(11) On receipt of a request for a criminal records check from an individual pursuant to section 4749.03 or 4749.06 of the Revised Code, accompanied by a completed copy of the form prescribed in division (C)(1) of this section and a set of fingerprint impressions obtained in a manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists indicating that the person who is the subject of the request has been convicted of or pleaded guilty to a felony in this state or in any other state. If the individual indicates that a firearm will be carried

in the course of business, the superintendent shall require information from the federal bureau of investigation as described in division (B)(2) of this section. The superintendent shall report the findings of the criminal records check and any information the federal bureau of investigation provides to the director of public safety.

(12) On receipt of a request pursuant to section ~~1321.37~~, 1322.03, 1322.031, or 4763.05 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person who has applied for a license, permit, or certification from the department of commerce or a division in the department. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following: a violation of section 2913.02, 2913.11, 2913.31, 2913.51, or 2925.03 of the Revised Code; any other criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities, as set forth in Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of the Revised Code; or any existing or former law of this state, any other state, or the United States that is substantially equivalent to those offenses.

(13) On receipt of a request for a criminal records check from the treasurer of state under section 113.041 of the Revised Code or from an individual under section 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by a completed form prescribed under division (C)(1) of this section and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any criminal offense in this state or any other state. The superintendent shall send the results of a check requested under section 113.041 of the Revised Code to the treasurer

of state and shall send the results of a check requested under any of the other listed sections to the licensing board specified by the individual in the request.

(14) Not later than thirty days after the date the superintendent receives a request of a type described in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), or (12) of this section, the completed form, and the fingerprint impressions, the superintendent shall send the person, board, or entity that made the request any information, other than information the dissemination of which is prohibited by federal law, the superintendent determines exists with respect to the person who is the subject of the request that indicates that the person previously has been convicted of or pleaded guilty to any offense listed or described in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), or (12) of this section, as appropriate. The superintendent shall send the person, board, or entity that made the request a copy of the list of offenses specified in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), or (12) of this section, as appropriate. If the request was made under section 3701.881 of the Revised Code with regard to an applicant who may be both responsible for the care, custody, or control of a child and involved in providing direct care to an older adult, the superintendent shall provide a list of the offenses specified in divisions (A)(4) and (6) of this section.

Not later than thirty days after the superintendent receives a request for a criminal records check pursuant to section 113.041 of the Revised Code, the completed form, and the fingerprint impressions, the superintendent shall send the treasurer of state any information, other than information the dissemination of which is prohibited by federal law, the superintendent determines exist with respect to the person who is the subject of the request that indicates that the person previously has been convicted of or pleaded guilty to any criminal offense in this state or any other state.

(B) The superintendent shall conduct any criminal records check requested under section 113.041, 121.08, 173.27, 173.394, 1322.03, 1322.031, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code as follows:

(1) The superintendent shall review or cause to be reviewed any relevant

information gathered and compiled by the bureau under division (A) of section 109.57 of the Revised Code that relates to the person who is the subject of the request, including any relevant information contained in records that have been sealed under section 2953.32 of the Revised Code;

(2) If the request received by the superintendent asks for information from the federal bureau of investigation, the superintendent shall request from the federal bureau of investigation any information it has with respect to the person who is the subject of the request and shall review or cause to be reviewed any information the superintendent receives from that bureau.

(3) The superintendent or the superintendent's designee may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code.

(C)(1) The superintendent shall prescribe a form to obtain the information necessary to conduct a criminal records check from any person for whom a criminal records check is requested under section 113.041 of the Revised Code or required by section 121.08, 173.27, 173.394, 1322.03, 1322.031, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The form that the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(2) The superintendent shall prescribe standard impression sheets to obtain the fingerprint impressions of any person for whom a criminal records check is requested under section 113.041 of the Revised Code or required by section 121.08, 173.27, 173.394, 1322.03, 1322.031, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. Any person for whom a records check is requested under or required by any of those sections shall obtain the fingerprint impressions at

a county sheriff's office, municipal police department, or any other entity with the ability to make fingerprint impressions on the standard impression sheets prescribed by the superintendent. The office, department, or entity may charge the person a reasonable fee for making the impressions. The standard impression sheets the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(3) Subject to division (D) of this section, the superintendent shall prescribe and charge a reasonable fee for providing a criminal records check requested under section 113.041, 121.08, 173.27, 173.394, 1322.03, 1322.031, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The person making a criminal records request under section 113.041, 121.08, 173.27, 173.394, 1322.03, 1322.031, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code shall pay the fee prescribed pursuant to this division. A person making a request under section 3701.881 of the Revised Code for a criminal records check for an applicant who may be both responsible for the care, custody, or control of a child and involved in providing direct care to an older adult shall pay one fee for the request. In the case of a request under section 5111.032 of the Revised Code, the fee shall be paid in the manner specified in that section.

(4) The superintendent of the bureau of criminal identification and investigation may prescribe methods of forwarding fingerprint impressions and information necessary to conduct a criminal records check, which methods shall include, but not be limited to, an electronic method.

(D) A determination whether any information exists that indicates that a person previously has been convicted of or pleaded guilty to any offense listed or described in division (A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or

(b), (A)(4)(a) or (b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b), (A)(9)(a) or (b), (A)(10)(a) or (b), or (A)(12) of this section, or that indicates that a person previously has been convicted of or pleaded guilty to any criminal offense in this state or any other state regarding a criminal records check of a type described in division (A)(13) of this section, and that is made by the superintendent with respect to information considered in a criminal records check in accordance with this section is valid for the person who is the subject of the criminal records check for a period of one year from the date upon which the superintendent makes the determination. During the period in which the determination in regard to a person is valid, if another request under this section is made for a criminal records check for that person, the superintendent shall provide the information that is the basis for the superintendent's initial determination at a lower fee than the fee prescribed for the initial criminal records check.

(E) As used in this section:

(1) "Criminal records check" means any criminal records check conducted by the superintendent of the bureau of criminal identification and investigation in accordance with division (B) of this section.

(2) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

(3) "Older adult" means a person age sixty or older.

Sec. 121.085. The financial literacy education fund is hereby created in the state treasury. The fund shall consist of funds transferred to it from the consumer finance fund pursuant to section 1321.21 of the Revised Code. The fund shall be used to support various adult financial literacy education programs developed or implemented by the director of commerce. The fund shall be administered by the director of commerce who shall adopt rules for the distribution of fund moneys. The director of commerce shall adopt a rule to require that at least one-half of the financial literacy education programs developed or implemented pursuant to this section, and offered to the public, be presented by or available at public community colleges or state institutions throughout the state. The director of commerce shall deliver to the president of the senate, the speaker of the house of representatives, the minority leader of the senate, the minority leader of the house of representatives, and the governor an annual report that includes an outline of each adult financial literacy education program developed or implemented, the number of individuals who were educated by each program, and an accounting for all funds distributed.

Sec. 135.63. The treasurer of state may invest in linked deposits under sections 135.61 to 135.67, short-term installment loan linked deposits under

sections 135.68 to 135.70, agricultural linked deposits under sections 135.71 to 135.76, housing linked deposits under sections 135.81 to 135.87, and assistive technology device linked deposits under sections 135.91 to 135.97 of the Revised Code, provided that at the time of placement of any linked deposit under sections 135.61 to 135.67 of the Revised Code, short-term installment loan linked deposit, agricultural linked deposit, housing linked deposit, or assistive technology device linked deposit, the combined amount of investments in the linked deposits, short-term installment loan linked deposits, agricultural linked deposits, housing linked deposits, and assistive technology device linked deposits is not more than twelve per cent of the state's total average investment portfolio as determined by the treasurer of state. When deciding whether to invest in the linked deposits, short-term installment loan linked deposits, agricultural linked deposits, housing linked deposits, or assistive technology device linked deposits, the treasurer of state shall give priority to the investment, liquidity, and cash flow needs of the state.

Sec. 135.68. As used in sections 135.68 to 135.70 of the Revised Code:

(A) "Eligible individual" means a person in this state.

(B) "Eligible lending institution" means a financial institution that is eligible to make loans, is a public depository of state funds under section 135.03 of the Revised Code, and agrees to participate in the short-term installment loan linked deposit program.

(C) "Short-term installment loan" means an extension of credit that does not exceed eight hundred dollars, the duration of which is not less than ninety days and six installments, and the interest on the loan is calculated in compliance with 15 U.S.C. 1606 and does not exceed an annual percentage rate of twenty-eight per cent. For the purpose of this section, interest and annual percentage rate have the same meaning as in section 1321.35 of the Revised Code.

(D) "Short-term installment loan linked deposit" means a certificate of deposit placed by the treasurer of state with an eligible lending institution at up to three per cent below current market rates, as determined and calculated by the treasurer of state, provided the institution agrees to lend the value of such deposit, according to the deposit agreement provided for section 135.69 of the Revised Code, to eligible individuals in the form of short-term installment loans.

Sec. 135.69. (A) An eligible lending institution shall enter into a deposit agreement with the treasurer of state, which agreement shall include requirements necessary to carry out the purposes of sections 135.68 to 135.70 of the Revised Code. These requirements shall reflect the market

conditions prevailing in the eligible lending institution's lending area.

(B)(1) The deposit agreement required by division (A) of this section shall include provisions for certificates of deposit to be placed for any maturity considered appropriate by the treasurer of state not to exceed two years, but may be renewed for up to an additional two years at the option of the treasurer of state. Interest shall be paid at the times determined by the treasurer of state.

(2) The deposit agreement required by division (A) of this section may include a specification of the period of time in which the lending institution is to lend funds upon the placement of a short-term installment loan linked deposit.

(C) Eligible lending institutions shall comply fully with this chapter.

(D) An eligible lending institution that desires to receive a short-term installment loan linked deposit shall forward to the treasurer of state a short-term installment loan linked deposit loan package, in the form and manner as prescribed by the treasurer of state. The package required by this section shall include such information as required by the treasurer of state, including the amount of the loan requested.

