

## Financial Institutions and Consumer Finance

### Sub. H.B. 199

**Reps.** Blessing, Seitz, Wiggam, Sprague, Brenner, Hughes, Dever, Carfagna, Hambley, Miller, Patton, Schaffer, Scherer, Young

**Sens.** Hottinger, Coley, Dolan, Eklund, Gardner, Hackett, Hoagland, Oelslager, Terhar, Wilson

**Effective date:** March 23, 2018

- Limits the application of the "Mortgage Loan Law" to unsecured loans, and loans secured by other than residential real estate or a dwelling.
- Creates the Ohio Residential Mortgage Lending Act (RMLA) to regulate all nondepository lending secured by residential real estate.
- Modifies an exemption from the Consumer Installment Loan Act.

### Sub. S.B. 24

**Sens.** Terhar, Beagle, Hackett, Bacon, Coley, Eklund, Gardner, Hite, Hoagland, Hottinger, Huffman, Jordan, LaRose, Lehner, Manning, Peterson, Thomas, Wilson

**Reps.** Dever, Arndt, Blessing, Brenner, Conditt, Ginter, Green, Hambley, Johnson, Koehler, Leland, Manning, Reineke, Rogers, Seitz, Sheehy, K. Smith, R. Smith, Stein, Sweeney, West, Young

**Effective date:** September 12, 2017

#### Ohio Consumer Installment Loan Act

- Creates the Ohio Consumer Installment Loan Act (CILA), which establishes a regulatory framework for loans that are for a term of at least six months, generally require equal monthly payments, have an interest rate less than a specified maximum, and cannot be refinanced within the first 120 days.
- Excludes specific transactions, such as credit transactions secured by an interest in the borrower's residential mortgage loan and credit transactions made by specified registered and licensed lenders under continuing law, from CILA.

#### Loan terms

- Establishes guidelines for loan transactions under CILA, including requirements regarding the loan contract, insurance, payments, interest rates, and other charges.
- Requires a CILA licensee to provide disclosures to the borrower of the loan's maturity date and federal and state statutory authority to issue the loan, including a

notice at the bottom of the first page of the loan agreement that the loan is made pursuant to CILA.

- Permits loans issued under CILA to be either interest-bearing or precomputed, and permits a licensee to contract for and receive interest up to 25% per year on the unpaid principal balances on a closed-end loan and 28% per year on an open-end loan.
- Permits a licensee, at a borrower's request, to obtain on the borrower credit life, credit accident and health, and unemployment insurance, and include the insurance premium or charge in the principal amount of the loan.
- Permits the licensee to charge and receive costs and disbursements in connection with any suit to collect on the loan or security interests after default, including reasonable attorney fees.
- Permits the licensee to include additional charges in the principal amount or collect after the loan is made fees to record, file, or release a security interest, for insuring against losses for failure to record or file, and for credit investigations.
- Restricts the amount a licensee may charge for a loan origination, charge check collection, credit investigation, and default charge fees.
- Prohibits a CILA licensee from engaging in specified activities while making loans under CILA, including assessing too frequent origination fees, accepting dated instruments, and paying less than the agreed amount.
- Requires a CILA licensee to comply with the "Fair and Accurate Credit Transactions Act of 2003," the "Gramm Leach Bliley Act," and the rules adopted pursuant to those federal acts.

## **Licenses**

- Establishes application procedures and criteria for a CILA license, including fees and investigation of the person in control of the prospective licensee.
- Permits a CILA license to be renewed annually by paying a renewal fee, assessments determined by the Superintendent of Financial Institutions, and fees required by the Nationwide Mortgage Licensing System and Registry.
- Requires a licensee to notify the Division of Financial Institutions of material changes to the information in the application and related documents or a change of 5% or more of the licensee's ownership.
- Permits a CILA licensee to also be licensed under the Mortgage Loan Law.

## **Enforcement and oversight**

- Permits the Superintendent to adopt rules to enforce CILA.
- Requires the Superintendent to annually publish an analysis of the information submitted by licensees concerning their business and operation.
- Permits the Superintendent to investigate alleged violations of CILA or CILA rules at the Superintendent's own decision or pursuant to a complaint, apply for a court order to enjoin a violation, and issue cease-and-desist orders.
- Authorizes the Division to revoke, suspend, or refuse to renew a CILA license, or impose a fine of up to \$25,000, for a violation of a CILA requirement or other law or rule that applies to the business conducted under a CILA license.
- Permits the Ohio Attorney General to bring an action to enjoin a violation of CILA, with the same rights, privileges, and powers as those described under the Consumer Sales and Practices Act.
- Permits a county prosecutor to bring an action to enjoin a violation of CILA, if the prosecutor first presents evidence of the violation to the Attorney General and the Attorney General has not agreed to bring the action within a reasonable time.

## **Advertisements, records, and reports**

- Establishes guidelines for advertisements of CILA loans, and provides that a person who recklessly violates an advertising requirement is subject to a fine of \$1 to \$500.
- Requires CILA licensees to maintain advertisement and loan records for two years and that they be readily available for inspection by the Division at all times.
- Requires certain records under CILA pertaining to loans, collection litigation, and repossessions and foreclosures to be retained in electronic form, but permits them to be kept in paper form with the Superintendent's approval.
- Requires the Division to examine loan records once every 24 months to determine a licensee's compliance with CILA and to verify the licensee's annual report.
- Requires a licensee to file (1) reports with the Nationwide Mortgage Licensing System and Registry that contain information it may require and (2) an annual report with the Superintendent concerning the licensee's operation for the preceding calendar year.
- Requires confidentiality of individual reports filed by the licensee with the Superintendent and certain application, examination, and investigation information acquired by the Superintendent.