

As Introduced

**128th General Assembly
Regular Session
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H. B. No. 209

Representative Lundy

**Cosponsors: Representatives Foley, Murray, Hagan, Phillips, Skindell,
Stewart, Harris, Fende, Newcomb, Okey, Celeste, Harwood**

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A B I L L

To amend sections 1315.26, 1321.02, 1321.12, 1321.13, 1
1321.131, 1321.14, 1321.15, 1321.44, 1321.52, 2
1321.53, 1321.551, 1321.56, 1321.57, 1321.571, 3
1321.59, 1321.99, 1322.01, 1343.01, 1345.01, 4
4710.02, 4712.01, and 4712.07 and to enact 5
sections 1321.011, 1321.542, 1321.591, 1321.61, 6
and 1351.031 of the Revised Code to establish 7
various consumer protections regarding small and 8
short-term loans. 9

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

Section 1. That sections 1315.26, 1321.02, 1321.12, 1321.13, 10
1321.131, 1321.14, 1321.15, 1321.44, 1321.52, 1321.53, 1321.551, 11
1321.56, 1321.57, 1321.571, 1321.59, 1321.99, 1322.01, 1343.01, 12
1345.01, 4710.02, 4712.01, and 4712.07 be amended and sections 13
1321.011, 1321.542, 1321.591, 1321.61, and 1351.031 of the Revised 14
Code be enacted to read as follows: 15

Sec. 1315.26. (A) No check-cashing business shall charge 16
check-cashing fees or other check-cashing charges in an amount 17
that exceeds three per cent of the face amount of the check for 18

cashing checks issued by this state, a state agency, a political
subdivision of this state, or the United States. 19
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(B) Each check-cashing business shall conspicuously post and 21
at all times display in every business location a schedule of its 22
fees and charges for all services permitted under sections 1315.21 23
to 1315.28 of the Revised Code. 24

(C) No check-cashing business shall charge or receive a fee 25
for cashing a proceeds check or money order disbursed to fund a 26
loan made by the licensee or an affiliate of the licensee. 27

Sec. 1321.011. A violation of section 1321.02, 1321.11, 28
1321.12, 1321.13, 1321.14, 1321.15, or 1321.17 of the Revised Code 29
may be enforced pursuant section 1321.61 of the Revised Code when 30
the violation involves a loan of one thousand dollars or less. 31

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Sec. 1321.02. No person shall engage in the business of 33
lending money, credit, or choses in action in amounts of five 34
thousand dollars or less, ~~or~~ and thereby exact, contract for, or 35
receive, directly or indirectly, on or in connection with any such 36
loan, any interest and charges that in the aggregate are greater 37
than the interest and charges that the lender would be permitted 38
to charge for a loan of money if the lender were not a licensee, 39
without first having obtained a license from the division of 40
financial institutions under sections 1321.01 to 1321.19 of the 41
Revised Code. No person not located in Ohio shall make a loan 42
under sections 1321.01 to 1321.19 of the Revised Code to a 43
borrower in Ohio from an office not located in Ohio. Nothing in 44
this section prohibits a business not located or licensed in Ohio 45
from lending funds to Ohio borrowers who physically visit the 46
out-of-state office of the business and obtain the disbursement of 47
loan funds at that location. 48

Sections 1321.01 to 1321.19 of the Revised Code do not apply 49
to any person doing business under and as permitted by any law of 50
this state, another state, or the United States relating to banks, 51
savings banks, savings societies, trust companies, credit unions, 52
savings and loan associations substantially all the business of 53
which is confined to loans on real estate mortgages and evidences 54
of their own indebtedness; to registrants conducting business 55
pursuant to sections 1321.51 to 1321.60 of the Revised Code; to 56
persons making loans that constitute business loans as described 57
in division (B)(5) of section 1343.01 of the Revised Code, except 58
as provided in division (B) of section 1321.12 of the Revised 59
Code; to licensees conducting business pursuant to sections 60
1321.71 to 1321.83 of the Revised Code; to licensees doing 61
business pursuant to sections 1321.35 to 1321.48 of the Revised 62
Code; or to any entity who is licensed pursuant to Title XXXIX of 63
the Revised Code, who makes advances or loans to any person who is 64
licensed to sell insurance pursuant to that Title, and who is 65
authorized in writing by that entity to sell insurance. No person 66
engaged in the business of selling tangible goods or services 67
related thereto may receive or retain a license under sections 68
1321.01 to 1321.19 of the Revised Code for such place of business. 69

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The first paragraph of this section applies to any person, 71
who by any device, subterfuge, or pretense, charges, contracts 72
for, or receives greater interest, consideration, or charges than 73
that authorized by this section for any such loan or use of money 74
or for any such loan, use, or sale of credit, or who for a fee or 75
any manner of compensation arranges or offers to find or arrange 76
for another person to make any such loan, use, or sale of credit. 77
This section does not preclude the acquiring, directly or 78
indirectly, by purchase or discount, of a bona fide obligation for 79
goods or services when such obligation is payable directly to the 80
person who provided the goods or services. 81

Any contract of loan in the making or collection of which an 82
act is done by the lender that violates this section is void and 83
the lender has no right to collect, receive, or retain any 84
principal, interest, or charges. 85

Sec. 1321.12. (A) No licensee shall conduct the business of 86
making loans under sections 1321.01 to 1321.19 of the Revised 87
Code, within any office, room, or place of business in which any 88
other business is solicited or engaged in, or in association or 89
conjunction therewith, if the division of financial institutions 90
finds, after hearing, that the other business is of such nature 91
that such conduct tends to conceal evasion of those sections or of 92
the rules made under those sections and orders the licensee in 93
writing to desist from the conduct. For purposes of this division, 94
"other business" includes any business conducted by a person who 95
is registered or is required to be registered as a credit services 96
organization under section 4712.02 of the Revised Code, licensed 97
as a check-cashing business under section 1315.22 of the Revised 98
Code, engaged in the practice of debt adjusting pursuant to 99
Chapter 4710. of the Revised Code, or is a lessor as defined in 100
section 1351.01 of the Revised Code. 101

(B) No licensee or affiliate of a licensee shall make any 102
business loan of five thousand dollars or less at the licensee's 103
authorized place of business in this state that does not conform 104
with the interest and fee limitations in sections 1321.13 to 105
1321.16 of the Revised Code. 106

(C) No licensee shall conduct the business of making loans 107
under sections 1321.01 to 1321.19 of the Revised Code, under any 108
other name, or at any other place of business within this state 109
than that named in the license. 110

(D) No licensee shall take a lien upon real estate as 111
security for any loan made under those sections except such lien 112

as is created upon the filing or recording of a certificate of judgment. 113
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(E) No licensee shall use unfair, deceptive, or unconscionable means to collect or attempt to collect any claim. Without limiting the general application of the foregoing, the conduct described in divisions (A) to (G) of section 1321.591 of the Revised Code is deemed to violate this section. 115
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Sec. 1321.13. (A) Notwithstanding any other provisions of the Revised Code other than division (C) of section 1321.15 of the Revised Code, a licensee may contract for and receive interest, calculated according to the actuarial method, at a rate or rates not exceeding twenty-eight per cent per year on that portion of the unpaid principal balance of the loan not exceeding one thousand dollars and twenty-two per cent per year on any part of the unpaid principal balance exceeding one thousand dollars. A licensee may contract for and receive interest at the single annual rate that would earn the same total interest at maturity of the loan, when the loan is paid according to its agreed terms, as would be earned by the application of the graduated rates set forth in this division. Loans may be interest-bearing or precomputed. 120
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(B) For purposes of computation of time on interest-bearing and precomputed loans, including, but not limited to, the calculation of interest, a month is considered one-twelfth of a year, and a day is considered one three hundred sixty-fifth of a year when calculation is made for a fraction of a month. A year is as defined in section 1.44 of the Revised Code. A month is that period described in section 1.45 of the Revised Code. 134
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(C) With respect to interest-bearing loans: 141

(1) Interest shall be computed on unpaid principal balances outstanding from time to time, for the time outstanding. Each 142
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payment shall be applied first to unpaid charges and fees, then to interest, and the remainder to the unpaid principal balance. However, if the amount of the payment is insufficient to pay the accumulated interest, the unpaid interest continues to accumulate to be paid from the proceeds of subsequent payments and is not added to the principal balance. If the maturity of the loan is accelerated for any reason and judgment is entered, the licensee may thereafter charge the same rate or rates of interest as provided in the loan contract.

(2) Interest shall not be compounded. However, if part or all of the consideration for a new loan contract is the unpaid principal balance of a prior loan, then the principal amount payable under the new loan contract may include any unpaid interest that has accrued. The resulting loan contract shall be deemed a new and separate loan transaction for purposes of this section. The unpaid principal balance of a precomputed loan is the balance due after refund or credit of unearned interest as provided in division (D)(3) of this section.

(D) With respect to precomputed loans:

(1) Loans shall be repayable in substantially equal and consecutive monthly installments of principal and interest combined, except that the first installment period may exceed one month by not more than fifteen days, and the first installment payment amount may be larger than the remaining payments by the amount of interest charged for the extra days; and provided further that monthly installment payment dates may be omitted to accommodate borrowers with seasonal income.

