

**As Reported by the House Financial Institutions, Housing, and Urban
Development Committee**

132nd General Assembly

**Regular Session
2017-2018**

Sub. H. B. No. 199

Representative Blessing

Cosponsors: Representatives Seitz, Wiggam, Sprague, Brenner, Hughes, Dever

A BILL

To amend sections 9.02, 109.572, 1181.21, 1181.25, 1
1315.21, 1319.12, 1321.02, 1321.51, 1321.52, 2
1321.53, 1321.54, 1321.55, 1321.551, 1321.57, 3
1321.58, 1321.59, 1321.60, 1321.72, 1321.99, 4
1322.01, 1322.02, 1322.021, 1322.023, 1322.024, 5
1322.025, 1322.03, 1322.031, 1322.04, 1322.041, 6
1322.042, 1322.043, 1322.05, 1322.051, 1322.052, 7
1322.06, 1322.061, 1322.065, 1322.07, 1322.072, 8
1322.073, 1322.074, 1322.075, 1322.081, 1322.09, 9
1322.10, 1322.11, 1322.12, 1322.99, 1329.71, 10
1335.02, 1345.01, 1349.27, 1349.43, 1349.44, 11
1349.45, 1349.99, 2923.31, 4712.01, 4719.01, 12
4728.11, 4735.05, and 4763.03; to amend, for the 13
purpose of adopting new section numbers as 14
indicated in parentheses, sections 1322.02 15
(1322.07), 1322.021 (1322.16), 1322.023 16
(1322.05), 1322.024 (1322.02), 1322.025 17
(1322.55), 1322.03 (1322.09), 1322.031 18
(1322.20), 1322.04 (1322.10), 1322.041 19
(1322.21), 1322.042 (1322.24), 1322.043 20
(1322.25), 1322.05 (1322.32), 1322.051 21
(1322.27), 1322.052 (1322.28), 1322.06 22

(1322.34), 1322.061 (1322.36), 1322.065 23
(1322.17), 1322.07 (1322.40), 1322.072 24
(1322.35), 1322.073 (1322.15), 1322.074 25
(1322.41), 1322.075 (1322.42), 1322.081 26
(1322.45), 1322.09 (1322.46), 1322.10 (1322.50), 27
1322.101 (1322.51), 1322.11 (1322.52), and 28
1322.12 (1322.57); to enact new sections 1322.04 29
and 1322.12 and sections 1322.29, 1322.30, 30
1322.43, and 1322.56; and to repeal sections 31
1321.521, 1321.522, 1321.531, 1321.532, 32
1321.533, 1321.534, 1321.535, 1321.536, 33
1321.537, 1321.538, 1321.552, 1321.592, 34
1321.593, 1321.594, 1322.022, 1322.062, 35
1322.063, 1322.064, 1322.071, and 1322.08 of the 36
Revised Code to create the Ohio Residential 37
Mortgage Lending Act for the purpose of 38
regulating all non-depository lending secured by 39
residential real estate and to limit the 40
application of the current Mortgage Loan Law to 41
unsecured loans and loans secured by other than 42
residential real estate. 43

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

Section 1. That sections 9.02, 109.572, 1181.21, 1181.25, 44
1315.21, 1319.12, 1321.02, 1321.51, 1321.52, 1321.53, 1321.54, 45
1321.55, 1321.551, 1321.57, 1321.58, 1321.59, 1321.593, 1321.60, 46
1321.72, 1321.99, 1322.01, 1322.02, 1322.021, 1322.023, 47
1322.024, 1322.025, 1322.03, 1322.031, 1322.04, 1322.041, 48
1322.042, 1322.043, 1322.05, 1322.051, 1322.052, 1322.06, 49

1322.061, 1322.065, 1322.07, 1322.072, 1322.073, 1322.074, 50
1322.075, 1322.081, 1322.09, 1322.10, 1322.11, 1322.12, 1322.99, 51
1329.71, 1335.02, 1345.01, 1349.27, 1349.43, 1349.44, 1349.45, 52
1349.99, 2923.31, 4712.01, 4719.01, 4728.11, 4735.05, and 53
4763.03 be amended; sections 1322.02 (1322.07), 1322.021 54
(1322.16), 1322.023 (1322.05), 1322.024 (1322.02), 1322.025 55
(1322.55), 1322.03 (1322.09), 1322.031 (1322.20), 1322.04 56
(1322.10), 1322.041 (1322.21), 1322.042 (1322.24), 1322.043 57
(1322.25), 1322.05 (1322.32), 1322.051 (1322.27), 1322.052 58
(1322.28), 1322.06 (1322.34), 1322.061 (1322.36), 1322.065 59
(1322.17), 1322.07 (1322.40), 1322.072 (1322.35), 1322.073 60
(1322.15), 1322.074 (1322.41), 1322.075 (1322.42), 1322.081 61
(1322.45), 1322.09 (1322.46), 1322.10 (1322.50), 1322.101 62
(1322.51), 1322.11 (1322.52), and 1322.12 (1322.57) be amended 63
for the purpose of adopting new section numbers as shown in 64
parentheses; and new sections 1322.04 and 1322.12 and sections 65
1322.29, 1322.30, 1322.43, and 1322.56 of the Revised Code be 66
enacted to read as follows: 67

Sec. 9.02. (A) As used in this section: 68

(1) "Customer" means any person or authorized 69
representative of that person who has maintained or is 70
maintaining an account or deposit of any type, or has utilized 71
or is utilizing any service of a financial institution, or for 72
whom a financial institution has acted or is acting as a 73
fiduciary in relation to an account or deposit maintained in the 74
person's name. 75

(2) "Governmental authority" includes the state, any 76
political subdivision, district, or court, and any agency, 77
department, officer, or authorized employee of any of those 78
entities. 79

(3) "Financial institution" means any bank, building and loan association, trust company, credit union, licensee as defined in section 1321.01, ~~or~~ registrant as defined in section 1321.51 of the Revised Code, or person registered as a mortgage lender under Chapter 1322. of the Revised Code.

(4) "Financial record" means any record, including statements or receipts, and checks, drafts, or similar instruments, or information derived from such record, that is maintained by a financial institution and that pertains to a deposit or account of a customer, a service of the financial institution utilized by a customer, or any other relationship between a customer and the financial institution.

(5) "Supervisory review" means any examination of or other supervisory action with respect to a financial institution, where such examination or action is conducted or taken pursuant to authority granted under the Revised Code, or rules promulgated pursuant thereto by the agency having regulatory jurisdiction over such institution.

(B) Any party, including a governmental authority, that requires or requests a financial institution to assemble or provide a customer's financial records in connection with any investigation, action, or proceeding shall pay the financial institution for all actual and necessary costs directly incurred in searching for, reproducing, or transporting these records, if the financial institution is not a party to the investigation, action, or proceeding, is not a subject of supervisory review in the investigation, action, or proceeding, or is a party to the investigation, action, or proceeding solely by reason of its holding of assets of another party defendant, with no cause of action alleged against the financial institution. This payment

shall be made to the financial institution promptly, whether or 110
not the financial records are entered into evidence. If the 111
records are produced pursuant to a court order or subpoena duces 112
tecum, the party requesting the order or subpoena is responsible 113
for making the payment. With respect to any judicial or 114
administrative proceeding for which the records are requested, 115
payment of these costs shall be in addition to any witness fees. 116

(C) The rates and conditions for making payments required 117
by division (B) of this section shall be established by rule by 118
the superintendent of financial institutions. To the extent that 119
they are applicable, such respective rules shall be 120
substantially like those adopted by the board of governors of 121
the federal reserve system to regulate similar fees required by 122
the "Right to Financial Privacy Act of 1978," 92 Stat. 3708, 12
U.S.C.A. 3415. 124

(D) (1) This section is not intended to expand, limit, or 125
otherwise affect any authority granted under federal law or the 126
law of this state to any party, including a governmental 127
authority, to procure, request, or require a customer's 128
financial records. This section does not apply to investigations 129
or examinations conducted under authority granted by Chapter 130
169., 1707., 3737., or 4735. of the Revised Code. 131

(2) Division (B) of this section does not apply to 132
financial records required to be assembled or provided pursuant 133
to a subpoena, demand for production, request for records, or 134
demand for inspection issued by or on motion of the attorney 135
general or the organized crime investigations commission, to a 136
subpoena issued by or on motion of a prosecuting attorney who 137
has probable cause to believe that a crime has been committed, 138
or to a subpoena issued by a grand jury, if all of the following 139

apply: 140

(a) The financial records or copies of the financial 141
records are subpoenaed for purposes of a criminal investigation 142
or prosecution; 143

(b) The subpoena is delivered to the financial institution 144
at least ten days before the records are to be provided; 145

(c) The subpoena identifies individual items to be 146
provided or is for statements of the customer's account for a 147
specified period of time but only as is relevant to the possible 148
crime being investigated. 149

If any financial record assembled or provided by a 150
financial institution pursuant to such a subpoena or any 151
information derived from the financial record is introduced as 152
evidence in any criminal trial and if any nonindigent defendant 153
is convicted of an offense at that trial, the trial court shall 154
charge against the defendant, as a cost of prosecution, all 155
actual and necessary costs directly incurred by the financial 156
institution in searching for, reproducing, or transporting the 157
financial records provided the financial institution is not a 158
defendant at the trial. A defendant against whom costs are 159
charged pursuant to this division shall pay the costs to the 160
court which shall forward the payment to the financial 161
institution. For purposes of this division, the trial court 162
shall determine whether a defendant is indigent. The rates of 163
payment established by rule pursuant to division (C) of this 164
section shall be used by the trial court in charging costs under 165
this division. 166

(E) Notwithstanding division (D) of this section, in any 167
proceeding, action, or investigation that involves an alleged 168

violation of section 2921.02, 2921.41, 2921.42, or 2921.43 of 169
the Revised Code, that either involves a property interest of 170
the state or occurred within the scope of state employment or 171
during the performance of a state public official's or state 172
public servant's duties, and in which a financial institution is 173
required or requested to assemble or provide financial records, 174
the financial institution has a right of reimbursement from the 175
state treasury for all actual and necessary costs incurred in 176
searching for, reproducing, or transporting the financial 177
records, at the rates established by rule under division (C) of 178
this section. The reimbursement shall be made only if the 179
financial institution is not a party to, or subject of the 180
investigation, action, or proceeding, or is a party to the 181
investigation, action, or proceeding solely by reason of its 182
holding assets of another party defendant, with no cause of 183
action alleged against the financial institution, and only if 184
the financial institution has not acted negligently in the 185
management of the deposit, account, service, or other 186
relationship to which those financial records pertain. The 187
reimbursement shall be made promptly, whether or not the 188
financial records are entered into evidence. As used in this 189
division, "state" means only the state of Ohio and does not 190
include any political subdivision. 191

Sec. 109.572. (A) (1) Upon receipt of a request pursuant to 192
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised 193
Code, a completed form prescribed pursuant to division (C) (1) of 194
this section, and a set of fingerprint impressions obtained in 195
the manner described in division (C) (2) of this section, the 196
superintendent of the bureau of criminal identification and 197
investigation shall conduct a criminal records check in the 198
manner described in division (B) of this section to determine 199

whether any information exists that indicates that the person 200
who is the subject of the request previously has been convicted 201
of or pleaded guilty to any of the following: 202

(a) A violation of section 2903.01, 2903.02, 2903.03, 203
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 204
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 205
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 206
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 207
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 208
2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 209
2925.05, 2925.06, or 3716.11 of the Revised Code, felonious 210
sexual penetration in violation of former section 2907.12 of the 211
Revised Code, a violation of section 2905.04 of the Revised Code 212
as it existed prior to July 1, 1996, a violation of section 213
2919.23 of the Revised Code that would have been a violation of 214
section 2905.04 of the Revised Code as it existed prior to July 215
1, 1996, had the violation been committed prior to that date, or 216
a violation of section 2925.11 of the Revised Code that is not a 217
minor drug possession offense; 218

(b) A violation of an existing or former law of this 219
state, any other state, or the United States that is 220
substantially equivalent to any of the offenses listed in 221
division (A)(1)(a) of this section; 222

(c) If the request is made pursuant to section 3319.39 of 223
the Revised Code for an applicant who is a teacher, any offense 224
specified in section 3319.31 of the Revised Code. 225

(2) On receipt of a request pursuant to section 3712.09 or 226
3721.121 of the Revised Code, a completed form prescribed 227
pursuant to division (C)(1) of this section, and a set of 228
fingerprint impressions obtained in the manner described in 229

division (C) (2) of this section, the superintendent of the 230
bureau of criminal identification and investigation shall 231
conduct a criminal records check with respect to any person who 232
has applied for employment in a position for which a criminal 233
records check is required by those sections. The superintendent 234
shall conduct the criminal records check in the manner described 235
in division (B) of this section to determine whether any 236
information exists that indicates that the person who is the 237
subject of the request previously has been convicted of or 238
pleaded guilty to any of the following: 239

(a) A violation of section 2903.01, 2903.02, 2903.03, 240
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 241
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 242
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 243
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 244
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 245
2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 246
2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 247
2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code; 248

(b) An existing or former law of this state, any other 249
state, or the United States that is substantially equivalent to 250
any of the offenses listed in division (A) (2) (a) of this 251
section. 252

(3) On receipt of a request pursuant to section 173.27, 253
173.38, 173.381, 3701.881, 5164.34, 5164.341, 5164.342, 254
5123.081, or 5123.169 of the Revised Code, a completed form 255
prescribed pursuant to division (C) (1) of this section, and a 256
set of fingerprint impressions obtained in the manner described 257
in division (C) (2) of this section, the superintendent of the 258
bureau of criminal identification and investigation shall 259

conduct a criminal records check of the person for whom the 260
request is made. The superintendent shall conduct the criminal 261
records check in the manner described in division (B) of this 262
section to determine whether any information exists that 263
indicates that the person who is the subject of the request 264
previously has been convicted of, has pleaded guilty to, or 265
(except in the case of a request pursuant to section 5164.34, 266
5164.341, or 5164.342 of the Revised Code) has been found 267
eligible for intervention in lieu of conviction for any of the 268
following, regardless of the date of the conviction, the date of 269
entry of the guilty plea, or (except in the case of a request 270
pursuant to section 5164.34, 5164.341, or 5164.342 of the 271
Revised Code) the date the person was found eligible for 272
intervention in lieu of conviction: 273

(a) A violation of section 959.13, 959.131, 2903.01, 274
2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 275
2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 276
2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2905.32, 2905.33, 277
2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 278
2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 279
2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 280
2909.03, 2909.04, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 281
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 282
2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 283
2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 284
2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 285
2919.121, 2919.123, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 286
2921.11, 2921.12, 2921.13, 2921.21, 2921.24, 2921.32, 2921.321, 287
2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 2923.122, 2923.123, 288
2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42, 2925.02, 289
2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09, 2925.11, 290

2925.13, 2925.14, 2925.141, 2925.22, 2925.23, 2925.24, 2925.36,	291
2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;	292
(b) Felonious sexual penetration in violation of former	293
section 2907.12 of the Revised Code;	294
(c) A violation of section 2905.04 of the Revised Code as	295
it existed prior to July 1, 1996;	296
(d) A violation of section 2923.01, 2923.02, or 2923.03 of	297
the Revised Code when the underlying offense that is the object	298
of the conspiracy, attempt, or complicity is one of the offenses	299
listed in divisions (A) (3) (a) to (c) of this section;	300
(e) A violation of an existing or former municipal	301
ordinance or law of this state, any other state, or the United	302
States that is substantially equivalent to any of the offenses	303
listed in divisions (A) (3) (a) to (d) of this section.	304
(4) On receipt of a request pursuant to section 2151.86 of	305
the Revised Code, a completed form prescribed pursuant to	306
division (C) (1) of this section, and a set of fingerprint	307
impressions obtained in the manner described in division (C) (2)	308
of this section, the superintendent of the bureau of criminal	309
identification and investigation shall conduct a criminal	310
records check in the manner described in division (B) of this	311
section to determine whether any information exists that	312
indicates that the person who is the subject of the request	313
previously has been convicted of or pleaded guilty to any of the	314
following:	315
(a) A violation of section 959.13, 2903.01, 2903.02,	316
2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16,	317
2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05,	318
2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08,	319

2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 320
2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 321
2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 322
2917.01, 2917.02, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 323
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 324
2927.12, or 3716.11 of the Revised Code, a violation of section 325
2905.04 of the Revised Code as it existed prior to July 1, 1996, 326
a violation of section 2919.23 of the Revised Code that would 327
have been a violation of section 2905.04 of the Revised Code as 328
it existed prior to July 1, 1996, had the violation been 329
committed prior to that date, a violation of section 2925.11 of 330
the Revised Code that is not a minor drug possession offense, 331
two or more OVI or OVUAC violations committed within the three 332
years immediately preceding the submission of the application or 333
petition that is the basis of the request, or felonious sexual 334
penetration in violation of former section 2907.12 of the 335
Revised Code; 336

(b) A violation of an existing or former law of this 337
state, any other state, or the United States that is 338
substantially equivalent to any of the offenses listed in 339
division (A)(4)(a) of this section. 340

(5) Upon receipt of a request pursuant to section 5104.013 341
of the Revised Code, a completed form prescribed pursuant to 342
division (C)(1) of this section, and a set of fingerprint 343
impressions obtained in the manner described in division (C)(2) 344
of this section, the superintendent of the bureau of criminal 345
identification and investigation shall conduct a criminal 346
records check in the manner described in division (B) of this 347
section to determine whether any information exists that 348
indicates that the person who is the subject of the request has 349
been convicted of or pleaded guilty to any of the following: 350

(a) A violation of section 2151.421, 2903.01, 2903.02, 351
2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 352
2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.32, 353
2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 354
2907.09, 2907.19, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 355
2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 356
2909.03, 2909.04, 2909.05, 2911.01, 2911.02, 2911.11, 2911.12, 357
2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 358
2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.41, 359
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 360
2913.48, 2913.49, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 361
2919.22, 2919.224, 2919.225, 2919.24, 2919.25, 2921.03, 2921.11, 362
2921.13, 2921.14, 2921.34, 2921.35, 2923.01, 2923.12, 2923.13, 363
2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 364
3716.11 of the Revised Code, felonious sexual penetration in 365
violation of former section 2907.12 of the Revised Code, a 366
violation of section 2905.04 of the Revised Code as it existed 367
prior to July 1, 1996, a violation of section 2919.23 of the 368
Revised Code that would have been a violation of section 2905.04 369
of the Revised Code as it existed prior to July 1, 1996, had the 370
violation been committed prior to that date, a violation of 371
section 2925.11 of the Revised Code that is not a minor drug 372
possession offense, a violation of section 2923.02 or 2923.03 of 373
the Revised Code that relates to a crime specified in this 374
division, or a second violation of section 4511.19 of the 375
Revised Code within five years of the date of application for 376
licensure or certification. 377

(b) A violation of an existing or former law of this 378
state, any other state, or the United States that is 379
substantially equivalent to any of the offenses or violations 380
described in division (A) (5) (a) of this section. 381

(6) Upon receipt of a request pursuant to section 5153.111 382
of the Revised Code, a completed form prescribed pursuant to 383
division (C)(1) of this section, and a set of fingerprint 384
impressions obtained in the manner described in division (C)(2) 385
of this section, the superintendent of the bureau of criminal 386
identification and investigation shall conduct a criminal 387
records check in the manner described in division (B) of this 388
section to determine whether any information exists that 389
indicates that the person who is the subject of the request 390
previously has been convicted of or pleaded guilty to any of the 391
following: 392

(a) A violation of section 2903.01, 2903.02, 2903.03, 393
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 394
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 395
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 396
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 397
2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 398
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 399
2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised 400
Code, felonious sexual penetration in violation of former 401
section 2907.12 of the Revised Code, a violation of section 402
2905.04 of the Revised Code as it existed prior to July 1, 1996, 403
a violation of section 2919.23 of the Revised Code that would 404
have been a violation of section 2905.04 of the Revised Code as 405
it existed prior to July 1, 1996, had the violation been 406
committed prior to that date, or a violation of section 2925.11 407
of the Revised Code that is not a minor drug possession offense; 408

(b) A violation of an existing or former law of this 409
state, any other state, or the United States that is 410
substantially equivalent to any of the offenses listed in 411
division (A)(6)(a) of this section. 412

(7) On receipt of a request for a criminal records check 413
from an individual pursuant to section 4749.03 or 4749.06 of the 414
Revised Code, accompanied by a completed copy of the form 415
prescribed in division (C)(1) of this section and a set of 416
fingerprint impressions obtained in a manner described in 417
division (C)(2) of this section, the superintendent of the 418
bureau of criminal identification and investigation shall 419
conduct a criminal records check in the manner described in 420
division (B) of this section to determine whether any 421
information exists indicating that the person who is the subject 422
of the request has been convicted of or pleaded guilty to a 423
felony in this state or in any other state. If the individual 424
indicates that a firearm will be carried in the course of 425
business, the superintendent shall require information from the 426
federal bureau of investigation as described in division (B)(2) 427
of this section. Subject to division (F) of this section, the 428
superintendent shall report the findings of the criminal records 429
check and any information the federal bureau of investigation 430
provides to the director of public safety. 431

(8) On receipt of a request pursuant to section 1321.37, 432
1321.53, ~~1321.531, 1322.03, 1322.031,~~ or 4763.05 of the Revised 433
Code, a completed form prescribed pursuant to division (C)(1) of 434
this section, and a set of fingerprint impressions obtained in 435
the manner described in division (C)(2) of this section, the 436
superintendent of the bureau of criminal identification and 437
investigation shall conduct a criminal records check with 438
respect to any person who has applied for a license, permit, or 439
certification from the department of commerce or a division in 440
the department. The superintendent shall conduct the criminal 441
records check in the manner described in division (B) of this 442
section to determine whether any information exists that 443

indicates that the person who is the subject of the request 444
previously has been convicted of or pleaded guilty to any of the 445
following: a violation of section 2913.02, 2913.11, 2913.31, 446
2913.51, or 2925.03 of the Revised Code; any other criminal 447
offense involving theft, receiving stolen property, 448
embezzlement, forgery, fraud, passing bad checks, money 449
laundering, or drug trafficking, or any criminal offense 450
involving money or securities, as set forth in Chapters 2909., 451
2911., 2913., 2915., 2921., 2923., and 2925. of the Revised 452
Code; or any existing or former law of this state, any other 453
state, or the United States that is substantially equivalent to 454
those offenses. 455

(9) On receipt of a request for a criminal records check 456
from the treasurer of state under section 113.041 of the Revised 457
Code or from an individual under section 4701.08, 4715.101, 458
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 459
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 460
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 461
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 462
4762.031, 4762.06, 4776.021, 4779.091, or 4783.04 of the Revised 463
Code, accompanied by a completed form prescribed under division 464
(C) (1) of this section and a set of fingerprint impressions 465
obtained in the manner described in division (C) (2) of this 466
section, the superintendent of the bureau of criminal 467
identification and investigation shall conduct a criminal 468
records check in the manner described in division (B) of this 469
section to determine whether any information exists that 470
indicates that the person who is the subject of the request has 471
been convicted of or pleaded guilty to any criminal offense in 472
this state or any other state. Subject to division (F) of this 473
section, the superintendent shall send the results of a check 474

requested under section 113.041 of the Revised Code to the 475
treasurer of state and shall send the results of a check 476
requested under any of the other listed sections to the 477
licensing board specified by the individual in the request. 478

(10) On receipt of a request pursuant to section 1121.23, 479
1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised 480
Code, a completed form prescribed pursuant to division (C)(1) of 481
this section, and a set of fingerprint impressions obtained in 482
the manner described in division (C)(2) of this section, the 483
superintendent of the bureau of criminal identification and 484
investigation shall conduct a criminal records check in the 485
manner described in division (B) of this section to determine 486
whether any information exists that indicates that the person 487
who is the subject of the request previously has been convicted 488
of or pleaded guilty to any criminal offense under any existing 489
or former law of this state, any other state, or the United 490
States. 491

(11) On receipt of a request for a criminal records check 492
from an appointing or licensing authority under section 3772.07 493
of the Revised Code, a completed form prescribed under division 494
(C)(1) of this section, and a set of fingerprint impressions 495
obtained in the manner prescribed in division (C)(2) of this 496
section, the superintendent of the bureau of criminal 497
identification and investigation shall conduct a criminal 498
records check in the manner described in division (B) of this 499
section to determine whether any information exists that 500
indicates that the person who is the subject of the request 501
previously has been convicted of or pleaded guilty or no contest 502
to any offense under any existing or former law of this state, 503
any other state, or the United States that is a disqualifying 504
offense as defined in section 3772.07 of the Revised Code or 505

substantially equivalent to such an offense. 506

(12) On receipt of a request pursuant to section 2151.33 507
or 2151.412 of the Revised Code, a completed form prescribed 508
pursuant to division (C)(1) of this section, and a set of 509
fingerprint impressions obtained in the manner described in 510
division (C)(2) of this section, the superintendent of the 511
bureau of criminal identification and investigation shall 512
conduct a criminal records check with respect to any person for 513
whom a criminal records check is required under that section. 514
The superintendent shall conduct the criminal records check in 515
the manner described in division (B) of this section to 516
determine whether any information exists that indicates that the 517
person who is the subject of the request previously has been 518
convicted of or pleaded guilty to any of the following: 519

(a) A violation of section 2903.01, 2903.02, 2903.03, 520
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 521
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 522
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 523
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 524
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 525
2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 526
2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 527
2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code; 528

(b) An existing or former law of this state, any other 529
state, or the United States that is substantially equivalent to 530
any of the offenses listed in division (A)(12)(a) of this 531
section. 532

(13) On receipt of a request pursuant to section 3796.12 533
of the Revised Code, a completed form prescribed pursuant to 534
division (C)(1) of this section, and a set of fingerprint 535

impressions obtained in a manner described in division (C) (2) of 536
this section, the superintendent of the bureau of criminal 537
identification and investigation shall conduct a criminal 538
records check in the manner described in division (B) of this 539
section to determine whether any information exists that 540
indicates that the person who is the subject of the request 541
previously has been convicted of or pleaded guilty to the 542
following: 543

(a) A disqualifying offense as specified in rules adopted 544
under division (B) (2) (b) of section 3796.03 of the Revised Code 545
if the person who is the subject of the request is an 546
administrator or other person responsible for the daily 547
operation of, or an owner or prospective owner, officer or 548
prospective officer, or board member or prospective board member 549
of, an entity seeking a license from the department of commerce 550
under Chapter 3796. of the Revised Code; 551

(b) A disqualifying offense as specified in rules adopted 552
under division (B) (2) (b) of section 3796.04 of the Revised Code 553
if the person who is the subject of the request is an 554
administrator or other person responsible for the daily 555
operation of, or an owner or prospective owner, officer or 556
prospective officer, or board member or prospective board member 557
of, an entity seeking a license from the state board of pharmacy 558
under Chapter 3796. of the Revised Code. 559

(14) On receipt of a request required by section 3796.13 560
of the Revised Code, a completed form prescribed pursuant to 561
division (C) (1) of this section, and a set of fingerprint 562
impressions obtained in a manner described in division (C) (2) of 563
this section, the superintendent of the bureau of criminal 564
identification and investigation shall conduct a criminal 565

records check in the manner described in division (B) of this 566
section to determine whether any information exists that 567
indicates that the person who is the subject of the request 568
previously has been convicted of or pleaded guilty to the 569
following: 570

