

S.B. 24  
As Passed by the Senate

**Topic:** Dual licensure

\_\_\_\_\_ moved to amend as follows:

In line 1 of the title, delete "section" and insert "sections 1321.02, 1321.53, and" 1 2

In line 10, delete "section" and insert "sections 1321.02, 1321.53, and" 3 4

After line 16, insert: 5

"**Sec. 1321.02.** No person shall engage in the business of lending money, credit, or choses in action in amounts of five thousand dollars or less, or exact, contract for, or receive, directly or indirectly, on or in connection with any such loan, any interest and charges that in the aggregate are greater than the interest and charges that the lender would be permitted to charge for a loan of money if the lender were not a licensee, without first having obtained a license from the division of financial institutions under sections 1321.01 to 1321.19 of the Revised Code. 6 7 8 9 10 11 12 13 14 15

Sections 1321.01 to 1321.19 of the Revised Code do not apply to any person doing business under and as permitted by any law of this state, another state, or the United States relating to banks, savings banks, savings societies, trust companies, credit unions, 16 17 18 19

savings and loan associations substantially all the business of  
which is confined to loans on real estate mortgages and evidences  
of their own indebtedness; to registrants conducting business  
pursuant to sections 1321.51 to 1321.60 of the Revised Code; to  
licensees conducting business pursuant to sections 1321.62 to  
1321.702 of the Revised Code; to licensees conducting business  
pursuant to sections 1321.71 to 1321.83 of the Revised Code; to  
licensees doing business pursuant to sections 1321.35 to 1321.48  
of the Revised Code; or to any entity who is licensed pursuant to  
Title XXXIX of the Revised Code, who makes advances or loans to  
any person who is licensed to sell insurance pursuant to that  
Title, and who is authorized in writing by that entity to sell  
insurance. No person engaged in the business of selling tangible  
goods or services related thereto may receive or retain a license  
under sections 1321.01 to 1321.19 of the Revised Code for such  
place of business.

The first paragraph of this section applies to any person,  
who by any device, subterfuge, or pretense, charges, contracts  
for, or receives greater interest, consideration, or charges than  
that authorized by this section for any such loan or use of money  
or for any such loan, use, or sale of credit, or who for a fee or  
any manner of compensation arranges or offers to find or arrange  
for another person to make any such loan, use, or sale of credit.  
This section does not preclude the acquiring, directly or  
indirectly, by purchase or discount, of a bona fide obligation for  
goods or services when such obligation is payable directly to the  
person who provided the goods or services.

Any contract of loan in the making or collection of which an  
act is done by the lender that violates this section is void and  
the lender has no right to collect, receive, or retain any  
principal, interest, or charges.

**Sec. 1321.53.** (A)(1) An application for a certificate of registration under sections 1321.51 to 1321.60 of the Revised Code shall contain an undertaking by the applicant to abide by those sections. The application shall be in writing, under oath, and in the form prescribed by the division of financial institutions, and shall contain any information that the division may require. Applicants that are foreign corporations shall obtain and maintain a license pursuant to Chapter 1703. of the Revised Code before a certificate is issued or renewed.

(2) Upon the filing of the application and the payment by the applicant of a nonrefundable two-hundred-dollar investigation fee, a nonrefundable three-hundred-dollar annual registration fee, and any additional fee required by the nationwide mortgage licensing system and registry, the division shall investigate the relevant facts. If the application involves investigation outside this state, the applicant may be required by the division to advance sufficient funds to pay any of the actual expenses of such investigation, when it appears that these expenses will exceed two hundred dollars. An itemized statement of any of these expenses which the applicant is required to pay shall be furnished to the applicant by the division. No certificate shall be issued unless all the required fees have been submitted to the division.

(3) All applicants making loans secured by an interest in real estate shall designate an employee or owner of the applicant as the applicant's primary point of contact. While acting as the primary point of contact, the employee or owner shall not be employed by any other registrant or mortgage broker.

