

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 423**

**Representatives Jones, Scherer**

**Cosponsors: Representatives Lang, Seitz**

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**A BILL**

To amend sections 1322.01 and 1322.04 of the 1  
Revised Code to revise the law regarding 2  
manufactured home financing. 3

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 1322.01 and 1322.04 of the 4  
Revised Code be amended to read as follows: 5

**Sec. 1322.01.** As used in this chapter: 6

(A) "Administrative or clerical tasks" mean the receipt, 7  
collection, and distribution of information common for the 8  
processing or underwriting of a loan in the mortgage industry, 9  
without performing any analysis of the information, and 10  
communication with a consumer to obtain information necessary 11  
for the processing or underwriting of a residential mortgage 12  
loan. 13

(B) "Advertising" means a commercial message in any medium 14  
that promotes, either directly or indirectly, a residential 15  
mortgage lending transaction. 16

(C) "Application" has the same meaning as in 12 C.F.R. 17

1026.2 (a) (3) .	18
(D) "Approved education course" means any course approved by the nationwide mortgage licensing system and registry.	19 20
(E) "Approved test provider" means any test provider approved by the nationwide mortgage licensing system and registry.	21 22 23
(F) "Borrower" means a person seeking a residential mortgage loan or an obligor on a residential mortgage loan.	24 25
(G) "Branch office" means a location at which a licensee conducts business other than a registrant's principal place of business, if at least one of the following applies to the location:	26 27 28 29
(1) The address of the location appears on business cards, stationery, or advertising used by the registrant;	30 31
(2) The registrant's name or advertising at the location suggests that mortgage transactions are made at the location;	32 33
(3) The location is held out to the public as a licensee's place of business due to the actions of an employee or independent contractor of the registrant; or	34 35 36
(4) The location within this state is controlled directly or indirectly by the registrant.	37 38
(H) "Buyer" means an individual who is solicited to purchase or who purchases the services of a mortgage loan originator for purposes of obtaining a residential mortgage loan. "Buyer" includes an individual whose mortgage loan is serviced by a mortgage servicer.	39 40 41 42 43
(I) "Consumer reporting agency" has the same meaning as in	44

the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 45  
1681a, as amended. 46

(J) "Control" means the power, directly or indirectly, to 47  
direct the management or policies of an entity, whether through 48  
ownership of securities, by contract, or otherwise. A person is 49  
presumed to control an entity if that person: 50

(1) Is a director, general partner, or executive officer 51  
or is an individual that occupies a similar position or performs 52  
a similar function; 53

(2) Directly or indirectly has the right to vote five per 54  
cent or more of a class of a voting security or has the power to 55  
sell or direct the sale of five per cent or more of a class of 56  
voting securities; 57

(3) In the case of a limited liability company, is a 58  
managing member; or 59

(4) In the case of a partnership, has the right to receive 60  
upon dissolution or has contributed five per cent or more of the 61  
capital. 62

(K) "Depository institution" has the same meaning as in 63  
section 3 of the "Federal Deposit Insurance Act," 12 U.S.C. 64  
1813(c), and also includes any credit union. 65

(L) "Dwelling" has the same meaning as in 15 U.S.C. 66  
1602(w). "Dwelling" includes a single condominium unit, 67  
cooperative unit, mobile home, and trailer, if it is used as a 68  
residence, whether or not that structure is attached to real 69  
property. 70

(M) "Employee" means an individual for whom a mortgage 71  
broker or mortgage lender, in addition to providing a wage or 72

salary, pays social security and unemployment taxes, provides 73  
workers' compensation coverage, and withholds local, state, and 74  
federal income taxes. "Employee" also includes any individual 75  
who acts as a mortgage loan originator or operations manager of 76  
a registrant, but for whom the registrant is prevented by law 77  
from making income tax withholdings. 78

(N) "Entity" means a business organization, including a 79  
sole proprietorship. 80

(O) "Expungement" means a court-ordered process that 81  
involves the destruction of documentation related to past 82  
arrests and convictions. 83

(P) "Federal banking agency" means the board of governors 84  
of the federal reserve system, the comptroller of the currency, 85  
the national credit union administration, or the federal deposit 86  
insurance corporation. 87

