

AN ACT

To amend sections 135.77, 135.774, 1115.05, 1321.52, 1321.68, 1322.01, 1322.02, 1322.04, 1322.07, 1322.09, 1322.10, 1322.12, 1322.15, 1322.29, 1322.30, 1322.32, 1322.34, 1322.43, 1322.50, 1322.52, 1345.01, 1349.72, 2305.117, 2913.11, and 4712.05; to enact section 1319.17; and to repeal sections 1322.24, 1322.25, and 1349.16 of the Revised Code relating to commerce, to repeal the version of section 1322.24 of the Revised Code that is scheduled to take effect October 9, 2021, and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 135.77, 135.774, 1115.05, 1321.52, 1321.68, 1322.01, 1322.02, 1322.04, 1322.07, 1322.09, 1322.10, 1322.12, 1322.15, 1322.29, 1322.30, 1322.32, 1322.34, 1322.43, 1322.50, 1322.52, 1345.01, 1349.72, 2305.117, 2913.11, and 4712.05 be amended and section 1319.17 of the Revised Code be enacted to read as follows:

Sec. 135.77. As used in sections 135.77 to 135.774 of the Revised Code:

(A) "Business linked deposit" means ~~share certificates issued by an eligible lending institution that are purchased by the treasurer of state in accordance with sections 135.772 to 135.774 of the Revised Code~~ a certificate of deposit or other financial institution instrument placed by the treasurer of state with an eligible lending institution at a rate below current market rates, as determined and calculated by the treasurer of state, provided the institution agrees to lend the value of such deposit, according to the deposit agreement provided in section 135.773 of the Revised Code, to eligible small businesses at a rate that reflects an equal percentage rate reduction below the present borrowing rate applicable to each specific business at the time of the deposit of state funds in the institution.

(B) "Eligible lending institution" means a federal credit union, a foreign credit union licensed pursuant to section 1733.39 of the Revised Code, or a credit union as defined in section 1733.01 of the Revised Code, located in this state.

(C) "Eligible small business" means any person that has all of the following characteristics:

- (1) Is domiciled in this state;
- (2) Maintains offices and operating facilities exclusively in this state and transacts business in this state;
- (3) Employs fewer than one hundred fifty employees, the majority of whom are residents of this state;
- (4) Is organized for profit;
- (5) Is able to save or create one full-time job or two part-time jobs in this state for every fifty thousand dollars borrowed.

(D) "Full-time job" means a job with regular hours of service totaling at least forty hours per week or any other standard of service accepted as full-time by the employee's employer.

(E) "Loan" means a contractual agreement under which an eligible lending institution agrees to lend money in the form of an upfront lump sum, a line of credit, or any other reasonable arrangement approved by the treasurer of state.

(F) "Part-time job" means a job with regular hours of service totaling fewer than forty hours per week or any other standard of service accepted as part-time by the employee's employer.

Sec. 135.774. (A) Upon the placement of a business linked deposit with an eligible lending institution, such institution is required to lend such funds to each approved eligible small business listed in the linked deposit loan package required by section 135.772 of the Revised Code and in accordance with the deposit agreement required by section 135.773 of the Revised Code. ~~The loan shall be at a rate that reflects the following percentage rate reduction below the present borrowing rate applicable to each eligible small business:~~

~~(1) Three per cent if the present borrowing rate is greater than five per cent;~~

~~(2) Two and one-tenth per cent if the present borrowing rate is equal to or less than five per cent.~~

~~A certification of compliance with this section in the form and manner as prescribed by the treasurer of state shall be required of the eligible lending institution.~~

(B) The treasurer of state shall take any and all steps necessary to implement the business linked deposit program and monitor compliance of eligible lending institutions and eligible small businesses, including the development of guidelines as necessary.

(C) The state and the treasurer of state are not liable to any eligible lending institution in any manner for payment of the principal or interest on the loan to an eligible small business. Any delay in payments or default on the part of an eligible small business does not in any manner affect the deposit agreement between the eligible lending institution and the treasurer of state.

Sec. 1115.05. (A) As used in this section:

(1) "Acquire" or "acquisition" means any of the following transactions or actions:

(a) A merger or consolidation with, or purchase of assets from, a bank holding company that has acquired an Ohio bank;

(b) The acquisition of the direct or indirect ownership or control of voting shares of an Ohio bank if, after the acquisition, the acquiring bank holding company will directly or indirectly own or control the Ohio bank, unless the superintendent of financial institutions determines, in the superintendent's discretion, due to the nature of the acquisition, it should not be subject to the limitations of this section;

(c) The merger or consolidation of an Ohio bank with, or the transfer of assets from an Ohio bank to, another bank, whether previously existing or chartered for the purpose of the transaction;

(d) Any other action that results in the direct or indirect control of an Ohio bank.

(2) "Ohio bank" means a state bank or a national bank whose principal place of business is in this state.

(B) Subject to division (C) of this section, a ~~bank or~~ bank holding company, federal savings association, or savings and loan holding company whose principal place of business is in this state or any other state may charter or otherwise acquire an Ohio bank, and a bank may acquire banking

offices in this state by merger or consolidation with or transfer of assets and liabilities from a bank, savings bank, or savings association that has offices in this state, if, upon consummation of the acquisition, both of the following will apply:

(1) The acquiring bank ~~with, or the acquiring, bank holding company through, federal savings association, or savings and loan holding company, with or through~~ its affiliate banks, savings banks, and savings associations, does not control more than ten per cent of the total deposits of banks, savings banks, and savings associations in the United States, and either of the following applies:

(a) The acquiring bank ~~with, or the, acquiring bank holding company through, federal savings association, or savings and loan holding company, with or through~~ its affiliate banks, savings banks, and savings associations, does not control more than thirty per cent of the total deposits of banks, savings banks, and savings associations in this state.

(b) The acquiring bank ~~with, or the, acquiring bank holding company through, federal savings association, or savings and loan holding company, with or through~~ its affiliate banks, savings banks, and savings associations, controls more than thirty per cent of the total deposits of banks, savings banks, and savings associations in this state, and the superintendent approved the acquisition after determining the anticompetitive effects of the acquisition were clearly outweighed in the public interest by the probable effect of the transaction.

(2) Except in the case of a foreign bank subject to Chapter 1119. of the Revised Code or a bank that by the terms of its articles of incorporation or association is not permitted to solicit or accept deposits other than trust funds, the Ohio bank or any bank that has banking offices in this state will be an insured bank as defined in section 3(h) of the "Federal Deposit Insurance Act," 92 Stat. 614 (1978), 12 U.S.C.A. 1813(h).

(C)(1) Any bank holding company proposing to charter a state bank under this section shall comply with Chapter 1113. or 1114. of the Revised Code and any rules adopted to implement that chapter.

(2) If, after the proposed acquisition, the acquiring bank or bank holding company will control an existing state bank the acquiring bank or bank holding company did not control before the acquisition, and the acquisition does not include the merger or consolidation of the existing state bank with another bank, the acquiring bank or bank holding company shall comply with section 1115.06 of the Revised Code and any rules adopted to implement that section.

(3) If the proposed acquisition will be accomplished by means of a merger or consolidation with a state bank and the resulting bank of the merger or consolidation will be a state bank, the state bank shall comply with section 1115.11 of the Revised Code and any rules adopted to implement that section.

(4) If the proposed acquisition will be accomplished by means of a transfer of assets and liabilities to a state bank, the state bank shall comply with section 1115.14 of the Revised Code and any rules adopted to implement that section.

(5) If the proposed acquisition will be accomplished by forming a bank to which the bank to be acquired will transfer assets and liabilities, or with which the bank to be acquired will be merged or consolidated and the resulting bank will be a state bank, the acquiring bank holding company shall comply with section 1115.23 of the Revised Code and any rules adopted to implement that section.

Sec. 1319.17. (A) As used in this section:

(1) "Business" means a sole proprietorship, partnership, corporation, limited liability company, or other commercial entity, whether for profit or not for profit.

(2) "Commercial credit report" means any report provided to a business for a legitimate business purpose, relating to the financial status or payment habits of a business that is the subject of the report. "Commercial credit report" does not include any of the following:

(a) A report prepared for commercial insurance underwriting, claims, or auditing purposes;

(b) A report containing information related to transactions or experiences between the subject and the person making the report;

(c) An authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;

(d) Any report in which a person that has been requested by a third party to make a specific extension of credit directly or indirectly to the subject conveys its decision with respect to that request.

(3) "Commercial credit reporting agency" means any person or entity that regularly engages in the practice of compiling and maintaining commercial credit reports on a business operating in this state for the purpose of providing commercial credit reports and, for monetary fees, dues, or on a cooperative nonprofit basis, provides such commercial credit reports on a business operating in this state to third parties.

"Commercial credit reporting agency" does not include a person or entity that does not maintain a database of commercial credit reports from which new commercial credit reports are produced.

(4) "Subject" means the business operating in this state about which a commercial credit report has been compiled.

(B) Upon the request of a representative of the subject of a commercial credit report, a commercial credit reporting agency shall provide the subject's commercial credit report. The report shall be provided to the subject at a cost not greater than what is charged to third parties and may be printed or in electronic form. The report shall be in a format routinely made available to third parties. A commercial credit reporting agency may protect the identity of sources of information to be used in commercial credit reports.

(C) Within thirty days after receipt of a commercial credit report, a representative of the subject of the report may file with the commercial credit reporting agency a written summary statement identifying each particular statement in the report that the subject of the report believes contains an inaccurate statement of fact and indicating the nature of the disagreement with the statement. Within thirty days after receipt of a subject's summary statement of disagreement, the commercial credit reporting agency at no cost to the subject shall do either of the following:

(1) Delete the disputed statement of fact from the report and, thereafter, block any repeat reporting of that disputed statement unless its accuracy has been verified;

(2) Include in the report a notice of the subject's assertion that the statement of fact is inaccurate.