(E) Upon the placement of a short-term installment loan linked deposit with an eligible lending institution, the institution shall make short-term installment loans, as defined in section 135.68 of the Revised Code, to eligible individuals in accordance with the deposit agreement required by section 135.69 of the Revised Code.

(F) An eligible lending institution shall certify compliance with this section in the form and manner prescribed by the treasurer of state.

Sec. 135.70. (A) The treasurer of state may accept or reject a short-term installment loan linked deposit loan package or any portion of the package required by section 135.69 of the Revised Code, based on the treasurer's evaluation of the package and the amount of state funds to be deposited.

(B) Upon acceptance of the short-term installment loan linked deposit loan package or any portion of the package, the treasurer of state may place certificates of deposit with the eligible lending institution at three per cent below current market rates, as determined and calculated by the treasurer of state. However, when necessary, the treasurer of state may place certificates of deposit prior to acceptance of a short-term installment loan linked deposit loan package.

(C) The treasurer of state shall take all steps, including the development of guidelines, necessary to implement the short-term installment loan linked deposit program established under sections 135.68 to 135.70 of the Revised Code and monitor compliance of eligible lending institutions.

(D)(1) Annually, by the first day of February, the treasurer of state shall report on the short-term installment loan linked deposit program established under sections 135.68 to 135.70 of the Revised Code for the preceding calendar year to the governor, the speaker of the house of representatives, and the president of the senate.

(2) The report required by division (D)(1) of this section shall set forth the short-term installment loan linked deposits made by the treasurer of state under the program during the year and shall include the following information:

(a) The number of short-term installment loans made by each eligible lending institution pursuant to a short-term installment loan linked deposit, categorized by United States postal zip code;

(b) A representation of the number or percentage of loans, pursuant to each short-term installment loan linked deposit, that were paid late or in default.

(3) The speaker of the house of representatives shall transmit copies of the report required by division (D)(1) of this section to the chairperson of the standing house of representatives committee that customarily considers legislation regarding financial institutions, and the president of the senate shall transmit copies of the report to the chairperson of the standing senate committee that customarily considers legislation regarding financial institutions.

(E) The state and the treasurer of state are not liable to any eligible lending institution in any manner for payment of the principal or interest on a loan made under sections 135.68 to 135.70 of the Revised Code to an eligible individual.

(F) Any delay in payments or default on the part of an eligible individual with respect to a loan made under sections 135.68 to 135.70 of the Revised Code does not in any manner affect the deposit agreement between the eligible lending institution and the treasurer of state.

Sec. 1181.05. (A) As used in this section, "consumer finance company" means any person required to be licensed or registered under Chapter 1321., 1322., 4712., 4727., or 4728.; ~~or sections 1315.21 to 1315.30, or sections 1315.35 to 1315.44~~ of the Revised Code.

(B) Neither the superintendent of financial institutions nor any other employee of the division of financial institutions shall do any of the following: be interested, directly or indirectly, in any bank, savings and loan association, savings bank, credit union, or consumer finance company, that is under the supervision of the superintendent of financial institutions; directly or indirectly borrow money from any such financial institution or

company; serve as a director or officer of or be employed by any such financial institution or company; or own an equity interest in any such financial institution or company. For purposes of this section, an equity interest does not include the ownership of an account in a mutual savings and loan association or in a savings bank that does not have permanent stock or the ownership of a share account in a credit union.

(C) Subject to division (G) of this section, an employee of the division of financial institutions may retain any extension of credit that otherwise would be prohibited by division (B) of this section if both of the following apply:

(1) The employee obtained the extension of credit prior to October 29, 1995, or the commencement of the employee's employment with the division, or as a result of a change in the employee's marital status, the consummation of a merger, acquisition, transfer of assets, or other change in corporate ownership beyond the employee's control, or the sale of the extension of credit in the secondary market or other business transaction beyond the employee's control.

(2) The employee liquidates the extension of credit under its original terms and without renegotiation.

If the employee chooses to retain the extension of credit, the employee shall immediately provide written notice of the retention to the employee's supervisor. Thereafter, the employee shall be disqualified from participating in any decision, examination, audit, or other action that may affect that particular creditor.

(D) Subject to division (G) of this section, an employee of the division of financial institutions may retain any ownership of or beneficial interest in the securities of a financial institution or consumer finance company that is under the supervision of the division of financial institutions, or of a holding company or subsidiary of such a financial institution or company, which ownership or beneficial interest otherwise would be prohibited by division (B) of this section, if the ownership or beneficial interest is acquired by the employee through inheritance or gift, prior to October 29, 1995, or the commencement of the employee's employment with the division, or as a result of a change in the employee's marital status or the consummation of a merger, acquisition, transfer of assets, or other change in corporate ownership beyond the employee's control.

If the employee chooses to retain the ownership or beneficial interest, the employee shall immediately provide written notice of the retention to the employee's supervisor. Thereafter, the employee shall be disqualified from participating in any decision, examination, audit, or other action that may

affect the issuer of the securities. However, if the ownership of or beneficial interest in the securities and the subsequent disqualification required by this division impair the employee's ability to perform the employee's duties, the employee may be ordered to divest self of the ownership of or beneficial interest in the securities.

(E) Notwithstanding division (B) of this section, an employee of the division of financial institutions may have an indirect interest in the securities of a financial institution or consumer finance company that is under the supervision of the division of financial institutions, which interest arises through ownership of or beneficial interest in the securities of a publicly held mutual fund or investment trust, if the employee owns or has a beneficial interest in less than five per cent of the securities of the mutual fund or investment trust, and the mutual fund or investment trust is not advised or sponsored by a financial institution or consumer finance company that is under the supervision of the division of financial institutions. If the mutual fund or investment trust is subsequently advised or sponsored by a financial institution or consumer finance company that is under the supervision of the division of financial institutions, the employee shall immediately provide written notice of the ownership of or beneficial interest in the securities to the employee's supervisor. Thereafter, the employee shall be disqualified from participating in any decision, examination, audit, or other action that may affect the financial institution or consumer finance company. However, if the ownership of or beneficial interest in the securities and the subsequent disqualification required by this division impair the employee's ability to perform the employee's duties, the employee may be ordered to divest self of the ownership of or beneficial interest in the securities.

(F)(1) For purposes of this section, the interests of an employee's spouse or dependent child arising through the ownership or control of securities shall be considered the interests of the employee, unless the interests are solely the financial interest and responsibility of the spouse or dependent child, the interests are not in any way derived from the income, assets, or activity of the employee, and any financial or economic benefit from the interests is for the personal use of the spouse or dependent child.

(2) If an employee's spouse or dependent child obtains interests arising through the ownership or control of securities and, pursuant to division (F)(1) of this section, the interests are not considered the interests of the employee, the employee shall immediately provide written notice of the interests to the employee's supervisor. Thereafter, the employee shall be disqualified from participating in any decision, examination, audit, or other

action that may affect the issuer of the securities.

(G) For purposes of divisions (C) and (D) of this section, both of the following apply:

(1) With respect to any employee of the former division of consumer finance who, on the first day of the first pay period commencing after the effective date of this section, becomes an employee of the division of financial institutions, the employee's employment with the division of financial institutions is deemed to commence on the first day of the first pay period commencing after the effective date of this section.

(2) With respect to any employee who, on October 29, 1995, became an employee of the division of financial institutions, the employee may, notwithstanding divisions (C) and (D) of this section, retain any extension of credit by a consumer finance company that was obtained at any time prior to the first day of the first pay period commencing after the effective date of this section, or retain any ownership of or beneficial interest in the securities of a consumer finance company, or of a holding company or subsidiary of such a company, that was acquired at any time prior to the first day of the first pay period commencing after the effective date of this section. If the employee chooses to retain the extension of credit or the ownership or beneficial interest, the employee shall comply with divisions (C) and (D) of this section.

Sec. 1181.21. (A) As used in this section, "consumer finance company" has the same meaning as in section 1181.05 of the Revised Code.

(B) The superintendent of financial institutions shall see that the laws relating to consumer finance companies are executed and enforced.

(C) The deputy superintendent for consumer finance shall be the principal supervisor of consumer finance companies. In that position the deputy superintendent for consumer finance shall, notwithstanding ~~division (C) of section 1315.42~~ 1321.421, division (A) of section 1321.76, and sections 1321.07, 1321.55, 1322.06, 4727.05, and 4728.05 of the Revised Code, be responsible for conducting examinations and preparing examination reports under those sections. In addition, the deputy superintendent for consumer finance shall, notwithstanding sections 1315.27, ~~1315.43~~, 1321.10, 1321.43, 1321.54, 1321.77, 1322.12, 4712.14, 4727.13, and 4728.10 of the Revised Code, have the authority to adopt rules and standards in accordance with those sections. In performing or exercising any of the examination, rule-making, or other regulatory functions, powers, or duties vested by this division in the deputy superintendent for consumer finance, the deputy superintendent for consumer finance shall be subject to the control of the superintendent of financial institutions and the director of

commerce.

Sec. 1181.25. The superintendent of financial institutions may introduce into evidence or disclose, or authorize to be introduced into evidence or disclosed, information that, under sections 1121.18, 1155.16, 1163.20, 1315.122, 1321.09, 1321.48, 1321.55, 1321.76, 1322.06, 1322.061, 1733.32, 1733.327, and 4727.18 of the Revised Code, is privileged, confidential, or otherwise not public information or a public record, provided that the superintendent acts only as provided in those sections or in the following circumstances:

(A) When in the opinion of the superintendent, it is appropriate with regard to any enforcement actions taken and decisions made by the superintendent under Chapters 1315., 1321., 1322., 1733., 4712., 4727., and 4728. of the Revised Code or Title XI of the Revised Code;

(B) When litigation has been initiated by the superintendent in furtherance of the powers, duties, and obligations imposed upon the superintendent by Chapters 1315., 1321., 1322., 1733., 4712., 4727., and 4728. of the Revised Code or Title XI of the Revised Code;

(C) When in the opinion of the superintendent, it is appropriate with regard to enforcement actions taken or decisions made by other financial institution regulatory authorities to whom the superintendent has provided the information pursuant to authority in Chapters 1315., 1321., 1322., 1733., 4712., 4727., and 4728. of the Revised Code or Title XI of the Revised Code.

