



## Ohio Revised Code

### Section 1321.41 Short-term loan licensee prohibitions.

Effective: October 29, 2018

Legislation: House Bill 123 - 132nd General Assembly

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No licensee shall do any of the following:

- (A) Violate section 1321.36 of the Revised Code;
- (B) Make a loan that does not comply with section 1321.39 of the Revised Code;
- (C) Charge, collect, or receive, directly or indirectly, credit insurance premiums, charges for any ancillary product sold, or any additional fees, interest, or charges in connection with a loan, other than fees and charges permitted by section 1321.40 of the Revised Code;
- (D) Collect treble damages pursuant to division (A)(1)(b)(ii) of section 2307.61 of the Revised Code in connection with any civil action to collect a loan after a default due to a check, negotiable order of withdrawal, share draft, or other negotiable instrument that was returned or dishonored for insufficient funds;
- (E) Except as otherwise provided in section 1321.401 of the Revised Code, make a short-term loan to a borrower if there exists an outstanding loan between that borrower and any of the following:
  - (1) The licensee;
  - (2) A person related to the licensee by common ownership or control;
  - (3) Any employee or agent of the licensee.
- (F) Bring or threaten to bring an action or complaint against the borrower for the borrower's failure to comply with the terms of the loan contract solely due to the check, negotiable order of withdrawal, share draft, or negotiable instrument being returned or dishonored for insufficient funds. Nothing herein prohibits such conduct, action, or complaint if the borrower has intentionally engaged in fraud



by, including but not limited to, closing or using any closed or false account to evade payment;

(G) Require the borrower to waive the borrower's right to legal recourse under any otherwise applicable provision of state or federal law;

(H) Accept the title or registration of a vehicle, real property, physical assets, or other collateral as security for the obligation;

(I) Engage in any device or subterfuge to evade the requirements of sections 1321.35 to 1321.48 of the Revised Code including assisting a borrower to obtain a loan on terms that would be prohibited by sections 1321.35 to 1321.48 of the Revised Code, making loans disguised as personal property sales and leaseback transactions, or disguising loan proceeds as cash rebates for the pretextual installment sale of goods or services;

(J) Assess or charge a borrower a fee for prepaying the loan in full prior to the maturity date;

(K) Fail to comply with section 1321.45 of the Revised Code;

(L) Recommend to a borrower that the borrower obtain a loan for a dollar amount that is higher than the borrower has requested;

(M) Draft funds electronically from any depository financial institution in this state without written approval of the borrower. Nothing in this division shall prohibit the conversion of a negotiable instrument into an electronic form for processing through the automated clearing house system.

(N) Make, publish, or otherwise disseminate, directly or indirectly, any misleading or false advertisement, or engage in any other deceptive trade practice;

(O) Offer any incentive to a borrower in exchange for the borrower taking out multiple loans over any period of time, or provide a short-term loan at no charge or at a discounted charge as compensation for any previous or future business;

(P) Present a check, negotiable order of withdrawal, share draft, or other negotiable instrument, that



has been previously presented by the licensee and subsequently returned or dishonored for any reason, without prior written approval from the borrower;

(Q) Change the check number, or in any other way alter a check, negotiable order of withdrawal, or share draft, prior to submitting such check, negotiable order of withdrawal, or share draft for processing through the automated clearing house system, or submit false information about any check, negotiable order of withdrawal, or share draft to the automated clearing house system;

(R) Make a short-term loan to a borrower if the loan will result in a total outstanding principal of more than two thousand five hundred dollars in short-term loans made by licensees to that borrower at any one time. Prior to making a short-term loan, a licensee shall require each borrower to sign a written declaration that, pursuant to this division, the borrower is eligible to receive the loan, and shall make a concerted effort to verify the borrower's eligibility.

(S) Fail to accept cash or a certified check from a third party when submitted on behalf of the borrower for repayment of a short-term loan in full or in part;

(T) Contact a borrower for any reason other than for the borrower's benefit regarding upcoming payments, options for obtaining loans, payment options, payment due dates, the effect of default, or, after default, receiving payments or other actions permitted by the licensee; to advise the borrower of missed payments or dishonored checks; or to assist the transmittal of payments via a third-party mechanism;

(U) In the event that a short-term loan or its servicing is sold or assigned, fail to provide notice and the information needed to make future payments;

(V) Make a loan to a borrower that includes a demand feature that permits the licensee, in the event the borrower fails to meet the repayment terms for any outstanding balance, to terminate the loan in advance of the original maturity date and to demand repayment of the entire outstanding balance, unless both of the following requirements are met:

(1) Not earlier than ten days after the borrower's payment was due, the licensee provides written notice to the borrower of the termination of the loan.



(2) In addition to the outstanding balance, the licensee collects only prorated interest and the fees earned up to the termination of the loan. For purposes of division (V)(2) of this section, the outstanding balance and prorated interest and fees shall be calculated as if the borrower had voluntarily prepaid the loan in full on the date of termination.