(D) Nothing in this section shall be construed to provide a private right of action, including a class action, with respect to any act or practice regulated under this section.

Sec. 1321.52. (A)(1) A registrant may make loans, other than a residential mortgage loan as defined in section 1322.01 of the Revised Code, on terms and conditions provided by sections 1321.51 to 1321.60 of the Revised Code.

(2) Each person issued a certificate of registration is subject to all the rules prescribed under sections 1321.51 to 1321.60 of the Revised Code.

(B)(1) All loans made to persons who at the time are residents of this state are considered as made within this state and subject to the laws of this state, regardless of any statement in the contract or note to the contrary, except if the loan is for the purpose of purchasing goods acquired by the borrower when the borrower is outside of this state, the loan may be governed by the laws of the other state.

(2) Nothing in division (B)(1) of this section prevents a choice of law or requires registration of persons outside of this state in a transaction involving the solicitation of residents of this state to obtain non-real estate secured loans that require the borrowers to physically visit a lender's out-of-state office to apply for and obtain the disbursement of loan funds.

(C) A registrant may make unsecured loans and loans secured by other than residential real estate or a dwelling as those terms are defined in section 1322.01 of the Revised Code.

(D) For the purpose of registering persons under and requiring compliance with sections 1321.51 to 1321.60 of the Revised Code, the superintendent may do any of the following:

(1) Require any person registered under or applying for registration under these sections to do both of the following:

(a) Utilize the national multistate licensing system for application, renewal, amendment, or surrender of a license or for any other activity as the superintendent may require;

(b) Pay all applicable charges to utilize the national multistate licensing system.

(2) Establish requirements as necessary for the use of the national multistate licensing system to meet the purposes of these sections, including:

(a) Background checks for:

(i) Criminal history through fingerprint or other databases;

(ii) Civil or administrative records;

(iii) Credit history;

(iv) Any other information considered necessary by the national multistate licensing system or the superintendent.

(b) The payment of fees to apply for or renew licenses through the multistate licensing system;

(c) The setting or resetting of renewal or reporting dates;

(d) Requirements for amending or surrendering a license or any other such activities as the superintendent considers necessary for participation in the national multistate licensing system.

Sec. 1321.68. (A) A licensee may contract for and receive interest, calculated according to the actuarial method, at a rate or rates not exceeding twenty-five per cent per year on the unpaid principal balances of the loan. Loans may be interest-bearing or precomputed.

(B) For purposes of computation of time on interest-bearing and precomputed loans, including, but not limited to, the calculation of interest, a month is considered one-twelfth of a year, and a day is considered one three hundred sixty-fifth of a year when calculation is made for a fraction

of a month. A year is as defined in section 1.44 of the Revised Code. A month is that period described in section 1.45 of the Revised Code. Alternatively, a licensee may consider a day as one three hundred sixtieth of a year and each month as having thirty days.

(C) With respect to interest-bearing loans:

(1)(a) Interest shall be computed on unpaid principal balances outstanding from time to time, for the time outstanding.

(b) As an alternative to the method of computing interest set forth in division (C)(1)(a) of this section, a licensee may charge and collect interest for the first installment period based on elapsed time from the date of the loan to the first scheduled payment due date, and for each succeeding installment period from the scheduled payment due date to the next scheduled payment due date, regardless of the date or dates the payments are actually made.

(c) Whether a licensee computes interest pursuant to division (C)(1)(a) or (b) of this section, each payment shall be applied first to unpaid charges, then to interest, and the remainder to the unpaid principal balance. However, if the amount of the payment is insufficient to pay the accumulated interest, the unpaid interest continues to accumulate to be paid from the proceeds of subsequent payments and is not added to the principal balance.

(2) Interest shall not be compounded, collected, or paid in advance. However, both of the following apply:

(a) Interest may be charged to extend the first monthly installment period by not more than fifteen days, and the interest charged for the extension may be added to the principal amount of the loan.

(b) If part or all of the consideration for a new loan contract is the unpaid principal balance of a prior loan, the principal amount payable under the new loan contract may include any unpaid interest that has accrued. The resulting loan contract shall be deemed a new and separate loan transaction for purposes of this section. The unpaid principal balance of a precomputed loan is the balance due after refund or credit of unearned interest as provided in division (D)(3) of this section.

(D) With respect to precomputed loans:

(1) Loans shall be repayable in monthly installments of principal and interest combined, except that:

(a) The first installment period may exceed one month by not more than fifteen days, and the first installment payment amount may be larger than the remaining payments by the amount of interest charged for the extra days.

(b) Monthly installment payment dates may be omitted to accommodate borrowers with seasonal income.

(2) Payments may be applied to the combined total of principal and precomputed interest until maturity of the loan. A licensee may charge interest after the original or deferred maturity of a precomputed loan at the rate specified in division (A) of this section on all unpaid principal balances for the time outstanding.

(3) When any loan contract is paid in full by cash, renewal, refinancing, or a new loan, one month or more before the final installment due date, the licensee shall refund, or credit the borrower with, the total of the applicable charges for all fully unexpired installment periods, as originally scheduled or as deferred, that follow the day of prepayment. If the prepayment is made other than on

a scheduled installment due date, the nearest scheduled installment due date shall be used in such computation. If the prepayment occurs prior to the first installment due date, the licensee may retain one-thirtieth of the applicable charge for a first installment period of one month for each day from date of loan to date of prepayment, and shall refund, or credit the borrower with, the balance of the total interest contracted for. If the maturity of the loan is accelerated for any reason and judgment is entered, the licensee shall credit the borrower with the same refund as if prepayment in full had been made on the date the judgment is entered.

(4) If the parties agree in writing, either in the loan contract or in a subsequent agreement, to a deferment of wholly unpaid installments, a licensee may grant a deferment and may collect a deferment charge as provided in this section. A deferment postpones the scheduled due date of the earliest unpaid installment and all subsequent installments as originally scheduled, or as previously deferred, for a period equal to the deferment period. The deferment period is that period during which no installment is scheduled to be paid by reason of the deferment. The deferment charge for a one-month period may not exceed the applicable charge for the installment period immediately following the due date of the last undeferred installment. A proportionate charge may be made for deferment for periods of more or less than one month. A deferment charge is earned pro rata during the deferment period and is fully earned on the last day of the deferment period. If a loan is prepaid in full during a deferment period, the licensee shall make, or credit to the borrower, a refund of the unearned deferment charge in addition to any other refund or credit made for prepayment of the loan in full.

(E) A licensee, at the request of the borrower, may obtain, on one or more borrowers, credit life insurance, credit accident and health insurance, and unemployment insurance. The premium or identifiable charge for the insurance may be included in the principal amount of the loan and may not exceed the premium rate filed by the insurer with the superintendent of insurance and not disapproved by the superintendent. If a licensee obtains the insurance at the request of the borrower, the borrower shall have the right to cancel the insurance for a period of twenty-five days after the loan is made. If the borrower chooses to cancel the insurance, the borrower shall give the licensee written notice of this choice and shall return all of the policies or certificates of insurance or notices of proposed insurance to the licensee during such period, and the full premium or identifiable charge for the insurance shall be refunded to the borrower by the licensee. If the borrower requests, in the notice to cancel the insurance, that this refund be applied to reduce the balance of a precomputed loan, the licensee shall credit the amount of the refund plus the amount of interest applicable to the refund to the loan balance. If the licensee obtains the insurance at the request of the borrower, the licensee shall not charge or collect interest on any insured amount that remains unpaid after the insured borrower's date of death.

(F) A licensee may require the borrower to provide insurance or a loss payable endorsement covering reasonable risks of loss, damage, and destruction of property used as security for the loan and with the consent of the borrower such insurance may cover property of the borrower other than that which is security for the loan. The amount and term of required property insurance shall be reasonable in relation to the amount and term of the loan contract and the type and value of the security, and the insurance shall be procured in accordance with the insurance laws of this state. The purchase of this insurance through the licensee or an agent or broker designated by the licensee shall not be a condition precedent to the granting of the loan. If the borrower purchases the insurance from

or through the licensee or from another source, the premium may be included in the principal amount of the loan.

(G)(1) In addition to the interest and charges provided for by this section, no further or other amount, whether in the form of broker fees, placement fees, or any other fees whatsoever, shall be charged or received by the licensee, except that:

(a) The licensee may charge and receive costs and disbursements in connection with any suit to collect a loan or any lawful activity to realize on a security interest after default, including reasonable attorney's fees incurred by the licensee as a result of the suit or activity and to which the licensee becomes entitled by law.

(b) The licensee may include the following additional charges in the principal amount of the loan or collect the following additional charges at any time after the loan is made:

(i) The amounts of fees authorized by law to record, file, or release security interests on a loan;

(ii) Fees received from borrowers to record, file, or release a security interest on a loan for purposes either of purchasing insurance to insure the licensee against losses for failure to record or file or creating a self-insurance fund to reimburse the licensee against losses for failure to record or file;

(iii) Fees for credit investigations not exceeding twenty-five dollars provided a licensee obtains a consumer report in connection with an application for a grant, extension, or other provision of credit to a consumer that is based in whole or in part on the consumer report.

(2) Division (G)(1) of this section does not limit the rights of licensees to engage in other transactions with borrowers, provided the transactions are not a condition of the loan. As used in this division, a transaction shall not be considered a "condition of the loan" if it meets both of the following conditions:

(a) It is not required for the extension of the credit.

(b) It is a charge that is not considered a "finance charge" pursuant to 12 C.F.R. 1026.4.