Sec. 1315.99. (A) Whoever violates division (A) or (B) of section 1315.28, ~~section 1315.41~~, or division (E)(2) of section 1315.53 of the Revised Code is guilty of a misdemeanor of the first degree.

(B) Whoever violates division (F)(1) of section 1315.53 or division (B) of section 1315.54 of the Revised Code is guilty of a felony of the fourth degree.

(C) Whoever violates division (A) of section 1315.55 of the Revised Code is guilty of money laundering. A violation of division (A)(1), (2), (3), (4), or (5) of that section is a felony of the third degree, and, in addition, the court may impose a fine of seven thousand five hundred dollars or twice the value of the property involved, whichever is greater.

(D) Whoever knowingly violates division (A) of section 1315.02, or intentionally violates division (B)(1) of section 1315.081, of the Revised Code is guilty of a felony of the fourth degree.

Sec. 1321.02. No person shall engage in the business of lending money, credit, or choses in action in amounts of five thousand dollars or less, or exact, contract for, or receive, directly or indirectly, on or in connection with

any such loan, any interest and charges that in the aggregate are greater than the interest and charges that the lender would be permitted to charge for a loan of money if the lender were not a licensee, without first having obtained a license from the division of financial institutions under sections 1321.01 to 1321.19 of the Revised Code.

Sections 1321.01 to 1321.19 of the Revised Code do not apply to any person doing business under and as permitted by any law of this state, another state, or the United States relating to banks, savings banks, savings societies, trust companies, credit unions, savings and loan associations substantially all the business of which is confined to loans on real estate mortgages and evidences of their own indebtedness; to registrants conducting business pursuant to sections 1321.51 to 1321.60 of the Revised Code; to licensees conducting business pursuant to sections 1321.71 to 1321.83 of the Revised Code; to licensees doing business pursuant to sections ~~1315.35 to 1315.44~~ 1321.35 to 1321.48 of the Revised Code; or to any entity who is licensed pursuant to Title XXXIX of the Revised Code, who makes advances or loans to any person who is licensed to sell insurance pursuant to that Title, and who is authorized in writing by that entity to sell insurance. No person engaged in the business of selling tangible goods or services related thereto may receive or retain a license under sections 1321.01 to 1321.19 of the Revised Code for such place of business.

The first paragraph of this section applies to any person, who by any device, subterfuge, or pretense, charges, contracts for, or receives greater interest, consideration, or charges than that authorized by this section for any such loan or use of money or for any such loan, use, or sale of credit, or who for a fee or any manner of compensation arranges or offers to find or arrange for another person to make any such loan, use, or sale of credit. This section does not preclude the acquiring, directly or indirectly, by purchase or discount, of a bona fide obligation for goods or services when such obligation is payable directly to the person who provided the goods or services.

Any contract of loan in the making or collection of which an act is done by the lender that violates this section is void and the lender has no right to collect, receive, or retain any principal, interest, or charges.

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

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

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

Sec. 1321.21. All fees, charges, penalties, and forfeitures collected under Chapters 1321., 1322., 4712., 4727., and 4728., sections 1315.21 to 1315.30, ~~sections 1315.35 to 1315.44~~, and sections 1349.25 to 1349.37 of the Revised Code shall be paid to the superintendent of financial institutions and shall be deposited by the superintendent into the state treasury to the credit of the consumer finance fund, which is hereby created. The fund may be expended or obligated by the superintendent for the defrayment of the costs of administration of Chapters 1321., 1322., 4712., 4727., and 4728., sections 1315.21 to 1315.30, ~~sections 1315.35 to 1315.44~~, and sections 1349.25 to 1349.37 of the Revised Code by the division of financial institutions. All actual and necessary expenses incurred by the superintendent, including any services rendered by the department of commerce for the division's administration of Chapters 1321., 1322., 4712., 4727., and 4728., sections 1315.21 to 1315.30, ~~sections 1315.35 to 1315.44~~, and sections 1349.25 to 1349.37 of the Revised Code, shall be paid from the fund. The fund shall be assessed a proportionate share of the administrative costs of the department and the division. The proportionate share of the administrative costs of the division of financial institutions shall be determined in accordance with procedures prescribed by the superintendent

and approved by the director of budget and management. Such assessment shall be paid from the consumer finance fund to the division of administration fund or the financial institutions fund.

Periodically, in accordance with a schedule the director establishes by rule, but at least once every three months, the director of budget and management shall transfer five per cent of all charges, penalties, and forfeitures received into the consumer finance fund to the financial literacy education fund created under section 121.085 of the Revised Code.

Sec. 1321.35. As used in sections 1321.35 to 1321.48 of the Revised Code:

(A) "Short-term loan" means a loan made pursuant to sections 1321.35 to 1321.48 of the Revised Code.

(B) "Superintendent of financial institutions" includes the deputy superintendent for consumer finance as provided in section 1181.21 of the Revised Code.

(C) "Interest" means all charges payable directly or indirectly by a borrower to a licensee as a condition to a loan, including fees, loan origination charges, service charges, renewal charges, credit insurance premiums, and any ancillary product sold in connection with a loan made pursuant to sections 1321.35 to 1321.48 of the Revised Code.

(D) "Annual percentage rate" has the same meaning as in the "Truth in Lending Act," 82 Stat. 149 (1980), 15 U.S.C. 1606, as implemented by regulations of the board of governors of the federal reserve system. All fees and charges shall be included in the computation of the annual percentage rate. Fees and charges for single premium credit insurance and other ancillary products sold in connection with the credit transaction shall be included in the calculation of the annual percentage rate.

Sec. 1321.36. (A) No person shall engage in the business of making short-term loans to a borrower in Ohio, or, in whole or in part, make, offer, or broker a loan, or assist a borrower in Ohio to obtain such a loan, without first having obtained a license from the superintendent of financial institutions under sections 1321.35 to 1321.48 of the Revised Code. No licensee shall make, offer, or broker a loan, or assist a borrower to obtain such a loan, when the borrower is not physically present in the licensee's business location.

(B) No person not located in Ohio shall make a short-term loan to a borrower in Ohio from an office not located in Ohio. Nothing in this section prohibits a business not located or licensed in Ohio from lending funds to Ohio borrowers who physically visit the out-of-state office of the business and obtain the disbursement of loan funds at that location. No person shall

make, offer, or broker a loan, or assist a borrower to obtain a loan, via the telephone, mail, or internet.

Sec. 1321.37. (A) Application for an original or renewal license to make short-term loans shall be in writing, under oath, and in the form prescribed by the superintendent of financial institutions, and shall contain the name and address of the applicant, the location where the business of making loans is to be conducted, and any further information as the superintendent requires. At the time of making an application for an original license, the applicant shall pay to the superintendent a nonrefundable investigation fee of two hundred dollars. No investigation fee or any portion thereof shall be refunded after an original license has been issued. The application for an original or renewal license shall be accompanied by an original or renewal license fee, for each business location of one thousand dollars, except that applications for original licenses issued on or after the first day of July for any year shall be accompanied by an original license fee of five hundred dollars, and except that an application for an original or renewal license, for a nonprofit corporation that is incorporated under Chapter 1702. of the Revised Code, shall be accompanied by an original or renewal license fee, for each business location, that is one-half of the fee otherwise required. All fees paid to the superintendent pursuant to this division shall be deposited into the state treasury to the credit of the consumer finance fund.

(B) Upon the filing of an application for an original license and, with respect to an application filed for a renewal license, on a schedule determined by the superintendent by rule adopted pursuant to section 1321.43 of the Revised Code, and the payment of fees in accordance with division (A) of this section, the superintendent shall investigate the facts concerning the applicant and the requirements provided by this division. The superintendent shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints in accordance with division (A)(12) of section 109.572 of the Revised Code. Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent of financial institutions shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check. The superintendent of financial institutions shall conduct a civil records check. The superintendent shall approve an application and issue an original or renewal license to the applicant if the superintendent finds all of the following:

(1) The financial responsibility, experience, reputation, and general fitness of the applicant are such as to warrant the belief that the business of

making loans will be operated lawfully, honestly, and fairly under sections 1321.35 to 1321.48 of the Revised Code and within the purposes of those sections; that the applicant has fully complied with those sections and any rule or order adopted or issued pursuant to section 1321.43 of the Revised Code; and that the applicant is qualified to engage in the business of making loans under sections 1321.35 to 1321.48 of the Revised Code.

(2) The applicant is financially sound and has a net worth of not less than one hundred thousand dollars, or in the case of a nonprofit corporation that is incorporated under Chapter 1702. of the Revised Code, a net worth of not less than fifty thousand dollars. The applicant's net worth shall be computed according to generally accepted accounting principles.

(3) The applicant has never had revoked a license to make loans under sections 1321.35 to 1321.48 of the Revised Code, under former sections 1315.35 to 1315.44 of the Revised Code, or to do business under sections 1315.21 to 1315.30 of the Revised Code.

(4) Neither the applicant nor any senior officer, or partner of the applicant, has pleaded guilty to or been convicted of any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities or any violation of an existing or former law of this state, any other state, or the United States that substantially is equivalent to a criminal offense described in that division. However, if the applicant or any of those other persons has pleaded guilty to or been convicted of any such offense other than theft, the superintendent shall not consider the offense if the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's or other person's activities and employment record since the conviction show that the applicant or other person is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant or other person will commit such an offense again.

(5) Neither the applicant nor any senior officer, or partner of the applicant, has been subject to any adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty, or if the applicant or any of those other persons has been subject to such a judgment, the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's or other person's activities and employment record since the judgment show that the applicant or other person is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant or other person will be subject to such a judgment again.

