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H.B. 133*
134th General Assembly

Bill Analysis

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Version: As Reported by Senate Financial Institutions and Technology

Primary Sponsor: Rep. Hillyer

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SUMMARY

Commercial credit reports

- Requires a commercial credit reporting agency to provide a credit report to a business that is the subject of the report, when requested by a representative, at no greater cost than what is charged to third parties.
- Establishes a procedure through which such a business may dispute a statement on the report.

Debt collection – written notice to debtor

- Modifies an existing requirement that a person collecting on certain debts secured by residential real property send a written notice to the debtor.

Residential Mortgage Lending Act (RMLA)

- Specifies that only a mortgage lender, broker, servicer (collectively, registrant), or originator making more than five residential mortgage loans annually is subject to the RMLA.
- Clarifies and revises several exemptions to the mortgage loan originator license requirements.
- Repeals the temporary mortgage loan originator license.
- Eliminates the existing requirement that a mortgage lender, servicer, or broker maintain an office location in Ohio and instead requires the office to be located in any U.S. state.

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

- Requires a mortgage lender, servicer, or broker application to include the names and addresses of the owners, officers, or partners having control of the applicant.
- Requires the registration applicant to provide the identity information for any individual with control of the applicant.
- Authorizes the Superintendent to alter the requirements for any registration and license under the RMLA.
- Permits an operations manager to be the operations manager for more than one location.
- Permits the Superintendent of Financial Institutions to consider other experiences related to the business of residential mortgage lending that the Superintendent determines is sufficient to qualify as an operations manager to a registrant or entity that holds a valid letter of exemption.
- Removes the continuing education requirement for operations managers of any entity seeking to renew their certificate of registration.
- Establishes procedures a registrant must follow when the operations manager ceases to be the operations manager.
- Requires a registrant to cease operations if it is without an operations manager approved by the Superintendent for more than 180 days, unless authorized in writing by the Superintendent.
- Eliminates the existing requirement that a mortgage loan originator maintain and display a copy of a license at the office where the mortgage loan originator principally transacts business, if the mortgage loan originator is employed by or associated with a person or entity holding a valid letter of exemption.
- Clarifies the application of certain requirements in the RMLA to exempt entities.
- Requires, when the documents of a registrant or exempt entity are held out of state and an in-person examination is necessary, the registrant or exempt entity to pay the estimated costs of the examination.
- Prohibits registrants and exempt entities from receiving a premium on the fees charged for services performed by a third party and from paying or receiving a referral fee or kickback.
- Alters the minimum bond requirements for registrants, from $50,000 for all registrants to $50,000 for mortgage lenders and mortgage brokers and $150,000 for registrants engaging solely in mortgage servicing.
- Amends definitions and standardizes terms in the RMLA.
- Expands the authority of the Superintendent of Financial Institutions to amend definitions, from specified definitions to any definition found in the RMLA.

- Authorizes the Superintendent to alter the requirements for registration and licensure under the RMLA.

General Loan Law

- Permits the Superintendent of Financial Institutions to require applicants or registrants under the General Loan Law to use the National Multistate Licensing System for registration and compliance of the General Loan Law.

Consumer Installment Loan Act

- Revises the conditions by which a transaction between a Consumer Installment Loan Act (CILA) licensee and a borrower is considered to not be a condition of the consumer installment loan.

Personal checking account information

- Eliminates requirements that (1) a financial institution require a person opening a personal checking account to provide the financial institution specified identifying information and (2) a person that issues or prints a check, print on the check the date on which the checking account was opened.

Credit services organization contracts

- Replaces the 60-day limit on the performance of certain credit service organization contracts with a 12-month limit if certain criteria are met.

Business linked deposits

- Changes specific interest rate requirements for loans made to small businesses by credit unions from specific percentage rates to a more general standard of being below market rates.

Acquisition and charter of Ohio banks

- Expands the types of financial entities authorized to charter or acquire an Ohio bank, from only banks and bank holding companies to banks, bank holding companies, federal savings associations, and savings and loan holding companies.

Legal malpractice claims relating to opinions of title

- Establishes that the statute of limitations for legal malpractice claims relating to an opinion of title issued prior to June 16, 2021, is one year after the cause of action accrued without regard to when the alleged basis of the claim occurred.

