



## business transactions and organizations

“A man with a new idea is a crank, until the idea succeeds.”

– Mark Twain

**C**hildren learn about business transactions when they set up their first lemonade stands or do chores for an allowance, but they likely will not appreciate the pervasiveness of business transactions until they grow up and begin to manage their own lives. At this point, it becomes important for them to have a basic understanding of business law.

Special sets of rules govern many daily business transactions. For example, sales, credit and banking are largely regulated by special statutory rules. In Ohio, these rules are compiled in the *Uniform Commercial Code (UCC)*, and allow us to have predictability in our business lives.

Business transactions may involve several major fields of the law, particularly the law of contracts and the law of property. (For discussions of these areas, see Part VI, “Contracts,” and Part VIII, “Property Law.”)

### Business Transactions in General

Ohio and most other states have adopted the UCC to govern a wide range of commercial practices, including:

- sales of goods and merchandise and other consumer transactions;
- commercial paper, such as checks and promissory notes; and
- secured transactions—sales of goods on credit, or loans secured by a security agreement roughly similar to a mortgage (except that it applies to personal property rather than real estate).

Many commercial transactions, and, in particular, most consumer transactions, are not

covered by the UCC, but by separate laws. Some of these retail transactions include retail installment sales, charge accounts, home solicitation sales and small loans.

### Commercial Paper

What is *commercial paper*? Commercial paper is a written document evidencing an obligation of one party to pay another. Checks and promissory notes are the most common forms of commercial paper. Drafts, bills of exchange and certificates of deposit are also common forms of commercial paper. Think of a regular check when the term commercial paper is used. Similarly, think of depositing a check, paying a bill by check, or cashing a check when the terms *negotiation*, *negotiable* and *negotiability* are used.

When a check is negotiated, the cash represented by the check is transferred from one party to another. For example, when an individual writes a check to pay an electric bill, the value of the cash represented by the check is taken from that individual’s checking account and transferred to the electric company’s account.

When commercial paper meets certain requirements, it is *negotiable* and moves freely in commerce. Negotiable commercial paper is a substitute for cash and is used in commerce because it can be more convenient and more secure than cash.

### Negotiability

Commercial paper is considered a negotiable instrument if it:

- is in writing;
- is signed by the person making it (the *maker*) or by the person on whose account it is drawn (the *drawer*);
- contains an unconditional promise or order to pay a fixed amount of money;

- is payable either on demand, or at a definite time; and
- is payable either to the order of a certain individual, or to the *bearer* (the bearer is the individual possessing the commercial paper, even though that individual's identity may not be known when the commercial paper is first issued).

## How Commercial Paper Is Negotiated

Commercial paper is transferred or negotiated by *endorsement* (the act of approving a transaction with a signature). There are two broad categories of endorsements: *blank* and *special*.

A *blank endorsement* occurs when the person filling out the check (called the *drawer*) simply leaves the "Pay to the Order of" line of the check blank and authorizes the check with his or her signature. This blank endorsement becomes a *bearer instrument*. Someone who holds a bearer instrument, such as a blank check, can negotiate it by simply giving the check to another party. The other party then may deposit or transfer the blank check as he or she wishes.

*Special endorsement* occurs when, for example, an individual writes a check to a business entity such as the electric company. The bank endorses the check with a stamp indicating, "For deposit to the account of \_\_\_\_\_ Electric Company." Depositing the check in the named account is the only method of negotiation. Also, if a check is endorsed, "Pay to the order of John Doe," then only payee John Doe is permitted to endorse the check.

## Holder in Due Course

The *holder in due course* doctrine is a mechanism used to give some assurance to parties not involved in an original transaction that the commercial paper (or negotiable instrument) is valid. It ensures that commercial paper moves freely and is honored (paid) by the business and banking worlds.

To become a holder in due course, a person

to whom commercial paper is transferred must:

- give something of value in return for having the instrument transferred;
- complete the transaction in good faith; and
- complete the transaction without notice of any problems with the instrument.

If these conditions are present, then a party acquiring a negotiable instrument is said to be a *holder in due course*. This means that, when the instrument is finally presented for payment, the maker of the note cannot challenge the holders' rights to receive payment.

The following example explains the rights and obligations of parties and holders in these types of transactions. Mary owns a floral shop and needs a supply of vases for flower arrangements. She locates Bob, a supplier, and buys a year's supply of vases on credit, giving Bob a promissory note that obligates her to pay him within six months. Bob takes the promissory note to the bank to have it discounted. That is, he sells the note to the bank for something less than its face value to get cash, rather than to wait six months for Mary to pay him. Bob may be willing to take less from the bank than what Mary owes him because he knows he can offset this loss by getting the money earlier and investing it.

The bank then takes the promissory note to another financial institution and has it discounted again to increase the bank's supply of money or credit. In each case, the note is transferred by endorsement. Mary, as the maker of the note and the buyer of the vases for her floral shop, is primarily liable to repay the note. However, the holder in due course, that is, the "holder" of the note, does not have to look to the maker (Mary) alone—or even at all—for payment. Mary, as well as the vase supplier who had the note discounted, and the bank, which also had the note discounted, are all liable to the holder in due course for the note.

Mary agrees to pay the note when it is due. If Mary dishonors (does not pay) the note, both the supplier and the bank will be liable for paying the holder, since each, by endorsement, has agreed to make payment. The endorsement by the supplier

and the endorsement by the bank are individual agreements by which each has committed to be liable for payment if Mary does not pay the note.

Let's add a twist to this scenario. If the supplier furnished substandard or defective vases, Mary has a valid excuse for not paying, but only against the supplier, since she cannot raise this defense against a holder in due course. The above rule has been modified for most consumer credit transactions. (See "*Consumer Transactions In General*" at the right.)

### **Cognovit Notes**

A *cognovit note* is a note in which the maker acknowledges the debt with the understanding that, if the debt is not repaid, a court may order a judgment against the maker without the usual notice or hearing.

Many states prohibit any use of cognovit notes. In Ohio, these types of notes are prohibited in consumer transactions. Since January 1, 1974, any note given in a consumer loan or transaction and executed has been enforceable only through a regular lawsuit. That is, the cognovit provision of a consumer note (the waiver of notice and the right to trial) is invalid. If the remainder of the note is valid, however, it may be enforced after notice and trial.

In Ohio, cognovit provisions are valid in commercial transactions, but the note must contain a conspicuous warning that the maker is forfeiting the right to notice and trial. (There is specific language that must be stated in the note and may not be altered.) Further, the actual confession of judgment can only be filed in courts whose territory includes the maker's residence or the location where the note was executed.