(a) A disqualifying offense as specified in rules adopted 571
under division (B) (8) (a) of section 3796.03 of the Revised Code 572
if the person who is the subject of the request is seeking 573
employment with an entity licensed by the department of commerce 574
under Chapter 3796. of the Revised Code; 575

(b) A disqualifying offense as specified in rules adopted 576
under division (B) (14) (a) of section 3796.04 of the Revised Code 577
if the person who is the subject of the request is seeking 578
employment with an entity licensed by the state board of 579
pharmacy under Chapter 3796. of the Revised Code. 580

(B) Subject to division (F) of this section, the 581
superintendent shall conduct any criminal records check to be 582
conducted under this section as follows: 583

(1) The superintendent shall review or cause to be 584
reviewed any relevant information gathered and compiled by the 585
bureau under division (A) of section 109.57 of the Revised Code 586
that relates to the person who is the subject of the criminal 587
records check, including, if the criminal records check was 588
requested under section 113.041, 121.08, 173.27, 173.38, 589
173.381, 1121.23, 1155.03, 1163.05, 1315.141, 1321.37, 1321.53, 590
~~1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32,~~ 591
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3772.07, 592
3796.12, 4749.03, 4749.06, 4763.05, 5104.013, 5164.34, 5164.341, 593
5164.342, 5123.081, 5123.169, or 5153.111 of the Revised Code, 594
any relevant information contained in records that have been 595

sealed under section 2953.32 of the Revised Code; 596

(2) If the request received by the superintendent asks for 597
information from the federal bureau of investigation, the 598
superintendent shall request from the federal bureau of 599
investigation any information it has with respect to the person 600
who is the subject of the criminal records check, including 601
fingerprint-based checks of national crime information databases 602
as described in 42 U.S.C. 671 if the request is made pursuant to 603
section 2151.86 or 5104.013 of the Revised Code or if any other 604
Revised Code section requires fingerprint-based checks of that 605
nature, and shall review or cause to be reviewed any information 606
the superintendent receives from that bureau. If a request under 607
section 3319.39 of the Revised Code asks only for information 608
from the federal bureau of investigation, the superintendent 609
shall not conduct the review prescribed by division (B)(1) of 610
this section. 611

(3) The superintendent or the superintendent's designee 612
may request criminal history records from other states or the 613
federal government pursuant to the national crime prevention and 614
privacy compact set forth in section 109.571 of the Revised 615
Code. 616

(4) The superintendent shall include in the results of the 617
criminal records check a list or description of the offenses 618
listed or described in division (A)(1), (2), (3), (4), (5), (6), 619
(7), (8), (9), (10), (11), (12), (13), or (14) of this section, 620
whichever division requires the superintendent to conduct the 621
criminal records check. The superintendent shall exclude from 622
the results any information the dissemination of which is 623
prohibited by federal law. 624

(5) The superintendent shall send the results of the 625

criminal records check to the person to whom it is to be sent 626
not later than the following number of days after the date the 627
superintendent receives the request for the criminal records 628
check, the completed form prescribed under division (C) (1) of 629
this section, and the set of fingerprint impressions obtained in 630
the manner described in division (C) (2) of this section: 631

(a) If the superintendent is required by division (A) of 632
this section (other than division (A) (3) of this section) to 633
conduct the criminal records check, thirty; 634

(b) If the superintendent is required by division (A) (3) 635
of this section to conduct the criminal records check, sixty. 636

(C) (1) The superintendent shall prescribe a form to obtain 637
the information necessary to conduct a criminal records check 638
from any person for whom a criminal records check is to be 639
conducted under this section. The form that the superintendent 640
prescribes pursuant to this division may be in a tangible 641
format, in an electronic format, or in both tangible and 642
electronic formats. 643

(2) The superintendent shall prescribe standard impression 644
sheets to obtain the fingerprint impressions of any person for 645
whom a criminal records check is to be conducted under this 646
section. Any person for whom a records check is to be conducted 647
under this section shall obtain the fingerprint impressions at a 648
county sheriff's office, municipal police department, or any 649
other entity with the ability to make fingerprint impressions on 650
the standard impression sheets prescribed by the superintendent. 651
The office, department, or entity may charge the person a 652
reasonable fee for making the impressions. The standard 653
impression sheets the superintendent prescribes pursuant to this 654
division may be in a tangible format, in an electronic format, 655

or in both tangible and electronic formats. 656

(3) Subject to division (D) of this section, the 657
superintendent shall prescribe and charge a reasonable fee for 658
providing a criminal records check under this section. The 659
person requesting the criminal records check shall pay the fee 660
prescribed pursuant to this division. In the case of a request 661
under section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 662
1761.26, 2151.33, 2151.412, or 5164.34 of the Revised Code, the 663
fee shall be paid in the manner specified in that section. 664

(4) The superintendent of the bureau of criminal 665
identification and investigation may prescribe methods of 666
forwarding fingerprint impressions and information necessary to 667
conduct a criminal records check, which methods shall include, 668
but not be limited to, an electronic method. 669

(D) The results of a criminal records check conducted 670
under this section, other than a criminal records check 671
specified in division (A)(7) of this section, are valid for the 672
person who is the subject of the criminal records check for a 673
period of one year from the date upon which the superintendent 674
completes the criminal records check. If during that period the 675
superintendent receives another request for a criminal records 676
check to be conducted under this section for that person, the 677
superintendent shall provide the results from the previous 678
criminal records check of the person at a lower fee than the fee 679
prescribed for the initial criminal records check. 680

(E) When the superintendent receives a request for 681
information from a registered private provider, the 682
superintendent shall proceed as if the request was received from 683
a school district board of education under section 3319.39 of 684
the Revised Code. The superintendent shall apply division (A)(1) 685

(c) of this section to any such request for an applicant who is 686
a teacher. 687

(F) (1) Subject to division (F) (2) of this section, all 688
information regarding the results of a criminal records check 689
conducted under this section that the superintendent reports or 690
sends under division (A) (7) or (9) of this section to the 691
director of public safety, the treasurer of state, or the 692
person, board, or entity that made the request for the criminal 693
records check shall relate to the conviction of the subject 694
person, or the subject person's plea of guilty to, a criminal 695
offense. 696

(2) Division (F) (1) of this section does not limit, 697
restrict, or preclude the superintendent's release of 698
information that relates to the arrest of a person who is 699
eighteen years of age or older, to an adjudication of a child as 700
a delinquent child, or to a criminal conviction of a person 701
under eighteen years of age in circumstances in which a release 702
of that nature is authorized under division (E) (2), (3), or (4) 703
of section 109.57 of the Revised Code pursuant to a rule adopted 704
under division (E) (1) of that section. 705

(G) As used in this section: 706

(1) "Criminal records check" means any criminal records 707
check conducted by the superintendent of the bureau of criminal 708
identification and investigation in accordance with division (B) 709
of this section. 710

(2) "Minor drug possession offense" has the same meaning 711
as in section 2925.01 of the Revised Code. 712

(3) "OVI or OVUAC violation" means a violation of section 713
4511.19 of the Revised Code or a violation of an existing or 714

former law of this state, any other state, or the United States 715
that is substantially equivalent to section 4511.19 of the 716
Revised Code. 717

(4) "Registered private provider" means a nonpublic school 718
or entity registered with the superintendent of public 719
instruction under section 3310.41 of the Revised Code to 720
participate in the autism scholarship program or section 3310.58 721
of the Revised Code to participate in the Jon Peterson special 722
needs scholarship program. 723

Sec. 1181.21. (A) As used in this section, "consumer 724
finance company" has the same meaning as in section 1181.05 of 725
the Revised Code. 726

(B) The superintendent of financial institutions shall see 727
that the laws relating to consumer finance companies are 728
executed and enforced. 729

(C) The deputy superintendent for consumer finance shall 730
be the principal supervisor of consumer finance companies. In 731
that position the deputy superintendent for consumer finance 732
shall, notwithstanding section 1321.421, division (A) of section 733
1321.76, and sections 1321.07, 1321.55, ~~1322.06~~ 1322.34, 734
4727.05, and 4728.05 of the Revised Code, be responsible for 735
conducting examinations and preparing examination reports under 736
those sections. In addition, the deputy superintendent for 737
consumer finance shall, notwithstanding sections 1315.27, 738
1321.10, 1321.43, 1321.54, 1321.77, ~~1322.12~~ 1322.57, 4712.14, 739
4727.13, and 4728.10 of the Revised Code, have the authority to 740
adopt rules and standards in accordance with those sections. In 741
performing or exercising any of the examination, rule-making, or 742
other regulatory functions, powers, or duties vested by this 743
division in the deputy superintendent for consumer finance, the 744

deputy superintendent for consumer finance shall be subject to 745
the control of the superintendent of financial institutions and 746
the director of commerce. 747

Sec. 1181.25. The superintendent of financial institutions 748
may introduce into evidence or disclose, or authorize to be 749
introduced into evidence or disclosed, information that, under 750
sections 1121.18, 1155.16, 1163.20, 1315.122, 1321.09, 1321.48, 751
1321.55, 1321.76, ~~1322.06~~ 1322.34, ~~1322.061~~ 1322.36, 1733.32, 752
1733.327, and 4727.18 of the Revised Code, is privileged, 753
confidential, or otherwise not public information or a public 754
record, provided that the superintendent acts only as provided 755
in those sections or in the following circumstances: 756

(A) When in the opinion of the superintendent, it is 757
appropriate with regard to any enforcement actions taken and 758
decisions made by the superintendent under Chapters 1315., 759
1321., 1322., 1733., 4712., 4727., and 4728. of the Revised Code 760
or Title XI of the Revised Code; 761

(B) When litigation has been initiated by the 762
superintendent in furtherance of the powers, duties, and 763
obligations imposed upon the superintendent by Chapters 1315., 764
1321., 1322., 1733., 4712., 4727., and 4728. of the Revised Code 765
or Title XI of the Revised Code; 766

(C) When in the opinion of the superintendent, it is 767
appropriate with regard to enforcement actions taken or 768
decisions made by other financial institution regulatory 769
authorities to whom the superintendent has provided the 770
information pursuant to authority in Chapters 1315., 1321., 771
1322., 1733., 4712., 4727., and 4728. of the Revised Code or 772
Title XI of the Revised Code. 773

Sec. 1315.21. As used in sections 1315.21 to 1315.30 of	774
the Revised Code:	775
(A) "Check" means any check, draft, money order, or other	776
instrument for the transmission or payment of money. "Check"	777
does not include a travelers check.	778
(B) "Check-cashing business" means any person that engages	779
in the business of cashing checks for a fee. "Check-cashing	780
business" does not include any of the following:	781
(1) A licensee as defined in section 1321.01 of the	782
Revised Code;	783
(2) A registrant as defined in section 1321.51 of the	784
Revised Code;	785
(3) A financial institution;	786
(4) A person that is primarily engaged in the business of	787
selling tangible personal property or services at retail and	788
does not derive more than five per cent of the person's gross	789
income from the cashing of checks;	790
(5) A person licensed under sections 1315.01 to 1315.18 of	791
the Revised Code, or any agent of that person, to the extent	792
that the person or the agent is engaged in cashing checks or	793
travelers checks issued by the licensed person;	794
<u>(6) A person registered as a mortgage lender under Chapter</u>	795
<u>1322. of the Revised Code.</u>	796
(C) "Financial institution" means any bank, trust company,	797
savings bank, savings and loan association, or credit union,	798
that is incorporated or organized under the laws of the United	799
States or of any state thereof, or of Canada or any province	800
thereof, and subject to regulation or supervision by such	801

country, state, or province. 802

(D) "Superintendent of financial institutions" includes 803
the deputy superintendent for consumer finance as provided in 804
section 1181.21 of the Revised Code. 805

Sec. 1319.12. (A) (1) As used in this section, "collection 806
agency" means any person who, for compensation, contingent or 807
otherwise, or for other valuable consideration, offers services 808
to collect an alleged debt asserted to be owed to another. 809

(2) "Collection agency" does not mean a person whose 810
collection activities are confined to and directly related to 811
the operation of another business, including, but not limited 812
to, the following: 813

(a) Any bank, including the trust department of a bank, 814
trust company, savings and loan association, savings bank, 815
credit union, or fiduciary as defined in section 5815.04 of the 816
Revised Code, except those that own or operate a collection 817
agency; 818

(b) Any real estate broker or real estate salesperson, as 819
defined in section 4735.01 of the Revised Code; 820

(c) Any retail seller collecting its own accounts; 821

(d) Any insurance company authorized to do business in 822
this state under Title XXXIX of the Revised Code or a health 823
insuring corporation authorized to operate in this state under 824
Chapter 1751. of the Revised Code; 825

(e) Any public officer or judicial officer acting under 826
order of a court; 827

(f) Any licensee as defined either in section 1321.01 or 828
1321.71 of the Revised Code, ~~or~~ any registrant as defined in 829

section 1321.51 of the Revised Code, or any person registered as 830
a mortgage lender under Chapter 1322. of the Revised Code; 831

(g) Any public utility; 832

(h) Any person registered to sell interment rights under 833
section 4767.031 of the Revised Code. 834

(B) A collection agency with a place of business in this 835
state may take assignment of another person's accounts, bills, 836
or other evidences of indebtedness in its own name for the 837
purpose of billing, collecting, or filing suit in its own name 838
as the real party in interest. 839

(C) No collection agency shall commence litigation for the 840
collection of an assigned account, bill, or other evidence of 841
indebtedness unless it has taken the assignment in accordance 842
with all of the following requirements: 843

(1) The assignment was voluntary, properly executed, and 844
acknowledged by the person transferring title to the collection 845
agency. 846

(2) The collection agency did not require the assignment 847
as a condition to listing the account, bill, or other evidence 848
of indebtedness with the collection agency for collection. 849

(3) The assignment was manifested by a written agreement 850
separate from and in addition to any document intended for the 851
purpose of listing the account, bill, or other evidence of 852
indebtedness with the collection agency. The written agreement 853
shall state the effective date of the assignment and the 854
consideration paid or given, if any, for the assignment and 855
shall expressly authorize the collection agency to refer the 856
assigned account, bill, or other evidence of indebtedness to an 857
attorney admitted to the practice of law in this state for the 858

commencement of litigation. The written agreement also shall 859
disclose that the collection agency may consolidate, for 860
purposes of filing an action, the assigned account, bill, or 861
other evidence of indebtedness with those of other creditors 862
against an individual debtor or co-debtors. 863

(4) Upon the effective date of the assignment to the 864
collection agency, the creditor's account maintained by the 865
collection agency in connection with the assigned account, bill, 866
or other evidence of indebtedness was canceled. 867

(D) A collection agency shall commence litigation for the 868
collection of an assigned account, bill, or other evidence of 869
indebtedness in a court of competent jurisdiction located in the 870
county in which the debtor resides, or in the case of co- 871
debtors, a county in which at least one of the co-debtors 872
resides. 873

(E) No collection agency shall commence any litigation 874
authorized by this section unless the agency appears by an 875
attorney admitted to the practice of law in this state. 876

(F) This section does not affect the powers and duties of 877
any person described in division (A) (2) of this section. 878

(G) Nothing in this section relieves a collection agency 879
from complying with the "Fair Debt Collection Practices Act," 91 880
Stat. 874 (1977), 15 U.S.C. 1692, as amended, or deprives any 881
debtor of the right to assert defenses as provided in section 882
1317.031 of the Revised Code and 16 C.F.R. 433, as amended. 883

(H) For purposes of filing an action, a collection agency 884
that has taken an assignment or assignments pursuant to this 885
section may consolidate the assigned accounts, bills, or other 886
evidences of indebtedness of one or more creditors against an 887

individual debtor or co-debtors. Each separate assigned account, 888
bill, or evidence of indebtedness must be separately identified 889
and pled in any consolidated action authorized by this section. 890
If a debtor or co-debtor raises a good faith dispute concerning 891
any account, bill, or other evidence of indebtedness, the court 892
shall separate each disputed account, bill, or other evidence of 893
indebtedness from the action and hear the disputed account, 894
bill, or other evidence of indebtedness on its own merits in a 895
separate action. The court shall charge the filing fee of the 896
separate action to the losing party. 897

Sec. 1321.02. No person shall engage in the business of 898
lending money, credit, or choses in action in amounts of five 899
thousand dollars or less, or exact, contract for, or receive, 900
directly or indirectly, on or in connection with any such loan, 901
any interest and charges that in the aggregate are greater than 902
the interest and charges that the lender would be permitted to 903
charge for a loan of money if the lender were not a licensee, 904
without first having obtained a license from the division of 905
financial institutions under sections 1321.01 to 1321.19 of the 906
Revised Code. 907

Sections 1321.01 to 1321.19 of the Revised Code do not 908
apply to any person doing business under and as permitted by any 909
law of this state, another state, or the United States relating 910
to banks, savings banks, savings societies, trust companies, 911
credit unions, savings and loan associations substantially all 912
the business of which is confined to loans on real estate 913
mortgages and evidences of their own indebtedness; to 914
registrants conducting business pursuant to sections 1321.51 to 915
1321.60 of the Revised Code; to licensees conducting business 916
pursuant to sections 1321.71 to 1321.83 of the Revised Code; to 917
licensees doing business pursuant to sections 1321.35 to 1321.48 918

of the Revised Code; to registrants conducting business as 919
mortgage lenders under Chapter 1322. of the Revised Code; or to 920
any entity who is licensed pursuant to Title XXXIX of the 921
Revised Code, who makes advances or loans to any person who is 922
licensed to sell insurance pursuant to that Title, and who is 923
authorized in writing by that entity to sell insurance. No 924
person engaged in the business of selling tangible goods or 925
services related thereto may receive or retain a license under 926
sections 1321.01 to 1321.19 of the Revised Code for such place 927
of business. 928

The first paragraph of this section applies to any person, 929
who by any device, subterfuge, or pretense, charges, contracts 930
for, or receives greater interest, consideration, or charges 931
than that authorized by this section for any such loan or use of 932
money or for any such loan, use, or sale of credit, or who for a 933
fee or any manner of compensation arranges or offers to find or 934
arrange for another person to make any such loan, use, or sale 935
of credit. This section does not preclude the acquiring, 936
directly or indirectly, by purchase or discount, of a bona fide 937
obligation for goods or services when such obligation is payable 938
directly to the person who provided the goods or services. 939

Any contract of loan in the making or collection of which 940
an act is done by the lender that violates this section is void 941
and the lender has no right to collect, receive, or retain any 942
principal, interest, or charges. 943

Sec. 1321.51. As used in sections 1321.51 to 1321.60 of 944
the Revised Code: 945

(A) "Person" means an individual, partnership, 946
association, trust, corporation, or any other legal entity. 947

(B) "Certificate" means a certificate of registration	948
issued under sections 1321.51 to 1321.60 of the Revised Code.	949
(C) "Registrant" means a person to whom one or more	950
certificates of registration have been issued under sections	951
1321.51 to 1321.60 of the Revised Code.	952
(D) "Principal amount" means the amount of cash paid to,	953
or paid or payable for the account of, the borrower, and	954
includes any charge, fee, or expense that is financed by the	955
borrower at origination of the loan or during the term of the	956
loan.	957
(E) "Interest" means all charges payable directly or	958
indirectly by a borrower to a registrant as a condition to a	959
loan or an application for a loan, however denominated, but does	960
not include default charges, deferment charges, insurance	961
charges or premiums, court costs, loan origination charges,	962
check collection charges, credit line charges, points,	963
prepayment penalties, or other fees and charges specifically	964
authorized by law.	965
(F) "Interest-bearing loan" means a loan in which the debt	966
is expressed as the principal amount and interest is computed,	967
charged, and collected on unpaid principal balances outstanding	968
from time to time.	969
(G) "Precomputed loan" means a loan in which the debt is a	970
sum comprising the principal amount and the amount of interest	971
computed in advance on the assumption that all scheduled	972
payments will be made when due.	973
(H) "Actuarial method" means the method of allocating	974
payments made on a loan between the principal amount and	975
interest whereby a payment is applied first to the accumulated	976

interest and the remainder to the unpaid principal amount. 977

(I) "Applicable charge" means the amount of interest 978
 attributable to each monthly installment period of the loan 979
 contract. The applicable charge is computed as if each 980
 installment period were one month and any charge for extending 981
 the first installment period beyond one month is ignored. In the 982
 case of loans originally scheduled to be repaid in sixty-one 983
 months or less, the applicable charge for any installment period 984
 is that proportion of the total interest contracted for, as the 985
 balance scheduled to be outstanding during that period bears to 986
 the sum of all of the periodic balances, all determined 987
 according to the payment schedule originally contracted for. In 988
 all other cases, the applicable charge for any installment 989
 period is that which would have been made for such period had 990
 the loan been made on an interest-bearing basis, based upon the 991
 assumption that all payments were made according to schedule. 992

~~(J) "Broker" means a person who acts as an intermediary or~~ 993
~~agent in finding, arranging, or negotiating loans, other than~~ 994
~~residential mortgage loans, and charges or receives a fee for~~ 995
~~these services.~~ 996

~~(K)~~ "Annual percentage rate" means the ratio of the 997
 interest on a loan to the unpaid principal balances on the loan 998
 for any period of time, expressed on an annual basis. 999

~~(L)~~ (K) "Point" means a charge equal to one per cent of 1000
 either of the following: 1001

(1) The principal amount of a precomputed loan or 1002
 interest-bearing loan; 1003

(2) The original credit line of an open-end loan. 1004

~~(M)~~ (L) "Prepayment penalty" means a charge for prepayment 1005

of a loan at any time prior to five years from the date the loan contract is executed. 1006
1007

~~(N)~~ (M) "Refinancing" means a loan the proceeds of which are used in whole or in part to pay the unpaid balance of a prior loan made by the same registrant to the same borrower under sections 1321.51 to 1321.60 of the Revised Code. 1008
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~~(O)~~ (N) "Superintendent of financial institutions" includes the deputy superintendent for consumer finance as provided in section 1181.21 of the Revised Code. 1012
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~~(P) (1) "Mortgage loan originator" means an individual who for compensation or gain, or in anticipation of compensation or gain, does any of the following:~~ 1015
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~~(a) Takes or offers to take a residential mortgage loan application;~~ 1018
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~~(b) Assists or offers to assist a borrower in obtaining or applying to obtain a residential mortgage loan by, among other things, advising on loan terms, including rates, fees, and other costs;~~ 1020
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~~(c) Offers or negotiates terms of a residential mortgage loan;~~ 1024
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~~(d) Issues or offers to issue a commitment for a residential mortgage loan to a borrower.~~ 1026
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~~(2) "Mortgage loan originator" does not include any of the following:~~ 1028
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~~(a) An individual who performs purely administrative or clerical tasks on behalf of a mortgage loan originator;~~ 1030
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~~(b) A person licensed pursuant to Chapter 4735. of the~~ 1032

~~Revised Code, or under the similar law of another state, who~~ 1033
~~performs only real estate brokerage activities permitted by that~~ 1034
~~license, provided the person is not compensated by a mortgage~~ 1035
~~lender, mortgage broker, mortgage loan originator, or by any~~ 1036
~~agent thereof;~~ 1037

~~(c) A person solely involved in extensions of credit~~ 1038
~~relating to timeshare plans, as that term is defined in 11~~ 1039
~~U.S.C. 101, in effect on January 1, 2009;~~ 1040

~~(d) A person acting solely as a loan processor or~~ 1041
~~underwriter, who does not represent to the public, through~~ 1042
~~advertising or other means of communicating, including the use~~ 1043
~~of business cards, stationery, brochures, signs, rate lists, or~~ 1044
~~other promotional items, that the person can or will perform any~~ 1045
~~of the activities of a mortgage loan originator;~~ 1046

~~(e) A loan originator licensed under sections 1322.01 to~~ 1047
~~1322.12 of the Revised Code, when acting solely under that~~ 1048
~~authority;~~ 1049

~~(f) A licensed attorney who negotiates the terms of a~~ 1050
~~residential mortgage loan on behalf of a client as an ancillary~~ 1051
~~matter to the attorney's representation of the client, unless~~ 1052
~~the attorney is compensated by a lender, a mortgage broker, or~~ 1053
~~another mortgage loan originator, or by any agent thereof;~~ 1054

~~(g) Any person engaged in the retail sale of manufactured~~ 1055
~~homes, mobile homes, or industrialized units if, in connection~~ 1056
~~with financing those retail sales, the person only assists the~~ 1057
~~borrower by providing or transmitting the loan application and~~ 1058
~~does not do any of the following:~~ 1059

~~(i) Offer or negotiate the residential mortgage loan rates~~ 1060
~~or terms;~~ 1061

~~(ii) Provide any counseling with borrowers about residential mortgage loan rates or terms;~~ 1062
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~~(iii) Receive any payment or fee from any company or individual for assisting the borrower obtain or apply for financing to purchase the manufactured home, mobile home, or industrialized unit;~~ 1064
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~~(iv) Assist the borrower in completing the residential mortgage loan application.~~ 1068
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~~(3) An individual acting exclusively as a servicer engaging in loss mitigation efforts with respect to existing mortgage transactions shall not be considered a mortgage loan originator for purposes of sections 1321.51 to 1321.60 of the Revised Code until July 1, 2011, unless such delay is denied by the United States department of housing and urban development.~~ 1070
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~~(Q) "Residential mortgage loan" means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real estate upon which is constructed or intended to be constructed a dwelling. For purposes of this division, "dwelling" has the same meaning as in the "Truth in Lending Act," 82 Stat. 146, 15 U.S.C. 1602.~~ 1076
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~~(R) "Nationwide mortgage licensing system and registry" means a mortgage 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 mortgage loan originators, or any system established by the secretary of housing and urban development pursuant to the "Secure and Fair Enforcement for Mortgage Licensing Act of~~ 1083
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~~2008, " 122 Stat. 2810, 12 U.S.C. 5101.~~ 1091

~~(S) "Registered mortgage loan originator" means an individual to whom both of the following apply:~~ 1092
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~~(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.~~ 1094
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~~(2) The individual is registered with, and maintains a unique identifier through, the nationwide mortgage licensing system and registry.~~ 1099
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~~(T) "Administrative or clerical tasks" means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry, and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.~~ 1102
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~~(U) "Federal banking agency" means the board of governors of the federal reserve system, the comptroller of the currency, the director of the office of thrift supervision, the national credit union administration, and the federal deposit insurance corporation.~~ 1108
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~~(V) "Loan processor or underwriter" means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of a licensed mortgage loan originator or registered mortgage loan originator. For purposes of this division, to "perform clerical or support duties" means to do all of the following activities:~~ 1113
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~~(1) Receiving, collecting, distributing, and analyzing~~ 1119

~~information common for the processing or underwriting of a residential mortgage loan;~~ 1120
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~~(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.~~ 1122
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~~(W) "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including all of the following:~~ 1127
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~~(1) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;~~ 1130
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~~(2) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;~~ 1132
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~~(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;~~ 1134
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~~(4) Engaging in any activity for which a person engaged in that activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law;~~ 1138
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1140

~~(5) Offering to engage in any activity, or to act in any capacity, described in division (W) of this section.~~ 1141
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~~(X) "Licensee" means any person that has been issued a mortgage loan originator license under sections 1321.51 to 1321.60 of the Revised Code.~~ 1143
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~~(Y) "Unique identifier" means a number or other identifier that permanently identifies a mortgage loan originator and is~~ 1146
1147

