



OHIO MORTGAGE BANKERS ASSOCIATION

Chairman Hackett, Vice-Chairman Hottinger, Ranking Member Craig, and members of the Insurance and Financial Institutions Committee, good morning. My name is Jay Pascoe and I the Executive Director and COO of the Ohio Mortgage Bankers Association (OMBA). OMBA is a state-wide trade association representing the real estate finance industry. Our members consist mostly of independent mortgage banking companies, banks, and credit unions; all of whom are headquartered in Ohio or have a presence in Ohio and employ thousands of individuals across the state and the country. On their behalf, I am happy to be here today to testify in support of House Bill 150.

Our concern is the treatment, under current legislation, of the independent mortgage banking companies (referred to as mortgage bankers), regarding the payment of the Commercial Activities Tax (CAT). Under current legislation, a mortgage banker is treated very differently, and we feel unfairly, than banks, credit unions and mortgage brokers. Corrective language in H.B. 150 address an unforeseen issue that resulted in an unintended tax increase for mortgage bankers there were formerly paying the dealers in intangible tax (DIT) and are now required to pay the CAT.

Because mortgage bankers do not have depositors, the funds they lend in a real estate transaction are borrowed on a warehouse credit line. After the loan is made to a customer, the lender delivers that loan into the secondary market, and is paid by an investor for the future value of the interest collects and/or servicing income generated. When the loan is sold into the secondary market, the lender must repay the funds they borrowed from the warehouse credit line. Therefore, the gross profit of a mortgage bankers on any loan they make is the difference between the amount of the loan made to the consumer and the payment received from the investor. However, current statute fails to exempt the amount of the loan from the gross profits, which is different from the treatment of a mortgage broker's gross profit.

Example: A mortgage banker (the lender) borrows \$200,000 from their warehouse credit line to lend to a customer. After the loan closes, the lender delivers the loan into the secondary market and is paid \$206,000 by an investor. The first \$200,000 pays back the original loan amount the lender borrowed from their credit line, and the remaining \$6,000 is gross profit to the lender and the amount for which they should pay taxes. However, under the CAT, the mortgage banker is taxed on the full \$206,000, rather than the \$6,000 which truly represents their gross revenue. As a result of the current statute, mortgage bankers pay higher taxes than any other state.

In the exemption in the statute, section 5751.01 of the Ohio Revised Code, exempt from gross receipts for a mortgage broker are, “Funds received or used by a mortgage broker that is not dealer in intangibles, other than fees or other considerations, pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan.” In other words, a mortgage broker originating that same \$200,000 loan and earning a \$6,000 from a lender, is only taxed on the \$6,000.

Moving mortgage bankers into the Financial Institution Tax (FIT), which is how banks and credit unions are taxed, would not be the best option for the state of Ohio as the tax is asset based. As mortgage bankers do not have depositors, they do not hold the assets of a bank or credit union. Therefore, a large percentage of mortgage bankers would fall under the minimum tax due, making their tax liability only \$1,000. It is not our intent as an industry for mortgage bankers to avoid taxes; rather our intent is to make sure that mortgage bankers pay a fair tax.

Therefore, we are advocating in support of H.B.150 to keep mortgage bankers subject to the Commercial Activity Tax, while exempting the loan amount from the gross receipts. This would level the field and ensure that mortgage bankers pay a fair tax, truly based on their gross taxable revenue.

Thank you for the opportunity to comment and I am happy to answer any questions.