(C) If the superintendent finds that the applicant does not meet the requirements of division (B) of this section, or the superintendent finds that the applicant knowingly or repeatedly contracts with or employs persons to directly engage in lending activities who have been convicted of a felony crime listed in division (B)(5) of this section, the superintendent shall issue an order denying the application for an original or renewal license and giving the applicant an opportunity for a hearing on the denial in accordance with Chapter 119. of the Revised Code. The superintendent shall notify the applicant of the denial, the grounds for the denial, and the applicant's opportunity for a hearing. If the application is denied, the superintendent shall return the annual license fee but shall retain the investigation fee.

(D) No person licensed under sections 1321.35 to 1321.48 of the Revised Code shall conduct business in this state unless the licensee has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the superintendent and in the penal sum of at least one hundred thousand dollars, or in the case of a nonprofit corporation that is incorporated under Chapter 1702. of the Revised Code, in the amount of fifty thousand dollars. The term of the bond shall coincide with the term of the license. The licensee shall file a copy of the bond with the superintendent. The bond shall be for the exclusive benefit of any borrower injured by a violation by a licensee or any employee of a licensee, of any provision of sections 1321.35 to 1321.48 of the Revised Code.

Sec. 1321.38. (A) A license issued by the superintendent of financial institutions pursuant to sections 1321.35 to 1321.48 of the Revised Code shall state the address at which the business of making loans is to be conducted and shall state the full name of the business. Each license issued shall be conspicuously posted in the place of business and is not transferable or assignable.

(B)(1) Not more than one place of business shall be maintained under the same license issued under sections 1321.35 to 1321.48 of the Revised Code, but the superintendent may issue additional licenses to the same applicant upon compliance with those sections.

(2) No change in the place of business of a licensee to a location outside the original municipal corporation shall be permitted under the same license. When a licensee wishes to change its place of business within the same municipal corporation, written notice thereof shall be given in advance to the superintendent who shall provide without cost a license pursuant to sections 1321.35 to 1321.48 of the Revised Code for the new address.

Sec. 1321.39. A licensee under sections 1321.35 to 1321.48 of the

Revised Code may engage in the business of making loans provided that each loan meets all of the following conditions:

(A) The total amount of the loan does not exceed five hundred dollars.

(B) The duration of the loan, as specified in the loan contract required under division (C) of this section, is not less than thirty-one days.

(C) The loan is made pursuant to a written loan contract that sets forth the terms and conditions of the loan. A copy of the loan contract shall be provided to the borrower. The loan contract shall disclose in a clear and concise manner all of the following:

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

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

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

(4) A statement, printed in a minimum font size of ten points, which informs the borrower that complaints regarding the loan or lender may be submitted to the department of commerce division of financial institutions and includes the correct telephone number and mailing address for the department;

(5) Any disclosures required under the "Truth in Lending Act," 82 Stat. 146 (1974), 15 U.S.C. 1601, et seq.;

(6) The rate of interest contracted for under the loan contract as an annual percentage rate based on the sum of the principal of the loan and the loan origination fee, check collection charge, and all other fees or charges contracted for under the loan contract.

(D) The loan contract includes a provision that offers the borrower an optional extended payment plan that may be invoked by the borrower at any time before the maturity date of the loan. To invoke the extended payment plan, the borrower shall return to the office where the loan was made and sign an amendment to the original loan agreement reflecting the extended terms of the loan. The extended payment plan shall allow the borrower to repay the balance by not less than sixty days from the original maturity date. No additional fees or charges may be applied to the loan upon the borrower entering the extended payment plan. The person originating the loan for the licensee shall identify verbally to the borrower the contract provision regarding the extended payment plan, and the borrower shall verify that the provision has been identified by initialing the contract adjacent to the

provision.

Sec. 1321.40. A person licensed pursuant to sections 1321.35 to 1321.48 of the Revised Code may charge, collect, and receive the following fees and charges in connection with a short-term loan:

(A) Interest calculated in compliance with 15 U.S.C. 1606, and not exceeding an annual percentage rate greater than twenty-eight per cent;

(B) One check collection 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 (C) of section 1321.39 of the Revised Code;

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

Sec. 1321.41. No person licensed pursuant to sections 1321.35 to 1321.48 of the Revised Code shall do any of the following:

(A) Violate section 1321.36 of the Revised Code;

(B) Make a loan that does not comply with section 1321.39 of the Revised Code;

(C) Charge, collect, or receive, directly or indirectly, any additional fees, interest, or charges in connection with a loan, other than fees and charges permitted by section 1321.40 of the Revised Code and costs or disbursements to which the licensee may become entitled to by law in connection with any civil action to collect a loan after default;

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

(E) Make a short-term loan to a borrower if there exists an outstanding loan between the licensee and that borrower, if a loan between any licensee and that borrower was terminated on the same business day, if the borrower has more than one outstanding loan, if the loan would obligate the borrower to repay a total amount of more than five hundred dollars to licensees, or indebt the borrower, to licensees, for an amount that is more than twenty-five per cent of the borrowers gross monthly salary not including bonus, overtime, or other such compensation, based on a payroll verification statement presented by the borrower;

(F) Bring or threaten to bring an action or complaint against the borrower for the borrower's failure to comply with the terms of the loan contract solely due to the check, negotiable order of withdrawal, share draft, or negotiable instrument being returned or dishonored for insufficient funds. Nothing herein prohibits such conduct, action, or complaint if the borrower has intentionally engaged in fraud by, including but not limited to, closing or using any closed or false account to evade payment;

(G) Make a short-term loan to a borrower for purposes of retiring an existing short-term loan between any licensee and that borrower;

(H) Require the borrower to waive the borrower's right to legal recourse under any otherwise applicable provision of state or federal law;

(I) Accept the title of a vehicle, real property, physical assets, or other collateral as security for the obligation;

(J) Engage in any device or subterfuge to evade the requirements of sections 1321.35 to 1321.48 of the Revised Code including assisting a borrower to obtain a loan on terms that would be prohibited by sections 1321.35 to 1321.48 of the Revised Code, making loans disguised as personal property sales and leaseback transactions, or disguising loan proceeds as cash rebates for the pretextual installment sale of goods or services;

(K) Assess or charge a borrower a fee for prepaying the loan in full prior to the maturity date;

(L) Fail to comply with section 1321.45 of the Revised Code;

(M) Recommend to a borrower that the borrower obtain a loan for a dollar amount that is higher than the borrower has requested;

(N) Make a loan to a borrower that has received two loans within the previous ninety days from licensees, unless the borrower has completed during that period a financial literacy program approved by the superintendent;

(O) Draft funds electronically from any depository financial institution in this state, or bill any credit card issued by such an institution. Nothing in this division shall prohibit the conversion of a negotiable instrument into an electronic form for processing through the automated clearing house system.

(P) Make, publish, or otherwise disseminate, directly or indirectly, any misleading or false advertisement, or engage in any other deceptive trade practice;

(Q) Offer any incentive to a borrower in exchange for the borrower taking out multiple loans over any period of time, or provide a short-term loan at no charge or at a discounted charge as compensation for any previous or future business.

(R) Make a loan to a borrower if the borrower has received a total of four or more loans, from licensees, in the calendar year.

(S) Present a check, negotiable order of withdrawal, share draft, or other negotiable instrument, that has been previously presented by the licensee and subsequently returned or dishonored for any reason, without prior written approval from the borrower.

(T) Change the check number, or in any other way alter a check, negotiable order of withdrawal, or share draft, prior to submitting such check, negotiable order of withdrawal, or share draft for processing through the automated clearing house system, or submit false information about any check, negotiable order of withdrawal, or share draft to the automated clearing house system.

Sec. 1321.42. (A) The superintendent of financial institutions shall, in accordance with Chapter 119. of the Revised Code, suspend or revoke a license issued pursuant to sections 1321.35 to 1321.48 of the Revised Code, if the superintendent determines that either of the following applies:

(1) The licensee has failed to comply with any order issued by the superintendent pursuant to section 1321.43 of the Revised Code.

(2) Any fact or condition exists that if it had existed or had been known to exist at the time of original or renewal licensure pursuant to sections 1321.35 to 1321.48 of the Revised Code, the fact or condition clearly would have warranted the superintendent to refuse to issue a license pursuant to those sections.

(B) The superintendent may make any investigation and conduct any hearing the superintendent considers necessary to determine whether any person has violated sections 1321.35 to 1321.48 of the Revised Code, or any rule or order adopted or issued under section 1321.43 of the Revised Code, or has otherwise engaged in conduct that would justify the suspension, revocation, or refusal of an original or renewal license or the imposition of a fine.

The superintendent may impose a monetary fine of not more than one thousand dollars for each such violation.

(C) In making any investigation or conducting any hearing pursuant to this section, the superintendent, or any person designated by the superintendent, at any time may compel by subpoena witnesses, may take depositions of witnesses residing without the state in the manner provided for in civil actions, pay any witnesses the fees and mileage for their attendance provided for witnesses in civil actions, and administer oaths. The superintendent also may compel by order or subpoena duces tecum the production of, and examine, all relevant books, records, accounts, and other

documents. If a person does not comply with a subpoena or subpoena duces tecum, the superintendent may apply to the court of common pleas of Franklin county for an order compelling the person to comply with the subpoena or subpoena duces tecum or, for failure to do so, an order to be held in contempt of court.

(D) In connection with any investigation under this section, the superintendent may file an action in the court of common pleas of Franklin county or the court of common pleas of the county in which the person who is the subject of the investigation resides, or is engaging in or proposing to engage in actions in violation of sections 1321.35 to 1321.48 of the Revised Code, to obtain an injunction, temporary restraining order, or other appropriate relief.

Sec. 1321.421. As often as the superintendent considers it necessary, the superintendent may examine the records of a licensee, but in any case, the superintendent shall examine the records of a licensee at least annually.

Sec. 1321.422. (A) Every licensee shall keep and use in the licensee's business such books, accounts, records, and loan documents as will enable the division of financial institutions to determine whether the licensee is complying with sections 1321.35 to 1321.48 of the Revised Code and with the orders and rules made by the division under those sections. Such books, accounts, records, and loan documents shall be segregated from those pertaining to transactions that are not subject to sections 1321.35 to 1321.48 of the Revised Code. Every licensee shall preserve the books, accounts, records, and loan documents pertaining to loans made under sections 1321.35 to 1321.48 of the Revised Code for at least two years after making the final entry on, or final revision of any loan document relative to, any loan recorded therein. Accounting systems maintained in whole or in part by mechanical or electronic data processing methods that provide information equivalent to that otherwise required are acceptable for this purpose.