~~assigned by protocols established by the nationwide mortgage- 1148
licensing system and registry or federal banking agencies to 1149
facilitate electronic tracking of mortgage loan originators and 1150
uniform identification of, and public access to, the employment- 1151
history of and the publicly adjudicated disciplinary and 1152
enforcement actions against mortgage loan originators. 1153~~

~~(Z)-(O) "State" in the context of referring to states in 1154
addition to Ohio means any state of the United States, the 1155
district of Columbia, any territory of the United States, Puerto 1156
Rico, Guam, American Samoa, the trust territory of the Pacific 1157
islands, the virgin islands, and the northern Mariana islands. 1158~~

~~(AA)-(P) "Depository institution" has the same meaning as 1159
in section 3 of the "Federal Deposit Insurance Act," 64 Stat. 1160
873, 12 U.S.C. 1813, and includes any credit union. 1161~~

~~(BB) "Bona fide third party" means a person that is not an 1162
employee of, related to, or affiliated with, the registrant, and 1163
that is not used for the purpose of circumvention or evasion of 1164
sections 1321.51 to 1321.60 of the Revised Code. 1165~~

~~(CC) "Nontraditional mortgage product" means any mortgage 1166
product other than a thirty year fixed rate mortgage. 1167~~

~~(DD) "Employee" means an individual for whom a registrant 1168
or applicant, in addition to providing a wage or salary, pays 1169
social security and unemployment taxes, provides workers' 1170
compensation coverage, and withholds local, state, and federal 1171
income taxes. "Employee" also includes any individual who acts 1172
as a mortgage loan originator or operations manager of the 1173
registrant, but for whom the registrant is prevented by law from 1174
making income tax withholdings. 1175~~

~~(EE) "Primary point of contact" means the employee or 1176~~

~~owner designated by the registrant or applicant to be the~~ 1177
~~individual who the division of financial institutions can~~ 1178
~~contact regarding compliance or licensing matters relating to~~ 1179
~~the registrant's or applicant's business or lending activities~~ 1180
~~secured by an interest in real estate.~~ 1181

~~(FF) "Consumer reporting agency" has the same meaning as~~ 1182
~~in the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.~~ 1183
~~1681a, as amended.~~ 1184

~~(GG) "Mortgage broker" has the same meaning as in section~~ 1185
~~1322.01 of the Revised Code.~~ 1186

Sec. 1321.52. (A) (1) ~~No person, on that person's own~~ 1187
~~behalf or on behalf of any other person, shall do any of the~~ 1188
~~following without having first obtained a certificate of~~ 1189
~~registration from the division of financial institutions:~~ 1190

~~(a) Advertise, solicit, or hold out that the person is~~ 1191
~~engaged in the business of making residential mortgage loans~~ 1192
~~secured by a mortgage on a borrower's real estate which is other~~ 1193
~~than a first lien on the real estate;~~ 1194

~~(b) Engage in the business of lending or collecting the~~ 1195
~~person's own or another person's money, credit, or choses in~~ 1196
~~action for non first lien residential mortgage loans;~~ 1197

~~(c) Employ or compensate mortgage loan originators~~ 1198
~~licensed or who should be licensed under sections 1321.51 to~~ 1199
~~1321.60 of the Revised Code to conduct the business of making~~ 1200
~~residential mortgage loans;~~ 1201

~~(d) Make loans in this state of the type set forth in~~ 1202
~~division (C) of this section that are unsecured or are secured~~ 1203
~~by other than real property, which loans are for more than five~~ 1204
~~thousand dollars at a rate of interest greater than permitted by~~ 1205

~~section 1343.01 or other specific provisions of the Revised Code~~ 1206
A registrant may make loans, other than a residential mortgage 1207
loan as defined in section 1322.01 of the Revised Code, on terms 1208
and conditions provided by sections 1321.51 to 1321.60 of the 1209
Revised Code. 1210

(2) Each person issued a certificate of registration ~~or~~ 1211
~~license~~ is subject to all the rules prescribed under sections 1212
1321.51 to 1321.60 of the Revised Code. 1213

(B) (1) All loans made to persons who at the time are 1214
residents of this state are considered as made within this state 1215
and subject to the laws of this state, regardless of any 1216
statement in the contract or note to the contrary, except ~~as~~ 1217
~~follows:~~ 1218

~~(a) If the loan is primarily secured by a lien on real~~ 1219
~~property in another state and is arranged by a mortgage loan~~ 1220
~~originator licensed by that state, the borrower may by choice of~~ 1221
~~law designate that the transaction be governed by the law where~~ 1222
~~the real property is located if the other state has consumer~~ 1223
~~protection laws covering the borrower that are applicable to the~~ 1224
~~transaction.~~ 1225

~~(b) If~~ if the loan is for the purpose of purchasing goods 1226
acquired by the borrower when the borrower is outside of this 1227
state, the loan may be governed by the laws of the other state. 1228

(2) Nothing in division (B) (1) of this section prevents a 1229
choice of law or requires registration ~~or licensure~~ of persons 1230
outside of this state in a transaction involving the 1231
solicitation of residents of this state to obtain non-real 1232
estate secured loans that require the borrowers to physically 1233
visit a lender's out-of-state office to apply for and obtain the 1234

disbursement of loan funds. 1235

(C) A registrant may make unsecured loans, ~~loans secured~~ 1236
~~by a mortgage on a borrower's real estate which is a first lien~~ 1237
~~or other than a first lien on the real estate, and~~ loans secured 1238
by other than residential real estate, ~~and loans secured by any~~ 1239
~~combination of mortgages and security interests, on terms and~~ 1240
~~conditions provided by sections 1321.51 to 1321.60 or a dwelling~~ 1241
as those terms are defined in section 1322.01 of the Revised 1242
Code. 1243

~~(D) (1) If a lender that is subject to sections 1321.51 to~~ 1244
~~1321.60 of the Revised Code makes a loan in violation of~~ 1245
~~division (A) (1) of this section, the lender has no right to~~ 1246
~~collect, receive, or retain any interest or charges on that~~ 1247
~~loan.~~ 1248

~~(2) If a registrant applies to the division for a renewal~~ 1249
~~of the registrant's certificate after the date required by~~ 1250
~~division (A) (7) of section 1321.53 of the Revised Code, but~~ 1251
~~prior to the first day of February of that year, and the~~ 1252
~~division approves the application, division (D) (1) of this~~ 1253
~~section does not apply with respect to any loan made by the~~ 1254
~~registrant while the registrant's certificate was expired.~~ 1255

~~(3) If a person's registration under sections 1321.51 to~~ 1256
~~1321.60 of the Revised Code terminates due to nonrenewal or~~ 1257
~~otherwise but the person continues to engage in the business of~~ 1258
~~collecting or servicing non first lien residential mortgage~~ 1259
~~loans in violation of division (A) (1) of this section, the~~ 1260
~~superintendent of financial institutions may take administrative~~ 1261
~~action, including action on any subsequent application for a~~ 1262
~~certificate of registration. In addition, no late fee, bad check~~ 1263
~~charge except as incurred, charge related to default or cost to~~ 1264

~~realize on its security interest, or prepayment penalty on non- 1265
first lien residential mortgage loans shall be collected or 1266
retained by a person who is in violation of division (A) (1) (b)- 1267
of this section for the period of time in which the person was 1268
in violation. Nothing in division (D) (3) of this section 1269
prevents or otherwise precludes any other actions or penalties 1270
provided by law or modifies a defense of holder in due course 1271
that a subsequent purchaser servicing the residential mortgage 1272
loan may raise. 1273~~

~~(E) (1) No individual shall engage in the business of a 1274
mortgage loan originator without first obtaining and maintaining 1275
annually a license pursuant to section 1321.532 of the Revised 1276
Code from the division of financial institutions. A mortgage 1277
loan originator shall be employed or associated with a 1278
registrant or entity exempt from registration under sections 1279
1321.51 to 1321.60 of the Revised Code, but shall not be 1280
employed by or associated with more than one registrant or 1281
exempt entity at any one time. 1282~~

~~(2) An individual acting under the individual's authority 1283
as a registered mortgage loan originator shall not be required 1284
to be licensed under division (E) (1) of this section. 1285~~

~~(3) An individual who holds a valid temporary mortgage 1286
loan originator license issued pursuant to section 1321.537 of 1287
the Revised Code may engage in the business of a mortgage loan 1288
originator in accordance with sections 1321.51 to 1321.60 of the 1289
Revised Code during the term of the temporary license. 1290~~

~~(F) (1) Each licensee shall register with, and maintain a 1291
valid unique identifier issued by, the nationwide mortgage 1292
licensing system and registry. 1293~~

~~(2) No person shall use a licensee's unique identifier for any purpose other than as set forth in the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.~~ 1294
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~~(G) (1) If a person that is subject to sections 1321.51 to 1321.60 of the Revised Code makes a loan in violation of division (A) (1) (d) of this section and subsequently sells or assigns that loan, the person is liable to the borrower for any interest paid on that loan to the holder or assignee in excess of the rate that would be applicable in the absence of sections 1321.51 to 1321.60 of the Revised Code, in addition to any interest or charges paid on that loan to the unauthorized lender as provided by division (D) (1) of this section.~~ 1298
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~~(2) If a person that is subject to sections 1321.51 to 1321.60 of the Revised Code makes a residential mortgage loan in violation of division (A) (1) (b) or (c) of this section and subsequently sells or assigns that loan, the lender is liable to the borrower for any interest paid on that loan to the holder or assignee in excess of the rate set forth in division (B) (4) of section 1343.01 of the Revised Code, in addition to any interest or charges paid on that loan to the unauthorized lender as provided by division (D) (1) of this section.~~ 1307
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Sec. 1321.53. (A) (1) An application for a certificate of registration under sections 1321.51 to 1321.60 of the Revised Code shall contain an undertaking by the applicant to abide by those sections. The application shall be in writing, under oath, and in the form prescribed by the division of financial institutions, and shall contain any information that the division may require. Applicants that are foreign corporations shall obtain and maintain a license pursuant to Chapter 1703. of 1316
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the Revised Code before a certificate is issued or renewed. 1324

(2) Upon the filing of the application and the payment by 1325
the applicant of a nonrefundable two-hundred-dollar 1326
investigation fee, and a nonrefundable three-hundred-dollar 1327
annual registration fee, ~~and any additional fee required by the~~ 1328
~~nationwide mortgage licensing system and registry,~~ the division 1329
shall investigate the relevant facts. If the application 1330
involves investigation outside this state, the applicant may be 1331
required by the division to advance sufficient funds to pay any 1332
of the actual expenses of such investigation, when it appears 1333
that these expenses will exceed two hundred dollars. An itemized 1334
statement of any of these expenses which the applicant is 1335
required to pay shall be furnished to the applicant by the 1336
division. No certificate shall be issued unless all the required 1337
fees have been submitted to the division. 1338

~~(3) All applicants making loans secured by an interest in~~ 1339
~~real estate shall designate an employee or owner of the~~ 1340
~~applicant as the applicant's primary point of contact. While~~ 1341
~~acting as the primary point of contact, the employee or owner~~ 1342
~~shall not be employed by any other registrant or mortgage~~ 1343
~~broker.~~ 1344

~~(4)~~ The investigation undertaken upon application shall 1345
include both a civil and criminal records check of the applicant 1346
including any individual whose identity is required to be 1347
disclosed in the application. Where the applicant is a business 1348
entity the superintendent shall have the authority to require a 1349
civil and criminal background check of those persons that in the 1350
determination of the superintendent have the authority to direct 1351
and control the operations of the applicant. 1352

~~(5)~~ (4) (a) Notwithstanding division (K) of section 121.08 1353

of the Revised Code, the superintendent of financial 1354
institutions shall obtain a criminal history records check and, 1355
as part of that records check, request that criminal record 1356
information from the federal bureau of investigation be 1357
obtained. To fulfill this requirement, the superintendent shall 1358
~~do either of the following:~~ 1359

~~(i) Request~~ request the superintendent of the bureau of 1360
criminal identification and investigation, or a vendor approved 1361
by the bureau, to conduct a criminal records check based on the 1362
applicant's fingerprints or, if the fingerprints are unreadable, 1363
based on the applicant's social security number, in accordance 1364
with section 109.572 of the Revised Code. 1365

~~(ii) Authorize the nationwide mortgage licensing system~~ 1366
~~and registry to request a criminal history background check as~~ 1367
~~set forth in division (C) of section 1321.531 of the Revised~~ 1368
~~Code.~~ 1369

(b) Any fee required under division (C) (3) of section 1370
109.572 of the Revised Code ~~or by the nationwide mortgage~~ 1371
~~licensing system and registry~~ shall be paid by the applicant. 1372

~~(6)~~ (5) If an application for a certificate of 1373
registration does not contain all of the information required 1374
under division (A) of this section, and if such information is 1375
not submitted to the division ~~or to the nationwide mortgage~~ 1376
~~licensing system and registry~~ within ninety days after the 1377
superintendent ~~or the nationwide mortgage licensing system and~~ 1378
~~registry~~ requests the information in writing, including by 1379
electronic transmission or facsimile, the superintendent may 1380
consider the application withdrawn. 1381

~~(7)~~ (6) If the division finds that the financial 1382

responsibility, experience, character, and general fitness of 1383
the applicant command the confidence of the public and warrant 1384
the belief that the business will be operated honestly and 1385
fairly in compliance with the purposes of sections 1321.51 to 1386
1321.60 of the Revised Code and the rules adopted thereunder, 1387
and that the applicant has the ~~requisite bond or~~ applicable net 1388
worth and assets required by division (B) of this section, the 1389
division shall thereupon issue a certificate of registration to 1390
the applicant. The superintendent shall not use a credit score 1391
as the sole basis for a registration denial. 1392

(a) (i) Certificates of registration issued on or after 1393
July 1, 2010, shall annually expire on the thirty-first day of 1394
December, unless renewed by the filing of a renewal application 1395
and payment of a three-hundred-dollar nonrefundable annual 1396
registration fee, and any assessment as determined by the 1397
superintendent pursuant to division (A) ~~(7)~~ (6) (a) (ii) of this 1398
section, ~~and any additional fee required by the nationwide~~ 1399
~~mortgage licensing system and registry,~~ on or before the last 1400
day of December of each year. No other fee or assessment shall 1401
be required of a registrant by the state or any political 1402
subdivision of this state. 1403

(ii) If the renewal fees billed by the superintendent 1404
pursuant to division (A) ~~(7)~~ (6) (a) (i) of this section are less 1405
than the estimated expenditures of the consumer finance section 1406
of the division of financial institutions, as determined by the 1407
superintendent, for the following fiscal year, the 1408
superintendent may assess each registrant at a rate sufficient 1409
to equal in the aggregate the difference between the renewal 1410
fees billed and the estimated expenditures. Each registrant 1411
shall pay the assessed amount to the superintendent prior to the 1412
last day of June. In no case shall the assessment exceed ten 1413

cents per each one hundred dollars of interest (excluding 1414
charge-off recoveries), points, loan origination charges, and 1415
credit line charges collected by that registrant during the 1416
previous calendar year. If such an assessment is imposed, it 1417
shall not be less than two hundred fifty dollars per registrant 1418
and shall not exceed thirty thousand dollars less the total 1419
renewal fees paid pursuant to division (A) ~~(7)~~ (6) (a) (i) of this 1420
section by each registrant. 1421

(b) Registrants shall timely file renewal applications on 1422
forms prescribed by the division and provide any further 1423
information that the division may require. If a renewal 1424
application does not contain all of the information required 1425
under this section, and if that information is not submitted to 1426
the division ~~or to the nationwide mortgage licensing system and~~ 1427
~~registry~~ within ninety days after the superintendent ~~or the~~ 1428
~~nationwide mortgage licensing system and registry~~ requests the 1429
information in writing, including by electronic transmission or 1430
facsimile, the superintendent may consider the application 1431
withdrawn. 1432

(c) Renewal shall not be granted if the applicant's 1433
certificate of registration is subject to an order of 1434
suspension, revocation, or an unpaid and past due fine imposed 1435
by the superintendent. 1436

(d) If the division finds the applicant does not meet the 1437
conditions set forth in this section, it shall issue a notice of 1438
intent to deny the application, and forthwith notify the 1439
applicant of the denial, the grounds for the denial, and the 1440
applicant's reasonable opportunity to be heard on the action in 1441
accordance with Chapter 119. of the Revised Code. 1442

~~(8)~~ (7) If there is a change of five per cent or more in 1443

the ownership of a registrant, the division may make any 1444
investigation necessary to determine whether any fact or 1445
condition exists that, if it had existed at the time of the 1446
original application for a certificate of registration, the fact 1447
or condition would have warranted the division to deny the 1448
application under division (A) ~~(7)~~ (6) of this section. If such a 1449
fact or condition is found, the division may, in accordance with 1450
Chapter 119. of the Revised Code, revoke the registrant's 1451
certificate. 1452

(B) Each registrant that engages in lending under sections 1453
1321.51 to 1321.60 of the Revised Code shall, ~~if not otherwise~~ 1454
~~required to be bonded pursuant to section 1321.533 of the~~ 1455
~~Revised Code,~~ maintain both of the following: 1456

(1) A net worth of at least fifty thousand dollars; 1457

(2) For each certificate of registration, assets of at 1458
least fifty thousand dollars either in use or readily available 1459
for use in the conduct of the business. 1460

(C) Not more than one place of business shall be 1461
maintained under the same certificate, but the division may 1462
issue additional certificates to the same registrant upon 1463
compliance with sections 1321.51 to 1321.60 of the Revised Code, 1464
governing the issuance of a single certificate. No change in the 1465
place of business of a registrant to a location outside the 1466
original municipal corporation shall be permitted under the same 1467
certificate without the approval of a new application, the 1468
payment of the registration fee and, if required by the 1469
superintendent, the payment of an investigation fee of two 1470
hundred dollars. When a registrant wishes to change its place of 1471
business within the same municipal corporation, it shall give 1472
written notice of the change in advance to the division, which 1473

shall provide a certificate for the new address without cost. If 1474
a registrant changes its name, prior to making loans under the 1475
new name it shall give written notice of the change to the 1476
division, which shall provide a certificate in the new name 1477
without cost. Sections 1321.51 to 1321.60 of the Revised Code do 1478
not limit the loans of any registrant to residents of the 1479
community in which the registrant's place of business is 1480
situated. Each certificate shall be kept conspicuously posted in 1481
the place of business of the registrant and is not transferable 1482
or assignable. 1483

(D) Sections 1321.51 to 1321.60 of the Revised Code do not 1484
apply to any of the following: 1485

(1) Entities chartered and lawfully doing business under 1486
the authority of any law of this state, another state, or the 1487
United States as a bank, savings bank, trust company, savings 1488
and loan association, or credit union, or a subsidiary of any 1489
such entity, which subsidiary is regulated by a federal banking 1490
agency and is owned and controlled by such a depository 1491
institution; 1492

(2) Life, property, or casualty insurance companies 1493
licensed to do business in this state; 1494

(3) Any person that is a lender making a loan pursuant to 1495
sections 1321.01 to 1321.19 of the Revised Code or a business 1496
loan as described in division (B)(6) of section 1343.01 of the 1497
Revised Code; 1498

(4) Any political subdivision, or any governmental or 1499
other public entity, corporation, instrumentality, or agency, in 1500
or of the United States or any state of the United States, or 1501
any entity described in division (B)(3) of section 1343.01 of 1502

the Revised Code; 1503

(5) A college or university, or controlled entity of a 1504
college or university, as those terms are defined in section 1505
1713.05 of the Revised Code; 1506

~~(6) A credit union service organization, provided the 1507
organization utilizes services provided by registered mortgage- 1508
loan originators or the organization complies with section- 1509
1321.522 of the Revised Code and holds a valid letter of 1510
exemption issued by the superintendent. 1511~~

(E) No person engaged in the business of selling tangible 1512
goods or services related to tangible goods may receive or 1513
retain a certificate under sections 1321.51 to 1321.60 of the 1514
Revised Code for such place of business. 1515

Sec. 1321.54. (A) The division of financial institutions 1516
may adopt, in accordance with Chapter 119. of the Revised Code, 1517
rules that are necessary for the enforcement or administration 1518
of sections 1321.51 to 1321.60 of the Revised Code and that are 1519
consistent with those sections and rules to carry out the 1520
purposes of those sections. 1521

(B) (1) The division may, upon written notice to the 1522
registrant ~~or licensee~~ stating the contemplated action, the 1523
grounds for the action, and the registrant's ~~or licensee's~~ 1524
reasonable opportunity to be heard on the action in accordance 1525
with Chapter 119. of the Revised Code, revoke, suspend, or 1526
refuse to renew any certificate ~~or license~~ issued under sections 1527
1321.51 to 1321.60 of the Revised Code if it finds any of the 1528
following: 1529

(a) A violation of or failure to comply with any provision 1530
of sections 1321.51 to 1321.60 of the Revised Code or the rules 1531

adopted thereunder, any federal lending law, or any other law 1532
applicable to the business conducted under a certificate of 1533
registration ~~or license;~~ 1534

(b) The person has been convicted of or pleaded guilty or 1535
nolo contendere to any criminal felony offense in a domestic, 1536
foreign, or military court; 1537

(c) The person has been convicted of or pleaded guilty or 1538
nolo contendere to any criminal offense involving theft, 1539
receiving stolen property, embezzlement, forgery, fraud, passing 1540
bad checks, money laundering, breach of trust, dishonesty, or 1541
drug trafficking, or any criminal offense involving money or 1542
securities, in a domestic, foreign, or military court; 1543

~~(d) The person's mortgage lender certificate of 1544
registration or mortgage loan originator license, or comparable 1545
authority, has been revoked in any governmental jurisdiction. 1546~~

(2) In addition to, or in lieu of, any revocation, 1547
suspension, or denial, the division may impose a monetary fine 1548
after administrative hearing or in settlement of matters subject 1549
to claims under division (B) (1) (a) of this section. 1550

~~(3) Subject to division (D) (3) of section 1321.52 of the 1551
Revised Code, the The revocation, suspension, or refusal to 1552
renew shall not impair the obligation of any pre-existing lawful 1553
contract made under sections 1321.51 to 1321.60 of the Revised 1554
Code; provided, however, that a prior registrant shall make good 1555
faith efforts to promptly transfer the registrant's collection 1556
rights to another registrant or person exempt from registration, 1557
or be subject to additional monetary fines and legal or 1558
administrative action by the division. Nothing in division (B) 1559
(3) of this section shall limit a court's ability to impose a 1560~~

cease and desist order preventing any further business or 1561
servicing activity. 1562

(C) (1) The superintendent of financial institutions may 1563
impose a fine for a violation of sections 1321.51 to 1321.60 of 1564
the Revised Code or any rule adopted thereunder. All fines 1565
collected pursuant to this section shall be paid to the 1566
treasurer of state to the credit of the consumer finance fund 1567
created in section 1321.21 of the Revised Code. In determining 1568
the amount of a fine to be imposed pursuant to this section, the 1569
superintendent may consider all of the following to the extent 1570
it is known to the division of financial institutions: 1571

(a) The seriousness of the violation; 1572

(b) The registrant's ~~or licensee's~~ good faith efforts to 1573
prevent the violation; 1574

(c) The registrant's ~~or licensee's~~ history regarding 1575
violations and compliance with division orders; 1576

(d) The registrant's ~~or licensee's~~ financial resources; 1577

(e) Any other matters the superintendent considers 1578
appropriate in enforcing sections 1321.51 to 1321.60 of the 1579
Revised Code. 1580

(2) Monetary fines imposed under this division shall not 1581
exceed twenty-five thousand dollars and do not preclude any 1582
criminal fine imposed pursuant to section 1321.99 of the Revised 1583
Code. 1584

(D) The superintendent may investigate alleged violations 1585
of sections 1321.51 to 1321.60 of the Revised Code, or the rules 1586
adopted thereunder, or complaints concerning any such violation. 1587
The superintendent may make application to the court of common 1588

pleas for an order enjoining any violation and, upon a showing 1589
by the superintendent that a person has committed, or is about 1590
to commit, a violation, the court shall grant an injunction, 1591
restraining order, or other appropriate relief. The 1592
superintendent, in making application to the court of common 1593
pleas for an order enjoining a person from acting as a 1594
~~registrant or mortgage loan originator in violation of division~~ 1595
~~(A) or (E) of section 1321.52 of the Revised Code,~~ may also seek 1596
and obtain civil penalties for that unregistered ~~or unlicensed~~ 1597
conduct in an amount not to exceed five thousand dollars per 1598
violation. 1599

(E) In conducting an investigation pursuant to this 1600
section, the superintendent may compel, by subpoena, witnesses 1601
to testify in relation to any matter over which the 1602
superintendent has jurisdiction, and may require the production 1603
or photocopying of any book, record, or other document 1604
pertaining to such matter. If a person fails to file any 1605
statement or report, obey any subpoena, give testimony, produce 1606
any book, record, or other document as required by such a 1607
subpoena, or permit photocopying of any book, record, or other 1608
document subpoenaed, the court of common pleas of any county in 1609
this state, upon application made to it by the superintendent, 1610
shall compel obedience by attachment proceedings for contempt, 1611
as in the case of disobedience of the requirements of a subpoena 1612
issued from the court, or a refusal to testify therein. 1613

(F) If the superintendent determines that a person is 1614
engaged in, or is believed to be engaged in, activities that may 1615
constitute a violation of sections 1321.51 to 1321.60 of the 1616
Revised Code or the rules adopted thereunder, the superintendent 1617
may, after notice and a hearing conducted in accordance with 1618
Chapter 119. of the Revised Code, issue a cease and desist 1619

order. The superintendent, in taking administrative action to 1620
enjoin a person from acting as a registrant ~~or mortgage loan~~ 1621
~~originator in violation of division (A) or (E) of section~~ 1622
~~1321.52 of the Revised Code~~, may also seek and impose fines for 1623
those violations in an amount not to exceed five thousand 1624
dollars per violation. Such an order shall be enforceable in the 1625
court of common pleas. 1626

~~(G) The superintendent shall regularly report violations~~ 1627
~~of sections 1321.51 to 1321.60 of the Revised Code, as well as~~ 1628
~~enforcement actions and other relevant information, to the~~ 1629
~~nationwide mortgage licensing system and registry pursuant to~~ 1630
~~division (E) of section 1321.55 of the Revised Code.~~ 1631

~~(H)~~ (1) To protect the public interest, the superintendent 1632
may, without a prior hearing, ~~do any of the following:~~ 1633

~~(a) Suspend suspend the certificate of registration or~~ 1634
~~license of a person who is convicted of or pleads guilty or nolo~~ 1635
~~contendere to a criminal violation of sections 1321.51 to~~ 1636
~~1321.60 of the Revised Code or any criminal offense described in~~ 1637
~~division (B) (1) (b) or (c) of this section.~~ 1638

~~(b) Suspend the certificate of registration or license of~~ 1639
~~a person who violates division (F) of section 1321.533 of the~~ 1640
~~Revised Code;~~ 1641

~~(c) Suspend the certificate of registration or license of~~ 1642
~~a person who fails to comply with a request made by the~~ 1643
~~superintendent under this section or section 1321.55 of the~~ 1644
~~Revised Code to inspect qualifying education transcripts located~~ 1645
~~at the registrant's or licensee's place of business.~~ 1646

