



**H.B. 337**

127th General Assembly  
(As Introduced)

**Reps. R. McGregor and Lundy, Patton, S. Williams, Ujvagi, Yuko, Bolon, Harwood, Dodd, Fende, Seitz, Luckie, Collier, Distel, Barrett, Goyal, Evans, Hite, Daniels, J. McGregor, Bacon, J. Stewart, Wagoner, Blessing, Coley, Sayre, Carmichael, Book, DeGeeter, Szollosi, Chandler, Letson, Dyer**

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**BILL SUMMARY**

- Requires a check-cashing loan business, that lends to a borrower in Ohio from an out of state office, through the mail, or using the Internet, to obtain a license.
- Requires check-cashing lenders to include an optional extended payment plan in every written loan contract.
- Creates a provision of Ohio law that requires check-cashing lenders to comply with the federal "Fair Debt Collection Practices Act."
- Establishes limits on permissible check-collection charges.
- Prohibits a check-cashing lender from bringing a complaint against a borrower solely due to payment being dishonored for insufficient funds.
- Establishes the Financial Literacy Education Fund.
- Creates the Small Emergency Loan Task Force.

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**CONTENT AND OPERATION**

**Check-cashing Lender Law**

In order to originate loans in Ohio, a "check-cashing lender" must be licensed by the Superintendent of Financial Institutions (R.C. 1315.36). There is a two-tier system of licensing for check-cashing businesses in Ohio. A business licensed under R.C. 1315.23 may cash checks and pay its customers the full

amount of the check less any charges permitted by law. A check-cashing business must obtain a second license under R.C. sections 1315.35 to 1315.44 in order to legally make loans. Current Ohio law requires that these loans be made pursuant to a written loan contract, be not for more than \$800, and not have a duration of more than six months. Current law permits licensees to charge a loan origination fee and interest at a rate not to exceed 5% per month or fraction of a month on the unpaid principal of the loan. Licensees also may charge check-collection fees.

**Out of state business, Internet, and mail**

(R.C. 1315.36)

Current check-cashing law includes a general provision that requires a check-cashing business to obtain a license to make loans under sections 1315.35 to 1315.44 of the Revised Code. The bill requires that any check-cashing lender, including those located outside the state, that uses the Internet or mail to transact business with borrowers in Ohio, also obtain a license. The bill expressly prohibits a person from lending funds to a borrower in Ohio (when the loan is pursuant to an agreement for deferred deposit of any check, negotiable order of withdrawal, share draft, or negotiable instrument, including any deferred electronic draft from any borrower account at a depository financial institution), as part of an Internet check-cashing loan business, or through the mail from an office of any check-cashing loan business not located in Ohio unless licensed pursuant to the Check-cashing Lender Law.

**Extended payment plan**

(R.C. 1315.39)

Under current law, a check-cashing loan must be made pursuant to a written loan contract that sets forth the terms and conditions of the loan. The bill requires that a check-cashing lender include a provision in each loan contract that offers the borrower an optional extended payment plan that may be invoked by the borrower on the last business day before the maturity date of the loan. The bill stipulates that an extended payment plan must include the following provisions:

- The borrower, in order to invoke the plan, must return to the office where the loan was made and sign an amendment to the loan contract.
- A licensee must offer at least one extended payment plan to each borrower per calendar year.

- The plan must allow the borrower to repay the balance in four equal payments, the first payment being due on the date the extended payment plan is invoked.
- No additional interest, fees, or charges may be applied to the loan upon the borrower entering into the extended payment plan.
- The contract must stipulate that the plan may be revoked by the licensee, and the entire balance become due immediately, if the borrower fails to abide by the terms of the plan.
- The licensee must identify verbally to the borrower, at loan origination, the extended payment plan option, and the borrower must verify the provision has been identified by initialing the contract adjacent to the provision.

Every check-cashing business must post a sign that informs potential borrowers of the extended payment plan option. The sign must be at least 11" by 17" and contain the following statement in boldface type, no smaller than 28-point font.