## **Consumer Transactions in General**

Consumer transactions are common and often depend upon the use of credit. In fact, credit is used so often that paying cash for large consumer transactions (buying a car, for example) has become rare. Consumer credit transactions can be confusing and expensive and are governed by various state and federal laws.

Interest rates charged on borrowed money must fall within certain limits. For most consumer loans, including retail installment sales and revolving charge accounts (credit cards), Ohio law allows an interest rate up to an annual percentage rate of 25 percent. However, the law also allows for some methods of computing the annual percentage rate that may result in rates of more than 25 percent, which can be enforced under the law. (See "*Small Loans*" later in this chapter.) The law does not *require* a 25 percent annual percentage rate (or any other interest rate). Rather, interest rates are subject to market pressure negotiation, and each consumer's credit rating.

Individuals should shop for low interest rates and low finance charges in the same way they shop for low prices on products and merchandise. One of the basic goals of the Federal Truth in Lending Act is to give consumers enough information so that they can shop for credit (that is, know and compare the cost of credit).

Individuals have the right to read all parts of applications, contracts and disclosure statements. In fact, Ohio case law states that, generally, a person must honor the terms contained in the document he or she signs, unless the person was kept from reading it. Before signing anything, an individual should ask questions about any aspects

of the documents that are not absolutely clear and get satisfactory answers to all questions. Someone who signs a document is bound to its terms, even if he or she has not read it. An individual who does not understand a document should ask for the opportunity to study the document, or to have an attorney review it. Moreover, if an individual has trouble getting information, it should be taken as a sign of potential problems with the transaction.

Both state and federal laws deal with canceling (*rescinding*) many kinds of consumer transactions within a short period after the goods or services are received. Consumers usually have only a very short time to exercise their *right of rescission* (cancel their orders). For example, a consumer who has been solicited at home to buy merchandise or services on credit has three days to change his or her mind. If the consumer wishes to cancel an order, it is good practice to do so in writing.

Similarly, in most consumer transactions, the traditional concept of holder in due course has been modified. Under the consumer laws, a buyer can take all appropriate legal actions against any person or entity to which the seller has transferred the buyer's contract or note.

For example, if someone takes out a loan to buy a car, chances are the auto dealer will sell to a bank or financing company its interest in the note the buyer signed. Under the Federal Trade Commission's holder-in-due-course rule, any rights an individual might have against the dealer will also apply to the bank that bought the note. The bank cannot use the holder-in-due-course rule to escape all responsibility for the individual's car purchase because Ohio law may consider the lender (bank) to be an integral part of the sales process. For example, if a used car you bought from a dealership falls apart as soon as you leave the showroom, the bank that financed your loan through the dealership cannot expect you to make good on a \$3,000 loan if the car is discovered to be worth only \$500. The bank must take some responsibility and it may have to approach the dealership to recover its loss.

## Disclosure to the Buyer

In most consumer transactions, the buyer receives paperwork that includes disclosure forms required by the Federal Truth in Lending Act and certain state laws. Disclosure forms vary. Sellers and lenders may, with certain limitations, modify the disclosure forms, and the forms may or may not be separate from the contract. Even where disclosure forms are part of a contract, the information shown in the form also must clearly appear in the contract itself.

For example, if Mary decides to open a credit card account to purchase the vases for her floral business, then, before opening the account, the bank providing the credit card must fully explain her rights and responsibilities as a cardholder. The bank also must provide certain additional disclosures with every periodic statement or bill issued upon the account. (The information contained in disclosure forms for charge accounts and credit cards is similar to "Amount Financed Itemization" below, but is designed for credit card transactions. Buyers who use credit cards should read and understand this information.)

Some credit card companies are proactive in making sure their clients understand the terms and conditions associated with using their cards. Certain companies, for example, have credit education programs for college students to communicate the conditions and responsibilities that come with credit card use.

Let's examine the concept of disclosure for something other than credit cards. After buying the vases, Mary decides to buy a delivery van for the business. A disclosure statement for the purchase of the van from Big Wheel Auto on May 1, 2001, for example, would address the following conditions: 1) the price of the van was \$7,607.50; 2) Mary paid Big Wheel a down payment of \$1,500 and financed the remaining \$6,107.50 for 36 months at an annual percentage rate (APR) of 14.84 percent; and 3) the monthly payments are \$211.23, with the first payment due June 1, 2005.

As a buyer, Mary should obtain and study the disclosure form and contract before making a final commitment to Big Wheel Auto, the seller. For this transaction, the disclosure form (before purchase) would show, among other things, that the annual percentage rate (APR) is 14.84 percent and that the total finance charge equals \$1,496.80. Essentially, it will cost Mary \$1,496.80 to finance \$6,107.50 under the contract for three years at an APR of 14.84 percent. In other words, under this contract, Mary would have to pay back \$7,604.30, or an interest amount of \$1,496.80 more than the \$6,107.50 she financed or borrowed.

The disclosure form would show:

- the total amount, including down payment, that Mary will pay;
- the number, amount and date when payments are due;
- that credit life insurance will be purchased for \$120;
- that the seller will retain a security interest in the van (the van may be repossessed and sold by the seller if Mary fails to make payments);
- that certain filing fees will be paid;
- that late charges will be assessed; and
- that Mary may qualify for a refund of some of the finance charge if she completes all payments before three years.

A disclosure form will generally contain only that information required by the Federal Truth in Lending Act. The disclosure form is not the entire contract and typically does not identify the make, model, color or serial number of the car. In fact, the disclosure form probably refers the buyer to the contract documents for this information.

## Amount Financed Itemization

The best way to explain the itemization of a financed amount is by example. If Mary indicates on the disclosure form that she wants an itemization, she would receive a written statement similar to the following:

<b>Itemization of the Amount Financed of \$6,107.50</b>	
\$ -0-	Amount given to you directly
\$ 5975.00	Amount paid to your account or paid directly to Big Wheel Auto
<b>Amount Paid on Your Behalf</b>	
\$ 12.50	to Motor Vehicle Bureau
\$ 120.00	to Credit Life Insurance Co.
\$ -0-	Prepaid finance charge
<u>\$6,107.50</u>	Total

Such information is helpful because it shows the distribution of the amount financed.

## Credit Cards

Credit cards are perhaps the most widespread method of extending consumer credit. Some people use credit cards instead of cash or checks. Historically, credit card (revolving charge) accounts have been among the most expensive forms of consumer credit because many people do not reduce the principal balances on those cards each month. Instead, they pay just the minimum payment while the principal continues to accrue at a high interest rate.

## Revolving Charge Accounts

A credit card is evidence that the credit card holder has a contract with the card issuer to maintain a revolving charge account in the cardholder's name. This permits the cardholder to purchase goods and services at any time on presentation of the card where it is accepted.