(4) The investigation undertaken upon application shall include both a civil and criminal records check of the applicant including any individual whose identity is required to be

disclosed in the application. Where the applicant is a business  
entity the superintendent shall have the authority to require a  
civil and criminal background check of those persons that in the  
determination of the superintendent have the authority to direct  
and control the operations of the applicant.

(5)(a) Notwithstanding division (K) of section 121.08 of the  
Revised Code, the superintendent of financial institutions shall  
obtain a criminal history records check and, as part of that  
records check, request that criminal record information from the  
federal bureau of investigation be obtained. To fulfill this  
requirement, the superintendent shall do either of the following:

(i) Request the superintendent of the bureau of criminal  
identification and investigation, or a vendor approved by the  
bureau, to conduct a criminal records check based on the  
applicant's fingerprints or, if the fingerprints are unreadable,  
based on the applicant's social security number, in accordance  
with section 109.572 of the Revised Code;

(ii) Authorize the nationwide mortgage licensing system and  
registry to request a criminal history background check as set  
forth in division (C) of section 1321.531 of the Revised Code.

(b) Any fee required under division (C)(3) of section 109.572  
of the Revised Code or by the nationwide mortgage licensing system  
and registry shall be paid by the applicant.

(6) If an application for a certificate of registration does  
not contain all of the information required under division (A) of  
this section, and if such information is not submitted to the  
division or to the nationwide mortgage licensing system and  
registry within ninety days after the superintendent or the  
nationwide mortgage licensing system and registry requests the  
information in writing, including by electronic transmission or

facsimile, the superintendent may consider the application 111  
 withdrawn. 112

(7) If the division finds that the financial responsibility, 113  
 experience, character, and general fitness of the applicant 114  
 command the confidence of the public and warrant the belief that 115  
 the business will be operated honestly and fairly in compliance 116  
 with the purposes of sections 1321.51 to 1321.60 of the Revised 117  
 Code and the rules adopted thereunder, and that the applicant has 118  
 the requisite bond or applicable net worth and assets required by 119  
 division (B) of this section, the division shall thereupon issue a 120  
 certificate of registration to the applicant. The superintendent 121  
 shall not use a credit score as the sole basis for a registration 122  
 denial. 123

(a)(i) Certificates of registration issued on or after July 124  
 1, 2010, shall annually expire on the thirty-first day of 125  
 December, unless renewed by the filing of a renewal application 126  
 and payment of a three-hundred-dollar nonrefundable annual 127  
 registration fee, any assessment as determined by the 128  
 superintendent pursuant to division (A)(7)(a)(ii) of this section, 129  
 and any additional fee required by the nationwide mortgage 130  
 licensing system and registry, on or before the last day of 131  
 December of each year. No other fee or assessment shall be 132  
 required of a registrant by the state or any political subdivision 133  
 of this state. 134

(ii) If the renewal fees billed by the superintendent 135  
 pursuant to division (A)(7)(a)(i) of this section are less than 136  
 the estimated expenditures of the consumer finance section of the 137  
 division of financial institutions, as determined by the 138  
 superintendent, for the following fiscal year, the superintendent 139  
 may assess each registrant at a rate sufficient to equal in the 140

aggregate the difference between the renewal fees billed and the  
 estimated expenditures. Each registrant shall pay the assessed  
 amount to the superintendent prior to the last day of June. In no  
 case shall the assessment exceed ten cents per each one hundred  
 dollars of interest (excluding charge-off recoveries), points,  
 loan origination charges, and credit line charges collected by  
 that registrant during the previous calendar year. If such an  
 assessment is imposed, it shall not be less than two hundred fifty  
 dollars per registrant and shall not exceed thirty thousand  
 dollars less the total renewal fees paid pursuant to division  
 (A)(7)(a)(i) of this section by each registrant.

