

As Introduced

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S. B. No. 333

Senator Obhof

Cosponsors: Senators Beagle, Coley, LaRose, Seitz

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A B I L L

To amend sections 1321.52 and 1322.02 and to enact 1
sections 1321.537 and 1322.042 of the Revised Code 2
to authorize the Superintendent of Financial 3
Institutions to issue a temporary mortgage loan 4
originator license under certain circumstances. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1321.52 and 1322.02 be amended and 6
sections 1321.537 and 1322.042 of the Revised Code be enacted to 7
read as follows: 8

Sec. 1321.52. (A)(1) No person, on that person's own behalf 9
or on behalf of any other person, shall do any of the following 10
without having first obtained a certificate of registration from 11
the division of financial institutions: 12

(a) Advertise, solicit, or hold out that the person is 13
engaged in the business of making residential mortgage loans 14
secured by a mortgage on a borrower's real estate which is other 15
than a first lien on the real estate; 16

(b) Engage in the business of lending or collecting the 17
person's own or another person's money, credit, or choses in 18
action for non-first lien residential mortgage loans; 19

(c) Employ or compensate mortgage loan originators licensed 20
or who should be licensed under sections 1321.51 to 1321.60 of the 21
Revised Code to conduct the business of making residential 22
mortgage loans; 23

(d) Make loans in this state of the type set forth in 24
division (C) of this section that are unsecured or are secured by 25
other than real property, which loans are for more than five 26
thousand dollars at a rate of interest greater than permitted by 27
section 1343.01 or other specific provisions of the Revised Code. 28

(2) Each person issued a certificate of registration or 29
license is subject to all the rules prescribed under sections 30
1321.51 to 1321.60 of the Revised Code. 31

(B)(1) All loans made to persons who at the time are 32
residents of this state are considered as made within this state 33
and subject to the laws of this state, regardless of any statement 34
in the contract or note to the contrary, except as follows: 35

(a) If the loan is primarily secured by a lien on real 36
property in another state and is arranged by a mortgage loan 37
originator licensed by that state, the borrower may by choice of 38
law designate that the transaction be governed by the law where 39
the real property is located if the other state has consumer 40
protection laws covering the borrower that are applicable to the 41
transaction. 42

(b) If the loan is for the purpose of purchasing goods 43
acquired by the borrower when the borrower is outside of this 44
state, the loan may be governed by the laws of the other state. 45

(2) Nothing in division (B)(1) of this section prevents a 46
choice of law or requires registration or licensure of persons 47
outside of this state in a transaction involving the solicitation 48
of residents of this state to obtain non-real estate secured loans 49
that require the borrowers to physically visit a lender's 50

out-of-state office to apply for and obtain the disbursement of 51
loan funds. 52

(C) A registrant may make unsecured loans, loans secured by a 53
mortgage on a borrower's real estate which is a first lien or 54
other than a first lien on the real estate, loans secured by other 55
than real estate, and loans secured by any combination of 56
mortgages and security interests, on terms and conditions provided 57
by sections 1321.51 to 1321.60 of the Revised Code. 58

(D)(1) If a lender that is subject to sections 1321.51 to 59
1321.60 of the Revised Code makes a loan in violation of division 60
(A)(1) of this section, the lender has no right to collect, 61
receive, or retain any interest or charges on that loan. 62

(2) If a registrant applies to the division for a renewal of 63
the registrant's certificate after the date required by division 64
(A)(7) of section 1321.53 of the Revised Code, but prior to the 65
first day of February of that year, and the division approves the 66
application, division (D)(1) of this section does not apply with 67
respect to any loan made by the registrant while the registrant's 68
certificate was expired. 69