(H) If the loan contract or security instrument contains covenants by the borrower to perform certain duties pertaining to insuring or preserving security and the licensee pursuant to the loan contract or security instrument pays for performance of the duties on behalf of the borrower, the licensee may add the amounts paid to the unpaid principal balance of the loan or collect them separately. A charge for interest may be made for sums advanced not exceeding the rate of interest permitted by division (A) of this section. Within a reasonable time after advancing a sum, the licensee shall notify the borrower in writing of the amount advanced, any interest charged with respect to the amount advanced, and any revised payment schedule, and shall include a brief description of the reason for the advance.

(I)(1) In addition to any other permissible fees and charges, a licensee may charge and receive the following:

(a) If the principal amount of the loan is five hundred dollars or less, loan origination charges not exceeding fifteen dollars;

(b) If the principal amount of the loan is more than five hundred dollars but less than one thousand dollars, loan origination charges not exceeding thirty dollars;

(c) If the principal amount of the loan is at least one thousand dollars but less than two

thousand dollars, loan origination charges not exceeding one hundred dollars;

(d) If the principal amount of the loan is at least two thousand dollars but less than five thousand dollars, loan origination charges not exceeding two hundred dollars;

(e) If the principal amount of the loan is at least five thousand dollars, loan origination charges not exceeding the greater of two hundred fifty dollars or one per cent of the principal amount of the loan.

(2) Loan origination charges may be paid by the borrower at the time of the loan or may be included in the principal amount of the loan.

(J) A licensee may charge and receive check collection charges not greater than twenty dollars plus any amount passed on from other depository institutions for each check, negotiable order of withdrawal, share draft, or other negotiable instrument returned or dishonored for any reason.

(K) If the loan contract so provides, a licensee may collect a default charge on any installment not paid in full within ten days after its due date. For this purpose, all installments are considered paid in the order in which they become due. Any amounts applied to an outstanding loan balance as a result of voluntary release of a security interest, sale of security on the loan, or cancellation of insurance shall be considered payments on the loan, unless the parties otherwise agree in writing at the time the amounts are applied. A licensee shall not collect more than one default charge per unpaid installment regardless of the number of months the installment remains fully unpaid. The amount of the default charge shall not exceed the greater of five per cent of the scheduled installment or fifteen dollars.

Sec. 1322.01. As used in this chapter:

(A) "Administrative or clerical tasks" mean the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry, ~~without performing any analysis of the information,~~ and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan, to the extent the communication does not include offering or negotiating loan rates or terms or counseling borrows about residential mortgage loan rates or terms.

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

(C) "Application" has the same meaning as in 12 C.F.R. 1026.2(a)(3).

(D) "Approved education course" means any course approved by the nationwide mortgage licensing system and registry.

(E) "Approved test provider" means any test provider approved by the nationwide mortgage licensing system and registry.

(F) "Bona fide nonprofit organization" means an organization that meets all of the following:

(1) Has the status of a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

(2) Promotes affordable housing or provides homeownership education or similar services;

(3) Conducts its activities in a manner that serves public or charitable purposes, rather than commercial purposes;

(4) Receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interests of its clients;

(5) Compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients;

(6) Provides, or identifies for the borrower, residential mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs;

(7) Has obtained a valid letter of exemption from the superintendent of financial institutions.

(G) "Borrower" means a person seeking a residential mortgage loan or an obligor on a residential mortgage loan.

~~(G)~~(H) "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:

(1) The address of the location appears on business cards, stationery, or advertising used by the registrant;

(2) The registrant's name or advertising at the location suggests that mortgage transactions are made at the location;

(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

(4) The location within this state is controlled directly or indirectly by the registrant.

~~(H)~~(I) "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.

~~(I)~~(J) "Consumer reporting agency" has the same meaning as in the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as amended.

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

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

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

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

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

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

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

~~(M)~~(N) "Employee" means an individual for whom a mortgage broker ~~or~~ mortgage lender, or mortgage servicer, in addition to providing a wage or salary, pays social security and unemployment taxes, provides workers' compensation coverage, and withholds local, state, and federal income taxes. "Employee" also includes any individual who acts as a mortgage loan

originator or operations manager of a registrant, but for whom the registrant is prevented by law from making income tax withholdings.

~~(N)-(O)~~ "Entity" means a business organization, including a sole proprietorship.

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

~~(P)-(Q)~~ "Federal banking agency" means the board of governors of the federal reserve system, the comptroller of the currency, the national credit union administration, or the federal deposit insurance corporation.

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

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

~~(S)-(T)~~ "Individual" means a natural person.

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

~~(U)-(V)~~ "Loan commitment" means a statement transmitted in writing or electronically by a mortgage lender setting forth the terms and conditions upon which the mortgage lender is willing to make a particular residential mortgage loan to a particular borrower.

~~(V)-(W)~~ "Loan processor or underwriter" means an individual who, with respect to the origination of a residential mortgage loan, performs ~~administrative or clerical tasks as an employee at the direction of and subject to the supervision of a mortgage lender or mortgage broker.~~ For purposes of this division, "origination of a residential mortgage loan" means all activities related to a residential mortgage loan, from the taking of a loan application through the completion of all required loan closing documents and the funding of the loan any of the following activities at the direction or subject to the supervision of a licensed mortgage loan originator or registered mortgage loan originator:

(1) Receiving, collecting, distributing, or analyzing information common for the processing or underwriting of a residential mortgage loan;

(2) Communicating with a borrower to obtain the information necessary for the processing or underwriting of a loan, to the extent the communication does not include offering or negotiating loan rates or terms or counseling borrowers about residential mortgage loan rates or terms.

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

~~(X)-(Y)~~ "Mortgage broker" means an entity that for compensation or gain, or in the expectation of compensation or gain, obtains, attempts to obtain, or assists in obtaining a residential mortgage loan for a borrower from a mortgage lender ~~in return for consideration or in anticipation of consideration.~~ For purposes of this division, "attempting to obtain or assisting in obtaining" a residential mortgage loan includes referring a borrower to a mortgage lender, soliciting or offering to solicit a mortgage loan on behalf of a borrower, or negotiating or offering to negotiate the terms or conditions of a mortgage loan with a mortgage lender on behalf of a borrower.

~~(Y)-(Z)~~ "Mortgage lender" means an entity that for compensation or gain, or in the

~~expectation of compensation or gain consummates a residential mortgage loan, advances funds, offers to advance funds, or commits to advancing funds for a residential mortgage loan applicant/borrower.~~

~~(Z)(1)-(AA)(1)~~ "Mortgage loan originator" means an individual who for compensation or gain, or in the expectation of compensation or gain, does any of the following:

- (a) Takes a residential mortgage loan application;
- (b) Assists or offers to assist a buyer in obtaining or applying to obtain a residential mortgage loan by, among other things, advising on loan terms, including rates, fees, and other costs;
- (c) Offers or negotiates terms of a residential mortgage loan;
- (d) Issues or offers to issue a commitment for a residential mortgage loan to a buyer.

(2) "Mortgage loan originator" does not include any of the following:

- (a) An individual who performs purely administrative or clerical tasks on behalf of a mortgage loan originator;
- (b) A person licensed under Chapter 4735. of the Revised Code, or under the similar law of another state, who performs only real estate brokerage activities permitted by that license, provided the person is not compensated by a mortgage lender, mortgage broker, mortgage loan originator, or by any agent thereof;

(c) A person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. 101;

(d) An employee of a mortgage lender or mortgage broker who acts solely as a loan processor or underwriter and who does not represent to the public, through advertising or other means of communicating, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the employee can or will perform any of the activities of a mortgage loan originator;

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

(f) Any person engaged in the retail sale of manufactured homes, mobile homes, or industrialized units, including a manufactured home park operator, as defined in section 4781.01 of the Revised Code if, in connection with financing those retail sales, the person ~~only assists the borrower by providing or transmitting the loan application and~~ does not do any of the following:

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

(iii) Receive any ~~payment-compensation~~ or ~~fee-gain~~ from any company or individual for assisting the borrower obtain or apply for financing to purchase the manufactured home, mobile home, or industrialized unit;

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

(g) An individual employed by a bona fide nonprofit organization ~~that is recognized as tax~~

~~exempt under 26 U.S.C. 501(e)(3) and whose primary activity is the construction, remodeling, or rehabilitation of homes for use by low-income families, provided that the nonprofit organization makes no-profit mortgage loans or mortgage loans at zero per cent interest to low-income families and no fees accrue directly to the nonprofit organization or individual employed by the nonprofit organization from those mortgage loans and that the United States department of housing and urban development does not deny this exemption acting within the scope of employment with respect to residential mortgage loans with terms that are favorable to the borrower;~~

~~(h) An employee of a loan processing or underwriting company that provides loan processing or underwriting services to one or more mortgage lenders or mortgage brokers under a contract between the loan processing or underwriting company and the mortgage lenders or mortgage brokers, provided the employee performs only clerical or support duties and performs those duties only at the direction of and subject to the supervision and instruction of a licensed mortgage loan originator employee of the same loan processing and underwriting company, and provided that the loan processing and underwriting company has obtained a letter of exemption provided for in a rule adopted by the superintendent of financial institutions.~~

~~(AA)-(BB) "Mortgage servicer" means an entity a person that, for compensation or gain for itself or on behalf of the holder of a residential mortgage loan, holds the servicing rights for more than five residential mortgage loans, records mortgage payments on its books for more than five residential mortgage loans, or performs other functions to carry out the residential mortgage holder's obligations or rights under the mortgage agreement for more than five residential mortgage loans 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.~~

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

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

~~(DD)-(EE) "Person" means an individual, sole proprietorship, corporation, company, limited liability company, partnership, limited liability partnership, trust, or association.~~

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

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

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

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

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

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

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

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

(2) The individual is registered with, and maintains a unique identifier through, the nationwide mortgage licensing system and registry.

~~(GG)~~ ~~(HH)~~ "Registrant" means any person that has been issued a certificate of registration under this chapter.