(2) Payments may be applied to the combined total of principal and precomputed interest until maturity of the loan. A licensee may charge interest after the original or deferred maturity of a precomputed loan at the rate or rates provided in division (A) of this section on all unpaid principal balances for

the time outstanding. 176

(3) When any loan contract is paid in full by cash, renewal, 177
refinancing, or a new loan, one month or more before the final 178
installment due date, the licensee shall refund, or credit the 179
borrower with, the total of the applicable charges for all fully 180
unexpired installment periods, as originally scheduled or as 181
deferred, that follow the day of prepayment. If the prepayment is 182
made other than on a scheduled installment ~~installment~~ due date, 183
the nearest scheduled due date shall be used in such computation. 184
If the prepayment occurs prior to the first installment due date, 185
the licensee may retain one-thirtieth of the applicable charge for 186
a first installment period of one month for each day from date of 187
loan to date of prepayment, and shall refund, or credit the 188
borrower with, the balance of the total interest contracted for. 189
If the maturity of the loan is accelerated for any reason and 190
judgment is entered, the licensee shall credit the borrower with 191
the same refund as if prepayment in full had been made on the date 192
the judgment is entered and may thereafter convert the loan to an 193
interest-bearing loan at the same rate or rates of interest as 194
provided in the loan contract. If the maturity of the loan is 195
accelerated for any reason, the licensee may convert the loan to 196
an interest-bearing loan at the same rate or rates of interest as 197
provided in the loan contract, provided the licensee credits the 198
borrower with the same refund on the precomputed loan as if 199
prepayment in full had been made on the date of the conversion. 200

(4) If the parties agree in writing, either in the loan 201
contract or in a subsequent agreement, to a deferment of wholly 202
unpaid installments, a licensee may grant a deferment and may 203
collect a deferment charge as provided in this section. A 204
deferment postpones the scheduled due date of the earliest unpaid 205
installment and all subsequent installments as originally 206
scheduled, or as previously deferred, for a period equal to the 207

deferment period. The deferment period is that period during which 208
no installment is scheduled to be paid by reason of the deferment. 209
The deferment charge for a one-month period may not exceed the 210
applicable charge for the installment period immediately following 211
the due date of the last undeferred installment. A proportionate 212
charge may be made for deferment for periods of more or less than 213
one month. A deferment charge is earned prorata during the 214
deferment period and is fully earned on the last day of the 215
deferment period. If a loan is prepaid in full during a deferment 216
period, the licensee shall make, or credit to the borrower, a 217
refund of the unearned deferment charge in addition to any other 218
refund or credit made for prepayment of the loan in full. 219

(E) A licensee, at the request of the borrower, may obtain, 220
on one or more borrowers, credit life insurance, credit accident 221
and health insurance, and unemployment insurance. The premium or 222
identifiable charge for the insurance may be included in the 223
principal amount of the loan and may not exceed the premium rate 224
filed by the insurer with the superintendent of insurance and not 225
disapproved by ~~him~~ the superintendent. If a licensee obtains the 226
insurance at the request of the borrower, the borrower shall have 227
the right to cancel the insurance for a period of twenty-five days 228
after the loan is made. If the borrower chooses to cancel the 229
insurance, the borrower shall give the licensee written notice of 230
this choice and shall return all of the policies or certificates 231
of insurance or notices of proposed insurance to the licensee 232
during such period, and the full premium or identifiable charge 233
for the insurance shall be refunded to the borrower by the 234
licensee. If the borrower requests, in the notice to cancel the 235
insurance, that this refund be applied to reduce the balance of a 236
precomputed loan, the licensee shall credit the amount of the 237
refund plus the amount of interest applicable to the refund to the 238
loan balance. 239

(F) A licensee may require the borrower to provide insurance 240
or a loss payable endorsement covering reasonable risks of loss, 241
damage, and destruction of property used as security for the loan 242
and with the consent of the borrower such insurance may cover 243
property other than that which is security for the loan. The 244
amount and term of required property insurance shall be reasonable 245
in relation to the amount and term of the loan contract and the 246
type and value of the security, and the insurance shall be 247
procured in accordance with the insurance laws of this state. The 248
purchase of this insurance through the licensee or an agent or 249
broker designated by the licensee shall not be a condition 250
precedent to the granting of the loan. If the borrower purchases 251
the insurance from or through the licensee or from another source, 252
the premium may be included in the principal amount of the loan. 253

(G) In addition to the interest and charges provided for by 254
this section, no further or other amount shall be charged, 255
received, or required by the licensee, except the amounts of fees 256
authorized by law to record, file, or release security interests 257
on a loan and fees for credit reports, which amounts may be 258
included in the principal amount of the loan or collected at any 259
time after the loan is made, and except costs and disbursements to 260
which the licensee may become entitled by law in connection with 261
any suit to collect a loan or any lawful activity to realize on a 262
security interest after default. 263

(H) If the loan contract or security instrument contains 264
covenants by the borrower to perform certain duties pertaining to 265
insuring or preserving security and the licensee pursuant to the 266
loan contract or security instrument pays for performance of the 267
duties on behalf of the borrower, the licensee may add the amounts 268
paid to the unpaid principal balance of the loan or collect them 269
separately. A charge for interest may be made for sums advanced 270
not exceeding the rate of interest permitted by division (A) of 271

this section. Within a reasonable time after advancing a sum, the licensee shall notify the borrower in writing of the amount advanced, any interest charged with respect to the amount advanced, any revised payment schedule, and shall include a brief description of the reason for the advance.

(I) A licensee may charge and receive loan origination charges not exceeding the following:

(1) On loans in the principal amount of five hundred dollars or less, the greater of fifteen dollars or one per cent of the principal amount of the loan and, on each refinancing made more than six months after the original loan and any previous refinancing, not exceeding fifteen dollars;

(2) On all other loans, the greater of thirty dollars or one percent of the principal amount of the loan and, on each refinancing, not exceeding thirty dollars. Loan origination charges may be paid by the borrower at the time of the loan or may be included in the principal amount of the loan.

(J) A licensee may charge and receive check collection charges not greater than 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.

(K) If the loan contract so provides, a licensee may collect a default charge on any installment not paid in full within ten days after its due date. For this purpose, all installments are considered paid in the order in which they become due. Any amounts applied to an outstanding loan balance as a result of voluntary release of a security interest, sale of security on the loan, or cancellation of insurance shall be considered payments on the loan, unless the parties otherwise agree in writing at the time the amounts are applied. The amount of the default charge shall

not exceed the greater of five per cent of the scheduled 303
installment or five dollars. 304

(L) With respect to a loan it has made under sections 1321.01 305
to 1321.19 of the Revised Code, a licensee may not do any of the 306
following: 307

(1) Charge or receive a fee for cashing a proceeds check or 308
money order disbursed to fund the loan; 309

(2) Require a borrower to cash a proceeds check or money 310
order disbursed to fund the loan at the place of business of the 311
licensee, an affiliate of the licensee, or any specified third 312
party; 313

(3) Seek or obtain directly or indirectly compensation from 314
any affiliate or third party that provides check-cashing services 315
to cash a proceeds check or money order disbursed to fund the loan 316
by the licensee. 317

Sec. 1321.131. As an alternative to the interest permitted in 318
division (A) of section 1321.13 and in division (B) of section 319
1321.16 of the Revised Code, a licensee may contract for and 320
receive interest at any rate or rates agreed upon or consented to 321
by the parties to the loan contract or open-end loan agreement, 322
but not exceeding an annual percentage rate of twenty-five per 323
cent. 324

Nothing in this section shall be construed to permit a 325
licensee to contract for or receive an annual percentage rate that 326
is greater than what is permitted in division (C) of section 327
1321.15 of the Revised Code for loans described in that division. 328

Sec. 1321.14. (A) Licensees under section 1321.01 of the 329
Revised Code shall: 330

~~(A)~~(1) At the time any interest-bearing or precomputed loan 331

is made, deliver to the borrower or, if there are two or more 332
borrowers, to one of them, a statement in the English language 333
disclosing in clear and distinct terms the amount and date of the 334
loan, a schedule of payments or a description thereof, the type of 335
the security, if any, for the loan, the name and address of the 336
licensed office and of each borrower, and the agreed rate of 337
interest, or in lieu thereof, a copy of the instrument evidencing 338
the debt signed by the borrower; 339

~~(B)~~(2) For each payment made on account of any such 340
interest-bearing or precomputed loan, give to the person making it 341
a receipt if requested; 342

~~(C)~~(3) Permit payment to be made in advance in any amount on 343
any contract of loan at any time, but the licensee may apply the 344
payment first to all interest and charges due up to the date of 345
the payment; 346

~~(D)~~(4) Upon repayment of the loan in full, mark plainly every 347
obligation signed by any obligor, or a copy of the signed 348
obligation, "paid" or "canceled" and return it and any pledge to 349
the borrower or, if there are two or more borrowers, to one of 350
them; provided that a continuing obligation in whole or in part is 351
not repayment in full thereof. 352

(B) No licensee shall take any note or promise to pay in 353
which blanks are left to be filled in after execution. 354

(C) Any licensee or other person who willfully violates 355
section 1321.13 or division (C) of section 1321.15 of the Revised 356
Code shall forfeit to the borrower twice the amount of interest 357
contracted for. The maximum rate of interest applicable to any 358
loan transaction that does not comply with all provisions of 359
section 1321.13 of the Revised Code shall be the rate that would 360
be applicable in the absence of sections 1321.01 to 1321.19 of the 361
Revised Code. 362

(D) No licensee shall pledge or hypothecate any note or security given by any borrower except with a person residing or maintaining a place of business in this state or with a bank authorized to transact business in this state, under an agreement permitting the division of financial institutions to examine the papers so hypothecated.

(E) The tender by the borrower, or at the borrower's request, of an amount equal to the unpaid balance less the required rebate on a precomputed loan shall be accepted by the licensee in full payment of the loan obligation.

(F) A licensee shall not, directly or indirectly, make any payment, or cause to be made any payment, whether in cash or otherwise, to a dealer in tangible goods or services, or to a retail seller as defined in section 1317.01 of the Revised Code, in connection with the making of a loan to a customer, patron, or other person who has done, or is doing, business with the dealer in tangible goods or services, or the retail seller. This section does not prohibit bona fide advertising practices involving only the borrowers.

