

**As Introduced**

**127th General Assembly  
Regular Session  
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**S. B. No. 72**

**Senator Miller, R.**

**Cosponsors: Senators Smith, Miller, D., Mason**

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**A B I L L**

To amend sections 1315.22, 1315.35, 1315.37, 1315.39, 1  
1315.40, and 1315.41 and to enact section 1315.45 2  
of the Revised Code to prohibit check-cashing 3  
businesses from making loans to a customer who has 4  
an outstanding loan with another licensee, to 5  
create a statewide database of open loans at 6  
check-cashing licensees, and to change the 7  
permitted interest rate, fees, and duration of 8  
such loans. 9

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

**Section 1.** That sections 1315.22, 1315.35, 1315.37, 1315.39, 10  
1315.40, and 1315.41 be amended and section 1315.45 of the Revised 11  
Code be enacted to read as follows: 12

**Sec. 1315.22.** (A) No person, on and after January 1, 1993, 13  
shall operate a check-cashing business without first obtaining a 14  
license from the superintendent of financial institutions. 15

(B) Application for an original license required under this 16  
section or a renewal license required under section 1315.23 of the 17  
Revised Code shall be in writing, under oath, and in the form 18  
prescribed by the superintendent. The application shall contain 19

the following information:	20
(1)(a) If the applicant is an individual, the individual's exact name and residence address;	21 22
(b) If the applicant is a partnership, the exact name and residence address of each member of the partnership;	23 24
(c) If the applicant is a corporation or association, the exact name and residence address of each director and principal officer of the corporation or association.	25 26 27
(2) The complete address of the principal office or offices from which the business is to be conducted, showing the street and number, if any, and the municipal corporation and county;	28 29 30
(3) Any other pertinent information that the superintendent requires.	31 32
(C) For purposes of division (B) of this section, an applicant shall not use a post-office box address as the only address for the applicant's residence or principal office or offices.	33 34 35 36
(D) Application for a license shall be accompanied by an initial, nonrefundable investigation fee not to exceed <del>two hundred fifty</del> <u>three hundred</u> dollars, except if the applicant's principal place of business is located outside this state, in which case the initial, nonrefundable investigation fee shall not exceed one thousand dollars. The applicant also shall pay an annual license fee for each business location <del>not to exceed five hundred of one thousand</del> <u>of one thousand</u> dollars, except that applications for original licenses issued on or after the first day of July for any year shall be accompanied by an annual fee <del>not to exceed two hundred fifty of five hundred</del> <u>of five hundred</u> dollars. All fees paid to the superintendent pursuant to this division shall be deposited by the superintendent into the state treasury to the credit of the consumer finance fund.	37 38 39 40 41 42 43 44 45 46 47 48 49

Sec. 1315.35. As used in sections 1315.35 to ~~1315.44~~ 1315.45 50  
of the Revised Code: 51

(A) "Check-cashing business" has the meaning set forth in 52  
section 1315.21 of the Revised Code. 53

(B) "Interest" means all charges payable directly or 54  
indirectly by a borrower to a check-cashing business licensed 55  
pursuant to sections 1315.35 to 1315.44 of the Revised Code as a 56  
condition to a loan, but does not include loan origination fees, 57  
check collection charges, or other fees or charges specifically 58  
authorized by law. 59

(C) "Superintendent of financial institutions" includes the 60  
deputy superintendent for consumer finance as provided in section 61  
1181.21 of the Revised Code. 62

(D) "Loan" means the unsecured lending of money or extension 63  
of credit to a borrower, or on behalf of the borrower, by a person 64  
engaged in the business of check cashing, in exchange for money. A 65  
loan includes, but is not limited to, an arrangement between a 66  
check-cashing business and its customer, whereby the check-cashing 67  
business agrees to withhold depositing a check with a financial 68  
institution for any duration from the day the customer presents 69  
the check for cash to the check-cashing business. 70