(2) The superintendent may, in accordance with Chapter 1647
119. of the Revised Code, subsequently revoke any registration 1648

~~or license~~ suspended under division ~~(H)~~(G)(1) of this section. 1649

(3) The superintendent shall, in accordance with Chapter 1650
119. of the Revised Code, adopt rules establishing the maximum 1651
amount of time a suspension under division ~~(H)~~(G)(1) of this 1652
section may continue before a hearing is conducted. 1653

Sec. 1321.55. (A) Every registrant shall keep records 1654
pertaining to loans made under sections 1321.51 to 1321.60 of 1655
the Revised Code. Such records shall be segregated from records 1656
pertaining to transactions that are not subject to these 1657
sections of the Revised Code. Every registrant shall preserve 1658
records pertaining to loans made under sections 1321.51 to 1659
1321.60 of the Revised Code for at least two years after making 1660
the final entry on such records. Accounting systems maintained 1661
in whole or in part by mechanical or electronic data processing 1662
methods that provide information equivalent to that otherwise 1663
required are acceptable for this purpose. At least once each 1664
eighteen-month cycle, the division of financial institutions 1665
shall make or cause to be made an examination of records 1666
pertaining to loans made under sections 1321.51 to 1321.60 of 1667
the Revised Code, for the purpose of determining whether the 1668
registrant is complying with these sections and of verifying the 1669
registrant's annual report. 1670

(B) (1) As required by the superintendent of financial 1671
institutions, each registrant shall file with the division each 1672
year an annual report under oath or affirmation, on forms 1673
supplied by the division, concerning the business and operations 1674
for the preceding calendar year. Whenever a registrant operates 1675
two or more registered offices or whenever two or more 1676
affiliated registrants operate registered offices, then a 1677
composite report of the group of registered offices may be filed 1678

in lieu of individual reports. ~~For purposes of compliance with~~ 1679
~~this requirement, the superintendent may accept call reports or~~ 1680
~~other reports of condition submitted to the nationwide mortgage~~ 1681
~~licensing system and registry in lieu of the annual report.~~ 1682

(2) The superintendent shall publish annually an analysis 1683
of the information required under divisions (B) (1) and (3) of 1684
this section, but the individual reports, ~~whether filed with the~~ 1685
~~superintendent or the nationwide mortgage licensing system and~~ 1686
~~registry,~~ shall not be public records and shall not be open to 1687
public inspection. 1688

~~(3) Each mortgage licensee shall submit to the nationwide~~ 1689
~~mortgage licensing system and registry call reports or other~~ 1690
~~reports of condition, which shall be in such form and shall~~ 1691
~~contain such information as the nationwide mortgage licensing~~ 1692
~~system and registry may require.~~ 1693

(C) (1) The following information is confidential: 1694

(a) Examination information, and any information leading 1695
to or arising from an examination; 1696

(b) Investigation information, and any information arising 1697
from or leading to an investigation. 1698

(2) The information described in division (C) (1) of this 1699
section shall remain confidential for all purposes except when 1700
it is necessary for the superintendent to take official action 1701
regarding the affairs of a registrant ~~or licensee,~~ or in 1702
connection with criminal or civil proceedings to be initiated by 1703
a prosecuting attorney or the attorney general. This information 1704
may also be introduced into evidence or disclosed when and in 1705
the manner authorized by section 1181.25 of the Revised Code. 1706

(D) All application information, except social security 1707

numbers, employer identification numbers, financial account 1708
numbers, the identity of the institution where financial 1709
accounts are maintained, personal financial information, 1710
fingerprint cards and the information contained on such cards, 1711
and criminal background information, is a public record as 1712
defined in section 149.43 of the Revised Code. 1713

(E) This section does not prevent the division of 1714
financial institutions from releasing to or exchanging with 1715
other financial institution regulatory authorities information 1716
relating to registrants ~~and licensees~~. For this purpose, a 1717
"financial institution regulatory authority" includes a 1718
regulator of a business activity in which a registrant ~~or~~ 1719
~~licensee~~ is engaged, or has applied to engage in, to the extent 1720
that the regulator has jurisdiction over a registrant ~~or~~ 1721
~~licensee~~ engaged in that business activity. A registrant ~~or~~ 1722
~~licensee~~ is engaged in a business activity, and a regulator of 1723
that business activity has jurisdiction over the registrant ~~or~~ 1724
~~licensee~~, whether the registrant ~~or licensee~~ conducts the 1725
activity directly or a subsidiary or affiliate of the registrant 1726
~~or licensee~~ conducts the activity. 1727

(1) ~~Any confidentiality or privilege arising under federal~~ 1728
~~or state law with respect to any information or material~~ 1729
~~provided to the nationwide mortgage licensing system and~~ 1730
~~registry shall continue to apply to the information or material~~ 1731
~~after the information or material has been provided to the~~ 1732
~~nationwide mortgage licensing system and registry. The~~ 1733
~~information and material so provided may be shared with all~~ 1734
~~state and federal regulatory officials with mortgage industry~~ 1735
~~oversight authority without the loss of confidentiality or~~ 1736
~~privilege protections provided by federal law or the law of any~~ 1737
~~state. Information or material described in division (E) (1) of~~ 1738

~~this section to which confidentiality or privilege applies shall~~ 1739
~~not be subject to any of the following:~~ 1740

~~(a) Disclosure under any federal or state law governing~~ 1741
~~disclosure to the public of information held by an officer or an~~ 1742
~~agency of the federal government or of the respective state;~~ 1743

~~(b) Subpoena or discovery, or admission into evidence, in~~ 1744
~~any private civil action or administrative process, unless the~~ 1745
~~person to whom such information or material pertains waives, in~~ 1746
~~whole or in part and at the discretion of the person, any~~ 1747
~~privilege held by the nationwide mortgage licensing system and~~ 1748
~~registry with respect to that information or material.~~ 1749

~~(2) The superintendent, in order to promote more effective~~ 1750
~~regulation and reduce regulatory burden through supervisory~~ 1751
~~information sharing, may enter into sharing arrangements with~~ 1752
~~other governmental agencies, the conference of state bank~~ 1753
~~supervisors, and the American association of residential~~ 1754
~~mortgage regulators.~~ 1755

~~(3) (2) Any state law, including section 149.43 of the~~ 1756
~~Revised Code, relating to the disclosure of confidential~~ 1757
~~supervisory information or any information or material described~~ 1758
~~in division (C) (1) or (E) (1) of this section that is~~ 1759
~~inconsistent with this section shall be superseded by the~~ 1760
~~requirements of this section.~~ 1761

~~(F) This section shall not apply with respect to~~ 1762
~~information or material relating to the employment history of,~~ 1763
~~and publicly adjudicated disciplinary and enforcement actions~~ 1764
~~against, mortgage loan originators that is included in the~~ 1765
~~nationwide mortgage licensing system and registry for access by~~ 1766
~~the public.~~ 1767

~~(G) This section does not prevent the division from releasing information relating to registrants and licensees to the attorney general, to the superintendent of real estate and professional licensing for purposes relating to the administration of Chapters 4735. and 4763. of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the commissioner of securities for purposes relating to the administration of Chapter 1707. of the Revised Code, or to local law enforcement agencies and local prosecutors. Information the division releases pursuant to this section remains confidential.~~ 1768
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~~(H) The superintendent of financial institutions shall, by rule adopted in accordance with Chapter 119. of the Revised Code, establish a process by which mortgage loan originators may challenge information provided to the nationwide mortgage licensing system and registry by the superintendent.~~ 1779
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~~(I) No person, in connection with any examination or investigation conducted by the superintendent under sections 1321.51 to 1321.60 of the Revised Code, shall knowingly do any of the following:~~ 1784
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(1) Circumvent, interfere with, obstruct, or fail to cooperate, including making a false or misleading statement, failing to produce records, or intimidating or suborning any witness; 1788
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(2) Withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information; 1792
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(3) Tamper with, alter, or manufacture any evidence. 1795

Sec. 1321.551. ~~(A)~~ No registrant shall conduct the 1796

business of making loans under sections 1321.51 to 1321.60 of 1797
the Revised Code in any office, room, or place of business in 1798
which any other business is solicited or engaged in, or in 1799
association or conjunction with any other such business, if the 1800
superintendent of financial institutions finds, pursuant to a 1801
hearing conducted in accordance with Chapter 119. of the Revised 1802
Code, that the other business is of such a nature that the 1803
conduct tends to conceal evasion of sections 1321.51 to 1321.60 1804
of the Revised Code or of the rules adopted under those 1805
sections, and orders the registrant in writing to desist from 1806
the conduct. 1807

~~(B) The business of a mortgage loan originator shall 1808
principally be transacted at an office of the registrant with 1809
whom the licensee is employed or associated, which office is 1810
registered, if applicable, in accordance with division (A)(1) of 1811
section 1321.52 of the Revised Code. Each original mortgage loan 1812
originator license shall be deposited with and maintained at the 1813
registrant's main office. A copy of the mortgage loan originator 1814
license shall be maintained and displayed at the office where 1815
the mortgage loan originator principally transacts business. 1816~~

~~(C) If a mortgage loan originator's employment or 1817
association is terminated for any reason, the registrant shall 1818
return the original mortgage loan originator license to the 1819
superintendent within five business days after the termination. 1820
The licensee may request the transfer of the license to another 1821
registrant by submitting a transfer application, along with a 1822
fifteen dollar fee and any fee required by the national mortgage 1823
licensing system and registry, to the superintendent, or may 1824
request in writing that the superintendent hold the license in 1825
escrow. A licensee whose license is held in escrow shall cease 1826
activity as a mortgage loan originator. A licensee whose license 1827~~

~~is held in escrow shall be required to apply for renewal~~ 1828
~~annually and to comply with the annual continuing education~~ 1829
~~requirement.~~ 1830

~~(D) A registrant may employ or be associated with a~~ 1831
~~mortgage loan originator on a temporary basis pending the~~ 1832
~~transfer of the mortgage loan originator's license to the~~ 1833
~~registrant, if the registrant receives written confirmation from~~ 1834
~~the superintendent that the mortgage loan originator is licensed~~ 1835
~~under sections 1321.51 to 1321.60 of the Revised Code.~~ 1836

~~(E) Notwithstanding divisions (B), (C), and (D) of this~~ 1837
~~section, if a mortgage loan originator is employed by or~~ 1838
~~associated with a person claiming an exemption under division~~ 1839
~~(D) of section 1321.53 of the Revised Code, the mortgage loan~~ 1840
~~originator shall maintain and display the original mortgage loan~~ 1841
~~originator license at the office where the mortgage loan~~ 1842
~~originator principally transacts business.~~ 1843

~~If the mortgage loan originator's employment or~~ 1844
~~association is terminated for any reason, the licensee shall~~ 1845
~~return the original mortgage loan originator license to the~~ 1846
~~superintendent within five business days after the termination.~~ 1847
~~The licensee may request the transfer of the license to a~~ 1848
~~mortgage broker or other person claiming an exemption under~~ 1849
~~division (D) of section 1321.53 of the Revised Code by~~ 1850
~~submitting a transfer application, along with a fifteen dollar~~ 1851
~~fee and any fee required by the national mortgage licensing~~ 1852
~~system and registry, to the superintendent, or may request the~~ 1853
~~superintendent in writing to hold the license in escrow. A~~ 1854
~~licensee whose license is held in escrow shall cease activity as~~ 1855
~~a mortgage loan originator. A licensee whose license is held in~~ 1856
~~escrow shall be required to apply for renewal annually and to~~ 1857

~~comply with the annual continuing education requirement.~~ 1858

~~The licensee may seek to be employed or associated with a mortgage broker or other person claiming an exemption under division (D) of section 1321.53 of the Revised Code if the mortgage broker or person receives written confirmation from the superintendent that the mortgage loan originator is licensed under sections 1321.51 to 1321.60 of the Revised Code.~~ 1859
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~~(F) No registrant, through its managers or otherwise, shall fail to do either of the following:~~ 1865
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~~(1) Reasonably supervise mortgage loan originators or other persons employed by or associated with the registrant;~~ 1867
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~~(2) Establish reasonable procedures designed to avoid violations of sections 1321.51 to 1321.60 of the Revised Code or rules adopted thereunder, or violations of applicable state and federal consumer and lending laws or rules, by mortgage loan originators or other persons employed by or associated with the registrant.~~ 1869
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~~(G) A license, or the authority granted under that license, is not assignable and cannot be franchised by contract or any other means.~~ 1875
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Sec. 1321.57. (A) Notwithstanding any other provisions of the Revised Code, a registrant may contract for and receive interest, calculated according to the actuarial method, at a rate or rates not exceeding twenty-one per cent per year on the unpaid principal balances of the loan. Loans may be interest-bearing or precomputed. 1878
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(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 1884
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of a year, and a day is considered one three hundred sixty-fifth 1887
of a year when calculation is made for a fraction of a month. A 1888
year is as defined in section 1.44 of the Revised Code. A month 1889
is that period described in section 1.45 of the Revised Code. 1890
Alternatively, a registrant may consider a day as one three 1891
hundred sixtieth of a year and each month as having thirty days. 1892

(C) With respect to interest-bearing loans: 1893

(1) (a) Interest shall be computed on unpaid principal 1894
balances outstanding from time to time, for the time 1895
outstanding. 1896

(b) As an alternative to the method of computing interest 1897
set forth in division (C) (1) (a) of this section, a registrant 1898
may charge and collect interest for the first installment period 1899
based on elapsed time from the date of the loan to the first 1900
scheduled payment due date, and for each succeeding installment 1901
period from the scheduled payment due date to the next scheduled 1902
payment due date, regardless of the date or dates the payments 1903
are actually made. 1904

(c) Whether a registrant computes interest pursuant to 1905
division (C) (1) (a) or (b) of this section, each payment shall be 1906
applied first to unpaid charges, then to interest, and the 1907
remainder to the unpaid principal balance. However, if the 1908
amount of the payment is insufficient to pay the accumulated 1909
interest, the unpaid interest continues to accumulate to be paid 1910
from the proceeds of subsequent payments and is not added to the 1911
principal balance. 1912

(2) Interest shall not be compounded, collected, or paid 1913
in advance. However, both of the following apply: 1914

(a) Interest may be charged to extend the first monthly 1915

installment period by not more than fifteen days, and the 1916
interest charged for the extension may be added to the principal 1917
amount of the loan. 1918

(b) If part or all of the consideration for a new loan 1919
contract is the unpaid principal balance of a prior loan, the 1920
principal amount payable under the new loan contract may include 1921
any unpaid interest that has accrued. The resulting loan 1922
contract shall be deemed a new and separate loan transaction for 1923
purposes of this section. The unpaid principal balance of a 1924
precomputed loan is the balance due after refund or credit of 1925
unearned interest as provided in division (D) (3) of this 1926
section. 1927

(D) With respect to precomputed loans: 1928

(1) Loans shall be repayable in monthly installments of 1929
principal and interest combined, except that the first 1930
installment period may exceed one month by not more than fifteen 1931
days, and the first installment payment amount may be larger 1932
than the remaining payments by the amount of interest charged 1933
for the extra days; and provided further that monthly 1934
installment payment dates may be omitted to accommodate 1935
borrowers with seasonal income. 1936

(2) Payments may be applied to the combined total of 1937
principal and precomputed interest until maturity of the loan. A 1938
registrant may charge interest after the original or deferred 1939
maturity of a precomputed loan at the rate specified in division 1940
(A) of this section on all unpaid principal balances for the 1941
time outstanding. 1942

(3) When any loan contract is paid in full by cash, 1943
renewal, refinancing, or a new loan, one month or more before 1944

the final installment due date, the registrant shall refund, or 1945
credit the borrower with, the total of the applicable charges 1946
for all fully unexpired installment periods, as originally 1947
scheduled or as deferred, that follow the day of prepayment. If 1948
the prepayment is made other than on a scheduled installment due 1949
date, the nearest scheduled installment due date shall be used 1950
in such computation. If the prepayment occurs prior to the first 1951
installment due date, the registrant may retain one-thirtieth of 1952
the applicable charge for a first installment period of one 1953
month for each day from date of loan to date of prepayment, and 1954
shall refund, or credit the borrower with, the balance of the 1955
total interest contracted for. If the maturity of the loan is 1956
accelerated for any reason and judgment is entered, the 1957
registrant shall credit the borrower with the same refund as if 1958
prepayment in full had been made on the date the judgment is 1959
entered. 1960

(4) If the parties agree in writing, either in the loan 1961
contract or in a subsequent agreement, to a deferment of wholly 1962
unpaid installments, a registrant may grant a deferment and may 1963
collect a deferment charge as provided in this section. A 1964
deferment postpones the scheduled due date of the earliest 1965
unpaid installment and all subsequent installments as originally 1966
scheduled, or as previously deferred, for a period equal to the 1967
deferment period. The deferment period is that period during 1968
which no installment is scheduled to be paid by reason of the 1969
deferment. The deferment charge for a one-month period may not 1970
exceed the applicable charge for the installment period 1971
immediately following the due date of the last undeferred 1972
installment. A proportionate charge may be made for deferment 1973
for periods of more or less than one month. A deferment charge 1974
is earned pro rata during the deferment period and is fully 1975

earned on the last day of the deferment period. If a loan is 1976
prepaid in full during a deferment period, the registrant shall 1977
make, or credit to the borrower, a refund of the unearned 1978
deferment charge in addition to any other refund or credit made 1979
for prepayment of the loan in full. 1980

(E) A registrant, at the request of the borrower, may 1981
obtain, on one or more borrowers, credit life insurance, credit 1982
accident and health insurance, and unemployment insurance. The 1983
premium or identifiable charge for the insurance may be included 1984
in the principal amount of the loan and may not exceed the 1985
premium rate filed by the insurer with the superintendent of 1986
insurance and not disapproved by the superintendent. If a 1987
registrant obtains the insurance at the request of the borrower, 1988
the borrower shall have the right to cancel the insurance for a 1989
period of twenty-five days after the loan is made. If the 1990
borrower chooses to cancel the insurance, the borrower shall 1991
give the registrant written notice of this choice and shall 1992
return all of the policies or certificates of insurance or 1993
notices of proposed insurance to the registrant during such 1994
period, and the full premium or identifiable charge for the 1995
insurance shall be refunded to the borrower by the registrant. 1996
If the borrower requests, in the notice to cancel the insurance, 1997
that this refund be applied to reduce the balance of a 1998
precomputed loan, the registrant shall credit the amount of the 1999
refund plus the amount of interest applicable to the refund to 2000
the loan balance. 2001

If the registrant obtains the insurance at the request of 2002
the borrower, the registrant shall not charge or collect 2003
interest on any insured amount that remains unpaid after the 2004
insured borrower's date of death. 2005

(F) A registrant 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 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 registrant or an agent or broker designated by the registrant shall not be a condition precedent to the granting of the loan. If the borrower purchases the insurance from or through the registrant or from another source, the premium may be included in the principal amount of the loan.

~~(G) On loans secured by an interest in real estate, all of the following apply:~~

~~(1) A registrant, if not prohibited by section 1343.011 of the Revised Code, may charge and receive up to two points, and a prepayment penalty not in excess of one per cent of the original principal amount of the loan. Points may be paid by the borrower at the time of the loan or may be included in the principal amount of the loan. On a refinancing, a registrant may not charge under division (G) (1) of this section either of the following:~~

~~(a) Points on the portion of the principal amount that is applied to the unpaid principal amount of the refinanced loan, if the refinancing occurs within one year after the date of the refinanced loan on which points were charged;~~

~~(b) A prepayment penalty.~~

~~(2) As an alternative to the prepayment penalty described in division (G) (1) of this section, a registrant may contract for, charge, and receive the prepayment penalty described in division (G) (2) of this section for the prepayment of a loan prior to two years after the date the loan contract is executed. This prepayment penalty shall not exceed two per cent of the original principal amount of the loan if the loan is paid in full prior to one year after the date the loan contract is executed. The penalty shall not exceed one per cent of the original principal amount of the loan if the loan is paid in full at any time from one year, but prior to two years, after the date the loan contract is executed. A registrant shall not charge or receive a prepayment penalty under division (G) (2) of this section if any of the following applies:~~ 2036-2049

~~(a) The loan is a refinancing by the same registrant or a registrant to whom the loan has been assigned;~~ 2050-2051

~~(b) The loan is paid in full as a result of the sale of the real estate that secures the loan;~~ 2052-2053

~~(c) The loan is paid in full with the proceeds of an insurance claim against an insurance policy that insures the life of the borrower or an insurance policy that covers loss, damage, or destruction of the real estate that secures the loan.~~ 2054-2057

~~(3) Division (G) of this section is not a limitation on discount points or other charges for purposes of section 501(b) (4) of the "Depository Institutions Deregulation and Monetary Control Act of 1980," 94 Stat. 161, 12 U.S.C.A. 1735f-7 note.~~ 2058-2061

~~(H) (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~~ 2062-2064

whatsoever, shall be charged or received by the registrant, 2065
except costs and disbursements in connection with any suit to 2066
collect a loan or any lawful activity to realize on a security 2067
interest ~~or mortgage~~ after default, including reasonable 2068
attorney fees incurred by the registrant as a result of the suit 2069
or activity and to which the registrant becomes entitled by law, 2070
and except the following additional charges which may be 2071
included in the principal amount of the loan or collected at any 2072
time after the loan is made: 2073

(a) The amounts of fees authorized by law to record, file, 2074
or release security interests ~~and mortgages~~ on a loan; 2075

~~(b) With respect to a loan secured by an interest in real- 2076
estate, the following closing costs, if they are bona fide, 2077
reasonable in amount, paid to third parties, and not for the 2078
purpose of circumvention or evasion of this section: 2079~~

~~(i) Fees or premiums for title examination, abstract of 2080
title, title insurance, surveys, title endorsements, title 2081
binders, title commitments, home inspections, or pest 2082
inspections; settlement or closing costs paid to unaffiliated 2083
third parties; courier fees; and any federally mandated flood 2084
plain certification fee; 2085~~

~~(ii) If not paid to the registrant, an employee of the 2086
registrant, or a person affiliated with the registrant, fees for 2087
preparation of a mortgage, settlement statement, or other 2088
documents, fees for notarizing mortgages and other documents, 2089
appraisal fees, and fees for any federally mandated inspection 2090
of home improvement work financed by a second mortgage loan; 2091~~

~~(e) Fees for credit investigations not exceeding ten 2092
dollars. 2093~~

(2) Division ~~(H)~~(G) (1) of this section does not limit the 2094
rights of registrants to engage in other transactions with 2095
borrowers, provided the transactions are not a condition of the 2096
loan. 2097

~~(I)~~(H) If the loan contract or security instrument 2098
contains covenants by the borrower to perform certain duties 2099
pertaining to insuring or preserving security and the registrant 2100
pursuant to the loan contract or security instrument pays for 2101
performance of the duties on behalf of the borrower, the 2102
registrant may add the amounts paid to the unpaid principal 2103
balance of the loan or collect them separately. A charge for 2104
interest may be made for sums advanced not exceeding the rate of 2105
interest permitted by division (A) of this section. Within a 2106
reasonable time after advancing a sum, the registrant shall 2107
notify the borrower in writing of the amount advanced, any 2108
interest charged with respect to the amount advanced, any 2109
revised payment schedule, and shall include a brief description 2110
of the reason for the advance. 2111

~~(J)~~(I) (1) ~~In addition to points authorized under division~~ 2112
~~(G) of this section, a~~A registrant may charge and receive the 2113
following: 2114

(a) With respect to ~~loans secured by goods or real estate~~ 2115
loans: if the principal amount of the loan is five hundred 2116
dollars or less, loan origination charges not exceeding fifteen 2117
dollars; if the principal amount of the loan is more than five 2118
hundred dollars but less than one thousand dollars, loan 2119
origination charges not exceeding thirty dollars; if the 2120
principal amount of the loan is at least one thousand dollars 2121
but less than two thousand dollars, loan origination charges not 2122
exceeding one hundred dollars; if the principal amount of the 2123

loan is at least two thousand dollars but less than five 2124
thousand dollars, loan origination charges not exceeding two 2125
hundred dollars; and if the principal amount of the loan is at 2126
least five thousand dollars, loan origination charges not 2127
exceeding the greater of two hundred fifty dollars or one per 2128
cent of the principal amount of the loan. 2129

(b) With respect to loans that are not secured ~~by goods or~~ 2130
~~real estate~~: if the principal amount of the loan is five hundred 2131
dollars or less, loan origination charges not exceeding fifteen 2132
dollars; if the principal amount of the loan is more than five 2133
hundred dollars but less than one thousand dollars, loan 2134
origination charges not exceeding thirty dollars; if the 2135
principal amount of the loan is at least one thousand dollars 2136
but less than five thousand dollars, loan origination charges 2137
not exceeding one hundred dollars; and if the principal amount 2138
of the loan is at least five thousand dollars, loan origination 2139
charges not exceeding the greater of two hundred fifty dollars 2140
or one per cent of the principal amount of the loan. 2141

(2) If a refinancing occurs within ninety days after the 2142
date of the refinanced loan, a registrant may not impose loan 2143
origination charges on the portion of the principal amount that 2144
is applied to the unpaid principal amount of the refinanced 2145
loan. 2146

(3) Loan origination charges may be paid by the borrower 2147
at the time of the loan or may be included in the principal 2148
amount of the loan. 2149

~~(K)~~ (J) A registrant may charge and receive check 2150
collection charges not greater than twenty dollars plus any 2151
amount passed on from other depository institutions for each 2152
check, negotiable order of withdrawal, share draft, or other 2153

negotiable instrument returned or dishonored for any reason. 2154

~~(L)~~(K) If the loan contract so provides, a registrant may 2155
collect a default charge on any installment not paid in full 2156
within ten days after its due date. For this purpose, all 2157
installments are considered paid in the order in which they 2158
become due. Any amounts applied to an outstanding loan balance 2159
as a result of voluntary release of a security interest, sale of 2160
security on the loan, or cancellation of insurance shall be 2161
considered payments on the loan, unless the parties otherwise 2162
agree in writing at the time the amounts are applied. The amount 2163
of the default charge shall not exceed the greater of five per 2164
cent of the scheduled installment or fifteen dollars. 2165

Sec. 1321.58. (A) A registrant may make open-end loans 2166
pursuant to an agreement between the registrant and the borrower 2167
whereby: 2168

(1) The registrant may permit the borrower to obtain 2169
advances of money from the registrant from time to time or the 2170
registrant may advance money on behalf of the borrower from time 2171
to time as directed by the borrower. 2172

(2) The amount of each advance and permitted interest, 2173
charges, and costs are debited to the borrower's account and 2174
payments and other credits are credited to the same account. 2175

(3) The interest and charges are computed on the unpaid 2176
balance or balances of the account from time to time. 2177

(4) The borrower has the privilege of paying the account 2178
in full at any time or, if the account is not in default, in 2179
installments of determinable amounts as provided in the 2180
agreement. 2181

For open-end loans, "billing cycle" means the time 2182

interval between periodic billing dates. A billing cycle shall 2183
be considered monthly if the closing date of the cycle is the 2184
same date each month or does not vary by more than four days 2185
from such date. 2186