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 394
thousand dollars. 395

(C)(1) No licensee shall make a loan of one thousand dollars 396
or less under sections 1321.01 to 1321.19 of the Revised Code that 397
will obligate the borrower to pay an annual percentage rate for 398
the loan that exceeds twenty-eight per cent, as calculated in 399
compliance with the "Truth in Lending Act," 82 Stat. 149 (1980), 400
15 U.S.C. 1606, unless one of the following applies: 401

(a) The term of the loan is greater than three months. 402

(b) The loan contract requires the borrower to repay the loan 403
in three or more monthly installments of substantially equal 404
amounts. 405

(2) Any loan made by a licensee that meets the requirements 406
of division (C)(1)(a) or (b) of this section shall be subject to 407
section 1321.13 of the Revised Code. 408

(D) For the purpose of the limitations set forth in this 409
section, the amount of any such indebtedness shall be determined 410
by including the entire obligation of any person to the licensee 411
for principal, direct or contingent or both, as borrower, 412
indorser, guarantor, surety for, or otherwise, whether incurred or 413
subsisting under one or more than one contract of loan, except 414
that any contract of indorsement, guaranty, or suretyship that 415
does not obligate the indorser, guarantor, or surety for any 416
charges in excess of eight per cent per annum, is not included in 417
such entire obligation. If a licensee acquires, directly or 418
indirectly, by purchase or discount, bona fide obligations for 419
goods or services owed by the person who received such goods or 420
services to the person who provided such goods or services, then 421
the amount of such purchased or discounted indebtedness to the 422
licensee shall not be included in computing the aggregate 423
indebtedness of such borrower to the licensee for the purpose of 424

the prohibitions set forth in this section. 425

Sec. 1321.44. ~~(A) A violation of section 1321.41~~ section 426
1321.36, 1321.39, 1321.40, 1321.41, or 1321.45 of the Revised Code 427
~~is deemed an unfair or deceptive act or practice in violation of~~ 428
~~section 1345.02 of the Revised Code. A borrower injured by a~~ 429
~~violation of section 1321.41 of the Revised Code shall have a~~ 430
~~cause of action and be entitled to the same relief available to a~~ 431
~~consumer under section 1345.09 of the Revised Code, and all powers~~ 432
~~and remedies available to the attorney general to enforce sections~~ 433
~~1345.01 to 1345.13 of the Revised Code are available to the~~ 434
~~attorney general to enforce section 1321.41 of the Revised Code.~~ 435
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~~(B) The superintendent of financial institutions or a~~ 437
~~borrower may bring directly an action to enjoin a violation of~~ 438
~~sections 1321.35 to 1321.48 of the Revised Code. The prosecuting~~ 439
~~attorney of the county in which the action may be brought may~~ 440
~~bring an action to enjoin a violation of sections 1321.35 to~~ 441
~~1321.48 of the Revised Code only if the prosecuting attorney first~~ 442
~~presents any evidence of the violation to the attorney general~~ 443
~~and, within a reasonable period of time, the attorney general has~~ 444
~~not agreed to bring the action.~~ 445

~~(C) The superintendent may initiate criminal proceedings~~ 446
~~under sections 1321.35 to 1321.48 of the Revised Code by~~ 447
~~presenting any evidence of criminal violation to the prosecuting~~ 448
~~attorney of the county in which the offense may be prosecuted. If~~ 449
~~the prosecuting attorney does not prosecute the violations, or at~~ 450
~~the request of the prosecuting attorney, the superintendent shall~~ 451
~~present any evidence of criminal violations to the attorney~~ 452
~~general, who may proceed in the prosecution with all the rights,~~ 453
~~privileges, and powers conferred by law on prosecuting attorneys,~~ 454
~~including the power to appear before grand juries and to~~ 455

~~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 may be enforced
pursuant to section 1321.61 of the Revised Code.~~

Sec. 1321.52. (A)(1) No person, on that person's own behalf
or on behalf of any other person, shall do either of the following
without having first obtained a certificate of registration from
the division of financial institutions:

(a) Advertise, solicit, or hold out that the person is
engaged in the business of making loans secured by a mortgage on a
borrower's real estate which is other than a first lien on the
real estate;

(b) Engage in the business of lending or collecting the
person's own or another person's money, credit, or choses in
action for such loans.

(2) Each person issued a certificate is subject to all the 486
rules prescribed under sections 1321.51 to 1321.60 of the Revised 487
Code. 488

(B) All loans made to persons who at the time are residents 489
of this state are considered as made within this state and subject 490
to the laws of this state, regardless of any statement in the 491
contract or note to the contrary. 492

(C) A registrant may make unsecured loans, loans secured by a 493
mortgage on a borrower's real estate which is a first lien or 494
other than a first lien on the real estate, loans secured by other 495
than real estate, and loans secured by any combination of 496
mortgages and security interests, on terms and conditions provided 497
by sections 1321.51 to 1321.60 of the Revised Code. 498

(D)(1) If a lender that is subject to sections 1321.51 to 499
1321.60 of the Revised Code makes a loan in violation of division 500
(A)(1) of this section, the lender has no right to collect, 501
receive, or retain any interest or charges on that loan. 502

(2) If a registrant applies to the division for a renewal of 503
the registrant's certificate after the date required by division 504
(A)(4) of section 1321.53 of the Revised Code, but prior to the 505
first day of August of that year, and the division approves the 506
application, division (D)(1) of this section does not apply with 507
respect to any loan made by the registrant while the registrant's 508
certificate was expired. 509

(E) No person not located in Ohio shall make a loan under 510
sections 1321.51 to 1321.60 of the Revised Code to a borrower in 511
Ohio from an office not located in Ohio. Nothing in this section 512
prohibits a business not located or licensed in Ohio from lending 513
funds to Ohio borrowers who physically visit the out-of-state 514
office of the business and obtain the disbursement of loan funds 515
at that location. 516

Sec. 1321.53. (A)(1) An application for a certificate of 517
registration under sections 1321.51 to 1321.60 of the Revised Code 518
shall contain an undertaking by the applicant to abide by those 519
sections. The application shall be in writing, under oath, and in 520
the form prescribed by the division of financial institutions, 521
shall give the location where the business is to be conducted and 522
the names and addresses of the partners, officers, or trustees of 523
the applicant, and shall contain any further relevant information 524
that the division may require. Applicants that are foreign 525
corporations shall obtain and maintain a license pursuant to 526
Chapter 1703. of the Revised Code before a certificate is issued 527
or renewed. 528

(2) Upon the filing of the application and the payment by the 529
applicant of two hundred dollars as an investigation fee and an 530
annual registration fee as determined by the superintendent of 531
financial institutions pursuant to section 1321.20 of the Revised 532
Code, the division shall investigate the relevant facts. If the 533
application involves investigation outside this state, the 534
applicant may be required by the division to advance sufficient 535
funds to pay any of the actual expenses of such investigation, 536
when it appears that these expenses will exceed two hundred 537
dollars. An itemized statement of any of these expenses which the 538
applicant is required to pay shall be furnished the applicant by 539
the division. No certificate shall be issued unless the fees have 540
been submitted to the division, and no registration fee or 541
investigation fee will be returned after a certificate has been 542
issued. 543

(3) If an application for a certificate of registration does 544
not contain all of the information required under division (A)(1) 545
of this section, and if such information is not submitted to the 546
division within ninety days after the application is filed, the 547
superintendent may consider the application withdrawn and may 548

retain the investigation fee. 549

(4) If the division finds that the financial responsibility, 550
experience, character, and general fitness of the applicant are 551
such as to command the confidence of the public and to warrant the 552
belief that the business will be operated honestly and fairly in 553
compliance with and within the purposes of sections 1321.51 to 554
1321.60 of the Revised Code, and that the applicant has the net 555
worth and assets required by division (B) of this section, the 556
division shall thereupon issue a certificate to the applicant. The 557
certificate shall expire on the first day of July next after its 558
issue, and on the first day of July in each succeeding year, 559
unless renewed by payment of an annual fee, and any assessment, as 560
determined by the superintendent pursuant to section 1321.20 of 561
the Revised Code, on or before the last day of June of each year. 562
No other fee or assessment shall be required of a registrant by 563
the state or any political subdivision of the state. 564

If the division does not so find, it shall enter an order 565
denying the application, and forthwith notify the applicant of the 566
denial, the grounds for the denial, and the applicant's reasonable 567
opportunity to be heard on the action in accordance with Chapter 568
119. of the Revised Code. In the event of denial, the division 569
shall return the registration fee but retain the investigation 570
fee. 571

(5) If there is a change of ten per cent or more in the 572
ownership of a registrant, the division may make any investigation 573
necessary to determine whether any fact or condition exists that, 574
if it had existed at the time of the original application for a 575
certificate of registration, the fact or condition would have 576
warranted the division to deny the application under division 577
(A)(4) of this section. If such a fact or condition is found, the 578
division may, in accordance with Chapter 119. of the Revised Code, 579
revoke the registrant's certificate. 580

(B) Each registrant that engages in lending under sections 581
1321.51 to 1321.60 of the Revised Code shall maintain both of the 582
following: 583

(1) A net worth of at least fifty thousand dollars; 584

(2) For each certificate of registration, assets of at least 585
fifty thousand dollars either in use or readily available for use 586
in the conduct of the business. 587

(C) Not more than one place of business shall be maintained 588
under the same certificate, but the division may issue additional 589
certificates to the same registrant upon compliance with sections 590
1321.51 to 1321.60 of the Revised Code, governing the issuance of 591
a single certificate. No change in the place of business of a 592
registrant to a location outside the original municipal 593
corporation shall be permitted under the same certificate without 594
the approval of a new application, the payment of the registration 595
fee as determined by the superintendent pursuant to section 596
1321.20 of the Revised Code and, if required by the 597
superintendent, the payment of an investigation fee of two hundred 598
dollars. When a registrant wishes to change its place of business 599
within the same municipal corporation, it shall give written 600
notice of the change in advance to the division, which shall 601
provide a certificate for the new address without cost. If a 602
registrant changes its name, prior to making loans under the new 603
name it shall give written notice of the change to the division, 604
which shall provide a certificate in the new name without cost. 605
Sections 1321.51 to 1321.60 of the Revised Code do not limit the 606
loans of any registrant to residents of the community in which the 607
registrant's place of business is situated. Each certificate shall 608
be kept conspicuously posted in the place of business of the 609
registrant and is not transferable or assignable. 610

(D) Sections 1321.51 to 1321.60 of the Revised Code do not 611
apply to any of the following: 612

(1) Persons lawfully doing business under the authority of 613
any law of this state, another state, or the United States 614
relating to banks, savings banks, trust companies, savings and 615
loan associations, or credit unions; 616