- Declares an emergency only for the amendment described in the preceding dot point.

TABLE OF CONTENTS

DETAILED ANALYSIS

Commercial credit reports

Provide copy to subject of report

The bill addresses "commercial credit reports" by requiring a commercial credit reporting agency to provide a credit report to a business, when requested, at cost that is not more than what is charged to third parties. And the bill establishes procedures for a business to dispute a statement on the report that the business believes is inaccurate. "**Commercial credit reports**" are reports provided by a commercial credit reporting agency to a business for a legitimate business purpose, relating to the financial status or payment habits of a business. Under federal law, the Fair Credit Reporting Act (FCRA) provides a method in which consumers can dispute errors on their consumer credit reports, however, commercial credit reports are not covered under these provisions of the FCRA.[1]

A "**commercial credit reporting agency**" is a person or entity that regularly engages in the practice of compiling and maintaining commercial credit reports on a business operating in Ohio for the purpose of providing commercial credit reports and, for monetary fees, dues, or on a cooperative nonprofit basis, provides commercial credit reports on a business operating in Ohio to third parties. The term includes only persons and entities that maintain a database of commercial credit reports from which new commercial credit reports are produced.

The bill excludes the following from the requirements that apply to commercial credit reports:

1. A report prepared for commercial insurance underwriting, claims, or auditing purposes;
2. A report containing information related to transactions or experiences between the business that is the subject of the report and the person making the report;
3. An authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;
4. Any report in which a person that has been requested by a third party to make a specific extension of credit directly or indirectly to the subject of the report conveys its decision with respect to that request.[2]

Under the bill, a commercial credit reporting agency – if requested by a business that is the subject of the commercial credit report – must provide the report to the business at no

[1] R.C. 1319.17(A)(2); 15 United States Code (U.S.C.) 1681 *et seq*.; and "40 years of Experience with the Fair Credit Reporting Act, An FTC Report with Summary of Interpretations," Federal Trade Commission, July 2011, https://www.ftc.gov/sites/default/files/documents/reports/40-years-experience-fair-credit-reporting-act-ftc-staff-report-summary-interpretations/110720fcrareport.pdf, page 21 (accessed March 1, 2021).

[2] R.C. 1319.17(A)(2) to (4).

greater cost than what is charged to third parties. The report must be in the format routinely made available to third parties, and the credit reporting agency is allowed to protect the identity of the sources of information in the report.[3]

Disputed information

If the business that is the subject of the report believes the report contains an inaccurate statement of fact, it may – within 30 days after receipt of the report – file with the agency a written summary identifying each inaccurate statement of fact and indicating the nature of its disagreement with the statement. The agency has 30 days from receipt of the summary to do either of the following at no cost to the business:

1. Delete the disputed statement of fact from the report and, thereafter, block any repeat reporting of that disputed statement unless its accuracy has been verified;
2. Include in the report a notice of the business's assertion that the statement of fact is inaccurate.[4]

Civil action

The bill explicitly states that any violation of the bill's provisions regarding commercial credit reports does not provide a private right of action, including a class action. Therefore, it is unclear how these provisions are to be enforced.[5]

Debt collection – written notice to debtor

The bill makes a few changes to an existing law related to debt collecting. Existing law requires a person collecting a defaulted debt that is secured by second mortgage or a junior lien on the debtor's residential real property to send a written notice to the debtor with specified information relating to the loan and the debtor's right to legal representation and possible qualification for bankruptcy.

First, the bill changes when the notice must be sent out. Instead of requiring the notice to be sent out before a collection is attempted, the bill requires the notice to be sent to the debtor 30 days prior to the filing of a foreclosure action.

Second, the bill revises the type of debt that will trigger the notice requirement. Under the bill, the debt must be secured by a mortgage lien on the property that is not in the first mortgage position and the debt has either been accelerated or is in default in accordance with the terms set forth in the promissory note.

In addition, the bill expressly permits the notice to be included on or accompany any other communication with the debtor.

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[3] R.C. 1319.17(B).

[4] R.C. 1319.17(C).

[5] R.C. 1319.17(D).

