

As Reported by the Senate Financial Institutions Committee

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Senator Obhof

**Cosponsors: Senators Beagle, Coley, LaRose, Seitz, Bacon, Peterson,
Brown**

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A B I L L

To amend sections 1321.52 and 1322.02 and to enact 1
sections 1321.537, 1321.538, 1322.042, and 2
1322.043 of the Revised Code to authorize the 3
Superintendent of Financial Institutions to issue 4
a temporary mortgage loan originator license or 5
temporary loan originator license to an 6
out-of-state applicant who meets certain criteria. 7

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

Section 1. That sections 1321.52 and 1322.02 be amended and 8
sections 1321.537, 1321.538, 1322.042, and 1322.043 of the Revised 9
Code be enacted to read as follows: 10

Sec. 1321.52. (A)(1) No person, on that person's own behalf 11
or on behalf of any other person, shall do any of the following 12
without having first obtained a certificate of registration from 13
the division of financial institutions: 14

(a) Advertise, solicit, or hold out that the person is 15
engaged in the business of making residential mortgage loans 16
secured by a mortgage on a borrower's real estate which is other 17
than a first lien on the real estate; 18

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

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

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

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

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

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

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

(2) Nothing in division (B)(1) of this section prevents a choice of law or requires registration or licensure of persons

outside of this state in a transaction involving the solicitation 50
of residents of this state to obtain non-real estate secured loans 51
that require the borrowers to physically visit a lender's 52
out-of-state office to apply for and obtain the disbursement of 53
loan funds. 54

(C) A registrant may make unsecured loans, loans secured by a 55
mortgage on a borrower's real estate which is a first lien or 56
other than a first lien on the real estate, loans secured by other 57
than real estate, and loans secured by any combination of 58
mortgages and security interests, on terms and conditions provided 59
by sections 1321.51 to 1321.60 of the Revised Code. 60

(D)(1) If a lender that is subject to sections 1321.51 to 61
1321.60 of the Revised Code makes a loan in violation of division 62
(A)(1) of this section, the lender has no right to collect, 63
receive, or retain any interest or charges on that loan. 64

(2) If a registrant applies to the division for a renewal of 65
the registrant's certificate after the date required by division 66
(A)(7) of section 1321.53 of the Revised Code, but prior to the 67
first day of February of that year, and the division approves the 68
application, division (D)(1) of this section does not apply with 69
respect to any loan made by the registrant while the registrant's 70
certificate was expired. 71

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

non-first lien residential mortgage loans shall be collected or 82
retained by a person who is in violation of division (A)(1)(b) of 83
this section for the period of time in which the person was in 84
violation. Nothing in division (D)(3) of this section prevents or 85
otherwise precludes any other actions or penalties provided by law 86
or modifies a defense of holder in due course that a subsequent 87
purchaser servicing the residential mortgage loan may raise. 88

(E)(1) No individual shall engage in the business of a 89
mortgage loan originator without first obtaining and maintaining 90
annually a license pursuant to section 1321.532 of the Revised 91
Code from the division of financial institutions. A mortgage loan 92
originator shall be employed or associated with a registrant or 93
entity exempt from registration under sections 1321.51 to 1321.60 94
of the Revised Code, but shall not be employed by or associated 95
with more than one registrant or exempt entity at any one time. 96

(2) An individual acting under the individual's authority as 97
a registered mortgage loan originator shall not be required to be 98
licensed under division (E)(1) of this section. 99

(3) An individual who holds a valid temporary mortgage loan 100
originator license issued pursuant to section 1321.537 of the 101
Revised Code may engage in the business of a mortgage loan 102
originator in accordance with sections 1321.51 to 1321.60 of the 103
Revised Code during the term of the temporary license. 104

(F)(1) Each licensee shall register with, and maintain a 105
valid unique identifier issued by, the nationwide mortgage 106
licensing system and registry. 107

(2) No person shall use a licensee's unique identifier for 108
any purpose other than as set forth in the "Secure and Fair 109
Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 110
12 U.S.C. 5101. 111