The first and most obvious advantage of using a credit card is that it allows the user to buy goods and services without having to pay for them immediately. Most credit cards allow a grace period within which a consumer may pay for goods and services purchased on a card without paying any interest charges. This feature allows a consumer to defer payment for purchases, keeping funds in savings accounts until the payment is due, and thereby earning interest on the savings. Or, a consumer who doesn't have funds available for the purchase and use a credit card to finance the purchase over a long period of time. A credit card also may be used as a line of credit to increase flexibility in an individual's budget for large and unexpected expenses.

The primary disadvantage of using a credit card is the cost of interest. Users who do not pay off their credit card balance promptly at the end of the monthly billing cycle are charged interest from the date of the purchase until they pay off the balance owed. Additionally, because the interest rate on credit cards is generally greater than the market rate for most other loans, those who make the minimum payment on outstanding balances pay the maximum in interest, but do not greatly reduce the principal amount of the debt they owe.

When purchases are made on a credit card, the card issuer must send the cardholder a monthly statement (a bill). Under many plans, the cardholder may pay the total monthly balance without charge (just as if the cardholder had an open account with the issuer).

In all cases, the cardholder may make a minimum payment and carry the balance into the following month(s) by paying a monthly finance charge. The minimum monthly payment may vary

depending on the size of the balance, and it is not necessarily uniform among issuers.

A late payment fee is charged when a payment is received after the due date. In general, the card issuer has no security interest in the goods sold (that is, it is unsecured credit).

Some credit card accounts are not revolving charge accounts, but rather open accounts where the cardholder promises to pay the entire balance within a certain time period. In such cases, a balance is not forwarded to the next billing period. The issuer can cancel the credit card immediately and refuse to accept further charges if the bill is not paid on time. These credit cards are usually "travel and entertainment" cards. For example, some credit card companies offer their cards to small business owners. The card gives business owners access to cash for various purposes under the promise that outstanding balances will be paid off monthly.

## Credit Card Law (In General)

Credit card companies are willing to extend credit to consumers because it is profitable. Credit card issuers earn interest on consumers' payments when consumers do not pay off the entire balance of their credit cards on a monthly basis. Because of the popularity of credit cards in our society, it is important to understand some general rules about credit card law:

- Credit cards cannot be issued indiscriminately. They can be issued only in response to a written or oral request, or as a renewal or replacement of an existing card. While companies sometimes issue unsolicited credit card offers that may include actual credit cards, no card can be activated for use without the written or oral agreement of the person to whom the card was issued.
- If a credit card is stolen or lost, the cardholder is liable for paying no more than \$50 in any unauthorized charges, and maybe nothing at all, depending upon the credit card issuer. (The maximum liability can be reduced by contract or through negotiation. Further, the cardholder can

reduce the maximum liability by reporting the loss as soon as possible after the loss is discovered.)

- A cardholder may, with limitations, withhold payments when a dispute arises over a particular purchase. For the cardholder to exercise this right, however, the initial transaction must have 1) exceeded \$50 and 2) taken place within the same state as the cardholder's mailing address or within 100 miles from that address. If these requirements are met and the cardholder has made a good faith attempt to resolve the disagreement with the merchant, then the card issuer may not attempt to collect the amount in dispute or issue adverse credit reports against the cardholder until the dispute is settled.

### **Disclosure to Buyer (Cardholder)**

Generally, a financial institution must notify a consumer in writing at least 21 days before making changes to the terms or conditions of a particular account, if those changes would mean the consumer would pay more, or have increased liability or decreased access to the account.

As noted earlier, there are special disclosure requirements for credit card accounts. Before a credit card account is used, the card issuer must provide the cardholder with a written initial disclosure, stating:

- the periodic (monthly) rate used to determine finance charges and the annual percentage rate of the finance charges;
- when finance charges begin accruing and any grace period (a period where no interest or finance charges are made);
- the method used to determine the balance upon which the finance charge is computed;
- a description of the property or item purchased by the cardholder, if the lender keeps a security interest.

Finally, the initial disclosure must contain a statement of the cardholder's billing rights under the Federal Fair Credit Billing Act.

The cardholder also must receive *periodic statements* (bills) when there is an outstanding

balance on the account. The terms used in the periodic statements must be the same as those in the initial disclosure and must show:

- the previous balance of the account;
- the transactions within the billing period;
- credits to the account;
- periodic rates;
- the balance on which the finance charge is being computed;
- the finance charge;
- the annual percentage rate and any other charges;
- the closing date of the billing cycle; and
- the address for notices of billing errors.

In addition to the initial disclosure and periodic statements, the card issuer must provide the following:

- an annual statement of billing rights, if billing rights are not stated on each periodic statement (bill);
- a written notice of any changes in terms of the contract on the account (such notices must be made at least 15 days before the effective date of the change); and
- the existence and amount of any surcharge.

As noted above, the card issuer must tell cardholders that they have the right to challenge billing errors. (For example, you purchase lunch for \$10, but later look at your bill and discover that you were charged \$100.) In summary, the procedure for challenging billing errors is as follows:

- The cardholder must give the card issuer written notice (a billing-error notice) of any billing error within 60 days after receiving the first statement (bill) containing the error.
- The card issuer must resolve the dispute within 90 days of receipt of the billing-error notice. If the dispute is not immediately resolved, the card issuer must acknowledge receipt of the cardholder's billing-error notice within 30 days of receiving it.
- The cardholder need not make payments on the amount in dispute and the card issuer may not charge interest on, or attempt to collect, the amount in dispute. Further, the card issuer may

not issue any credit reports that would adversely affect the cardholder's credit rating until the dispute is settled. In fact, it is a violation of federal law for the card issuer or its agents to threaten to make an adverse credit report on account of the consumer's failure to pay the disputed amount.

- Upon identifying the billing error, the card issuer must correct the error and send a written notice of correction to the cardholder.
- If a billing error did not occur, the card issuer must send the cardholder a written explanation and may then bill the cardholder for the amount due, including finance charges on the disputed amount.

## Retail Installment Sales

An individual who finances a new car likely will be participating in a retail installment sales transaction. A *retail installment sale* is any transaction where the purchase price is paid over time in periodic payments. In this type of sale, the buyer always gives the seller an installment note and a security interest or *lien* (like a mortgage) on the items purchased, which permits the seller to repossess the items if the debt is not paid. Sometimes, the contract, security agreement and note are all included in one form. (The previous section discussing disclosure for credit cards is an example of the required kind of disclosure.)

### Balloon Notes

A buyer signs a *balloon note* when promising to pay a series of small installments and a final large installment (or balloon payment) for the remaining balance. Balloon notes are permitted in consumer transactions only if the note specifically allows the buyer to refinance the balance due on the final installment at the same, or better, terms as the small installments.

