

*Counsel for Amicus Curiae
The Ohio Council of Retail Merchants*

Sara Bruce (0068023)
THE OHIO AUTOMOBILE DEALERS ASSOCIATION
655 Metro Place South, Suite 270
Dublin, Ohio 4017
Telephone: (614) 923-2243
Facsimile: (614) 766-9600
sbruce@oada.com

*Counsel for Amicus Curiae
Ohio Automobile Dealers Association*

Darrell Dreher (0005935)
Elizabeth L. Anstaett (00056024)
DREHER TOMKIES SCHEIDERER LLP
2750 Huntington Center
41 South High Street
Columbus, Ohio 43215-6196
Telephone: (614) 628-8000
Facsimile: (614) 628-1600
ddreher@dltlaw.com
eanstaett@dltlaw.com

*Attorneys for Amicus Curiae Richard F. Keck,
Former Deputy Superintendent and Chief
Examiner, Division of Financial Institutions of The
Ohio Department of Commerce*

John W. Zeiger (0010707)
Stuart Parsell (0063510)
ZEIGER, TIGGES & LITTLE LLP
3500 Huntington Center
41 South High Street
Columbus, Ohio 43215
Telephone: (614) 365-9900
Facsimile: (614) 365-7900
zeiger@litohio.com
parsell@litohio.com

*Attorneys for Plaintiff-Appellant,
Ohio Neighborhood Finance, Inc.*

TABLE OF CONTENTS

	<u>Page</u>	
TABLE OF AUTHORITIES	iii	
INTRODUCTION AND STATEMENT OF AMICI INTEREST	1	
A. The Ohio Chamber of Commerce.....	1	
B. The Ohio Council of Retail Merchants	2	
C. The Ohio Automobile Dealers Association	2	
STATEMENT OF FACTS	3	
ARGUMENT	4	
<u>Proposition of Law No. I:</u>		
Sections 1321.51(F) and 1321.57 of the Ohio Mortgage Loan Act (“MLA”) permit MLA registrants to make single installment, interest-bearing loans		4
<u>Proposition of Law No. II:</u>		
The Short Term Loan Act, R.C. 1321.35 – R.C. 1321.48, does not prohibit registrants under the Ohio Mortgage Loan Act from making interest-bearing loans permitted by the express terms of R.C. 1321.57		4
A. The MLA Allows Ohio Lenders To Make Single Installment Loans	5	
B. Ohio Businesses Rely On The Established Interpretation Of The MLA From The Division Of Financial Institutions And The Attorney General.....	8	
C. Ohio Courts Should Not Rewrite Established Ohio Statutes Based On Their Unsupported Perceptions Of Ohio Public Policy.....	10	
CONCLUSION.....	12	
CERTIFICATE OF SERVICE	14	

TABLE OF AUTHORITIES

	<u>Page</u>
<u>Cases:</u>	
<i>Bailey v. Republic Engineered Steels, Inc.</i> 91 Ohio St.3d 38, 741 N.E.2d 121 (2001)	6
<i>Cheap Escape Co. v. Haddox, L.L.C.</i> , 120 Ohio St. 3d 493, 498, 2008 Ohio 6323, 900 N.E.2d 601	6
<i>Frisch’s Restaurants, Inc. v. Ryan</i> , 121 Ohio St 3d 18, 2009 Ohio 2, 901 N.E.2d 777	9
<i>NCUA v. First Nat’l Bank & Trust Co.</i> , 522 U.S. 479, 501, 118 S.Ct. 927, 140 L.Ed.2d 1 (1998).....	6
<i>Schwartz v. McAtee</i> , 22 Ohio St.3d 14, 488 N.E.2d 479 (1986)	11
<i>State ex rel. Burrows v. Indus. Comm.</i> , 78 Ohio St.3d 78, 676 N.E.2d 519 (1997)	11
<i>State v. Coburn</i> , 121 Ohio St.3d 310, 2009 Ohio 834, 903 N.E.2d 1204.....	11
 <u>Statutes and Bills</u>	
R.C. Chapter 1181.....	8
R.C. 1321.13	6
R.C. 1321.35	4, 9
R.C. 1321.48	4
R.C. 1321.51	3-5, 7
R.C. 1321.57	4, 6-7
Am.H.B. No. 134, 139 Ohio Laws 1916	3, 7
Am.Sub.H.B. No. 403, 11 Ohio Laws 1804	3
Am.Sub.H.B. No. 497, 143 Ohio Laws, Part III, 5388.....	3, 7