(B) Notwithstanding any other provisions of the Revised 2187
Code, a registrant may contract for and receive interest for 2188
open-end loans at a rate or rates not exceeding twenty-one per 2189
cent per year and may compute interest in each billing cycle by 2190
either of the following methods: 2191

(1) By multiplying the daily rate by the daily unpaid 2192
balance of the account, in which case the daily rate is 2193
determined by dividing the annual rate by three hundred sixty- 2194
five; 2195

(2) By multiplying the monthly rate by the average daily 2196
unpaid balance of the account in the billing cycle, in which 2197
case the average daily unpaid balance is the sum of all of the 2198
daily unpaid balances each day during the cycle divided by the 2199
number of days in the cycle. The monthly rate is determined by 2200
dividing the annual rate by twelve. 2201

The billing cycle shall be monthly and the unpaid balance 2202
on any day shall be determined by adding to any balance unpaid 2203
as of the beginning of that day all advances and permitted 2204
interest, charges, and costs and deducting all payments and 2205
other credits made or received that day. 2206

(C) In addition to the interest permitted in division (B) 2207
of this section, a registrant may charge and receive or add to 2208
the unpaid balance any or all of the following: 2209

(1) All charges and costs authorized by divisions (E), 2210
(F), (G), (H), ~~(I)~~, and ~~(K)~~ (J) of section 1321.57 of the 2211

Revised Code;	2212
(2) An annual credit line charge, for the privilege of	2213
maintaining a line of credit, as follows:	2214
(a) For the first year:	2215
(i) If the original credit line is less than five thousand	2216
dollars, an amount not exceeding one hundred fifty dollars;	2217
(ii) If the original credit line is at least five thousand	2218
dollars, an amount not exceeding the greater of one per cent of	2219
the original credit line or two hundred fifty dollars.	2220
(b) For subsequent years an amount not exceeding the	2221
greater of one-half per cent of the credit line on the	2222
anniversary date or fifty dollars.	2223
(3) A default charge on any required minimum payment not	2224
paid in full within ten days after its due date. For this	2225
purpose, all required minimum payments are considered paid in	2226
the order in which they become due. The amount of the default	2227
charge shall not exceed the greater of five per cent of the	2228
required minimum payment or fifteen dollars.	2229
(D) The borrower at any time may pay all or any part of	2230
the unpaid balance on the account or, if the account is not in	2231
default, the borrower may pay the unpaid balance in installments	2232
subject to minimum payment requirements as determined by the	2233
registrant and set forth in the open-end loan agreement.	2234
(E) If credit life insurance or credit accident and health	2235
insurance is obtained by the registrant and if the insured dies	2236
or becomes disabled when there is an outstanding open-end loan	2237
indebtedness, the insurance shall be sufficient to pay the	2238
unpaid balance on the loan due on the date of the borrower's	2239

death in the case of credit life insurance or all minimum 2240
payments that become due on the loan during the covered period 2241
of disability in the case of credit accident and health 2242
insurance. The additional charge for credit life insurance, 2243
credit accident and health insurance, or unemployment insurance 2244
shall be calculated each billing cycle by applying the current 2245
monthly premium rate for the insurance, filed by the insurer 2246
with the superintendent of insurance and not disapproved by the 2247
superintendent, to the unpaid balances in the borrower's 2248
account, using one of the methods specified in division (B) of 2249
this section for the calculation of interest. No credit life 2250
insurance, credit accident and health insurance, or unemployment 2251
insurance written in connection with an open-end loan shall be 2252
canceled by the registrant because of delinquency of the 2253
borrower in making the required minimum payments on the loan 2254
unless one or more such payments is past due for a period of 2255
thirty days or more. The registrant shall advance to the insurer 2256
the amounts required to keep the insurance in force during such 2257
period, which amounts may be debited to the borrower's account. 2258

(F) Whenever there is no unpaid balance in an open-end 2259
loan account, the account may be terminated by written notice, 2260
by the borrower or the registrant, to the other party. ~~If a~~ 2261
~~registrant has taken a mortgage on real property to secure the~~ 2262
~~open end loan, the registrant shall deliver, within thirty days~~ 2263
~~following termination of the account, a release of the mortgage~~ 2264
~~to the borrower.~~ If a registrant has taken a security interest 2265
in personal property to secure the open-end loan, the registrant 2266
shall release the security interest and terminate any financing 2267
statement in accordance with section 1309.513 of the Revised 2268
Code. 2269

Sec. 1321.59. (A) No registrant under sections 1321.51 to 2270

1321.60 of the Revised Code shall permit any borrower to be 2271
indebted for a loan made under sections 1321.51 to 1321.60 of 2272
the Revised Code at any time while the borrower is also indebted 2273
to an affiliate or agent of the registrant for a loan made under 2274
sections 1321.01 to 1321.19 of the Revised Code for the purpose 2275
or with the result of obtaining greater charges than otherwise 2276
would be permitted by sections 1321.51 to 1321.60 of the Revised 2277
Code. 2278

(B) No registrant shall induce or permit any person to 2279
become obligated to the registrant under sections 1321.51 to 2280
1321.60 of the Revised Code, directly or contingently, or both, 2281
under more than one contract of loan at the same time for the 2282
purpose or with the result of obtaining greater charges than 2283
would otherwise be permitted by sections 1321.51 to 1321.60 of 2284
the Revised Code. 2285

(C) No registrant shall refuse to provide information 2286
regarding the amount required to pay in full a loan under 2287
sections 1321.51 to 1321.60 of the Revised Code when requested 2288
by the borrower or by another person designated in writing by 2289
the borrower. 2290

~~(D) On any loan or application for a loan under sections~~ 2291
~~1321.51 to 1321.60 of the Revised Code secured by a mortgage on~~ 2292
~~a borrower's real estate which is other than a first lien on the~~ 2293
~~real estate, no person shall pay or receive, directly or~~ 2294
~~indirectly, fees or any other type of compensation for services~~ 2295
~~of a mortgage broker that, in the aggregate, exceed the lesser~~ 2296
~~of one thousand dollars or one per cent of the principal amount~~ 2297
~~of the loan.~~ 2298

~~(E) No registrant or licensee shall obtain a certificate~~ 2299
~~of registration or license through any false or fraudulent~~ 2300

~~representation of a material fact or any omission of a material~~ 2301
~~fact required by state or federal law, or make any substantial~~ 2302
~~misrepresentation in the registration or license application, to~~ 2303
~~engage in lending secured by real estate.~~ 2304

~~(F) No registrant or licensee, in connection with the~~ 2305
~~business of making or offering to make residential mortgage~~ 2306
~~loans, shall knowingly make false or misleading statements of a~~ 2307
~~material fact, omissions of statements required by state or~~ 2308
~~federal law, or false promises regarding a material fact,~~ 2309
~~through advertising or other means, or engage in a continued~~ 2310
~~course of misrepresentations.~~ 2311

~~(G) No registrant, licensee, or person making loans~~ 2312
~~without a certificate of registration in violation of division~~ 2313
~~(A) of section 1321.52 of the Revised Code, shall knowingly~~ 2314
~~engage in conduct, in connection with the business of making or~~ 2315
~~offering to make residential mortgage loans, that constitutes~~ 2316
~~improper, fraudulent, or dishonest dealings.~~ 2317

~~(H) No registrant, licensee, or applicant involved in the~~ 2318
~~business of making or offering to make residential mortgage~~ 2319
~~loans shall fail to notify the division of financial~~ 2320
~~institutions within thirty days after knowing any of the~~ 2321
~~following:~~ 2322

~~(1) That the registrant, licensee, or applicant has been~~ 2323
~~convicted of or pleaded guilty or nolo contendere to a felony~~ 2324
~~offense in a domestic, foreign, or military court;~~ 2325

~~(2) That the registrant, licensee, or applicant has been~~ 2326
~~convicted of or pleaded guilty or nolo contendere to any~~ 2327
~~criminal offense involving theft, receiving stolen property,~~ 2328
~~embezzlement, forgery, fraud, passing bad checks, money~~ 2329

~~laundering, breach of trust, dishonesty, or drug trafficking, or~~ 2330
~~any criminal offense involving money or securities, in a~~ 2331
~~domestic, foreign, or military court;~~ 2332

~~(3) That the registrant, licensee, or applicant has had a~~ 2333
~~mortgage lender registration or mortgage loan originator~~ 2334
~~license, or comparable authority, revoked in any governmental~~ 2335
~~jurisdiction.~~ 2336

~~(I) No registrant or licensee shall knowingly make,~~ 2337
~~propose, or solicit fraudulent, false, or misleading statements~~ 2338
~~on any mortgage document or on any document related to a~~ 2339
~~mortgage loan, including a mortgage application, real estate~~ 2340
~~appraisal, or real estate settlement or closing document. For~~ 2341
~~purposes of this division, "fraudulent, false, or misleading~~ 2342
~~statements" does not include mathematical errors, inadvertent~~ 2343
~~transposition of numbers, typographical errors, or any other~~ 2344
~~bona fide error.~~ 2345

~~(J) No registrant or licensee shall knowingly instruct,~~ 2346
~~solicit, propose, or otherwise cause a borrower to sign in blank~~ 2347
~~a loan related document in connection with a residential~~ 2348
~~mortgage loan.~~ 2349

~~(K) No registrant or licensee shall knowingly compensate,~~ 2350
~~instruct, induce, coerce, or intimidate, or attempt to~~ 2351
~~compensate, instruct, induce, coerce, or intimidate, a person~~ 2352
~~licensed or certified as an appraiser under Chapter 4763. of the~~ 2353
~~Revised Code for the purpose of corrupting or improperly~~ 2354
~~influencing the independent judgment of the person with respect~~ 2355
~~to the value of the dwelling offered as security for repayment~~ 2356
~~of a mortgage loan.~~ 2357

~~(L) No registrant or licensee shall willfully retain~~ 2358

~~original documents provided to the registrant or licensee by the~~ 2359
~~borrower in connection with the residential mortgage loan~~ 2360
~~application, including income tax returns, account statements,~~ 2361
~~or other financial related documents.~~ 2362

~~(M) No registrant or licensee shall, in connection with~~ 2363
~~making residential mortgage loans, receive, directly or~~ 2364
~~indirectly, a premium on the fees charged for services performed~~ 2365
~~by a bona fide third party.~~ 2366

~~(N) No registrant or licensee shall, in connection with~~ 2367
~~making residential mortgage loans, pay or receive, directly or~~ 2368
~~indirectly, a referral fee or kickback of any kind to or from a~~ 2369
~~bona fide third party or other party with a related interest in~~ 2370
~~the transaction, including a home improvement builder, real~~ 2371
~~estate developer, or real estate broker or agent, for the~~ 2372
~~referral of business. Nothing in this division shall prevent~~ 2373
~~remuneration to a registrant or licensee for the licensed sale~~ 2374
~~of any insurance product that is permitted under section 1321.57~~ 2375
~~of the Revised Code, provided there is no additional fee or~~ 2376
~~premium added to the cost for the insurance and paid directly or~~ 2377
~~indirectly by the borrower.~~ 2378

~~(O) No registrant, licensee, or person making loans~~ 2379
~~without a certificate of registration in violation of division~~ 2380
~~(A) of section 1321.52 of the Revised Code shall, in connection~~ 2381
~~with making or offering to make residential mortgage loans,~~ 2382
~~engage in any unfair, deceptive, or unconscionable act or~~ 2383
~~practice prohibited under sections 1345.01 to 1345.13 of the~~ 2384
~~Revised Code.~~ 2385

Sec. 1321.60. (A) ~~(1)~~ Advertising for loans subject to 2386
sections 1321.51 to 1321.60 of the Revised Code shall not be 2387
false, misleading, or deceptive. 2388

~~(2) False, misleading, or deceptive advertising includes, but is not limited to, the following:~~ 2389
2390

~~(a) Placing, or causing to be placed, any advertisement indicating that special terms, reduced rates, guaranteed rates, particular rates, or any other special feature of mortgage loans is available unless the advertisement clearly states any limitations that apply:~~ 2391
2392
2393
2394
2395

~~(b) Placing, or causing to be placed, any advertisement containing a rate or special fee offer that is not a bona fide available rate or fee.~~ 2396
2397
2398

(B) In making any advertisement, a registrant shall comply with 12 C.F.R. ~~226.16~~ 1026.16, as ~~amended~~ applicable. 2399
2400

Sec. 1321.72. Except as provided in division (D) of section 1321.78, sections 1321.71 to 1321.83 of the Revised Code do not apply with respect to any of the following: 2401
2402
2403

(A) Life, property, or casualty insurance companies authorized to do business in this state as to policies issued by those companies; 2404
2405
2406

(B) The inclusion of a charge for insurance in connection with any installment transaction pursuant to Chapter 1317. of the Revised Code; 2407
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2409

(C) The financing of insurance premiums at a rate of interest not exceeding the maximum rate permitted by section 1343.01 of the Revised Code; 2410
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(D) Persons lawfully doing business under the authority of any law of this state, another state, or the United States relating to banks, savings banks, trust companies, savings and loan associations, lenders authorized to make loans pursuant to 2413
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sections 1321.01 to 1321.19 of the Revised Code, lenders 2417
authorized to make loans pursuant to sections 1321.51 to 1321.60 2418
of the Revised Code, mortgage lenders authorized to make loans 2419
under Chapter 1322. of the Revised Code, or any credit union; 2420

(E) Any person who purchases or otherwise acquires a 2421
premium finance agreement from a licensee if the licensee 2422
remains responsible for collecting payments due under the 2423
agreement, and for otherwise servicing the agreement, in 2424
compliance with sections 1321.71 to 1321.83 of the Revised Code. 2425

Sec. 1321.99. (A) Whoever violates section 1321.02 of the 2426
Revised Code is guilty of a felony of the fifth degree. 2427

(B) Whoever violates section 1321.13 of the Revised Code 2428
shall be fined not less than one hundred nor more than five 2429
hundred dollars or imprisoned not more than six months, or both. 2430

(C) Whoever violates section 1321.14 of the Revised Code 2431
shall be fined not less than fifty nor more than two hundred 2432
dollars for a first offense; for a second offense such person 2433
shall be fined not less than two hundred nor more than five 2434
hundred dollars and imprisoned for not more than six months. 2435

(D) Whoever willfully violates section 1321.57, 1321.58, 2436
division (A), (B), or (C), ~~or (D)~~ of section 1321.59, 1321.591, 2437
or 1321.60 of the Revised Code is guilty of a minor misdemeanor 2438
and shall be fined not less than one nor more than five hundred 2439
dollars. 2440

~~(E) Whoever violates section 1321.52 or division (I), (J),~~ 2441
~~(K), (L), or (M) of section 1321.59 of the Revised Code is~~ 2442
~~guilty of a felony of the fifth degree.~~ 2443

~~(F)~~ Whoever violates division (A) of section 1321.73 of 2444
the Revised Code shall be fined not more than five hundred 2445

dollars or imprisoned not more than six months, or both. 2446

~~(G)~~ (F) Whoever violates section 1321.41 of the Revised Code is guilty of a misdemeanor of the first degree. 2447
2448

~~(H)~~ ~~Whoever violates division (N) of section 1321.59 of the Revised Code is guilty of a felony of the fourth degree.~~ 2449
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~~(I)~~ (G) The imposition of fines pursuant to this section does not preclude the imposition of any administrative fines or civil penalties authorized under section 1321.54 or any other section of the Revised Code. 2451
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Sec. 1322.01. As used in ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter: 2455
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(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. 2457
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(B) "Advertising" means a commercial message in any medium that promotes, either directly or indirectly, a residential mortgage lending transaction. 2464
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(C) "Application" has the same meaning as in 12 C.F.R. 1026.2(a)(3). 2467
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(D) "Approved education course" means any course approved by the nationwide mortgage licensing system and registry. 2469
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(E) "Approved test provider" means any test provider approved by the nationwide mortgage licensing system and registry. 2471
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(F) "Bona fide third party" means a person that provides 2474
services relative to the origination of a residential mortgage 2475
loan, including, but not limited to, real estate appraisers and 2476
credit reporting agencies. 2477

(G) "Borrower" means a person seeking a residential 2478
mortgage loan or an obligor on a residential mortgage loan. 2479

(H) "Branch office" means a location at which a licensee 2480
conducts business other than a registrant's principal place of 2481
business, if at least one of the following applies to the 2482
location: 2483

(1) The address of the location appears on business cards, 2484
stationery, or advertising used by the registrant; 2485

(2) The registrant's name or advertising at the location 2486
suggests that mortgage transactions are made at the location; 2487

(3) The location is held out to the public as a licensee's 2488
place of business due to the actions of an employee or 2489
independent contractor of the registrant; or 2490

(4) The location within this state is controlled directly 2491
or indirectly by the registrant. 2492

(I) "Buyer" means an individual who is solicited to 2493
purchase or who purchases the services of a mortgage ~~broker~~ loan 2494
originator for purposes of obtaining a residential mortgage 2495
loan. 2496

~~(B)~~ (J) "Commercial context" means that an individual who 2497
acts as a mortgage loan originator does so for the purpose of 2498
obtaining profit for an entity or individual for which the 2499
individual acts, including a sole proprietorship or other entity 2500
that includes only the individual, rather than exclusively for 2501

public, charitable, or family purposes. 2502

(K) "Consumer reporting agency" has the same meaning as in 2503
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 2504
1681a, as amended. 2505

~~(C)~~(L) "Control" means the power, directly or indirectly, 2506
to direct the management or policies of an entity, whether 2507
through ownership of securities, by contract, or otherwise. A 2508
person is presumed to control an entity if that person: 2509

(1) Is a director, general partner, or executive officer 2510
or is an individual that occupies a similar position or performs 2511
a similar function; 2512

(2) Directly or indirectly has the right to vote five per 2513
cent or more of a class of a voting security or has the power to 2514
sell or direct the sale of five per cent or more of a class of 2515
voting securities; 2516

(3) In the case of a limited liability company, is a 2517
managing member; or 2518

(4) In the case of a partnership, has the right to receive 2519
upon dissolution or has contributed five per cent or more of the 2520
capital. 2521

(M) "Depository institution" has the same meaning as in 2522
section 3 of the "Federal Deposit Insurance Act," 12 U.S.C. 2523
1813(c), and also includes any credit union. 2524

(N) "Dwelling" has the same meaning as in 15 U.S.C. 2525
1602(w). "Dwelling" includes a single condominium unit, 2526
cooperative unit, mobile home, and trailer, if it is used as a 2527
residence, whether or not that structure is attached to real 2528
property. 2529

(O) "Employee" means an individual for whom a mortgage broker or mortgage lender, 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. 2530-2537

~~(D)~~(P) "Entity" means a business organization, including a sole proprietorship. 2538-2539

(Q) "Escrow account" means a deposit account with a financial institution that provides deposit insurance, which account is separate and distinct from any personal, business, or other account of the mortgage lender or mortgage servicer and is maintained solely for the holding and payment of escrow funds. 2540-2544

(R) "Escrow funds" means funds entrusted to a mortgage lender or mortgage servicer by a borrower for payment of taxes, insurance, or other payments to be made in connection with the servicing of a loan. 2545-2548

(S) "Expungement" means a court-ordered process that involves the destruction of documentation related to past arrests and convictions. 2549-2551

(T) "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. 2552-2555

(U) "Housing finance agency" includes the Ohio housing finance agency created under section 175.02 of the Revised Code. 2556-2557

(V) "Immediate family" means an individual's spouse, 2558

child, stepchild, parent, stepparent, grandparent, grandchild, 2559
brother, sister, parent-in-law, brother-in-law, or sister-in- 2560
law. 2561

(W) "Independent contractor" means an individual who 2562
performs duties for another person and is not subject to that 2563
person's supervision or control. 2564

(X) "Individual" means a natural person. 2565

(Y) "Licensee" means any individual who has been issued a 2566
mortgage loan originator license under ~~sections 1322.01 to~~ 2567
~~1322.12 of the Revised Code~~ this chapter. 2568

~~(E)(1)~~(Z) "Loan commitment" means a statement transmitted 2569
in writing or electronically by a mortgage lender setting forth 2570
the terms and conditions upon which the mortgage lender is 2571
willing to make a particular residential mortgage loan to a 2572
particular borrower. 2573

(AA) "Loan processor or underwriter" means an individual 2574
who, with respect to the origination of a residential mortgage 2575
loan, performs administrative or clerical tasks as an employee 2576
at the direction of and subject to the supervision of a mortgage 2577
lender or mortgage broker. For purposes of this division, 2578
"origination of a residential mortgage loan" means all 2579
activities related to a residential mortgage loan, from the 2580
taking of a loan application through the completion of all 2581
required loan closing documents and the funding of the loan. 2582

(BB) "Mortgage" means the consensual interest in real 2583
property located in this state, including improvements to that 2584
property, securing a debt evidence by a mortgage, trust 2585
indenture, deed of trust, or other lien on real property. 2586

(CC) "Mortgage broker" means an entity that obtains, 2587

attempts to obtain, or assists in obtaining a mortgage loan for 2588
a borrower from a mortgage lender in return for consideration or 2589
in anticipation of consideration. For purposes of this division, 2590
"attempting to obtain or assisting in obtaining" a mortgage loan 2591
includes referring a borrower to a mortgage lender, soliciting 2592
or offering to solicit a mortgage loan on behalf of a borrower, 2593
or negotiating or offering to negotiate the terms or conditions 2594
of a mortgage loan with a mortgage lender on behalf of a 2595
borrower. 2596

(DD) "Mortgage lender" means an entity that consummates a 2597
residential mortgage loan, advances funds, offers to advance 2598
funds, or commits to advancing funds for a residential mortgage 2599
loan applicant. 2600

(EE) (1) "~~Loan-Mortgage loan~~ originator" means an 2601
individual who for compensation or gain, or in ~~anticipation~~the 2602
expectation of compensation or gain, does any of the following: 2603

(a) Takes ~~or offers to take~~ a residential mortgage loan 2604
application; 2605

(b) Assists or offers to assist a buyer in obtaining or 2606
applying to obtain a residential mortgage loan by, among other 2607
things, advising on loan terms, including rates, fees, and other 2608
costs; 2609

(c) Offers or negotiates terms of a residential mortgage 2610
loan; 2611

(d) Issues or offers to issue a commitment for a 2612
residential mortgage loan to a buyer. 2613

(2) "~~Loan-Mortgage loan~~ originator" does not include any 2614
of the following: 2615

- (a) An individual who performs purely administrative or clerical tasks on behalf of a mortgage loan originator; 2616
2617
- (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; 2618
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- (c) A person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. 101 ~~in effect on January 1, 2009;~~ 2624
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2626
- (d) An employee of a ~~registrant~~ 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; 2627
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- (e) ~~A mortgage loan originator licensed under sections 1321.51 to 1321.60 of the Revised Code, when acting solely under that authority;~~ 2634
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- ~~(f)~~ 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; 2637
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- ~~(g)~~ (f) Any person engaged in the retail sale of manufactured homes, mobile homes, or industrialized units if, in 2643
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connection with financing those retail sales, the person only 2645
assists the borrower by providing or transmitting the loan 2646
application and does not do any of the following: 2647

(i) Offer or negotiate the residential mortgage loan rates 2648
or terms; 2649

(ii) Provide any counseling with borrowers about 2650
residential mortgage loan rates or terms; 2651

(iii) Receive any payment or fee from any company or 2652
individual for assisting the borrower obtain or apply for 2653
financing to purchase the manufactured home, mobile home, or 2654
industrialized unit; 2655

(iv) Assist the borrower in completing a residential 2656
mortgage loan application. 2657

~~(h)~~ (g) An individual employed by a nonprofit organization 2658
that is recognized as tax exempt under 26 U.S.C. 501(c) (3) and 2659
whose primary activity is the construction, remodeling, or 2660
rehabilitation of homes for use by low-income families, provided 2661
that the nonprofit organization makes no-profit mortgage loans 2662
or mortgage loans at zero per cent interest to low-income 2663
families and no fees accrue directly to the nonprofit 2664
organization or individual employed by the nonprofit 2665
organization from those mortgage loans and that the United 2666
States department of housing and urban development does not deny 2667
this exemption. 2668

~~(F) "Mortgage" means any indebtedness secured by a deed of~~ 2669
~~trust, security deed, or other lien on real property.~~ 2670

~~(G) (1) "Mortgage broker" means any of the following:~~ 2671

~~(a) A person that holds that person out as being able to~~ 2672

~~assist a buyer in obtaining a mortgage and charges or receives— 2673
from either the buyer or lender money or other valuable— 2674
consideration readily convertible into money for providing this— 2675
assistance; 2676~~

~~(b) A person that solicits financial and mortgage— 2677
information from the public, provides that information to a— 2678
mortgage broker or a person that makes residential mortgage— 2679
loans, and charges or receives from either of them money or— 2680
other valuable consideration readily convertible into money for— 2681
providing the information; 2682~~

~~(c) A person engaged in table-funding or warehouse-lending— 2683
mortgage loans that are first lien residential mortgage loans. 2684~~

~~(2) "Mortgage broker" does not include any of the— 2685
following persons only with respect to business engaged in or— 2686
authorized by the person's charter, license, authority,— 2687
approval, or certificate, or as otherwise authorized by division— 2688
(G)(2)(h) of this section: 2689~~

~~(a) A person that makes residential mortgage loans and— 2690
receives a scheduled payment on each of those mortgage loans; 2691~~

~~(b) Any entity chartered and lawfully doing business under— 2692
the authority of any law of this state, another state, or the— 2693
United States as a bank, savings bank, trust company, savings— 2694
and loan association, or credit union, or a subsidiary of any— 2695
such entity, which subsidiary is regulated by a federal banking— 2696
agency and is owned and controlled by a depository institution; 2697~~

~~(c) A consumer reporting agency that is in substantial— 2698
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128,— 2699
15 U.S.C.A. 1681a, as amended; 2700~~

~~(d) Any political subdivision, or any governmental or— 2701~~

~~other public entity, corporation, instrumentality, or agency, in- 2702~~
~~or of the United States or any state; 2703~~

~~(c) A college or university, or controlled entity of a 2704~~
~~college or university, as those terms are defined in section 2705~~
~~1713.05 of the Revised Code; 2706~~

~~(f) Any entity created solely for the purpose of 2707~~
~~securitizing loans secured by an interest in real estate, 2708~~
~~provided the entity does not service the loans. For purposes of 2709~~
~~division (G) (2) (f) of this section, "securitizing" means the 2710~~
~~packaging and sale of mortgage loans as a unit for sale as 2711~~
~~investment securities, but only to the extent of those 2712~~
~~activities. 2713~~

~~(g) Any person engaged in the retail sale of manufactured 2714~~
~~homes, mobile homes, or industrialized units if, in connection 2715~~
~~with obtaining financing by others for those retail sales, the 2716~~
~~person only assists the borrower by providing or transmitting 2717~~
~~the loan application and does not do any of the following: 2718~~

~~(i) Offer or negotiate the residential mortgage loan rates 2719~~
~~or terms; 2720~~

~~(ii) Provide any counseling with borrowers about 2721~~
~~residential mortgage loan rates or terms; 2722~~

~~(iii) Receive any payment or fee from any company or 2723~~
~~individual for assisting the borrower obtain or apply for 2724~~
~~financing to purchase the manufactured home, mobile home, or 2725~~
~~industrialized unit; 2726~~

~~(iv) Assist the borrower in completing the residential 2727~~
~~mortgage loan application. 2728~~