(B)(1) As required by the superintendent of financial institutions, each licensee shall file with the division each year a report under oath or affirmation, on forms supplied by the division, concerning the business and operation for the preceding calendar year. If a licensee has more than one place of business in this state, the licensee shall furnish a report for each location.

(2) The division shall publish annually an analysis of the information required under division (B)(1) of this section, but the individual reports shall not be public records and shall not be open to public inspection.

Sec. 1321.43. The superintendent of financial institutions, in accordance with Chapter 119. of the Revised Code, may adopt rules and issue specific

orders to enforce and carry out the purposes of sections 1321.35 to 1321.48 of the Revised Code. The superintendent shall issue a rule defining "senior officer" for the purpose of section 1321.37 of the Revised Code. The superintendent may adopt, amend, and repeal substantive rules defining with reasonable specificity acts or practices that violate section 1321.45 of the Revised Code.

Sec. 1321.44. (A) A violation of section 1321.41 of the Revised Code is deemed an unfair or deceptive act or practice in violation of section 1345.02 of the Revised Code. A borrower injured by a violation of section 1321.41 of the Revised Code shall have a cause of action and be entitled to the same relief available to a consumer under section 1345.09 of the Revised Code, and all powers and remedies available to the attorney general to enforce sections 1345.01 to 1345.13 of the Revised Code are available to the attorney general to enforce section 1321.41 of the Revised Code.

(B) The superintendent of financial institutions or a borrower may bring directly an action to enjoin a violation of sections 1321.35 to 1321.48 of the Revised Code. The prosecuting attorney of the county in which the action may be brought may bring an action to enjoin a violation of sections 1321.35 to 1321.48 of the Revised Code only if the prosecuting attorney first presents any evidence of the violation to the attorney general and, within a reasonable period of time, the attorney general has not agreed to bring the action.

(C) The superintendent may initiate criminal proceedings under sections 1321.35 to 1321.48 of the Revised Code by presenting any evidence of criminal violation to the prosecuting attorney of the county in which the offense may be prosecuted. If the prosecuting attorney does not prosecute the violations, or at the request of the prosecuting attorney, the superintendent shall present any evidence of criminal violations to the attorney general, who may proceed in the prosecution with all the rights, privileges, and powers conferred by law on prosecuting attorneys, including the power to appear before grand juries and to interrogate witnesses before such grand juries. These powers of the attorney general are in addition to any other applicable powers of the attorney general.

(D) The prosecuting attorney of the county in which an alleged offense may be prosecuted may initiate criminal proceedings under sections 1321.35 to 1321.48 of the Revised Code.

(E) In order to initiate criminal proceedings under sections 1321.35 to 1321.48 of the Revised Code, the attorney general first shall present any evidence of criminal violations to the prosecuting attorney of the county in which the alleged offense may be prosecuted. If, within a reasonable period

of time, the prosecuting attorney has not agreed to prosecute the violations, the attorney general may proceed in the prosecution with all the rights, privileges, and powers described in division (B) of this section.

(F) When a judgment under this section becomes final, the clerk of court shall mail a copy of the judgment, including supporting opinions, to the superintendent.

Sec. 1321.45. (A) As used in this section:

(1) "Debt collector" means a licensee, officer, employee, or agent of a licensee, or any person acting as a debt collector for a licensee, or any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt resulting from a short-term loan made by a licensee.

(2) "Borrower" means a person who has an outstanding or delinquent short-term loan. For the purpose of this section, the term "borrower" includes the borrower's spouse, parent, if the borrower is a minor, guardian, executor, or administrator.

(3) "Communication" means the conveying of information regarding a debt directly or indirectly to any person through any medium.

(4) "Consumer reporting agency" means any person that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties and that uses any means or facility for the purpose of preparing or furnishing consumer reports.

(5) "Location information" means a consumer's residence, telephone number, or place of employment.

(B) When communicating with any person other than the borrower for the purpose of acquiring location information about the borrower, the debt collector shall identify self, state that the purpose for the communication is to confirm or correct location information concerning a person, and, only if expressly requested, identify the debt collector's employer. The debt collector shall not do any of the following:

(1) State that the person for whom location information is being sought is a borrower or owes any debt;

(2) Communicate with any person more than once unless requested to do so by such person or unless the debt collector reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has correct or complete location information;

(3) Communicate by post card;

(4) Use any language or symbol on any envelope or in the contents of

any communication effected by the mails or telegram that indicates that the communication relates to the collection of a debt;

(5) After the debt collector knows the borrower is represented by an attorney with regard to the subject debt and has knowledge of, or can readily ascertain, such attorney's name and address, not communicate with any person other than that attorney, unless the attorney fails to respond within a reasonable period of time to communication from the debt collector.

(C) A debt collector, without the prior consent of the borrower given directly to the debt collector or without the express permission of a court of competent jurisdiction, may not communicate with a borrower in connection with the collection of any debt:

(1) At any unusual time or place or a time or place known or which should be known to be inconvenient to the borrower. In the absence of knowledge of circumstances to the contrary, a debt collector shall assume that the convenient time for communicating with a borrower is after eight a.m. eastern standard time and before nine p.m. eastern standard time at the borrower's location.

(2) If the debt collector knows the borrower is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector or unless the attorney consents to direct communication with the borrower;

(3) At the borrower's place of employment if the debt collector knows or has reason to know that the borrower's employer prohibits the borrower from receiving such communication.

(D) A debt collector, when communicating with a third party without the prior consent of the borrower given directly to the debt collector, or without the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a postjudgment judicial remedy, may not communicate, in connection with the collection of any debt, with any person other than the borrower, the borrower's attorney, a consumer reporting agency if otherwise permitted by law, or the attorney of the debt collector.

(E) If a borrower provides written notification, to a person licensed under section 1321.35 to 1321.48 of the Revised Code or a debt collector, that the borrower refuses to pay a debt or that the borrower wishes the debt collector to cease further communication with the borrower, the debt collector shall not communicate further with the borrower with respect to such debt, except:

(1) To advise the borrower that the debt collector's further efforts are

being terminated:

(2) To notify the borrower that the debt collector or licensee may invoke specified remedies that are ordinarily invoked by such debt collector or licensee;

(3) Where applicable, to notify the borrower that the debt collector or licensee intends to invoke a specified remedy. If such notice from the borrower is made by mail, notification shall be complete upon receipt.

(F) A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt, including, but not limited to, any of the following:

(1) Using or threatening to use violence or other criminal means to harm the physical person, reputation, or property of any person;

(2) Using obscene or profane language or language the natural consequence of which is to abuse the hearer or reader;

(3) Publication of a list of borrowers who allegedly refuse to pay debts, except to a consumer-reporting agency;

(4) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

(G) A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt, including, but not limited to, any of the following:

(1) Falsely representing or implying that the debt collector is vouched for, bonded by, or affiliated with the United States or any state, including the use of any badge, uniform, or facsimile thereof;

(2) Falsely representing the character, amount, or legal status of any debt, or any services rendered, or compensation which may be lawfully received by any debt collector for the collection of a debt;

(3) Falsely representing or implying that any individual is an attorney or that any communication is from an attorney;

(4) Representing or implying that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector intends to take such action;

(5) Threatening to take any action that cannot legally be taken or that is not intended to be taken;

(6) Falsely representing or implying that a sale, referral, or other transfer of any interest in a debt shall cause the borrower to lose any claim or defense to payment of the debt;

(7) Falsely representing or implying that the borrower committed any crime or other conduct in order to disgrace the borrower;

(8) Communicating or threatening to communicate to any person credit information that is known or that should be known to be false, including the failure to communicate that a disputed debt is disputed;

(9) Using or distributing any written communication that simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or any state, or that creates a false impression as to its source, authorization, or approval;

(10) Using any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a borrower;

(11) Failing to disclose in the initial written communication with the borrower, and in addition, if the initial communication with the borrower is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector, except that division (G)(11) of this section shall not apply to a formal pleading made in connection with a legal action;

(12) Falsely representing or implying that accounts have been turned over to innocent purchasers for value;

(13) Falsely representing or implying that documents are legal process;

(14) Using any business, company, or organization name other than the true name of the debt collector's business, company, or organization;

(15) Falsely representing or implying that documents are not legal process forms or do not require action by the consumer;

(16) Falsely representing or implying that a debt collector operates or is employed by a consumer reporting agency.

(H) A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt, including, but not limited to, any of the following:

(1) Collecting any amount, including any interest, fee, charge, or expense incidental to the principal obligation, unless the amount is expressly authorized by the agreement creating the debt or permitted by law;

(2) Accepting from any person a check or other payment instrument postdated by more than five days unless the person is notified in writing of the debt collector's intent to deposit the check or instrument not more than ten nor less than three business days prior to deposit;

(3) Soliciting any postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution;

(4) Depositing or threatening to deposit any postdated check or other postdated payment instrument prior to the date on the check or instrument;

(5) Causing charges to be made to any person for communications by concealment of the true purpose of the communication. The charges include, but are not limited to, collect telephone calls and telegram fees;

(6) Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if there is no present right to possession of the property claimed as collateral through an enforceable security interest, there is no present intention to take possession of the property, or the property is exempt by law from dispossession or disablement;

(7) Communicating with a borrower regarding a debt by post card;

(8) Using any language or symbol, other than the debt collector's address, on any envelope when communicating with a borrower by use of the mails or by telegram, except that a debt collector may use the collector's business name if the name does not indicate that the collector is in the debt collection business;

(9) Designing, compiling, and furnishing any form knowing that the form would be used to create the false belief in a borrower that a person other than the licensee is participating in the collection of or in an attempt to collect a debt the borrower allegedly owes the creditor, when in fact the person is not so participating.