Lastly, the bill clarifies how the owner of the debt can remedy an unintentional failure to comply with the notice requirement. Under existing law, unchanged by the bill, if the owner of the debt fails to comply with the notice requirement, the owner of the debt can have immunity from civil liability if the owner takes certain steps to remedy the error, including providing the debtor restitution for the error. Existing law does not define restitution. The bill adds a definition for "restitution" as either (1) a waiver of all fees, costs, or expenses proximately associated with the failure to provide the notice to the debtor, or (2) actual damages.[6]

Ohio Residential Mortgage Lending Act

The bill makes several changes to the Ohio Residential Mortgage Lending Act (RMLA). Generally, the bill makes changes throughout the RMLA so the law is applied consistently to all registrants (lenders, brokers, and servicers) in the registration process and other registration requirements.

Application of RMLA

Minimum number of loans

The Ohio Residential Mortgage Lending Act (RMLA) regulates nondepository lending secured by residential real estate. The existing RMLA requires the registration of residential mortgage lenders, brokers, and servicers (registrants), and the licensure of residential mortgage loan originators through the Department of Commerce's Division of Financial Institutions. The bill specifies that only a mortgage lender, broker, servicer, or originator making more than five residential mortgage loans annually is subject to the RMLA. In other words, those making fewer than five mortgage loans annually are exempt from the RMLA. The bill defines "**transaction of business as a mortgage lender, mortgage servicer, or mortgage broker in this state**" to mean originating, brokering, or servicing five or more residential mortgage loans in any 12-month period in any of the following circumstances:

1. For any Ohio resident;
2. For any property in Ohio;
3. By a person who is physically located in Ohio even if the property in question is in another state.[7]

Bona fide nonprofit organizations and employees

Under continuing law, the RMLA does not apply to bona fide nonprofit organizations. The bill revises what it considers to be such an organization.

[6] R.C. 1349.72.

[7] R.C. 1322.01(BB) and (LL) and 1322.07.

Current law	The bill
The organization is a bona fide nonprofit organization if all of the following apply: ▪ It is tax exempt under 26 U.S.C. 501(c)(3) and that the U.S. Department of Housing and Urban Development does not deny this exemption. ▪ Its primary activity is the construction, remodeling, or rehabilitation of homes for use by low-income families. ▪ The organization makes no-profit mortgage loans or mortgage loans at 0% interest to low-income families and no fees accrue directly to the organization from those mortgage loans.	The organization is a bona fide nonprofit organization if all of the following apply: ▪ It is tax-exempt organization under 26 U.S.C. 501(c)(3). ▪ It promotes affordable housing or provides homeownership education or similar services. ▪ It conducts its activities in a manner that serves public or charitable purposes, rather than commercial purposes. ▪ It receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interests of its clients. ▪ It compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients. ▪ It provides, or identifies for the borrower, residential mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs. ▪ It has obtained a valid letter of exemption from the Superintendent of Financial Institutions.

Similarly, under existing law, an individual employed by a nonprofit organization is not considered a mortgage loan originator. The bill revises this exemption by (1) requiring the organization to be a *bona fide* nonprofit organization, (2) revising what constitutes a nonprofit organization as described above, and (3) requiring the individual to be acting within the scope of employment with respect to residential mortgage loans with terms that are favorable to the borrower.[8]

[8] R.C. 1322.01(F) and (AA)(2)(g), and 1322.04(G).

Employees performing clerical tasks

The bill clarifies and revises several exemptions to the mortgage loan originator license requirements. Under existing law, revised in part by the bill, a mortgage loan originator license is not required for an individual who performs purely administrative or clerical tasks on behalf of a mortgage loan origination. The bill revises the meaning of administrative or clerical tasks. Under existing law, the term means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry, without performing any analysis of the information, and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage. The bill largely keeps this definition, but (1) removes the requirement that no information analysis be performed and (2) adds the license is not required to the extent the communication does not include offering or negotiating loan rates or terms or counseling borrows about residential mortgage loan rates or terms.