"State law requires that a loan contract for a check-cashing loan include an extended payment plan option that may be invoked by the borrower on the last business day before the maturity date of the loan. A borrower who invokes the extended payment plan option may repay the balance owed in four equal periodic payments and no additional interest, fees, or charges may be applied to the loan."

### **New requirements and prohibitions**

The bill creates several new requirements or prohibitions of check-cashing lenders, as listed below. A person who violates any of these provisions is guilty of a misdemeanor of the first degree (R.C. 1315.99, not in the bill).

- A check-cashing lender must comply with the requirements of the federal "Fair Debt Collection Practices Act" when collecting money owed under a loan contract (R.C. 1315.39(C)).
- A check-cashing lender must report twice a year, to the Superintendent of Financial Institutions, the number of extended payment plans that were provided. The Superintendent must report such information annually to the General Assembly (R.C. 1315.39(E)).

- A check-cashing lender is prohibited from bringing or threatening to bring an action or complaint against a borrower for the borrower's failure to comply with the terms of the loan contract solely due to the borrower's payment being returned or dishonored for insufficient funds (R.C. 1315.41(F)).
- No person, other than a licensed check-cashing business, may draft funds electronically from any depository financial institution in this state, or bill any credit card issued by such institution, where the loan or extension of credit is made pursuant to an agreement for deferred deposit of a check, negotiable order of withdrawal, share draft, or negotiable instrument, or through a deferred electronic draft (R.C. 1315.36(C)).

### **Check-collection charges**

(R.C. 1315.40)

Under current law, a check-cashing lender may charge a check-collection charge not exceeding \$20 plus any amount passed on from other financial institutions for each check, negotiable order of withdrawal, share draft, or other negotiable instrument that is returned or dishonored for any reason. The bill prohibits a check-cashing business from soliciting, collecting, or receiving any check-collection charge more than once on the same check, negotiable order of withdrawal, share draft, negotiable instrument, or loan transaction other than to recover amounts passed on from a financial institution for the return or dishonor of the check or other form of payment.

### **Financial Literacy Education Fund**

(R.C. 121.085 and 1181.06)

Under continuing law, the operating expenses of the Division of Financial Institutions are paid from assessments on banks, savings associations, credit unions, and other consumer finance entities. The bill establishes, within the state treasury, the Financial Literacy Education Fund and requires the Director of Budget and Management to transfer 5% of all assessments received into the new fund. The bill stipulates that the Fund is to be used to support various adult financial literacy education programs developed or implemented by the Director of Commerce, who must administer the Fund and adopt rules for the distribution of Fund moneys.

The bill specifies that at least one-half of the education programs developed or implemented and offered to the public must be presented at public community colleges throughout the state.

The Director also must deliver to the General Assembly and the Governor an annual report that includes an outline of each education program developed or implemented, the number of individuals who were educated by each program, and the accounting for all funds distributed.

### **Small Emergency Loan Task Force**

(Section 3)

The bill creates the Small Emergency Loan Task Force to study and make recommendations on how small emergency loans can be made available by banks and credit unions to persons with limited resources and poor credit. The Task Force is to consist of the following ten members:

- The Treasurer of State
- The Director of Commerce
- One member appointed by the Speaker of the House of Representatives
- One member appointed by the Minority Leader of the House of Representatives
- One member appointed by the President of the Ohio Senate
- One member appointed the Minority Leader of the Ohio Senate
- Two members appointed by the Governor
- One member designated by the Ohio Bankers League
- One member designated by the Ohio Credit Union League

Members of the Task Force must be appointed within 30 days of the effective date of the bill, must convene within 60 days thereafter, must meet at least once per month, must report to the Speaker of the House of Representatives and the President of the Senate within one year after the first meeting, and must thereafter permanently dissolve. Members receive no compensation except for reimbursement of expenses at cost.

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## HISTORY

ACTION	DATE
Introduced	10-02-07
Referred to House Financial Institutions, Real Estate, & Securities	10-25-07

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