Chairman Hottinger, Ranking member Brown, and members of the committee. Thank you for the opportunity to speak in favor of HB 199. My name is Marianne Collins, and I am the Executive Director and Chief Operating Officer for the Ohio Mortgage Bankers Association. The Ohio Mortgage Bankers Association represents 120 banks, credit unions, independent mortgage bankers and other industry partners. The association fully supports this HB 199.

Non-depository mortgage lenders, known as Mortgage Bankers, and Mortgage Brokers have been subject to two different statutes in the state of Ohio, section 1322 and section 1321 of the Ohio Revised Code.

To give the Committee some background, since 2009, with the enactment of the SAFE Act federal licensing legislation, all loan officers must be licensed. This includes loan officers from companies that are exempt from licensing. This means the Department of Commerce Division of Financial Institutions has enforcement authority over loan officers, even though the company are not registrants under Ohio law. For instance, if a consumer complains about a lender that is exempt from licensing, the state would have no enforcement authority over that company, but could possibly have enforcement authority if there is a loan officer involved in the complaint. We feel this is confusing to the industry, the Department and mostly consumers. Since the Department has had enforcement authority over loan officers for several years now, exempt companies are subject to the same examinations as registrants. Therefore, we feel there is no longer a need for the company exemption.

Mortgage Brokers and their loan officers must license under section 1322. Mortgage Bankers are exempt from licensing under section 1322, but only to the extent of their Agency approvals, i.e. HUD Direct Endorsement, VA Automatic Authority, Fannie Mae or Freddie Mac Seller Servicer approval, or USDA approval. Making just one loan outside of a Mortgage Banker’s authority requires licensing.

Licensing under section 1321 is required for non-depository lenders or mortgage brokers when collecting at least the first payment in a first mortgage transaction or making a second mortgage. Section 1321 also covers loans secured by collateral other than real estate and unsecured loans.

Over the years, examiners have interpreted the statute inconsistently when it comes to mortgage lending. Since Mortgage Bankers are lenders, many of them service the loans they make, even though the actual loan is sold in the secondary market. Therefore, they would collect payments. The original intent of the statute was that if a Mortgage Broker who was licensed under 1322 collects a payment, they must also license under section 1321. Mortgage Bankers were only required to license under 1321 if they made second mortgages. Some examiners have interpreted the statute to mean that if a lender or broker licenses under section 1322, they can make all types of mortgage loans, both first and second liens. Some examiners have interpreted the statute to mean that if a lender collect the first payment, they must license under section 1321, even though they may be an exempt lender seller/servicer. Some lenders and brokers have been told during the examination process that they have the wrong license and may find themselves in a position of unknowingly engaging in unlicensed activity. Needless to say, the statute is confusing to the mortgage lending industry and examiners alike.

Under this legislation, all mortgage loans secured by residential real estate, both first and second liens, would fall under section 1322 of the Ohio Revised Code. Section 1321 would cover loan secured by collateral other than residential real estate and unsecured loans. Both Mortgage Bankers and Mortgage Brokers would license under section 1322, eliminating the Mortgage Banker exemption and giving examination and enforcement authority to the Department of Financial Institutions over all Mortgage Bankers and Mortgage Brokers.

I want to make it clear that it is not the intention of this bill to make changes to the requirements for lenders that make loans secured by collateral other than residential real estate and unsecured loans. Their requirements under Ohio law will remain in Section 1321 of the Ohio Revised Code. HB 199 merely moves all loans secured by residential real estate into one statute, Section 1322 of the O.R.C. A lender or mortgage broker company licensed under Section 1322 may only make loans secured by residential real estate. All other types of loans will fall under the requirements of section 1321.

To summarize, HB 199 does away with the mortgage banker exemption, insuring that the statute applies equally to all non-depository mortgage lenders and mortgage brokers. It moves all lending secured by residential real estate into one section of the Ohio Revised Code, section 1322. It enhances the Department of Financial Institution’s examination and enforcement authority over all non-depository mortgage lenders. It strengthens consumer protection. And, it creates a clear statute, easily understood by the industry, the Department, and consumers. This legislation will be good for the state of Ohio, the industry, and the consumers they both serve.