~~(h) A mortgage banker, provided it complies with section 2729~~

~~1322.022 of the Revised Code and holds a valid letter of exemption issued by the superintendent. For purposes of this section, "mortgage banker" means any person that makes, services, buys, or sells residential mortgage loans secured by a first lien, that underwrites the loans, and that meets at least one of the following criteria:~~ 2730
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~~(i) The person has been directly approved by the United States department of housing and urban development as a nonsupervised mortgagee with participation in the direct endorsement program. Division (G) (2) (h) (i) of this section includes a person that has been directly approved by the United States department of housing and urban development as a nonsupervised mortgagee with participation in the direct endorsement program and that makes loans in excess of the applicable loan limit set by the federal national mortgage association, provided that the loans in all respects, except loan amounts, comply with the underwriting and documentation requirements of the United States department of housing and urban development. Division (G) (2) (h) (i) of this section does not include a mortgagee approved as a loan correspondent.~~ 2736
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~~(ii) The person has been directly approved by the federal national mortgage association as a seller/servicer. Division (G) (2) (h) (ii) of this section includes a person that has been directly approved by the federal national mortgage association as a seller/servicer and that makes loans in excess of the applicable loan limit set by the federal national mortgage association, provided that the loans in all respects, except loan amounts, comply with the underwriting and documentation requirements of the federal national mortgage association.~~ 2750
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~~(iii) The person has been directly approved by the federal~~ 2759

~~home loan mortgage corporation as a seller/servicer. Division~~ 2760
~~(G) (2) (h) (iii) of this section includes a person that has been~~ 2761
~~directly approved by the federal home loan mortgage corporation~~ 2762
~~as a seller/servicer and that makes loans in excess of the~~ 2763
~~applicable loan limit set by the federal home loan mortgage~~ 2764
~~corporation, provided that the loans in all respects, except~~ 2765
~~loan amounts, comply with the underwriting and documentation~~ 2766
~~requirements of the federal home loan mortgage corporation.~~ 2767

~~(iv) The person has been directly approved by the United~~ 2768
~~States department of veterans affairs as a nonsupervised~~ 2769
~~automatic lender. Division (G) (2) (h) (iv) of this section does~~ 2770
~~not include a person directly approved by the United States~~ 2771
~~department of veterans affairs as a nonsupervised lender, an~~ 2772
~~agent of a nonsupervised automatic lender, or an agent of a~~ 2773
~~nonsupervised lender.~~ 2774

~~(i) A nonprofit organization that is recognized as tax~~ 2775
~~exempt under 26 U.S.C. 501(c) (3) and whose primary activity is~~ 2776
~~the construction, remodeling, or rehabilitation of homes for use~~ 2777
~~by low income families, provided that the nonprofit organization~~ 2778
~~makes no profit mortgage loans or mortgage loans at zero per~~ 2779
~~cent interest to low income families and no fees accrue directly~~ 2780
~~to the nonprofit organization from those mortgage loans and that~~ 2781
~~the United States department of housing and urban development~~ 2782
~~does not deny this exemption.~~ 2783

~~(j) A credit union service organization, provided that the~~ 2784
~~organization utilizes services provided by registered loan~~ 2785
~~originators or that it holds a valid letter of exemption issued~~ 2786
~~by the superintendent under section 1322.023 of the Revised Code~~ 2787
~~and complies with that section.~~ 2788

~~(H) "Operations manager" means the employee or owner~~ 2789

~~responsible for the everyday operations, compliance~~ 2790
~~requirements, and management of a mortgage broker business.~~ 2791

~~(I) "Registered loan originator" means an individual to~~ 2792
~~whom both of the following apply:~~ 2793

~~(1) The individual is a loan originator and an employee of~~ 2794
~~a depository institution, a subsidiary that is owned and~~ 2795
~~controlled by a depository institution and regulated by a~~ 2796
~~federal banking agency, or an institution regulated by the farm~~ 2797
~~credit administration.~~ 2798

~~(2) The individual is registered with, and maintains a~~ 2799
~~unique identifier through, the nationwide mortgage licensing~~ 2800
~~system and registry.~~ 2801

~~(J) "Registrant" means any person that has been issued a~~ 2802
~~mortgage broker certificate of registration under sections~~ 2803
~~1322.01 to 1322.12 of the Revised Code.~~ 2804

~~(K) "Superintendent of financial institutions" includes~~ 2805
~~the deputy superintendent for consumer finance as provided in~~ 2806
~~section 1181.21 of the Revised Code.~~ 2807

~~(L) "Table funding mortgage loan" means a residential~~ 2808
~~mortgage loan transaction in which the residential mortgage loan~~ 2809
~~is initially payable to the mortgage broker, the mortgage broker~~ 2810
~~does not use the mortgage broker's own funds to fund the~~ 2811
~~transaction, and, by the terms of the mortgage or other~~ 2812
~~agreement, the mortgage is simultaneously assigned to another~~ 2813
~~person.~~ 2814

~~(M) "Warehouse lending mortgage loan" means a residential~~ 2815
~~mortgage loan transaction in which the residential mortgage loan~~ 2816
~~is initially payable to the mortgage broker, the mortgage broker~~ 2817
~~uses the mortgage broker's own funds to fund the transaction,~~ 2818

~~and the mortgage is sold or assigned before the mortgage broker receives a scheduled payment on the residential mortgage loan.~~ 2819
2820

~~(N) "Administrative or clerical tasks" means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry, and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.~~ 2821
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~~(O) "Appraisal company" means a sole proprietorship, partnership, corporation, limited liability company, or any other business entity or association, that employs or retains the services of a person licensed or certified under Chapter 4763. of the Revised Code for purposes of performing residential real estate appraisals for mortgage loans.~~ 2827
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~~(P) "Depository institution" has the same meaning as in section 3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813, and includes any credit union.~~ 2833
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~~(Q) "Federal banking agency" means the board of governors of the federal reserve system, the comptroller of the currency, the director of the office of thrift supervision, the national credit union administration, and the federal deposit insurance corporation.~~ 2836
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~~(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.~~ 2841
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~~(S) "Individual" means a natural person.~~ 2845

~~(T) "Loan processor or underwriter" means an individual who performs clerical or support duties at the direction of and~~ 2846
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~~subject to the supervision and instruction of a licensed loan- 2848
originator or registered loan originator. For purposes of this 2849
division, to "perform clerical or support duties" means to do 2850
all of the following activities: 2851~~

~~(1) Receiving, collecting, distributing, and analyzing 2852
information common for the processing or underwriting of a 2853
residential mortgage loan. 2854~~

~~(2) Communicating with a buyer to obtain the information 2855
necessary for the processing or underwriting of a loan, to the 2856
extent the communication does not include offering or 2857
negotiating loan rates or terms or counseling buyers about 2858
residential mortgage loan rates or terms. 2859~~

~~(U) (FF) "Nationwide mortgage licensing system and 2860
registry" means a mortgage licensing system developed and 2861
maintained by the conference of state bank supervisors and the 2862
American association of residential mortgage regulators, or 2863
their successor entities, for the licensing and registration of 2864
loan originators, or any system established by the secretary of 2865
housing and urban development pursuant to the "Secure and Fair- 2866
Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 2867
12 U.S.C. 5101 persons providing non-depository financial 2868
services. 2869~~

~~(V) (GG) "Nontraditional mortgage product" means any 2870
mortgage product other than a thirty-year fixed rate mortgage. 2871~~

~~(W) (HH) "Person" means an individual, sole 2872
proprietorship, corporation, company, limited liability company, 2873
partnership, limited liability partnership, trust, or 2874
association. 2875~~

~~(II) "Real estate brokerage activity" means any activity 2876~~

that involves offering or providing real estate brokerage services to the public, including all of the following: 2877
2878

(1) Acting as a real estate ~~agent~~ salesperson or real estate broker for a buyer, seller, lessor, or lessee of real property; 2879
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(2) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property, ~~other than in connection with providing financing for any such transaction;~~ 2882
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(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; 2886
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(4) Engaging in any activity for which a person engaged in that activity is required to be ~~registered or licensed~~ as a real estate ~~agent~~ salesperson or real estate broker under ~~any applicable the law of this state;~~ 2890
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(5) Offering to engage in any activity, or to act in any capacity, described in division ~~(W)~~ (II) of this section. 2894
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~~(X)~~ (JJ) "Registered mortgage loan originator" means an individual to whom both of the following apply: 2896
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(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. 2898
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(2) The individual is registered with, and maintains a unique identifier through, the nationwide mortgage licensing 2903
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system and registry. 2905

(KK) "Registrant" means any person that has been issued a 2906
certificate of registration under this chapter. 2907

(LL) "Residential mortgage loan" means any loan that meets 2908
both of the following requirements: 2909

(1) It is primarily for personal, family, or household use 2910
that and is secured by a mortgage, deed of trust, or other 2911
equivalent consensual security interest on a dwelling or on 2912
residential real estate upon which is constructed or intended to 2913
be constructed a dwelling. For purposes of this division, 2914
"dwelling" has the same meaning as in section 103 of the "Truth- 2915
in Lending Act," 82 Stat. 146, 15 U.S.C 1602 located in Ohio. 2916

(2) It is provided and secured by a first lien holder 2917
secured creditor or by a second lien holder secured creditor. 2918

~~(Y) "State," in the context of referring to states in~~ 2919
~~addition to Ohio, means any state of the United States, the~~ 2920
~~district of Columbia, any territory of the United States, Puerto~~ 2921
~~Rico, Guam, American Samoa, the trust territory of the Pacific~~ 2922
~~islands, the virgin islands, and the northern Mariana islands.~~ 2923

~~(Z)~~ (MM) "Residential real estate" means any real property 2924
located in this state upon which is constructed a dwelling or 2925
upon which a dwelling is intended to be built within a two-year 2926
period, subject to 24 C.F.R. 3500.5(b) (4). For purposes of this 2927
division, a borrower's intent to build a dwelling within a two- 2928
year period is presumed unless the borrower has submitted a 2929
written, signed statement to the contrary. 2930

(NN) "Superintendent of financial institutions" includes 2931
the deputy superintendent for consumer finance as provided in 2932
section 1181.21 of the Revised Code. 2933

(OO) "Ultimate equity owner" means an individual who, 2934
directly or indirectly, owns or controls an ownership interest 2935
in a corporation, a foreign corporation, an alien business 2936
organization, or any other form of business organization, 2937
regardless of whether the individual owns or controls an 2938
ownership interest, individually or in any combination, through 2939
one or more persons or one or more proxies, powers of attorney, 2940
nominees, corporations, associations, partnerships, trusts, 2941
joint-stock companies, or other entities or devices. 2942

(PP) "Unique identifier" means a number or other 2943
identifier that permanently identifies a loan originator and is 2944
assigned by protocols established by the nationwide mortgage 2945
licensing system and registry or federal banking agencies to 2946
facilitate electronic tracking of loan originators and uniform 2947
identification of, and public access to, the employment history 2948
of and the publicly adjudicated disciplinary and enforcement 2949
actions against loan originators. 2950

Sec. ~~1322.024~~ 1322.02. The superintendent of financial 2951
institutions may, by rule, ~~expand~~ amend the definition of 2952
mortgage loan originator ~~or,~~ mortgage broker, or mortgage 2953
lender in section 1322.01 of the Revised Code ~~by adding~~ 2954
~~individuals, persons, or entities, or may exempt additional~~ 2955
~~individuals, persons, or entities from those definitions, or the~~ 2956
criteria for an entity to obtain a letter of exemption under 2957
division (B) (1) of section 1322.05 of the Revised Code, if the 2958
superintendent finds that the ~~addition or exemption~~ change is 2959
necessary to remain consistent with the purposes ~~fairly~~ intended 2960
by the policy and provisions of ~~sections 1322.01 to 1322.12 of~~ 2961
~~the Revised Code and the "Secure and Fair Enforcement for~~ 2962
Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101. 2963

Rules authorized by this section shall be adopted in 2964
accordance with Chapter 119. of the Revised Code. 2965

Sec. 1322.04. This chapter does not apply to any of the 2966
following: 2967

(A) Any entity chartered and lawfully doing business under 2968
the authority of any law of this state, another state, or the 2969
United States as a bank, savings bank, trust company, savings 2970
and loan association, or credit union, or a subsidiary of any 2971
such entity, which subsidiary is regulated by a federal banking 2972
agency and is owned and controlled by a depository institution; 2973

(B) A consumer reporting agency that is in substantial 2974
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 2975
15 U.S.C. 1681a, as amended; 2976

(C) Any political subdivision, or any governmental or 2977
other public entity, corporation, instrumentality, or agency, in 2978
or of the United States or any state; 2979

(D) A college or university, or controlled entity of a 2980
college or university, as those terms are defined in section 2981
1713.05 of the Revised Code; 2982

(E) Any entity created solely for the purpose of 2983
securitizing loans secured by an interest in real estate, 2984
provide the entity does not service the loans. As used in this 2985
division, "securitizing" means the packaging and sale of 2986
mortgage loans as a unit for sale as investment securities, but 2987
only to the extent of those activities. 2988

(F) Any person engaged in the retail sale of manufactured 2989
homes, mobile homes, or industrialized units if, in connection 2990
with obtaining financing by others for those retail sales, the 2991
person only assists the borrower by providing or transmitting 2992

<u>the loan application and does not do any of the following:</u>	2993
<u>(1) Offer or negotiate the residential mortgage loan rates</u>	2994
<u>or terms;</u>	2995
<u>(2) Provide any counseling with borrowers about</u>	2996
<u>residential mortgage loan rates or terms;</u>	2997
<u>(3) Receive any payment or fee from any company or</u>	2998
<u>individual for assisting the borrower to obtain or apply for</u>	2999
<u>financing to purchase the manufactured home, mobile home, or</u>	3000
<u>industrialized unit;</u>	3001
<u>(4) Assist the borrower in completing the residential</u>	3002
<u>mortgage loan application.</u>	3003
<u>(G) A bona fide nonprofit organization that is recognized</u>	3004
<u>as tax exempt under 26 U.S.C. 501(c)(3) and whose primary</u>	3005
<u>activity is the construction, remodeling, or rehabilitation of</u>	3006
<u>homes for use by low-income families, provided that the</u>	3007
<u>organization makes no-profit mortgage loans or mortgage loans at</u>	3008
<u>zero per cent interest to low-income families and no fees accrue</u>	3009
<u>directly to the organization from those mortgage loans and that</u>	3010
<u>the United States department of housing and urban development</u>	3011
<u>does not deny this exemption;</u>	3012
<u>(H) A credit union service organization, provided that the</u>	3013
<u>organization utilizes services provided by registered mortgage</u>	3014
<u>loan originators or that it holds a valid letter of exemption</u>	3015
<u>issued by the superintendent of financial institutions under</u>	3016
<u>division (B)(1) of section 1322.05 of the Revised Code.</u>	3017
<u>(I) A depository institution not otherwise required to be</u>	3018
<u>licensed under this chapter that voluntarily makes a filing on</u>	3019
<u>the nationwide mortgage licensing system and registry as an</u>	3020
<u>exempt entity for the purpose of licensing loan originators</u>	3021

exclusively associated with the institution and that holds a 3022
valid letter of exemption issued by the superintendent pursuant 3023
to division (B) (1) of section 1322.05 of the Revised Code. 3024

Sec. ~~1322.023~~ 1322.05. (A) A credit union service 3025
organization or depository institution seeking exemption from 3026
registration pursuant to division ~~(G) (2) (j)~~ (H) or (I) of 3027
section ~~1322.01-1322.04~~ of the Revised Code or rules adopted by 3028
the superintendent in accordance with section 1322.02 of the 3029
Revised Code shall submit an application to the superintendent 3030
of financial institutions along with a nonrefundable fee of 3031
three hundred fifty dollars for each location of an office to be 3032
maintained by the organization or institution seeking exemption. 3033
The application shall be in a form prescribed by the 3034
superintendent and shall include all of the following: 3035

(1) The organization's or institution's business name and 3036
state of incorporation or business registration; 3037

(2) The names of the owners, officers, or partners having 3038
control of the organization or institution; 3039

(3) An attestation to all of the following: 3040

(a) That the organization or institution and its owners, 3041
officers, or partners identified in division (A) (2) of this 3042
section have not had a credit union service organization 3043
registration or license, mortgage banker license, mortgage 3044
broker certificate of registration, or mortgage loan originator 3045
license, or any comparable authority, revoked in any 3046
governmental jurisdiction; 3047

(b) That the organization or institution and its owners, 3048
officers, or partners identified in division (A) (2) of this 3049
section have not been convicted of, or pleaded guilty or nolo 3050

contendere to, any of the following in a domestic, foreign, or 3051
military court: 3052

(i) During the seven-year period immediately preceding the 3053
date of application for exemption, a misdemeanor involving theft 3054
or any felony; 3055

(ii) At any time prior to the date the application for 3056
exemption is approved, a felony involving an act of fraud, 3057
dishonesty, a breach of trust, theft, or money laundering. 3058

(c) That, with respect to financing residential mortgage 3059
loans, the organization or institution conducts business with 3060
residents of this state or secures its loans with property 3061
located in this state. 3062

(4) The names of all mortgage loan originators or 3063
licensees under the organization's or institution's control and 3064
direction; 3065

(5) An acknowledgment of understanding that the 3066
organization or institution is subject to the regulatory 3067
authority of the division of financial institutions as described 3068
in this section; 3069

(6) Any further reasonable information that the 3070
superintendent may require. 3071

(B) (1) If the superintendent determines that the credit 3072
union service organization ~~honestly made the attestation~~ 3073
~~required under division (A) (3) of this section and otherwise~~ or 3074
depository institution qualifies for exemption, the 3075
superintendent shall issue a letter of exemption. Additional 3076
certified copies of a letter of exemption shall be provided upon 3077
request and the payment of seventy-five dollars per copy. 3078

(2) If the superintendent determines that the organization or institution does not qualify for exemption, the superintendent shall issue a notice of denial, and the organization or institution may request a hearing in accordance with Chapter 119. of the Revised Code.

(C) All of the following conditions apply to any credit union service organization or depository institution holding a valid letter of exemption:

(1) The organization or institution shall be subject to examination in the same manner as a registrant with respect to the conduct of the organization's or institution's mortgage loan originators. In conducting any out-of-state examination, the organization or institution shall be responsible for paying the costs of the division in the same manner as a registrant.

(2) The organization or institution shall have an affirmative duty to supervise the conduct of its mortgage loan originators, and to cooperate with investigations by the division with respect to that conduct, in the same manner as is required of registrants.

(3) The organization or institution shall keep and maintain records of all transactions relating to the conduct of its mortgage loan originators in the same manner as is required of registrants.

(4) The organization or institution may provide the surety bond for its licensees in the same manner as is permitted for registrants.

(D) A letter of exemption expires annually on the thirty-first day of December and may be renewed on or before that date by submitting an application that meets the requirements of

division (A) of this section and a nonrefundable renewal fee of 3108
three hundred fifty dollars for each location of an office to be 3109
maintained by the credit union service organization or 3110
depository institution. 3111

(E) The superintendent may issue a notice to revoke or 3112
suspend a letter of exemption if the superintendent finds that 3113
the letter was obtained through a false or fraudulent 3114
representation of a material fact, or the omission of a material 3115
fact, required by law, or that a condition for exemption is no 3116
longer being met. Prior to issuing an order of revocation or 3117
suspension, the credit union service organization or depository 3118
institution shall be given an opportunity for a hearing in 3119
accordance with Chapter 119. of the Revised Code. 3120

(F) All information obtained by the division pursuant to 3121
an examination or investigation under this section shall be 3122
subject to the confidentiality requirements set forth in section 3123
~~1322.061~~ 1322.36 of the Revised Code. 3124

(G) All money collected under this section shall be 3125
deposited into the state treasury to the credit of the consumer 3126
finance fund created in section 1321.21 of the Revised Code. 3127

Sec. ~~1322.02~~ 1322.07. (A) ~~(1)~~ No person, on the person's 3128
own behalf or on behalf of any other person, shall act as a 3129
mortgage lender or mortgage broker without first having obtained 3130
a certificate of registration from the superintendent of 3131
financial institutions for ~~every~~ the principal office and every 3132
branch office to be maintained by the person for the transaction 3133
of business as a mortgage lender or mortgage broker in this 3134
state. A registrant shall maintain an office location ~~in this~~ 3135
~~state~~ for the transaction of business as a mortgage lender or 3136
mortgage broker in this state. 3137

~~(2) No person shall act or hold that person's self out as a mortgage broker under the authority or name of a registrant or person exempt from sections 1322.01 to 1322.12 of the Revised Code without first having obtained a certificate of registration from the superintendent for every office to be maintained by the person for the transaction of business as a mortgage broker in this state.~~ 3138
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(B) (1) No individual shall act as a mortgage loan 3145
originator without first having obtained a license from the 3146
superintendent. A mortgage loan originator shall be employed by 3147
or associated with a mortgage lender, mortgage broker ~~or any~~ 3148
~~person or entity listed in division (C) (2) of section 1322.01 of~~ 3149
~~the Revised Code,~~ or entity holding a valid letter of exemption 3150
under division (B) (1) of section 1322.05 of the Revised Code, 3151
but shall not be employed by or associated with more than one 3152
~~mortgage broker or person or entity~~ registrant or entity holding 3153
a valid letter of exemption under division (B) (1) of section 3154
1322.05 of the Revised Code at any one time. 3155

(2) An individual acting under the individual's authority 3156
as a registered mortgage loan originator shall not be required 3157
to be licensed under division (B) (1) of this section. 3158

(3) An individual who holds a valid temporary mortgage 3159
loan originator license issued pursuant to section ~~1322.042-~~ 3160
1322.24 of the Revised Code may engage in the business of a 3161
mortgage loan originator in accordance with ~~sections 1322.01 to~~ 3162
~~1322.12 of the Revised Code~~ this chapter during the term of the 3163
temporary license. 3164

~~(C) (1) No person acting as a mortgage broker or loan~~ 3165
~~originator shall fail to register with, and maintain a valid~~ 3166
~~unique identifier issued by, the nationwide mortgage licensing~~ 3167

~~system and registry.~~ 3168

~~(2) No person shall use a mortgage broker's or loan originator's unique identifier for any purpose other than as set forth in the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.~~ 3169
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Sec. ~~1322.03~~ 1322.09. (A) An application for a certificate of registration ~~as a mortgage broker~~ shall be in writing, under oath, and in ~~the~~ 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 ~~1322.02-1322.07~~ of the Revised Code and any additional fee required by the nationwide mortgage licensing system and registry. ~~The application shall provide all of the following:-~~ 3173
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~~(1) The location or locations where the business is to be transacted and whether any location is a residence. If any location where the business is to be transacted is a residence, the superintendent may require that the application be accompanied by a copy of a zoning permit authorizing the use of the residence for commercial purposes, or by a written opinion or other document issued by the county or political subdivision where the residence is located certifying that the use of the residence to transact business as a mortgage broker is not prohibited by the county or political subdivision.~~ 3184
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~~(2) (a) In the case of a sole proprietor, the name and address of the sole proprietor;~~ 3194
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~~(b) In the case of a partnership, the name and address of-~~ 3196

~~each partner;~~ 3197

~~(c) In the case of a corporation, the name and address of each shareholder owning five per cent or more of the corporation;~~ 3198
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~~(d) In the case of any other entity, the name and address of any person that owns five per cent or more of the entity that will transact business as a mortgage broker.~~ 3201
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~~(3) Each applicant shall designate an employee or owner of the applicant as the applicant's operations manager. While acting as the operations manager, the employee or owner shall be licensed as a loan originator under sections 1322.01 to 1322.12 of the Revised Code and shall not be employed by any other mortgage broker.~~ 3204
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~~(4) Evidence that the person designated on the application pursuant to division (A) (3) of this section possesses at least three years of experience in the residential mortgage and lending field, which experience may include employment with or as a mortgage broker or with a depository institution, mortgage lending institution, or other lending institution, or possesses at least three years of other experience related specifically to the business of residential mortgage loans that the superintendent determines meets the requirements of division (A) (4) of this section;~~ 3210
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~~(5) Evidence that the person designated on the application pursuant to division (A) (3) of this section has successfully completed the pre licensing instruction requirements set forth in section 1322.031 of the Revised Code;~~ 3220
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~~(6) Evidence of compliance with the surety bond requirements of section 1322.05 of the Revised Code and with~~ 3224
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~~sections 1322.01 to 1322.12 of the Revised Code;~~ 3226

~~(7) In the case of a foreign business entity, evidence~~ 3227
~~that it maintains a license or registration pursuant to Chapter~~ 3228
~~1703., 1705., 1775., 1776., 1777., 1782., or 1783. of the~~ 3229
~~Revised Code to transact business in this state;~~ 3230

~~(8) Evidence that the applicant's operations manager has~~ 3231
~~successfully completed the written test required by section~~ 3232
~~1322.051 of the Revised Code;~~ 3233

~~(9) Any further information that the superintendent~~ 3234
~~requires.~~ 3235

(B) Upon the filing of the application and payment of the 3236
nonrefundable application fee and any fee required by the 3237
nationwide mortgage licensing system and registry, the 3238
superintendent ~~of financial institutions~~ shall investigate the 3239
applicant, and any individual whose identity is required to be 3240
disclosed in the application, ~~as set forth in division (B) of~~ 3241
~~this section.~~ 3242

~~(1) (a) Notwithstanding division (K) of section 121.08 of~~ 3243
~~the Revised Code, the superintendent shall obtain a criminal~~ 3244
~~history records check and, as part of that records check,~~ 3245
~~request that criminal record information from the federal bureau~~ 3246
~~of investigation be obtained. To fulfill this requirement, the~~ 3247
~~superintendent shall do either of the following:~~ 3248

~~(i) Request the superintendent of the bureau of criminal~~ 3249
~~identification and investigation, or a vendor approved by the~~ 3250
~~bureau, to conduct a criminal records check based on the~~ 3251
~~applicant's fingerprints or, if the fingerprints are unreadable,~~ 3252
~~based on the applicant's social security number, in accordance~~ 3253
~~with section 109.572 of the Revised Code;~~ 3254

~~(ii) Authorize the nationwide mortgage licensing system and registry to request a criminal history background check.~~ 3255
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~~(b) Any fee required under division (C) (3) of section 109.572 of the Revised Code or by the nationwide mortgage licensing system and registry shall be paid by the applicant.~~ 3257
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~~(2) The~~. As part of that investigation, the 3260
superintendent shall conduct a civil records check. 3261

~~(3)~~ If, in order to issue a certificate of registration to 3262
an applicant, additional investigation by the superintendent 3263
outside this state is necessary, the superintendent may require 3264
the applicant to advance sufficient funds to pay the actual 3265
expenses of the investigation, if it appears that these expenses 3266
will exceed five hundred dollars. The superintendent shall 3267
provide the applicant with an itemized statement of the actual 3268
expenses that the applicant is required to pay. 3269

(C) In connection with applying for a certificate of 3270
registration, the applicant shall furnish to the nationwide 3271
mortgage licensing system and registry information concerning 3272
the applicant's identity, including all of the following: 3273

(1) The applicant's fingerprints for submission to the 3274
federal bureau of investigation, and any other governmental 3275
agency or entity authorized to receive such information, for 3276
purposes of a state, national, and international criminal 3277
history background check; 3278

