

As Introduced

**128th General Assembly
Regular Session
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H. B. No. 554

Representative Luckie

**Cosponsors: Representatives Hackett, Domenick, McGregor, Coley,
Slesnick, Derickson**

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A B I L L

To amend section 121.085 and to enact sections 1
1322.21 to 1322.38 of the Revised Code to 2
establish the Installment Loan Act. 3

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

Section 1. That section 121.085 be amended and sections 4
1322.21, 1322.22, 1322.23, 1322.24, 1322.25, 1322.26, 1322.27, 5
1322.28, 1322.29, 1322.30, 1322.31, 1322.32, 1322.33, 1322.34, 6
1322.35, 1322.36, 1322.37, and 1322.38 of the Revised Code be 7
enacted to read as follows: 8

Sec. 121.085. The financial literacy education fund is hereby 9
created in the state treasury. The fund shall consist of funds 10
transferred to it from the consumer finance fund pursuant to 11
section 1321.21 of the Revised Code and the assessments collected 12
by the superintendent of financial institutions pursuant to 13
section 1322.37 of the Revised Code. The fund shall be used to 14
support various adult financial literacy education programs 15
developed or implemented by the director of commerce. The fund 16
shall be administered by the director of commerce who shall adopt 17
rules for the distribution of fund moneys. The director of 18

commerce shall adopt a rule to require that at least one-half of 19
the financial literacy education programs developed or implemented 20
pursuant to this section, and offered to the public, be presented 21
by or available at public community colleges or state institutions 22
throughout the state. The director of commerce shall deliver to 23
the president of the senate, the speaker of the house of 24
representatives, the minority leader of the senate, the minority 25
leader of the house of representatives, and the governor an annual 26
report that includes an outline of each adult financial literacy 27
education program developed or implemented, the number of 28
individuals who were educated by each program, and an accounting 29
for all funds distributed. 30

Sec. 1322.21. As used in sections 1322.21 to 1322.38 of the 31
Revised Code: 32

(A) "Installment loan" means any loan, advance of money, or 33
extension of credit that meets all of the following criteria: 34

(1) It has a principal amount of at least one hundred dollars 35
but not more than five thousand dollars. 36

(2) It has a repayment term of not less than ninety days. 37

(3) It is payable in substantially equal and consecutive 38
installments of principal and interest combined. 39

(4) It is computed on a pre-computed basis. 40

(B) "Licensee" means a person to whom the superintendent of 41
financial institutions has issued one or more licenses under 42
sections 1322.21 to 1322.38 of the Revised Code. 43

(C) "Superintendent of financial institutions" includes the 44
deputy superintendent for consumer finance as provided in section 45
1181.21 of the Revised Code. 46

Sec. 1322.22. Sections 1322.21 to 1322.38 of the Revised Code 47

shall be known as the "installment loan act." 48

Sec. 1322.23. (A) On and after January 1, 2011, no person 49
shall engage in the business of making installment loans to a 50
borrower in this state without first having obtained a license 51
from the superintendent of financial institutions under sections 52
1322.21 to 1322.38 of the Revised Code. An installment loan 53
license shall be required for each location in this state from 54
which the person will engage in the business of making installment 55
loans. If the person intends to make installment loans to 56
borrowers in this state via the telephone, mail, or internet and 57
does not maintain a physical presence in this state, the person 58
shall obtain an installment loan license for the out-of-state 59
location at which the person will maintain the records evidencing 60
the loans. 61

(B) Sections 1322.21 to 1322.38 of the Revised Code do not 62
apply to any of the following: 63

(1) Any bank, savings bank, savings and loan association, 64
credit union, or credit union service organization organized under 65
the laws of this state, another state, or the United States; 66