The bill also adds certain employees of loan processing or underwriting companies are not required to obtain a mortgage loan originator license. The employees are exempt if they provide loan processing or underwriting services to mortgage lenders or mortgage brokers, provided the employee performs only clerical or support duties and performs those duties only at the direction of and subject to the supervision and instruction of a licensed mortgage loan originator employee of the same loan processing and underwriting company, and provided that the loan processing and underwriting company has obtained a letter of exemption from the Superintendent of Financial Institutions.[9]

Manufactured homes

Finally, the bill revises the manufactured home exemption. Existing law exempts a person involved in the retail sale of manufactured homes, mobile homes, and industrialized units from the registration and licensure requirement under the RMLA if certain conditions are met. The bill revises the conditions under which such a person may be exempt under the RMLA:

- The bill expressly includes a manufactured home park operator as a person who may obtain an exemption under this provision.
- Under existing law, in order to qualify for the exemption under the RMLA, the person (1) cannot provide counseling to borrowers about residential mortgage loan rates or terms and (2) cannot assist borrowers in completing loan applications. The bill removes these conditions.
- In addition, the bill adds a requirement that the person must provide borrowers a written disclosure of any corporate affiliation the person has with lenders. If the person

[9] R.C. 1322.01(A) and (W) and (AA)(2)(a) and (h).

does recommend an affiliated lender, the person must also recommend at least one unaffiliated lender.[10]

Repeal of temporary loan originator license

Under existing law, repealed by the bill, a temporary mortgage loan originator license is generally available for those individuals licensed in other jurisdictions who wish to temporarily be licensed in Ohio under the RMLA before meeting all the Ohio licensure requirements. The bill eliminates this temporary license.[11]

Office location

The bill eliminates the existing requirement that a mortgage lender, servicer, or broker maintain an office location in Ohio and instead requires the office to be located in any U.S. state.[12]

Registration and licensure

The bill requires that an application for a mortgage lender, servicer, or broker registration under the RMLA include the names and addresses of the owners, officers, or partners having control of the applicant. This includes the name and address of any applicable sole proprietor or partner. In the case of a corporation, the application must include the name and address of each shareholder owning 5% or more of the corporation. And in case of any other entity, the application must include the name and address of any person that owns 5% or more of any entity that will transact business under the registration. In addition, the bill requires the applicant to provide the Superintendent any reasonable information the Superintendent requires.[13]

Current law authorizes the Superintendent to alter the requirements for any letter of exemption under the RMLA; the bill expands this authority to include altering the requirements for any registration and license under the RMLA.[14]

Operations manager

Under continuing law, each registrant of an entity holding a valid letter of exemption under the RMLA must designate an operations manage.

Under existing law, an operations manager is responsible for the management, supervision, and control of a particular location; the bill expands this authority to apply to a particular registrant. Consequently, only one operations manager is required if there is a main office and one or more branch offices.

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[10] R.C. 1322.01(AA)(2)(f) and 1322.04.

[11] R.C. 1322.07(B)(3) and R.C. 1322.24 and 1322.25, repealed.

[12] R.C. 1322.07(A)(2).

[13] R.C. 1322.09(A)(2).

[14] R.C. 1322.02.

Under existing law, unchanged by the bill, an operations manager to a registrant or entity that holds a valid letter of exemption under the RMLA must have three years of experience as a mortgage loan originator. The bill requires that this experience be generally in the residential mortgage and lending field, including experience as a mortgage loan originator, and the bill authorizes the Superintendent to consider other experience related to the business of residential mortgage lending that the Superintendent determines is sufficient.

In order for the registrant to qualify for a registration renewal each year, the operations manager must complete eight hours of continuing education. The bill eliminates this requirement.

The bill also establishes procedures a registrant must follow when the operations manager ceases to be the operations manager. If the person designated as the operations manager ceases to be the operations manager, then within 90 days another person must be designated as the operations manager and the Superintendent must be notified in writing within ten days of the new designation.