Am.H.B. No. 511, 138 Ohio Laws, Part II, 29383, 6

Other Authorities

2008 Op. Atty Gen. No. 2008-036,
www.ohioattorneygeneral.gov/OhioAttorneyGeneral/files/6f/6fbbbb78-4424-4f36-
90dd-6ffb5d ab450a.pdf.....9, 11

Ohio Department of Commerce, Division of Financial Institutions,
Ohio Mortgage Loan Act, 2010 Annual Report,
www.com.ohio.gov/fiin/docs%5Cfiin_OMBAOMLASLA2010annualreport.pdf4

Ohio Department of Commerce, Division of Financial Institutions,
Ohio Mortgage Loan Act, 2011 Annual Report,
www.com.ohio.gov/fiin/docs%5Cfiin_OMBAOMLASLA2011annualreporter.pdf4

Ohio Department of Commerce, *eLicense Center*,
[https://elicense2-secure.com .ohio.gov/Lookup/GenerateRoster.aspx](https://elicense2-secure.com.ohio.gov/Lookup/GenerateRoster.aspx)8, 12

INTRODUCTION AND STATEMENT OF AMICI INTEREST

The Ohio Chamber of Commerce (the “Chamber”) represents members of virtually every industry throughout the State of Ohio, including manufacturing, retail, healthcare, transportation, and others. The Ohio Council of Retail Merchants (the “Council”) represents over 4,000 companies that provide a vast array of retail goods. The Ohio Automobile Dealers Association (“OADA”) represents approximately 830 franchised automobile, truck, and motorcycle dealers throughout the state. The Chamber, the Council, and the OADA (collectively the “Amici”) support the position of Appellant Ohio Neighborhood Finance, Inc. that Ohio’s Mortgage Loan Act permits single installment loans. The Amici, therefore, urge this Court to overturn the Ninth District’s decision—which ignores well-settled canons of statutory construction, fails to give any deference to the Ohio Division of Financial Institutions’ longstanding administrative interpretation of the Ohio Mortgage Loan Act, and impacts thousands of Ohio Mortgage Loan Act lenders and their customers.

A. The Ohio Chamber of Commerce

The Chamber was founded in 1893 as a business advocacy organization in the State of Ohio. The Chamber is Ohio’s oldest, largest, and most diverse business association, representing over 6,000 Ohio companies. Its members range from small, family-owned businesses to international corporations, and they reflect all major industry sectors. The Chamber is led by a volunteer board of directors that consists of dozens of business leaders from all over the state.

The Chamber is dedicated to presenting and protecting its members’ interests on important statewide issues and thereby promoting a favorable Ohio business climate. In its 120 years of existence, through 60 Ohio General Assemblies and 31 Governors, the Chamber’s mission has remained unchanged:

As the state's leading business advocate and resource, the Ohio Chamber of Commerce aggressively champions free enterprise, economic competitiveness and growth for the benefit of all Ohioans.

Consistent with its mission, the Chamber advocates for a free enterprise system where regulation is consistent and allows businesses to flourish and to create jobs for Ohio workers. Through its member-driven committees and the Ohio Small Business Council, the Chamber formulates policy positions on issues as diverse as education funding, taxation, public finance, healthcare, environmental regulation, workers' compensation, and campaign finance. The Chamber's advocacy efforts are dedicated to creating a strong Ohio, including in particular a business climate conducive to economic growth and job creation.

B. The Ohio Council of Retail Merchants

The Ohio Council of Retail Merchants is a state-wide trade association that includes over 4,000 member companies, ranging from large department stores, supermarkets, and chain drug stores, to independently owned retail businesses that sell furniture, appliances, clothing, shoes, and other goods. Since it was founded in 1922, the Council has represented the retail industry through government relations activities that communicate and protect the business interests of all retailers. It also provides direct member services as well as education and information services to the public.

