

**As Introduced**

**127th General Assembly  
Regular Session  
2007-2008**

**S. B. No. 207**

**Senator Miller, R.**

**Cosponsors: Senators Smith, Mason, Roberts**

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**A B I L L**

To amend sections 1315.35, 1315.39, 1315.40, and 1  
1315.41 of the Revised Code to modify the 2  
provisions for making a loan under the check 3  
cashing loan act. 4

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

**Section 1.** That sections 1315.35, 1315.39, 1315.40, and 5  
1315.41 of the Revised Code be amended to read as follows: 6

**Sec. 1315.35.** As used in sections 1315.35 to 1315.44 of the 7  
Revised Code: 8

(A) "Check-cashing business" has the meaning set forth in 9  
section 1315.21 of the Revised Code. 10

(B) "Interest" means all charges payable directly or 11  
indirectly by a borrower to a check-cashing business licensed 12  
pursuant to sections 1315.35 to 1315.44 of the Revised Code as a 13  
condition to a loan, ~~but does not include loan origination~~ 14  
including fees, check collection charges, or other fees or charges 15  
specifically authorized by law service charges, renewal charges, 16  
credit insurance premiums, and any ancillary product sold as a 17  
condition to a loan made pursuant to sections 1315.35 to 1315.44 18  
of the Revised Code. 19

(C) "Annual percentage rate" has the same meaning as in the 20  
"Truth in Lending Act," 82 Stat. 149 (1980), 15 U.S.C. 1606, as 21  
implemented by regulations of the board of governors of the 22  
federal reserve system. All fees and charges, except those 23  
authorized under section 1315.40 of the Revised Code, shall be 24  
included in the computation of the annual percentage rate. Fees 25  
and charges for single premium credit insurance and other 26  
ancillary products sold in connection with the credit transaction 27  
shall be included in the calculation of the annual percentage 28  
rate. 29

(D) "Superintendent of financial institutions" includes the 30  
deputy superintendent for consumer finance as provided in section 31  
1181.21 of the Revised Code. 32

**Sec. 1315.39.** (A) A check-cashing business licensed under 33  
sections 1315.35 to 1315.44 of the Revised Code may engage in the 34  
business of making loans provided that each loan meets all of the 35  
following conditions: 36

(1) The total amount of the loan does not exceed eight 37  
hundred dollars. 38

(2) The duration of the loan does not exceed six months. 39

(3) The interest on the loan is calculated in compliance with 40  
15 U.S.C. 1606, and does not exceed the amount permitted by, 41  
division (B) of this section an annual percentage rate greater 42  
than thirty-six per cent. 43

(4) The loan is made pursuant to a written loan contract that 44  
sets forth the terms and conditions of the loan, and discloses in 45  
a clear and concise manner all of the following: 46

(a) The total amount of fees and charges the borrower will be 47  
required to pay in connection with the loan pursuant to the loan 48  
contract; 49

(b) The rate of interest contracted for under the loan 50  
contract, calculated both as an annual percentage rate based 51  
solely on the principal of the loan and as an annual percentage 52  
rate based on the sum of the principal of the loan and the loan 53  
origination fee, check collection charge, and all other fees or 54  
charges contracted for under the loan contract; 55

(c) The total amount of each payment, when each payment is 56  
due, and the total number of payments that the borrower will be 57  
required to make under the loan contract; 58

(d) A statement, printed in boldface type of the minimum size 59  
of ten points, as follows: "WARNING: The rate of interest charged 60  
on this loan is higher than the average rate of interest charged 61  
by financial institutions on substantially similar loans." 62

(e) Any disclosures required under the "Truth in Lending 63  
Act," 82 Stat. 146 (1974), 15 U.S.C. 1601, et seq. 64

(5) The loan is not being made to a borrower for purposes of 65  
retiring, renewing, repaying, or refinancing an existing loan 66  
between the check-cashing business and that borrower, which 67  
existing loan was made pursuant to sections 1315.35 to 1315.44 of 68  
the Revised Code. 69