(Q) "Immediate family" means an individual's spouse, 88  
child, stepchild, parent, stepparent, grandparent, grandchild, 89  
brother, sister, parent-in-law, brother-in-law, or sister-in- 90  
law. 91

(R) "Independent contractor" means an individual who 92  
performs duties for another person and is not subject to that 93  
person's supervision or control. 94

(S) "Individual" means a natural person. 95

(T) "Licensee" means any individual who has been issued a 96  
mortgage loan originator license under this chapter. 97

(U) "Loan commitment" means a statement transmitted in 98  
writing or electronically by a mortgage lender setting forth the 99  
terms and conditions upon which the mortgage lender is willing 100

to make a particular residential mortgage loan to a particular 101  
borrower. 102

(V) "Loan processor or underwriter" means an individual 103  
who, with respect to the origination of a residential mortgage 104  
loan, performs administrative or clerical tasks as an employee 105  
at the direction of and subject to the supervision of a mortgage 106  
lender or mortgage broker. For purposes of this division, 107  
"origination of a residential mortgage loan" means all 108  
activities related to a residential mortgage loan, from the 109  
taking of a loan application through the completion of all 110  
required loan closing documents and the funding of the loan. 111

(W) "Mortgage" means the consensual interest in real 112  
property located in this state, including improvements to that 113  
property, securing a debt evidence by a mortgage, trust 114  
indenture, deed of trust, or other lien on real property. 115

(X) "Mortgage broker" means an entity that obtains, 116  
attempts to obtain, or assists in obtaining a mortgage loan for 117  
a borrower from a mortgage lender in return for consideration or 118  
in anticipation of consideration. For purposes of this division, 119  
"attempting to obtain or assisting in obtaining" a mortgage loan 120  
includes referring a borrower to a mortgage lender, soliciting 121  
or offering to solicit a mortgage loan on behalf of a borrower, 122  
or negotiating or offering to negotiate the terms or conditions 123  
of a mortgage loan with a mortgage lender on behalf of a 124  
borrower. 125

(Y) "Mortgage lender" means an entity that consummates a 126  
residential mortgage loan, advances funds, offers to advance 127  
funds, or commits to advancing funds for a residential mortgage 128  
loan applicant. 129

(Z) (1) "Mortgage loan originator" means an individual who	130
for compensation or gain, or in the expectation of compensation	131
or gain, does any of the following:	132
(a) Takes a residential mortgage loan application;	133
(b) Assists or offers to assist a buyer in obtaining or	134
applying to obtain a residential mortgage loan by, among other	135
things, advising on loan terms, including rates, fees, and other	136
costs;	137
(c) Offers or negotiates terms of a residential mortgage	138
loan;	139
(d) Issues or offers to issue a commitment for a	140
residential mortgage loan to a buyer.	141
(2) "Mortgage loan originator" does not include any of the	142
following:	143
(a) An individual who performs purely administrative or	144
clerical tasks on behalf of a mortgage loan originator;	145
(b) A person licensed under Chapter 4735. of the Revised	146
Code, or under the similar law of another state, who performs	147
only real estate brokerage activities permitted by that license,	148
provided the person is not compensated by a mortgage lender,	149
mortgage broker, mortgage loan originator, or by any agent	150
thereof;	151
(c) A person solely involved in extensions of credit	152
relating to timeshare plans, as that term is defined in 11	153
U.S.C. 101;	154
(d) An employee of a mortgage lender or mortgage broker	155
who acts solely as a loan processor or underwriter and who does	156
not represent to the public, through advertising or other means	157

of communicating, including the use of business cards, 158  
stationery, brochures, signs, rate lists, or other promotional 159  
items, that the employee can or will perform any of the 160  
activities of a mortgage loan originator; 161

(e) A licensed attorney who negotiates the terms of a 162  
residential mortgage loan on behalf of a client as an ancillary 163  
matter to the attorney's representation of the client, unless 164  
the attorney is compensated by a mortgage lender, a mortgage 165  
broker, or another mortgage loan originator, or by any agent 166  
thereof; 167

(f) Any person engaged in the retail sale of manufactured 168  
homes, mobile homes, or industrialized units, including a 169  
manufactured home park operator, if, in connection with 170  
financing those retail sales, the person ~~only assists the~~ 171  
~~borrower by providing or transmitting the loan application and~~ 172  
does not do any of the following: 173