For example, Joe buys a used car for \$1,000. He makes a down payment of \$100 and finances

the balance of the loan for two years at an interest rate of X percent. With the finance charges added to the unpaid balance, Joe normally would pay monthly installments of more than \$50. To reduce these payments, Joe could secure a balloon note requiring 23 installments of \$35 each and a final installment of \$397. According to Ohio law, Joe must be allowed to refinance the final installment amount at the same interest rate of X percent, or less.

### Acceleration of Payments

If the buyer is more than 30 days late on a payment in a consumer transaction, the seller may demand that the payments be paid more quickly, or *accelerated*. Stated differently, the seller can demand that the entire remaining balance be made immediately since, by delaying payment, the buyer has defaulted on the loan.

### Interest Refund

A buyer who pays off the balance of a loan before the final payment is due is entitled to a proportionate refund on any interest or finance charge that was included in the original loan amount.

## Home Solicitation Sales

Paramount's 1987 film, *Tin Men*, parodied the door-to-door aluminum siding sales industry of the early 1960s. The film shed light on abuses that had become common in sales made at consumers' homes. Such abuses led Ohio and other states to pass laws controlling home solicitation sales.

Common abuses included:

- deception and high-pressure salesmanship;
- the sale of goods and services the consumer did not want or need; and
- the sale of inferior goods and services at grossly inflated prices.

Another common abuse involved the business practices of transient salespersons. Door-to-door salespeople would sell the consumers' promissory notes—their written promise to pay—to finance companies or banks for less than the face amount of the note before leaving the area. In effect, they left the consumer owing a finance company or bank, but did not provide the name of a person or company to contact about any problems with the sale or with the goods and services. Note, however, that the good-faith sale of promissory notes at a discount by sellers of goods and services is a common and legitimate business practice.

## Basic Requirements for a Home Solicitation Sale

In a *home solicitation* sale, the seller closes the transaction at the buyer's home following a personal solicitation. An example would be the purchase of a vacuum cleaner from a door-to-door salesperson. Home solicitation sales do *not* include:

- sales under \$25;
- sales of real estate, insurance, stocks, bonds, or cars or automotive services (when licensed brokers or dealers in such items are making the sales); or
- sales at auctions.

To be valid, a contract for a home solicitation sale must be in writing and must contain substantially the same language used in the sales pitch. That is, the salesperson cannot say one thing and write something else into the contract.

If the sale is made on an installment plan, the laws on retail installment sales apply to such transactions and must be followed. The contract must contain a *cancellation notice* (a clear description of the buyer's right to cancel) and clear instructions on how the buyer can cancel the contract.

## Right of Cancellation

A buyer in a home solicitation sale may cancel the contract at any time within three days (the grace period) after it is signed by providing a

written notice of the cancellation to the seller. If the sale is canceled, the seller must return any money paid, plus any trade-in or deposit. Also, the seller cannot discount the note until five days after the sale, nor can the seller *negotiate* (transfer) the note after the sale has been canceled. In such cases, the note must be returned to the buyer. If the note is negotiated, the laws on retail installment sales apply and the *transferee* (the person or entity who received the note from the seller) must notify the buyer of the transfer and give the buyer 15 days to say why the note is not valid. For example, the buyer may state that the note is not valid because he or she had cancelled the transaction within three days. A buyer who cancels a home-solicitation sale must return any goods in substantially as good a condition as when the buyer received them.

When an individual buys something for \$25 or more from a home sales representative, he or she has until midnight of the third business day to legally cancel the transaction. In return, the company must give the buyer a notice of cancellation form along with a copy of the signed contract, and must provide a valid address to which the cancellation notice is to be sent.

## Purchase of New Motor Vehicles (Ohio's Lemon Law)

Ohio's "Lemon Law," enacted in November 1987, protects consumers against manufacturers' defects that substantially impair the use, value or safety of a new motor vehicle, either purchased or leased. These defects must be reported in the first year or within 18,000 miles, whichever comes first. The law protects passenger cars, light trucks (no more than one ton capacity and not used for business), motor homes (vehicle portion only) and motorcycles. If the manufacturer is unable to repair the defect after a reasonable number of repair attempts, the consumer may be eligible for a refund or replacement. The manufacturer is presumed to have made a reasonable number of repair attempts if any of the following have taken place within the first year or 18,000 miles, whichever occurs first:

- There have been three or more attempts to repair one problem and the problem either continues to exist or reoccurs.
- The vehicle has been out of service for repair for 30 days or more.
- There have been eight or more attempts to repair different defects that substantially impair the use, value or safety of the vehicle.
- There has been one attempt to repair a manufacturer's defect that could result in serious injury or death and the problem continues to exist or reoccurs.

(For more information about Ohio's Lemon Law, see [www.ohioabar.org](http://www.ohioabar.org). Go to "Public," then "Resources," then "Law You Can Use." Type the word "lemon" in the search box.)

## Other Consumer Credit Transactions

Other means of extending consumer credit are through electronic fund transfers, small loans and payday lenders.

### Electronic Fund Transfers

The Electronic Fund Transfer Act establishes the basic rights, liabilities and responsibilities of individuals who receive electronic transfers to their accounts and make debit card transactions using electronic-fund-transfer machines, more commonly known as *automatic teller machines* (ATMs) and point-of-sale terminals. The terms and conditions involving an individual's account must be disclosed in understandable language when such transactions occur.

In addition to certain other specific requirements, the disclosure must include:

- the consumer's liability for unauthorized transfers;
- the person or office to contact with questions;
- a statement of any charges assessed for the service;
- the circumstances under which the financial institution will, in the ordinary course of

business, disclose information about the customer's account to third persons;

- the consumer's right to stop payment of a pre-authorized electronic fund transfer and how to initiate a stop-payment order; and
- a statement of the consumer's right to receive documentation of electronic fund transfers.

### Gramm-Leach-Bliley Act

Signed into law in 1999, the Gramm-Leach-Bliley Act requires financial institutions to give customers notice about its privacy policies and practices when initiating the customer relationship, and annually once a customer relationship is established.

Banks, credit card issuers and all other types of businesses that offer financial products and services to consumers are required to protect the privacy of non-public, personal information about customers. Such institutions may not disclose non-public personal information to non-affiliated third parties, unless the financial institution meets various disclosure and opt-out requirements, and the customer has not chosen to opt out of the disclosure. This means financial institutions must send out initial and annual notices of their privacy policies to customers, notifying them of their right to maintain the confidentiality of personal or private (protected) information with non-affiliated entities, except in limited cases.