(2) Life, property, or casualty insurance companies licensed 617
to do business in this state; 618

(3) Any person that is a lender making a loan pursuant to 619
sections 1321.01 to 1321.19 of the Revised Code or a business loan 620
as described in division (B)~~(6)~~(5) of section 1343.01 of the 621
Revised Code; 622

(4) Any governmental agency or instrumentality, or any entity 623
included under division (B)(3) of section 1343.01 of the Revised 624
Code. 625

(E) No person engaged in the business of selling tangible 626
goods or services related to tangible goods may receive or retain 627
a certificate under sections 1321.51 to 1321.60 of the Revised 628
Code for such place of business. 629

Sec. 1321.542. A violation of section 1321.52, 1321.551, 630
1321.56, 1321.57, 1321.571, 1321.59, 1321.591, or 1321.60 of the 631
Revised Code may be enforced pursuant to section 1321.61 of the 632
Revised Code when the violation involves a loan of one thousand 633
dollars or less. 634

Sec. 1321.551. No registrant shall conduct the business of 635
making loans under sections 1321.51 to 1321.60 of the Revised Code 636
in any office, room, or place of business in which any other 637
business is solicited or engaged in, or in association or 638
conjunction with any other such business, if the superintendent of 639
financial institutions finds, pursuant to a hearing conducted in 640
accordance with Chapter 119. of the Revised Code, that the other 641
business is of such a nature that the conduct tends to conceal 642

evasion of sections 1321.51 to 1321.60 of the Revised Code or of 643
the rules adopted under those sections, and orders the registrant 644
in writing to desist from the conduct. For purposes of this 645
section, "other business" includes any business conducted by a 646
person who is registered or is required to be registered as a 647
credit services organization under section 4712.02 of the Revised 648
Code, licensed as a check-cashing business under section 1315.22 649
of the Revised Code, engaged in the practice of debt adjusting 650
pursuant to Chapter 4710. of the Revised Code, or is a lessor as 651
defined in section 1351.01 of the Revised Code. 652

Sec. 1321.56. Any person who willfully violates section 653
1321.57 or division (E) of section 1321.59 of the Revised Code 654
shall forfeit to the borrower the amount of interest paid by the 655
borrower. The maximum rate of interest applicable to any loan 656
transaction that does not comply with section 1321.57 of the 657
Revised Code shall be the rate that would be applicable in the 658
absence of sections 1321.51 to 1321.60 of the Revised Code. 659

Sec. 1321.57. (A) Notwithstanding any other provisions of the 660
Revised Code other than division (E) of section 1321.59 of the 661
Revised Code, a registrant may contract for and receive interest, 662
calculated according to the actuarial method, at a rate or rates 663
not exceeding twenty-one per cent per year on the unpaid principal 664
balances of the loan. Loans may be interest-bearing or 665
precomputed. 666

(B) For purposes of computation of time on interest-bearing 667
and precomputed loans, including, but not limited to, the 668
calculation of interest, a month is considered one-twelfth of a 669
year, and a day is considered one three hundred sixty-fifth of a 670
year when calculation is made for a fraction of a month. A year is 671
as defined in section 1.44 of the Revised Code. A month is that 672
period described in section 1.45 of the Revised Code. 673

Alternatively, a registrant may consider a day as one three hundred sixtieth of a year and each month as having thirty days.

(C) With respect to interest-bearing loans:

(1)(a) Interest shall be computed on unpaid principal balances outstanding from time to time, for the time outstanding.

(b) As an alternative to the method of computing interest set forth in division (C)(1)(a) of this section, a registrant may charge and collect interest for the first installment period based on elapsed time from the date of the loan to the first scheduled payment due date, and for each succeeding installment period from the scheduled payment due date to the next scheduled payment due date, regardless of the date or dates the payments are actually made.

(c) Whether a registrant computes interest pursuant to division (C)(1)(a) or (b) of this section, each payment shall be applied first to unpaid charges, then to interest, and the remainder to the unpaid principal balance. However, if the amount of the payment is insufficient to pay the accumulated interest, the unpaid interest continues to accumulate to be paid from the proceeds of subsequent payments and is not added to the principal balance.

(2) Interest shall not be compounded, collected, or paid in advance. However, both of the following apply:

(a) Interest may be charged to extend the first monthly installment period by not more than fifteen days, and the interest charged for the extension may be added to the principal amount of the loan.

(b) If part or all of the consideration for a new loan contract is the unpaid principal balance of a prior loan, the principal amount payable under the new loan contract may include any unpaid interest that has accrued. The resulting loan contract

shall be deemed a new and separate loan transaction for purposes 705
of this section. The unpaid principal balance of a precomputed 706
loan is the balance due after refund or credit of unearned 707
interest as provided in division (D)(3) of this section. 708

(D) With respect to precomputed loans: 709

(1) Loans shall be repayable in monthly installments of 710
principal and interest combined, except that the first installment 711
period may exceed one month by not more than fifteen days, and the 712
first installment payment amount may be larger than the remaining 713
payments by the amount of interest charged for the extra days; and 714
provided further that monthly installment payment dates may be 715
omitted to accommodate borrowers with seasonal income. 716

(2) Payments may be applied to the combined total of 717
principal and precomputed interest until maturity of the loan. A 718
registrant may charge interest after the original or deferred 719
maturity of a precomputed loan at the rate specified in division 720
(A) of this section on all unpaid principal balances for the time 721
outstanding. 722

(3) When any loan contract is paid in full by cash, renewal, 723
refinancing, or a new loan, one month or more before the final 724
installment due date, the registrant shall refund, or credit the 725
borrower with, the total of the applicable charges for all fully 726
unexpired installment periods, as originally scheduled or as 727
deferred, that follow the day of prepayment. If the prepayment is 728
made other than on a scheduled installment due date, the nearest 729
scheduled installment due date shall be used in such computation. 730
If the prepayment occurs prior to the first installment due date, 731
the registrant may retain one-thirtieth of the applicable charge 732
for a first installment period of one month for each day from date 733
of loan to date of prepayment, and shall refund, or credit the 734
borrower with, the balance of the total interest contracted for. 735
If the maturity of the loan is accelerated for any reason and 736

judgment is entered, the registrant shall credit the borrower with 737
the same refund as if prepayment in full had been made on the date 738
the judgment is entered. 739

(4) If the parties agree in writing, either in the loan 740
contract or in a subsequent agreement, to a deferment of wholly 741
unpaid installments, a registrant may grant a deferment and may 742
collect a deferment charge as provided in this section. A 743
deferment postpones the scheduled due date of the earliest unpaid 744
installment and all subsequent installments as originally 745
scheduled, or as previously deferred, for a period equal to the 746
deferment period. The deferment period is that period during which 747
no installment is scheduled to be paid by reason of the deferment. 748
The deferment charge for a one-month period may not exceed the 749
applicable charge for the installment period immediately following 750
the due date of the last undeferred installment. A proportionate 751
charge may be made for deferment for periods of more or less than 752
one month. A deferment charge is earned pro rata during the 753
deferment period and is fully earned on the last day of the 754
deferment period. If a loan is prepaid in full during a deferment 755
period, the registrant shall make, or credit to the borrower, a 756
refund of the unearned deferment charge in addition to any other 757
refund or credit made for prepayment of the loan in full. 758

(E) A registrant, at the request of the borrower, may obtain, 759
on one or more borrowers, credit life insurance, credit accident 760
and health insurance, and unemployment insurance. The premium or 761
identifiable charge for the insurance may be included in the 762
principal amount of the loan and may not exceed the premium rate 763
filed by the insurer with the superintendent of insurance and not 764
disapproved by the superintendent. If a registrant obtains the 765
insurance at the request of the borrower, the borrower shall have 766
the right to cancel the insurance for a period of twenty-five days 767
after the loan is made. If the borrower chooses to cancel the 768

insurance, the borrower shall give the registrant written notice 769
of this choice and shall return all of the policies or 770
certificates of insurance or notices of proposed insurance to the 771
registrant during such period, and the full premium or 772
identifiable charge for the insurance shall be refunded to the 773
borrower by the registrant. If the borrower requests, in the 774
notice to cancel the insurance, that this refund be applied to 775
reduce the balance of a precomputed loan, the registrant shall 776
credit the amount of the refund plus the amount of interest 777
applicable to the refund to the loan balance. 778

If the registrant obtains the insurance at the request of the 779
borrower, the registrant shall not charge or collect interest on 780
any insured amount that remains unpaid after the insured 781
borrower's date of death. 782

(F) A registrant may require the borrower to provide 783
insurance or a loss payable endorsement covering reasonable risks 784
of loss, damage, and destruction of property used as security for 785
the loan and with the consent of the borrower such insurance may 786
cover property other than that which is security for the loan. The 787
amount and term of required property insurance shall be reasonable 788
in relation to the amount and term of the loan contract and the 789
type and value of the security, and the insurance shall be 790
procured in accordance with the insurance laws of this state. The 791
purchase of this insurance through the registrant or an agent or 792
broker designated by the registrant shall not be a condition 793
precedent to the granting of the loan. If the borrower purchases 794
the insurance from or through the registrant or from another 795
source, the premium may be included in the principal amount of the 796
loan. 797

(G) On loans secured by an interest in real estate, all of 798
the following apply: 799

(1) A registrant may charge and receive up to two points, and 800

a prepayment penalty not in excess of one per cent of the original principal amount of the loan. Points may be paid by the borrower at the time of the loan or may be included in the principal amount of the loan. On a refinancing, a registrant may not charge under division (G)(1) of this section either of the following:

(a) Points on the portion of the principal amount that is applied to the unpaid principal amount of the refinanced loan, if the refinancing occurs within one year after the date of the refinanced loan on which points were charged;

(b) A prepayment penalty.