(b) Registrants shall timely file renewal applications on  
 forms prescribed by the division and provide any further  
 information that the division may require. If a renewal  
 application does not contain all of the information required under  
 this section, and if that information is not submitted to the  
 division or to the nationwide mortgage licensing system and  
 registry within ninety days after the superintendent or the  
 nationwide mortgage licensing system and registry requests the  
 information in writing, including by electronic transmission or  
 facsimile, the superintendent may consider the application  
 withdrawn.

(c) Renewal shall not be granted if the applicant's  
 certificate of registration is subject to an order of suspension,  
 revocation, or an unpaid and past due fine imposed by the  
 superintendent.

(d) If the division finds the applicant does not meet the  
 conditions set forth in this section, it shall issue a notice of  
 intent to deny the application, and forthwith notify the applicant  
 of the denial, the grounds for the denial, and the applicant's

reasonable opportunity to be heard on the action in accordance 171  
with Chapter 119. of the Revised Code. 172

(8) If there is a change of five per cent or more in the 173  
ownership of a registrant, the division may make any investigation 174  
necessary to determine whether any fact or condition exists that, 175  
if it had existed at the time of the original application for a 176  
certificate of registration, the fact or condition would have 177  
warranted the division to deny the application under division 178  
(A)(7) of this section. If such a fact or condition is found, the 179  
division may, in accordance with Chapter 119. of the Revised Code, 180  
revoke the registrant's certificate. 181

(B) Each registrant that engages in lending under sections 182  
1321.51 to 1321.60 of the Revised Code shall, if not otherwise 183  
required to be bonded pursuant to section 1321.533 of the Revised 184  
Code, maintain both of the following: 185

(1) A net worth of at least fifty thousand dollars; 186

(2) For each certificate of registration, assets of at least 187  
fifty thousand dollars either in use or readily available for use 188  
in the conduct of the business. 189

(C) Not more than one place of business shall be maintained 190  
under the same certificate, but the division may issue additional 191  
certificates to the same registrant upon compliance with sections 192  
1321.51 to 1321.60 of the Revised Code, governing the issuance of 193  
a single certificate. No change in the place of business of a 194  
registrant to a location outside the original municipal 195  
corporation shall be permitted under the same certificate without 196  
the approval of a new application, the payment of the registration 197  
fee and, if required by the superintendent, the payment of an 198  
investigation fee of two hundred dollars. When a registrant wishes 199  
to change its place of business within the same municipal 200

corporation, it shall give written notice of the change in advance 201  
to the division, which shall provide a certificate for the new 202  
address without cost. If a registrant changes its name, prior to 203  
making loans under the new name it shall give written notice of 204  
the change to the division, which shall provide a certificate in 205  
the new name without cost. Sections 1321.51 to 1321.60 of the 206  
Revised Code do not limit the loans of any registrant to residents 207  
of the community in which the registrant's place of business is 208  
situated. Each certificate shall be kept conspicuously posted in 209  
the place of business of the registrant and is not transferable or 210  
assignable. 211

(D) Sections 1321.51 to 1321.60 of the Revised Code do not 212  
apply to any of the following: 213

(1) Entities chartered and lawfully doing business under the 214  
authority of any law of this state, another state, or the United 215  
States as a bank, savings bank, trust company, savings and loan 216  
association, or credit union, or a subsidiary of any such entity, 217  
which subsidiary is regulated by a federal banking agency and is 218  
owned and controlled by such a depository institution; 219

(2) Life, property, or casualty insurance companies licensed 220  
to do business in this state; 221

(3) Any person that is a lender making a loan pursuant to 222  
sections 1321.01 to 1321.19 or sections 1321.62 to 1321.701 of the 223  
Revised Code or a business loan as described in division (B)(6) of 224  
section 1343.01 of the Revised Code; 225

(4) Any political subdivision, or any governmental or other 226  
public entity, corporation, instrumentality, or agency, in or of 227  
the United States or any state of the United States, or any entity 228  
described in division (B)(3) of section 1343.01 of the Revised 229  
Code; 230