### Small Loans

All loan companies must be licensed by the state of Ohio. According to state law, loan companies are allowed to make small loans—up to \$5,000—at special interest rates. They may charge up to 28 percent per year on the first \$1,000 and 22 percent on loans of more than \$1,000. Interest rates are negotiable, meaning buyers can shop for the best interest rate and terms. Sellers of money as well as sellers of merchandise can change the terms of their documents, and interest rates on this type of transaction might fluctuate.

## Payday Lenders

*Payday lenders* make small, short-term, high-rate loans, called payday loans, cash advance loans, check advance loans, post-dated check loans or deferred deposit check loans. Typically, an individual writes a personal check payable to the lender for an amount plus a fee. The lender gives the individual the amount of the check minus the fee. An individual who extends the loan for payment at a later time pays a fee for each extension.

The federal Truth in Lending Act requires payday lenders to disclose the cost of payday loans. Individuals must receive, in writing, the dollar amount of the finance charge and the annual percentage rate.

Payday or cash advance loans secured by a personal check are very expensive credit. Throughout the 1990s, state public interest research groups and the Consumer Federation of America studied payday lenders and found they were making short-term consumer loans of \$100 to \$400 at legal interest rates from 390 percent to 871 percent in states where payday lending was allowed.

Under Ohio law, check-cashing businesses can make loans provided that each loan meets all of the following conditions:

- the total amount of the loan is not more than \$800;
- the length of the loan is not more than six months;
- the interest on the loan is not more than five percent per month, and no unpaid interest can be deducted from the loan proceeds or paid in advance;
- the loan is under a written contract;
- the contract states the terms and conditions of the loan;
- the contract discloses the total amount of the fees, charges and the rate of interest, calculated both as an annual percentage rate based on the loan principal and as an annual percentage rate based on the sum of the loan principal plus any loan origination fee, check collection charge or other fee under the loan contract;

- any loan origination fee is not more than \$5 per \$50 of the loan amount;
- the contract states the total amount of each payment, when each payment is due, and the total number of payments that will be made under the loan contract;
- the contract contains a highly visible statement, warning that the rate of interest charged on the loan is higher than the average rate of interest charged by financial institutions on substantially similar loans; and
- the loan is not made for the purpose of paying off an existing payday loan.

## Bankruptcy

No discussion of business law would be complete without an examination of bankruptcy. The U.S. Bankruptcy Court is part of the federal court system. (*See Part II, "The Courts."*) Individuals and businesses use bankruptcy as a way to obtain relief from debts owed to creditors. Title 11 of the *United States Code* governs bankruptcy. The *U.S. Bankruptcy Code* has been amended several times since it was enacted in 1978, most recently with the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. As federal law, it supersedes any conflicting state law, and with the exception of certain exemptions, it is fairly uniform from state to state.

### Types of Bankruptcy

There are four kinds of bankruptcy proceedings, and they are named for the chapters of the Bankruptcy Code that describe them. The chapter best suited for a business or individual depends on the nature of the debts and the nature and value of assets.

### Chapter 7

Chapter 7 bankruptcy, known as a *straight liquidation*, is available to qualified individuals, married couples, corporations and business partnerships. A Chapter 7 trustee, assigned by the U.S. Trustee's Office or chosen by the creditors, *liquidates* (sells) any assets that are not protected

by the court (*non-exempt assets*) to pay all or a portion of the debts owed to creditors. Depending on where the individual debtor lived before filing bankruptcy, he or she may be entitled to keep (or *exempt*) some or all of the equity in certain kinds of property (such as a house, car, boat or household item).

Unless the money raised from the sale of the property is expected to be greater than these exemptions and any liens or mortgages, the trustee may decide to abandon the item of property, meaning that the debtor gets to keep it. Through this liquidation process, any debts not paid by the trustee, with certain exceptions, will be *discharged* (eliminated), and creditors cannot force the debtor to pay any remaining amount owed.=

## Chapter 13

Chapter 13 of the Bankruptcy Code provides for an *individual reorganization*, an alternative to Chapter 7 that generally allows a debtor to keep personal property. A Chapter 13 debtor must have regular income and meet certain debt and asset limits. Effective October 17, 2005 under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, individuals who earn more than the median income in the state where they lived before filing bankruptcy, and who can repay at least \$6,000 of their debt over five years, are no longer eligible to have all their debts eliminated.

Instead, these individuals must repay their creditors over time and enroll in a financial counseling program. Under Chapter 13, an individual debtor submits a plan detailing how all of his or her debts will be paid from disposable monthly income (income after providing for ordinary living expenses) over a period of time of up to five years. A plan or reorganization is monitored by a Chapter 13 trustee and supervised by the bankruptcy court. A Chapter 13 debtor must pay creditors at least as much as they would be paid if the debtor's assets had been liquidated in a Chapter 7 case.

## Chapter 11

Corporations or other businesses typically use Chapter 11 reorganization as an alternative to Chapter 7 liquidation. It also may be available for individuals who do not qualify for the Chapter 13 individual reorganization because they cannot meet the debt and asset limits, or for those who do not wish to reorganize under Chapter 13.

In a Chapter 11 reorganization, as in a Chapter 13 reorganization, the business debtor may keep certain property and be required to pay creditors with future earnings according to a reorganization plan.

## Chapter 12

Chapter 12 is a special reorganization for family farmers. To qualify, a family farmer must earn most of his or her income from family farming operations.

## Process of Filing for Bankruptcy

To file for bankruptcy, the debtor files a petition with the appropriate bankruptcy court and pays a filing fee, unless that requirement is waived by the bankruptcy court. In addition to filing a petition, the debtor must provide the court with detailed information about assets and liabilities on documents called *schedules*. These documents must include an accurate list of everything owned and everything owed to creditors, as well as personal information concerning employment and transfers of money or other property the debtor may have made before filing for bankruptcy.

After these documents are filed, the debtor meets with a trustee. The debtor's creditors are invited to this meeting. The trustee checks the petition and schedules for accuracy. Also, the trustee and creditors may ask questions about the debtor's financial situation.

In a Chapter 7 case, the debtor must provide the trustee with any non-exempt property or its value in cash. If no creditor objects, claiming that a particular debt is not dischargeable (for

example, because it was incurred by fraud), the court will issue a discharge of all qualifying debts in about three to six months after the original bankruptcy filing. At that point, the case is complete.

In a Chapter 13 proceeding, the debtor files the same forms and a proposed repayment plan. The plan describes how the debtor intends to repay the debts over the next three to five years. Again, the debtor and trustee hold a meeting with the creditors to give them a chance to review and question the schedules. After the meeting, the debtor attends a hearing before a bankruptcy judge who either “confirms” or “denies” the plan. If the plan is confirmed and all the payments under the plan are made, the debtor often receives a discharge of any remaining balance owed.

