Ohio Legislative Service Commission

Bill Analysis

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Sub. S.B. 333*

129th General Assembly
(As Reported by S. Financial Institutions)

Sens. Obhof, Beagle, Coley, LaRose, Seitz

BILL SUMMARY

- Permits the Superintendent of Financial Institutions to issue two types of temporary licenses – a temporary loan originator license and a temporary mortgage loan originator license.
- Permits an out-of-state loan originator to be issued a temporary loan originator license and, similarly, an out-of-state mortgage loan originator to be issued a temporary mortgage loan originator license.
- Enables a temporary licensee to engage in the loan origination business for which the licensee holds the temporary license while the licensee completes the requirements necessary to obtain the appropriate annual license.
- Requires that a licensee have a sponsor who meets certain criteria, employs or is associated with the licensee, and covers the licensee under its corporate surety bond during the term of the temporary license or requires the licensee to obtain and maintain such a bond.
- Creates identical processes by which each license may be issued.
- Requires the Superintendent to adopt rules to issue a temporary license to a registered loan originator or registered mortgage loan originator, as appropriate, upon modification of the federal "Secure and Fair Enforcement for Mortgage Licensing Act of 2008" allowing states to do so.

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* This analysis was prepared before the report of the Senate Financial Institutions Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Permits the Superintendent to adopt rules in accordance with the Administrative Procedures Act necessary for the implementation and operation of the bill.

CONTENT AND OPERATION

Temporary loan originator and mortgage loan originator licenses

The bill permits the Superintendent of Financial Institutions to issue two types of temporary licenses – a temporary loan originator license and a temporary mortgage loan originator license. An applicant must meet certain criteria to receive a temporary license. Upon obtaining a license, the temporary licensee would be able to engage in the business for which the licensee holds the temporary license while the licensee completes the requirements necessary under current law to obtain the respective annual license. The bill creates identical processes by which each temporary license may be issued and revoked.

Who is eligible for temporary licensure

The bill permits only (1) an out-of-state loan originator to be issued a temporary loan originator license, and (2) an out-of-state mortgage loan originator to be issued a temporary mortgage loan originator license.[1]

An "out-of-state loan originator" or "out-of-state mortgage loan originator" is an individual who (1) holds a valid loan originator license, or mortgage loan originator license, respectively, or comparable authority, issued pursuant to the law of any other state of the United States, and (2) is registered, fingerprinted, and maintains a unique identifier through the Nationwide Mortgage Licensing System and Registry.[2]

Application requirements

The bill requires that an application for each type of temporary license to be in writing, made under oath, in a form that meets the requirements of the Nationwide Mortgage Licensing System and Registry, and include payment of a nonrefundable application fee, the amount of which is to be established by the Superintendent in rule. The application must also include a certification that, as of the date of application, the applicant meets the following conditions:

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[1] R.C. 1321.537(B) (temporary mortgage loan originator license) and 1322.402(B) (temporary loan originator license).

[2] R.C. 1321.537(A)(1) and 1322.042(A)(1).

(1) The applicant has at least two years of experience in the field of residential mortgage lending in the five years immediately preceding the date of application for the temporary mortgage loan originator license or temporary loan originator license, as applicable.

(2) The applicant has not previously applied for a temporary mortgage loan originator license or temporary loan originator license, as applicable, in Ohio.

(3) That the applicant has not had a loan originator license or mortgage loan originator license, as applicable, or comparable authority, revoked in any governmental jurisdiction – the bill specifies that a subsequent formal vacation of such a revocation is not to be considered a revocation;

(4) That the applicant has not been convicted of, or pleaded guilty or nolo contendere to, either of the following in a domestic, foreign, or military court: (a) during the seven-year period immediately preceding the date of application, a misdemeanor involving theft or any felony, or (b) at any time prior to the date of application, a felony involving an act of fraud, dishonesty, a breach of trust, theft, or money laundering. For the purposes of (4), the bill specifies that any conviction for which the applicant has received a pardon is not to be considered a conviction.[3]

Issuance of temporary license

The bill requires the Superintendent to issue a temporary license to an applicant if the Superintendent finds that all of the following conditions are met:

(1) The application is accompanied by the application fee and the additional certification regarding experience, prior application, license revocation, and criminal history;

(2) 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;

(3) The applicant has authorized the Nationwide Mortgage Licensing System and Registry to obtain a credit report for submission to the Superintendent;

(4) The applicant has a sponsor that certifies employment of, or association with, the applicant and has signed the application (see "**Sponsorship**" below).[4]

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[3] R.C. 1321.537(C) and 1322.042(C).

[4] R.C. 1321.537(D) and 1322.042(D).

Upon obtaining a temporary license, the licensee would be able to engage in the business for which the licensee holds the temporary license while the licensee completes the requirements necessary under current law to obtain a loan originator or mortgage loan originator license, as applicable. A temporary license is valid for a term of not more than 120 days from the date of issuance. A temporary license may not be renewed.[5]

Sponsorship

The bill gives the sponsor of a temporary licensee the affirmative duty to supervise the conduct of each temporary licensee in the same manner as is required of its other licensees. The sponsor must either be registered with the Division of Financial Institutions in accordance with current law or be one of the entities exempted from compliance with the Second Mortgage Loan Law and the Mortgage Broker Registration Law.

The sponsor must either employ or be associated with the temporary licensee and, during the term of the license, cover the licensee under its corporate surety bond or require the applicant to obtain and maintain such a bond. If the temporary licensee's employment or association with the sponsor is terminated, the sponsor must notify the Division of Financial Institutions of the termination through the Nationwide Mortgage Licensing System and Registry. Upon the Division's receipt of the notice, the sponsor is no longer to be held responsible for the conduct of the temporary licensee.[6]

Registered originators

The bill requires the Superintendent to adopt necessary and appropriate rules to issue a temporary license to a registered loan originator or registered mortgage loan originator if the federal "Secure and Fair Enforcement for Mortgage Licensing Act of 2008" is modified after the bill's effective date, or any regulation, statement, or position is adopted under the Act, to permit states to issue a temporary license to a registered loan originator or registered mortgage loan originator. The rules must be adopted in accordance with section 111.15 of the Revised Code.[7]

A "registered loan originator" or "registered mortgage loan originator" is an individual who is (1) a loan originator or mortgage loan originator, respectively, and is employed by a depository institution, a subsidiary of a depository institution and

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[5] R.C. 1321.52(E)(3), 1321.537(B), 1322.02(B)(3), and 1322.042(B).

[6] R.C. 1321.53(D) (not in the bill), 1321.537(A)(2) and (E), 1322.01(G)(2) (not in the bill), and 1322.042(A)(2) and (E).

[7] R.C. 1321.538 and 1322.043.

regulated by a federal banking agency, or an institution regulated by the Farm Credit Administration, and (b) registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.[8]

Rule-making authority

The bill permits the Superintendent of Financial Institutions to adopt rules in accordance with the Administrative Procedures Act necessary for the implementation and operation of the temporary loan originator and temporary mortgage loan originator license provisions.[9]

HISTORY

ACTION	DATE
Introduced	04-24-12
Reported, S. Financial Institutions	---

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[8] R.C. 1321.51(S) (not in the bill) and 1322.01(I) (not in the bill).

[9] R.C. 1321.537(F) and 1322.042(F).