



H.B. 113

126th General Assembly
(As Introduced)

Rep. Bladel

BILL SUMMARY

- Requires the Superintendent of Financial Institutions to request that the Superintendent of the Bureau of Criminal Identification and Investigation (BCII) perform criminal records checks for applicants for mortgage broker certificates and loan officer licenses.
- Requires the Superintendent of Real Estate to request that the Superintendent of the BCII perform criminal records checks for applicants for a license, certificate, or registration issued under the Real Estate Appraisers Law.
- Permits the Director of Commerce or a division of the Department of Commerce to request the Superintendent of the BCII to perform a criminal records check for an applicant for any license, certificate, or registration the Department issues.
- Prohibits the Superintendent of Real Estate from issuing or renewing a license, certificate, or registration under the Real Estate Appraisers Law to a person who has pleaded guilty to or was convicted of committing certain offenses.
- Prohibits persons from knowingly compensating, coercing, or intimidating a certificate holder or licensee under the Real Estate Appraisers Law to affect the independent judgment of an appraiser as to a dwelling's value.
- Prohibits persons, with certain exceptions, from performing appraisals on property the person is not licensed or certified to perform under the Real Estate Appraisers Law.

- Requires every high school student to complete ten cumulative hours of instruction in the area of personal economics.

CONTENT AND OPERATION

Criminal records checks

The Superintendent of the Bureau of Criminal Identification and Investigation (BCII), among other duties, conducts criminal records checks in Ohio to determine if a person's record includes specified types of violations. The public official requesting a check must have authority to request the check and the Superintendent of the BCII must have authority to carry out the records check.

The bill creates four new situations under which a public official is required or permitted to request the BCII to conduct a criminal records check:

- The Superintendent of Financial Institutions is required to request a check for applicants for mortgage broker certificates;
- The Superintendent of Financial Institutions is required to request a check for applicants for loan officer licenses;
- The Superintendent of Real Estate is required to request a check for each applicant for a license, certificate, registration, or renewal issued under the Real Estate Appraisers Law;
- The Director of Commerce, or a division of the Department of Commerce, may request a check for an applicant for any license, certificate, or registration the Department issues.

Criminal records checks for mortgage brokers and loan officers

(R.C. 1322.03 and 1322.031)

Superintendent conducts check under existing law

To act as a mortgage broker in Ohio, continuing law requires a person to hold a certificate of registration from the Superintendent of Financial Institutions for every office the person maintains to transact business as a mortgage broker, unless the person is specifically exempt. Similarly, continuing law prohibits a person from acting as a loan officer without a license from the Superintendent unless exempt under the law. (R.C. 1322.02, not in the bill.)

Existing law requires the Superintendent to investigate an applicant for either a certificate of registration or a license by conducting a criminal records check based on the applicant's fingerprints, and also to conduct a civil records check. Unless an applicant proves that a described exception applies, no application for a certificate of registration as a mortgage broker or for a license as a loan officer may be approved if the applicant, or in the case of a mortgage broker application, any shareholder, member, partner, operations manager, or employee of the applicant has pleaded guilty to or been convicted of any criminal offense of theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, drug trafficking, or any criminal offense involving money or securities.

BCII to conduct check under the bill

(R.C. 1322.03(B), 1322.031(B), and 109.572(A)(9))

The bill directs the Superintendent of Financial Institutions to request the BCII to conduct a criminal records check of applicants for a certificate of registration as a mortgage broker and applicants for a license as a loan officer. The Superintendent of Financial Institutions is directed to request the Superintendent of the BCII to conduct a check that includes a determination of whether the applicant has been convicted of or pleaded guilty to a criminal offense of theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, drug trafficking, or any criminal offense involving money or securities, as described in R.C. 1322.03(A)(7). The stated offenses are those for which the Superintendent of Financial Institutions conducts a check under existing law.

In addition to requesting a check of violations that are specified under existing law, the bill directs the Superintendent of Financial Institutions to request the BCII also conduct a check of whether the applicant has been convicted of or pleaded guilty to a violation of a former law of Ohio, any other state, or the United States that *substantially is equivalent* to the offenses described above.

The bill provides procedures for the Superintendent of Financial Institutions to gather information and for the BCII to conduct the records check. The procedures for conducting the records check are the same as the procedures in existing law for records checks that the BCII currently conducts (discussed below). The bill also prescribes the duties of the Superintendent of Financial Institutions, the applicant, and the Superintendent of the BCII.