(i) Offer or negotiate the residential mortgage loan rates 174  
or terms; 175

(ii) ~~Provide any counseling with borrowers about~~ 176  
~~residential mortgage loan rates or terms~~ Fail to give a borrower 177  
written disclosure of any corporate affiliation the person has 178  
with any lender, or fail to refer a borrower to at least one 179  
unaffiliated lender if the person recommends a lender with which 180  
the person has a corporate affiliation; 181

(iii) Receive any ~~payment~~ compensation or fee gain from 182  
any company or individual, that is in excess of any compensation 183  
or gain received in a comparable cash transaction, for assisting 184  
the borrower obtain or apply for financing to purchase the 185  
manufactured home, mobile home, or industrialized unit; 186

~~(iv) Assist the borrower in completing a residential mortgage loan application.~~ 187  
188

(g) An individual employed by a nonprofit organization 189  
that is recognized as tax exempt under 26 U.S.C. 501(c)(3) and 190  
whose primary activity is the construction, remodeling, or 191  
rehabilitation of homes for use by low-income families, provided 192  
that the nonprofit organization makes no-profit mortgage loans 193  
or mortgage loans at zero per cent interest to low-income 194  
families and no fees accrue directly to the nonprofit 195  
organization or individual employed by the nonprofit 196  
organization from those mortgage loans and that the United 197  
States department of housing and urban development does not deny 198  
this exemption. 199

(AA) "Mortgage servicer" means an entity that, for itself 200  
or on behalf of the holder of a mortgage loan, holds the 201  
servicing rights, records mortgage payments on its books, or 202  
performs other functions to carry out the mortgage holder's 203  
obligations or rights under the mortgage agreement including, 204  
when applicable, the receipt of funds from the mortgagor to be 205  
held in escrow for payment of real estate taxes and insurance 206  
premiums and the distribution of such funds to the taxing 207  
authority and insurance company. 208

(BB) "Nationwide mortgage licensing system and registry" 209  
means a licensing system developed and maintained by the 210  
conference of state bank supervisors and the American 211  
association of residential mortgage regulators, or their 212  
successor entities, for the licensing and registration of 213  
persons providing non-depository financial services. 214

(CC) "Nontraditional mortgage product" means any mortgage 215  
product other than a thirty-year fixed rate mortgage. 216

(DD) "Person" means an individual, sole proprietorship, 217  
corporation, company, limited liability company, partnership, 218  
limited liability partnership, trust, or association. 219

(EE) "Real estate brokerage activity" means any activity 220  
that involves offering or providing real estate brokerage 221  
services to the public, including all of the following: 222

(1) Acting as a real estate salesperson or real estate 223  
broker for a buyer, seller, lessor, or lessee of real property; 224

(2) Bringing together parties interested in the sale, 225  
purchase, lease, rental, or exchange of real property; 226

(3) Negotiating, on behalf of any party, any portion of a 227  
contract relating to the sale, purchase, lease, rental, or 228  
exchange of real property, other than in connection with 229  
providing financing for any such transaction; 230

(4) Engaging in any activity for which a person engaged in 231  
that activity is required to be licensed as a real estate 232  
salesperson or real estate broker under the law of this state; 233

(5) Offering to engage in any activity, or to act in any 234  
capacity, described in division (EE) of this section. 235

(FF) "Registered mortgage loan originator" means an 236  
individual to whom both of the following apply: 237

(1) The individual is a mortgage loan originator and an 238  
employee of a depository institution, a subsidiary that is owned 239  
and controlled by a depository institution and regulated by a 240  
federal banking agency, or an institution regulated by the farm 241  
credit administration. 242