(2) Personal history and experience in a form prescribed 3279
by the nationwide mortgage licensing system and registry, along 3280
with authorization for the superintendent and the nationwide 3281
mortgage licensing system and registry to obtain both of the 3282
following: 3283

<u>(a) An independent credit report from a consumer reporting agency;</u>	3284
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<u>(b) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.</u>	3286
	3287
<u>(D)</u> The superintendent shall pay all funds advanced and application and renewal fees and penalties the superintendent receives pursuant to this section and section 1322.04 <u>1322.10</u> 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.	3288
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(D) <u>(E)</u> If an application for a mortgage broker certificate of registration does not contain all of the information required under division (A) of 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.	3294
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(E) <u>(F)</u> A mortgage broker 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.	3303
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(F) The registration requirements of this chapter apply to any person acting as a mortgage broker, and no person is exempt from the requirements of this chapter on the basis of prior work or employment as a mortgage broker.	3307
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<u>(G) (1)</u> The superintendent may establish relationships or enter into contracts with the nationwide mortgage licensing	3311
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system and registry, or any entities designated by it, to 3313
collect and maintain records and process transaction fees or 3314
other fees related to mortgage lender or mortgage broker 3315
certificates of registration or the persons associated with a 3316
mortgage lender or mortgage broker. 3317

(2) For purposes of this section and to reduce the points 3318
of contact that the federal bureau of investigation may have to 3319
maintain, the division of financial institutions may use the 3320
nationwide mortgage licensing system and registry as a 3321
channeling agent for requesting information from and 3322
distributing information to the United States department of 3323
justice or other governmental agencies. 3324

(3) For purposes of this section and to reduce the points 3325
of contact that the division may have to maintain, the division 3326
may use the nationwide mortgage licensing system and registry as 3327
a channeling agent for requesting information from and 3328
distributing information to any source as determined by the 3329
division. 3330

Sec. ~~1322.04~~ 1322.10. (A) Upon the conclusion of the 3331
investigation required under division (B) of section ~~1322.03~~ 3332
1322.09 of the Revised Code, the superintendent of financial 3333
institutions shall issue a certificate of registration to the 3334
applicant if the superintendent finds that the following 3335
conditions are met: 3336

(1) The application is accompanied by the application fee 3337
and any fee required by the nationwide mortgage licensing system 3338
and registry. 3339

(a) If a check or other draft instrument is returned to 3340
the superintendent for insufficient funds, the superintendent 3341

shall notify the applicant by certified mail, return receipt 3342
requested, that the application will be withdrawn unless the 3343
applicant, within thirty days after receipt of the notice, 3344
submits the application fee and a one-hundred-dollar penalty to 3345
the superintendent. If the applicant does not submit the 3346
application fee and penalty within that time period, or if any 3347
check or other draft instrument used to pay the fee or penalty 3348
is returned to the superintendent for insufficient funds, the 3349
application shall be withdrawn. 3350

(b) If a check or other draft instrument is returned to 3351
the superintendent for insufficient funds after the certificate 3352
of registration has been issued, the superintendent shall notify 3353
the registrant by certified mail, return receipt requested, that 3354
the certificate of registration issued in reliance on the check 3355
or other draft instrument will be canceled unless the 3356
registrant, within thirty days after receipt of the notice, 3357
submits the application fee and a one-hundred-dollar penalty to 3358
the superintendent. If the registrant does not submit the 3359
application fee and penalty within that time period, or if any 3360
check or other draft instrument used to pay the fee or penalty 3361
is returned to the superintendent for insufficient funds, the 3362
certificate of registration shall be canceled immediately 3363
without a hearing, and the registrant shall cease activity as a 3364
mortgage broker. 3365

(2) If the application is for a location that is a 3366
residence, evidence that the use of the residence to transact 3367
business as a mortgage lender or mortgage broker is not 3368
prohibited. 3369

~~(3) The person designated on the application pursuant to 3370
division (A) (3) of section 1322.03 of the Revised Code meets the 3371~~

~~experience requirements provided in division (A) (4) of section 1322.03 of the Revised Code and the education requirements set forth in division (A) (5) of section 1322.03 of the Revised Code.~~ 3372
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~~(4)~~ (4) The applicant maintains all necessary filings and approvals required by the secretary of state. 3375
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~~(5)~~ (4) The applicant complies with the surety bond requirements of section ~~1322.05~~ 1322.32 of the Revised Code. 3377
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~~(6)~~ (5) ~~The applicant complies with sections 1322.01 to 1322.12 of the Revised Code and the rules adopted thereunder~~ has not made a material misstatement of fact or material omission of fact in the application. 3379
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~~(7)~~ (6) Neither the applicant nor any person whose identity is required to be disclosed on an application for a ~~mortgage broker certificate of registration~~ has had such a mortgage broker 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: 3383
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(a) During the seven-year period immediately preceding the date of application for the certificate of registration, a misdemeanor involving theft or any felony; 3391
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(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. 3394
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~~(8) Based on the totality of the circumstances and information submitted in the application, the applicant has proven to the superintendent, by a preponderance of the~~ 3398
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~~evidence, that the applicant is of good business repute, appears qualified to act as a mortgage broker, has fully complied with sections 1322.01 to 1322.12 of the Revised Code and the rules adopted thereunder, and meets all of the conditions for issuing a mortgage broker certificate of registration.~~ 3401-3405

~~(9)~~ (7) The applicant's operations manager successfully completed the examination required by section ~~1322.051~~ 1322.27 of the Revised Code. 3406-3408

~~(10)~~ (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 and, fairly, and efficiently in compliance with the purposes of ~~sections 1322.01 to 1322.12 of the Revised Code~~ 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. 3409-3416

(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) (7), (A) (6) and (8), and (A) (10)~~ of this section, the superintendent shall determine which partners, shareholders, or persons named in the application ~~pursuant to division (A) (2) of section 1322.03 of the Revised Code~~ must meet the those conditions ~~set forth in divisions (A) (7), (A) (8), and (A) (10) of this section.~~ 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. 3417-3430

(C) The certificate of registration issued pursuant to 3431
division (A) of this section may be renewed annually on or 3432
before the thirty-first day of December if the superintendent 3433
finds that all of the following conditions are met: 3434

(1) The renewal application is accompanied by a 3435
nonrefundable renewal fee of five hundred dollars for each 3436
location of an office to be maintained by the applicant in 3437
accordance with division (A) of section ~~1322.02~~1322.07 of the 3438
Revised Code and any fee required by the nationwide mortgage 3439
licensing system and registry. If a check or other draft 3440
instrument is returned to the superintendent for insufficient 3441
funds, the superintendent shall notify the registrant by 3442
certified mail, return receipt requested, that the certificate 3443
of registration renewed in reliance on the check or other draft 3444
instrument will be canceled unless the registrant, within thirty 3445
days after receipt of the notice, submits the renewal fee and a 3446
one-hundred-dollar penalty to the superintendent. If the 3447
registrant does not submit the renewal fee and penalty within 3448
that time period, or if any check or other draft instrument used 3449
to pay the fee or penalty is returned to the superintendent for 3450
insufficient funds, the certificate of registration shall be 3451
canceled immediately without a hearing and the registrant shall 3452
cease activity as a mortgage broker. 3453

(2) The operations manager designated under ~~division (A)~~ 3454
~~(3)~~ of section ~~1322.03~~1322.12 of the Revised Code has 3455
completed, at least eight hours of continuing education as 3456
required under section ~~1322.052~~1322.28 of the Revised Code. 3457

(3) The applicant meets the conditions set forth in 3458
divisions (A) (2) to ~~(10)~~(8) of this section. 3459

(4) The applicant's ~~mortgage broker~~ certificate of 3460

registration is not subject to an order of suspension or an 3461
unpaid and past due fine imposed by the superintendent. 3462

(D) (1) Subject to division (D) (2) of this section, if a 3463
renewal fee or additional fee required by the nationwide 3464
mortgage licensing system and registry is received by the 3465
superintendent after the thirty-first day of December, the 3466
~~mortgage broker~~ certificate of registration shall not be 3467
considered renewed, and the applicant shall cease activity as a 3468
mortgage lender or mortgage broker. 3469

(2) Division (D) (1) of this section shall not apply if the 3470
applicant, ~~no~~ not later than ~~the thirty-first day of January-~~ 3471
forty-five days after the renewal deadline, submits the renewal 3472
fee or additional fee and a one-hundred-dollar penalty to the 3473
superintendent. 3474

~~(E) If the person designated as the operations manager-~~ 3475
~~pursuant to division (A) (3) of section 1322.03 of the Revised-~~ 3476
~~Code is no longer the operations manager, the registrant shall-~~ 3477
~~do all of the following:~~ 3478

~~(1) Within ninety days after the departure of the-~~ 3479
~~designated operations manager, designate another person as the-~~ 3480
~~operations manager;~~ 3481

~~(2) Within ten days after the designation described in-~~ 3482
~~division (E) (1) of this section, notify the superintendent in-~~ 3483
~~writing of the designation;~~ 3484

~~(3) Submit any additional information that the-~~ 3485
~~superintendent requires to establish that the newly designated-~~ 3486
~~operations manager complies with the requirements set forth in-~~ 3487
~~section 1322.03 of the Revised Code.~~ 3488

~~(F) The registrant shall cease operations if it is without-~~ 3489

~~an operations manager approved by the superintendent for more~~ 3490
~~than one hundred eighty days unless otherwise authorized in~~ 3491
~~writing by the superintendent due to exigent circumstances.~~ 3492

~~(G) Mortgage broker certificates~~ Certificates of 3493
registration issued ~~on or after May 1, 2010,~~ under this chapter 3494
annually expire on the thirty-first day of December. 3495

(F) The pardon or expungement of a conviction shall not be 3496
considered a conviction for purposes of this section. When 3497
determining the eligibility of an applicant, the superintendent 3498
may consider the underlying crime, facts, or circumstances 3499
connected with a pardoned or expunged conviction. 3500

Sec. 1322.12. Each registrant or entity holding a valid 3501
letter of exemption under division (B) (1) of section 1322.05 of 3502
the Revised Code shall designate an employee or owner of that 3503
registrant's business as the operations manager. The operations 3504
manager shall be responsible for the management, supervision, 3505
and control of a particular location. 3506

To be eligible for such a designation, an employee or 3507
owner shall have at least three years of experience as a 3508
mortgage loan originator or registered mortgage loan originator. 3509
While acting as the operations manager, the employee or owner 3510
shall be licensed as a mortgage loan originator under this 3511
chapter and shall not be employed by any other mortgage lender 3512
or mortgage broker. 3513

~~Sec. 1322.073~~ 1322.15. No person shall acquire, sell, 3514
transfer, or hypothecate any interest in a registrant or an 3515
applicant for a certificate of registration under this chapter 3516
in order to obfuscate or conceal the true ownership or control 3517
of the registrant or applicant. 3518

Sec. ~~1322.021~~ 1322.16. (A) A registrant that is a 3519
corporation, limited liability company, partnership, trust, or 3520
other business entity or association shall notify the division 3521
of financial institutions of every sale, transfer, or 3522
hypothecation of any stock, security, membership, partnership, 3523
or other equitable, beneficial, or ownership interest in the 3524
entity or association, if the interest represents at least a 3525
five per cent membership, partnership, or other equitable, 3526
beneficial, or ownership interest in the entity or association. 3527

(B) Every person that acquires or otherwise receives an 3528
interest described in division (A) of this section is subject to 3529
~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter. 3530
The division may make any investigation necessary to determine 3531
whether any fact or condition exists that, if it had existed at 3532
the time of the original application for a certificate of 3533
registration, the fact or condition would have warranted the 3534
division to deny the application under section ~~1322.04~~ 1322.10 3535
of the Revised Code. If such a fact or condition is found, the 3536
division may, in accordance with Chapter 119. of the Revised 3537
Code, revoke the registrant's certificate. 3538

Sec. ~~1322.065~~ 1322.17. A person registered as ~~a mortgage~~ 3539
~~broker under this chapter~~ solely to sell leads of potential 3540
buyers to residential mortgage lenders or mortgage brokers, or 3541
solely to match buyers with residential mortgage lenders or 3542
mortgage brokers through a computerized loan origination system 3543
recognized by the United States department of housing and urban 3544
development, shall be required to make only those disclosures 3545
under ~~sections 1322.01 to 1322.12 of the Revised Code~~ this 3546
chapter that apply to the portion of the transaction during 3547
which they have direct buyer contact, and shall be subject to 3548
all fair conduct and prohibition requirements in their dealing 3549

with buyers. 3550

Sec. ~~1322.031~~ 1322.20. (A) An application for a license as 3551
a mortgage loan originator shall be in writing, under oath, and 3552
in ~~the a~~ form prescribed by the superintendent of financial 3553
institutions that complies with the requirements of the 3554
nationwide mortgage licensing system and registry. The 3555
application shall be accompanied by a nonrefundable application 3556
fee of one hundred fifty dollars and any additional fee required 3557
by the nationwide mortgage licensing system and registry. 3558

(B) (1) The application shall provide evidence, acceptable 3559
to the superintendent, that the applicant has successfully 3560
completed at least twenty-four hours of pre-licensing 3561
instruction consisting of all of the following: 3562

(a) Twenty hours of instruction in ~~a~~ an approved education 3563
~~course or program of study reviewed and approved by the~~ 3564
~~nationwide mortgage licensing system and registry;~~ 3565

(b) Four hours of instruction in a course or program of 3566
study reviewed and approved by the superintendent concerning 3567
~~state~~ Ohio lending laws and the Ohio consumer sales practices 3568
act, Chapter 1345. of the Revised Code, as it applies to 3569
registrants and licensees. 3570

(2) ~~Notwithstanding division (B) (1) of this section, until~~ 3571
~~the nationwide mortgage licensing system and registry implements~~ 3572
~~a review and approval program, the application shall provide~~ 3573
~~evidence, as determined by the superintendent, that the~~ 3574
~~applicant has successfully completed at least twenty four hours~~ 3575
~~of instruction in a course or program of study approved by the~~ 3576
~~superintendent that consists of at least all of the following:~~ 3577

~~(a) Four hours of instruction concerning state and federal~~ 3578

mortgage lending laws, which shall include no less than two	3579
hours on this chapter;	3580
(b) Four hours of instruction concerning the Ohio consumer	3581
sales practices act, Chapter 1345. of the Revised Code, as it	3582
applies to registrants and licensees;	3583
(c) Four hours of instruction concerning the loan	3584
application process;	3585
(d) Two hours of instruction concerning the underwriting	3586
process;	3587
(e) Two hours of instruction concerning the secondary	3588
market for mortgage loans;	3589
(f) Four hours of instruction concerning the loan closing	3590
process;	3591
(g) Two hours of instruction covering basic mortgage	3592
financing concepts and terms;	3593
(h) Two hours of instruction concerning the ethical	3594
responsibilities of a registrant and a licensee, including with	3595
respect to confidentiality, consumer counseling, and the duties	3596
and standards of care created in section 1322.081 of the Revised	3597
Code.	3598
(3) For purposes of division (B)(1)(a) of this section,	3599
the review and approval of a course or program of study includes	3600
the review and approval of the provider of the course or program	3601
of study.	3602
(4) If an applicant held a valid <u>mortgage</u> loan originator	3603
license issued by this state at any time during the immediately	3604
preceding five-year period, the applicant shall not be required	3605
to complete any additional pre-licensing instruction. For this	3606

purpose, any time during which the individual is a registered 3607
mortgage loan originator shall not be taken into account. 3608

~~(5)~~ (3) A person having successfully completed the pre- 3609
licensing education requirement reviewed and approved by the 3610
nationwide mortgage licensing system and registry for any state 3611
within the previous five years shall be granted credit toward 3612
completion of the pre-licensing education requirement of this 3613
state. 3614

(C) In addition to the information required under division 3615
(B) of this section, the application shall provide both of the 3616
following: 3617

(1) Evidence that the applicant passed a written test that 3618
meets the requirements described in section ~~1322.051~~ 1322.27 of 3619
the Revised Code; 3620

(2) Any further information that the superintendent 3621
requires. 3622

(D) Upon the filing of the application and payment of the 3623
application fee and any fee required by the nationwide mortgage 3624
licensing system and registry, the superintendent of financial 3625
institutions shall investigate the applicant ~~as set forth in~~ 3626
~~division (D) of this section.~~ 3627

~~(1) (a) Notwithstanding division (K) of section 121.08 of~~ 3628
~~the Revised Code, the superintendent shall obtain a criminal~~ 3629
~~history records check and, as part of the records check, request~~ 3630
~~that criminal record information from the federal bureau of~~ 3631
~~investigation be obtained. To fulfill this requirement, the~~ 3632
~~superintendent shall do either of the following:~~ 3633

~~(i) Request the superintendent of the bureau of criminal~~ 3634
~~identification and investigation, or a vendor approved by the~~ 3635

~~bureau, to conduct a criminal records check based on the~~ 3636
~~applicant's fingerprints or, if the fingerprints are unreadable,~~ 3637
~~based on the applicant's social security number, in accordance~~ 3638
~~with section 109.572 of the Revised Code,~~ 3639

~~(ii) Authorize the nationwide mortgage licensing system~~ 3640
~~and registry to request a criminal history background check.~~ 3641

~~(b) Any fee required under division (C) (3) of section~~ 3642
~~109.572 of the Revised Code or by the nationwide mortgage~~ 3643
~~licensing system and registry shall be paid by the applicant.~~ 3644

~~(2) The~~. As part of that investigation, the 3645
superintendent shall conduct a civil records check. 3646

~~(3)~~ If, in order to issue a license to an applicant, 3647
additional investigation by the superintendent outside this 3648
state is necessary, the superintendent may require the applicant 3649
to advance sufficient funds to pay the actual expenses of the 3650
investigation, if it appears that these expenses will exceed ~~one~~ 3651
five hundred fifty dollars. The superintendent shall provide the 3652
applicant with an itemized statement of the actual expenses that 3653
the applicant is required to pay. 3654

(E) ~~(1)~~ In connection with applying for a loan originator 3655
license, the applicant shall furnish to the nationwide mortgage 3656
licensing system and registry ~~the following~~ information 3657
concerning the applicant's identity, including all of the 3658
following: 3659

~~(a)~~ (1) The applicant's fingerprints for submission to the 3660
federal bureau of investigation, and any other governmental 3661
agency or entity authorized to receive such information, for 3662
purposes of a state, national, and international criminal 3663
history background check; 3664

~~(b)~~ (2) Personal history and experience in a form 3665
prescribed by the nationwide mortgage licensing system and 3666
registry, along with authorization for the superintendent and 3667
the nationwide mortgage licensing system and registry to obtain 3668
both of the following: 3669

~~(i)~~ (a) An independent credit report from a consumer 3670
reporting agency; 3671

~~(ii)~~ (b) Information related to any administrative, civil, 3672
or criminal findings by any governmental jurisdiction. 3673

~~(2) In order to effectuate the purposes of divisions (E)~~ 3674
~~(1) (a) and (E) (1) (b) (ii) of this section, the superintendent may~~ 3675
~~use the conference of state bank supervisors, or a wholly owned~~ 3676
~~subsidiary, as a channeling agent for requesting information~~ 3677
~~from and distributing information to the United States~~ 3678
~~department of justice or any other governmental agency. The~~ 3679
~~superintendent may also use the nationwide mortgage licensing~~ 3680
~~system and registry as a channeling agent for requesting~~ 3681
~~information from and distributing information to any source~~ 3682
~~related to matters subject to those divisions of this section.~~ 3683

(F) The superintendent shall pay all funds advanced and 3684
application and renewal fees and penalties the superintendent 3685
receives pursuant to this section and section ~~1322.041~~ 1322.21 3686
of the Revised Code to the treasurer of state to the credit of 3687
the consumer finance fund created in section 1321.21 of the 3688
Revised Code. 3689

(G) If an application for a mortgage loan originator 3690
license does not contain all of the information required under 3691
this section, and if that information is not submitted to the 3692
superintendent or to the nationwide mortgage licensing system 3693

and registry within ninety days after the superintendent or the 3694
nationwide mortgage licensing system and registry requests the 3695
information in writing, including by electronic transmission or 3696
facsimile, the superintendent may consider the application 3697
withdrawn. 3698

~~(H) (1) The business of a loan originator shall principally 3699
be transacted at an office of the mortgage broker with whom the 3700
licensee is employed or associated, which office is registered 3701
in accordance with division (A) of section 1322.02 of the 3702
Revised Code. Each original loan originator license shall be 3703
deposited with and maintained by the mortgage broker at the 3704
mortgage broker's main office. A copy of the license shall be 3705
maintained and displayed at the office where the loan originator 3706
principally transacts business. 3707~~

~~(2) If a loan originator's employment or association is 3708
terminated for any reason, the mortgage broker shall return the 3709
original loan originator license to the superintendent within 3710
five business days after the termination. The licensee may 3711
request the transfer of the license to another mortgage broker 3712
by submitting a transfer application, along with a fifteen 3713
dollar fee and any fee required by the national mortgage 3714
licensing system and registry, to the superintendent or may 3715
request the superintendent in writing to hold the license in 3716
escrow. Any licensee whose license is held in escrow shall cease 3717
activity as a loan originator. A licensee whose license is held 3718
in escrow shall be required to apply for renewal annually and to 3719
comply with the annual continuing education requirement. 3720~~

~~(3) A mortgage broker may employ or be associated with a 3721
loan originator on a temporary basis pending the transfer of the 3722
loan originator's license to the mortgage broker, if the 3723~~

~~mortgage broker receives written confirmation from the~~ 3724
~~superintendent that the loan originator is licensed under~~ 3725
~~sections 1322.01 to 1322.12 of the Revised Code.~~ 3726

~~(4) Notwithstanding divisions (H) (1) to (3) of this~~ 3727
~~section, if a licensee is employed by or associated with a~~ 3728
~~person or entity listed in division (G) (2) of section 1322.01 of~~ 3729
~~the Revised Code, all of the following apply:~~ 3730

~~(a) The licensee shall maintain and display the original~~ 3731
~~loan originator license at the office where the licensee~~ 3732
~~principally transacts business;~~ 3733

~~(b) If the loan originator's employment or association is~~ 3734
~~terminated, the loan originator shall return the original loan~~ 3735
~~originator license to the superintendent within five business~~ 3736
~~days after termination. The licensee may request the transfer of~~ 3737
~~the license to a mortgage broker or another person or entity~~ 3738
~~listed in division (G) (2) of section 1322.01 of the Revised Code~~ 3739
~~by submitting a transfer application, along with a fifteen~~ 3740
~~dollar fee and any fee required by the national mortgage~~ 3741
~~licensing system and registry, to the superintendent or may~~ 3742
~~request the superintendent in writing to hold the license in~~ 3743
~~escrow. A licensee whose license is held in escrow shall cease~~ 3744
~~activity as a loan originator. A licensee whose license is held~~ 3745
~~in escrow shall be required to apply for renewal annually and to~~ 3746
~~comply with the annual continuing education requirement.~~ 3747

~~(c) The licensee may seek to be employed or associated~~ 3748
~~with a mortgage broker or person or entity listed in division~~ 3749
~~(G) (2) of section 1322.01 of the Revised Code if the mortgage~~ 3750
~~broker or person or entity receives written confirmation from~~ 3751
~~the superintendent that the loan originator is licensed under~~ 3752
~~sections 1322.01 to 1322.12 of the Revised Code.~~ 3753

~~(I)~~—The superintendent may establish relationships or 3754
enter into contracts with the nationwide mortgage licensing 3755
system and registry, or any entities designated by it, to 3756
collect and maintain records and process transaction fees or 3757
other fees related to mortgage loan originator licenses or the 3758
persons associated with a licensee. 3759

(2) For purposes of this section and to reduce the points 3760
of contact that the federal bureau of investigation may have to 3761
maintain, the division of financial institutions may use the 3762
nationwide mortgage licensing system and registry as a 3763
channeling agent for requesting information from and 3764
distributing information to the United States department of 3765
justice or other governmental agencies. 3766

(3) For purposes of this section and to reduce the points 3767
of contact that the division may have to maintain, the division 3768
may use the nationwide mortgage licensing system and registry as 3769
a channeling agent for requesting information from and 3770
distributing information to any source as determined by the 3771
division. 3772

~~(J)~~—~~(I)~~ A mortgage loan originator license, or the 3773
authority granted under that license, is not assignable ~~and~~ 3774
~~cannot be franchised by contract or any other means~~ or 3775
transferable. 3776

Sec. ~~1322.041~~ 1322.21. (A) Upon the conclusion of the 3777
investigation required under division ~~(D)~~ (C) of section 3778
~~1322.031~~ 1322.20 of the Revised Code, the superintendent of 3779
financial institutions shall issue a mortgage loan originator 3780
license to the applicant if the superintendent finds that the 3781
following conditions are met: 3782

(1) The application is accompanied by the application fee 3783
and any fee required by the nationwide mortgage licensing system 3784
and registry. 3785

(a) If a check or other draft instrument is returned to 3786
the superintendent for insufficient funds, the superintendent 3787
shall notify the applicant by certified mail, return receipt 3788
requested, that the application will be withdrawn unless the 3789
applicant, within thirty days after receipt of the notice, 3790
submits the application fee and a one-hundred-dollar penalty to 3791
the superintendent. If the applicant does not submit the 3792
application fee and penalty within that time period, or if any 3793
check or other draft instrument used to pay the fee or penalty 3794
is returned to the superintendent for insufficient funds, the 3795
application shall be withdrawn. 3796

(b) If a check or other draft instrument is returned to 3797
the superintendent for insufficient funds after the license has 3798
been issued, the superintendent shall notify the licensee by 3799
certified mail, return receipt requested, that the license 3800
issued in reliance on the check or other draft instrument will 3801
be canceled unless the licensee, within thirty days after 3802
receipt of the notice, submits the application fee and a one- 3803
hundred-dollar penalty to the superintendent. If the licensee 3804
does not submit the application fee and penalty within that time 3805
period, or if any check or other draft instrument used to pay 3806
the fee or penalty is returned to the superintendent for 3807
insufficient funds, the license shall be canceled immediately 3808
without a hearing, and the licensee shall cease activity as a 3809
loan originator. 3810

(2) ~~The applicant complies with sections 1322.01 to~~ 3811
~~1322.12 of the Revised Code and the rules adopted thereunder~~ has 3812

not made a material misstatement of fact or material omission of 3813
fact in the application. 3814

(3) The applicant has not been convicted of or pleaded 3815
guilty or nolo contendere to any of the following in a domestic, 3816
foreign, or military court: 3817

(a) During the seven-year period immediately preceding the 3818
date of application for the license, a misdemeanor involving 3819
theft or any felony; 3820

(b) At any time prior to the date the application for the 3821
license is approved, a felony involving an act of fraud, 3822
dishonesty, a breach of trust, theft, or money laundering. 3823

~~(4) Based on the totality of the circumstances and~~ 3824
~~information submitted in the application, the applicant has~~ 3825
~~proven to the superintendent, by a preponderance of the~~ 3826
~~evidence, that the applicant is of good business repute, appears~~ 3827
~~qualified to act as a loan originator, has fully complied with~~ 3828
~~sections 1322.01 to 1322.12 of the Revised Code and the rules~~ 3829
~~adopted thereunder, and meets all of the conditions for issuing~~ 3830
~~a loan originator license.~~ 3831