~~(HH)~~ ~~(II)~~ "Residential mortgage loan" means any loan that meets both of the following requirements:

(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.

(2) It is provided and secured by a first lien holder secured creditor or by a ~~second subordinate~~ lien holder secured creditor.

~~(H)~~ ~~(JJ)~~ "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.

~~(JJ)~~ ~~(KK)~~ "Superintendent of financial institutions" includes the deputy superintendent for consumer finance as provided in section 1181.21 of the Revised Code.

~~(KK)~~ ~~(LL)~~ "Transaction of business as a mortgage lender, mortgage servicer, or mortgage broker in this state" means originating, brokering, or servicing five or more residential mortgage loans in any twelve-month period in any of the following circumstances:

(1) For any resident in this state;

(2) For any property in this state;

(3) By a person who is physically located in this state even if the property in question is in another state.

~~(MM)~~ "Unique identifier" means a number or other identifier assigned by protocols established by the nationwide mortgage licensing system and registry.

Sec. 1322.02. The superintendent of financial institutions may, by rule, amend the definition of mortgage loan originator, mortgage broker, ~~or mortgage lender, mortgage servicer, or any other definition~~ in section 1322.01 of the Revised Code, or the criteria for an entity to obtain a letter of exemption ~~under division (B)(1) of section 1322.05 of the Revised Code, or a registration or license, under this chapter~~, if the superintendent finds that the change is necessary to remain consistent with the purposes intended by the policy and provisions of the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.

Rules authorized by this section shall be adopted in accordance with Chapter 119. of the

Revised Code.

Sec. 1322.04. This chapter does not apply to any of the following:

(A) Any entity chartered and lawfully doing business under the authority of any law of this state, another state, or the United States as a bank, savings bank, trust company, savings and loan association, or credit union, or a subsidiary of any such entity, which subsidiary is regulated by a federal banking agency and is owned and controlled by a depository institution;

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

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

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

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

(F) Any person engaged in the retail sale of manufactured homes, mobile homes, or industrialized units, including a manufactured home park operator, as defined in section 4781.01 of the Revised Code, if, in connection with obtaining financing by others for those retail sales, the person ~~only assists the borrower by providing or transmitting the loan application and does not do~~ any of the following:

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

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

(3) Receive any ~~payment~~ compensation or fee ~~gain~~ from any company or individual for assisting the borrower to obtain or apply for financing to purchase the manufactured home, mobile home, or industrialized unit;

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

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

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

(I) A depository institution not otherwise required to be licensed under this chapter that voluntarily makes a filing on the nationwide mortgage licensing system and registry as an exempt

entity for the purpose of licensing loan originators exclusively associated with the institution and that holds a valid letter of exemption issued by the superintendent pursuant to division (B)(1) of section 1322.05 of the Revised Code.

Sec. 1322.07. (A)(1) No person, on the person's own behalf or on behalf of any other person, shall ~~act~~ engage in the transaction of business as a mortgage lender, mortgage servicer, or mortgage broker in this state 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 lender, mortgage servicer, or mortgage broker in this state. ~~A~~

~~(2) A~~ registrant shall maintain an office location for the transaction of business as a mortgage lender, mortgage servicer, or mortgage broker in this—any state of the United States. Registrants are not required to maintain a physical location in this state.

(B)(1) No individual shall act as a mortgage loan originator without first having obtained a license from the superintendent. A mortgage loan originator shall be employed by or associated with a ~~mortgage lender, mortgage broker, registrant~~ or entity holding a valid letter of exemption under ~~division (B)(1) of section 1322.05 of the Revised Code~~ this chapter, but shall not be employed by or associated with more than one registrant or entity holding a valid letter of exemption under ~~division (B)(1) of section 1322.05 of the Revised Code~~ this chapter at any one time.

(2) An individual acting under the individual's authority as a registered mortgage loan originator shall not be required to be licensed under division (B)(1) of this section.

~~(3) An individual who holds a valid temporary mortgage loan originator license issued pursuant to section 1322.24 of the Revised Code may engage in the business of a mortgage loan originator in accordance with this chapter during the term of the temporary license.~~

Sec. 1322.09. (A)(1) An application for a certificate of registration shall be in writing, under oath, and in a form prescribed by the superintendent of financial institutions that complies with the requirements of the nationwide mortgage licensing system and registry. The application shall be accompanied by a nonrefundable application fee of five hundred dollars for each location of an office to be maintained by the applicant in accordance with division (A) of section 1322.07 of the Revised Code and any additional fee required by the nationwide mortgage licensing system and registry.

(2) The application shall include the names and addresses of the owners, officers, or partners having control of the applicant, including all of the following:

- (a) In the case of a sole proprietor, the name and address of the sole proprietor;
- (b) In the case of a partnership, the name and address of each partner;
- (c) In the case of a corporation, the name and address of each shareholder owning five per cent or more of the corporation;
- (d) In the case of any other entity, the name and address of any person that owns five per cent or more of any entity that will transact business under the certificate of registration.

(3) In addition to any information required by this section, an applicant shall furnish to the superintendent any reasonable information the superintendent may require.

(B) Upon the filing of the application and payment of the nonrefundable application fee and any fee required by the nationwide mortgage licensing system and registry, the superintendent shall investigate the applicant and any individual whose identity is required to be disclosed in the

application. As part of that investigation, the superintendent shall conduct a civil records check.

If, in order to issue a certificate of registration to an applicant, additional investigation by the superintendent outside this state is necessary, the superintendent may require the applicant to advance sufficient funds to pay the actual expenses of the investigation, if it appears that these expenses will exceed five hundred dollars. The superintendent shall provide the applicant with an itemized statement of the actual expenses that the applicant is required to pay.

(C) In connection with applying for a certificate of registration, the applicant shall furnish to the nationwide mortgage licensing system and registry information concerning the applicant's identity, including all of the following for the applicant and any individual with control of the applicant:

(1) The applicant's fingerprints for submission to the federal bureau of investigation, and any other governmental agency or entity authorized to receive such information, for purposes of a state, national, and international criminal history background check;

(2) Personal history and experience in a form prescribed by the nationwide mortgage licensing system and registry, along with authorization for the superintendent and the nationwide mortgage licensing system and registry to obtain both of the following:

(a) An independent credit report from a consumer reporting agency;

(b) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(D) The superintendent shall pay all funds advanced and application and renewal fees and penalties the superintendent receives pursuant to this section and section 1322.10 of the Revised Code to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code.

(E) If an application for a certificate of registration does not contain all of the information required under this section, and if that information is not submitted to the superintendent or to the nationwide mortgage licensing system and registry within ninety days after the superintendent or the nationwide mortgage licensing system and registry requests the information in writing, including by electronic transmission or facsimile, the superintendent may consider the application withdrawn.

(F) A certificate of registration and the authority granted under that certificate is not transferable or assignable and cannot be franchised by contract or any other means.

(G)(1) The superintendent may establish relationships or enter into contracts with the nationwide mortgage licensing system and registry, or any entities designated by it, to collect and maintain records and process transaction fees or other fees related to mortgage lender, mortgage servicer, or mortgage broker certificates of registration or the persons associated with a mortgage lender, mortgage servicer, or mortgage broker.

(2) For purposes of this section and to reduce the points of contact that the federal bureau of investigation may have to maintain, the division of financial institutions may use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to the United States department of justice or other governmental agencies.

(3) For purposes of this section and to reduce the points of contact that the division may have to maintain, the division may use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to any source as

determined by the division.

Sec. 1322.10. (A) Upon the conclusion of the investigation required under division (B) of section 1322.09 of the Revised Code, the superintendent of financial institutions shall issue a certificate of registration to the applicant if the superintendent finds that the following conditions are met:

(1) The application is accompanied by the application fee and any fee required by the nationwide mortgage licensing system and registry.

(a) If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the applicant by certified mail, return receipt requested, that the application will be withdrawn unless the applicant, within thirty days after receipt of the notice, submits the application fee and a one-hundred-dollar penalty to the superintendent. If the applicant does not submit the application fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the application shall be withdrawn.

(b) If a check or other draft instrument is returned to the superintendent for insufficient funds after the certificate of registration has been issued, the superintendent shall notify the registrant by certified mail, return receipt requested, that the certificate of registration issued in reliance on the check or other draft instrument will be canceled unless the registrant, within thirty days after receipt of the notice, submits the application fee and a one-hundred-dollar penalty to the superintendent. If the registrant does not submit the application fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the certificate of registration shall be canceled immediately without a hearing, and the registrant shall cease activity as a mortgage broker, mortgage lender, or mortgage servicer.

(2) If the application is for a location that is a residence, evidence that the use of the residence to transact business as a mortgage lender ~~or~~ mortgage broker, or mortgage servicer is not prohibited.

(3) The applicant maintains all necessary filings and approvals required by the secretary of state.

(4) The applicant complies with the surety bond requirements of section 1322.32 of the Revised Code.

(5) The applicant has not made a material misstatement of fact or material omission of fact in the application.

(6) Neither the applicant nor any person whose identity is required to be disclosed on an application for a certificate of registration has had such a certificate of registration or mortgage loan originator license, or any comparable authority, revoked in any governmental jurisdiction or has pleaded guilty or nolo contendere to or been convicted of any of the following in a domestic, foreign, or military court:

(a) During the seven-year period immediately preceding the date of application for the certificate of registration, a misdemeanor involving theft or any felony;

(b) At any time prior to the date the application for the certificate of registration is approved, a felony involving an act of fraud, dishonesty, a breach of trust, theft, or money laundering.

(7) The applicant's operations manager successfully completed the examination required by section 1322.27 of the Revised Code.