(B) A check-cashing business may ~~contract for and receive~~ 70  
~~interest at a rate of five per cent per month or fraction of a~~ 71  
~~month on the unpaid principal of a loan made under sections~~ 72  
~~1315.35 to 1315.44 of the Revised Code. Any not deduct any~~ 73  
~~unearned interest shall not be deducted~~ from the proceeds of the 74  
~~loan or paid in advance~~ a loan made pursuant to section 1315.35 to 75  
1315.44 of the Revised Code, and interest shall be computed on the 76  
unpaid balance and shall not be compounded. If, after the first 77  
month of the loan contract, the loan is paid in full before the 78  
final date on which payment is due on the loan pursuant to the 79  
loan contract, the licensee shall refund or credit the borrower 80

with the amount of the unearned interest for the unexpired period 81  
of the loan contract that follows the date of the borrower's 82  
payment in full. 83

**Sec. 1315.40.** In addition to the interest authorized to be 84  
contracted for and received pursuant to section 1315.39 of the 85  
Revised Code, a check-cashing business licensed pursuant to 86  
sections 1315.35 to 1315.44 of the Revised Code may charge, 87  
collect, and receive the following fees and charges in connection 88  
with a loan made under sections 1315.35 to 1315.44 of the Revised 89  
Code: 90

~~(A) Loan origination fees not exceeding an amount equal to 91  
five dollars per fifty dollars up to five hundred dollars of the 92  
amount of the loan and three dollars and seventy five cents per 93  
fifty dollars of the amount of the loan between five hundred one 94  
and eight hundred dollars;~~ 95

~~(B)~~ Check collection charges not exceeding an amount equal to 96  
twenty dollars plus any amount passed on from other financial 97  
institutions for each check, negotiable order of withdrawal, share 98  
draft, or other negotiable instrument returned or dishonored for 99  
any reason, provided that the terms and conditions upon which 100  
check collection charges will be charged to the borrower are set 101  
forth in the written loan contract described in division (A)(4) of 102  
section 1315.39 of the Revised Code; 103

~~(C)~~(B) Damages, costs, and disbursements to which the 104  
check-cashing business may become entitled to by law in connection 105  
with any civil action to collect a loan after default. 106

**Sec. 1315.41.** No check-cashing business licensed pursuant to 107  
sections 1315.35 to 1315.44 of the Revised Code shall do any of 108  
the following: 109

(A) Violate section 1315.36 of the Revised Code; 110

(B) Make a loan that does not comply with division (A) of	111
section 1315.39 of the Revised Code;	112
(C) Charge, collect, or receive, directly or indirectly, any	113
additional fees or charges in connection with a loan, other than	114
fees and charges permitted by sections 1315.39 and 1315.40 of the	115
Revised Code and costs or disbursements to which the check-cashing	116
business may become entitled to by law in connection with any	117
civil action to collect a loan after default;	118
(D) Collect treble damages pursuant to division (A)(1)(b)(ii)	119
of section 2307.61 of the Revised Code in connection with any	120
civil action to collect a loan after a default due to a check,	121
negotiable order of withdrawal, share draft, or other negotiable	122
instrument that was returned or dishonored for insufficient funds;	123
(E) Make a loan to a borrower if there exists an outstanding	124
loan between the check-cashing business and that borrower and if	125
the outstanding loan was made pursuant to sections 1315.35 to	126
1315.43 of the Revised Code;	127
<u>(F) Require the borrower to waive the borrower's right to</u>	128
<u>legal recourse under any otherwise applicable provision of state</u>	129
<u>or federal law;</u>	130
<u>(G) Require the borrower to submit to arbitration or impose</u>	131
<u>onerous legal notice provisions in the case of a dispute;</u>	132
<u>(H) Demand unreasonable notice from the borrower as a</u>	133
<u>condition for legal action;</u>	134
<u>(I) Accept a check or other method of access to a deposit</u>	135
<u>account maintained by the borrower, or the title of a vehicle as</u>	136
<u>security for the obligation;</u>	137
<u>(J) Require the borrower to establish an allotment to repay</u>	138
<u>an obligation as a condition for a loan;</u>	139
<u>(K) Prohibit a borrower from prepaying a loan or charge a</u>	140

penalty or fee for prepaying all or part of a loan. 141

**Section 2.** That existing sections 1315.35, 1315.39, 1315.40, 142

and 1315.41 of the Revised Code are hereby repealed. 143