The Council is keenly interested in legislation and judicial decisions that impact its members and thus the economy of this State. It has participated as *amicus curiae* in a number of significant cases decided by this Court. The Council can assist in these proceedings by providing practical insight into the consequences of the ruling below for Ohio retailers and their customers.

C. The Ohio Automobile Dealers Association

The Ohio Automobile Dealers Association represents approximately 830 franchised automobile, truck, and motorcycle dealers throughout Ohio. The OADA has served the

franchised motor vehicle dealer industry since 1932, promoting the common interests of the retail automotive industry. A vast majority of dealerships in Ohio are family-owned and most have been in business for multiple generations.

These dealerships contribute enormously to Ohio's economy. In 2011, franchised new automobile dealers generated \$24.8 billion in sales revenue for Ohio, representing 14.5% of the total retail sales in the state. Ohio dealers collect approximately \$900 million in state sales tax revenue every year. Ohio dealerships employ nearly 50,000 people in Ohio and pay over \$1.7 billion in payroll to their employees each year, of which the State of Ohio collects nearly \$50 million in Ohio income taxes.

STATEMENT OF FACTS

Having no independent knowledge of the facts of this case, the Amici defer to the Appellant's Statement of Facts. However, some background regarding Ohio's Mortgage Loan Act ("MLA"), R.C. 1321.51, *et. seq.*, may be helpful to the Court. Chapter 1321, titled "Small Loans," covers all manner of loans, but the majority of loans under that Chapter are made under the MLA. The name of the law, which references mortgage loans, is an anachronism from an earlier time when the MLA covered only second mortgages. *See* Am.Sub.H.B. No. 403, 11 Ohio Laws 1804. During the 1970s and 1980s, the Ohio legislature gradually expanded the MLA to cover many types of commercial and consumer loans, including the loans at issue in this case. *See, e.g.*, Am.H.B. No. 511, 138 Ohio Laws, Part II, 2938, 2947 (allowing loans not secured by real estate, including open-ended loans); H.B. No. 134, 139 Ohio Laws, Part I, 1916 (allowing unsecured loans); Am.Sub.H.B. No. 497, 143 Ohio Laws, Part III, 5388 (further expanding allowable loans, including allowing first liens on property).

Thirty years later, loans made under the MLA are as ubiquitous as they are vital to the well-being of Ohio businesses and consumers. The Ohio Department of Commerce reports that

as of December 2011, lenders were holding \$7.68 billion in outstanding loans issued under the MLA—with \$3.85 billion in new loans made during 2011 alone. Ohio Department of Commerce, Division of Financial Institutions, *Ohio Mortgage Loan Act, 2011 Annual Report*, available at: www.com.ohio.gov/fiin/docs%5Cfiin_OMBAOMLASLA2011AnnualReporter.pdf. These loans include over 10,000 loans secured by a residential mortgage and over 100,000 loans secured by all manner of other commercial and residential property. *Id.* There were over 370,000 secured loans made under the MLA in 2010, as well as millions of unsecured loans.¹ Both secured and unsecured loans may be made for any purpose and may be repaid in full in a single installment.

By deeming single installment loans under the MLA impermissible, the Ninth District’s decision harms all Ohio businesses and consumers that rely on the MLA. If the Ninth District’s decision is upheld and the long-standing interpretation of the Division of Financial Institutions rejected, the ensuing disarray will impact all facets of both the businesses that make MLA loans, as well as the consumer lending arrangements.

ARGUMENT

Proposition of Law No. I: Sections 1321.51(F) and 1321.57 of the Ohio Mortgage Loan Act (“MLA”) permit MLA registrants to make single installment, interest-bearing loans.

Proposition of Law No. II: The Short Term Loan Act, R.C. 1321.35 – R.C. 1321.48, does not prohibit registrants under the Ohio Mortgage Loan Act from making interest-bearing loans permitted by the express terms of R.C. 1321.57.

