



Ohio Legislative Service Commission

Synopsis of House Committee Amendments*

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Sub. S.B. 124

128th General Assembly
(H. Civil and Commercial Law)

The House Civil and Commercial Law Committee made the following changes to the Senate-passed version of the bill:

(1) It made changes generally to the provisions of the Mortgage Loan Law (R.C. 1321.51 to 1321.60) and the Mortgage Brokers Law (R.C. 1322.01 to 1322.12) that were enacted or amended by Am. Sub. H.B. 1 of the 128th General Assembly in the implementation of the S.A.F.E. Act, Title V of the federal Housing and Economic Recovery Act of 2008. Among the changes are the following:

- Removes the requirement for a registrant engaged in residential mortgage loan activity to maintain a net worth of at least \$50,000 and, for each certificate of registration, assets of at least \$50,000 either in use or readily available for use in the conduct of business, and retains existing law's requirement that the registrant maintain a corporate surety bond.
- Permits the Superintendent of Financial Institutions to consider withdrawn an application or renewal application for registration under the Mortgage Loan Law or the Mortgage Brokers Law or for licensing as a loan originator under either Law if the information required under existing law is not submitted to the Nationwide Mortgage Licensing System and Registry within the required period of time after the information is requested.
- Requires an individual applying for a mortgage loan originator license under the Mortgage Loan law to additionally achieve a test score of at least 75% correct answers on all questions relating to Ohio mortgage lending laws and the Ohio Consumer Sales Practices Act as it applies to registrants and licensees.
- Specifies that any of the following must not have been convicted of or pleaded guilty to (existing law) or *pleaded nolo contendere* (no contest) to any of

* This synopsis does not address amendments that may have been adopted on the House Floor.

the offenses specified in existing law in a domestic, foreign, or military court during the applicable period of time: (1) an applicant for licensure as a loan originator under the Mortgage Loan Law or Mortgage Brokers Law, (2) an applicant or any person whose identity is required to be disclosed on an application for a mortgage broker certificate of registration.

- Permits the Division or Superintendent of Financial Institutions to revoke, suspend, or refuse to issue or renew a certificate of registration or license under the Mortgage Loan Law or the Mortgage Brokers Law if it finds that the person has been convicted of or pleaded guilty to (existing law) or *pleaded nolo contendere* to any of the offenses specified in existing law in a domestic, foreign, or military court.
- Prohibits any registrant, licensee, applicant, or other specified person under the Mortgage Loan Law or Mortgage Brokers Law from failing to notify the Division of Financial Institutions within 30 days after knowing that the registrant, licensee, applicant, or other person was convicted of or pleaded guilty to (existing law) or *pleaded nolo contendere* to any of the offenses specified in existing law in a domestic, foreign, or military court.
- Requires an application by a credit union service organization for exemption from registration under the Mortgage Loan Law or the Mortgage Brokers Law, or an application by a mortgage banker from registration under the Mortgage Brokers Law, to include an attestation that the organization or mortgage banker, as applicable, and its owners, officers, or partners have not been convicted of or pleaded guilty to (existing law) or *pleaded nolo contendere* to any of the offenses specified in existing law in a domestic, foreign, or military court during the applicable period of time.
- If a registrant under the Mortgage Brokers Law or any member of the immediate family of an owner of a registrant generally owns or controls a majority interest in an appraisal company, permits the Superintendent of Financial Institutions to order the registrant or family member to divest their interest in the company if the registrant is convicted of or pleads guilty to (existing law) or *pleads nolo contendere* to a criminal violation of the Mortgage Brokers Law or to a felony in a domestic, foreign, or military court.
- Provides that the persons excluded from the existing definition of "mortgage broker" in the Mortgage Brokers Law are excluded only with respect to the business engaged in or authorized by the person's charter, license, authority, approval, or certificate.

- Specifically prohibits any person acting as a mortgage broker or loan originator from failing to register with, and maintain a valid unique identifier issued by, the Nationwide Mortgage Licensing System and Registry.
- Makes other clarifying changes in the Mortgage Loan Law and Mortgage Brokers Law.
- Replaces the term "loan originator" in the Consumer Sales Practices Act with "loan officer" and defines the "loan officer" as an individual who for compensation or gain, or in anticipation of compensation or gain, takes or offers to take a residential mortgage loan application; assists or offers to assist a buyer in obtaining or applying to obtain a residential mortgage loan by, among other things, advising on loan terms, including rates, fees, and other costs; offers or negotiates terms of a residential mortgage loan; or issues or offers to issue a commitment for a residential mortgage loan.
- Modifies the transition provisions of Am. Sub. H.B. 1 to specify dates when any credit union service organization or mortgage banker in operation as of January 1, 2010, may obtain a valid letter of exemption from the Superintendent of Financial Institutions to continue to operate as an exempt entity and when any person performing the duties of a mortgage loan originator and is employed by any of specified persons or entities as of January 1, 2010, may obtain a mortgage loan originator license to continue to perform those duties.
- Enacts an emergency clause based on the necessity that the act take effect immediately because the provisions of Am. Sub. H.B. 1 implementing the S.A.F.E. Act apply on and after January 1, 2010.

(2) It establishes the Small Claims Division of the Board of Tax Appeals that has jurisdiction over: (a) any appeal to the Board from a decision of a county board of revision in which the property at issue qualifies for a partial tax exemption, or (b) any appeal from a decision of a municipal board of appeal or from a final determination by the Tax Commissioner regarding assessments, valuations, computations, or orders if the amount in controversy claimed by the taxpayer does not exceed \$10,000 exclusive of interest and penalty; required the Board of Tax Appeals to adopt rules to implement procedures to provide informal review of the taxpayers' appeals in the Small Claims Division; provided for the reassignment of appeals to or from the Small Claims Division; provided that a decision and order of the Small Claims Division is conclusive upon all of the parties and cannot be appealed or considered as precedent; permitted but not required the appearance of an Ohio licensed attorney on behalf of a party in the Small Claims Division; required the Board to institute procedures to control and

manage appeals to the Board, including the establishment of a case management schedule; and declared the intent of the General Assembly in enacting the above provisions.

(3) It created the Tax Appeals Administration Fund; earmarked, for the Ohio Board of Tax Appeals, a portion (one-tenth of one per cent) of the state reimbursement to local taxing units for the 10% real property tax rollback; credited the earmark to the newly created Tax Appeals Administration Fund to defray the expenses of the Board of Tax Appeals; declared an emergency based on the necessity that those earmarks need to be implemented for the current fiscal year 2010, and the computation of the amounts for purposes of the earmarks must be made between January 1 and 15, 2010; provided that if the emergency clause is not adopted, the computation of the amounts for purposes of the earmarks must be made between April 1 and 15, 2010.

(4) It authorized, until December 31, 2011, a treasurer and a prosecuting attorney of a county with a population greater than 800,000 but less than 900,000 to designate that part of any surplus balance in the county's Delinquent Tax and Assessment Collection Fund be used to pay operating expenses in that office in lieu of county general fund money.

(5) It made some changes to the format requirements for recording an instrument and required a county recorder to accept for recording an instrument or document that does not conform to the format requirements without charging the additional fees under existing law for certain incidental information not essential to the recording process or the legal validity of the instrument or document, including page numbers, initials, bar codes, copyright information, trailing portions of signatures, plat description of oil and gas well location or drilling unit or lease, or for notary stamps and seals, signatures, and initials.