## Exemptions

The *U.S. Bankruptcy Code* and *Ohio Revised Code* include a list of items bankruptcy filers are permitted to keep from creditors during the bankruptcy proceedings. These items are called *exemptions*. Again, depending on where the individual debtor lived before filing bankruptcy, he or she maybe entitled to keep (or *exempt*) some or all of the equity in certain kinds of property. In general, the exemptions available to debtors are as follows:

- **Equity in the home:** The homestead exemption may allow debtors to protect all or some of the equity in their homes.
- **Insurance:** Debtors may be permitted to keep the cash value of their life insurance policies.
- **Retirement plans:** Pensions that qualify under the Employee Retirement Income Security Act (ERISA) are fully protected from bankruptcy proceedings. In addition, many other retirement benefits are protected; however, IRAs and Keoghs are not.
- **Personal property:** Most household goods, furniture, furnishings, clothing (other than furs), appliances, books and musical instruments are exempt up to a certain amount. Debtors may be limited in how much jewelry they can keep.

Most states allow a debtor to keep a vehicle if the debtor has paid off more than \$2,400 of the vehicle debt; many states give debtors a prescribed (or “wild card”) amount of money that they can apply toward any property. Ohio permits \$400 of wild card money.

- **Public benefits:** All public benefits, such as welfare, Social Security and unemployment insurance, are fully protected.
- **Tools used on the job:** Debtors may be able to keep a few thousand dollars worth of tools used in their trade or profession.
- **Wages:** In most states, including Ohio, the debtor can protect at least 75 percent of wages that have been earned but not yet paid.

## Discharge of Debts

Individuals frequently opt for a Chapter 7 bankruptcy because the debtor receives a discharge of most unsecured debts within several months of filing the case. If the debtor’s income appears high enough to permit some repayment of debt, the trustee or the court may move to dismiss the case for substantial abuse. The theory is that allowing someone with the ability to repay to file Chapter 7 and avoid repayment abuses the bankruptcy system. This is why Chapter 13 is often a better choice for debtors if they:

- have debts that cannot be discharged in Chapter 7;
- default on mortgages or car payments;
- own more property than can be exempted from creditors in Chapter 7;
- owe taxes or other debts that are not discharged under Chapter 7.

Chapter 11 bankruptcy is a form of reorganization available to individuals, corporations and partnerships. It is the typical choice for large businesses seeking to restructure their debt. The debtor entity usually remains in possession of its assets and operates the business under the supervision of the court and for the benefit of creditors. A Chapter 11 plan is allowed only with a vote of approval by creditors, who are divided into classes based on the characteristics of

their claims, and whose votes are allocated based on the amount of their claims against the debtor.

The filing of a bankruptcy petition does not guarantee the discharge of debts. The bankruptcy court may deny a general discharge of debts if the debtor commits certain acts of misconduct before or after filing the bankruptcy petition, such as destroying, concealing or removing assets that might otherwise be used to pay creditors. Also, a discharge of debts may be denied if the debtor has destroyed or concealed records that show what assets are available to pay creditors. Finally, the bankruptcy court may deny a general discharge if the debtor has lied under oath during the bankruptcy case, or has refused to answer questions without a good reason. In addition to acts of misconduct, a debtor will not be granted a general discharge if he or she has obtained a discharge in a Chapter 7 case within six years of the date that a second bankruptcy is filed.

Even if a general discharge is granted, some debts are not discharged in bankruptcy. Also, the type of bankruptcy affects which debts may be discharged. Generally, more debts are discharged in Chapter 13 than in Chapter 7. Congress provided for greater relief under Chapter 13 as an incentive to encourage debtors to repay their debts through a reorganization plan.

Debts that are generally not discharged in bankruptcy include taxes assessed within 240 days of the bankruptcy filing, certain student loan debts, some child or spousal support debts arising from a divorce, criminal fines and debts arising from operating a vehicle while impaired (OVI), and any debt incurred because the debtor has committed fraud, breached a fiduciary duty as a trustee, or committed a “willful” act causing injury to a creditor. The bankruptcy court ultimately decides whether these types of debts will be discharged based on a particular debtor’s circumstances.

## Common Sense in Business Transactions

Individuals and businesses often find themselves in difficult situations because they do not wisely manage their business affairs. This is particularly true when it comes to consumer credit transactions. Most troubles of this kind can be avoided by following five simple rules:

- use credit sparingly;
- stay within a written budget;
- understand the terms of business transactions before entering into them;
- meet personal or business obligations, but if trouble arises in meeting those obligations, let the other party know immediately; and
- keep accurate records.

### Use Credit Sparingly

Consumer credit can be expensive and should be used carefully. In the long run, it may be better to pay cash and use the money saved on interest to buy more goods and services. Often individuals buy things because they believe they have an immediate need. Usually, however, it is smarter to save and pay cash later rather than to buy now on credit and pay more in interest. Further, regular savings through a bank, credit union, or investment can make an individual’s savings grow.

### Stay Within a Written Budget

Individuals should not commit to payments they may have trouble meeting. Remember, pay the essentials first, such as housing, health care, transportation, food and clothing, saving a little extra for emergencies and leisure. Many individuals have discovered that adhering to a written budget is extremely valuable to their financial planning and helps limit the number of impulse purchases.

Further, do not calculate overtime pay when determining long-term payments. The fact that an individual is currently getting substantial overtime pay is no guarantee that the overtime will continue.

## **Understand the Terms**

Entering into a business transaction without fully understanding the particulars is like hiking an unfamiliar mountain trail in the dark. It is unwise and you may get hurt.

You should understand your rights and obligations. Read and understand all paperwork, and do not sign anything with blank spaces on it; everything should be filled in, or crossed out if it does not apply. Do not rely on sales talk. Rely only on what is written in the contract, note, security agreement, mortgage, or other papers that formalize the agreement. Consult a lawyer if you cannot understand the terms of a contract or agreement. A lawyer can greatly assist in providing guidance before you close a particular deal.

## **Meet Personal or Business Obligations/Pay on Time**

Keep your promises once you make them. A good credit rating is invaluable. A bad credit rating can restrict you financially and may prevent you from obtaining credit in the future, or make future credit more expensive. In fact, a bankruptcy filing likely will remain on your credit report for seven years leaving you with limited credit options during that period.

If you have trouble making payments on time, contact your creditors to discuss the situation. Creditors are often willing to adjust or temporarily delay payments.

People in the business of extending consumer credit know that if they pressure a debtor in financial trouble too much or too quickly, they may destroy the debtor's ability to eventually make complete payment. A debtor who does not contact creditors when in financial difficulty may

give the creditors the impression that the debtor has no intention of paying.