The Amici have three fundamental concerns with the Ninth District’s decision. First, the Ninth District ignored the plain language of the statute and manufactured an ambiguity, while ignoring the purpose and the legislative history of the MLA. Second, it overturns an

¹ See Ohio Department of Commerce, Division of Financial Institutions, *Ohio Mortgage Loan Act, 2010 Annual Report*, www.com.ohio.gov/fiin/docs%5Cfiin_OMBAOMLASLA2010annualreport.pdf.

administrative interpretation of the MLA by the Ohio Division of Financial Institutions that Ohio businesses and consumers have relied upon for decades without any deference to the agency's longstanding position. Third, the court justified its decision to make sweeping changes to the MLA based on the passage of a completely different statute that did not amend the MLA in any way. The court did not stop to consider the collateral damage of outlawing single installment loans under the MLA to other Ohio lenders and Ohio consumers. The Ninth District's decision to wield public policy to overturn the plain language, and established interpretation, of the MLA substantially harms an important industry and signals to Ohio's businesses and employers that they cannot rely on established law. The Amici accordingly respectfully urge reversal.

A. The MLA Allows Ohio Lenders To Make Single Installment Loans

The Ninth District's decision that the definition of interest-bearing loans in the MLA is ambiguous must be reversed. The issue centers on whether single installment loans can be "interest-bearing loans" under the MLA. Section 1321.51(F) of the MLA defines "interest-bearing loans" as those where "interest is computed, charged, and collected on unpaid principal balances outstanding from time to time." Disregarding the intent of the statute, the Ninth District decided that if the phrase "from time to time" actually modified "computed, charged, and collected" (rather than the antecedent "unpaid principal balances outstanding") then the definition could be read as requiring the payment of multiple installments of interest. This second reading excludes single payment loans – or any loan where the interest is paid in a balloon at the end – from the definition of "interest-bearing loans" under the MLA.

But there is no ambiguity in the statute. Interest is *always* determined as a percentage of the principal outstanding at the time of computation. And any ambiguity should have been clarified by the rest of the statute, which utilizes the words "outstanding" and "from time to

time” to refer to “principal balances”—and not to “computed, charged, and collected.” For example, Section 1321.57(C)(1)(a) states: “With respect to interest-bearing loans . . . Interest shall be computed on unpaid principal balances outstanding from time to time, for the time outstanding.” Section 1321.57(D)(2) similarly refers to “all unpaid principal balances for the time outstanding.” *See also* R.C. 1321.13(C)(1) (“Interest shall be computed on unpaid principal balances outstanding from time to time, for the time outstanding.”); R.C. 1321.13(D)(2) (“all unpaid principal balances for the time outstanding”). In all of these examples in the MLA and elsewhere in Chapter 1321, the words “from time to time” refer to the remaining principal on the loan and not to when the interest will be repaid. Language that appears throughout a statutory section should be given a uniform interpretation. *Cheap Escape Co. v. Haddox, L.L.C.*, 120 Ohio St. 3d 493, 498, 2008 Ohio 6323, 900 N.E.2d 601 (“the fact that the General Assembly used the words ‘within its territory’ in both sections suggests that the phrase should carry the same meaning in both”); *NCUA v. First Nat’l Bank & Trust Co.*, 522 U.S. 479, 501, 118 S.Ct. 927, 140 L.Ed.2d 1 (1998) (“similar language contained within the same section of a statute must be accorded a consistent meaning”).

If the statute were ambiguous, the Ninth District should have deferred to the decades-old administrative interpretation of the Division of Financial Institutions, as explained below. But even without that consistent interpretation, the court would have reached the same conclusion had it considered the legislative history. *See Bailey v. Republic Engineered Steels, Inc.*, 91 Ohio St.3d 38, 741 N.E.2d 121 (2001). The amendments that created the current R.C. 1321.57 during the 1970s and 1980s had two purposes: to strengthen the licensing and registration requirement for lenders and to greatly expand the types of loans those lenders could make. *See, e.g.*, Am.H.B. No. 511, 138 Ohio Laws 2938 & 2948 (requiring registration and allowing open-ended

loans); Am.H.B. No. 134, 139 Ohio Laws 1916 (expanding open-ended loans and allowing “loans without security” and certain liens); Am.Sub.H.B. No. 497, 143 Ohio Laws, Part III, 5388 (expanding the types of liens allowed). The definition of an “interest-bearing loan” was introduced in 1979 as the legislature was expanding the MLA well beyond second mortgages. It was no surprise that the Division of Financial Institutions and lenders across Ohio understood that the legislature was not trying to limit the type of loans allowed by the MLA, but to expand them.

