

Ohio Publishes Clarifying Guidance on Application of HB 199 and New Residential Mortgage Lending Act

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On January 26, 2018, we published a [Consumer Financial Services Alert on Ohio House Bill 199 \(HB 199\)](#), which overhauled Ohio's mortgage licensing and lending law and created the Residential Mortgage Lending Act (RMLA), effective March 23, 2018.

As discussed in that alert, the purpose of the RMLA was to regulate and license residential mortgage brokering and all non-depository lending secured by real estate or a dwelling. HB 199 also removed residential mortgage lending from the purview of the Ohio Mortgage Loan Act (OMLA), renamed the OMLA to the Ohio General Loan Law (GLL), and limited its application to unsecured loans and loans secured by personal property, other than a dwelling.

On March 13, 2018, the Ohio Division of Financial Institutions (DFI) published "Ohio Residential Mortgage Lending Act H.B. 199 Implementation Guidance" (the Implementation Guidance). The Implementation Guidance was published to provide additional assistance to existing licensees and registrants in the application of HB 199 and to address frequently asked questions received by the DFI.

The Implementation Guidance addresses, among other things, the impact that HB 199 has on current licensees or registrants under the OMLA or the Ohio Mortgage Broker Act (OMBA). Companies with an active registration or letter of exemption issued by the DFI on or before the effective date of HB 199 will continue to be registered and able to do business under the new law until the end of 2018 without any additional filing or action required. The Implementation Guidance notes, however, that while the company's Ohio registration number and NMLS ID will remain the same, the name of the company's registration will change in accordance with the effective date of HB 199. To provide companies with flexibility, the Implementation Guidance states that the DFI will not sanction the use of prior Ohio license, registration or exemption numbers on advertising until after January 1, 2020, provided the company is otherwise in compliance with Ohio law.

Companies that hold a Mortgage-Broker Mortgage-Banker Letter of Exemption may continue operation in Ohio through the end of 2018. On March 23, 2018, the DFI will automatically change the name of this exemption to an RMLA Certificate of Registration. Upon their 2019 renewal, the Implementation Guidance explains that these

companies must meet all requirements of the RMLA because the mortgage-broker mortgage-banker exemption no longer exists.

Although companies and individuals may continue to operate under their current registration or license until the end of 2018, the Interpretive Guidance clarifies that the RMLA applies to loans made on March 23, 2018, and thereafter.

The Implementation Guidance also discusses the potential inconsistency between the revised RMLA and GLL and the administrative code, as discussed in our earlier alert. The Implementation Guidance explains that, in the event a statute and the administrative code conflict, the statute is determinative. The DFI cautions that legal counsel for regulated companies should carefully review HB 199 for changes to legal requirements that may conflict with Ohio's administrative code. The DFI will eventually need to revise the administrative code to conform to the changes made by HB 199 to eliminate any inconsistencies.

Despite the Ohio Legislative Commission's Bill Analysis and the Committee Report for HB 199, which indicated that the RMLA required registrants to have an office in Ohio, the DFI is taking the position that changes to the relevant statutory language made by HB 199 were intended to eliminate Ohio's in-state office requirement for registered mortgage brokers. Ultimately, this position benefits out-of-state brokers and lenders seeking to register in Ohio, as it eliminates an in-state, brick and mortar location, which is required for mortgage brokers currently registered under the OMBA and clarifies that the DFI will not require an in-state office for lenders transitioning to a registration under the new RMLA.

As a reminder, HB 199 becomes effective on March 23, 2018. You can view the entirety of the [Implementation Guidance here](#).

Please reach out to the authors of this alert or another member of the firm's Consumer Financial Services Compliance team with any questions regarding this alert.

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Jeffrey Barringer

Kelly Lipinski