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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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Legislative Budget  
Office

H.B. 520  
134<sup>th</sup> General Assembly

## Bill Analysis

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**Version:** As Introduced

**Primary Sponsors:** Rep. Hillyer

Carla Napolitano, Attorney

### SUMMARY

- Provides that a lender under the Small Loan Law, Short-Term Loan Law, General Loan Law, Consumer Installment Loan Act, and Insurance Premium Finance Company Act that corrects a bona fide error within a reasonable time will be considered not to have violated the law.
- Increases the maximum interest rate a lender under the Consumer Installment Act (CILA) can charge and receive on a loan, from 25% to 36% per year.
- Permits, instead of requires, a CILA lender to apply payments by the borrower for an interest-bearing loan to unpaid charges first, then to the interest, and to the principal balance last.
- Permits a CILA lender to convert a precomputed loan to an interest-bearing loan, if the precomputed loan has been accelerated, and after 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.
- Removes the condition that, when a CILA lender pursues legal action related to a loan, attorney's fees can be collected only if the lender becomes entitled to it by law.
- Permits employees of a CILA lender to work remotely, if the lender follows specific protocols outlined in the bill.

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## DETAILED ANALYSIS

### General overview

Revised Code Chapter 1321 regulates loans under the Small Loan Law,<sup>1</sup> Short-Term Loan Law,<sup>2</sup> General Loan Law,<sup>3</sup> Consumer Installment Loan Act,<sup>4</sup> and Insurance Premium Finance Company Act.<sup>5</sup> The Chapter provides for regulation of the loans and lender licensing by the Division of Financial Institutions in the Department of Commerce. The bill adds a provision relating to bona fide errors that applies to all lenders under R.C. Chapter 1321. The bill also makes several changes that apply only to the Consumer Installment Loan Act.

### Bona fide error

The bill specifies that a lender under the Small Loan Law, Short-Term Loan Law, General Loan Law, Consumer Installment Loan Act, or the Insurance Premium Finance Company Law that makes a bona fide error in connection with a loan that would otherwise constitute a violation under R.C. Chapter 1321 will not be considered to have violated the law if the lender corrects the error within a reasonable time after discovering the error. Any correction must include the following, as applicable:

1. Crediting a loan account that is open with the amount of overcharge plus interest on the overcharge at the same rate applicable to the underlying loan account, calculated from the date of the overcharge to the date of correction;
2. For a loan account that is closed, mailing a refund check to the last known address of the customer in the amount of any overcharge plus interest on the overcharge at the same rate that was applicable to the underlying loan account, calculated from the date of the overcharge to the date of correction.<sup>6</sup>

### Consumer Installment Loan Act

The Consumer Installment Loan Act (CILA) applies to loans that, among other requirements, are at least for a term of six months, generally require equal monthly payments, are not secured by real property, are not covered by any other loan laws, 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.

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<sup>1</sup> R.C. 1321.01 to 1321.19 (Small Loan Law).

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

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

<sup>4</sup> R.C. 1321.62 to 1321.702 (Consumer Installment Loan Act).

<sup>5</sup> R.C. 1321.71 to 1321.83 (Insurance Premium Finance Company Act).

<sup>6</sup> R.C. 1321.99(K).

## 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.<sup>7</sup> The interest rate for open-end loans (28%) remains unchanged under the bill.<sup>8</sup>

## Interest-bearing 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. When a borrower makes a payment, existing law requires each payment from the borrower to pay off the loan to be applied in the following order by the lender:

1. Unpaid charges;
2. Interest;
3. Unpaid principal balance

The bill removes this requirement, making this order permissive, not mandatory.<sup>9</sup>

## Precomputed interest

The bill also makes a change to loans in which the interest is precomputed. With precomputed interest, the lender determines the amount of the interest the borrower will pay during the entire term of the loan 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 the 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 the judgement is entered. The bill adds that in situations where the loan is accelerated and there is a judgment, then after the lender pays the refund to the borrower, the lender may convert the loan to an interest-bearing loan at the same rate of interest as provided in the original loan contract. If the maturity of the loan is accelerated for any reason, but no judgement is entered, the lender may convert the loan to an interest-bearing loan at the same rate of interest as provided in the original loan contract, provided the lender credits the borrower with the same refund on the precomputed loan, as if prepayment in full had been made on the date of conversion.<sup>10</sup>

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<sup>7</sup> R.C. 1321.68(A).

<sup>8</sup> R.C. 1321.681(C), not in the bill.

<sup>9</sup> R.C. 1321.68(C)(1)(c).

<sup>10</sup> R.C. 1321.68(D)(3).

## **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.<sup>11</sup> Therefore, under the bill, a lender may charge and collect a fee for a 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 eliminates the condition that it must be "entitled by law."<sup>12</sup>

### **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.<sup>13</sup>

### **Remote work**

The bill permits employees of a CILA lender to work from a remote location, provided the lender does all of the following:

1. Ensures that no in-person customer interactions are conducted at the remote location and does not designate the remote location to customers as a business location;
2. Maintains appropriate safeguards for lender and consumer data, information, and records, including the use of secure virtual private networks where appropriate;
3. Employs appropriate risk-based monitoring and oversight processes of work performed from a remote location and maintains records of such work;
4. Ensures consumer information and records are not maintained at a remote location;

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<sup>11</sup> R.C. 1321.632.

<sup>12</sup> R.C. 1321.68(G)(1)(a).

<sup>13</sup> R.C. 1321.68(J).

5. Ensures consumer and lender information and records remain accessible and available for regulatory oversight and exams;
6. Provides appropriate employee training to keep all conversations about, and with, consumers conducted from a remote location confidential, as if conducted from a commercial location, and to ensure remote employees work in an environment conducive and appropriate to that confidentiality.<sup>14</sup>

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## HISTORY

Action	Date
Introduced	12-16-21

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H0520-I-134/ks

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<sup>14</sup> R.C. 1321.691.