The registrant must cease operations if it is without an operations manager approved by the Superintendent for more than 180 days, unless otherwise authorized in writing by the Superintendent due to exigent circumstances.[15]

Registration application

Under existing law, the registration for a mortgage lender, broker, or servicer requires the applicant to provide to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity. The bill adds that the applicant must also provide the identity information for any individual with control of the applicant.[16]

License display

The bill eliminates the requirement that a mortgage loan originator maintain and display a copy of the license at the office where the mortgage loan originator principally transacts business if the mortgage loan originator is employed by a or associated with a person or entity holding a valid letter of exemption.[17]

Exempt entities

Obfuscation of ownership

The bill clarifies the application of certain requirements in the RMLA to exempt entities. Existing law prohibits a person from acquiring, selling, transferring, or hypothecating any interest in a registrant, or an applicant for a certificate of registration under the RMLA in order to obfuscate or conceal the true ownership or control of the registrant or applicant. The bill

[15] R.C. 1322.10 and 1322.12.

[16] R.C. 1322.09(C).

[17] R.C. 1322.29(D).

adds that this prohibition also applies to anyone acquiring, selling, transferring, or hypothecating any interest in an entity holding a letter of exemption issued under the RMLA in order to obfuscate or conceal the true ownership or control of the holder.[18]

Interest

A registrant under existing law may contract for and receive interest of an annual percentage rate of up to 25%. The bill explicitly states that this provision also applies to an entity holding a letter of exemption under the RMLA.[19]

Superintendent's enforcement authority

The bill subjects exempt entities to the Superintendent's continuing records examination and enforcement provisions.[20]

Cost of out-of-state records examination

The bill adds a requirement in situations in which the electronic records, books, records, data, and documents of a registrant or holder of a letter of exemption issued under the RMLA are located outside of Ohio and the Superintendent determines that an in-person examination is necessary. In this situation, the registrant or holder of a letter of exemption must, upon the request of the Superintendent, pay the estimated costs of the examination, including the proportionate cost of the salaries of Division of Financial Institutions employees who conduct the examination.[21]

Fees and kickbacks

The bill prohibits registrants and exempt entities from receiving a premium on the fees charged for services performed by a third party and from paying or receiving a referral fee or kickback. More specifically, a registrant or entity holding a letter of exemption cannot do either of the following:

1. Receive, directly or indirectly, a premium on the fees charged for services performed by a bona fide third party;
2. Pay or receive, directly or indirectly, a referral fee or kickback of any kind to or from a bona fide third party or other party with a related interest in the transaction, including a home improvement builder, real estate developer, or real estate broker or agent, for the referral of business.[22]

[18] R.C. 1322.15.

[19] R.C. 1322.30.

[20] R.C. 1322.34(A) and 1322.50.

[21] R.C. 1322.34(E).

[22] R.C. 1322.43(B).

Surety bond

Under existing law, a registrant must obtain and maintain in effect at all times a corporate surety bond issued by a bonding company or insurance company for at least $50,000 and an additional penal sum of $10,000 for each additional location the registrant conducts business. The bill alters the minimum bond requirements for registrants, from $50,000 for all registrants to $50,000 for mortgage lenders and mortgage brokers and $150,000 for registrants engaging solely in mortgage servicing.[23]

Definitions and terminology

The bill amends definitions and standardizes terms in RMLA. As noted above, the bill makes changes throughout the RMLA so the law is applied consistently to all registrants (lenders, brokers, and servicers) in the registration process and other registration requirements. In addition, the bill expands the authority of the Superintendent of Financial Institutions to amend definitions under the RMLA. Under existing law, the Superintendent is authorized to amend the definition for a mortgage loan originator, mortgage broker, or mortgage lender. The bill expands this authority to the definition of a mortgage servicer and any other definition found in the RMLA.[24]

In addition, the bill modifies the definition of "**residential mortgage loan**" by eliminating the requirement that the real estate be located in Ohio. In addition, instead of requiring the loan to be secured by a first or second lien holder secured creditor, requires it to be secured by a first lien holder or subordinate lien holder secured creditor.[25]

Lastly, the bill modifies the definition of "**loan processor or underwriter**" to mean an individual who, with respect to the origination of a residential mortgage loan and under the direction of or subject to the supervision of a mortgage loan originator (1) receives, collects, distributes, or analyzes information common for the processing or underwriting a residential mortgage loan, or (2) communicates with a borrower to obtain the information necessary for the processing or underwriting of a loan, to the extent the communication does not include the offering or negotiation of loan rates or terms or counseling borrowers about the loan.[26]

General Loan Law

The bill authorizes the Superintendent of Financial Institutions to require applicants or registrants under the General Loan Law to use the National Multistate Licensing System (NMLS) for registration and compliance of the General Loan Law, including for the purposes of the

[23] R.C. 1322.32.

