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H.B. 182
135th General Assembly

Bill Analysis

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Version: As Reported by House Financial Institutions

Primary Sponsors: Reps. Hillyer and Barhorst

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SUMMARY

- Specifies three circumstances in which a nondepository lender will not be held liable for an error that would otherwise violate the Small Loan Law, Short-Term Loan Law, General Loan Law, Consumer Installment Loan Act (CILA), or Insurance Premium Finance Company Act.
- Increases the maximum interest rate a CILA lender may charge and receive on a loan, from 25% to 36% per year.
- Permits a CILA lender to convert a precomputed loan to an interest-bearing loan if the precomputed loan has been accelerated and a refund is provided to the borrower.
- Permits a CILA lender to charge and collect a fee for a loan that is refinanced or renewed.
- Revises a provision that allows a CILA lender to charge and receive reasonable attorney fees in connection with any lawsuit to collect a loan or to realize on a security interest after a default by the borrower.

DETAILED ANALYSIS

General overview

The bill makes several changes to Ohio law concerning nondepository consumer loans that are not secured by residential real estate. Nondepository lenders are companies other than banks or credit unions. Revised Code Chapter 1321 regulates loan terms and requires licensure or registration for lenders issued by the Superintendent of Financial institutions. The

Chapter includes the Small Loan Law,¹ Short-Term Loan Law,² General Loan Law,³ Consumer Installment Loan Act (CILA),⁴ and Insurance Premium Finance Company Act.⁵

The bill provides legal protections to nondepository lenders that make an error in connection with a loan and makes various other changes to CILA.

Liability for errors

The bill provides legal protections to lenders that make an error relating to a nondepository consumer loan. Under continuing law, similar protections are provided to loans made by banks and credit unions.⁶ The bill specifies that a nondepository lender that makes an error in connection with a loan that would otherwise constitute a violation of the Small Loan Law, Short-Term Loan Law, General Loan Law, CILA, or the Insurance Premium Finance Company Law will not be held liable for the violation if any of the following apply:

- The lender shows, by a preponderance of evidence, that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures the lender reasonably adapts to avoid any such error. The bill does not define bona fide error, but the term typically refers to an unintentional mistake or oversight that may be corrected promptly to avoid legal action.⁷
- The lender notifies the Superintendent of Financial Institutions within 60 days after discovering the bona fide error and the lender corrects the error within a reasonable time. Any correction must include (1) crediting a loan account with the amount of the overcharge plus applicable interest on the overcharge, or (2) if the account is closed without a remaining balance, returning to the customer the amount of any overcharge plus applicable interest on the overcharge.
- The bona fide error was discovered after the record retention period is over, which is two years after the final recorded entry. It is unclear, but it seems that this safe harbor applies only to CILA lenders.⁸

¹ R.C. 1321.01 to 1321.19, not in the bill (Small Loan Law).

² R.C. 1321.35 to 1321.48, not in the bill (Short-Term Loan Law).

³ R.C. 1321.51 to 1321.60, not in the bill (General Loan Law).

⁴ R.C. 1321.62 to 1321.702 (Consumer Installment Loan Act).

⁵ R.C. 1321.71 to 1321.83, not in the bill (Insurance Premium Finance Company Act).

⁶ R.C. 1121.61 and 1733.53, not in the bill.

⁷ [Bona fide error](#), by Will Kenton, January 26, 2022, which is available on the Investopedia website: [Investopedia.com](https://www.investopedia.com).

⁸ R.C. 1321.99(K); R.C. 1321.66(C), not in the bill.

Consumer Installment Loan Act (CILA)

Under current law, changed in part by the bill, a licensee under CILA is authorized to make loans to borrowers that, among other requirements, are for a term of at least six months, generally require equal monthly payments, are not secured by the borrower's residential property, and have a maximum interest rate of 25% (or 28% for an open-end loan). The bill makes several changes to CILA, which are discussed below.

Interest rate

Under existing law, changed by the bill, a CILA lender can charge up to 25% interest per year on the unpaid principal balance of the loan. The bill increases the allowable interest rate to 36% per year.⁹ The interest rate for open-end loans (28%) remains unchanged under the bill.¹⁰

Precomputed interest loans

CILA loans can be interest-bearing or precomputed. With interest-bearing loans, the interest is added to the loan and is calculated based on the unpaid balance of the loan at the time of the last payment. With precomputed interest, the lender determines the amount of the interest the borrower will pay for the entire term of the loan up front and adds that amount to the principal loan amount. The payments are then calculated based on the total loan amount, which includes the principal loan amount and the calculated interest.

Under continuing law, if the maturity of a precomputed interest loan is accelerated and a judgement is entered, the lender must credit the borrower with same refund as if prepayment in full had been made on the date of the judgement. The refund is based on the interest the borrower paid on the loan that was not yet due to the lender. The bill adds that in situations where the loan is accelerated, whether a judgement is entered against the borrower or not, after the lender credits the borrower with the refund on the precomputed loan, the lender may convert the loan to an interest-bearing loan with the same interest rate provided in the original loan contract.¹¹

Fees

Refinance fee

Under existing law, a CILA lender is prohibited from charging or collecting a fee from the borrower for renewing, amending, or extending a loan beyond its original terms. This restriction does not apply to loan deferments. The bill eliminates this restriction for loans that are refinanced or renewed.¹² Therefore, under the bill, a lender may charge and collect a fee for a

⁹ R.C. 1321.68(A).

¹⁰ R.C. 1321.681(C), not in the bill.

¹¹ R.C. 1321.68(D)(3).

¹² R.C. 1321.632.

loan that is refinanced or renewed. The bill continues to prohibit a lender to charge or collect a fee for a loan that is amended or extended beyond its original terms.

Attorney's fees

Under continuing law, a CILA lender can charge and receive costs and disbursements in connection with any suit to collect a loan or any lawful activity to realize on a security interest after default, including reasonable attorney's fees incurred by the lender as a result of the suit or activity. Current law only allows the lender to collect attorney fees when the lender becomes entitled to it by law. The bill instead permits a CILA lender to contract for reasonable attorney's fees as a result of a suit or lawful activity to collect a loan or any default activity to realize on a security interest after a default. If attorney's fees are incurred in the action, the fees may be recovered from the borrower only if authorized by a court order.¹³

Check collection charges

Existing law permits a CILA lender to charge and receive check collection charges of up to \$20 plus any amount passed on from other depository institutions for each check, negotiable order of withdrawal, share draft, or other negotiable instrument returned or dishonored for any reason. The bill modernizes this provision by replacing the term "check collection charges" with the broader "returned payment fees." The revised language allows the lender to charge a returned payment fee of \$20 plus any amount passed from other depository institutions or payment processors, including any unpaid electronic fund transfers or electronic payment.¹⁴

HISTORY

Action	Date
Introduced	05-22-23
Reported, H. Financial Institutions	12-05-24

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¹³ R.C. 1321.68(G)(1)(a)(i) and (ii).

¹⁴ R.C. 1321.68(J).