(3) If a person's registration under sections 1321.51 to 70
1321.60 of the Revised Code terminates due to nonrenewal or 71
otherwise but the person continues to engage in the business of 72
collecting or servicing non-first lien residential mortgage loans 73
in violation of division (A)(1) of this section, the 74
superintendent of financial institutions may take administrative 75
action, including action on any subsequent application for a 76
certificate of registration. In addition, no late fee, bad check 77
charge except as incurred, charge related to default or cost to 78
realize on its security interest, or prepayment penalty on 79
non-first lien residential mortgage loans shall be collected or 80
retained by a person who is in violation of division (A)(1)(b) of 81
this section for the period of time in which the person was in 82

violation. Nothing in division (D)(3) of this section prevents or 83
otherwise precludes any other actions or penalties provided by law 84
or modifies a defense of holder in due course that a subsequent 85
purchaser servicing the residential mortgage loan may raise. 86

(E)(1) No individual shall engage in the business of a 87
mortgage loan originator without first obtaining and maintaining 88
annually a license pursuant to section 1321.532 of the Revised 89
Code from the division of financial institutions. A mortgage loan 90
originator shall be employed or associated with a registrant or 91
entity exempt from registration under sections 1321.51 to 1321.60 92
of the Revised Code, but shall not be employed by or associated 93
with more than one registrant or exempt entity at any one time. 94

(2) An individual acting under the individual's authority as 95
a registered mortgage loan originator shall not be required to be 96
licensed under division (E)(1) of this section. 97

(3) An individual who holds a valid temporary mortgage loan 98
originator license issued pursuant to section 1321.537 of the 99
Revised Code may engage in the business of a mortgage loan 100
originator in accordance with sections 1321.51 to 1321.60 of the 101
Revised Code during the term of the temporary license. 102

(F)(1) Each licensee shall register with, and maintain a 103
valid unique identifier issued by, the nationwide mortgage 104
licensing system and registry. 105

(2) No person shall use a licensee's unique identifier for 106
any purpose other than as set forth in the "Secure and Fair 107
Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 108
12 U.S.C. 5101. 109

(G)(1) If a person that is subject to sections 1321.51 to 110
1321.60 of the Revised Code makes a loan in violation of division 111
(A)(1)(d) of this section and subsequently sells or assigns that 112
loan, the person is liable to the borrower for any interest paid 113

on that loan to the holder or assignee in excess of the rate that 114
would be applicable in the absence of sections 1321.51 to 1321.60 115
of the Revised Code, in addition to any interest or charges paid 116
on that loan to the unauthorized lender as provided by division 117
(D)(1) of this section. 118

(2) If a person that is subject to sections 1321.51 to 119
1321.60 of the Revised Code makes a residential mortgage loan in 120
violation of division (A)(1)(b) or (c) of this section and 121
subsequently sells or assigns that loan, the lender is liable to 122
the borrower for any interest paid on that loan to the holder or 123
assignee in excess of the rate set forth in division (B)(4) of 124
section 1343.01 of the Revised Code, in addition to any interest 125
or charges paid on that loan to the unauthorized lender as 126
provided by division (D)(1) of this section. 127

Sec. 1321.537. (A) As used in this section: 128

(1) "Out-of-state mortgage loan originator" means an 129
individual to whom both of the following apply: 130

(a) The individual holds a valid mortgage loan originator 131
license, or comparable authority, issued pursuant to the law of 132
any other state of the United States. 133

(b) The individual is registered, fingerprinted, and 134
maintains a unique identifier through the nationwide mortgage 135
licensing system and registry. 136

(2) "Sponsor" means a registrant that employs an applicant 137
for a temporary mortgage loan originator license and, during the 138
term of the applicant's temporary license, covers the applicant 139
under its corporate surety bond. 140

(B) The superintendent of financial institutions may, in 141
accordance with this section, issue to a registered mortgage loan 142
originator or an out-of-state mortgage loan originator a temporary 143

mortgage loan originator license that enables the licensee to 144
engage in the business of a mortgage loan originator while the 145
individual completes the requirements necessary to meet the 146
conditions set forth in section 1321.532 of the Revised Code for a 147
mortgage loan originator license. A temporary mortgage loan 148
originator license shall be valid for a term of at least one 149
hundred twenty days. 150