## **Keep Accurate Records**

It is important to keep:

- copies of all signed papers;
- copies of all correspondence concerning purchases and payments;
- records of all tax payments in case a dispute, error or question arises; and
- mortgage and home-equity loan records as proof of the interest paid on these loans, which may be deductible for federal income tax purposes.

# **Business Organizations**

The law of business organizations concerns the various forms of businesses, such as corporations, limited-liability companies and partnerships, and the legal consequences that arise from each form of business.

## **Business Formation in General**

There are several legal forms that a for-profit business can take. Each form requires complicated legal and taxation decisions that can affect the business entity and its owners far into the future. New businesses must consider the following issues:

- start-up expenses;
- the management structure desired;
- personal liability issues;
- tax consequences; and
- the continuing legal requirements imposed on the business form by statutes and regulations.

Most businesses choose from among the following forms: sole proprietorship; partnership; limited liability company; or corporation.

## Sole Proprietorship

*Sole proprietorship* offers the simplest form of organization, combining ownership and management in one person. The business has no separate existence. The owner is directly affected by business profits as well as losses. Income is taxed on the owner's personal return and not at the business level (business activity is shown on a separate schedule). Sole proprietorships are popular, but a disadvantage is that sole proprietors are completely and personally liable for business obligations. This means that their personal assets, such as homes and automobiles, are not protected from debt obligations. A sole proprietor can start a business at any time, but must obtain any needed licenses and obey employment laws.

## Partnership

There are various kinds of partnerships: general partnerships, limited partnerships and limited liability partnerships. A *partnership* is similar to a sole proprietorship; however, it involves two or more owners operating a business for profit. As in a sole proprietorship, the partners pay the partnership taxes themselves (the partnership must file a tax return to show its taxable income and allocate it among the partners according to their interests). Also, in a general partnership, all the partners are personally liable for business obligations.

Ohio recognizes three partnership forms:

- The *general partnership* involves two or more owners conducting a business for profit. General partners share equally in the right and responsibility to manage the business, and any individual partner can bind the entire group to a legal obligation. Each individual partner assumes full responsibility for all of the business's debts and obligations. The tax advantage of a general partnership is that profits or losses are not taxed to the business, but pass through to the partners, who include the gains on their individual tax returns at a lower rate or use the losses to offset other ordinary income. No formal filing is required to create a general

partnership, though if it is operating under a name other than that of its partners, it may need to file a certificate with the county recorder's office.

- The *limited partnership* can be formed only by filing a certificate of limited partnership with the Secretary of State. Once formed, a limited partnership offers personal liability protection for some of its participants. The "limited partners" have no voice in managing the business and are not liable for its debts. However, as in a general partnership, limited partners are liable for the tax on their shares of the partnership income. Every limited partnership must have at least one general partner who manages the partnership and is liable for its debts.

Ohio does not require a written partnership agreement. In the absence of an agreement, the rights and obligations of the partners in a general partnership are determined by Ohio's version of the Uniform Partnership Act. Ohio's Revised Uniform Limited Partnership Act governs the rights and responsibilities of limited partnerships. However, it is wise for partners to define these matters for themselves through a written partnership agreement. Such efforts may help settle disputes if they arise.

- The *limited liability partnership* is similar to the general partnership, except that a partner in an LLP is not personally liable for the negligence or wrongful acts of other partners or of employees who have not been directly supervised by a partner. The partner is still personally liable for contracts entered into by anyone on behalf of the partnership. To create a limited liability partnership, a registration application must be filed with the Secretary of State, and a report must be filed with the Secretary of State every two years.

## Incorporation

The *corporation* is a separate legal entity that is liable for its own taxes and obligations. This form insulates the owners, directors and officers of the business from personal responsibility for taxes and debts. A corporation can sell owner-

ship interests, or shares, in the company to raise capital. Two different kinds of tax treatment are available for corporations, depending on whether the corporation qualifies for, and elects to be taxed under, Subchapter S of the *Internal Revenue Code*.

A corporation is formed by filing articles of incorporation with the Secretary of State. Various other formalities, such as electing directors, adopting regulations and accepting subscriptions for shares, need to be carried out before the corporation begins to operate.

### • C-Corporations

A *C-corporation* is a corporation that has not elected special tax treatment under the *Internal Revenue Code*. It is subject to corporate income tax on its profits and its shareholders are generally taxed on any dividends at a maximum rate of 15 percent. The application of these two layers of tax is sometimes referred to as *double (or dual) taxation*.

One advantage of establishing a C-corporation is that income tax brackets are lower than individual rates for the first \$75,000 of income. Due to double taxation, however, the shareholders benefit most if earnings are retained and reinvested rather than paid out to shareholders as dividends. A C-corporation has the flexibility to create different classes of stock containing varied distribution and voting rights.

One of the disadvantages of C-corporation status is double taxation (described above), and another is the trapping of losses in the corporation. This means that losses are suspended and carried forward until they can offset corporate income. Shareholders of a C-corporation cannot use losses to offset their individual income as owners in a sole proprietorship or partnership can do. Finally, in Ohio and many other states, the C-corporation is subject to a separate state franchise tax, which does not apply to S-corporations or limited liability companies (LLCs).

### • S-Corporations

An *S-corporation* is a corporation that has elected to have its income and losses taxed like a partnership. The chief advantage of an S-corporation is the ability to obtain limited liability while eliminating the second layer of taxation. Also, shareholders can use corporate losses to offset their income from other sources.

One disadvantage of an S-corporation is its rigid structure (only one class of stock is permissible). Also, the number of shareholders is limited to 75, and there are restrictions on who can be a shareholder. Only individuals, estates and certain trusts and tax-exempt entities can be S-corporation shareholders. Corporations and other entities generally cannot own S-corporation stock.

### • Limited Liability Companies

The *limited liability company* is Ohio's newest form of business entity. Its owners are identified as members. To form an LLC, articles of organization must be filed with the Secretary of State. Fewer formalities are required in the ongoing operation of an LLC than are required for a corporation. Members of an LLC are not liable out of their personal assets for debts or obligations of the business, unless they have specifically agreed to personally guarantee the debt. Members are liable only for the amounts they have agreed to invest in the business.

An LLC may elect to be taxed under the same rules that apply to partnerships. This means that the business itself only files an information return with the IRS, and the income and losses of the limited liability company are taxed to the members on their personal income tax returns. The LLC, unlike the S-corporation, can create different classes of membership interests having different preferences in earnings and different distribution rights upon liquidation.

