

As Introduced

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**REPRESENTATIVES Britton, Sykes, Allen, Cirelli, Coates, DePiero, Ford,
Jerse, Jones, Key, Krupinski, Patton, Rhine, Woodard**

A B I L L

To amend section 1349.99 and to enact sections 1349.25 1
to 1349.30 of the Revised Code to require creditors 2
to make certain disclosures to consumers prior to 3
entering into high cost mortgage transactions; to 4
prohibit creditors, with respect to these 5
transactions, from charging certain prepayment 6
penalty fees, from including certain terms in the 7
transaction, and from requiring consumers to pay 8
certain fees or charges for refinancing the 9
transaction; to require the Superintendent of 10
Financial Institutions to administer the act; to 11
provide for the act's enforcement under the 12
Consumer Sales Practices Law; and to provide civil 13
remedies and a criminal penalty for violations. 14
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 1349.99 be amended and sections 16
1349.25, 1349.26, 1349.27, 1349.28, 1349.29, and 1349.30 of the 17
Revised Code be enacted to read as follows: 18

Sec. 1349.25. As used in sections 1349.25 to 1349.30 of the 19

Revised code: 20

(A) "Consumer credit transaction" means a transaction in 21
which the party to whom credit is offered or extended is a natural 22
person, and the money, property, or services that are the subject 23
of the transaction are primarily for personal, family, or 24
household purposes. 25

(B) "Credit" means the right granted by a creditor to a 26
debtor to defer payment of debt or to incur debt and defer its 27
payment. 28

(C) "Creditor" means any person that originates two or more 29
high cost mortgage transactions per calendar year or that 30
originates a high cost mortgage transaction through a mortgage 31
broker, as defined in section 1322.01 of the Revised Code. 32

(D) "Dwelling" means a residential structure that contains 33
one to four family housing units or individual units of 34
condominiums or cooperatives, or a manufactured home as defined in 35
division (C)(4) of section 3781.06 of the Revised Code. 36

(E) "High cost mortgage transaction" means a consumer credit 37
transaction, other than a residential mortgage transaction or a 38
transaction under an open end credit plan, that is secured by a 39
consumer's dwelling and that meets the conditions set forth in 40
division (A)(1), (2), or (3) of section 1349.26 of the Revised 41
Code. 42

(F)(1) "Open end credit plan" means a plan under which the 43
creditor does all of the following: 44

(a) Reasonably contemplates repeated transactions; 45

(b) Prescribes the terms of the transactions; 46

(c) Prescribes a finance charge that may be periodically 47
computed on any outstanding balance. 48

(2) A credit plan that is an open end credit plan within the meaning of division (F)(1) of this section is an open end credit plan even if credit information is verified periodically. 49
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(G) "Residential mortgage transaction" means a transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained against the consumer's dwelling to finance the acquisition or initial construction of the dwelling. 52
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Sec. 1349.26. (A) A transaction shall be considered a high cost mortgage transaction subject to sections 1349.25 to 1349.30 of the Revised Code if any of the following conditions applies: 58
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(1) The annual percentage rate at the time the loan that is the subject of the transaction is originated will exceed by more than ten percentage points the yield on United States treasury securities having comparable maturities, as determined by the superintendent of financial institutions in accordance with division (B) of this section. If the transaction involves a variable rate loan with an initial interest rate that may be different from the rate or rates that will apply during subsequent periods, the annual percentage rate shall be computed taking into account the subsequent rates. 61
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(2) Based on information provided by the consumer, the consumer's total monthly debt payments will exceed either of the following: 71
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(a) Sixty per cent of the consumer's monthly gross income; 74

(b) An alternative percentage of the consumer's monthly gross income, as may be determined by rule by the superintendent in accordance with section 1349.29 of the Revised Code. 75
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(3) The amount of all points and fees payable at or before 78

closing on the transaction will exceed eight per cent of the total amount loaned.

(B) The superintendent shall publish monthly the most recent yields and maturities of United States treasury securities and, based on these figures, shall prescribe and publish the comparable annual percentage rates that are to be used pursuant to division (A)(1) of this section to determine whether a transaction is a high cost mortgage transaction.

Sec. 1349.27. (A) In addition to any other disclosures of consumer credit costs required by the "Truth in Lending Act," Stat. 146, 15 U.S.C. 1601 (1968), for each high cost mortgage transaction, a creditor shall provide the following written disclosures on a separate document, in clear and concise language, and in conspicuous type size and format:

(1) The following statement:

"If you obtain this loan, the lender will have a mortgage on your home. You could lose your home and any money you have put into it, if you do not meet your obligations under the loan."