(2) Any licensee under sections 1321.01 to 1321.19 of the 67
Revised Code; 68

(3) Any licensee under sections 1321.35 to 1321.48 of the 69
Revised Code; 70

(4) Any registrant under sections 1321.51 to 1321.60 of the 71
Revised Code. 72

Sec. 1322.24. (A) Applications for an installment loan 73
license shall be in writing, under oath, and in the form 74
prescribed by the superintendent of financial institutions. The 75
application shall contain the name and address of the applicant; 76

the location or locations where the business of making installment loans is to be conducted or, if the person intends to make installment loans to borrowers in this state via the telephone, mail, or internet and does not maintain a physical presence in this state, the out-of-state location at which the person will maintain the records evidencing the loans; background information concerning the applicant's officers, directors, or other persons controlling the applicant's lending operations; and any further information the superintendent requires. 77
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(B) An application for an original installment loan license shall be accompanied by a nonrefundable application fee of five hundred dollars per location where the business of making installment loans is to be conducted or out-of-state location where records evidencing the loans will be maintained, as applicable. 86
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Sec. 1322.25. (A) Upon the filing of an application for an original installment loan license, and payment of the application fee required under section 1322.24 of the Revised Code, the superintendent of financial institutions shall investigate the facts concerning the applicant. The superintendent may gather such evidence, including criminal background checks and testimony given under oath, as the superintendent determines necessary to make the findings required by this section. 92
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(B) Upon conclusion of the investigation, the superintendent shall issue an installment loan license if the superintendent finds that the financial responsibility, character, and general fitness of the applicant are such as to warrant the belief that the business of making installment loans will be conducted honestly and fairly in compliance with sections 1322.21 to 1322.38 of the Revised Code. 100
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(C) The superintendent shall either approve or deny an application within sixty days after the date the superintendent deems the application complete. An application shall be deemed approved if it is not denied within that sixty-day period. If the superintendent finds that the applicant does not meet the requirements of division (B) of this section, the superintendent shall issue an order denying the application and giving the applicant an opportunity for a hearing on the denial in accordance with Chapter 119. of the Revised Code. 107
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Sec. 1322.26. (A) An installment loan license issued under section 1322.25 of the Revised Code may be renewed on or before the thirty-first day of December of the calendar year in which the original license was issued, and on or before the thirty-first day of December of each calendar year thereafter, if the superintendent of financial institutions finds that both of the following conditions are met: 116
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(1) The renewal application is accompanied by a nonrefundable application fee of two hundred fifty dollars per location where the business of making installment loans is to be conducted or out-of-state location where records evidencing the loans will be maintained, as applicable. 123
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(2) The applicant meets the requirements of division (B) of section 1322.25 of the Revised Code. 128
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(B) The superintendent shall either approve or deny a renewal application within sixty days after the date the superintendent deems the application complete. An application shall be deemed approved if it is not denied within that sixty-day period. If the superintendent finds that the applicant does not meet the requirements of division (A) of this section, the superintendent shall issue an order denying the application and giving the applicant an opportunity for a hearing on the denial in accordance 130
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with Chapter 119. of the Revised Code. 138

Sec. 1322.27. (A) Each installment loan license shall be kept 139
conspicuously posted in the place of business of the licensee and 140
is not transferable or assignable. 141

(B) No change in the place of business of a licensee shall be 142
permitted under the same license. When a licensee wishes to change 143
the licensee's place of business, the licensee shall give at least 144
thirty days' advance notice thereof to the division of financial 145
institutions. Within thirty days after receipt of that notice, the 146
superintendent of financial institutions shall issue a license for 147
the new location, unless the superintendent finds the licensee no 148
longer meets the necessary requirements. 149

(C) No change in the control of a licensee shall be permitted 150
under the same license. As used in this division, "change in the 151
control" means the sale or transfer of more than twenty-five per 152
cent of the licensee's ownership interest. 153

Sec. 1322.28. A licensee shall disclose in any printed, 154
televised, broadcast, electronically transmitted, or published 155
advertising relating to the licensee's services, including on any 156
electronic site accessible through the internet, the number 157
designated on the installment loan license issued to the licensee. 158