[24] R.C. 1322.02.

[25] R.C. 1322.01(II).

[26] R.C. 1322.01(W).

application, renewal, fees, and surrender of a license. The Superintendent can also require applicants or registrants to pay any applicable fee to the NMLS.[27]

Consumer Installment Loan Act

The Ohio Consumer Installment Loan Act (CILA) under existing law, largely unchanged by the bill, regulates consumer installment loans and lenders. CILA restricts interest and charges a CILA licensee is authorized to charge a borrower. Existing law specifies that these restrictions do not limit the rights of licensees to engage in other transactions with borrowers, provided the transactions are not a condition of the loan. The bill specifies that a transaction is not considered a condition of the loan if (1) it is not required for the extension of the credit and (2) it is a charge that is not considered a "finance charge" under the federal Truth in Lending Act.[28]

Personal checking account information

The bill eliminates a requirement that a financial institution require a person opening a personal checking account to provide the financial institution specified identifying information, such as a driver's license. It also eliminates the requirement that every person that issues or prints checks for use with a checking account print the date on which the checking account was opened on the face of each check.[29]

Credit services organization contracts

Under current law, a credit services organization must provide all services to a buyer within the time specified in the contract, which cannot exceed 60 days or a shorter period set by the Superintendent of Financial Institutions.

A credit services organization is prohibited from receiving consideration for its services unless the services are performed within this agreed-to time period. This prohibition can be enforced by (1) the injured buyer suing the credit services organization for damages, including punitive damages, (2) the Division of Financial Institutions, the Attorney General, or the buyer seeking an injunction against the credit services organization, (3) the Division suspending or revoking the credit services organization's registration, and (4) the Division requesting the county prosecutor to initiate criminal proceedings. The violation also is considered an unfair or deceptive act under the Consumer Sales Practices Act.

The bill extends this required performance period to 12 months for services under a contract to which all of the following conditions apply:

- The buyer agrees to substantially equal periodic payments at fixed time intervals for the services after they are performed during the term of the contract.

[27] R.C. 1321.52(D).

[28] R.C. 1321.68(G)(2).

[29] R.C. 1349.16, repealed, and a conforming change in R.C. 2913.11.

- The buyer may cancel the contract at any time without penalty or obligation to pay for any services that have not yet been rendered.
- The contract solely provides for the ongoing performance of either of the following services:
  - Improving the buyer's credit record, history, or rating, or providing advice or assistance to a buyer in connection with such a service;
  - Removing adverse credit information that is accurate and not obsolete from the buyer's credit record, history, or rating.
- The buyer's explicit, affirmative, and documented assent is provided before a contract is renewed.
- During the term of the contract period, the credit services organization reviews with the buyer the adverse credit information on the buyer's credit report.[30]

"**Credit services organization**" means any person that, in return for the payment of money or other valuable consideration readily convertible into money for the following services, sells, provides, or performs, or represents that the person can or will sell, provide, or perform, one or more of the following services:

- Improving a buyer's credit record, history, or rating;
- Obtaining an extension of credit by others for a buyer;
- Providing advice or assistance to a buyer in connection with the above two types of services;
- Removing adverse credit information that is accurate and not obsolete from the buyer's credit record, history, or rating;
- Altering the buyer's identification to prevent the display of the buyer's credit record, history, or rating.[31]

"**Buyer**" means an individual who is solicited to purchase or who purchases the services of a credit services organization for purposes other than obtaining certain types of business loans.[32]

Business linked deposits

The bill changes specific interest rate requirements for loans made to small businesses by credit unions from specific percentage rates to a more general standard of being below market rates. Continuing law provides for a program under which an eligible small business (a

[30] R.C. 4712.05 and R.C. 4712.01, 4712.03, 4712.07(A), 4712.10, 4712.11, and 4712.12, not in the bill.

[31] R.C. 4712.01, not in the bill.