(I) In addition to the requirements of this section, a debt collector shall follow the practices set forth in the federal "Fair Debt Collection Practices Act," 91 Stat. 874 (1977), sections 15 U.S.C. 1692b, 15 U.S.C. 1692c, 15 U.S.C. 1692d, 15 U.S.C. 1692e, and 15 U.S.C. 1692f, as those sections of federal law exist on the effective date of this section. In the event of a conflict between described practices in the federal act and described practices in this section, this section shall prevail.

Sec. 1321.46. (A) If more than four hundred persons are licensed under sections 1321.35 to 1321.48 of the Revised Code at any point after September 1, 2009, the superintendent of financial institutions shall develop and make a statewide common database, as implemented by the superintendent, accessible at all times to persons licensed under sections 1321.35 to 1321.48 of the Revised Code and to the superintendent through an internet connection. Licensees shall use the database to determine if a borrower is eligible for a loan. Licensees shall submit the required data in a format as the superintendent prescribes by rule, and verify eligibility before entering into each loan transaction.

(B) If a statewide common database is developed pursuant to division

(A) of this section, the superintendent shall adopt rules to administer and enforce this section and to ensure that the database is used by licensees in accordance with this section, including:

(1) A rule requiring that data are retained in the database only as required to ensure licensee compliance with this section;

(2) A rule requiring that identifying borrower information is deleted from the database on a regular and routine basis, twelve months after the transaction is closed;

(3) A rule authorizing the archiving of deleted data, should the superintendent determine that archiving is necessary for the enforcement of this section;

(4) A rule prohibiting the database from ranking the credit worthiness of a borrower and limiting the database so that it may only be used to determine a borrower's eligibility or ineligibility for a loan based on the provisions of this chapter;

(5) A rule requiring that data collected pursuant to this section be used only as prescribed in this section and for no other purpose;

(6) A rule authorizing the database operator to impose a per transaction fee to be paid by the licensee for data required to be submitted;

(7) A rule prohibiting the database operator from including, in the database, the social security number of any borrower.

(C) The database operator, whether the superintendent or a third party selected by the superintendent pursuant to Chapter 125. of the Revised Code, shall do all of the following:

(1) Establish and maintain a process for responding to transaction verification requests due to technical difficulties with the database that prevent the licensee from accessing the database through the internet;

(2) Provide accurate and secure receipt, transmission, and storage of borrower data;

(3) Designate a transaction as closed within one business day of receiving notification from a licensee;

(4) Take all reasonable measures to ensure the confidentiality of the database and to prevent identity theft.

(D) A licensee may rely on the information contained in the database as accurate and is not subject to any administrative penalty or civil liability as a result of relying on inaccurate information contained in the database.

(E) With respect to the database prescribed in division (A) of this section, any information submitted for incorporation into the database, information in the database itself, or archived information as maintained by the superintendent pursuant to this section is not a public record under

section 149.43 of the Revised Code.

(F) If approved by the superintendent, the database operator may impose a per transaction fee for the actual costs of entering, accessing, and maintaining data in the database. The fee shall be payable to the database operator in a manner prescribed by the superintendent. A licensee may not charge a customer all or part of the fee.

Sec. 1321.461. (A) If a statewide common database is not developed under section 1321.46 of the Revised Code, each licensee shall subscribe to, report to, and use an electronic database tracking service that permits the licensee to determine whether the borrower has an outstanding unpaid check or debit authorization that is, or reasonably appears to be, connected to a short-term loan. In the absence of an electronic database tracking service, each licensee shall require a borrower to sign a written declaration confirming that, pursuant to section 1321.41 of the Revised Code, the borrower is eligible to receive a loan.

(B) The records of a licensee and any electronic database tracking service shall be subject to review and examination by the division of financial institutions to determine whether the licensee is complying with this section and other applicable provisions of sections 1321.35 to 1321.48 of the Revised Code.

Sec. 1321.47. (A) A person licensed, and any person required to be licensed under sections 1321.35 to 1321.48 of the Revised Code, in addition to duties imposed by other statutes or common law, shall do all of the following:

- (1) Follow reasonable and lawful instructions from the borrower;
- (2) Act with reasonable skill, care, and diligence;
- (3) Act in good faith and fair dealing in any transaction or practice or course of business in connection with a short-term loan.

(B) The duties and standards of care created in this section may not be waived or modified.

(C) A borrower injured by a violation of this section may bring an action for recovery of damages. Damages awarded shall not be less than all compensation paid directly or indirectly to a licensee from any source, plus reasonable attorney's fees and court costs. The borrower may be awarded punitive damages.

Sec. 1321.48. (A) The superintendent of financial institutions shall report semiannually to the governor and the general assembly on the operations of the division of financial institutions with respect to the following:

- (1) Enforcement actions instituted by the superintendent for a violation

of or failure to comply with any provision of sections 1321.35 to 1321.48 of the Revised Code, and the final dispositions of each such enforcement action;

(2) Suspensions, revocations, or refusals to issue or renew licenses under sections 1321.35 to 1321.48 of the Revised Code.

(B) The information required under divisions (A)(1) and (2) of this section does not include information that, pursuant to division (C) of this section, is confidential.

(C) The following information is confidential:

(1) Examination information, and any information leading to or arising from an examination;

(2) Investigation information, and any information arising from or leading to an investigation.

(D) The information described in division (A)(1) of this section shall remain confidential for all purposes except when it is necessary for the superintendent to take official action regarding the affairs of a licensee, or in connection with criminal or civil proceedings to be initiated by a prosecuting attorney or the attorney general. This information also may be introduced into evidence or disclosed when, and in the manner, authorized by section 1181.25 of the Revised Code.

(E) All application information, except social security numbers, employer identification numbers, financial account numbers, the identity of the institution where financial accounts are maintained, personal financial information, fingerprint cards and the information contained on such cards, and criminal background information, is a public record as defined in section 149.43 of the Revised Code.

(F) This section does not prevent the division from releasing information relating to licensees to the attorney general for purposes of that office's administration of Chapter 1345. of the Revised Code. Information the division releases to the attorney general pursuant to this section remains privileged and confidential, and the attorney general may not disclose the information except by introduction into evidence in connection with the attorney general's administration of Chapter 1345. of the Revised Code or as authorized by the superintendent.

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

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

(C) Whoever violates section 1321.14 of the Revised Code shall be

fined not less than fifty nor more than two hundred dollars for a first offense; for a second offense such person shall be fined not less than two hundred nor more than five hundred dollars and imprisoned for not more than six months.

(D) Whoever willfully violates section 1321.57, 1321.58, 1321.59, or 1321.60 of the Revised Code shall be fined not less than one nor more than five hundred dollars.

(E) Whoever violates section 1321.52 of the Revised Code is guilty of a felony of the fifth degree.

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

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

Sec. 1345.01. As used in sections 1345.01 to 1345.13 of the Revised Code:

(A) "Consumer transaction" means a sale, lease, assignment, award by chance, or other transfer of an item of goods, a service, a franchise, or an intangible, to an individual for purposes that are primarily personal, family, or household, or solicitation to supply any of these things. "Consumer transaction" does not include transactions between persons, defined in sections 4905.03 and 5725.01 of the Revised Code, and their customers, except for transactions involving a loan made pursuant to sections 1321.35 to 1321.48 of the Revised Code and transactions in connection with residential mortgages between loan officers, mortgage brokers, or nonbank mortgage lenders and their customers; transactions between certified public accountants or public accountants and their clients; transactions between attorneys, physicians, or dentists and their clients or patients; and transactions between veterinarians and their patients that pertain to medical treatment but not ancillary services.

(B) "Person" includes an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, cooperative, or other legal entity.

(C) "Supplier" means a seller, lessor, assignor, franchisor, or other person engaged in the business of effecting or soliciting consumer transactions, whether or not the person deals directly with the consumer. If the consumer transaction is in connection with a residential mortgage, "supplier" does not include an assignee or purchaser of the loan for value, except as otherwise provided in section 1345.091 of the Revised Code. For purposes of this division, in a consumer transaction in connection with a

residential mortgage, "seller" means a loan officer, mortgage broker, or nonbank mortgage lender.

(D) "Consumer" means a person who engages in a consumer transaction with a supplier.

(E) "Knowledge" means actual awareness, but such actual awareness may be inferred where objective manifestations indicate that the individual involved acted with such awareness.

(F) "Natural gas service" means the sale of natural gas, exclusive of any distribution or ancillary service.

(G) "Public telecommunications service" means the transmission by electromagnetic or other means, other than by a telephone company as defined in section 4927.01 of the Revised Code, of signs, signals, writings, images, sounds, messages, or data originating in this state regardless of actual call routing. "Public telecommunications service" excludes a system, including its construction, maintenance, or operation, for the provision of telecommunications service, or any portion of such service, by any entity for the sole and exclusive use of that entity, its parent, a subsidiary, or an affiliated entity, and not for resale, directly or indirectly; the provision of terminal equipment used to originate telecommunications service; broadcast transmission by radio, television, or satellite broadcast stations regulated by the federal government; or cable television service.

(H) "Loan officer" has the same meaning as in section 1322.01 of the Revised Code, except that it does not include an employee of a bank, savings bank, savings and loan association, credit union, or credit union service organization organized under the laws of this state, another state, or the United States; an employee of a subsidiary of such a bank, savings bank, savings and loan association, or credit union; or an employee of an affiliate that (1) controls, is controlled by, or is under common control with, such a bank, savings bank, savings and loan association, or credit union and (2) is subject to examination, supervision, and regulation, including with respect to the affiliate's compliance with applicable consumer protection requirements, by the board of governors of the federal reserve system, the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, or the national credit union administration.

(I) "Residential mortgage" or "mortgage" means an obligation to pay a sum of money evidenced by a note and secured by a lien upon real property located within this state containing two or fewer residential units or on which two or fewer residential units are to be constructed and includes such an obligation on a residential condominium or cooperative unit.