Sec. 1322.29. (A) In connection with an installment loan, a 159
licensee may charge, collect, and receive interest or finance 160
charges at any rate or rates agreed upon or consented to by the 161
parties to the loan contract but not exceeding twenty-five per 162
cent per year on the unpaid principal balances of the loan. 163

(B) In addition to the interest and charges authorized under 164
division (A) of this section, a licensee may charge, collect, and 165
receive, as interest, a loan origination fee and credit report fee 166

or, if the installment loan is a refinancing of a previous 167
installment loan made by the licensee, a renewal fee. Such fees 168
shall not, however, exceed the maximum fee amounts established by 169
the superintendent of financial institutions under section 1322.38 170
of the Revised Code or be included in the computation of the 171
twenty-five per cent limitation set forth in division (A) of this 172
section. 173

(C)(1) A licensee may accept as security for an installment 174
loan any of the following types of insurance: 175

(a) Insurance on tangible property against substantial risks 176
or loss; 177

(b) Insurance on the life and health of the borrower; 178

(c) Insurance against an accident of the borrower. 179

(2) The premium the borrower pays, or agrees to pay, for any 180
such insurance shall not constitute interest for purposes of 181
division (A) of this section. An insurance company may pay to the 182
party writing the insurance policy a commission that is reasonable 183
in relation to the commission the insurance company pays for a 184
comparable transaction not involving credit. 185

(D) A licensee may charge, collect, and receive an amount 186
equal to the attorney's fees the licensee incurs in the process of 187
collecting on an installment loan after default, provided the 188
amount does not exceed ten per cent of the original principal 189
amount of the loan. 190

(E) A licensee may place a lien on the borrower's personal 191
property as security for a loan but shall not place a lien on the 192
borrower's real property except when the lien is created upon the 193
filing or recording of a certificate of judgment. 194

Sec. 1322.30. (A) An installment loan made under sections 195
1322.21 to 1322.38 of the Revised Code shall be made pursuant to a 196

written loan contract that sets forth the terms and conditions of 197
the loan. The loan contract shall disclose in a clear and concise 198
manner all of the following: 199

(1) The date and amount of the loan; 200

(2) The cost of credit, as required by the "Truth in Lending 201
Act," 82 Stat. 146 (1974), 15 U.S.C. 1601, et seq.; 202

(3) A payment schedule; 203

(4) The type of security required for the loan; 204

(5) The licensee's name and address; 205

(6) The amount of each type of insurance carried and the 206
premiums paid for each type; 207

(7) The amount of interest, fees, and other charges, 208
including any default penalties; 209

(8) A statement immediately above the borrower's signature, 210
printed in boldface type of the minimum size of twelve points, as 211
follows: "WARNING: THE COST OF THIS INSTALLMENT LOAN MAY BE HIGHER 212
THAN THE COST OF CREDIT YOU MAY BE ABLE TO OBTAIN FROM ANOTHER 213
LENDER, SUCH AS A BANK OR CREDIT UNION, OR FROM FRIENDS, FAMILY 214
MEMBERS, OR NON-PROFIT ORGANIZATIONS. BE SURE TO CONSIDER ALL YOUR 215
BORROWING OPTIONS BEFORE SIGNING THIS AGREEMENT." 216

(9) A statement, printed in boldface type of the minimum size 217
of twelve points, that informs the borrower of the phone number or 218
the mail or web site address at which the borrower may submit 219
complaints regarding the loan or the licensee to the 220
superintendent of financial institutions. If the borrower submits 221
such a complaint, the licensee shall promptly and fully cooperate 222
with the superintendent's investigation and resolution of the 223
complaint. 224