In addition, the original definition of “interest-bearing loan” included the phrase for “the actual time outstanding” at the end. *See* Am.H.B. No. 511, 138 Ohio Laws 2939 (§ 1321.51(G) (“... interest is computed, charged, and collected on unpaid principal balances outstanding from time to time, for the actual time outstanding”)). While the short phrase was gradually excised from the definition as superfluous,² it confirms that “time to time” was never intended to modify “computed, charged, and collected,” as the Ninth District surmised. The “time” the legislature was addressing in the statute was the “time” the principal was outstanding—and not the time between installment payments.

In the end, if the legislature had intended to exclude single installment loans, it would have done so explicitly (which would not have made sense in light of the legislature’s broadening of the MLA). It is extremely unlikely that the legislature took such a circuitous route to exclude so many important commercial and consumer loans from the MLA; so unlikely that it took over 30 years before anyone noticed. The businesses represented by the Amici have invested billions of dollars in reliance on the long-accepted interpretations of Ohio’s lending laws. This Court should reverse the Ninth District’s strained construction of Section 1321.57.

² *See* Am.H.B. No. 134, 139 Ohio Laws 1940 (deleting “actual”) & Am.Sub.H.B. No. 497, 143 Ohio Laws, Part III, 5388 (deleting the rest of the phrase).

B. Ohio Businesses Rely On The Established Interpretation Of The MLA From The Division of Financial Institutions And The Attorney General

Ohio businesses and consumers rely on the provisions of the MLA to make billions of dollars of loans every year. These loans are used to purchase equipment and supplies, repair offices and homes, purchase cars, and for a host of other commercial and consumer needs. Many of these loans are single installment loans (often called single payment or single term loans).

Some common examples of single installment loans include:

- Construction loans, where a builder or contractor pays off the loan through the sale of the improved property.
- Loans that provides businesses and tradesmen with temporary working capital, that are repaid when a particular receivable or piece of equipment is converted into cash.
- Loans to consumers for a variety of personal needs, including payday loans, certificate of deposit loans, and tax-advance loans.
- Loans to students for one semester or quarter, often for a study abroad or a single semester class.
- Farm operating loans for feed, seed, fertilizer, or fuel, which are then repaid after the harvest.

Over a thousand businesses hold a license from the Ohio Division of Financial Institutions to provide all manner of loans under the MLA for many different purposes. See Ohio Department of Commerce, *eLicense Center*, <https://elicense2-secure.com.ohio.gov/Lookup/GenerateRoster.aspx> (choose “SM” and “SM-BR” under the “select criteria” field).

Thousands of lenders and their customers rely on the plain language of the MLA and the thirty-year old administrative interpretation of the Division of Financial Institutions that the MLA allows for single installment loans. The Division of Financial Institutions is specifically charged by the Ohio legislature to execute, enforce, and ensure compliance with consumer finance laws, including the MLA. See R.C. Chapter 1181. Ohio businesses must be able to rely

on the reasonable interpretations of the agencies charged by the Ohio legislature with interpreting and regulating Ohio's lending laws.

The Division of Financial Institutions' longstanding interpretation that the MLA permits single installment loans was not altered by the enactment of the Short-Term Loan Act ("STLA") in 2008. Rather, the Division of Financial Institutions concluded that the MLA continues to allow MLA registrants to make single term loans, notwithstanding the passage of the STLA. "[C]onsistent with the position taken by the . . . Division of Financial Institutions," the Attorney General formally opined in 2008 that the STLA does not prohibit "the making of loans without a license," require "the licensure of persons making loans," or prevent lenders from making loans that are provided for under other statutes—such as the MLA. 2008 Op. Atty Gen. No. 2008-036 at 4-5, www.ohioattorneygeneral.gov/OhioAttorneyGeneral/files/6f/6fbbbb78-4424-4f36-90dd-6ffb5d-ab450a.pdf. The Attorney General also explained that "the fact that R.C. 1321.35 defines 'short-term loan' as 'a loan made pursuant to [R.C. 1321.35-.48]' makes it clear that the licensing requirement applies only to lenders making loans under the Short Term Loan Act, *and not to all lenders of loans of short duration.*" *Id.* at 5 (emphasis added).