(2) As an alternative to the prepayment penalty described in division (G)(1) of this section, a registrant may contract for, charge, and receive the prepayment penalty described in division (G)(2) of this section for the prepayment of a loan prior to two years after the date the loan contract is executed. This prepayment penalty shall not exceed two per cent of the original principal amount of the loan if the loan is paid in full prior to one year after the date the loan contract is executed. The penalty shall not exceed one per cent of the original principal amount of the loan if the loan is paid in full at any time from one year, but prior to two years, after the date the loan contract is executed. A registrant shall not charge or receive a prepayment penalty under division (G)(2) of this section if any of the following applies:

(a) The loan is a refinancing by the same registrant or a registrant to whom the loan has been assigned;

(b) The loan is paid in full as a result of the sale of the real estate that secures the loan;

(c) The loan is paid in full with the proceeds of an insurance claim against an insurance policy that insures the life of the borrower or an insurance policy that covers loss, damage,

or destruction of the real estate that secures the loan. 832

(3) Division (G) of this section is not a limitation on 833
discount points or other charges for purposes of section 501(b)(4) 834
of the "Depository Institutions Deregulation and Monetary Control 835
Act of 1980," 94 Stat. 161, 12 U.S.C.A. 1735f-7 note. 836

(H)(1) In addition to the interest and charges provided for 837
by this section, no further or other amount, whether in the form 838
of broker fees, placement fees, or any other fees whatsoever, 839
shall be charged ~~or~~, received, or required by the registrant, 840
except costs and disbursements in connection with any suit to 841
collect a loan or any lawful activity to realize on a security 842
interest or mortgage after default, including reasonable attorney 843
fees incurred by the registrant as a result of the suit or 844
activity and to which the registrant becomes entitled by law, and 845
except the following additional charges which may be included in 846
the principal amount of the loan or collected at any time after 847
the loan is made: 848

(a) The amounts of fees authorized by law to record, file, or 849
release security interests and mortgages on a loan; 850

(b) With respect to a loan secured by an interest in real 851
estate, the following closing costs, if they are bona fide, 852
reasonable in amount, and not for the purpose of circumvention or 853
evasion of this section: 854

(i) Fees or premiums for title examination, abstract of 855
title, title insurance, surveys, title endorsements, title 856
binders, title commitments, home inspections, or pest inspections; 857
settlement or closing costs; courier fees; and any federally 858
mandated flood plain certification fee; 859

(ii) If not paid to the registrant, an employee of the 860
registrant, or a person related to the registrant, fees for 861
preparation of a mortgage, settlement statement, or other 862

documents, fees for notarizing mortgages and other documents, 863
appraisal fees, and fees for any federally mandated inspection of 864
home improvement work financed by a second mortgage loan; 865

(c) Fees for credit investigations not exceeding ten dollars. 866

(2) Division (H)(1) of this section does not limit the rights 867
of registrants to engage in other transactions with borrowers, 868
provided the transactions are not a condition of the loan. 869

(I) If the loan contract or security instrument contains 870
covenants by the borrower to perform certain duties pertaining to 871
insuring or preserving security and the registrant pursuant to the 872
loan contract or security instrument pays for performance of the 873
duties on behalf of the borrower, the registrant may add the 874
amounts paid to the unpaid principal balance of the loan or 875
collect them separately. A charge for interest may be made for 876
sums advanced not exceeding the rate of interest permitted by 877
division (A) of this section. Within a reasonable time after 878
advancing a sum, the registrant shall notify the borrower in 879
writing of the amount advanced, any interest charged with respect 880
to the amount advanced, any revised payment schedule, and shall 881
include a brief description of the reason for the advance. 882

(J)(1) In addition to points authorized under division (G) of 883
this section, a registrant may charge and receive the following: 884

(a) With respect to secured loans: if the principal amount of 885
the loan is less than five hundred dollars, loan origination 886
charges not exceeding fifteen dollars; if the principal amount of 887
the loan is at least five hundred dollars but less than one 888
thousand dollars, loan origination charges not exceeding thirty 889
dollars; if the principal amount of the loan is at least one 890
thousand dollars but less than two thousand dollars, loan 891
origination charges not exceeding one hundred dollars; if the 892
principal amount of the loan is at least two thousand dollars but 893

less than five thousand dollars, loan origination charges not 894
exceeding two hundred dollars; and if the principal amount of the 895
loan is at least five thousand dollars, loan origination charges 896
not exceeding the greater of two hundred fifty dollars or one per 897
cent of the principal amount of the loan. 898

(b) With respect to unsecured loans: if the principal amount 899
of the loan is less than five hundred dollars, loan origination 900
charges not exceeding fifteen dollars; if the principal amount of 901
the loan is at least five hundred dollars but less than one 902
thousand dollars, loan origination charges not exceeding thirty 903
dollars; if the principal amount of the loan is at least one 904
thousand dollars but less than five thousand dollars, loan 905
origination charges not exceeding one hundred dollars; and if the 906
principal amount of the loan is at least five thousand dollars, 907
loan origination charges not exceeding the greater of two hundred 908
fifty dollars or one per cent of the principal amount of the loan. 909

(2) If a refinancing occurs within ninety days after the date 910
of the refinanced loan, a registrant may not impose loan 911
origination charges on the portion of the principal amount that is 912
applied to the unpaid principal amount of the refinanced loan. 913

(3) Loan origination charges may be paid by the borrower at 914
the time of the loan or may be included in the principal amount of 915
the loan. 916

(K) A registrant may charge and receive check collection 917
charges not greater than twenty dollars plus any amount passed on 918
from other financial institutions for each check, negotiable order 919
of withdrawal, share draft, or other negotiable instrument 920
returned or dishonored for any reason. 921

(L) If the loan contract so provides, a registrant may 922
collect a default charge on any installment not paid in full 923
within ten days after its due date. For this purpose, all 924

installments are considered paid in the order in which they become 925
due. Any amounts applied to an outstanding loan balance as a 926
result of voluntary release of a security interest, sale of 927
security on the loan, or cancellation of insurance shall be 928
considered payments on the loan, unless the parties otherwise 929
agree in writing at the time the amounts are applied. The amount 930
of the default charge shall not exceed the greater of five per 931
cent of the scheduled installment or fifteen dollars. 932

(M) With respect to a loan it has made under sections 1321.51 933
to 1321.60 of the Revised Code, a registrant may not do any of the 934
following: 935

(1) Charge or receive a fee for cashing a proceeds check or 936
money order disbursed to fund the loan; 937

(2) Require a borrower to cash a proceeds check or money 938
order disbursed to fund the loan at the place of business of the 939
registrant, an affiliate of the registrant, or any specified third 940
party; 941

(3) Seek or obtain directly or indirectly compensation from 942
any affiliate or third party that provides check-cashing services 943
to cash a proceeds check or money order disbursed to fund the loan 944
by the registrant. 945

Sec. 1321.571. As an alternative to the interest permitted in 946
division (A) of section 1321.57 and in division (B) of section 947
1321.58 of the Revised Code, a registrant may contract for and 948
receive interest at any rate or rates agreed upon or consented to 949
by the parties to the loan contract or open-end loan agreement, 950
but not exceeding an annual percentage rate of twenty-five per 951
cent. 952

Nothing in this section shall be construed to permit a 953
licensee to contract for or receive an annual percentage rate that 954

is greater than what is permitted in division (E) of section 955
1321.59 of the Revised Code for loans described in that division. 956

Sec. 1321.59. (A) No registrant under sections 1321.51 to 957
1321.60 of the Revised Code shall permit any borrower to be 958
indebted for a loan made under sections 1321.51 to 1321.60 of the 959
Revised Code at any time while the borrower is also indebted to an 960
affiliate or agent of the registrant for a loan made under 961
sections 1321.01 to 1321.19 of the Revised Code for the purpose or 962
with the result of obtaining greater charges than otherwise would 963
be permitted by sections 1321.51 to 1321.60 of the Revised Code. 964

(B) No registrant shall induce or permit any person to become 965
obligated to the registrant under sections 1321.51 to 1321.60 of 966
the Revised Code, directly or contingently, or both, under more 967
than one contract of loan at the same time for the purpose or with 968
the result of obtaining greater charges than would otherwise be 969
permitted by sections 1321.51 to 1321.60 of the Revised Code. 970

(C) No registrant shall refuse to provide information 971
regarding the amount required to pay in full a loan under sections 972
1321.51 to 1321.60 of the Revised Code when requested by the 973
borrower or by another person designated in writing by the 974
borrower. 975

(D) On any loan or application for a loan under sections 976
1321.51 to 1321.60 of the Revised Code secured by a mortgage on a 977
borrower's real estate which is other than a first lien on the 978
real estate, no person shall pay or receive, directly or 979
indirectly, fees or any other type of compensation for services of 980
a broker that, in the aggregate, exceed the lesser of one thousand 981
dollars or one per cent of the principal amount of the loan. 982

(E)(1) No registrant shall make a loan of one thousand 983
dollars or less under sections 1321.51 to 1321.60 of the Revised 984
Code that will obligate the borrower to pay an annual percentage 985

rate for the loan that exceeds twenty-eight per cent, as 986
calculated in compliance with the "Truth in Lending Act," 82 Stat. 987
149 (1980), 15 U.S.C. 1606, unless one of the following applies: 988

(a) The term of loan is greater than three months. 989
990

(b) The loan contract requires the borrower to repay the loan 991
in three or more monthly installments of substantially equal 992
amounts. 993

(2) Any loan made by a registrant that meets the requirements 994
of division (E)(1)(a) or (b) of this section shall be subject to 995
section 1321.57 of the Revised Code. 996

Sec. 1321.591. No registrant or licensee shall use unfair, 997
deceptive, or unconscionable means to collect or attempt to 998
collect any claim. Without limiting the general application of the 999
foregoing, the following conduct is deemed to violate this 1000
section: 1001

(A) The collection of or the attempt to collect any interest 1002
or other charge, fee, or expense incidental to the principal 1003
obligation unless such interest or incidental fee, charge, or 1004
expense is expressly authorized by the agreement creating the 1005
obligation and by law. 1006

(B) Any communication with a consumer whenever it is known 1007
that the consumer is represented by an attorney and the attorney's 1008
name and address are known, or could be easily ascertained, unless 1009
the attorney fails to answer correspondence, return telephone 1010
calls or discuss the obligation in question, or unless the 1011
attorney consents to direct communication with the consumer. 1012