(B) A borrower, at the borrower's election, may pay an 225

<u>installment loan with any one or more of the following payment</u>	226
<u>methods:</u>	227
<u>(1) Cash or a cash equivalent;</u>	228
<u>(2) Personal check;</u>	229
<u>(3) Automated clearinghouse (ACH) entry, provided the</u>	230
<u>licensee does not condition its extension of credit on the</u>	231
<u>borrower's agreement to pay the loan with recurring ACH entries;</u>	232
<u>(4) Debit card, provided that the licensee maintains the</u>	233
<u>equipment necessary to accept such payments and does not condition</u>	234
<u>its extension of credit on the borrower's agreement to pay the</u>	235
<u>loan with recurring debit card payments.</u>	236
<u>(C) A borrower may rescind an installment loan for any reason</u>	237
<u>by returning the loan proceeds to the licensee in the form of cash</u>	238
<u>not later than the close-of-business on the business day</u>	239
<u>immediately following the date the borrower obtained the loan. A</u>	240
<u>licensee shall not collect any interest, fees, or other charges on</u>	241
<u>a rescinded loan.</u>	242
<u>Sec. 1322.31. Prior to consummating an installment loan, a</u>	243
<u>licensee shall deliver to the prospective borrower a document in</u>	244
<u>substantially the following form:</u>	245
<u>"BORROWER'S BILL OF RIGHTS</u>	246
<u>1. RIGHT TO INTEREST RATE LIMIT. The lender may not collect</u>	247
<u>interest at a rate greater than permitted by law.</u>	248
<u>2. RIGHT TO RESPONSIBLE LENDING PRACTICES. This loan is an</u>	249
<u>installment loan that you must pay according to the payment</u>	250
<u>schedule outlined in the loan contract, which schedule must be at</u>	251
<u>least 90 days in duration under state law. Additionally, to ensure</u>	252
<u>that you have the ability to pay this loan in full without default</u>	253
<u>or refinancing, the monthly payment you owe on the loan may not</u>	254
<u>exceed twenty-five per cent of your monthly gross income. Finally,</u>	255

the lender may not allow you to refinance or rollover this loan, 256
and may not make a new installment loan to you on the same day 257
that you pay this loan. 258

3. RIGHT TO FREE FINANCIAL LITERACY EDUCATION PROGRAMS. State 259
law requires the lender to contribute part of its revenue from 260
this loan to the state's Financial Literacy Education Fund. The 261
lender may be periodically required by the state to provide 262
point-of-sale notice of the location, date, and time of financial 263
literacy education programs that are supported by this state fund. 264

4. RIGHT TO FREE RESCISSION PERIOD. You may rescind this loan 265
for any reason by returning the loan proceeds to the lender in the 266
form of cash not later than the close-of-business on the business 267
day immediately following the date you obtained the loan. The 268
lender may not collect any interest, fees, or other charges on a 269
rescinded loan. 270

5. RIGHT TO FAIR COLLECTION PRACTICES. If you default on this 271
loan, the lender must act fairly and professionally when 272
collecting the loan. 273

6. RIGHT TO FULL DISCLOSURE OF LOAN TERMS. The loan contract 274
must provide full disclosure of all important loan terms, 275
including the finance charges and interest rate. Additionally, the 276
loan contract must contain a written warning, immediately above 277
your signature, advising you that the cost of this loan may be 278
higher than the cost of credit you may be able to obtain 279
elsewhere. 280

7. RIGHT TO TRUTHFUL ADVERTISING. The lender may not make any 281
false or misleading statement regarding the rates, terms, or 282
conditions of an installment loan in its advertisements. 283
Additionally, the lender must list, in all of its advertisements, 284
the number designated on the installment loan license issued to 285
the lender. 286

8. RIGHT TO PREPAYMENT REBATE. You may prepay this loan at 287
any time without a penalty. If you choose to prepay this loan, the 288
lender may charge interest only for the time that the loan 289
principal was actually outstanding. 290

9. RIGHT TO COMPLAINT RESOLUTION. The loan contract must 291
provide the phone number or mail or website address at which the 292
borrower may submit complaints regarding the loan or the lender to 293
the state Superintendent of Financial Institutions. If you submit 294
such a complaint, the lender must promptly and fully cooperate 295
with the Superintendent's investigation and resolution of the 296
complaint. 297