(C) An application for a temporary mortgage loan originator 151
license shall be in writing, under oath, and in a form that meets 152
the requirements of the national mortgage licensing system and 153
registry. The application shall be accompanied by a nonrefundable 154
application fee of one hundred dollars and a certification that, 155
as of the date of application, the applicant meets both of the 156
following conditions: 157

(1) The applicant has not had a mortgage loan originator 158
license, or comparable authority, revoked in any governmental 159
jurisdiction. For purposes of division (C)(1) of this section, a 160
subsequent formal vacation of such a revocation shall not be 161
considered a revocation. 162

(2) The applicant has not been convicted of, or pleaded 163
guilty or nolo contendere to, any of the following in a domestic, 164
foreign, or military court: 165

(a) During the seven-year period immediately preceding the 166
date of application, a felony; 167

(b) At any time prior to the date of application, a felony 168
involving an act of fraud, dishonesty, a breach of trust, theft, 169
or money laundering. 170

For purposes of division (C)(2) of this section, any 171
conviction for which the applicant has received a pardon, or that 172
has been expunged, shall not be considered a conviction. 173

(D) The superintendent shall issue a temporary mortgage loan 174

originator license to the applicant if the superintendent finds 175
that all of the following conditions are met: 176

(1) The application is accompanied by the application fee and 177
the certification described in division (C) of this section. 178

(2) The applicant has been employed for at least two of the 179
immediately preceding ten years as a mortgage loan originator in 180
this or any other state. 181

(3) The applicant is registered, fingerprinted, and has a 182
valid unique identifier through the nationwide mortgage licensing 183
system and registry as of the date of application. 184

(4) The applicant has authorized the nationwide mortgage 185
licensing system and registry to obtain a credit report for 186
submission to the superintendent. 187

(5) The applicant has a sponsor that certifies employment of 188
the applicant and has signed the application. 189

(E) The sponsor of a temporary licensee shall be responsible 190
for the activities of the licensee within the scope of the 191
licensee's employment during the term of the temporary license. If 192
the temporary licensee's employment with the sponsor is 193
terminated, the sponsor shall notify the division of financial 194
institutions, by registered mail return receipt requested, of the 195
termination. Upon the division's receipt of the notice, the 196
sponsor shall no longer be held responsible for the activities of 197
the temporary licensee. 198

(F) In accordance with Chapter 119. of the Revised Code, the 199
superintendent may revoke a licensee's temporary mortgage loan 200
originator license if the superintendent finds either of the 201
following: 202

(1) The licensee no longer meets the conditions set forth in 203
division (C) of this section. 204

(2) The licensee made a substantial misrepresentation in the license application. 205
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(G) The superintendent may, in accordance with Chapter 119. of the Revised Code, adopt rules necessary for the implementation and operation of this section. 207
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Sec. 1322.02. (A)(1) No person, on the person's own behalf or on behalf of any other person, shall act as a mortgage broker without first having obtained a certificate of registration from the superintendent of financial institutions for every office to be maintained by the person for the transaction of business as a mortgage broker in this state. A registrant shall maintain an office location in this state for the transaction of business as a mortgage broker in this state. 210
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(2) No person shall act or hold that person's self out as a mortgage broker under the authority or name of a registrant or person exempt from sections 1322.01 to 1322.12 of the Revised Code without first having obtained a certificate of registration from the superintendent for every office to be maintained by the person for the transaction of business as a mortgage broker in this state. 218
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(B)(1) No individual shall act as a loan originator without first having obtained a license from the superintendent. A loan originator shall be employed by or associated with a mortgage broker or any person or entity listed in division (G)(2) of section 1322.01 of the Revised Code, but shall not be employed by or associated with more than one mortgage broker or person or entity at any one time. 225
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(2) An individual acting under the individual's authority as a registered loan originator shall not be required to be licensed under division (B)(1) of this section. 232
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(3) An individual who holds a valid temporary loan originator license issued pursuant to section 1322.042 of the Revised Code may engage in the business of a loan originator in accordance with sections 1322.01 to 1322.12 of the Revised Code during the term of the temporary license. 235
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(C)(1) No person acting as a mortgage broker or loan originator shall fail to register with, and maintain a valid unique identifier issued by, the nationwide mortgage licensing system and registry. 240
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(2) No person shall use a mortgage broker's or loan originator's unique identifier for any purpose other than as set forth in the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101. 244
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Sec. 1322.042. (A) As used in this section: 248