(8) The applicant's financial responsibility, experience, character, and general fitness command the confidence of the public and warrant the belief that the business will be operated honestly, fairly, and efficiently in compliance with the purposes of this chapter and the rules adopted thereunder. The superintendent shall not use a credit score or a bankruptcy as the sole basis for registration denial.

(B) For purposes of determining whether an applicant that is a partnership, corporation, or other business entity or association has met the conditions set forth in divisions (A)(6) and (8) of this section, the superintendent shall determine which partners, shareholders, or persons named in the application must meet those conditions. This determination shall be based on the extent and nature of the partner's, shareholder's, or person's ownership interest in the partnership, corporation, or other business entity or association that is the applicant and on whether the person is in a position to direct, control, or adversely influence the operations of the applicant.

(C) The certificate of registration issued pursuant to division (A) of this section may be renewed annually on or before the thirty-first day of December if the superintendent finds that all of the following conditions are met:

(1) The renewal application is accompanied by a nonrefundable renewal fee of five hundred dollars for each location of an office to be maintained by the applicant in accordance with division (A) of section 1322.07 of the Revised Code and any fee required by the nationwide mortgage licensing system and registry. If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the registrant by certified mail, return receipt requested, that the certificate of registration renewed in reliance on the check or other draft instrument will be canceled unless the registrant, within thirty days after receipt of the notice, submits the renewal fee and a one-hundred-dollar penalty to the superintendent. If the registrant does not submit the renewal fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the certificate of registration shall be canceled immediately without a hearing and the registrant shall cease activity as a mortgage broker, mortgage lender, or mortgage servicer.

~~(2) The operations manager designated under section 1322.12 of the Revised Code has completed at least eight hours of continuing education as required under section 1322.28 of the Revised Code.~~

~~(3) The applicant meets the conditions set forth in divisions (A)(2) to (8) of this section.~~

~~(4)(3) The applicant's certificate of registration is not subject to an order of suspension or an unpaid and past due fine imposed by the superintendent.~~

(D)(1) Subject to division (D)(2) of this section, if a renewal fee or additional fee required by the nationwide mortgage licensing system and registry is received by the superintendent after the thirty-first day of December, the certificate of registration shall not be considered renewed, and the applicant shall cease activity as a mortgage lender or mortgage broker, or mortgage servicer.

(2) Division (D)(1) of this section shall not apply if the applicant, not later than forty-five days after the renewal deadline, submits the renewal fee or additional fee and a one-hundred-dollar penalty to the superintendent.

(E) Certificates of registration issued under this chapter annually expire on the thirty-first day of December.

(F) The pardon or expungement of a conviction shall not be considered a conviction for purposes of this section. When determining the eligibility of an applicant, the superintendent may consider the underlying crime, facts, or circumstances connected with a pardoned or expunged conviction.

Sec. 1322.12. (A) Each registrant or entity holding a valid letter of exemption under division (B)(1) of section 1322.05 of the Revised Code shall designate an employee or owner of that registrant's business as the operations manager. The operations manager shall be responsible for the management, supervision, and control of a particular location registrant.

(B) To be eligible for such a designation, an employee or owner shall have at least three years of experience in the residential mortgage and lending field including experience as a mortgage loan originator or registered mortgage loan originator, or other experience related to the business of residential mortgage lending that the superintendent determines is sufficient. While acting as the operations manager, the employee or owner shall be licensed as a mortgage loan originator under this chapter and shall not be employed by any other mortgage lender or mortgage broker, or mortgage servicer. This paragraph shall not apply to the designated operations manager of an entity registered exclusively as a mortgage servicer.

(C) If the person designated as the operations manager pursuant to this section ceases to be the operations manager, the registrant shall do all of the following:

(1) Within ninety days after the person ceases to be the operations manager, designate another person as the operations manager;

(2) Within ten days after the designation described in division (C)(1) of this section, notify the superintendent in writing of the new designation;

(3) Submit any additional information that the superintendent requires to establish that the newly designated operations manager meets the requirements set forth in this section.

(D) The registrant shall cease operations if it is without an operations manager approved by the superintendent for more than one hundred eighty days unless otherwise authorized in writing by the superintendent due to exigent circumstances.

Sec. 1322.15. No person shall acquire, sell, transfer, or hypothecate any interest in a registrant, or an entity holding a letter of exemption issued under this chapter, or an applicant for a certificate of registration under this chapter in order to obfuscate or conceal the true ownership or control of the registrant, exemption holder, or applicant.

Sec. 1322.29. (A) A registrant or entity holding a valid letter of exemption under division (B) (1) of section 1322.05 of the Revised Code shall supervise all business of a mortgage loan originator conducted at the principal office, any branch office, or other location used by the individual mortgage loan originator.

(B) If a mortgage loan originator's employment or association is terminated for any reason, the licensee may request the transfer of the license to another ~~mortgage lender or mortgage broker~~ registrant by submitting a transfer application, along with a fifteen-dollar fee and any fee required by the national mortgage licensing system and registry, to the superintendent of financial institutions or may request the superintendent in writing to hold the license in escrow. Any licensee whose license is held in escrow shall cease activity as a mortgage loan originator. A licensee whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing

education requirement.

(C) A registrant may employ or be associated with a mortgage loan originator on a temporary basis pending the transfer of the mortgage loan originator's license to the registrant, if the registrant receives written confirmation from the superintendent that the mortgage loan originator is licensed under this chapter.

(D) Notwithstanding divisions (A) to (C) of this section, if a licensee is employed by or associated with a person or entity holding a valid letter of exemption under division (B)(1) of section 1322.05 of the Revised Code, ~~all of the following apply:~~

~~(1) The licensee shall maintain and display a copy of the mortgage loan originator license at the office where the licensee principally transacts business.~~

~~(2) If and if~~ the mortgage loan originator's employment or association is terminated, the mortgage loan originator shall notify the superintendent within five business days after termination. The licensee may request the transfer of the license to another person or entity holding a valid letter of exemption under division (B)(1) of section 1322.05 of the Revised Code by submitting a transfer application, along with a fifteen-dollar fee and any fee required by the national mortgage licensing system and registry, to the superintendent or may request the superintendent in writing to hold the license in escrow. A licensee whose license is held in escrow shall cease activity as a mortgage loan originator. A licensee whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing education requirement.

(E) A licensee may seek to be employed by or associated with a registrant or a person or entity holding a valid letter of exemption under division (B)(1) of section 1322.05 of the Revised Code, if the ~~mortgage lender, mortgage broker, or person or entity registrant~~ receives written confirmation from the superintendent that the mortgage loan originator is licensed under this chapter.

Sec. 1322.30. A registrant or entity holding a letter of exemption under this chapter may contract for and receive interest at any rate or rates agreed upon or consented to by the parties to the ~~dwelling-secured loan or residential mortgage loan~~, but not exceeding an annual percentage rate of twenty-five per cent.

Sec. 1322.32. (A)(1) No registrant shall conduct business in this state, unless the registrant has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the superintendent of financial institutions and in the penal sum of one-half per cent of the aggregate loan amount of residential mortgage loans originated in the immediately preceding calendar year, but not exceeding one hundred fifty thousand dollars. Under no circumstances, however, shall the bond for mortgage lenders and mortgage brokers be less than fifty thousand dollars and an additional penal sum of ten thousand dollars for each location, in excess of one, at which the registrant conducts business. The bond amount for registrants that engage exclusively in the business of mortgage servicing shall be a minimum of one hundred fifty thousand dollars. The term of the bond shall coincide with the term of registration. A copy of the bond shall be filed with the superintendent. The bond shall be for the exclusive benefit of any buyer injured by a violation by an employee of the registrant, mortgage loan originator employed by or associated with the registrant, or registrant of any provision of this chapter or any rule adopted thereunder. The aggregate liability of the corporate surety for any and all breaches of the conditions of the bond shall not exceed the penal sum of the

bond.

(2)(a) No licensee who is employed by or associated with a person or entity holding a valid letter of exemption under division (B)(1) of section 1322.05 of the Revised Code shall conduct business in this state, unless either the licensee or the person or entity on the licensee's behalf has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the superintendent of financial institutions and in the penal sum of one-half per cent of the aggregate loan amount of residential mortgage loans originated in the immediately preceding calendar year, but not exceeding one hundred thousand dollars. Under no circumstances, however, shall the bond be less than fifty thousand dollars. The term of the bond shall coincide with the term of licensure. A copy of the bond shall be filed with the superintendent. The bond shall be for the exclusive benefit of any buyer injured by a violation by the licensee of any provision of this chapter or any rule adopted thereunder. The aggregate liability of the corporate surety for any and all breaches of the conditions of the bond shall not exceed the penal sum of the bond.

(b) Licensees covered by a corporate surety bond obtained by a registrant, or by a person or entity holding a valid letter of exemption under division (B)(1) of section 1322.05 of the Revised Code, they are employed by or associated with shall not be required to obtain an individual bond.

(B)(1)(a) The registrant shall give notice to the superintendent by certified mail of any action that is brought by a buyer against the registrant, mortgage loan originator, or employee alleging injury by a violation of any provision of this chapter or any rule adopted thereunder, and of any judgment that is entered against the registrant, mortgage loan originator, or employee by a buyer injured by a violation of any provision of this chapter or any rule adopted thereunder. The notice shall provide details sufficient to identify the action or judgment, and shall be filed with the superintendent within ten days after the commencement of the action or notice to the registrant of entry of a judgment.

(b) The licensee shall give notice to the superintendent by certified mail of any action that is brought by a buyer against the licensee alleging injury by a violation of any provision of this chapter or any rule adopted thereunder, and of any judgment that is entered against the licensee by a buyer injured by a violation of any provision of this chapter or any rule adopted thereunder. The notice shall provide details sufficient to identify the action or judgment, and shall be filed with the superintendent within ten days after the commencement of the action or notice to the licensee of entry of a judgment. A person or entity holding a valid letter of exemption under division (B)(1) of section 1322.05 of the Revised Code that secures bonding for the licensees employed by or associated with the person or entity shall report such actions or judgments in the same manner as is required of registrants.