10. RIGHT TO CONVENIENT PAYMENT METHODS. You may choose to 298
pay this loan in a manner that is convenient to you, including by 299
cash, check, or electronic funds transfer." 300

Sec. 1322.32. No licensee shall do any of the following: 301

(A) Make an installment loan if, at the time the loan was 302
consummated, the borrower's total monthly payment owed on the loan 303
exceeds twenty-five per cent of the borrower's monthly gross 304
income; 305

(B) Make an installment loan to a borrower if an installment 306
loan between that borrower and the licensee was terminated on the 307
same business day; 308

(C) Divide a borrower's loan request into separate loans, 309
each consummated within a seven-day period, if the purpose or 310
effect of that practice would be to charge, collect, or receive 311
more interest, fees, or other charges than the licensee would have 312
been permitted to charge, collect, or receive if the licensee had 313
made a single installment loan to the borrower; 314

(D) Charge, collect, or receive any interest, fees, or 315
charges in connection with an installment loan other than as 316

authorized under sections 1322.21 to 1322.38 of the Revised Code, 317
except for the following: 318

(1) The amount of lawful premiums actually paid for insurance 319
against the risk of nonrecording or releasing any instrument 320
securing the loan; 321

(2) The actual and reasonable expenses of repossessing, 322
storing, and selling any collateral pledged as security for a loan 323
in default; 324

(3) The court costs awarded by a court in connection with the 325
licensee's collection of a loan in default. 326

(E) Charge a fee for cashing a proceeds check or money order 327
disbursed to fund a loan made by the licensee or an affiliate of 328
the licensee; 329

(F) Impose a prepayment penalty. If a borrower prepays an 330
installment loan, the licensee shall refund or credit the borrower 331
with the aggregate of all applicable charges for all fully 332
unexpired installment periods, as originally scheduled, that 333
follow the date of prepayment. If the prepayment is made other 334
than on a scheduled installment due date, the nearest scheduled 335
installment due date shall be used for purposes of that 336
computation. 337

(G) Advertise, display, distribute, or broadcast any false, 338
misleading, or deceptive statement or representation regarding the 339
rates, terms, or conditions of an installment loan; 340

(H) Report the repayment performance of an installment loan 341
to any consumer reporting agency, as that term is defined in 342
section 1322.33 of the Revised Code, unless the agency that 343
receives the information records it as a tier 1 credit event. 344

Sec. 1322.33. (A) As used in this section: 345

(1) "Debt collector" means a licensee, officer, employee, or 346

agent of a licensee, or any person acting as a debt collector for 347
a licensee, or any person while serving or attempting to serve 348
legal process on any other person in connection with the judicial 349
enforcement of any debt resulting from an installment loan made by 350
a licensee. "Debt collector" does not include an employee of the 351
licensee when making courtesy calls to remind borrowers of 352
upcoming installment due dates. 353

(2) "Borrower" means a person who has an outstanding or 354
delinquent installment loan. For the purpose of this section, the 355
term "borrower" includes the borrower's spouse, parent, if the 356
borrower is a minor, guardian, executor, or administrator. 357

(3) "Communication" means the conveying of information 358
regarding a debt directly or indirectly to any person through any 359
medium. 360

(4) "Consumer reporting agency" means any person that, for 361
monetary fees, dues, or on a cooperative nonprofit basis, 362
regularly engages in whole or in part in the practice of 363
assembling or evaluating consumer credit information or other 364
information on consumers for the purpose of furnishing consumer 365
reports to third parties and that uses any means or facility for 366
the purpose of preparing or furnishing consumer reports. 367

(5) "Location information" means a consumer's residence, 368
telephone number, or place of employment. 369

(B) When communicating with any person other than the 370
borrower for the purpose of acquiring location information about 371
the borrower, the debt collector shall identify self, state that 372
the purpose for the communication is to confirm or correct 373
location information concerning a person, and, only if expressly 374
requested, identify the debt collector's employer. The debt 375
collector shall not do any of the following: 376