Sec. 1315.37. (A) Application for an original or renewal 71  
license to make loans pursuant to sections 1315.35 to 1315.44 of 72  
the Revised Code shall be in writing, under oath, and in the form 73  
prescribed by the superintendent of financial institutions, and 74  
shall contain the name and address of the applicant, the 75  
approximate location where the business of making loans is to be 76  
conducted, and any further information as the superintendent 77  
requires. At the time of making an application for an original 78  
license, the applicant shall pay to the superintendent a 79

nonrefundable investigation fee of ~~two~~ three hundred dollars. No 80  
investigation fee or any portion thereof shall be refunded after 81  
an original license has been issued. The application for an 82  
original or renewal license shall be accompanied by an original or 83  
renewal license fee for each business location ~~not to exceed five~~ 84  
~~hundred~~ of one thousand dollars, except that applications for 85  
original licenses issued on or after the first day of July for any 86  
year shall be accompanied by an original license fee ~~not to exceed~~ 87  
~~two hundred fifty~~ of five hundred dollars. All fees paid to the 88  
superintendent pursuant to this division shall be deposited into 89  
the state treasury to the credit of the consumer finance fund. 90

(B) Upon the filing of an application for an original or 91  
renewal license and the payment of fees in accordance with 92  
division (A) of this section, the superintendent shall investigate 93  
the facts concerning the applicant and the requirements provided 94  
by this division. The superintendent shall approve an application 95  
and issue an original or renewal license to the applicant if the 96  
superintendent finds all of the following: 97

(1) The applicant is licensed in good standing pursuant to 98  
sections 1315.21 to 1315.30 of the Revised Code. 99

(2) The financial responsibility, experience, reputation, and 100  
general fitness of the applicant are such as to warrant the belief 101  
that the business of making loans will be operated lawfully, 102  
honestly, and fairly under sections 1315.35 to 1315.44 of the 103  
Revised Code and within the purposes of those sections; that the 104  
applicant has fully complied with those sections and any rule or 105  
order adopted or issued pursuant to section 1315.43 of the Revised 106  
Code; and that the applicant is qualified to engage in the 107  
business of making loans under sections 1315.35 to 1315.44 of the 108  
Revised Code. 109

(3) The applicant is financially sound and has a net worth of 110  
not less than ~~one~~ two hundred thousand dollars. The applicant's 111

net worth shall be computed according to generally accepted 112  
accounting principles. 113

(4) The applicant has never had revoked a license to make 114  
loans under sections 1315.35 to 1315.44 of the Revised Code or to 115  
do business under sections 1315.21 to 1315.30 of the Revised Code. 116

(C) If the superintendent finds that the applicant does not 117  
meet the requirements of division (B) of this section, the 118  
superintendent shall issue an order denying the application for an 119  
original or renewal license and giving the applicant an 120  
opportunity for a hearing on the denial in accordance with Chapter 121  
119. of the Revised Code. The superintendent shall notify the 122  
applicant of the denial, the grounds for the denial, and the 123  
applicant's opportunity for a hearing. If the application is 124  
denied, the superintendent shall return the annual license fee but 125  
shall retain the investigation fee. 126

**Sec. 1315.39.** (A) A check-cashing business licensed under 127  
sections 1315.35 to 1315.44 of the Revised Code may engage in the 128  
business of making loans provided that each loan meets all of the 129  
following conditions: 130

(1) The total amount of the loan does not exceed eight 131  
hundred dollars. 132

(2) The duration of the loan does not exceed ~~six months~~ 133  
thirty-one days. 134

(3) The interest on the loan is calculated in compliance 135  
with, and does not exceed the amount permitted by, division (B) of 136  
this section. 137

(4) The loan is made pursuant to a written loan contract that 138  
sets forth the terms and conditions of the loan, and discloses in 139  
a clear and concise manner all of the following: 140