(G)(1) If a person that is subject to sections 1321.51 to 112

1321.60 of the Revised Code makes a loan in violation of division 113
(A)(1)(d) of this section and subsequently sells or assigns that 114
loan, the person is liable to the borrower for any interest paid 115
on that loan to the holder or assignee in excess of the rate that 116
would be applicable in the absence of sections 1321.51 to 1321.60 117
of the Revised Code, in addition to any interest or charges paid 118
on that loan to the unauthorized lender as provided by division 119
(D)(1) of this section. 120

(2) If a person that is subject to sections 1321.51 to 121
1321.60 of the Revised Code makes a residential mortgage loan in 122
violation of division (A)(1)(b) or (c) of this section and 123
subsequently sells or assigns that loan, the lender is liable to 124
the borrower for any interest paid on that loan to the holder or 125
assignee in excess of the rate set forth in division (B)(4) of 126
section 1343.01 of the Revised Code, in addition to any interest 127
or charges paid on that loan to the unauthorized lender as 128
provided by division (D)(1) of this section. 129

Sec. 1321.537. (A) As used in this section: 130

(1) "Out-of-state mortgage loan originator" means an 131
individual to whom both of the following apply: 132

(a) The individual holds a valid mortgage loan originator 133
license, or comparable authority, issued pursuant to the law of 134
any other state of the United States. 135

(b) The individual is registered, fingerprinted, and 136
maintains a unique identifier through the nationwide mortgage 137
licensing system and registry. 138

(2) "Sponsor" means a registrant or entity described in 139
division (D) of section 1321.53 of the Revised Code that employs 140
or is associated with an applicant for a temporary mortgage loan 141
originator license and, during the term of the applicant's 142

temporary license, covers the applicant under its corporate surety 143
bond or requires the applicant to obtain and maintain a corporate 144
surety bond. 145

(B) The superintendent of financial institutions may, in 146
accordance with this section, issue to an out-of-state mortgage 147
loan originator a temporary mortgage loan originator license that 148
enables the licensee to engage in the business of a mortgage loan 149
originator while the individual completes the requirements 150
necessary to meet the conditions set forth in section 1321.532 of 151
the Revised Code for a mortgage loan originator license. A 152
temporary mortgage loan originator license shall be valid for a 153
term of not more than one hundred twenty days from the date of 154
issuance. A temporary mortgage loan originator license may not be 155
renewed. 156

(C) An application for a temporary mortgage loan originator 157
license shall be in writing, under oath, and in a form that meets 158
the requirements of the nationwide mortgage licensing system and 159
registry. The application shall be accompanied by a nonrefundable 160
application fee, the amount of which shall be determined by the 161
superintendent in rule, and a certification that, as of the date 162
of application, the applicant meets the following conditions: 163

(1) The applicant has at least two years of experience in the 164
field of residential mortgage lending in the five years 165
immediately preceding the date of application for the temporary 166
mortgage loan originator license. 167

(2) The applicant has not previously applied for a temporary 168
mortgage loan originator license in this state. 169

(3) The applicant has not had a mortgage loan originator 170
license, or comparable authority, revoked in any governmental 171
jurisdiction. For purposes of division (C)(3) of this section, a 172
subsequent formal vacation of such a revocation shall not be 173