(1) State that the person for whom location information is 377

being sought is a borrower or owes any debt; 378

(2) Communicate by post card; 379

(3) Use any language or symbol on any envelope or in the 380
contents of any communication effected by the mails or telegram 381
that indicates that the communication relates to the collection of 382
a debt; 383

(4) After the debt collector knows the borrower is 384
represented by an attorney with regard to the subject debt and has 385
knowledge of, or can readily ascertain, such attorney's name and 386
address, not communicate with any person other than that attorney, 387
unless the attorney fails to respond within a reasonable period of 388
time to communication from the debt collector. 389

(C) A debt collector, without the prior consent of the 390
borrower given directly to the debt collector or without the 391
express permission of a court of competent jurisdiction, may not 392
communicate with a borrower in connection with the collection of 393
any debt: 394

(1) At any unusual time or place or a time or place known or 395
which should be known to be inconvenient to the borrower. In the 396
absence of knowledge of circumstances to the contrary, a debt 397
collector shall assume that the convenient time for communicating 398
with a borrower is after eight a.m. eastern standard time and 399
before nine p.m. eastern standard time at the borrower's location. 400

(2) If the debt collector knows the borrower is represented 401
by an attorney with respect to such debt and has knowledge of, or 402
can readily ascertain, such attorney's name and address, unless 403
the attorney fails to respond within a reasonable period of time 404
to a communication from the debt collector or unless the attorney 405
consents to direct communication with the borrower; 406

(3) At the borrower's place of employment if the debt 407
collector knows or has reason to know that the borrower's employer 408

prohibits the borrower from receiving such communication. 409

(D) A debt collector, when communicating with a third party 410
without the prior consent of the borrower given directly to the 411
debt collector, or without the express permission of a court of 412
competent jurisdiction, or as reasonably necessary to effectuate a 413
postjudgment judicial remedy, may not communicate, in connection 414
with the collection of any debt, with any person other than the 415
borrower, the borrower's attorney, a consumer reporting agency if 416
otherwise permitted by law, the attorney of the debt collector, or 417
a person from whom the debt collector seeks to acquire location 418
information about the borrower. 419

(E) A debt collector may not engage in any conduct the 420
natural consequence of which is to harass, oppress, or abuse any 421
person in connection with the collection of a debt, including, but 422
not limited to, any of the following: 423

(1) Using or threatening to use violence or other criminal 424
means to harm the physical person, reputation, or property of any 425
person; 426

(2) Using obscene or profane language or language the natural 427
consequence of which is to abuse the hearer or reader; 428

(3) Publication of a list of borrowers who allegedly refuse 429
to pay debts, except to a consumer-reporting agency; 430

(4) Causing a telephone to ring or engaging any person in 431
telephone conversation repeatedly or continuously with intent to 432
annoy, abuse, or harass any person at the called number. 433

(F) A debt collector may not use any false, deceptive, or 434
misleading representation or means in connection with the 435
collection of any debt, including, but not limited to, any of the 436
following: 437

(1) Falsely representing or implying that the debt collector 438

is vouched for, bonded by, or affiliated with the United States or 439
any state, including the use of any badge, uniform, or facsimile 440
thereof; 441

(2) Falsely representing the character, amount, or legal 442
status of any debt, or any services rendered, or compensation 443
which may be lawfully received by any debt collector for the 444
collection of a debt; 445

(3) Falsely representing or implying that any individual is 446
an attorney or that any communication is from an attorney; 447

(4) Representing or implying that nonpayment of any debt will 448
result in the arrest or imprisonment of any person or the seizure, 449
garnishment, attachment, or sale of any property or wages of any 450
person unless such action is lawful and the debt collector intends 451
to take such action; 452

(5) Threatening to take any action that cannot legally be 453
taken or that is not intended to be taken; 454