[32] R.C. 4712.01 and 1343.01(B)(6), not in the bill.

person that is domiciled in Ohio, maintains offices and operating facilities exclusively in Ohio, transacts business in Ohio, employs fewer than 150 employees the majority of whom are Ohio residents, is organized for profit, and can save or create one full-time job or two part-time jobs in Ohio for every $50,000 borrowed) may obtain a low-rate loan from an eligible lending institution (an Ohio-chartered, federal, or foreign credit union located in Ohio). In order to lower the interest rate, the lender enters into an agreement with the state under which the state purchases share certificates from the credit union lender, agreeing to accept a below-market rate of return on those certificates. Because the lender is paying a lower rate to the state, it can therefore lend at a lower rate to the small business.

Current law requires the loan to be at a rate that reflects the following percentage rate reduction below the present borrowing rate applicable to each eligible small business:

- 3% if the present borrowing rate is greater than 5%; or
- 2.1% if the present rate is equal to or less than 5%.

Current law further requires a certification of compliance with this requirement to be submitted by the eligible lending institution to the Treasurer of State.

Rather than the purchase of credit union share certificates, the bill requires a certificate of deposit or other financial institution instrument be placed by the Treasurer of State with the eligible lending institution at a rate below current market rates, as determined and calculated by the Treasurer of State. In addition, the institution must agree to lend the value of the deposit to eligible small businesses at a rate that reflects an equal percentage rate reduction below the present borrowing rate applicable to each specific business at the time of the deposit of state funds in the institution. (This standard for loans parallels the standard for loans made under the Linked Installment Program under R.C. 135.61 to 135.67.) Finally, the bill removes the requirement that the lender submit a certification of compliance.[33]

Acquisition and charter of Ohio banks

Current law allows a bank or bank holding company whose principal place of business is in Ohio or any other state to charter or acquire an Ohio bank if certain criteria are met. The bill expands this list of entities authorized to charter or acquire an Ohio bank to also include a federal savings association and a savings and loan holding company.[34]

"**Bank**" means an entity that solicits, receives, or accepts money or its equivalent for deposit as a business. "Bank" includes a state bank or any entity doing business as a bank, savings bank, or savings association under authority granted by the federal Office of the Comptroller of the Currency or the former federal Office of Thrift Supervision, the appropriate

[33] R.C. 135.77 and 135.774.

[34] R.C. 1115.05(B).

bank regulatory authority of another state of the United States, or the appropriate bank regulatory authority of another country, but does not include a credit union.[35]

"**Bank holding company**" means any company that has control over any bank or over any company that is or becomes a bank holding company by virtue of the federal Bank Holding Company Act of 1956.[36]

"**Federal savings association**" means a federal savings and loan association or a federal savings bank doing business under authority granted by the Office of the Comptroller of the Currency or the former Office of Thrift Supervision.[37]

"**Savings and loan holding company**" means any company that directly or indirectly controls a savings association or that controls any other company that is a savings and loan holding company.[38]

Legal malpractice claims relating to opinions of title

The bill makes a change to a provision that is a part of the newly enacted S.B. 13 from the 134th General Assembly, which takes effect June 16, 2021. This bill, H.B. 133, makes an exception to the four-year statute of repose for legal malpractice claims established in S.B. 13. The exception provides that in a situation where there is a legal malpractice claim relating to opinions of title that have been issued prior to June 16, 2021, the statute of limitation is one year after the cause of action accrued without regard to when the alleged basis of the claim occurred.

Because S.B. 13 becomes effective June 16, 2021, and the application of the statute of repose established in that bill for the legal malpractice claims for attorney opinions of title was not intended, this provision of H.B. 133 is an emergency measure.[39]

HISTORY

Action	Date
Introduced	02-17-21
Reported, H. Financial Institutions	03-16-21
Passed House (97-0)	03-17-21
Reported, S. Financial Institutions & Technology	---

H0133-RS-134/ar

[35] R.C. 1101.01, not in the bill.

[36] R.C. 1101.01, not in the bill, and 12 U.S.C. 1841.

[37] R.C. 1101.01, not in the bill.

[38] R.C. 1101.01, not in the bill, and 12 U.S.C. 1467a.

[39] R.C. 2305.117 and Section 5.