(2) The individual is registered with, and maintains a 243  
unique identifier through, the nationwide mortgage licensing 244

system and registry.	245
(GG) "Registrant" means any person that has been issued a certificate of registration under this chapter.	246 247
(HH) "Residential mortgage loan" means any loan that meets both of the following requirements:	248 249
(1) It is primarily for personal, family, or household use and is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real estate located in Ohio.	250 251 252 253
(2) It is provided and secured by a first lien holder secured creditor or by a second lien holder secured creditor.	254 255
(II) "Residential real estate" means any real property located in this state upon which is constructed a dwelling or upon which a dwelling is intended to be built within a two-year period, subject to 24 C.F.R. 3500.5(b)(4). For purposes of this division, a borrower's intent to build a dwelling within a two-year period is presumed unless the borrower has submitted a written, signed statement to the contrary.	256 257 258 259 260 261 262
(JJ) "Superintendent of financial institutions" includes the deputy superintendent for consumer finance as provided in section 1181.21 of the Revised Code.	263 264 265
(KK) "Unique identifier" means a number or other identifier assigned by protocols established by the nationwide mortgage licensing system and registry.	266 267 268
<b>Sec. 1322.04.</b> This chapter does not apply to any of the following:	269 270
(A) Any entity chartered and lawfully doing business under the authority of any law of this state, another state, or the	271 272

United States as a bank, savings bank, trust company, savings 273  
and loan association, or credit union, or a subsidiary of any 274  
such entity, which subsidiary is regulated by a federal banking 275  
agency and is owned and controlled by a depository institution; 276

(B) A consumer reporting agency that is in substantial 277  
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 278  
15 U.S.C. 1681a, as amended; 279

(C) Any political subdivision, or any governmental or 280  
other public entity, corporation, instrumentality, or agency, in 281  
or of the United States or any state; 282

(D) A college or university, or controlled entity of a 283  
college or university, as those terms are defined in section 284  
1713.05 of the Revised Code; 285

(E) Any entity created solely for the purpose of 286  
securitizing loans secured by an interest in real estate, 287  
~~provide~~ provided the entity does not service the loans. As used 288  
in this division, "securitizing" means the packaging and sale of 289  
mortgage loans as a unit for sale as investment securities, but 290  
only to the extent of those activities. 291

(F) Any person engaged in the retail sale of manufactured 292  
homes, mobile homes, or industrialized units, including a 293  
manufactured home operator, if, in connection with obtaining 294  
financing by others for those retail sales, the person ~~only~~ 295  
~~assists the borrower by providing or transmitting the loan~~ 296  
~~application and~~ does not do any of the following: 297

(1) Offer or negotiate the residential mortgage loan rates 298  
or terms; 299

(2) ~~Provide any counseling with borrowers about~~ 300  
~~residential mortgage loan rates or terms~~ Fail to give a borrower 301

written disclosure of any corporate affiliation the person has 302  
with any lender, or fail to refer a borrower to at least one 303  
unaffiliated lender if the person recommends a lender with which 304  
the person has a corporate affiliation; 305

(3) Receive any ~~payment~~ compensation or fee ~~gain~~ from any 306  
company or individual, that is in excess of any compensation or 307  
gain received in a comparable cash transaction, for assisting 308  
the borrower to obtain or apply for financing to purchase the 309  
manufactured home, mobile home, or industrialized unit. 310

~~(4) Assist the borrower in completing the residential~~ 311  
~~mortgage loan application.~~ 312

(G) A bona fide nonprofit organization that is recognized 313  
as tax exempt under 26 U.S.C. 501(c) (3) and whose primary 314  
activity is the construction, remodeling, or rehabilitation of 315  
homes for use by low-income families, provided that the 316  
organization makes no-profit mortgage loans or mortgage loans at 317  
zero per cent interest to low-income families and no fees accrue 318  
directly to the organization from those mortgage loans and that 319  
the United States department of housing and urban development 320  
does not deny this exemption; 321

(H) A credit union service organization, provided that the 322  
organization utilizes services provided by registered mortgage 323  
loan originators or that it holds a valid letter of exemption 324  
issued by the superintendent of financial institutions under 325  
division (B) (1) of section 1322.05 of the Revised Code. 326

(I) A depository institution not otherwise required to be 327  
licensed under this chapter that voluntarily makes a filing on 328  
the nationwide mortgage licensing system and registry as an 329  
exempt entity for the purpose of licensing loan originators 330

exclusively associated with the institution and that holds a 331  
valid letter of exemption issued by the superintendent pursuant 332  
to division (B) (1) of section 1322.05 of the Revised Code. 333

**Section 2.** That existing sections 1322.01 and 1322.04 of 334  
the Revised Code are hereby repealed. 335