(2) A corporate surety, within ten days after it pays any claim or judgment, shall give notice to the superintendent by certified mail of the payment, with details sufficient to identify the person and the claim or judgment paid.

(C) Whenever the penal sum of the corporate surety bond is reduced by one or more recoveries or payments, the registrant or licensee shall furnish a new or additional bond under this section, so that the total or aggregate penal sum of the bond or bonds equals the sum required by this section, or shall furnish an endorsement executed by the corporate surety reinstating the bond to the required penal sum of it.

(D) The liability of the corporate surety on the bond to the superintendent and to any buyer injured by a violation of any provision of this chapter or any rule adopted thereunder shall not be affected in any way by any misrepresentation, breach of warranty, or failure to pay the premium, by any act or omission upon the part of the registrant or licensee, by the insolvency or bankruptcy of the registrant or licensee, or by the insolvency of the registrant's or licensee's estate. The liability for any act or omission that occurs during the term of the corporate surety bond shall be maintained and in effect for at least two years after the date on which the corporate surety bond is terminated or canceled.

(E) The corporate surety bond shall not be canceled by the registrant, the licensee, or the corporate surety except upon notice to the superintendent by certified mail, return receipt requested. The cancellation shall not be effective prior to thirty days after the superintendent receives the notice.

(F) No registrant or licensee employed by or associated with a person or entity holding a valid letter of exemption under division (B)(1) of section 1322.05 of the Revised Code shall fail to comply with this section. Any registrant or licensee that fails to comply with this section shall cease all mortgage lender, mortgage broker, mortgage servicer, or mortgage loan originator activity in this state until the registrant or licensee complies with this section.

Sec. 1322.34. (A) As often as the superintendent of financial institutions considers it necessary, the superintendent may examine the ~~registrant's or licensee's records~~ records of a registrant or licensee or holder of a letter of exemption issued under this chapter, including all records created or processed by a licensee, pertaining to business transacted pursuant to this chapter.

(B) A registrant or licensee shall maintain records pertaining to business transacted pursuant to this chapter for four years. For purposes of this division, "registrant or licensee" includes any person whose certificate of registration or license is cancelled, surrendered, or revoked or who otherwise ceases to engage in business as a mortgage lender, mortgage servicer, mortgage broker, or mortgage loan originator.

No registrant or licensee shall fail to comply with this division.

(C) Each registrant, licensee, and entity holding a valid letter of exemption ~~under division (B) (1) of section 1322.05 of the Revised Code~~ issued under this chapter shall submit to the nationwide mortgage licensing system and registry call reports or other reports of condition, which reports shall be in such form and shall contain such information as the nationwide mortgage licensing system and registry may require. Each registrant and entity holding a valid letter of exemption under ~~division (B) (1) of section 1322.05 of the Revised Code~~ this chapter shall ensure that all residential mortgage loans that are consummated as a result of a mortgage loan originator's loan origination activities or serviced by the registrant or entity holding a valid exemption are included in the report of condition submitted to the nationwide mortgage licensing system and registry.

(D) Any document or record that is required to be signed and that is filed in this state as an electronic record through the nationwide mortgage licensing system and registry, and any other electronic record filed through the nationwide mortgage licensing system and registry, shall be considered a valid original document upon reproduction to paper form by the division of financial institutions.

(E) In the event electronic records, books, records, data, and documents of a registrant or holder of a letter of exemption issued under this chapter are located outside of this state and the

superintendent determines that an in-person examination is necessary, the registrant or holder of a letter of exemption shall, upon the request of the superintendent, pay the estimated costs of the examination, including the proportionate cost of the salaries of division of financial institutions employees who conduct the examination.

Sec. 1322.43. ~~(A)~~ No registrant and entity holding a valid letter of exemption under ~~division (B)(1) of section 1322.05 of the Revised Code~~this chapter, through its operations manager or otherwise, shall fail to do either of the following:

~~(A)(1)~~ Reasonably supervise a mortgage loan originator or any other person associated with the registrant or entity;

~~(B)(2)~~ Establish reasonable procedures designed to avoid violations of any provision of this chapter or the rules adopted under this chapter, or violations of applicable state and federal consumer and lending laws or rules, by mortgage loan originators or any other person associated with the registrant or entity.

(B) No registrant or entity holding a letter of exemption issued under this chapter shall:

(1) Receive, directly or indirectly, a premium on the fees charged for services performed by a bona fide third party;

(2) Pay or receive, directly or indirectly, a referral fee or kickback of any kind to or from a bona fide third party or other party with a related interest in the transaction, including a home improvement builder, real estate developer, or real estate broker or agent, for the referral of business.

Sec. 1322.50. (A) After notice and opportunity for a hearing conducted in accordance with Chapter 119. of the Revised Code, the superintendent of financial institutions may do the following:

(1) Suspend, revoke, or refuse to issue or renew a certificate of registration ~~or~~ license, or letter of exemption if the superintendent finds any of the following:

(a) A violation of or failure to comply with any provision of this chapter or the rules adopted under this chapter, federal lending law, or any other law applicable to the business conducted under a certificate of registration or license;

(b) A conviction of or guilty or nolo contendere plea to a felony in a domestic, foreign, or military court;

(c) A conviction of or guilty or nolo contendere plea to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, breach of trust, dishonesty, or drug trafficking, or any criminal offense involving money or securities, in a domestic, foreign, or military court;

(d) The revocation of a certificate of registration or mortgage loan originator license, or any comparable authority, in any governmental jurisdiction.

(2) Impose a fine of not more than one thousand dollars, for each day a violation of a law or rule is committed, repeated, or continued. If the registrant, letter of exemption holder, or licensee engages in a pattern of repeated violations of a law or rule, the superintendent may impose a fine of not more than two thousand dollars for each day the violation is committed, repeated, or continued. All fines collected pursuant to this division shall be paid to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code. In determining the amount of a fine to be imposed pursuant to this division, the superintendent may consider all of the following, to the extent known by the division of financial institutions:

(a) The seriousness of the violation;
(b) The registrant's or licensee's good faith efforts to prevent the violation;
(c) The registrant's or licensee's history regarding violations and compliance with division orders;

(d) The registrant's or licensee's financial resources;

(e) Any other matters the superintendent considers appropriate in enforcing this chapter.

(B) The superintendent may investigate alleged violations of this chapter or the rules adopted under this chapter or complaints concerning any violation.

(1) The superintendent may make application to the court of common pleas for an order enjoining any violation and, upon a showing by the superintendent that a person has committed or is about to commit that violation, the court shall grant an injunction, restraining order, or other appropriate relief.

(2) The superintendent may make application to the court of common pleas for an order enjoining any person from acting as a mortgage lender, mortgage servicer, mortgage broker, registrant, mortgage loan originator, or licensee in violation of division (A) or (B) of section 1322.07 of the Revised Code, and may seek and obtain civil penalties for unregistered or unlicensed conduct of not more than five thousand dollars per violation.

(C) In conducting any investigation pursuant to this section, the superintendent may compel, by subpoena, witnesses to testify in relation to any matter over which the superintendent has jurisdiction and may require the production of any book, record, or other document pertaining to that matter. If a person fails to file any statement or report, obey any subpoena, give testimony, produce any book, record, or other document as required by a subpoena, or permit photocopying of any book, record, or other document subpoenaed, the court of common pleas of any county in this state, upon application made to it by the superintendent, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify therein.

(D) If the superintendent determines that a person is engaged in or is believed to be engaged in activities that may constitute a violation of this chapter or any rule adopted thereunder, the superintendent, after notice and a hearing conducted in accordance with Chapter 119. of the Revised Code, may issue a cease and desist order. If the administrative action is to enjoin a person from acting as a mortgage lender, mortgage servicer, mortgage broker, or mortgage loan originator in violation of division (A) or (B) of section 1322.07 of the Revised Code, the superintendent may seek and impose fines for that conduct in an amount not to exceed five thousand dollars per violation. Such an order shall be enforceable in the court of common pleas.

(E) If the superintendent revokes a certificate of registration, letter of exemption, or mortgage loan originator license, the revocation shall be permanent and with prejudice.

(F)(1) To protect the public interest, the superintendent may, without a prior hearing, do any of the following:

(a) Suspend the certificate of registration, letter of exemption, or mortgage loan originator license of a registrant or licensee who is convicted of or pleads guilty or nolo contendere to a criminal violation of any provision of this chapter or any criminal offense described in division (A) (1)(b) or (c) of this section;

(b) Suspend the certificate of registration of a registrant who violates division (F) of section 1322.32 of the Revised Code;

(c) Suspend the certificate of registration or mortgage loan originator license of a registrant or licensee who fails to comply with a request made by the superintendent under section 1322.09 or 1322.20 of the Revised Code to inspect qualifying education transcripts located at the registrant's or licensee's place of business.

(2) The superintendent may, in accordance with Chapter 119. of the Revised Code, subsequently revoke any registration or license suspended under division (F)(1) of this section.

(G) The imposition of fines under this section does not preclude any penalty imposed under section 1322.99 of the Revised Code.

Sec. 1322.52. (A)(1) A buyer injured by a violation of section 1322.07, 1322.40, or 1322.46 of the Revised Code may bring an action for recovery of damages.

(2) Damages awarded under division (A)(1) of this section shall not be less than all compensation paid directly and indirectly to a registrant or mortgage loan originator from any source, plus reasonable attorney's fees and court costs.

(3) The buyer may be awarded punitive damages.