(5) A college or university, or controlled entity of a	231
college or university, as those terms are defined in section	232
1713.05 of the Revised Code;	233
(6) A credit union service organization, provided the	234
organization utilizes services provided by registered mortgage	235
loan originators or the organization complies with section	236
1321.522 of the Revised Code and holds a valid letter of exemption	237
issued by the superintendent.	238
(E) No person engaged in the business of selling tangible	239
goods or services related to tangible goods may receive or retain	240
a certificate under sections 1321.51 to 1321.60 of the Revised	241
Code for such place of business."	242
After line 107, insert:	243
<u>"(T) "Loan agreement" means one or more promises, promissory</u>	244
<u>notes, agreements, undertakings, security agreements, or other</u>	245
<u>documents or commitments, or any combination of these documents or</u>	246
<u>commitments, pursuant to which a licensee loans or delays, or</u>	247
<u>agrees to loan or delay, repayment of money, goods, or anything of</u>	248
<u>value, or otherwise extends credit or makes a financial</u>	249
<u>accommodation."</u>	250
In line 108, delete "(T)" and insert "(U)"	251
In line 111, delete "(U)" and insert "(V)"	252
In line 119, delete "(V)" and insert "(W)"	253
In line 130, delete "(W)" and insert "(X)"	254
In line 132, delete "(X)" and insert "(Y)"	255
In line 136, delete "(Y)" and insert "(Z)"	256
In line 141, delete "(Z)" and insert "(AA)"	257

In line 146, delete " <u>(AA)</u> " and insert " <u>(BB)</u> "	258
In line 153, delete " <u>(BB)</u> " and insert " <u>(CC)</u> "	259
In line 158, delete " <u>(CC)</u> " and insert " <u>(DD)</u> "	260
Delete lines 206 through 209	261
In line 210, delete " <u>(F)</u> " and insert " <u>(E)</u> "	262
In line 214, delete " <u>(G)</u> " and insert " <u>(F)</u> "	263
In line 217, delete " <u>(H)</u> " and insert " <u>(G)</u> "	264
In line 219, delete " <u>(I)</u> " and insert " <u>(H)</u> "	265
In line 221, delete " <u>(J)</u> " and insert " <u>(I)</u> "	266
In line 223, delete " <u>(K)</u> " and insert " <u>(J)</u> "	267
In line 225, delete " <u>(L)</u> " and insert " <u>(K)</u> "	268
In line 228, delete " <u>(M)</u> " and insert " <u>(L)</u> "	269
In line 235, delete " <u>(N)</u> " and insert " <u>(M)</u> "	270
In line 241, delete " <u>(O)</u> " and insert " <u>(N)</u> "	271
In line 243, delete " <u>(P)</u> " and insert " <u>(O)</u> "	272
In line 245, delete " <u>(Q)</u> " and insert " <u>(P)</u> "	273
In line 247, delete " <u>(R)</u> " and insert " <u>(Q)</u> "	274
In line 252, delete " <u>(S)</u> " and insert " <u>(R)</u> "	275
In line 255, delete " <u>(T)</u> " and insert " <u>(S)</u> "	276
In line 1103, after " <u>1321.674.</u> " insert " <u>(A)</u> "	277
After line 1109, insert:	278
<u>"(B) Any extension of credit under section 1321.62 to</u>	279
<u>1321.702 of the Revised Code shall include a notice in at least</u>	280
<u>ten point type at the bottom of the first page of any loan</u>	281
<u>agreement to read: "This loan is governed by, and made pursuant</u>	282

to, the provisions of the Ohio Consumer Installment Loan Act under 283

R.C. 1321.62 - 1321.702." 284

In line 1655, delete "section" and insert "sections 1321.02, 285  
1321.53, and" 286

In line 1656, delete "is" and insert "are" 287

The motion was \_\_\_\_\_ agreed to.