

Division of Financial Institutions House Bill 123 Guidance

The Division of Financial Institutions provides the following guidance concerning recently enacted House Bill 123.

All companies currently operating under the Ohio Credit Services Organization Act, the Ohio Small Loan Act and the Ohio General Loan Law (formerly the Ohio Mortgage Loan Act), or otherwise engaging in non-depository consumer lending or providing credit services, should carefully review the new law to determine any impact on company operations. The full text of the law is available [online](#).

The law becomes effective on Oct. 29, 2018, after which there is a 180-day implementation period. Licensed lenders may continue to make loans under existing licenses and registrations and existing laws during that 180-day period until the implementation date of April 27, 2019. Registered Credit Services Organizations (CSOs) may also continue to broker loans during the implementation period.

The law does not provide for the automatic transferring or granting of any license or registration to any existing business. Therefore, regulated entities should do the following as soon as possible:

- Review the amended law with legal counsel
- Determine the impact of the amended law on business operations, services and products
- Determine if the regulated entity should seek licensure under the same or a different law
- Determine if the regulated entity needs to change its business operations, services or products
- Based on the review, apply for a new license or registration under a different law and/or provide updated information to the division with respect to the products and services to be offered after the implementation date demonstrating compliance with the amended law if needed
- Maintain records of loans and/or credit service contracts made under the current law for the period required by law and adhere to any other record-keeping requirements

The division expects an increase in applications during the implementation period. This may impact processing and review times for all applications, therefore companies should submit applications as soon as possible to provide the division with sufficient time to review and process applications. The division will consider the requirements contained in the amended law when reviewing applications during the implementation period. Nevertheless, licensees may not make loans under the amended provisions of the Short-Term Loan Act, including contracting for loans with newly permitted fees, prior to the implementation date.

The division will use the transition period to provide notice and remind consumer lenders and consumer loan servicers that making or collecting on loans at rates above the usury limit originated for \$5,000 or less requires a license under the Ohio Small Loan Act or an exception to that law. Any company that is taking payments on loans made for \$5,000 or less that does not fall within an exception and plans to continue to do so after the implementation date should obtain an appropriate license or registration during the implementation period.

The Ohio legislature explicitly provided for a period of transition to the new law with respect to the brokering of certain loans by registered CSOs. The division is extending that same period to the collection of loans that require licensure under and compliance with provisions in the Ohio Revised Code Chapter 1321 by registered CSOs.

The division will look to the economic substance of a transaction when considering the entity that made a loan and whether a transaction is a loan under any statute overseen by the division including the CSO Act after the implementation date.

The division will provide all companies with applications currently pending before the division for a registration under the CSO Act the opportunity to submit documentation of services to be provided that comply with the amended law. In doing so, the division will ensure that it has current information for those businesses and that no business receives a newly-issued registration or license to offer services or loans that will be prohibited shortly after issuance.

The division expects all consumer lending and servicing operations to comply with the amended laws effective immediately upon the implementation date without respect to prior licensure, registration or reviews. The division will continue its work to protect consumers by providing careful oversight of the consumer lending industry in Ohio.