Not only do Ohio lenders have the right to rely on these regulatory interpretations, but the Ninth District was bound to defer to these interpretations if they are reasonable. *See Frisch's Restaurants, Inc. v. Ryan*, 121 Ohio St 3d 18, 22, 2009 Ohio 2, 901 N.E.2d 777 (recognizing that courts must defer to "an administrative interpretation formulated by an agency that has accumulated substantial expertise, and to which the General Assembly has delegated the responsibility of implementing the legislative command") (citation omitted). The doctrine that courts defer to agency interpretations is essential to Ohio's economy as the basis for a stable and strong commercial sector. Lenders invest billions of dollars every year in Ohio for both capital

expenditures and commercial and consumer loans because they trust that established statutes and regulations will be consistently interpreted.

The Ninth District's decision breaks that trust. Upon deciding that the MLA was ambiguous regarding single installment loans, the court should have next considered whether the agency's interpretation was reasonable. Yet the decision nowhere mentions the Division of Financial Institutions or its thirty-year old interpretation that the MLA permits single term loans. Incredibly, the decision does not even acknowledge the fact that its new interpretation could render any number of single installment, non-payday loans made by and to businesses, tradesman, farmers, and consumers impermissible. The success of Ohio businesses depends on having consistent interpretations of important statutes. Courts should be extremely wary of novel interpretations of those statutes that will frustrate the application of an engrained statutory regime.

C. Ohio Courts Should Not Rewrite Established Ohio Statutes Based On Their Unsupported Perceptions Of Ohio Public Policy

Ignoring the plain language, purpose, and administrative interpretation of the MLA, the Ninth District decided that a different lending law, the STLA, should control the result. The court reasoned that if single installment loans were allowed under the MLA, it would “nullify the very legislation that is designed to regulate payday-type loans—a result at odds with the intent of the General Assembly.” (Decision at 5). Based solely on this assertion, the Ninth District's decision upends decades of stable regulation by outlawing the longstanding business practices of single installment loans under the MLA, many of which have nothing to do with payday lending.

The Ninth District justified this decision with the doctrine of *in pari materia*. But this Court has rejected the use of that doctrine when, as here, “[t]he statutes do not refer to each other or suggest that the powers listed therein are conditional on any other subsections,” even though

the “two sections may overlap in certain circumstances.” *State v. Coburn*, 121 Ohio St.3d 310, 314, 2009 Ohio 834, 903 N.E.2d 1204 (citing “the independent nature of these powers”). This Court has emphasized that rather than looking for a conflict, courts must give both statutes “full force and effect” if at all possible. *Schwartz v. McAtee*, 22 Ohio St.3d 14, 20-21, 488 N.E.2d 479 (1986). The Ninth District erred by divining an unnecessary conflict between the two statutes. Each creates a separate scheme for licensing lenders to make certain types of loans. As the Attorney General explained, the STLA does not forbid or proscribe payday, single term, or any other type of loan—it only governs loans issued under that particular law. 2008 Op. Atty Gen. No. 2008-036 at 4-5 (the STLA is “clear that the licensing requirement applies only to lenders making loans under the Short Term Loan Act, and not to all lenders of loans of short duration.”).

What the Ninth District was really complaining about was that it believed the public policy behind the STLA conflicted with the existence of single installment loans under the MLA. But this is no basis to find a conflict between the statutes themselves. *See State ex rel. Burrows v. Indus. Comm.*, 78 Ohio St.3d 78, 81, 676 N.E.2d 519 (1997) (*in pari materia* rule does not apply when its application “actually creates the ambiguity”). If that were the case, laws allowing smoking would conflict with laws meant to promote public health. Ohio courts are supposed to interpret the text of the statutes passed by the Ohio legislature, not decide that the public policy behind one statute is so important that it should eclipse the plain language of another. The court of appeals is ill-equipped to make such legislative decisions.