(C) Placing a telephone call or otherwise communicating by 1013
telephone with a consumer or third party, at any place, including 1014
a place of employment, falsely stating that the call is urgent or 1015

an emergency. 1016

(D) Using profane or obscene language or language that is intended to unreasonably abuse the listener or reader. 1017
1018

(E) Placing telephone calls without disclosure of the caller's identity and with the intent to annoy, harass, or threaten any person at the number called. 1019
1020
1021

(F) Causing expense to any person in the form of long distance telephone tolls, text messaging fees, or other charges incurred by a form of communication, by concealment of the true purpose of the communication. 1022
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(G) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously, or at unusual times, or at times known to be inconvenient, with the intent to annoy, abuse, oppress, or threaten any person at the called number. 1026
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Sec. 1321.61. (A) As used in this section, "violation" means either of the following: 1031
1032

(1) A violation of section 1321.02, 1321.11, 1321.12, 1321.13, 1321.14, 1321.15, 1321.17, 1321.52, 1321.551, 1321.56, 1321.57, 1321.571, 1321.59, 1321.591, or 1321.60 of the Revised Code when the violation involves a loan of one thousand dollars or less; 1033
1034
1035
1036
1037

(2) A violation of section 1321.36, 1321.39, 1321.40, 1321.41, or 1321.45 of the Revised Code. 1038
1039

(B) A violation is deemed an unfair or deceptive act or practice that violates section 1345.02 of the Revised Code. A borrower injured by a violation 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 1040
1041
1042
1043
1044
1045

1345.13 of the Revised Code are available to the attorney general 1046
to take enforcement action regarding a violation. 1047

(C) The superintendent of financial institutions or a 1048
borrower may bring directly an action to enjoin a violation. The 1049
prosecuting attorney of the county in which the action may be 1050
brought may bring an action to enjoin a violation only if the 1051
prosecuting attorney first presents any evidence of the violation 1052
to the attorney general and, within a reasonable period of time, 1053
the attorney general has not agreed to bring the action. 1054

(D) The superintendent may initiate criminal proceedings for 1055
a violation by presenting any evidence of a criminal offense to 1056
the prosecuting attorney of the county in which the offense may be 1057
prosecuted. If the prosecuting attorney does not prosecute the 1058
violation, or at the request of the prosecuting attorney, the 1059
superintendent shall present any evidence of criminal offenses to 1060
the attorney general, who may proceed in the prosecution with all 1061
the rights, privileges, and powers conferred by law on prosecuting 1062
attorneys, including the power to appear before grand juries and 1063
to interrogate witnesses before such grand juries. These powers of 1064
the attorney general are in addition to any other applicable 1065
powers of the attorney general. 1066

(E) The prosecuting attorney of the county in which an 1067
alleged offense may be prosecuted may initiate criminal 1068
proceedings for a violation. 1069

(F) In order to initiate criminal proceedings for a 1070
violation, the attorney general first shall present any evidence 1071
of a criminal offense to the prosecuting attorney of the county in 1072
which the alleged offense may be prosecuted. If, within a 1073
reasonable period of time, the prosecuting attorney has not agreed 1074
to prosecute the violation, the attorney general may proceed in 1075
the prosecution with all the rights, privileges, and powers 1076
described in division (C) of this section. 1077

(G) 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. 1078
1079
1080

Sec. 1321.99. (A) Whoever violates section 1321.02 of the Revised Code is guilty of a felony of the fifth degree. 1081
1082

(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. 1083
1084
1085

(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. 1086
1087
1088
1089
1090

(D) Whoever willfully violates division (C) of section 1321.15 or section 1321.57, 1321.58, 1321.59, or 1321.60 of the Revised Code shall be fined not less than ~~one~~ five hundred nor more than ~~five hundred~~ one thousand dollars. 1091
1092
1093
1094

(E) Whoever violates section 1321.52 of the Revised Code is guilty of a felony of the fifth degree. 1095
1096

(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. 1097
1098
1099

(G) Whoever violates section 1321.41 of the Revised Code is guilty of a misdemeanor of the first degree. 1100
1101

Sec. 1322.01. As used in sections 1322.01 to 1322.12 of the Revised Code: 1102
1103

(A) "Buyer" means an individual who is solicited to purchase or who purchases the services of a mortgage broker for purposes other than obtaining a business loan as described in division 1104
1105
1106

(B)~~(6)~~(5) of section 1343.01 of the Revised Code. 1107

(B) "Consumer reporting agency" has the same meaning as in 1108
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, 1109
as amended. 1110

(C) "Employee" means an individual for whom a mortgage 1111
broker, in addition to providing a wage or salary, pays social 1112
security and unemployment taxes, provides workers' compensation 1113
coverage, and withholds local, state, and federal income taxes. 1114
"Employee" also includes any shareholder, member, or partner of a 1115
registrant who acts as a loan officer or operations manager of the 1116
registrant, but for whom the registrant is prevented by law from 1117
making income tax withholdings. 1118

(D) "Licensee" means any person that has been issued a loan 1119
officer license under sections 1322.01 to 1322.12 of the Revised 1120
Code. 1121

(E) "Loan officer" means an employee who originates mortgage 1122
loans in consideration of direct or indirect gain, profit, fees, 1123
or charges. "Loan officer" also includes an employee who solicits 1124
financial and mortgage information from the public for sale to 1125
another mortgage broker. 1126

(F) "Mortgage" means any indebtedness secured by a deed of 1127
trust, security deed, or other lien on real property. 1128

(G) "Mortgage broker" means any of the following: 1129

(1) A person that holds that person out as being able to 1130
assist a buyer in obtaining a mortgage and charges or receives 1131
from either the buyer or lender money or other valuable 1132
consideration readily convertible into money for providing this 1133
assistance; 1134

(2) A person that solicits financial and mortgage information 1135
from the public, provides that information to a mortgage broker, 1136

and charges or receives from the mortgage broker money or other 1137
valuable consideration readily convertible into money for 1138
providing the information; 1139

(3) A person engaged in table-funding or warehouse-lending 1140
mortgage loans that are first lien mortgage loans. 1141

(H) "Operations manager" means the individual responsible for 1142
the everyday operations, compliance requirements, and management 1143
of a mortgage broker business. 1144

(I) "Originate" means to do any of the following: 1145

(1) Negotiate or arrange, or offer to negotiate or arrange, a 1146
mortgage loan between a person that makes or funds mortgage loans 1147
and a buyer; 1148

(2) Issue a commitment for a mortgage loan to a buyer; 1149

(3) Place, assist in placement, or find a mortgage loan for a 1150
buyer. 1151

(J) "Registrant" means any person that has been issued a 1152
mortgage broker certificate of registration under sections 1322.01 1153
to 1322.12 of the Revised Code. 1154

(K) "Superintendent of financial institutions" includes the 1155
deputy superintendent for consumer finance as provided in section 1156
1181.21 of the Revised Code. 1157

(L) "Table-funding mortgage loan" means a mortgage loan 1158
transaction in which the mortgage is initially payable to the 1159
mortgage broker, the mortgage broker does not use the mortgage 1160
broker's own funds to fund the transaction, and, by the terms of 1161
the mortgage or other agreement, the mortgage is simultaneously 1162
assigned to another person. 1163

(M) "Warehouse-lending mortgage loan" means a mortgage loan 1164
transaction in which the mortgage is initially payable to the 1165
mortgage broker, the mortgage broker uses the mortgage broker's 1166

own funds to fund the transaction, and the mortgage is sold or 1167
assigned before the mortgage broker receives a scheduled payment 1168
on the mortgage. 1169

Sec. 1343.01. (A) The parties to a bond, bill, promissory 1170
note, or other instrument of writing for the forbearance or 1171
payment of money at any future time, may stipulate therein for the 1172
payment of interest upon the amount thereof at any rate not 1173
exceeding eight per cent per annum payable annually, except as 1174
authorized in division (B) of this section. 1175

(B) Any party may agree to pay a rate of interest in excess 1176
of the maximum rate provided in division (A) of this section when: 1177

(1) The original amount of the principal indebtedness 1178
stipulated in the bond, bill, promissory note, or other instrument 1179
of writing exceeds one hundred thousand dollars; 1180

(2) The payment is to a broker or dealer registered under the 1181
"Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78A, as 1182
amended, for carrying a debit balance in an account for a customer 1183
if such debit balance is payable on demand and secured by stocks, 1184
bonds or other securities; 1185

(3) The instrument evidences a loan secured by a mortgage or 1186
deed of trust on real estate where the loan has been approved, 1187
insured, guaranteed, purchased, or for which an offer or 1188
commitment to insure, guarantee, or purchase has been received, in 1189
whole or in part, by the federal government or any agency or 1190
instrumentality thereof, the federal national mortgage 1191
association, the federal home loan mortgage corporation, or the 1192
farmers home administration, all of which is authorized pursuant 1193
to the "National Housing Act," 12 U.S.C. 1701; the "Serviceman's 1194
Readjustment Act," 38 U.S.C. 1801; the "Federal Home Loan Bank 1195
Act," 12 U.S.C. 1421; and the "Rural Housing Act," 42 U.S.C. 1471, 1196
amendments thereto, reenactments thereof, enactments parallel 1197

thereto, or in substitution therefor, or regulations issued 1198
thereunder; or by the state or any agency or instrumentality 1199
thereof authorized pursuant to Chapter 122. of the Revised Code, 1200
or rules issued thereunder. 1201

(4) The instrument evidences a loan secured by a mortgage, 1202
deed of trust, or land installment contract on real estate which 1203
does not otherwise qualify for exemption from the provisions of 1204
this section, except that such rate of interest shall not exceed 1205
eight per cent in excess of the discount rate on ninety-day 1206
commercial paper in effect at the federal reserve bank in the 1207
fourth federal reserve district at the time the mortgage, deed of 1208
trust, or land installment contract is executed. 1209

~~(5) The instrument is payable on demand or in one installment 1210
and is not secured by household furnishings or other goods used 1211
for personal, family, or household purposes. 1212~~