(1) "Out-of-state loan originator" means an individual to whom both of the following apply: 249
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(a) The individual holds a valid loan originator license, or comparable authority, issued pursuant to the law of any other state of the United States. 251
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(b) The individual is registered, fingerprinted, and maintains a unique identifier through the nationwide mortgage licensing system and registry. 254
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(2) "Sponsor" means a registrant that employs an applicant for a temporary loan originator license and, during the term of the applicant's temporary license, covers the applicant under its corporate surety bond. 257
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(B) The superintendent of financial institutions may, in accordance with this section, issue to a registered loan originator or an out-of-state loan originator a temporary loan originator license that enables the licensee to engage in the 261
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business of a loan originator while the individual completes the 265
requirements necessary to meet the conditions set forth in section 266
1322.041 of the Revised Code for a loan originator license. A 267
temporary loan originator license shall be valid for a term of at 268
least one hundred twenty days. 269

(C) An application for a temporary loan originator license 270
shall be in writing, under oath, and in a form that meets the 271
requirements of the national mortgage licensing system and 272
registry. The application shall be accompanied by a nonrefundable 273
application fee of one hundred dollars and a certification that, 274
as of the date of application, the applicant meets both of the 275
following conditions: 276

(1) The applicant has not had a loan originator license, or 277
comparable authority, revoked in any governmental jurisdiction. 278
For purposes of division (C)(1) of this section, a subsequent 279
formal vacation of such a revocation shall not be considered a 280
revocation. 281

(2) The applicant has not been convicted of, or pleaded 282
guilty or nolo contendere to, any of the following in a domestic, 283
foreign, or military court: 284

(a) During the seven-year period immediately preceding the 285
date of application, a felony; 286

(b) At any time prior to the date of application, a felony 287
involving an act of fraud, dishonesty, a breach of trust, theft, 288
or money laundering. 289

For purposes of division (C)(2) of this section, any 290
conviction for which the applicant has received a pardon, or that 291
has been expunged, shall not be considered a conviction. 292

(D) The superintendent shall issue a temporary loan 293
originator license to the applicant if the superintendent finds 294
that all of the following conditions are met: 295

(1) The application is accompanied by the application fee and the certification described in division (C) of this section. 296
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(2) The applicant has been employed for at least two of the immediately preceding ten years as a loan originator in this or any other state. 298
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(3) The applicant is registered, fingerprinted, and has a valid unique identifier through the nationwide mortgage licensing system and registry as of the date of application. 301
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(4) The applicant has authorized the nationwide mortgage licensing system and registry to obtain a credit report for submission to the superintendent. 304
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(5) The applicant has a sponsor that certifies employment of the applicant and has signed the application. 307
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(E) The sponsor of a temporary licensee shall be responsible for the activities of the licensee within the scope of the licensee's employment during the term of the temporary license. If the temporary licensee's employment with the sponsor is terminated, the sponsor shall notify the division of financial institutions, by registered mail return receipt requested, of the termination. Upon the division's receipt of the notice, the sponsor shall no longer be held responsible for the activities of the temporary licensee. 309
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(F) In accordance with Chapter 119. of the Revised Code, the superintendent may revoke a licensee's temporary loan originator license if the superintendent finds either of the following: 318
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(1) The licensee no longer meets the conditions set forth in division (C) of this section. 321
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(2) The licensee made a substantial misrepresentation in the license application. 323
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(G) The superintendent may, in accordance with Chapter 119. 325

of the Revised Code, adopt rules necessary for the implementation 326
and operation of this section. 327

Section 2. That existing sections 1321.52 and 1322.02 of the 328
Revised Code are hereby repealed. 329