(B)(1) The superintendent of financial institutions or a buyer may directly bring an action to enjoin a violation of any provision of this chapter. The attorney general may directly bring an action to enjoin a violation of any provision of this chapter with the same rights, privileges, and powers as those described in section 1345.06 of the Revised Code. The prosecuting attorney of the county in which the action may be brought may bring an action to enjoin a violation of any provision of this chapter only if the prosecuting attorney first presents any evidence of the violation to the attorney general and, within a reasonable period of time, the attorney general has not agreed to bring the action.

(2) The superintendent may initiate criminal proceedings under this chapter by presenting any evidence of criminal violation to the prosecuting attorney of the county in which the offense may be prosecuted. If the prosecuting attorney does not prosecute the violations, or at the request of the prosecuting attorney, the superintendent shall present any evidence of criminal violations to the attorney general, who may proceed in the prosecution with all the rights, privileges, and powers conferred by law on prosecuting attorneys, including the power to appear before grand juries and to interrogate witnesses before such grand juries. These powers of the attorney general shall be in addition to any other applicable powers of the attorney general.

(3) The prosecuting attorney of the county in which an alleged offense may be prosecuted may initiate criminal proceedings under this chapter.

(4) In order to initiate criminal proceedings under this chapter, the attorney general shall first present any evidence of criminal violations to the prosecuting attorney of the county in which the alleged offense may be prosecuted. If, within a reasonable period of time, the prosecuting attorney has not agreed to prosecute the violations, the attorney general may proceed in the prosecution with all the rights, privileges, and powers described in division (B)(2) of this section.

(5) When a judgment under this section becomes final, the clerk of court shall mail a copy of the judgment, including supporting opinions, to the superintendent.

(C) The remedies provided by this section are in addition to any other remedy provided by

law.

(D) In any proceeding or action brought under this chapter, the burden of proving an exemption under those sections is on the person claiming the benefit of the exemption.

(E) No person shall be deemed to violate any provision of this chapter with respect to any act taken or omission made in reliance on a written notice, written interpretation, or written report from the superintendent, unless there is a subsequent amendment to that written notice, written interpretation, written report from the superintendent, or those provisions, or rules promulgated thereunder, that affects the superintendent's notice, interpretation, or report.

(F) Upon disbursement of mortgage loan proceeds to or on behalf of the buyer, the registrant that assisted the buyer to obtain the mortgage loan is deemed to have completed the performance of the registrant's services for the buyer and owes no additional duties or obligations to the buyer with respect to the mortgage loan. However, nothing in this division shall be construed to limit or preclude the civil or criminal liability of a registrant for failing to comply with this chapter or any rule adopted under this chapter, for failing to comply with any provision of or duty arising under an agreement with a buyer or lender under this chapter, or for violating any other provision of state or federal law.

(G) A buyer injured by a violation of any of the sections specified in division (A)(1) of this section is precluded from recovering any damages, plus reasonable attorney's fees and costs, if the buyer has also recovered any damages in a cause of action initiated under section 1322.45 of the Revised Code and the recovery of damages for a violation of any of the sections specified in division (A)(1) of this section is based on the same acts or circumstances as the basis for recovery of damages in section 1322.45 of the Revised Code.

Sec. 1345.01. As used in sections 1345.01 to 1345.13 of the Revised Code:

(A) "Consumer transaction" means a sale, lease, assignment, award by chance, or other transfer of an item of goods, a service, a franchise, or an intangible, to an individual for purposes that are primarily personal, family, or household, or solicitation to supply any of these things. "Consumer transaction" does not include transactions between persons, defined in sections 4905.03 and 5725.01 of the Revised Code, and their customers, except for transactions involving a loan made pursuant to sections 1321.35 to 1321.48 of the Revised Code and transactions in connection with residential mortgages between loan officers, mortgage brokers, or nonbank mortgage lenders and their customers; transactions involving a home construction service contract as defined in section 4722.01 of the Revised Code; transactions between certified public accountants or public accountants and their clients; transactions between attorneys, physicians, or dentists and their clients or patients; and transactions between veterinarians and their patients that pertain to medical treatment but not ancillary services.

(B) "Person" includes an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, cooperative, or other legal entity.

(C) "Supplier" means a seller, lessor, assignor, franchisor, or other person engaged in the business of effecting or soliciting consumer transactions, whether or not the person deals directly with the consumer. If the consumer transaction is in connection with a residential mortgage, "supplier" does not include an assignee or purchaser of the loan for value, except as otherwise provided in section 1345.091 of the Revised Code. For purposes of this division, in a consumer transaction in connection with a residential mortgage, "seller" means a loan officer, mortgage broker,

or nonbank mortgage lender.

(D) "Consumer" means a person who engages in a consumer transaction with a supplier.

(E) "Knowledge" means actual awareness, but such actual awareness may be inferred where objective manifestations indicate that the individual involved acted with such awareness.

(F) "Natural gas service" means the sale of natural gas, exclusive of any distribution or ancillary service.

(G) "Public telecommunications service" means the transmission by electromagnetic or other means, other than by a telephone company as defined in section 4927.01 of the Revised Code, of signs, signals, writings, images, sounds, messages, or data originating in this state regardless of actual call routing. "Public telecommunications service" excludes a system, including its construction, maintenance, or operation, for the provision of telecommunications service, or any portion of such service, by any entity for the sole and exclusive use of that entity, its parent, a subsidiary, or an affiliated entity, and not for resale, directly or indirectly; the provision of terminal equipment used to originate telecommunications service; broadcast transmission by radio, television, or satellite broadcast stations regulated by the federal government; or cable television service.

(H)(1) "Loan officer" means an individual who for compensation or gain, or in anticipation of compensation or gain, takes or offers to take a residential mortgage loan application; assists or offers to assist a buyer in obtaining or applying to obtain a residential mortgage loan by, among other things, advising on loan terms, including rates, fees, and other costs; offers or negotiates terms of a residential mortgage loan; or issues or offers to issue a commitment for a residential mortgage loan. "Loan officer" also includes a mortgage loan originator as defined in ~~division (Z)~~ of section 1322.01 of the Revised Code.

(2) "Loan officer" does not include an employee of a bank, savings bank, savings and loan association, credit union, or credit union service organization organized under the laws of this state, another state, or the United States; an employee of a subsidiary of such a bank, savings bank, savings and loan association, or credit union; or an employee of an affiliate that (a) controls, is controlled by, or is under common control with, such a bank, savings bank, savings and loan association, or credit union and (b) is subject to examination, supervision, and regulation, including with respect to the affiliate's compliance with applicable consumer protection requirements, by the board of governors of the federal reserve system, the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, or the national credit union administration.

(I) "Residential mortgage" or "mortgage" means an obligation to pay a sum of money evidenced by a note and secured by a lien upon real property located within this state containing two or fewer residential units or on which two or fewer residential units are to be constructed and includes such an obligation on a residential condominium or cooperative unit.

(J)(1) "Mortgage broker" means any of the following:

(a) A person that holds that person out as being able to assist a buyer in obtaining a mortgage and charges or receives from either the buyer or lender money or other valuable consideration readily convertible into money for providing this assistance;

(b) A person that solicits financial and mortgage information from the public, provides that information to a mortgage broker or a person that makes residential mortgage loans, and charges or receives from either of them money or other valuable consideration readily convertible into money

for providing the information;

(c) A person engaged in table-funding or warehouse-lending mortgage loans that are residential mortgage loans.

(2) "Mortgage broker" does not include a bank, savings bank, savings and loan association, credit union, or credit union service organization organized under the laws of this state, another state, or the United States; a subsidiary of such a bank, savings bank, savings and loan association, or credit union; an affiliate that (a) controls, is controlled by, or is under common control with, such a bank, savings bank, savings and loan association, or credit union and (b) is subject to examination, supervision, and regulation, including with respect to the affiliate's compliance with applicable consumer protection requirements, by the board of governors of the federal reserve system, the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, or the national credit union administration; or an employee of any such entity.

(K) "Nonbank mortgage lender" means any person that engages in a consumer transaction in connection with a residential mortgage, except for a bank, savings bank, savings and loan association, credit union, or credit union service organization organized under the laws of this state, another state, or the United States; a subsidiary of such a bank, savings bank, savings and loan association, or credit union; or an affiliate that (1) controls, is controlled by, or is under common control with, such a bank, savings bank, savings and loan association, or credit union and (2) is subject to examination, supervision, and regulation, including with respect to the affiliate's compliance with applicable consumer protection requirements, by the board of governors of the federal reserve system, the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, or the national credit union administration.

(L) For purposes of divisions (H), (J), and (K) of this section:

(1) "Control" of another entity means ownership, control, or power to vote twenty-five per cent or more of the outstanding shares of any class of voting securities of the other entity, directly or indirectly or acting through one or more other persons.

(2) "Credit union service organization" means a CUSO as defined in 12 C.F.R. 702.2.

Sec. 1349.72. (A) ~~Before~~ Not less than thirty days prior to a person collecting or filing a foreclosure action to collect on a debt secured by residential real property ~~collects or attempts to collect any part of the debt,~~ the person shall first send a written notice as described in division (B) of this section via United States mail to the residential address of the debtor, if both of the following apply:

(1) The debt is ~~a second secured by a mortgage or junior lien~~ secured by a mortgage or junior lien on the debtor's residential real property that is not in the first mortgage position.

(2) The debt has either been accelerated or is in default in accordance with the terms set forth in the promissory note.

(B) The written notice may be included on, or accompany, any other communication, and shall be printed in at least twelve-point type and state include the following:

(1) The name and contact information of the person collecting the debt;

(2) ~~The~~ A statement of the amount of the debt;

(3) A statement that the debtor has a right to engage an attorney;

(4) A statement that the debtor may qualify for debt relief under Chapter 7 or 13 of the United

States Bankruptcy Code, 11 U.S.C. Chapter 7 or 13, as amended;

(5) A statement that a debtor that qualifies under Chapter 13 of the United States Bankruptcy Code may be able to protect their residential real property from foreclosure.