An LLC may be managed by all its members, just as a general partnership is managed by all its partners. Alternatively, the members can be creative in developing a management structure. The LLC can be managed by a manager, by a board, or by a combination of members and managers. As a result, the LLC structure, as

described in its operating agreement, can resemble that of a corporation, a partnership or something in between.

One of the disadvantages of the LLC is that employment taxes apply to all LLC distributive shares of member-employees. Also, because LLCs are a relatively new type of entity, there may be issues regarding LLCs upon which the courts have not yet ruled. In the area of taxation, however, members can turn to the body of partnership law for answers if the LLC has not opted out of pass-through taxation.

Most owners desire the protection of limited liability. Both corporations and LLCs afford their owner-employees limited liability from obligations and liabilities of the company. In choosing among the various business entities, the facts and circumstances of each business must be considered. For many businesses that wish to avoid the double taxation of a C-corporation, but want flexibility in management and distributions, the LLC is an increasingly popular choice.

## Nonprofit and Tax-Exempt Organizations

A *nonprofit corporation* is a corporation that is not formed for its members' financial gain or profit. The net earnings of a nonprofit corporation

are not distributed to its members, directors, officers or other private persons. A nonprofit corporation must follow the specific guidelines set forth in Section 501(c) of the *Internal Revenue Code* of 1986 if it wishes to obtain an exemption from federal and state taxes that might otherwise be imposed upon the income it receives. Nonprofit corporations that qualify as charitable, religious, scientific, literary or educational organizations under Section 501(c)(3) also may receive contributions that are tax-deductible to their donors. The government has granted special tax treatment to nonprofit organizations because of the benefits the public derives from them. Many states also regulate nonprofit corporations that engage in certain charitable activities.

Structuring an organization as a nonprofit corporation protects its directors, officers and members from personal liability for the corporation's debts and liabilities. Of course, its directors and officers remain personally liable for their own negligence in carrying out their duties to the nonprofit organization.

# Chapter Summary:

- Special sets of rules govern many daily business transactions.
- Business transactions may involve several major fields of the law, particularly the law of contracts and the law of property.
- Ohio and other states have adopted the *Uniform Commercial Code* (UCC) to govern a wide range of commercial transactions that may cross state lines.
- Checks and promissory notes are the most common forms of commercial paper. Drafts, bills of exchange and certificates of deposit also are common forms.
- Commercial paper is transferred or negotiated by *endorsement*.
- *Holder in due course* is a doctrine giving some assurance to individuals (or entities) who were not parties to an original transaction that the commercial paper (or “negotiable instrument”) is valid.
- The maker of a *cognovit* note acknowledges the debt and authorizes the creditor to enter a judgment against him or her without notice or a hearing in case of default. In Ohio, *cognovit* notes cannot be used in consumer transactions.
- Consumer transactions often depend upon the use of credit.
- State and federal laws cover most consumer transactions, including those involving credit.
- The credit card is perhaps the most widespread method of extending consumer credit.
- A credit card represents the credit card holder’s contract with the card issuer to maintain a revolving charge account in the cardholder’s name. This allows the cardholder to use the card to buy goods and services.
- A *retail installment sale* is any transaction where the purchase price is paid over time by making periodic payments.
- In a retail installment sale, the buyer always gives the seller an installment note and often a security interest or lien (similar to a mortgage) in the items purchased, permitting the seller to repossess the items if the debt is not paid.
- In a home-solicitation sale, the seller (commonly known as a door-to-door sales-person) comes to the buyer’s home to solicit and close the sale.
- “Lemon Laws” protect consumers who buy or lease vehicles by requiring manufacturers, under certain circumstances, to replace or buy back defective vehicles that cannot be or have not been properly repaired in a timely manner.
- Consumers also may get credit through electronic fund transfers, small loans and payday lenders.
- *Bankruptcy* is a process designed to help consumers and businesses eliminate their debts or repay debts under the protection of the bankruptcy court.
- The law of business organizations concerns the various forms of businesses, such as corporations, limited-liability companies and partnerships, and the legal consequences that arise from each form of business.
- A *nonprofit corporation* is a corporation not formed for financial gain or profit, and none of its net earnings may be distributed to its members, directors, officers or other private persons.

## Web Links:

### **From OSBA's "LawFacts" pamphlet series:**

(go to <http://www.ohiobar.org/pub/lawfacts/> and locate topic by title)

"What you should know about... Bankruptcy"

### **From OSBA's "Law You Can Use" articles:**

(go to <http://www.ohiobar.org/pub/lycu> and search for article by title or by topic)

"Consumers Use Arbitration to Settle Lemon Law Disputes"

"Consumers Should Exercise Care When Purchasing Health Products Online"

"Consumers Should Watch Out for Predatory Lenders"

"Federal Law Restricts Telemarketing and Unsolicited Fax Advertisements"

"Franchise Laws Protect Investors"

"Guard Against Identity Theft"

"Holiday Spending with Credit Cards: How Much Do You Know About It?"

"How Do Consumer Class Action Lawsuits Work?"

"Know Which Contracts Can Be Canceled within a Three-Day Period"

"New Bankruptcy Law Limits Filing Choices"

"New Bankruptcy Law Redefines Debt Relief Agencies"

"Ohio's Lemon Law Protects Consumers"

"Stores Must Honor Shelf Prices"

"To Lease or Buy: Know the Differences Before You Decide"

"What Consumers Should Know Before Selecting a Credit Counseling Agency"

"What You Should Know about On-Line Shopping"

### **From OSBA's *Legal Basics for Small Business, 2004 Edition*:**

(go to <http://www.ohiobar.org>; then "Public," then "Resources," then "Legal Basics for Small Business")

Includes articles about business organization types

### **From Nolo.com:**

<http://www.nolo.com>

Links to resources and information of interest to small businesses

Search by topic: under "property and money" and "rights and disputes"

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## Web Links *continued*

**From the Ohio Attorney General's Web site:**

[http://www.ag.state.oh.us/online\\_publications/consumer\\_protection/Consumerprotection](http://www.ag.state.oh.us/online_publications/consumer_protection/Consumerprotection)

**From the federal government:**

<http://www.consumer.gov/Consumer> information and National Do Not Call Registry

**From Hieros Gamos:**

<http://www.hg.org/consume.html>

<http://www.hg.org/credit.html>

Consumer and credit law

**From the Consumer Federation of America:**

<http://www.consumerfed.org/>

Search: payday loans

**From the U.S. Small Business Association:**

<http://www.sba.gov/>

**From the Ohio Secretary of State's Web page:**

<http://www.state.oh.us/sos/>

(click on "business services")

Business services information, including how to incorporate a business

**From Findlaw:**

<http://www.findlaw.com/01topics/> FindLaw's encyclopedia of legal topics

(click on "bankruptcy")

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