Additional offense that generally disqualifies registration or licensure

(R.C. 1322.04(A)(7) and 1322.041(A)(3))

Continuing law provides a list of offenses that generally disqualify a person from receiving a certificate of registration as a mortgage broker or a license as a loan officer. The bill adds as a disqualifying offense, if the applicant has pleaded guilty to or been convicted of a violation of an existing or former Ohio law, the law of any other state, or the law of the United States that *substantially is equivalent* to the offenses that existing law specifies are a basis for disqualification (i.e. pleaded guilty to or been convicted of any criminal offense of theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, drug trafficking, or any criminal offense involving money or securities).

Criminal records checks for real estate appraisers

(R.C. 4763.05 and 4763.06)

The duties of the Superintendent of Real Estate, under the continuing Ohio Real Estate Appraisers Law (Chapter 4763. of the Revised Code), include issuing initial state-certified general real estate appraiser certificates, initial state-certified residential real estate appraiser certificates, initial state-licensed residential real estate appraiser licenses, and initial state-registered real estate appraiser assistant registrations.

Under the bill, the Superintendent of Real Estate may not issue or renew a general real estate appraiser certificate, residential real estate appraiser certificate, residential real estate appraiser license, or real estate appraiser assistant registration to any person who has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any crime involving money or securities, including a violation of an existing or former law of Ohio, any other state, or the United States that substantially is equivalent to those criminal offenses. The bill requires an applicant to submit fingerprints with the application in addition to the information specified by current law.

The bill directs the Superintendent of Real Estate to investigate the applicant pursuant to requirements the bill establishes, which includes requesting that the Superintendent of the BCII conduct a criminal records check of the applicant based on the applicant's fingerprint to determine whether the applicant has been convicted of or pleaded guilty to any criminal offense described in that section or any crime involving money or securities. In addition, the Superintendent of Real Estate must consider whether the applicant has pleaded

guilty to or been convicted of a violation of an existing or former law of Ohio, any other state, or the United States that substantially is equivalent to those criminal offenses. Similar to the criminal records checks for mortgage brokers and loan officers discussed above, the bill requires the Superintendent to request the Superintendent of the BCII to obtain criminal record information from the FBI, as part of any criminal records check.

The bill establishes procedures for gathering information and conducting the criminal records checks that are similar to the other criminal record checks under the bill (discussed below). The bill also prescribes the duties of the Superintendent of Real Estate, the applicant, and the Superintendent of the BCII.

Department of Commerce authority to request criminal records checks

(R.C. 121.086)

The bill permits the Director of Commerce, or a division in the Department of Commerce, to request the Superintendent of the BCII to conduct a criminal records check for any person whose identity an applicant for the issuance or transfer of *any license, permit, or certification* is required to disclose in an application to the Department of Commerce or a division in the Department. Under the bill, the Director may coordinate with appropriate federal, state, and local government agencies to accomplish a criminal records check that includes a written report regarding the criminal record of any person whose identity an applicant is required to disclose.

If a criminal records check is requested as provided under the bill, the Director must give any person whose identity an applicant is required to disclose a copy of the form and a standard fingerprint impression sheet that the Superintendent of the BCII prescribes. The bill requires any person who is given a form and impression sheet to provide the completed form and the fingerprint impressions prior to the granting of a license, permit, or certification. The Director forwards a completed form and impression sheet to the Superintendent of the BCII at the time the criminal records check is requested, along with any required fees.

The bill allows the Director to request the Superintendent of the BCII to conduct a criminal records check through the Federal Bureau of Investigation (FBI) under the following conditions: (1) if the person for whom the criminal records check would be conducted resides or works outside this state or has resided or worked outside this state during the preceding five years, or (2) if a criminal records check conducted within Ohio indicates that the person may have a criminal record outside Ohio.

The Director may require any person who is the subject of a criminal records check to pay any fee the Superintendent of the BCII charges and any fee for a criminal records check that the FBI conducts.

Procedures for criminal records checks

(R.C. 109.572(A)(9))

The bill requires the Superintendent of the BCII to conduct a criminal records check with respect to any person who has applied for a license, permit, or certification under the Real Estate Appraisers Law or the Mortgage Broker Law or laws the Department of Commerce administers if the Superintendent of the BCII receives (1) a request for a criminal records check pursuant to the bill from the Director of Commerce, Superintendent of Financial Institutions, or Superintendent of Real Estate, (2) a completed copy of the form the Superintendent of the BCII prescribes, and (3) a set of fingerprint impressions. The bill directs the BCII to conduct the criminal records check in the same manner as required under current law for other purposes, but directs the Superintendent of the BCII to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following offenses specified in the bill: (1) any criminal offense involving theft, (2) receiving stolen property, (3) embezzlement, (4) forgery, (5) fraud, (6) passing bad checks, (7) money laundering, (8) drug trafficking, or (9) any criminal offense involving money or securities, as set forth under the laws governing the following offenses:

- (a) Arson and related offenses (Chapter 2909. of the Revised Code);
- (b) Robbery, burglary, trespass, and safecracking (Chapter 2911. of the Revised Code);
- (c) Theft and fraud (Chapter 2913. of the Revised Code);
- (d) Gambling (Chapter 2915. of the Revised Code);
- (e) Offenses against justice and public administration (Chapter 2921. of the Revised Code);
- (f) Conspiracy, attempt, complicity, weapons control, and corrupt activity (Chapter 2923. of the Revised Code);
- (g) Drug offenses (Chapter 2925. of the Revised Code);

or any federal law, Ohio law, or law of any other state that is substantially equivalent to those offenses.

Under continuing law, the Superintendent of the BCII has 30 days after receiving the documents described above to send to the person, board, or entity that made the request any information, other than information for which the dissemination is prohibited by federal law. The bill adds that the Superintendent of the BCII must send the person, board, or entity that made the request a copy of the list of offenses.

Additional changes to the Real Estate Appraisers Law

Influencing appraiser's judgment

(R.C. 4763.12 and 4763.99)

The bill prohibits any person, directly or indirectly, from knowingly compensating, coercing, or intimidating a certificate holder or licensee under the Real Estate Appraisers Law for the purpose of corrupting or improperly influencing the independent judgment of the certificate holder or licensee with respect to the value of the dwelling offered as security for repayment of a mortgage loan. A violation of this prohibition is made a fifth degree felony.¹

License or certification required

(R.C. 4763.13 and 4763.19)

Current law specifies that the law does not preclude a person who is not licensed or certified under the Real Estate Appraisers Law from appraising real estate for compensation. The bill removes that existing specification and prohibits any person from performing a real estate appraisal for any type of property for which the person is not licensed or certified under the Real Estate Appraisers Law. Any person who violates the bill's prohibition is guilty of a first degree misdemeanor.² However, under the bill, this prohibition does not apply to any of the following persons engaging in the following activities:

(1) A real estate broker or real estate salesperson, licensed pursuant to the Real Estate Brokers Law (Chapter 4735. of the Revised Code), who performs a market analysis or provides a price opinion for purposes of assisting a customer in

¹ A fifth degree felony may carry a prison term for six to 12 months, a fine of not more than \$2,500, or both, and other possible sanctions (see R.C. 2929.14 and 2929.18, not in the bill).

² A first degree misdemeanor may carry a possible jail term of not more than 180 days, a possible conventional fine of not more than \$1,000, and other possible sanctions (R.C. 2929.24 and 2929.28, not in the bill).

determining the potential purchasing or listing price of a property or other valuation of a property, provided that if the market analysis or price opinion is in writing, it include a disclaimer specifying that the market analysis or price opinion is not an appraisal, and has not been prepared by a person licensed or certified under the Real Estate Appraisers Law.

(2) A federal, state, or local government official or the government official's designee performing a valuation for purposes of carrying out official duties, including imposing property taxes, evaluating a probate estate, or facilitating a sheriff's sale of the property.

(3) A lender using a market analysis or price opinion referred to in (1) above, an internal valuation analysis, or an automated valuation model or report based on an automated valuation model, and any person providing that report to the lender, in performing a valuation for purposes of a loan application, as long as the lender (a) gives the consumer loan applicant a copy of any written market analysis or price opinion or valuation report obtained from an automated valuation model and (b) includes a disclaimer on that copy specifying that the valuation used for purposes of the application has been obtained from a market analysis or price opinion or automated valuation model report and not from a person licensed or certified under the Real Estate Appraisers Law.

Education requirements

(R.C. 3313.603)

Under continuing law, the requirements for graduation from high school must include 20 units earned in grades nine through 12. A "unit" is a minimum of 120 hours except for laboratory courses, where a unit is a minimum of 150 hours. Continuing law also sets forth the distribution of the 20 units among various subjects, including English, mathematics, health, physical education, sciences, and elective units.

Under the bill, within the content of the courses in the 20 units of instruction required, a high school student also must complete not less than ten cumulative hours of instruction in the area of personal economics, including, but not limited to, instruction in financial planning, financial decision-making, and consumer credit. In developing that content, a school district board of education or the curriculum planner for any nonpublic school may use any part of the packet of high school instructional materials on personal financial responsibility as developed by the Department of Education under current law (R.C. 3301.0726, not in the bill).

HISTORY

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