~~(6)(a) The loan is a business loan to a business association 1213
or partnership, a person owning and operating a business as a sole 1214
proprietor; any persons owning and operating a business as joint 1215
venturers, joint tenants, or tenants in common; any limited 1216
partnership; or any trustee owning or operating a business or 1217
whose beneficiaries own or operate a business, except that: 1218~~

(i) Any loan which is secured by an assignment of an 1219
individual obligor's salary, wages, commissions, or other 1220
compensation for services or by ~~his~~ the individual obligor's 1221
household furniture or other goods used for ~~his~~ the individual 1222
obligor's personal, family, or household purposes shall be deemed 1223
not a loan within the meaning of division (B)~~(6)~~(5) of this 1224
section; 1225

(ii) Any loan which otherwise qualifies as a business loan 1226
within the meaning of division (B)~~(6)~~(5) of this section shall not 1227
be deemed disqualified because of the inclusion, with other 1228

security consisting of business assets of any such obligor, of 1229
real estate occupied by an individual obligor solely as ~~his~~ the 1230
individual obligor's residence. 1231

(b) As used in division (B)~~(6)~~(5)(a) of this section, 1232
"business" means a commercial, agricultural, or industrial 1233
enterprise which is carried on for the purpose of investment or 1234
profit. "Business" does not mean the ownership or maintenance of 1235
real estate occupied by an individual obligor solely as ~~his~~ the 1236
individual obligor's residence. 1237

Sec. 1345.01. As used in sections 1345.01 to 1345.13 of the 1238
Revised Code: 1239

(A) "Consumer transaction" means a sale, lease, assignment, 1240
award by chance, or other transfer of an item of goods, a service, 1241
a franchise, or an intangible, to an individual for purposes that 1242
are primarily personal, family, or household, or solicitation to 1243
supply any of these things. "Consumer transaction" does not 1244
include transactions between persons, defined in sections 4905.03 1245
and 5725.01 of the Revised Code, and their customers, except for 1246
transactions involving a loan made pursuant to sections 1321.35 to 1247
1321.48 of the Revised Code, transactions involving a loan of one 1248
thousand dollars or less made pursuant to sections 1321.01 to 1249
1321.19 or 1321.51 to 1321.60 of the Revised Code, and 1250
transactions in connection with residential mortgages between loan 1251
officers, mortgage brokers, or nonbank mortgage lenders and their 1252
customers; "Consumer transaction" does not include transactions 1253
between certified public accountants or public accountants and 1254
their clients; transactions between attorneys, physicians, or 1255
dentists and their clients or patients; and transactions between 1256
veterinarians and their patients that pertain to medical treatment 1257
but not ancillary services. 1258

(B) "Person" includes an individual, corporation, government, 1259

governmental subdivision or agency, business trust, estate, trust, 1260
partnership, association, cooperative, or other legal entity. 1261

(C) "Supplier" means a seller, lessor, assignor, franchisor, 1262
or other person engaged in the business of effecting or soliciting 1263
consumer transactions, whether or not the person deals directly 1264
with the consumer. If the consumer transaction is in connection 1265
with a residential mortgage, "supplier" does not include an 1266
assignee or purchaser of the loan for value, except as otherwise 1267
provided in section 1345.091 of the Revised Code. For purposes of 1268
this division, in a consumer transaction in connection with a 1269
residential mortgage, "seller" means a loan officer, mortgage 1270
broker, or nonbank mortgage lender. 1271

(D) "Consumer" means a person who engages in a consumer 1272
transaction with a supplier. 1273

(E) "Knowledge" means actual awareness, but such actual 1274
awareness may be inferred where objective manifestations indicate 1275
that the individual involved acted with such awareness. 1276

(F) "Natural gas service" means the sale of natural gas, 1277
exclusive of any distribution or ancillary service. 1278

(G) "Public telecommunications service" means the 1279
transmission by electromagnetic or other means, other than by a 1280
telephone company as defined in section 4927.01 of the Revised 1281
Code, of signs, signals, writings, images, sounds, messages, or 1282
data originating in this state regardless of actual call routing. 1283
"Public telecommunications service" excludes a system, including 1284
its construction, maintenance, or operation, for the provision of 1285
telecommunications service, or any portion of such service, by any 1286
entity for the sole and exclusive use of that entity, its parent, 1287
a subsidiary, or an affiliated entity, and not for resale, 1288
directly or indirectly; the provision of terminal equipment used 1289
to originate telecommunications service; broadcast transmission by 1290

radio, television, or satellite broadcast stations regulated by 1291
the federal government; or cable television service. 1292

(H) "Loan officer" has the same meaning as in section 1322.01 1293
of the Revised Code, except that it does not include an employee 1294
of a bank, savings bank, savings and loan association, credit 1295
union, or credit union service organization organized under the 1296
laws of this state, another state, or the United States; an 1297
employee of a subsidiary of such a bank, savings bank, savings and 1298
loan association, or credit union; or an employee of an affiliate 1299
that (1) controls, is controlled by, or is under common control 1300
with, such a bank, savings bank, savings and loan association, or 1301
credit union and (2) is subject to examination, supervision, and 1302
regulation, including with respect to the affiliate's compliance 1303
with applicable consumer protection requirements, by the board of 1304
governors of the federal reserve system, the comptroller of the 1305
currency, the office of thrift supervision, the federal deposit 1306
insurance corporation, or the national credit union 1307
administration. 1308

(I) "Residential mortgage" or "mortgage" means an obligation 1309
to pay a sum of money evidenced by a note and secured by a lien 1310
upon real property located within this state containing two or 1311
fewer residential units or on which two or fewer residential units 1312
are to be constructed and includes such an obligation on a 1313
residential condominium or cooperative unit. 1314

(J) "Mortgage broker" has the same meaning as in section 1315
1322.01 of the Revised Code, except that it does not include a 1316
bank, savings bank, savings and loan association, credit union, or 1317
credit union service organization organized under the laws of this 1318
state, another state, or the United States; a subsidiary of such a 1319
bank, savings bank, savings and loan association, or credit union; 1320
an affiliate that (1) controls, is controlled by, or is under 1321
common control with, such a bank, savings bank, savings and loan 1322

association, or credit union and (2) is subject to examination, 1323
supervision, and regulation, including with respect to the 1324
affiliate's compliance with applicable consumer protection 1325
requirements, by the board of governors of the federal reserve 1326
system, the comptroller of the currency, the office of thrift 1327
supervision, the federal deposit insurance corporation, or the 1328
national credit union administration; or an employee of any such 1329
entity. 1330

(K) "Nonbank mortgage lender" means any person that engages 1331
in a consumer transaction in connection with a residential 1332
mortgage, except for a bank, savings bank, savings and loan 1333
association, credit union, or credit union service organization 1334
organized under the laws of this state, another state, or the 1335
United States; a subsidiary of such a bank, savings bank, savings 1336
and loan association, or credit union; or an affiliate that (1) 1337
controls, is controlled by, or is under common control with, such 1338
a bank, savings bank, savings and loan association, or credit 1339
union and (2) is subject to examination, supervision, and 1340
regulation, including with respect to the affiliate's compliance 1341
with applicable consumer protection requirements, by the board of 1342
governors of the federal reserve system, the comptroller of the 1343
currency, the office of thrift supervision, the federal deposit 1344
insurance corporation, or the national credit union 1345
administration. 1346

(L) For purposes of divisions (H), (J), and (K) of this 1347
section: 1348

(1) "Control" of another entity means ownership, control, or 1349
power to vote twenty-five per cent or more of the outstanding 1350
shares of any class of voting securities of the other entity, 1351
directly or indirectly or acting through one or more other 1352
persons. 1353

(2) "Credit union service organization" means a CUSO as 1354

defined in 12 C.F.R. 702.2. 1355

Sec. 1351.031. No lessor shall engage, directly or 1356
indirectly, in any fraudulent or deceptive act, practice, or 1357
course of business in connection with a lease-purchase agreement, 1358
including knowingly acting in or abetting a scheme to create an 1359
evasion of restrictions on fees or charges as set forth in Chapter 1360
1321. of the Revised Code. 1361

Sec. 4710.02. (A) Subject to division (C) of this section, a 1362
person engaged in debt adjusting shall do all of the following: 1363

(1) Unless specifically instructed otherwise by a debtor, 1364
disburse to the appropriate creditors all funds received from the 1365
debtor, less any contributions not prohibited by division (B) of 1366
this section, within thirty days of receipt of the funds from the 1367
debtor; 1368

(2) Maintain a separate trust account for the receipt of any 1369
funds from debtors and the disbursement of the funds to creditors 1370
on behalf of the debtors; 1371

(3) Charge or accept only reasonable fees or contributions in 1372
accordance with division (B) of this section; 1373

(4) Establish and implement a policy that allows for the 1374
waiver or discontinuation of fees or contributions not prohibited 1375
by division (B) of this section if the debtor is unable to pay 1376
such fees or contributions. 1377

(B) If fees or contributions for providing debt adjusting 1378
services are charged or accepted, directly or indirectly, no 1379
person providing or engaged in debt adjusting shall do any of the 1380
following: 1381

(1) Charge or accept a fee or contribution exceeding 1382
seventy-five dollars from a debtor residing in this state for an 1383

initial consultation or initial set up of a debt management plan 1384
or similar plan; 1385

(2) Charge or accept consultation fees or contributions 1386
exceeding one hundred dollars per calendar year from a debtor 1387
residing in this state; 1388

(3) Charge or accept a periodic fee or contribution from a 1389
debtor residing in this state for administering a debt management 1390
plan or similar plan, which fee or contribution exceeds eight and 1391
one-half per cent of the amount paid by the debtor each month for 1392
distribution to the debtor's creditors or thirty dollars, 1393
whichever is greater. 1394

(4) Engage, directly or indirectly, in any fraudulent or 1395
deceptive act, practice, or course of business in connection with 1396
the offer, sale or provision of debt adjusting services, 1397
including, but not limited to, knowingly acting in or abetting a 1398
scheme to create an evasion of restrictions on fees or charges as 1399
set forth in Chapter 1321. of the Revised Code. 1400