<u>considered a revocation.</u>	174
<u>(4) The applicant has not been convicted of, or pleaded</u>	175
<u>guilty or nolo contendere to, any of the following in a domestic,</u>	176
<u>foreign, or military court:</u>	177
<u>(a) During the seven-year period immediately preceding the</u>	178
<u>date of application, a misdemeanor involving theft or any felony;</u>	179
<u>(b) At any time prior to the date of application, a felony</u>	180
<u>involving an act of fraud, dishonesty, a breach of trust, theft,</u>	181
<u>or money laundering.</u>	182
<u>For purposes of division (C)(4) of this section, any</u>	183
<u>conviction for which the applicant has received a pardon shall not</u>	184
<u>be considered a conviction.</u>	185
<u>(D) The superintendent shall issue a temporary mortgage loan</u>	186
<u>originator license to the applicant if the superintendent finds</u>	187
<u>that all of the following conditions are met:</u>	188
<u>(1) The application is accompanied by the application fee and</u>	189
<u>the certification described in division (C) of this section.</u>	190
<u>(2) The applicant is registered, fingerprinted, and has a</u>	191
<u>valid unique identifier through the nationwide mortgage licensing</u>	192
<u>system and registry as of the date of application.</u>	193
<u>(3) The applicant has authorized the nationwide mortgage</u>	194
<u>licensing system and registry to obtain a credit report for</u>	195
<u>submission to the superintendent.</u>	196
<u>(4) The applicant has a sponsor that certifies employment of,</u>	197
<u>or association with, the applicant and has signed the application.</u>	198
<u>(E) The sponsor of a temporary licensee shall have an</u>	199
<u>affirmative duty to supervise the conduct of each temporary</u>	200
<u>mortgage loan originator in the same manner as is required of its</u>	201
<u>other licensees. If the temporary licensee's employment or</u>	202
<u>association with the sponsor is terminated, the sponsor shall</u>	203

notify the division of financial institutions of the termination 204
through the nationwide mortgage licensing system and registry. 205
Upon the division's receipt of the notice, the sponsor shall no 206
longer be held responsible for the conduct of the temporary 207
licensee. 208

(F) The superintendent may, in accordance with Chapter 119. 209
of the Revised Code, adopt rules necessary for the implementation 210
and operation of this section. 211

Sec. 1321.538. If the "Secure and Fair Enforcement for 212
Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101, 213
as amended, is modified after the effective date of this section, 214
or any regulation, statement, or position is adopted under that 215
act, to permit states to issue a temporary mortgage loan 216
originator license to a registered mortgage loan originator, the 217
superintendent shall, in accordance with section 111.15 of the 218
Revised Code, adopt rules the superintendent considers necessary 219
and appropriate to issue a temporary license to a registered 220
mortgage loan originator. 221

Sec. 1322.02. (A)(1) No person, on the person's own behalf or 222
on behalf of any other person, shall act as a mortgage broker 223
without first having obtained a certificate of registration from 224
the superintendent of financial institutions for every office to 225
be maintained by the person for the transaction of business as a 226
mortgage broker in this state. A registrant shall maintain an 227
office location in this state for the transaction of business as a 228
mortgage broker in this state. 229

(2) No person shall act or hold that person's self out as a 230
mortgage broker under the authority or name of a registrant or 231
person exempt from sections 1322.01 to 1322.12 of the Revised Code 232
without first having obtained a certificate of registration from 233

the superintendent for every office to be maintained by the person 234
for the transaction of business as a mortgage broker in this 235
state. 236

(B)(1) No individual shall act as a loan originator without 237
first having obtained a license from the superintendent. A loan 238
originator shall be employed by or associated with a mortgage 239
broker or any person or entity listed in division (G)(2) of 240
section 1322.01 of the Revised Code, but shall not be employed by 241
or associated with more than one mortgage broker or person or 242
entity at any one time. 243

(2) An individual acting under the individual's authority as 244
a registered loan originator shall not be required to be licensed 245
under division (B)(1) of this section. 246

(3) An individual who holds a valid temporary loan originator 247
license issued pursuant to section 1322.042 of the Revised Code 248
may engage in the business of a loan originator in accordance with 249
sections 1322.01 to 1322.12 of the Revised Code during the term of 250
the temporary license. 251

(C)(1) No person acting as a mortgage broker or loan 252
originator shall fail to register with, and maintain a valid 253
unique identifier issued by, the nationwide mortgage licensing 254
system and registry. 255

(2) No person shall use a mortgage broker's or loan 256
originator's unique identifier for any purpose other than as set 257
forth in the "Secure and Fair Enforcement for Mortgage Licensing 258
Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101. 259

Sec. 1322.042. (A) As used in this section: 260

(1) "Out-of-state loan originator" means an individual to 261
whom both of the following apply: 262

(a) The individual holds a valid loan originator license, or 263

comparable authority, issued pursuant to the law of any other 264
state of the United States. 265

(b) The individual is registered, fingerprinted, and 266
maintains a unique identifier through the nationwide mortgage 267
licensing system and registry. 268