As evidence of this, the Ninth District did not pause to consider the breadth of its decision. Because it defined what constitutes an “interest-bearing loan” under the MLA, the decision is not limited to payday loans (which appeared to be the focal point of its concern). The decision applies to all single installment loans from any lender for any purpose, and it appears to

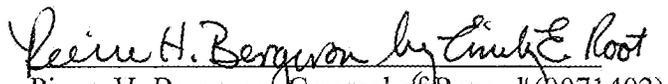
render such loans made under the MLA unauthorized, raising the specter of a flood of litigation over these loans if the Ninth District's decision is affirmed. Lenders that provide loans under the MLA employ thousands of Ohioans at more than 1,400 offices and storefronts throughout the state. See Ohio Department of Commerce eLicense Center, <https://elicense2-secure.com.ohio.gov/Lookup/GenerateRoster.aspx> (choose "SM" and "SM-BR" under the "select criteria" field). Many of these businesses risk closure (or may have to leave Ohio) if the Ninth District's decision is upheld, and their employees risk losing their jobs.

The decision below unnecessarily sows confusion where there has previously been clarity, and in the process, poses severe threats to both customers and businesses that rely on these loans throughout the state. Its effects reach well beyond the parties in the present case, and risk chilling further investment in Ohio.

CONCLUSION

The Ninth District's decision contravenes the text and history of the statute and the longstanding interpretation of the Division of Financial Institutions. The Amici respectfully urge this Court to reverse.

Respectfully submitted,


Pierre H. Bergeron, Counsel of Record (0071402)
Colter L. Paulson (0081903)
SQUIRE SANDERS (US) LLP
221 East Fourth Street, Suite 2900
Cincinnati, Ohio 45202
Telephone: (513) 361-1238
Facsimile: (513) 361-1201
pierre.bergeron@squiresanders.com
colter.paulson@squiresanders.com

*Counsel for Amicus Curiae
The Ohio Chamber Of Commerce*

Frederick E. Mills by Emily E. Root

Frederick E. Mills (00008180)

VORYS, SATER, SEYMOUR AND PEASE LLP

52 E. Gay Street

Columbus, OH 43215

Tel: (614) 464-8395

Fax: (614) 719-5279

femills@vorys.com

Counsel for Amicus Curiae

The Ohio Council of Retail Merchants

Sara Bruce by Emily E. Root

Sara Bruce (0068023)

THE OHIO AUTOMOBILE DEALERS ASSOCIATION

655 Metro Place South, Suite 270

Dublin, Ohio 4017

Telephone: (614) 923-2243

Facsimile: (614) 766-9600

sbruce@oda.com

Counsel for Amicus Curiae

Ohio Automobile Dealers Association

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was sent by ordinary U.S. mail to the following on

June 28, 2013.

Rodney Scott
250 13th Street
Elyria, Ohio 44035

Defendant-Appellee

Darrell Dreher (0005935)
Elizabeth L. Anstaett (00056024)
DREHER TOMKIES SCHEIDERER LLP
2750 Huntington Center
41 South High Street
Columbus, Ohio 43215-6196
Telephone: (614) 628-8000
Facsimile: (614) 628-1600
ddreher@dltlaw.com
eanstaett@dltlaw.com

*Attorneys for Amicus Curiae Richard F. Keck,
Former Deputy Superintendent and Chief
Examiner, Division of Financial Institutions
of The Ohio Department of Commerce*

John W. Zeiger (0010707)
Stuart Parsell (0063510)
ZEIGER, TIGGES & LITTLE LLP
3500 Huntington Center
41 South High Street
Columbus, Ohio 43215
Telephone: (614) 365-9900
Facsimile: (614) 365-7900
zeiger@litohio.com
parsell@litohio.com

*Attorneys for Plaintiff-Appellant,
Ohio Neighborhood Finance, Inc.*


Pierre H. Bergeron