(J) "Mortgage broker" has the same meaning as in section 1322.01 of

the Revised Code, except that it does not include a bank, savings bank, savings and loan association, credit union, or credit union service organization organized under the laws of this state, another state, or the United States; a subsidiary of such a bank, savings bank, savings and loan association, or credit union; an affiliate that (1) controls, is controlled by, or is under common control with, such a bank, savings bank, savings and loan association, or credit union and (2) is subject to examination, supervision, and regulation, including with respect to the affiliate's compliance with applicable consumer protection requirements, by the board of governors of the federal reserve system, the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, or the national credit union administration; or an employee of any such entity.

(K) "Nonbank mortgage lender" means any person that engages in a consumer transaction in connection with a residential mortgage, except for a bank, savings bank, savings and loan association, credit union, or credit union service organization organized under the laws of this state, another state, or the United States; a subsidiary of such a bank, savings bank, savings and loan association, or credit union; or an affiliate that (1) controls, is controlled by, or is under common control with, such a bank, savings bank, savings and loan association, or credit union and (2) is subject to examination, supervision, and regulation, including with respect to the affiliate's compliance with applicable consumer protection requirements, by the board of governors of the federal reserve system, the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, or the national credit union administration.

(L) For purposes of divisions (H), (J), and (K) of this section:

(1) "Control" of another entity means ownership, control, or power to vote twenty-five per cent or more of the outstanding shares of any class of voting securities of the other entity, directly or indirectly or acting through one or more other persons.

(2) "Credit union service organization" means a CUSO as defined in 12 C.F.R. 702.2.

Sec. 1349.71. (A) There is hereby created a consumer finance education board, consisting of the following twelve members, ~~appointed jointly by the governor, the speaker of the house of representatives, and the president of the senate with the advice and consent of the house and senate. One member shall be appointed from, or as a representative of, each of the following:~~

(1) ~~The~~ An employee of the Ohio attorney general's office, appointed by the governor;

(2) ~~The~~ An employee of the department of commerce, appointed by the

governor;

(3) ~~The~~ An employee of the Ohio housing finance agency, appointed by the governor;

(4) A representative of Ohio minority advocacy groups, appointed by the governor;

(5) ~~The~~ A member of the Ohio bankers league, appointed by the speaker of the house of representatives;

(6) ~~The~~ A member of the Ohio mortgage bankers association, appointed by the speaker of the house of representatives;

(7) ~~The~~ A member of the Ohio credit union league, appointed by the speaker of the house of representatives;

(8) A member of the Ohio community bankers association, appointed by the speaker of the house of representatives;

(9) ~~The~~ A representative of the Ohio real estate industry, appointed by the president of the senate;

(10) ~~The~~ A member of the Ohio mortgage brokers association, appointed by the president of the senate;

(11) ~~The~~ A representative of the financial services industry, appointed by the president of the senate;

(12) ~~Consumer~~ A representative of consumer advocacy organizations, appointed by the president of the senate.

(B) Geographically diverse representation of the state shall be considered in making appointments. Of the initial appointments to the board, four shall be for a term ending December 31, 2008, four shall be for a term ending December 31, 2009, and four shall be for a term ending December 31, 2010. Thereafter, terms of office are for three years, commencing on the first day of January and ending on the thirty-first day of December. Each member shall hold office from the date of the member's appointment until the end of the term for which the member is appointed. Prior to assuming the duties of office, each member shall subscribe to, and file with the secretary of state, the constitutional oath of office. Vacancies that occur on the board shall be filled in the manner prescribed for regular appointments to the board. A member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that predecessor's term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until sixty days have elapsed, whichever occurs first. No person shall serve as a member of the board for more than two consecutive terms. The governor may remove a member pursuant to section 3.04 of the Revised Code.

(C) Annually, upon the qualification of the members appointed in that year, the board shall organize by selecting from its members a chairperson. The board shall meet at least once each calendar quarter to conduct its business with the place of future meetings to be decided by a vote of its members. Each member shall be provided with written notice of the time and place of each board meeting at least ten days prior to the scheduled date of the meeting. A majority of the members of the board constitutes a quorum to transact and vote on all business coming before the board.

(D)(1) The governor shall call the first meeting of the consumer finance education board. At that meeting, and annually thereafter, the board shall elect a chairperson for a one-year term and may elect members to other positions on the board as the board considers necessary or appropriate.

(2) Each member of the board shall receive an amount fixed pursuant to division (J) of section 124.15 of the Revised Code for each day employed in the discharge of the member's official duties, and the member's actual and necessary expenses incurred in the discharge of those duties.

(E) The board may obtain services from any state agency, including, but not limited to, the department of commerce or its successor agency.

(F) The board shall assemble an advisory committee of representatives from the following organizations or groups for the purpose of receiving recommendations on policy, rules, and activities of the board:

- (1) The department of aging;
- (2) The department of rehabilitation and correction;
- (3) The department of development;
- (4) The department of job and family services;
- (5) The Ohio treasurer of state's office;
- (6) The county treasurers association of Ohio;
- (7) Ohio college professors;
- (8) Ohio university professors;
- (9) The Ohio board of regents;
- (10) The Ohio community development corporations association;
- (11) The Ohio council for economic education;
- (12) The Ohio state university extension service.

Sec. 1349.72. (A) In addition to any other duties imposed on the consumer finance education board by section 1349.71 of the Revised Code, the board shall:

(1) Analyze and investigate, on its own initiative, the policies and practices of state agencies, nonprofit entities, and businesses, inasmuch as such policies and practices address financial literacy, access by state residents to financial information, education, and resources, prevention of

foreclosures and bankruptcies, ~~and~~ prepurchase and postpurchase counseling and education for homebuyers, and small loan counseling and education for borrowers;

(2) Provide an annual report and consultation and recommendations to the governor, the general assembly, state agencies, nonprofit entities, and businesses based on the board's findings;

(3) Coordinate and provide resources and assistance to state agencies, nonprofit entities, and businesses in the furtherance of those entities' efforts to improve financial literacy, access by state residents to financial information, education, and resources, prevention of foreclosures and bankruptcies, ~~and~~ prepurchase and postpurchase counseling and education for homebuyers, and small loan counseling and education for borrowers.

(4) Provide financial assistance to Ohioans through grants funded through the consumer finance fund created under section 1321.21 of the Revised Code and utilize these same funds to provide grants to design, develop, and implement any other programs described in this section.

(5) Receive grants from the consumer finance fund for the implementation of this section.

(B) The board may assign and delegate the execution of its duties to smaller groups of its own members, which shall include committees specifically chartered to address all of the following issues:

(1) The needs of persons, ages eighteen to twenty-five, in the context of the objectives enumerated in division (A) of this section;

(2) The needs of persons, classified as needy, based on a household adjusted gross income equal to or less than two hundred per cent of the poverty level, as determined by the Ohio office of budget and management, or the earned income amount described in section thirty-two of the Internal Revenue Code of 1986, taking into account the size of the household, in the context of the objectives enumerated in division (A) of this section;

(3) The needs of persons, previously convicted of one or more felonies, in the context of the objectives enumerated in division (A) of this section;

(4) The needs of persons, characterized as vulnerable by reason of advanced age, disability, minority, or other demographic consideration, in the context of the objectives enumerated in division (A) of this section;

(5) Any other group or issue identified by the board as worthy of particular attention.

(C) The board shall create a pilot financial literacy and counseling program funded through the consumer finance fund, to be operated in the five counties with the highest mortgage foreclosure rates as of ~~the effective date of this section~~ the effective date of this amendment, and completion of

which shall be recommended by mortgage brokers and loan officers for any consumer seeking a mortgage loan with origination fees greater than five per cent. Before a mortgage broker permits a consumer to commit to such a loan, the broker shall notify the consumer that the loan may have attributes that are predatory. No person who offers education, advice, or counseling through the financial literacy and counseling program shall be held liable for any damages incurred from actions taken based on the education, advice, or counseling given.

Sec. 1733.25. (A) A credit union may make loans or other extensions of credit to members for provident and productive purposes as authorized by law, including rules adopted by the superintendent of credit unions; the articles; and the regulations; and subject to policies adopted by the credit committee and approved by the board of directors.

(B) Upon the approval of the board of directors, a credit union may make loans or other extensions of credit to other credit unions, provided that loans or other extensions of credit made to other credit unions need not have the approval of the board of directors on a per case basis. The total of all such loans or other extensions of credit, including the aggregate of all money paid into any trust established by one or more credit unions for the purpose of making loans or other extensions of credit to other credit unions, shall not exceed twenty-five per cent of the shares and undivided earnings of the lending credit union, except that this percentage limitation does not apply to corporate credit unions.

(C) The interest on any loan or other extension of credit made by a credit union shall not exceed one and one-half per cent per month on unpaid balances. Such interest may accrue and be chargeable upon a monthly basis, and may be computed upon the unpaid balance of the loan or other extension of credit as of the end of the previous calendar month.

Such interest may be accrued and charged by any technique approved by the superintendent so long as the effective interest rate on any loan or other extension of credit does not exceed the amount permitted to be charged by the computation authorized in this division.

(D) A credit union may accept security in such form and under rules as shall be set forth in the articles, the regulations, or established by the credit committee and approved by the board of directors.

(E)(1) The credit union shall have a lien on the membership share, shares, deposits, and accumulated dividends and interest of a member in an individual, joint, trust, or payable on death account for any obligation owed to the credit union by that member or for any loan co-signed or guaranteed by the member or account holder; provided, however, that a credit union

shall not have a lien upon the funds in an individual retirement account or an account established pursuant to the Internal Revenue Code of the United States.

(2) A credit union may refuse to allow withdrawals from any share or deposit account by a member while the member has any outstanding obligation to the credit union.

