

**As Introduced**

**132nd General Assembly  
Regular Session  
2017-2018**

**H. B. No. 769**

**Representative Dever**

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**A BILL**

To enact section 1349.72 of the Revised Code to 1  
require a commercial credit reporting agency to 2  
provide credit reports to businesses and to 3  
establish a procedure whereby a business may 4  
dispute statements on the report. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 1349.72 of the Revised Code be 6  
enacted to read as follows: 7

**Sec. 1349.72.** (A) As used in this section: 8

(1) "Business" means a sole proprietorship, partnership, 9  
corporation, limited liability company, or other commercial 10  
entity, whether for profit or not for profit. 11

(2) "Commercial credit report" means any report provided 12  
to a business for a legitimate business purpose, relating to the 13  
financial status or payment habits of a business that is the 14  
subject of the report. "Commercial credit report" does not 15  
include any of the following: 16

(a) A report prepared for commercial insurance 17  
underwriting, claims, or auditing purposes; 18

(b) A report containing information related to 19  
transactions or experiences between the subject and the person 20  
making the report; 21

(c) An authorization or approval of a specific extension 22  
of credit directly or indirectly by the issuer of a credit card 23  
or similar device; 24

(d) Any report in which a person that has been requested 25  
by a third party to make a specific extension of credit directly 26  
or indirectly to the subject conveys its decision with respect 27  
to that request. 28

(3) "Commercial credit reporting agency" means any person 29  
or entity that, for monetary fees, dues, or on a cooperative 30  
nonprofit basis, provides commercial credit reports on a 31  
business operating in this state to third parties. 32

(4) "Cure offer" means a written offer of one or more 33  
things of value, including the payment of money, that is all of 34  
the following: 35

(a) It is made by the commercial credit reporting agency 36  
and delivered to a person or entity claiming to have suffered a 37  
loss as a result of the commercial credit reporting agency 38  
failing to comply with division (C) of this section or to the 39  
attorney for the person or entity. 40

(b) It is reasonably calculated to remedy the loss claimed 41  
by the person or entity. 42

(c) It is accompanied by an offer of a minimum additional 43  
amount. 44

(5) "Loss" includes economic damages and any presumed 45  
reputational injury to the business that results from the 46

publication of an inaccurate statement of fact. 47

(6) "Minimum additional amount" is an amount offered by a 48  
commercial credit reporting agency, in addition to the cure 49  
offer, as compensation for inconvenience, any attorney's or 50  
other fees, expenses, or other costs of any kind that a person 51  
or entity claiming to have suffered a loss as a result of the 52  
commercial credit reporting agency failing to comply with 53  
division (C) of this section may have incurred in relation to 54  
the loss. The minimum additional amount shall equal the greater 55  
of ten per cent of the value of the cure offer or five hundred 56  
dollars, but shall not exceed four thousand dollars. 57

(7) "Subject" means the business operating in this state 58  
about which a commercial credit report has been compiled. 59

(B) Upon the request of a representative of the subject of 60  
a commercial credit report, a commercial credit reporting agency 61  
shall provide, annually, a copy of the subject's commercial 62  
credit report. The report shall be provided at no cost to the 63  
subject and may be printed or in electronic form. The report 64  
shall be in a format routinely made available to third parties 65  
and include information identifying the source, date, and 66  
specific amount, if any, of negative information that was 67  
provided to the commercial credit reporting agency concerning 68  
the subject. 69

(C) Within thirty days after receipt of a commercial 70  
credit report, a representative of the subject of the report may 71  
file with the commercial credit reporting agency a written 72  
summary statement identifying each particular statement in the 73  
report that the subject of the report believes contains an 74  
inaccurate statement of fact and indicating the nature of the 75  
disagreement with the statement. Within thirty days after 76

receipt of a subject's summary statement of disagreement, the 77  
commercial credit reporting agency at no cost to the subject 78  
shall do either of the following: 79

(1) Delete the disputed statement of fact from the report 80  
and, thereafter, block any repeat reporting of that disputed 81  
statement unless its accuracy has been verified; 82

(2) Include in the report a notice of the subject's 83  
assertion that the statement of fact is inaccurate. 84

(D) (1) A person or entity that suffers a loss as the 85  
result of a commercial credit reporting agency violating 86  
division (C) of this section may initiate a civil action against 87  
the agency to recover actual damages, or five hundred dollars, 88  
whichever is greater. The person or entity may also seek a 89  
declaratory judgment, an injunction, or other appropriate relief 90  
and damages in an individual capacity or, where warranted, in a 91  
class action. 92

(2) If the trier of fact finds that the violation was 93  
willful, the trier of fact may increase damages to an amount not 94  
exceeding three times the actual damages sustained, or one 95  
thousand dollars, whichever is greater. 96

(3) In addition to any damages awarded, a person or entity 97  
also may be awarded reasonable attorney's fees and court costs. 98

(E) (1) Any person or entity who accepts a cure offer under 99  
this section may not initiate or maintain any other action that 100  
is substantially based on the same allegations of fact on which 101  
the action initiated under division (D) of this section is 102  
based. 103

(2) A cure offer is admissible in an action initiated 104  
under division (D) of this section only if the cure offer is 105

delivered by a representative of the commercial credit reporting 106  
agency: 107

(a) To the person or entity claiming a loss or to any 108  
attorney representing that person or entity; and 109

(b) Before the commercial credit reporting agency filed 110  
its initial responsive pleading in the action. 111

(3) If the commercial credit reporting agency timely 112  
delivers the cure offer, it may introduce the cure offer into 113  
evidence at trial in the action. The commercial credit reporting 114  
agency shall then be liable for such person's or entity's 115  
attorney's fees and court costs incurred following delivery of 116  
the cure offer only if the plaintiff's actual damages, excluding 117  
attorney's fees and court costs, exceed the value of the cure 118  
offer plus the minimum additional amount. 119

(F) Whenever the attorney general has reasonable cause to 120  
believe that any person or entity has engaged in, is engaging 121  
in, or is about to engage in, any violation of division (C) of 122  
this section, the attorney general may conduct an investigation 123  
and bring a civil action upon an alleged failure by a person or 124  
entity to comply with the requirements of this section. 125

(G) Any civil action under division (D) or (F) of this 126  
section may not be brought more than two years after the 127  
occurrence of the violation that is the subject of the action. 128