



H.B. 362

127th General Assembly
(As Introduced)

**Reps. Hite, Koziura, Huffman, Wagoner, Daniels, Stebelton, Gerberry,
Fessler, J. Stewart, DeGeeter, Coley, Hottinger, Book, Batchelder**

BILL SUMMARY

- Permits registrants under the "Second Mortgage Loan Act" to:
 - (1) Include, in closing costs, property valuation fees;
 - (2) Charge and receive a processing fee for accepting and processing certain electronic payments; and
 - (3) Assess an over-the-credit limit charge on open-end loans.

CONTENT AND OPERATION

Background on Second Mortgage Loan Law

The Second Mortgage Loan Law (R.C. 1321.51 to 1321.60 and 1321.99) prohibits any person from (1) advertising that the person is engaged in the business of making loans secured by a mortgage on a borrower's real estate that is other than a first lien on the property (a second mortgage) or (2) engaging in the business of lending or collecting money or credit for such loans, without first obtaining a certificate of registration from the Division of Financial Institutions of the Department of Commerce. Generally, the Law regulates certain business practices of registrants and the terms and conditions of second mortgage loans and other loans made by registrants.

Property valuation fees

(R.C. 1321.57(H))

The Second Mortgage Loan Law sets forth fees and charges that a registrant may charge for making permissible loans. Continuing law permits registrants to charge certain closing costs, such as fees for title examination,

appraisal, and home inspection. The bill authorizes a registrant, with certain restrictions, also to charge, a "property valuation fee" (see definition below), not to exceed \$75.

A registrant may not charge a property valuation fee and an appraisal fee for the same property in a single transaction. If a property valuation fee has been paid, an appraisal fee minus the amount that has been paid by the borrower for the property valuation fee may be charged for an appraisal for the same real property.

Also, a registrant must provide the borrower with a copy of the automated valuation model result upon request, provided the borrower has paid the appropriate fee. The automated valuation model result provided to the borrower must include the following statement:

"An automated valuation model is not an appraisal. It is a computerized property valuation system that is used to derive a real property value."

The bill specifically does not authorize the use of an automated valuation model result in lieu of any appraisal that is required under state or federal law.

Under the bill, automated valuation model providers are prohibited from accepting a property valuation assignment from a person registered under the Second Mortgage Loan Law when the assignment is contingent upon the automated valuation model provider reporting a predetermined property valuation, or when the fee to be paid to the automated valuation model provider is contingent upon the property valuation reached or upon the consequences resulting from the property valuation assignment. The bill stipulates that an automated valuation provider who violates this prohibition is guilty of a misdemeanor of the first degree (R.C. 1321.99).

Electronic payments

(R.C. 1321.57(M))

The bill authorizes a Second Mortgage Loan Law registrant to charge and receive a processing fee of not more than \$10 when a borrower makes a payment by authorizing the registrant to initiate a check, or otherwise process a payment, from the borrower's checking account using automated clearing house procedures or similar means. The borrower's authorization may be given orally or in writing, including by electronic means.

Open-end loans

(R.C. 1321.58(C)(4))

Continuing law also permits registrants under the Second Mortgage Loan Law to make open-end loans, or in other words loans that allow advances of money to the borrower from time to time, provided that the terms of the loan conform with the requirements of section 1321.58 of the Revised Code. The bill authorizes, with respect to such loans, a registrant to charge and receive (or add to the unpaid balance), an over-the-credit limit charge of not more than \$25 when the borrower obtains advances of money during a billing cycle that exceed the borrower's designated credit line. The bill prohibits charges from being applied more than once per billing cycle.

New definitions

(R.C. 1321.01)

"Property valuation fee" means the fee paid for an estimated market value as determined by an automated valuation model.

"Automated valuation model" means an automated system that is used to derive a property value through the use of publicly available property records and various analytic methodologies such as comparable sales prices, home characteristics, and historical home price appreciations.

HISTORY

ACTION	DATE
Introduced	10-23-07

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