(a) The total amount of fees and charges the borrower will be 141

required to pay in connection with the loan pursuant to the loan contract; 142  
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(b) The rate of interest contracted for under the loan contract, calculated both as an annual percentage rate based solely on the principal of the loan and 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; 144  
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(c) 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; 150  
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(d) A statement, printed in boldface type of the minimum size of ten points, as follows: "WARNING: The rate of interest charged on this loan is higher than the average rate of interest charged by financial institutions on substantially similar loans." 153  
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(5) The loan is not being made to a borrower for purposes of retiring an existing loan between the check-cashing business and that borrower, which existing loan was made pursuant to sections 1315.35 to 1315.44 of the Revised Code. 157  
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(6) The borrower does not have an outstanding loan with any check-cashing business licensed under sections 1315.35 to 1315.44 of the Revised Code, or has not terminated such a loan on the same business day. 161  
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(7) The written loan contract includes a clause that permits the borrower to rescind the loan agreement without cost to the borrower and for any reason if the borrower, not later than the close of business on the business day following the date the loan was transacted, either delivers to the check-cashing business cash in an amount equal to the amount the borrower received if the borrower received cash in the transaction, or if a check was received by the borrower, that check is returned to the 165  
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check-cashing business. The check-cashing business shall return to 173  
the borrower the check received from the borrower in the 174  
transaction and any service fee paid by the borrower. 175

(B) A check-cashing business may contract for and receive 176  
interest at a rate of ~~five~~ three per cent per month or fraction of 177  
a month on the unpaid principal of a loan made under sections 178  
1315.35 to 1315.44 of the Revised Code. Any unearned interest 179  
shall not be deducted from the proceeds of the loan or paid in 180  
advance, and interest shall be computed on the unpaid balance and 181  
shall not be compounded. ~~If, after the first month of the loan~~ 182  
~~contract, the loan is paid in full before the final date on which~~ 183  
~~payment is due on the loan pursuant to the loan contract, the~~ 184  
~~licensee shall refund or credit the borrower with the amount of~~ 185  
~~the unearned interest for the unexpired period of the loan~~ 186  
~~contract that follows the date of the borrower's payment in full.~~ 187

(C) A check-cashing business shall verify a customer's 188  
eligibility to enter into a loan by accessing a statewide database 189  
pursuant to section 1315.45 of the Revised Code, when implemented 190  
by the superintendent, or by the customer's signed written 191  
verification prior to implementation of the database. 192

**Sec. 1315.40.** In addition to the interest authorized to be 193  
contracted for and received pursuant to section 1315.39 of the 194  
Revised Code, a check-cashing business licensed pursuant to 195  
sections 1315.35 to 1315.44 of the Revised Code may charge, 196  
collect, and receive the following fees and charges in connection 197  
with a loan made under sections 1315.35 to 1315.44 of the Revised 198  
Code: 199

(A) Loan origination fees not exceeding ~~an amount equal to~~ 200  
~~five dollars per fifty dollars up to five hundred dollars~~ three 201  
per cent of the amount of the loan ~~and three dollars and~~ 202  
~~seventy five cents per fifty dollars of the amount of the loan~~ 203

~~between five hundred one and eight hundred dollars~~ in addition to 204  
any interest permitted under section 1315.39 of the Revised Code; 205

(B) Check collection charges not exceeding an amount equal to 206  
twenty dollars plus any amount passed on from other financial 207  
institutions for each check, negotiable order of withdrawal, share 208  
draft, or other negotiable instrument returned or dishonored for 209  
any reason, provided that the terms and conditions upon which 210  
check collection charges will be charged to the borrower are set 211  
forth in the written loan contract described in division (A)(4) of 212  
section 1315.39 of the Revised Code; 213

(C) Damages, costs, and disbursements to which the 214  
check-cashing business may become entitled to by law in connection 215  
with any civil action to collect a loan after default. 216

**Sec. 1315.41.** No check-cashing business licensed pursuant to 217  
sections 1315.35 to 1315.44 of the Revised Code shall do any of 218  
the following: 219

(A) Violate section 1315.36 of the Revised Code; 220

(B) Make a loan that does not comply with division (A) of 221  
section 1315.39 of the Revised Code; 222