(C) Upon written request of the debtor, the owner of the debt shall provide a copy of the note and the loan history to the debtor.

(D)(1) As used in this division;

(a) "~~bona~~ Bona fide error" means an unintentional clerical, calculation, computer malfunction or programming, or printing error.

(b) "Restitution" means either of the following:

(i) A waiver of all fees, costs, or expenses proximately associated with the failure to provide the notice to the debtor; or

(ii) Actual damages.

(2) Any owner of debt subject to divisions (A), (B), and (C) of this section shall not be held civilly liable in any action, if all of the following are met:

(a) The owner of the debt shows by a preponderance of evidence that the compliance failure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(b) Within sixty days after discovering the error, and prior to the initiation of any action, the owner of the debt notifies the debtor of the error and the manner in which the owner of the debt intends to make full restitution to the debtor.

(c) The owner of the debt promptly makes reasonable restitution to the debtor.

(3) If, in the event of a compliance failure, the owner of the debt does not meet the conditions set forth in division (D)(2) of this section, a debtor injured by the error has a cause of action to recover damages. Such an action shall not, however, be maintained as a class action.

Sec. 2305.117. (A) Except as otherwise provided in this section, an action upon a legal malpractice claim against an attorney or a law firm or legal professional association shall be commenced within one year after the cause of action accrued.

(B) Except as to persons within the age of minority or of unsound mind as provided by section 2305.16 of the Revised Code, and except as provided in ~~division~~ divisions (C) and (D) of this section, both of the following apply:

(1) No action upon a legal malpractice claim against an attorney or a law firm or legal professional association shall be commenced more than four years after the occurrence of the act or omission constituting the alleged basis of the legal malpractice claim.

(2) If an action upon a legal malpractice claim against an attorney or a law firm or legal professional association is not commenced within four years after the occurrence of the act or omission constituting the alleged basis of the claim, then, any action upon that claim is barred.

(C)(1) If a person making a legal malpractice claim against an attorney or a law firm or legal professional association, in the exercise of reasonable care and diligence, could not have discovered the injury resulting from the act or omission constituting the alleged basis of the claim within three years after the occurrence of the act or omission, but, in the exercise of reasonable care and diligence, discovers the injury resulting from that act or omission before the expiration of the four-year period specified in division (B)(1) of this section, the person may commence an action upon the claim not

later than one year after the person discovers the injury resulting from that act or omission.

(2) A person who commences an action upon a legal malpractice claim under the circumstances described in division (C)(1) of this section has the affirmative burden of proving, by clear and convincing evidence, that the person, with reasonable care and diligence, could not have discovered the injury resulting from the act or omission constituting the alleged basis of the claim within the three-year period described in that division.

(D) An action upon a legal malpractice claim against an attorney or a law firm or legal professional association arising from an act or omission related to the attorney's, law firm's, or legal professional association's issuance of an opinion of title issued prior to June 16, 2021, shall be commenced within one year after the cause of action accrued without regard to when the act or omission constituting the alleged basis of the legal malpractice claim occurred.

Sec. 2913.11. (A) As used in this section:

(1) "Check" includes any form of debit from a demand deposit account, including, but not limited to any of the following:

(a) A check, bill of exchange, draft, order of withdrawal, or similar negotiable or non-negotiable instrument;

(b) An electronic check, electronic transaction, debit card transaction, check card transaction, substitute check, web check, or any form of automated clearing house transaction.

(2) "Issue a check" means causing any form of debit from a demand deposit account.

(B) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored or knowing that a person has ordered or will order stop payment on the check or other negotiable instrument.

(C) For purposes of this section, a person who issues or transfers a check or other negotiable instrument is presumed to know that it will be dishonored if either of the following occurs:

(1) The drawer had no account with the drawee at the time of issue or the stated date, whichever is later;

(2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within thirty days after issue or the stated date, whichever is later, and the liability of the drawer, indorser, or any party who may be liable thereon is not discharged by payment or satisfaction within ten days after receiving notice of dishonor.

~~(D) For purposes of this section, a person who issues or transfers a check, bill of exchange, or other draft is presumed to have the purpose to defraud if the drawer fails to comply with section 1349.16 of the Revised Code by doing any of the following when opening a checking account intended for personal, family, or household purposes at a financial institution:~~

~~(1) Falsely stating that the drawer has not been issued a valid driver's or commercial driver's license or identification card issued under section 4507.50 of the Revised Code;~~

~~(2) Furnishing such license or card, or another identification document that contains false information;~~

~~(3) Making a false statement with respect to the drawer's current address or any additional relevant information reasonably required by the financial institution.~~

~~(E)~~ In determining the value of the payment for purposes of division ~~(F)~~ (E) of this section, the court may aggregate all checks and other negotiable instruments that the offender issued or

transferred or caused to be issued or transferred in violation of division (A) of this section within a period of one hundred eighty consecutive days.

~~(F)~~~~(E)~~ Whoever violates this section is guilty of passing bad checks. Except as otherwise provided in this division, passing bad checks is a misdemeanor of the first degree. If the check or checks or other negotiable instrument or instruments are issued or transferred to a single vendor or single other person for the payment of one thousand dollars or more but less than seven thousand five hundred dollars or if the check or checks or other negotiable instrument or instruments are issued or transferred to multiple vendors or persons for the payment of one thousand five hundred dollars or more but less than seven thousand five hundred dollars, passing bad checks is a felony of the fifth degree. If the check or checks or other negotiable instrument or instruments are for the payment of seven thousand five hundred dollars or more but less than one hundred fifty thousand dollars, passing bad checks is a felony of the fourth degree. If the check or checks or other negotiable instrument or instruments are for the payment of one hundred fifty thousand dollars or more, passing bad checks is a felony of the third degree.

Sec. 4712.05. (A) Each contract between the buyer and a credit services organization for the purchase of the services of the organization shall be in writing, dated and signed by the buyer, and shall include all of the following:

(1) A statement, in type that is boldfaced, capitalized, underlined, or otherwise conspicuously set out from surrounding written material and that is in immediate proximity to the space reserved for the signature of the buyer, as follows:

"If you, the buyer, have been denied credit within the last sixty days, you may obtain a free copy of the consumer credit report from the consumer reporting agency. You also have the right to dispute inaccurate information in a report.

You may cancel this contract at any time before midnight of the third business day after the date you signed it. See the attached notice of cancellation form for an explanation of this right."

(2) The terms and conditions of payment, including the total of all payments to be made by the buyer, whether to the credit services organization or to another person;

(3) A full and detailed description of the services to be performed for the buyer by the credit services organization, including all guarantees and all promises of full or partial refunds, and the estimated length of time, not exceeding sixty days or any shorter time period prescribed by the superintendent of financial institutions, for performing the services; The performance of services under a contract to which all of the following conditions apply is not subject to the time limit identified in division (A)(3) of this section, but is subject to a twelve-month limit:

(a) The buyer agrees to make substantially equal periodic payments at fixed time intervals for the services after they are performed during the term of the contract.

(b) The buyer may cancel the contract at any time without penalty or obligation to pay for any services that have not yet been rendered.

(c) The contract solely provides for the ongoing performance of either of the following services:

(i) Services described in division (C)(1)(a) of section 4712.01 of the Revised Code or providing advice or assistance to a buyer in connection with such services;

(ii) Services described in division (C)(1)(d) of section 4712.01 of the Revised Code.

(d) The buyer's explicit, affirmative, and documented assent is provided before a contract is renewed.

(e) During the term of the contract period, the credit services organization reviews with the buyer the adverse credit information on the buyer's credit report.

(4) The address of the credit services organization's principal place of business and the name and address of its agent in this state authorized to receive service of process;

(5) With respect to the previous calendar year or the time period during which the credit services organization has been in business, whichever is shorter, the percentage of the organization's customers for whom the organization has fully and completely performed the services the organization agreed to perform for the buyer.

(B) The contract shall have attached two easily detachable copies of a notice of cancellation. The notice shall be in boldface type and in the following form:

"Notice of Cancellation

You may cancel this contract, without any penalty or obligation, within three business days after the date the contract is signed.

To cancel this contract, mail or deliver a signed, dated copy of this cancellation notice, or other written notice, to:

_____ (Name of Seller) at _____ (Address of Seller) (Place of Business) not later than midnight _____ (Date)

I hereby cancel this transaction.

Dated: _____
(Buyer's signature)"

(C) The credit services organization, at the time of signing, shall give to the buyer a copy of the completed contract and all other documents the organization requires the buyer to sign.

(D) No credit services organization shall breach a contract described in this section or fail to comply with any obligation arising from such a contract.

(E) No credit services organization shall fail to comply with division (A), (B), or (C) of this section.

SECTION 2. That existing sections 135.77, 135.774, 1115.05, 1321.52, 1321.68, 1322.01, 1322.02, 1322.04, 1322.07, 1322.09, 1322.10, 1322.12, 1322.15, 1322.29, 1322.30, 1322.32, 1322.34, 1322.43, 1322.50, 1322.52, 1345.01, 1349.72, 2305.117, 2913.11, and 4712.05 of the Revised Code are hereby repealed.

SECTION 3. That sections 1322.24, 1322.25, and 1349.16 of the Revised Code are hereby repealed.

SECTION 4. That the version of section 1322.24 of the Revised Code that is scheduled to take

effect October 9, 2021, is hereby repealed.

SECTION 5. The amendment of section 2305.117 of the Revised Code in this act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that there is an unintended consequence of S.B. 13 of the 134th General Assembly that takes effect June 16, 2021. Therefore, the amendment of section 2305.117 of the Revised Code in this act shall go into immediate effect.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____