(2) "Sponsor" means a registrant or entity described in 269
division (G)(2) of section 1322.01 of the Revised Code that 270
employs or is associated with an applicant for a temporary loan 271
originator license and, during the term of the applicant's 272
temporary license, covers the applicant under its corporate surety 273
bond or requires the applicant to obtain and maintain a corporate 274
surety bond. 275

(B) The superintendent of financial institutions may, in 276
accordance with this section, issue to an out-of-state loan 277
originator a temporary loan originator license that enables the 278
licensee to engage in the business of a loan originator while the 279
individual completes the requirements necessary to meet the 280
conditions set forth in section 1322.041 of the Revised Code for a 281
loan originator license. A temporary loan originator license shall 282
be valid for a term of not more than one hundred twenty days from 283
the date of issuance. A temporary loan originator license may not 284
be renewed. 285

(C) An application for a temporary loan originator license 286
shall be in writing, under oath, and in a form that meets the 287
requirements of the nationwide mortgage licensing system and 288
registry. The application shall be accompanied by a nonrefundable 289
application fee, the amount of which shall be determined by the 290
superintendent in rule, and a certification that, as of the date 291
of application, the applicant meets the following conditions: 292

(1) The applicant has at least two years of experience in the 293
field of residential mortgage lending in the five years 294

immediately preceding the date of application for the temporary 295
loan originator license. 296

(2) The applicant has not previously applied for a temporary 297
loan originator license in this state. 298

(3) The applicant has not had a loan originator license, or 299
comparable authority, revoked in any governmental jurisdiction. 300
For purposes of division (C)(3) of this section, a subsequent 301
formal vacation of such a revocation shall not be considered a 302
revocation. 303

(4) The applicant has not been convicted of, or pleaded 304
guilty or nolo contendere to, any of the following in a domestic, 305
foreign, or military court: 306

(a) During the seven-year period immediately preceding the 307
date of application, a misdemeanor involving theft or any felony; 308

(b) At any time prior to the date of application, a felony 309
involving an act of fraud, dishonesty, a breach of trust, theft, 310
or money laundering. 311

For purposes of division (C)(4) of this section, any 312
conviction for which the applicant has received a pardon shall not 313
be considered a conviction. 314

(D) The superintendent shall issue a temporary loan 315
originator license to the applicant if the superintendent finds 316
that all of the following conditions are met: 317

(1) The application is accompanied by the application fee and 318
the certification described in division (C) of this section. 319

(2) The applicant is registered, fingerprinted, and has a 320
valid unique identifier through the nationwide mortgage licensing 321
system and registry as of the date of application. 322

(3) The applicant has authorized the nationwide mortgage 323
licensing system and registry to obtain a credit report for 324

submission to the superintendent. 325

(4) The applicant has a sponsor that certifies employment of, 326
or association with, the applicant and has signed the application. 327

(E) The sponsor of a temporary licensee shall have an 328
affirmative duty to supervise the conduct of each temporary loan 329
originator in the same manner as is required of its other 330
licensees. If the temporary licensee's employment or association 331
with the sponsor is terminated, the sponsor shall notify the 332
division of financial institutions of the termination through the 333
nationwide mortgage licensing system and registry. Upon the 334
division's receipt of the notice, the sponsor shall no longer be 335
held responsible for the conduct of the temporary licensee. 336

(F) The superintendent may, in accordance with Chapter 119. 337
of the Revised Code, adopt rules necessary for the implementation 338
and operation of this section. 339

Sec. 1322.043. If the "Secure and Fair Enforcement for 340
Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101, 341
as amended, is modified after the effective date of this section, 342
or any regulation, statement, or position is adopted under that 343
act, to permit states to issue a temporary loan originator license 344
to a registered loan originator, the superintendent shall, in 345
accordance with section 111.15 of the Revised Code, adopt rules 346
the superintendent considers necessary and appropriate to issue a 347
temporary license to a registered loan originator. 348

Section 2. That existing sections 1321.52 and 1322.02 of the 349
Revised Code are hereby repealed. 350