



Financial Services & Products ADVISORY ■

MARCH 12, 2019

Ohio Will Require Registration for Passive Secondary Market Investors in Ohio Mortgage Servicing Rights

With recent amendments to the [Ohio Residential Mortgage Lending Act](#) (RMLA), Ohio joins the growing number of states that are requiring passive secondary market investors in MSR's to be licensed or registered as mortgage servicers even though they will not actually perform any direct servicing activities or consumer-facing functions.

The RMLA amendments state that "[n]o person, on the person's own behalf or on behalf of any other person, shall act as a ... mortgage servicer ... without first having obtained a certificate of registration from the superintendent of financial institutions for the principal office and every branch office to be maintained by the person for the transaction of business as a ... mortgage servicer ... in [Ohio]." Significantly, the revised RMLA defines the term "mortgage servicer" to mean "an entity that, for itself or on behalf of the holder of a mortgage loan, holds the servicing rights, records mortgage payments on its books, or performs other functions to carry out the mortgage holder's obligations or rights under the mortgage agreement including, when applicable, the receipt of funds from the mortgagor to be held in escrow for payment of real estate taxes and insurance premiums and the distribution of such funds to the taxing authority and insurance company."

In response to industry inquiries, the Ohio Division of Financial Institutions agreed to provide further clarification in the form of Frequently Asked Questions on whether this registration requirement applies to passive secondary market investors in Ohio mortgage servicing rights (MSR's) either through the acquisition of whole Ohio residential mortgage loans on a servicing-released basis or the stand-alone MSR's. This is because the definition of mortgage servicer adopted by the Ohio legislature appeared to be broad enough to include such persons; however, the legislative history of the amendments (HB 489) suggested that the legislature intended for this registration requirement to apply only to entities that directly service Ohio residential mortgage loans, such as entities that purchase stand-alone Ohio MSR's on the secondary market for first-party collection purposes and third-party mortgage loan servicers.

As promised, the division released its answers to the industry's [Frequently Asked Questions](#) on February 22, 2019. The FAQs plainly state that "[a] company that holds mortgage servicing rights on its own behalf, but has determined to contract with another entity to service the loan, must still obtain a Certificate of Registration."

Industry participants should be aware that HB 489 takes effect on March 20, 2019, the ninety-first day after filing with the Ohio secretary of state. Accordingly, the division is encouraging those persons engaging in mortgage servicing to apply for Residential Mortgage Lending Act Certificates of Registration through the Nationwide Multistate Licensing System & Registry (NMLS) before March 20, 2019.

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