(2) The initial annual percentage rate;

(3) The consumer's gross monthly cash income, as reported to the creditor by the consumer; the total initial monthly payment; and the amount of funds that will remain to meet other obligations of the consumer;

(4) If a variable rate loan is the subject of the transaction, a statement that the annual percentage rate, the monthly payment, and the maximum interest rate could increase;

(5) If a variable rate loan having an initial annual percentage rate that is different from the one that would be applied using the contract index after the initial period is the subject of the transaction, a statement of the period of time the

initial rate will be in effect and the rate or rates that will go 109
into effect after the initial period is over, assuming that 110
interest rates in effect at the time the transaction is entered 111
into prevail; 112

(6) A statement that the consumer is not required to enter 113
into a high cost mortgage transaction merely because the consumer 114
has received disclosures or signed a loan application. 115

(B)(1) A creditor shall provide the disclosures required by 116
division (A) of this section not later than three business days 117
prior to the execution of the high cost mortgage transaction. 118

(2) A creditor shall not change any terms of the high cost 119
mortgage transaction after the creditor has provided the 120
disclosures required by division (A) of this section. 121

(C) No creditor shall knowingly fail to comply with division 122
(A) or (B) of this section. 123

Sec. 1349.28. (A) Except as provided in division (B) of this 124
section, no creditor, in connection with a high cost mortgage 125
transaction, shall charge, collect, or receive from a consumer a 126
prepayment penalty for paying all or part of the principal of a 127
high cost mortgage transaction prior to the date on which the 128
balance is due. For purposes of this division, a prepayment 129
penalty is any method of computing rebates of interest less 130
advantageous to the consumer than the actuarial method using 131
simple interest. 132

(B) A creditor, in connection with a high cost mortgage 133
transaction, may include terms under which a consumer is required 134
to pay not more than one month's interest as a penalty if the 135
consumer prepays the full principal of the loan that is the 136
subject of the transaction within ninety days of origination. 137

(C) No creditor, in connection with a high cost mortgage 138

transaction, shall include any of the following terms as part of
the transaction:

(1) Terms under which the aggregate amount of the regular
periodic payments would not fully amortize the outstanding
principal balance;

(2) Terms under which the outstanding principal balance on
the loan that is the subject of the transaction will increase over
the course of the loan;

(3) Terms under which more than two periodic payments
required under the loan that is the subject of the transaction are
consolidated and paid in advance from the loan proceeds provided
to the consumer.

(D) No creditor, in connection with an agreement to refinance
a high cost mortgage transaction by that creditor or an affiliate
of that creditor, shall require the consumer to pay points,
discount fees, or prepaid finance charges on the portion of the
transaction refinanced. For the purposes of this division,
"affiliate" has the same meaning as in subsection (k) of the "Bank
Holding Company Act of 1956," 70 Stat. 133, 12 U.S.C. 1841.

(E) No creditor shall knowingly violate division (A), (C), or
(D) of this section.

Sec. 1349.29. The superintendent of financial institutions
may adopt reasonable rules that are in the public interest and
that carry out the purposes of sections 1349.25 to 1349.30 of the
Revised Code, including, for purposes of division (A)(2)(b) of
section 1349.26 of the Revised Code, rules establishing a
percentage rate of a consumer's monthly gross income that is to be
used to determine whether a transaction is a high cost mortgage
transaction.

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Sec. 1349.30. (A)(1) A consumer injured by a violation of 168
division (C) of section 1349.27 or division (E) of section 1349.28 169
of the Revised Code may bring an action for recovery of damages. 170
Damages awarded under division (A)(1) of this section shall not be 171
less than twice the total amount of finance charges and any other 172
fees paid by the consumer to the creditor, plus reasonable 173
attorney's fees and court costs. 174

(2) Any assignee of a creditor that has violated division (C) 175
of section 1349.27 or division (E) of section 1349.28 of the 176
Revised Code is subject to any claims or defenses that the 177
consumer could assert against the creditor. However, damages 178
awarded under division (A)(2) of this section shall not be more 179
than the total amount of finance charges and any other fees paid 180
by the consumer to the creditor, plus reasonable attorney's fees 181
and court costs. 182

(B) A violation of division (C) of section 1349.27 or 183
division (E) of section 1349.28 of the Revised Code is deemed to 184
be an unfair or deceptive act or practice in violation of section 185
1345.02 of the Revised Code. 186

Sec. 1349.99. (A) Whoever violates section 1349.06 or 1349.17 187
of the Revised Code is guilty of a minor misdemeanor. 188

(B) Whoever violates division (C) of section 1349.27 or 189
division (E) of section 1349.28 of the Revised Code is guilty of a 190
felony of the fourth degree. 191

Section 2. That existing section 1349.99 of the Revised Code 192
is hereby repealed. 193