(C) Division (A) or (B) of this section does not prohibit a 1401
person engaged in debt adjusting for a debtor who is residing in 1402
this state from charging the debtor a reasonable fee for 1403
insufficient funds transactions that is in addition to fees or 1404
contributions not prohibited by division (B) of this section. 1405

(D) Any person that engages in debt adjusting, annually, 1406
shall arrange for and undergo an audit conducted by an 1407
independent, third party, certified public accountant of the 1408
person's business, including any trust funds deposited and 1409
distributed to creditors on behalf of debtors. Both of the 1410
following apply to an audit described in this division: 1411

(1) The person shall file the results of the audit and the 1412
auditor's opinion with the consumer protection division of the 1413
attorney general. 1414

(2) The attorney general shall make available a summary of 1415
the results of the audit and the auditor's opinion upon written 1416
request of a person and payment of a fee not exceeding the cost of 1417
copying the summary and opinion. 1418

(E) A person engaged in debt adjusting shall obtain and 1419
maintain at all times insurance coverage for employee dishonesty, 1420
depositor's forgery, and computer fraud in the amount of ten per 1421
cent of the monthly average for the immediate preceding six months 1422
of the aggregate amount of all deposits made with the person by 1423
all debtors. The insurance coverage shall comply with all of the 1424
following: 1425

(1) The insurance coverage is not less than one hundred 1426
thousand dollars. 1427

(2) The insurance coverage includes a deductible that does 1428
not exceed ten per cent of the face amount of the policy coverage. 1429

(3) The insurance coverage is issued by an insurer rated at 1430
least A- or its equivalent by a nationally recognized rating 1431
organization. 1432

(4) The insurance coverage provides that thirty days advance 1433
written notice be given to the consumer protection division of the 1434
attorney general before coverage is terminated. 1435

(F)(1) No person engaged in debt adjusting shall fail to 1436
comply with division (A) of this section or shall violate division 1437
(B) of this section. 1438

(2) No person engaged in debt adjusting shall fail to comply 1439
with divisions (D) and (E) of this section. 1440

Sec. 4712.01. As used in sections 4712.01 to 4712.14 of the 1441
Revised Code: 1442

(A) "Buyer" means an individual who is solicited to purchase 1443
or who purchases the services of a credit services organization 1444

for purposes other than obtaining a business loan as described in 1445
division (B)~~(6)~~(5) of section 1343.01 of the Revised Code. 1446

(B) "Consumer reporting agency" has the same meaning as in 1447
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, 1448
as amended. 1449

(C)(1) "Credit services organization" means any person that, 1450
in return for the payment of money or other valuable consideration 1451
readily convertible into money for the following services, sells, 1452
provides, or performs, or represents that the person can or will 1453
sell, provide, or perform, one or more of the following services: 1454

(a) Improving a buyer's credit record, history, or rating; 1455

(b) Obtaining an extension of credit by others for a buyer; 1456

(c) Providing advice or assistance to a buyer in connection 1457
with division (C)(1)(a) or (b) of this section; 1458

(d) Removing adverse credit information that is accurate and 1459
not obsolete from the buyer's credit record, history, or rating; 1460

(e) Altering the buyer's identification to prevent the 1461
display of the buyer's credit record, history, or rating. 1462

(2) "Credit services organization" does not include any of 1463
the following: 1464

(a) A person that makes or collects loans, to the extent 1465
these activities are subject to licensure or registration by this 1466
state; 1467

(b) A mortgage broker, as defined in section 1322.01 of the 1468
Revised Code, that holds a valid certificate of registration under 1469
sections 1322.01 to 1322.12 of the Revised Code; 1470

(c) A lender approved by the United States secretary of 1471
housing and urban development for participation in a mortgage 1472
insurance program under the "National Housing Act," 48 Stat. 1246 1473
(1934), 12 U.S.C.A. 1701, as amended; 1474

(d) A bank, savings bank, or savings and loan association, or a subsidiary or an affiliate of a bank, savings bank, or savings and loan association. For purposes of division (C)(2)(d) of this section, "affiliate" has the same meaning as in division (A) of section 1101.01 of the Revised Code and "bank," as used in division (A) of section 1101.01 of the Revised Code, is deemed to include a savings bank or savings and loan association.

(e) A credit union organized and qualified under Chapter 1733. of the Revised Code or the "Federal Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751, as amended;

(f) A budget and debt counseling service, as defined in division (D) of section 2716.03 of the Revised Code, provided that the service is a nonprofit organization exempt from taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is in compliance with Chapter 4710. of the Revised Code;

(g) A consumer reporting agency that is in substantial compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as amended.

(h) A mortgage banker;

(i) Any political subdivision, or any governmental or other public entity, corporation, or agency, in or of the United States or any state of the United States;

(j) A college or university, or controlled entity of a college or university, as defined in section 1713.05 of the Revised Code;

(k) A motor vehicle dealer licensed pursuant to Chapter 4517. of the Revised Code acting within the scope and authority of that license or a motor vehicle auction owner licensed pursuant to Chapters 4517. and 4707. of the Revised Code acting within the scope and authority of that license.

(D) "Extension of credit" means the right to defer payment of debt, or to incur debt and defer its payment, offered or granted primarily for personal, family, or household purposes. "Extension of credit" does not include a mortgage.

(E) "Mortgage" means any indebtedness secured by a deed of trust, security deed, or other lien on real property.

(F) "Mortgage banker" means any person that makes, services, or buys and sells mortgage loans and is approved by the United States department of housing and urban development, the United States department of veterans affairs, the federal national mortgage association, or the federal home loan mortgage corporation.

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

Sec. 4712.07. No credit services organization, salesperson, agent, or representative of a credit services organization, or independent contractor that sells or attempts to sell the services of a credit services organization shall do any of the following:

(A) Charge or receive directly or indirectly from a buyer money or other consideration readily convertible into money until all services the organization has agreed to perform for the buyer are completed within the time periods described in division (A)(3) of section 4712.05 of the Revised Code.

(B) Charge or receive directly or indirectly from a buyer money or other consideration readily convertible into money for the referral of the buyer to a person that makes an extension of credit or to a consumer reporting agency, except when credit has actually been extended as a result of that referral;

(C) Make or use a false or misleading representation in the

offer or sale of the services of the organization, including 1536
either of the following: 1537

(1) Guarantying or otherwise stating that the organization is 1538
able to delete an adverse credit history, unless the 1539
representation clearly discloses that this can be done only if the 1540
credit history is inaccurate or obsolete; 1541

(2) Guarantying or otherwise stating that the organization is 1542
able to obtain an extension of credit regardless of the buyer's 1543
previous credit problems or credit history, unless the 1544
representation clearly discloses the eligibility requirements for 1545
obtaining an extension of credit. 1546

(D) Engage, directly or indirectly, in an unconscionable, 1547
unfair, or deceptive act or practice, as those terms are used and 1548
defined in Chapter 1345. of the Revised Code, in connection with 1549
the offer or sale of the services of a credit services 1550
organization; 1551

(E)(1) Make or advise a buyer to make a false or misleading 1552
statement concerning the buyer's creditworthiness, identification, 1553
credit standing, or credit capacity to any of the following: 1554

(a) A consumer reporting agency; 1555

(b) A person that has made an extension of credit to the 1556
buyer; 1557

(c) A person to which the buyer is applying for an extension 1558
of credit. 1559

(2) Division (E)(1) of this section applies to any statement 1560
that the organization, salesperson, agent, representative, or 1561
independent contractor knows or should know to be false or 1562
misleading through the exercise of reasonable care. 1563

(F) Advertise or cause to be advertised, in any manner, the 1564
services of a credit services organization without being 1565

registered with the division of financial institutions;	1566
(G) Fail to maintain a statutory agent as required under	1567
division (E) of section 4712.02 of the Revised Code;	1568
(H) Transfer or assign a certificate of registration issued	1569
by the division pursuant to section 4712.02 of the Revised Code;	1570
(I) Submit the buyer's disputes to a consumer reporting	1571
agency without the buyer's knowledge as evidenced by positive	1572
identification, including the buyer's correct current residence	1573
address, and written authorization personally signed by the buyer;	1574
(J) Fail to maintain, for a period of time as determined by	1575
the superintendent of financial institutions, all of the	1576
following:	1577
(1) A log of all contracts;	1578
(2) Copies of each contract;	1579
(3) Documentation that substantiates the validity of the	1580
representation made pursuant to division (A)(5) of section 4712.05	1581
of the Revised Code;	1582
(4) Any other record specified by the superintendent.	1583
(K) Contact a consumer reporting agency, by telephone or	1584
otherwise, for the purpose of submitting or obtaining information	1585
relative to any buyer, and state or imply that he or she is the	1586
buyer or the buyer's attorney, guardian, or other legal	1587
representative;	1588
(L) Engage, directly or indirectly, in any fraudulent or	1589
deceptive act, practice, or course of business in connection with	1590
the offer or sale of the services of a credit services	1591
organization, <u>including knowingly acting in or abetting a scheme</u>	1592
<u>to create an evasion of restrictions on fees or charges as set</u>	1593
<u>forth in Chapter 1321. of the Revised Code.</u>	1594

Section 2. That existing sections 1315.26, 1321.02, 1321.12, 1595
1321.13, 1321.131, 1321.14, 1321.15, 1321.44, 1321.52, 1321.53, 1596
1321.551, 1321.56, 1321.57, 1321.571, 1321.59, 1321.99, 1322.01, 1597
1343.01, 1345.01, 4710.02, 4712.01, and 4712.07 of the Revised 1598
Code are hereby repealed. 1599

Section 3. Section 1321.14 of the Revised Code is presented 1600
in this act as a composite of the section as amended by both Am. 1601
Sub. S.B. 293 and Sub. H.B. 495 of the 121st General Assembly. The 1602
General Assembly, applying the principle stated in division (B) of 1603
section 1.52 of the Revised Code that amendments are to be 1604
harmonized if reasonably capable of simultaneous operation, finds 1605
that the composite is the resulting version of the section in 1606
effect prior to the effective date of the section as presented in 1607
this act. 1608