(C) Charge, collect, or receive, directly or indirectly, any 223  
additional fees or charges in connection with a loan, other than 224  
fees and charges permitted by sections 1315.39 and 1315.40 of the 225  
Revised Code and costs or disbursements to which the check-cashing 226  
business may become entitled to by law in connection with any 227  
civil action to collect a loan after default; 228

(D) Collect treble damages pursuant to division (A)(1)(b)(ii) 229  
of section 2307.61 of the Revised Code in connection with any 230  
civil action to collect a loan after a default due to a check, 231  
negotiable order of withdrawal, share draft, or other negotiable 232  
instrument that was returned or dishonored for insufficient funds; 233



(E) Make a loan to a borrower if there exists an outstanding loan between the check-cashing business and that borrower or any other check-cashing business licensed under sections 1315.35 to 1315.44 and that borrower and if the outstanding loan was made pursuant to sections 1315.35 to 1315.43 of the Revised Code.

**Sec. 1315.45.** (A) The superintendent shall make a statewide common database, as implemented by the superintendent, accessible at all times to check-cashing businesses licensed under this chapter and to the superintendent through an internet connection. Licensees shall use the database to determine if a customer has an open loan with any check-cashing business licensed under sections 1315.35 to 1315.44 of the Revised Code. 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) 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 customer information is deleted from the database on a regular and routine basis, after the customer 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 consumer and limiting the database to only advice on a customer's eligibility or ineligibility for a loan based on the provisions of this chapter;

<u>(5) A rule requiring that data collected pursuant to this</u>	264
<u>section be used only as prescribed in this section and for no</u>	265
<u>other purpose;</u>	266
<u>(6) A rule authorizing a fee per transaction for data</u>	267
<u>required to be submitted.</u>	268
<u>(C) The database operator, whether the superintendent or a</u>	269
<u>third party selected by the superintendent pursuant to Chapter</u>	270
<u>125. of the Revised Code, shall do all of the following:</u>	271
<u>(1) Establish and maintain a process for responding to</u>	272
<u>transaction verification requests due to technical difficulties</u>	273
<u>with the database that prevent the licensee from accessing the</u>	274
<u>database through the internet;</u>	275
<u>(2) Provide accurate and secure receipt, transmission, and</u>	276
<u>storage of customer data;</u>	277
<u>(3) Designate a transaction as closed within one business day</u>	278
<u>of receiving notification from a licensee;</u>	279
<u>(4) Take all reasonable measures to ensure the</u>	280
<u>confidentiality of the database and to prevent identity theft.</u>	281
<u>(D) A check-cashing business may rely on the information</u>	282
<u>contained in the database as accurate and is not subject to any</u>	283
<u>administrative penalty or civil liability as a result of relying</u>	284
<u>on inaccurate information contained in the database.</u>	285
<u>(E) With respect to the database prescribed in division (A)</u>	286
<u>of this section, any information submitted for incorporation into</u>	287
<u>the database, information in the database itself, or archived</u>	288
<u>information as maintained by the superintendent pursuant to this</u>	289
<u>section, is not public record under section 149.43 of the Revised</u>	290
<u>Code.</u>	291
<u>(F) If approved by the superintendent, the database operator</u>	292
<u>may impose a per transaction fee for the actual costs of entering,</u>	293

accessing, and maintaining data in the database. The fee shall be 294  
payable to the database operator in a manner prescribed by the 295  
superintendent. A licensee may charge a customer all or part of 296  
the fee, but may not charge a customer any other fee except as 297  
authorized in section 1315.40 of the Revised Code. 298

**Section 2.** That existing sections 1315.22, 1315.35, 1315.37, 299  
1315.39, 1315.40, and 1315.41 of the Revised Code are hereby 300  
repealed. 301

**Section 3.** On or before January 1, 2008, the Superintendent 302  
of Financial Institutions shall develop, implement, and maintain a 303  
statewide common database in accordance with section 1315.45 of 304  
the Revised Code, as enacted by this act. 305