~~(F) Notwithstanding any limitation provided in any other provision of this chapter or Chapter 1343. of the Revised Code, a credit union may enter into a loan agreement with a member in accordance with all of the following:~~

~~(1) The loan is for any amount up to one thousand dollars.~~

~~(2) The term of the loan is thirty days or less.~~

~~(3) The credit union may charge a fee in addition to any interest authorized by law in connection with the loan, which fee is not to be included in the computation of interest for any provision of the Revised Code, including division (C) of this section, that prescribes, regulates, or limits interest charged, collected, or received in connection with a transaction.~~

~~(4) The total interest, fees, and other costs of the loan does not exceed ten per cent of the principal amount.~~

~~(5) A member shall not have more than one loan under division (F) of this section outstanding at any one time with the credit union.~~

~~(6) The loan is not being made to a member for purposes of retiring an existing loan between the credit union and that member, which existing loan was made pursuant to division (F) of this section.~~

~~(G)~~(1) Subject to division ~~(G)~~(F)(2) of this section and any restrictions or requirements established by the superintendent, in connection with any loan or extension of credit, a credit union may enter into a debt suspension agreement or debt cancellation contract with the borrower or borrowers.

(2) A credit union shall not offer or finance, directly or indirectly, a debt suspension agreement or debt cancellation contract requiring a lump sum, single payment for the agreement or contract payable at the outset of the agreement or contract, if the debt subject to the agreement or contract is secured by one to four family, residential real property.

(3) For purposes of division ~~(G)~~(F) of this section, "debt cancellation contract" and "debt suspension agreement" have the same meanings as in 12 C.F.R. part 37.

Sec. 2307.61. (A) If a property owner brings a civil action pursuant to division (A) of section 2307.60 of the Revised Code to recover damages from any person who willfully damages the owner's property or who

commits a theft offense, as defined in section 2913.01 of the Revised Code, involving the owner's property, the property owner may recover as follows:

(1) In the civil action, the property owner may elect to recover moneys as described in division (A)(1)(a) or (b) of this section:

(a) Compensatory damages that may include, but are not limited to, the value of the property and liquidated damages in whichever of the following amounts applies:

(i) Fifty dollars, if the value of the property was fifty dollars or less at the time it was willfully damaged or was the subject of a theft offense;

(ii) One hundred dollars, if the value of the property was more than fifty dollars, but not more than one hundred dollars, at the time it was willfully damaged or was the subject of a theft offense;

(iii) One hundred fifty dollars, if the value of the property was more than one hundred dollars at the time it was willfully damaged or was the subject of a theft offense.

(b) Liquidated damages in whichever of the following amounts is greater:

(i) Two hundred dollars;

(ii) Three times the value of the property at the time it was willfully damaged or was the subject of a theft offense, irrespective of whether the property is recovered by way of replevin or otherwise, is destroyed or otherwise damaged, is modified or otherwise altered, or is resalable at its full market price. This division does not apply to a check, negotiable order of withdrawal, share draft, or other negotiable instrument that was returned or dishonored for insufficient funds by a financial institution if the check, negotiable order of withdrawal, share draft, or other negotiable instrument was presented by an individual borrower to a ~~check-cashing business licensed pursuant to licensee under sections 1315.35 to 1315.44~~ 1321.35 to 1321.48 of the Revised Code for a ~~check-cashing~~ loan transaction.

(2) In a civil action in which the value of the property that was willfully damaged or was the subject of a theft offense is less than five thousand dollars, the property owner may recover damages as described in division (A)(1)(a) or (b) of this section and additionally may recover the reasonable administrative costs, if any, of the property owner that were incurred in connection with actions taken pursuant to division (A)(2) of this section, the cost of maintaining the civil action, and reasonable attorney's fees, if all of the following apply:

(a) The property owner, at least thirty days prior to the filing of the civil action, serves a written demand for payment of moneys as described in division (A)(1)(a) of this section and the reasonable administrative costs, if

any, of the property owner that have been incurred in connection with actions taken pursuant to division (A)(2) of this section, upon the person who willfully damaged the property or committed the theft offense.

(b) The demand conforms to the requirements of division (C) of this section and is sent by certified mail, return receipt requested.

(c) Either the person who willfully damaged the property or committed the theft offense does not make payment to the property owner of the amount specified in the demand within thirty days after the date of its service upon that person and does not enter into an agreement with the property owner during that thirty-day period for that payment or the person who willfully damaged the property or committed the theft offense enters into an agreement with the property owner during that thirty-day period for that payment but does not make that payment in accordance with the agreement.

(B) If a property owner who brings a civil action pursuant to division (A) of section 2307.60 of the Revised Code to recover damages for willful damage to property or for a theft offense attempts to collect the reasonable administrative costs, if any, of the property owner that have been incurred in connection with actions taken pursuant to division (A)(2) of this section, the cost of maintaining the civil action, and reasonable attorney's fees under authority of that division and if the defendant prevails in the civil action, the defendant may recover from the property owner reasonable attorney's fees, the cost of defending the civil action, and any compensatory damages that may be proven.

(C) For purposes of division (A)(2) of this section, a written demand for payment shall include a conspicuous notice to the person upon whom the demand is to be served that indicates all of the following:

(1) The willful property damage or theft offense that the person allegedly committed;

(2) That, if the person makes payment of the amount specified in the demand within thirty days after its service upon the person or enters into an agreement with the property owner during that thirty-day period for that payment and makes that payment in accordance with the agreement, the person cannot be sued by the property owner in a civil action in relation to the willful property damage or theft offense;

(3) That, if the person fails to make payment of the amount specified in the demand within thirty days after the date of its service upon the person and fails to enter into an agreement for that payment with the property owner during that thirty-day period or enters into an agreement for that payment with the property owner during that thirty-day period but does not

make that payment in accordance with the agreement, the person may be sued in a civil action in relation to the willful property damage or theft offense;

(4) The potential judgment that the person may be required to pay if the person is sued in a civil action in relation to the willful property damage or theft offense and judgment is rendered against the person in that civil action;

(5) That, if the person is sued in a civil action by the property owner in relation to the willful property damage or theft offense, if the civil action requests that the person be required to pay the reasonable administrative costs, if any, of the property owner that have been incurred in connection with actions taken pursuant to division (A)(2) of this section, the cost of maintaining the action, and reasonable attorney's fees, and if the person prevails in the civil action, the person may recover from the property owner reasonable attorney's fees, the cost of defending the action, and any compensatory damages that can be proved.

(D) If a property owner whose property was willfully damaged or was the subject of a theft offense serves a written demand for payment upon a person who willfully damaged the property or committed the theft offense and if the person makes payment of the amount specified in the demand within thirty days after the date of its service upon the person or the person enters into an agreement with the property owner during that thirty-day period for that payment and makes payment in accordance with the agreement, the property owner shall not file a civil action against the person in relation to the willful property damage or theft offense.

(E) If a property owner whose property was willfully damaged or was the subject of a theft offense serves a written demand for payment upon a person who willfully damaged the property or committed the theft offense and if the person, within thirty days after the date of service of the demand upon the person, enters into an agreement with the property owner for the payment of the amount specified in the demand but does not make that payment in accordance with the agreement, the time between the entering of the agreement and the failure to make that payment shall not be computed as any part of the period within which a civil action based on the willful property damage or theft offense must be brought under the Revised Code.

(F) A civil action to recover damages for willful property damage or for a theft offense may be joined with a civil action that is brought pursuant to Chapter 2737. of the Revised Code to recover the property. If the two actions are joined, any compensatory damages recoverable by the property owner shall be limited to the value of the property.

(G)(1) In a civil action to recover damages for willful property damage

or for a theft offense, the trier of fact may determine that an owner's property was willfully damaged or that a theft offense involving the owner's property has been committed, whether or not any person has pleaded guilty to or has been convicted of any criminal offense or has been adjudicated a delinquent child in relation to any act involving the owner's property.

(2) This section does not affect the prosecution of any criminal action or proceeding or any action to obtain a delinquent child adjudication in connection with willful property damage or a theft offense.

(H) As used in this section:

(1) "Administrative costs" includes the costs of written demands for payment and associated postage under division (A)(2) of this section.

(2) "Value of the property" means one of the following:

(a) The retail value of any property that is offered for sale by a mercantile establishment, irrespective of whether the property is destroyed or otherwise damaged, is modified or otherwise altered, or otherwise is not resalable at its full market price;

(b) The face value of any check or other negotiable instrument that is not honored due to insufficient funds in the drawer's account, the absence of any drawer's account, or another reason, and all charges imposed by a bank, savings and loan association, credit union, or other financial institution upon the holder of the check or other negotiable instrument;

(c) The replacement value of any property not described in division (H)(1) or (2) of this section.

SECTION 2. That existing sections 109.572, 135.63, 1181.05, 1181.21, 1181.25, 1315.99, 1321.02, 1321.15, 1321.21, 1321.99, 1345.01, 1349.71, 1349.72, 1733.25, and 2307.61 of the Revised Code are hereby repealed.

SECTION 3. That sections 1315.35, 1315.36, 1315.37, 1315.38, 1315.39, 1315.40, 1315.41, 1315.42, 1315.43, and 1315.44 of the Revised Code are hereby repealed.

SECTION 4. (A) All licenses issued pursuant to sections 1315.35 to 1315.44 of the Revised Code, and in effect on the date this section becomes effective, shall remain in effect, unless suspended or revoked by the superintendent of financial institutions, until such time as the license would be subject to renewal pursuant to sections 1315.35 to 1315.44 of the Revised Code as those sections existed prior to the effective date of this act. The

superintendent shall recognize any such license holder as a valid license holder under sections 1321.35 to 1321.48 of the Revised Code as enacted by this act, and such license holder thereafter is subject to all provisions of sections 1321.35 to 1321.48 of the Revised Code.

(B) If any person licensed under sections 1315.35 to 1315.44 of the Revised Code on the effective date of this section applies for a license to operate under sections 1321.01 to 1321.19 of the Revised Code for the 2008 licensing period ending June 30, 2009, that person shall pay only one-half of the license fee provided for under section 1321.03 of the Revised Code.

SECTION 5. Within thirty days of the effective date of this act, the Director of Budget and Management shall make a one-time transfer of five per cent of the balance of the consumer finance fund, created under section 1321.21 of the Revised Code, to the financial literacy education fund created under section 121.085 of the Revised Code as enacted by this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 545

127th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____