(6) Falsely representing or implying that a sale, referral, 455
or other transfer of any interest in a debt shall cause the 456
borrower to lose any claim or defense to payment of the debt; 457

(7) Falsely representing or implying that the borrower 458
committed any crime or other conduct in order to disgrace the 459
borrower; 460

(8) Communicating or threatening to communicate to any person 461
credit information that is known or that should be known to be 462
false, including the failure to communicate that a disputed debt 463
is disputed; 464

(9) Using or distributing any written communication that 465
simulates or is falsely represented to be a document authorized, 466
issued, or approved by any court, official, or agency of the 467
United States or any state, or that creates a false impression as 468

to its source, authorization, or approval; 469

(10) Using any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a borrower; 470
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(11) Failing to disclose in the initial written communication with the borrower that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent written communications that the communication is from a debt collector, except that division (F)(11) of this section shall not apply to a formal pleading made in connection with a legal action; 473
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(12) Falsely representing or implying that accounts have been turned over to third parties for value; 480
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(13) Falsely representing or implying that documents are legal process; 482
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(14) Using any business, company, or organization name other than the true name of the debt collector's business, company, or organization. Nothing in division (F)(14) of this section prohibits the use of trade names or acronyms the business, company, or organization is known by. 484
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(15) Falsely representing or implying that documents are not legal process forms or do not require action by the consumer; 489
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(16) Falsely representing or implying that a debt collector operates or is employed by a consumer reporting agency. 491
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(G) A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt, including, but not limited to, any of the following: 493
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(1) Collecting any amount, including any interest, fee, charge, or expense incidental to the principal obligation, unless the amount is expressly authorized by the agreement creating the 496
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<u>debt or permitted by law;</u>	499
<u>(2) Soliciting any postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution;</u>	500 501 502
<u>(3) Depositing or threatening to deposit any postdated check or other postdated payment instrument prior to the date on the check or instrument;</u>	503 504 505
<u>(4) Causing charges to be made to any person for communications by concealment of the true purpose of the communication. The charges include, but are not limited to, collect telephone calls and telegram fees. Division (G)(4) of this section does not apply to any form of communication that is authorized by the borrower for the express purpose of contacting the borrower about the loan.</u>	506 507 508 509 510 511 512
<u>(5) Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if there is no present right to possession of the property claimed as collateral through an enforceable security interest, there is no present intention to take possession of the property, or the property is exempt by law from dispossession or disablement;</u>	513 514 515 516 517 518
<u>(6) Communicating with a borrower regarding a debt by post card;</u>	519 520
<u>(7) Using any language or symbol, other than the debt collector's address, on any envelope when communicating with a borrower by use of the mails or by telegram, except that a debt collector may use the collector's business name if the name does not indicate that the collector is in the debt collection business. Nothing in division (G)(7) of this section prohibits the use of trade names or acronyms the business is known by.</u>	521 522 523 524 525 526 527
<u>(8) Designing, compiling, and furnishing any form knowing that the form would be used to create the false belief in a</u>	528 529

borrower that a person other than the licensee is participating in 530
the collection of or in an attempt to collect a debt the borrower 531
allegedly owes the creditor, when in fact the person is not so 532
participating. 533

Sec. 1322.34. (A) Each licensee shall keep and use in the 534
licensee's business such books, accounts, and records as will 535
enable the superintendent of financial institutions to determine 536
whether the licensee is complying with sections 1322.21 to 1322.38 537
of the Revised Code. Each licensee shall preserve those books, 538
accounts, and records for at least four years after making the 539
final entry on any installment loan recorded therein. 540

(B) As required by the superintendent, each licensee shall 541
file an annual report with the division of financial institutions 542
detailing the licensee's origination and collection of installment 543
loans during the preceding year. 544

Sec. 1322.35. (A) As often as the superintendent of financial 545
institutions considers it necessary, the superintendent, or the 546
superintendent's designee, may examine the records of any of the 547
following: 548

