



Jana R. Vawter

*Bill Analysis*  
Legislative Service Commission

## **H.B. 233**

126th General Assembly  
(As Introduced)

**Reps. Coley, Martin, Dolan, Gibbs, C. Evans, Wagoner, Hartnett**

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### **BILL SUMMARY**

- Permits Ohio-chartered banks to charge customers interest, fees, and other charges at any rates or amounts that any out-of-state bank can charge Ohio customers.

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### **CONTENT AND OPERATION**

**General powers relating to loans and extensions of credit; maximum interest; other permissible fees and charges**

(R.C. 1109.15)

Continuing law authorizes banks chartered by Ohio (Ohio banks) to engage in certain activities relating to loaning money and extending credit. Under existing law, an Ohio bank may charge interest or finance charges at any rate agreed to by the parties to a loan contract, extension of credit, or revolving credit agreement (*i.e.*, credit card agreement), but not exceeding an annual percentage rate (APR) of 25%. The law also permits Ohio banks to charge fees and charges agreed to by the bank and the borrower, including *but not limited to* periodic membership fees, cash advance fees, late payment charges, origination fees, application fees, prepayment fees, and other specified charges. In addition, the law expressly excludes these fees from being included in the 25% maximum APR (see R.C. 1109.20, not in bill).

### **The bill**

The bill permits an Ohio bank to charge its customers interest, fees, and other charges at any rates or amounts that a bank located in another state can charge its Ohio customers (see **COMMENT**, below), notwithstanding any limitations contained in the Revised Code.

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## COMMENT

In determining what an out-of-state bank may charge its Ohio customers, the United States Supreme Court ruled in *Smiley v. Citibank*, 116 S.Ct. 1730 (1996) that a national bank may charge the same interest and fees to out-of-state customers that it is permitted to charge in its "home state" (*i.e.*, generally the state in which it has its main office). In another federal case, it was recognized that *state-chartered* banks also may "export" to customers in other states, the interest charges permitted by the bank's chartering state (see *Greenwood Trust v. Commonwealth of Massachusetts*, 971 F.2d 818, 820 (1st Cir.), cert. denied, 506 U.S. 1051 (1993)). In effect, this permits banks to "export" the allowable interest and charges of their home state to out-of-state customers *regardless* if those out-of-state customers' state limits or prohibits such interest or charges. Thus, the bill appears to authorize Ohio banks to charge any interest rate, fees, and charges that is charged by a bank in any state, even if it exceeds the maximum specified under Ohio law (*ex.* see first paragraph in body of this analysis describing the 25% maximum).

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-03-05	p. 736

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