(1) Any licensee; 549

(2) Any person who advertises, solicits, or makes installment 550
loans in this state; 551

(3) Any person whom the superintendent has reason to believe 552
is violating or is about to violate any provision of sections 553
1322.21 to 1322.38 of the Revised Code. 554

(B) In conducting examinations pursuant to this section, the 555
superintendent may subpoena witnesses, books, accounts, papers, 556
and records; administer oaths; hold hearings; and take testimony 557
under oath. 558

(C) The cost of any examination, investigation, or hearing authorized under sections 1322.21 to 1322.38 of the Revised Code may, in the superintendent's discretion, be charged to the licensee or other person examined or investigated. Examinations, investigations, or hearings may be conducted at the department of commerce or, in the discretion of the superintendent, in the county in which the business of the licensee is located or in which the person required to have an installment loan license is engaging in the business of making installment loans. 559 560 561 562 563 564 565 566 567

Sec. 1322.36. (A) If the superintendent of financial institutions determines that a person is engaged in or is believed to be engaged in activities that may constitute a violation of or failure to comply with any provision of sections 1322.21 to 1322.38 of the Revised Code or any rule adopted thereunder, the superintendent, after notice and a hearing conducted in accordance with Chapter 119. of the Revised Code, may issue a cease and desist order. Such an order shall be enforceable in the court of common pleas. The remedy provided for in this division does not preclude the superintendent from pursuing any other remedy available by law. 568 569 570 571 572 573 574 575 576 577 578

(B) After notice and opportunity for a hearing conducted in accordance with Chapter 119. of the Revised Code, the superintendent may suspend, revoke, or refuse to issue or renew an installment loan license if the superintendent finds a violation of or failure to comply with any provision of sections 1322.21 to 1322.38 of the Revised Code or the rules adopted thereunder or with any terms of a cease and desist order issued by the superintendent. Upon the appeal of an order suspending or revoking a license, the court may tax court costs to the losing party. 579 580 581 582 583 584 585 586 587

(C) A suspension, revocation, relinquishment, or expiration of an installment loan license shall not affect the legality of 588 589

any pre-existing installment loan contract or prevent the 590
enforcement of those contracts. 591

Sec. 1322.37. (A) The superintendent of financial 592
institutions shall assess each licensee, at least once every three 593
months, an amount equal to one per cent of the installment loan 594
revenue the licensee generated during that period. The 595
superintendent shall deposit those assessments into the state 596
treasury to the credit of the financial literacy education fund 597
created in section 121.085 of the Revised Code. 598

(B) The superintendent may require each licensee to make 599
available to its customers, in a form prescribed by the 600
superintendent, information as to the location, date, and time of 601
any financial literacy education programs that are supported by 602
the financial literacy education fund. 603

Sec. 1322.38. (A) The superintendent of financial 604
institutions shall, in accordance with Chapter 119. of the Revised 605
Code, adopt rules that the superintendent considers necessary for 606
the implementation of sections 1322.21 to 1322.38 of the Revised 607
Code, including rules that establish the maximum loan origination 608
fee, credit report fee, and renewal fee that may be charged by 609
licensees under division (B) of section 1322.29 of the Revised 610
Code. The maximum fee amounts so established shall permit a 611
licensee to both defray its reasonable operating costs and earn a 612
profit that is commensurate with the profit margins earned by 613
other financial institutions making consumer loans to residents of 614
this state. To determine the maximum fee amounts, the 615
superintendent shall appoint and consult with a five-member 616
advisory committee consisting of persons with banking-related 617
experience. The committee shall be appointed not later than 618
January 1, 2011. 619

(B) In addition to imposing the assessment required by 620
section 1322.37 of the Revised Code, the superintendent may 621
advertise, sponsor, or promote activities or events designed to 622
support the financial literacy education of consumers who obtain 623
installment loans made under sections 1322.21 to 1322.38 of the 624
Revised Code. 625

Section 2. That existing section 121.085 of the Revised Code 626
is hereby repealed. 627