~~(5) The applicant successfully completed the written test~~ 3832
~~required by section 1322.051 of the Revised Code and completed~~ 3833
the prelicensing instruction set forth in division (B) of 3834
section ~~1322.031~~1322.20 of the Revised Code. 3835

~~(6)~~ (5) The applicant's financial responsibility, 3836
character, and general fitness command the confidence of the 3837
public and warrant the belief that the business will be operated 3838
honestly and fairly in compliance with the purposes of ~~sections~~ 3839
~~1322.01 to 1322.12 of the Revised Code~~ this chapter. The 3840
superintendent shall not use a credit score or bankruptcy as the 3841

sole basis for a license denial. 3842

~~(7)~~ (6) The applicant is in compliance with the surety 3843
bond requirements of section ~~1322.05~~ 1322.32 of the Revised 3844
Code. 3845

~~(8)~~ (7) The applicant has not had a mortgage loan 3846
originator license, or comparable authority, revoked in any 3847
governmental jurisdiction. 3848

(B) The license issued under division (A) of this section 3849
may be renewed annually on or before the thirty-first day of 3850
December if the superintendent finds that all of the following 3851
conditions are met: 3852

(1) The renewal application is accompanied by a 3853
nonrefundable renewal fee of one hundred fifty dollars and any 3854
fee required by the nationwide mortgage licensing system and 3855
registry. If a check or other draft instrument is returned to 3856
the superintendent for insufficient funds, the superintendent 3857
shall notify the licensee by certified mail, return receipt 3858
requested, that the license renewed in reliance on the check or 3859
other draft instrument will be canceled unless the licensee, 3860
within thirty days after receipt of the notice, submits the 3861
renewal fee and a one-hundred-dollar penalty to the 3862
superintendent. If the licensee does not submit the renewal fee 3863
and penalty within that time period, or if any check or other 3864
draft instrument used to pay the fee or penalty is returned to 3865
the superintendent for insufficient funds, the license shall be 3866
canceled immediately without a hearing, and the licensee shall 3867
cease activity as a loan originator. 3868

(2) The applicant has completed at least eight hours of 3869
continuing education as required under section ~~1322.052~~ 1322.28 3870

of the Revised Code. 3871

(3) The applicant meets the conditions set forth in 3872
divisions (A) (2) to ~~(8)~~ (7) of this section; ~~provided, however,~~ 3873
~~that an applicant who was issued a loan officer license prior to~~ 3874
~~January 1, 2010, and has continuously maintained that license~~ 3875
~~shall not be required to meet the condition described in~~ 3876
~~division (B) (1) (b) of section 1322.031 of the Revised Code.~~ 3877

(4) The applicant's license is not subject to an order of 3878
suspension or an unpaid and past due fine imposed by the 3879
superintendent. 3880

(C) (1) Subject to division (C) (2) of this section, if a 3881
license renewal application ~~or renewal fee~~, including any fee 3882
required by the nationwide mortgage licensing system and 3883
registry, is received by the superintendent after the thirty- 3884
first day of December, the license shall not be considered 3885
renewed, and the applicant shall cease activity as a mortgage 3886
loan originator. 3887

(2) Division (C) (1) of this section shall not apply if the 3888
applicant, ~~no not later than the thirty-first day of January~~ 3889
forty-five days after the renewal deadline, submits the renewal 3890
application and any other required fees and a one-hundred-dollar 3891
penalty to the superintendent. 3892

(D) ~~Loan-Mortgage~~ originator licenses ~~issued on or after~~ 3893
~~May 1, 2010~~, annually expire on the thirty-first day of 3894
December. 3895

(E) The pardon or expungement of a conviction shall not be 3896
considered a conviction for purposes of this section. When 3897
determining the eligibility of an applicant, the superintendent 3898
may consider the underlying crime, facts, or circumstances 3899

connected with a pardoned or expunged conviction. 3900

Sec. ~~1322.042~~ 1322.24. (A) As used in this section: 3901

(1) "Out-of-state mortgage loan originator" means an 3902
individual to whom both of the following apply: 3903

(a) The individual holds a valid mortgage loan originator 3904
license, or comparable authority, issued pursuant to the law of 3905
any other state of the United States. 3906

(b) The individual is registered, fingerprinted, and 3907
maintains a unique identifier through the nationwide mortgage 3908
licensing system and registry. 3909

(2) "Sponsor" means a registrant ~~or entity described in~~ 3910
~~division (C) (2) of section 1322.01 of the Revised Code~~ that 3911
employs or is associated with an applicant for a temporary 3912
mortgage loan originator license and, during the term of the 3913
applicant's temporary license, covers the applicant under its 3914
corporate surety bond or requires the applicant to obtain and 3915
maintain a corporate surety bond. 3916

(B) The superintendent of financial institutions may, in 3917
accordance with this section, issue to an out-of-state mortgage 3918
loan originator a temporary mortgage loan originator license 3919
that enables the licensee to engage in the business of a 3920
mortgage loan originator while the individual completes the 3921
requirements necessary to meet the conditions set forth in 3922
section ~~1322.041~~ 1322.21 of the Revised Code for a mortgage loan 3923
originator license. A temporary mortgage loan originator license 3924
shall be valid for a term of not more than one hundred twenty 3925
days from the date of issuance. A temporary mortgage loan 3926
originator license may not be renewed. 3927

(C) An application for a temporary mortgage loan 3928

originator license shall be in writing, under oath, and in a 3929
form that meets the requirements of the nationwide mortgage 3930
licensing system and registry. The application shall be 3931
accompanied by a nonrefundable application fee, the amount of 3932
which shall be determined by the superintendent in rule, and a 3933
certification that, as of the date of application, the applicant 3934
meets the following conditions: 3935

(1) The applicant has at least two years of experience in 3936
the field of residential mortgage lending in the five years 3937
immediately preceding the date of application for the temporary 3938
mortgage loan originator license. 3939

(2) The applicant has not previously applied for a 3940
temporary mortgage loan originator license in this state. 3941

(3) The applicant has not had a mortgage loan originator 3942
license, or comparable authority, revoked in any governmental 3943
jurisdiction. For purposes of division (C)(3) of this section, a 3944
subsequent formal vacation of such a revocation shall not be 3945
considered a revocation. 3946

(4) The applicant has not been convicted of, or pleaded 3947
guilty or nolo contendere to, any of the following in a 3948
domestic, foreign, or military court: 3949

(a) During the seven-year period immediately preceding the 3950
date of application, a misdemeanor involving theft or any 3951
felony; 3952

(b) At any time prior to the date of application, a felony 3953
involving an act of fraud, dishonesty, a breach of trust, theft, 3954
or money laundering. 3955

For purposes of division (C)(4) of this section, any 3956
conviction for which the applicant has received a pardon shall 3957

not be considered a conviction. 3958

(D) The superintendent shall issue a temporary mortgage 3959
loan originator license to the applicant if the superintendent 3960
finds that all of the following conditions are met: 3961

(1) The application is accompanied by the application fee 3962
and the certification described in division (C) of this section. 3963

(2) The applicant is registered, fingerprinted, and has a 3964
valid unique identifier through the nationwide mortgage 3965
licensing system and registry as of the date of application. 3966

(3) The applicant has authorized the nationwide mortgage 3967
licensing system and registry to obtain a credit report for 3968
submission to the superintendent. 3969

(4) The applicant has a sponsor that certifies employment 3970
of, or association with, the applicant and has signed the 3971
application. 3972

(E) The sponsor of a temporary licensee shall have an 3973
affirmative duty to supervise the conduct of ~~each the~~ temporary 3974
~~loan originator licensee~~ in the same manner as is required of 3975
its other licensees. If the temporary licensee's employment or 3976
association with the sponsor is terminated, the sponsor shall 3977
notify the division of financial institutions of the termination 3978
through the nationwide mortgage licensing system and registry. 3979
Upon the division's receipt of the notice, the sponsor shall no 3980
longer be held responsible for the conduct of the temporary 3981
licensee. 3982

~~(F) The superintendent may, in accordance with Chapter~~ 3983
~~119. of the Revised Code, adopt rules necessary for the~~ 3984
~~implementation and operation of this section.~~ 3985

Sec. ~~1322.043~~ 1322.25. If the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101, as amended, is modified after the effective date of this ~~section amendment~~, or any regulation, statement, or position is adopted under that act, to permit states to issue a temporary mortgage loan originator license to a registered loan originator, the superintendent shall, in accordance with section 111.15 of the Revised Code, adopt rules the superintendent considers necessary and appropriate to issue a temporary license to a registered loan originator. 3986
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Sec. ~~1322.051~~ 1322.27. Each ~~person designated under~~ ~~division (A) (3) of section 1322.03 of the Revised Code to act as~~ ~~operations manager for a mortgage broker business and each~~ applicant for a mortgage loan originator license shall submit to a written test that is developed and approved by the nationwide mortgage licensing system and registry and administered by ~~a~~ an ~~approved test provider approved by the nationwide mortgage~~ ~~licensing system and registry based on reasonable standards.~~ 3996
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(A) The test shall adequately measure the ~~designee's or~~ applicant's knowledge and comprehension in appropriate subject areas, including ethics, federal and state law related to mortgage origination, fraud, consumer protection, and the nontraditional mortgage marketplace, and fair lending issues. 4004
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(B) An individual shall not be considered to have passed the written test unless the individual answers at least seventy-five per cent of the questions correctly. 4009
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(C) An individual may retake the test three consecutive times provided the period between taking the tests is at least thirty days. If an individual fails three consecutive tests, the individual shall be required to wait at least six months before 4012
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taking the test again. 4016

(D) If a mortgage loan originator fails to maintain a 4017
valid mortgage loan originator license for a period of five 4018
years or longer, the individual shall be required to retake the 4019
test. 4020

For this purpose, any time during which the individual is 4021
a registered mortgage loan originator shall not be taken into 4022
account. 4023

Sec. ~~1322.052~~ 1322.28. (A) Each licensee ~~and each person-~~ 4024
~~designated under division (A) (3) of section 1322.03 of the~~ 4025
~~Revised Code to act as operations manager for a mortgage broker-~~ 4026
~~business~~ shall complete at least eight hours of continuing 4027
education every calendar year. To fulfill this requirement, the 4028
eight hours of continuing education must be offered in a course 4029
or program of study reviewed and approved by the ~~nationwide-~~ 4030
~~mortgage licensing system and registry superintendent of~~ 4031
financial institutions. The course or program of study shall 4032
include all of the following: 4033

(1) Three hours of applicable federal law and regulations; 4034

(2) Two hours of ethics, which shall include instruction 4035
on fraud, consumer protection, and fair lending issues; 4036

(3) Two hours of training related to lending standards for 4037
non-qualified mortgages, as defined in 12 C.F.R. 1026.43, or the 4038
nontraditional mortgage product marketplace. 4039

(B) Continuing education courses shall be reviewed and 4040
approved by the nationwide mortgage licensing system and 4041
registry based upon reasonable standards. 4042

(C) The following conditions shall apply to the continuing 4043

education required by this section: 4044

(1) An individual cannot take the same approved course in 4045
the same or successive years to meet the annual requirement for 4046
continuing education. 4047

(2) An individual can only receive credit for a continuing 4048
education course in the year in which the course is taken, 4049
unless the individual is making up a deficiency in continuing 4050
education as permitted by rule or order of the superintendent ~~of~~ 4051
~~financial institutions.~~ 4052

(3) A licensee who subsequently becomes unlicensed must 4053
complete the continuing education requirement for the last year 4054
in which the license was held prior to the issuance of a new or 4055
renewed license. 4056

(4) A licensee who is approved as an instructor of a 4057
continuing education course receives credit for the licensee's 4058
own annual continuing education requirement at the rate of two 4059
credit hours for every one hour taught. 4060

(5) If an individual successfully completed a continuing 4061
education course reviewed and approved by the nationwide 4062
mortgage licensing system and registry as required by another 4063
state, the individual can receive credit toward completion of 4064
the continuing education requirement of this state. 4065

~~(D) Notwithstanding division (A) of this section, until~~ 4066
~~the nationwide mortgage licensing system and registry implements~~ 4067
~~a review and approval process, each licensee or person~~ 4068
~~designated under division (A) (3) of section 1322.03 of the~~ 4069
~~Revised Code shall provide evidence that the licensee or person~~ 4070
~~has successfully completed at least eight hours of continuing~~ 4071
~~education in a course or program of study approved by the~~ 4072

~~superintendent of financial institutions.~~ 4073

Sec. 1322.29. (A) A registrant or entity holding a valid 4074
letter of exemption under division (B) (1) of section 1322.05 of 4075
the Revised Code shall supervise all business of a mortgage loan 4076
originator conducted at the principal office, any branch office, 4077
or other location used by the individual mortgage loan 4078
originator. 4079

(B) If a mortgage loan originator's employment or 4080
association is terminated for any reason, the licensee may 4081
request the transfer of the license to another mortgage lender 4082
or mortgage broker by submitting a transfer application, along 4083
with a fifteen-dollar fee and any fee required by the national 4084
mortgage licensing system and registry, to the superintendent of 4085
financial institutions or may request the superintendent in 4086
writing to hold the license in escrow. Any licensee whose 4087
license is held in escrow shall cease activity as a mortgage 4088
loan originator. A licensee whose license is held in escrow 4089
shall be required to apply for renewal annually and to comply 4090
with the annual continuing education requirement. 4091

(C) A registrant may employ or be associated with a 4092
mortgage loan originator on a temporary basis pending the 4093
transfer of the mortgage loan originator's license to the 4094
registrant, if the registrant receives written confirmation from 4095
the superintendent that the mortgage loan originator is licensed 4096
under this chapter. 4097

(D) Notwithstanding divisions (A) to (C) of this section, 4098
if a licensee is employed by or associated with a person or 4099
entity holding a valid letter of exemption under division (B) (1) 4100
of section 1322.05 of the Revised Code, all of the following 4101
apply: 4102

(1) The licensee shall maintain and display a copy of the mortgage loan originator license at the office where the licensee principally transacts business. 4103
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(2) 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. 4106
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(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 receives written confirmation from the superintendent that the mortgage loan originator is licensed under this chapter. 4121
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Sec. 1322.30. A registrant 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 mortgage, but not exceeding an annual percentage rate of twenty-five per cent. 4128
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~~Sec. 1322.05~~ **1322.32.** (A) (1) No registrant shall conduct 4132

business in this state, unless the registrant has obtained and 4133
maintains in effect at all times a corporate surety bond issued 4134
by a bonding company or insurance company authorized to do 4135
business in this state. The bond shall be in favor of the 4136
superintendent of financial institutions and in the penal sum of 4137
one-half per cent of the aggregate loan amount of residential 4138
mortgage loans originated in the immediately preceding calendar 4139
year, but not exceeding one hundred fifty thousand dollars. 4140
Under no circumstances, however, shall the bond be less than 4141
fifty thousand dollars and an additional penal sum of ten 4142
thousand dollars for each location, in excess of one, at which 4143
the registrant conducts business. The term of the bond shall 4144
coincide with the term of registration. A copy of the bond shall 4145
be filed with the superintendent. The bond shall be for the 4146
exclusive benefit of any buyer injured by a violation by an 4147
employee of the registrant, mortgage loan originator employed by 4148
or associated with the registrant, or registrant of any 4149
provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ 4150
this chapter or any rule adopted thereunder. The aggregate 4151
liability of the corporate surety for any and all breaches of 4152
the conditions of the bond shall not exceed the penal sum of the 4153
bond. 4154

(2) (a) No licensee who is employed by or associated with a 4155
person or entity ~~listed in holding a valid letter of exemption~~ 4156
under division (C) (2) (B) (1) of section 1322.01-1322.05 of the 4157
Revised Code shall conduct business in this state, unless either 4158
the licensee or the person or entity on the licensee's behalf 4159
has obtained and maintains in effect at all times a corporate 4160
surety bond issued by a bonding company or insurance company 4161
authorized to do business in this state. The bond shall be in 4162
favor of the superintendent of financial institutions and in the 4163

penal sum of one-half per cent of the aggregate loan amount of 4164
residential mortgage loans originated in the immediately 4165
preceding calendar year, but not exceeding one hundred thousand 4166
dollars. Under no circumstances, however, shall the bond be less 4167
than fifty thousand dollars. The term of the bond shall coincide 4168
with the term of licensure. A copy of the bond shall be filed 4169
with the superintendent. The bond shall be for the exclusive 4170
benefit of any buyer injured by a violation by the licensee of 4171
any provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ 4172
this chapter or any rule adopted thereunder. The aggregate 4173
liability of the corporate surety for any and all breaches of 4174
the conditions of the bond shall not exceed the penal sum of the 4175
bond. 4176

(b) Licensees covered by a corporate surety bond obtained 4177
by a registrant, or by a person or entity ~~listed in holding a~~ 4178
valid letter of exemption under division (G) (2), (B) (1) of 4179
section ~~1322.01-1322.05~~ of the Revised Code, they are employed 4180
by or associated with shall not be required to obtain an 4181
individual bond. 4182

(B) (1) (a) The registrant shall give notice to the 4183
superintendent by certified mail of any action that is brought 4184
by a buyer against the registrant, mortgage loan originator, or 4185
employee alleging injury by a violation of any provision of 4186
~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter or 4187
any rule adopted thereunder, and of any judgment that is entered 4188
against the registrant, mortgage loan originator, or employee by 4189
a buyer injured by a violation of any provision of ~~sections~~ 4190
~~1322.01 to 1322.12 of the Revised Code~~ this chapter or any rule 4191
adopted thereunder. The notice shall provide details sufficient 4192
to identify the action or judgment, and shall be filed with the 4193
superintendent within ten days after the commencement of the 4194

action or notice to the registrant of entry of a judgment. 4195

(b) The licensee shall give notice to the superintendent 4196
by certified mail of any action that is brought by a buyer 4197
against the licensee alleging injury by a violation of any 4198
provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ 4199
this chapter or any rule adopted thereunder, and of any judgment 4200
that is entered against the licensee by a buyer injured by a 4201
violation of any provision of ~~sections 1322.01 to 1322.12 of the~~ 4202
~~Revised Code~~ this chapter or any rule adopted thereunder. The 4203
notice shall provide details sufficient to identify the action 4204
or judgment, and shall be filed with the superintendent within 4205
ten days after the commencement of the action or notice to the 4206
licensee of entry of a judgment. A person or entity ~~listed in~~ 4207
holding a valid letter of exemption under division (G)(2) (B)(1) 4208
of section ~~1322.01-1322.05~~ of the Revised Code that secures 4209
bonding for the licensees employed by or associated with the 4210
person or entity shall report such actions or judgments in the 4211
same manner as is required of registrants. 4212

(2) A corporate surety, within ten days after it pays any 4213
claim or judgment, shall give notice to the superintendent by 4214
certified mail of the payment, with details sufficient to 4215
identify the person and the claim or judgment paid. 4216

(C) Whenever the penal sum of the corporate surety bond is 4217
reduced by one or more recoveries or payments, the registrant or 4218
licensee shall furnish a new or additional bond under this 4219
section, so that the total or aggregate penal sum of the bond or 4220
bonds equals the sum required by this section, or shall furnish 4221
an endorsement executed by the corporate surety reinstating the 4222
bond to the required penal sum of it. 4223

(D) The liability of the corporate surety on the bond to 4224

the superintendent and to any buyer injured by a violation of 4225
any provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ 4226
this chapter or any rule adopted thereunder shall not be 4227
affected in any way by any misrepresentation, breach of 4228
warranty, or failure to pay the premium, by any act or omission 4229
upon the part of the registrant or licensee, by the insolvency 4230
or bankruptcy of the registrant or licensee, or by the 4231
insolvency of the registrant's or licensee's estate. The 4232
liability for any act or omission that occurs during the term of 4233
the corporate surety bond shall be maintained and in effect for 4234
at least two years after the date on which the corporate surety 4235
bond is terminated or canceled. 4236

(E) The corporate surety bond shall not be canceled by the 4237
registrant, the licensee, or the corporate surety except upon 4238
notice to the superintendent by certified mail, return receipt 4239
requested. The cancellation shall not be effective prior to 4240
thirty days after the superintendent receives the notice. 4241

(F) No registrant or licensee employed by or associated 4242
with a person or entity listed in holding a valid letter of 4243
exemption under division~~(G) (2)~~ (B) (1) of section 1322.01 4244
1322.05 of the Revised Code shall fail to comply with this 4245
section. Any registrant or licensee that fails to comply with 4246
this section shall cease all mortgage lender, mortgage broker, 4247
or mortgage loan originator activity in this state until the 4248
registrant or licensee complies with this section. 4249

Sec. ~~1322.06~~ 1322.34. (A) As often as the superintendent 4250
of financial institutions considers it necessary, the 4251
superintendent may examine the registrant's or licensee's 4252
records, including all records created or processed by a 4253
licensee, pertaining to business transacted pursuant to ~~sections~~ 4254

~~1322.01 to 1322.12 of the Revised Code~~ this chapter. 4255

(B) A registrant or licensee shall maintain records 4256
pertaining to business transacted pursuant to ~~sections 1322.01~~ 4257
~~to 1322.12 of the Revised Code, including copies of all mortgage~~ 4258
~~loan origination disclosure statements prepared in accordance~~ 4259
~~with section 1322.062 of the Revised Code,~~ this chapter for four 4260
years. For purposes of this division, "registrant or licensee" 4261
includes any person whose certificate of registration or license 4262
is cancelled, surrendered, or revoked or who otherwise ceases to 4263
engage in business as a mortgage lender, mortgage broker, or 4264
mortgage loan originator. 4265

No registrant or licensee shall fail to comply with this 4266
division. 4267

(C) ~~Each registrant and, licensee, and entity holding a~~ 4268
valid letter of exemption under division (B) (1) of section 4269
1322.05 of the Revised Code shall submit to the nationwide 4270
mortgage licensing system and registry call reports or other 4271
reports of condition, which reports shall be in such form and 4272
shall contain such information as the nationwide mortgage 4273
licensing system and registry may require. Each registrant and 4274
entity holding a valid letter of exemption under division (B) (1) 4275
of section 1322.05 of the Revised Code shall ensure that all 4276
residential mortgage loans that are consummated as a result of a 4277
mortgage loan originator's loan origination activities are 4278
included in the report of condition submitted to the nationwide 4279
mortgage licensing system and registry. 4280

(D) ~~(1) As required by the superintendent, each registrant~~ 4281
~~shall file with the division of financial institutions an annual~~ 4282
~~report under oath or affirmation, on forms supplied by the~~ 4283
~~division, concerning the business and operations of the~~ 4284

~~registrant for the preceding calendar year. If a registrant-~~ 4285
~~operates two or more registered offices, or two or more-~~ 4286
~~affiliated registrants operate registered offices, a composite-~~ 4287
~~report of the group of registered offices may be filed in lieu-~~ 4288
~~of individual reports. For purposes of compliance with this-~~ 4289
~~requirement, the superintendent may accept call reports or other-~~ 4290
~~reports of condition submitted to the nationwide mortgage-~~ 4291
~~licensing system and registry in lieu of the annual report.~~ 4292

~~(2) The superintendent shall publish annually an analysis-~~ 4293
~~of the information required under division (D) (1) of this-~~ 4294
~~section, but the individual reports, whether filed with the-~~ 4295
~~superintendent or the nationwide mortgage licensing system and-~~ 4296
~~registry, shall not be public records and shall not be open to-~~ 4297
~~public inspection or otherwise be subject to section 149.43 of-~~ 4298
~~the Revised Code. Any document or record that is required to be~~ 4299
~~signed and that is filed in this state as an electronic record~~ 4300
~~through the nationwide mortgage licensing system and registry,~~ 4301
~~and any other electronic record filed through the nationwide~~ 4302
~~mortgage licensing system and registry, shall be considered a~~ 4303
~~valid original document upon reproduction to paper form by the~~ 4304
~~division of financial institutions.~~ 4305

Sec. ~~1322.072~~ 1322.35. No person, in connection with any 4306
examination or investigation conducted by the superintendent of 4307
financial institutions under ~~sections 1322.01 to 1322.12 of the~~ 4308
~~Revised Code~~ this chapter, shall knowingly do any of the 4309
following: 4310

(A) Circumvent, interfere with, obstruct, or fail to 4311
cooperate, including making a false or misleading statement, 4312
failing to produce records, or intimidating or suborning any 4313
witness; 4314

(B) Tamper with, alter, or manufacture any evidence; 4315

(C) Withhold, abstract, remove, mutilate, destroy, or 4316
secrete any books, records, computer records, or other 4317
information. 4318

Sec. ~~1322.061~~ 1322.36. (A) (1) The following information is 4319
confidential: 4320

(a) Examination information, and any information leading 4321
to or arising from an examination; 4322

(b) Investigation information, and any information arising 4323
from or leading to an investigation. 4324

(2) The information described in division (A) (1) of this 4325
section shall remain confidential for all purposes except when 4326
it is necessary for the superintendent of financial institutions 4327
to take official action regarding the affairs of a registrant or 4328
licensee, or in connection with criminal or civil proceedings to 4329
be initiated by a prosecuting attorney or the attorney general. 4330
This information may also be introduced into evidence or 4331
disclosed when and in the manner authorized by section 1181.25 4332
of the Revised Code. 4333

(B) All application information, except social security 4334
numbers, employer identification numbers, financial account 4335
numbers, the identity of the institution where financial 4336
accounts are maintained, personal financial information, 4337
fingerprint cards and the information contained on such cards, 4338
and criminal background information, is a public record as 4339
defined in section 149.43 of the Revised Code. 4340

(C) This section does not prevent the division of 4341
financial institutions from releasing to or exchanging with 4342
other financial institution regulatory authorities information 4343

relating to registrants and licensees. For this purpose, a 4344
"financial institution regulatory authority" includes a 4345
regulator of a business activity in which a registrant or 4346
licensee is engaged, or has applied to engage in, to the extent 4347
that the regulator has jurisdiction over a registrant or 4348
licensee engaged in that business activity. A registrant or 4349
licensee is engaged in a business activity, and a regulator of 4350
that business activity has jurisdiction over the registrant or 4351
licensee, whether the registrant or licensee conducts the 4352
activity directly or a subsidiary or affiliate of the registrant 4353
or licensee conducts the activity. 4354

(D) The superintendent shall, on a regular basis, report 4355
violations of ~~sections 1322.01 to 1322.12 of the Revised Code~~ 4356
any provision of this chapter, as well as enforcement actions 4357
and other relevant information, to the nationwide mortgage 4358
licensing system and registry. 4359

(E) (1) Any confidentiality or privilege arising under 4360
federal or state law with respect to any information or material 4361
provided to the nationwide mortgage licensing system and 4362
registry shall continue to apply to the information or material 4363
after the information or material is provided to the nationwide 4364
mortgage licensing system and registry. The information and 4365
material so provided may be released to any state or federal 4366
regulatory official with mortgage industry oversight authority 4367
without the loss of confidentiality or privilege protections 4368
provided by federal law or the law of any state. Information or 4369
material described in division (E) (1) of this section to which 4370
confidentiality or privilege applies shall not be subject to any 4371
of the following: 4372

(a) Disclosure under any federal or state law governing 4373

disclosure to the public of information held by an officer or an 4374
agency of the federal government or of the respective state; 4375

(b) Subpoena or discovery, or admission into evidence, in 4376
any private civil action or administrative process, unless the 4377
person to whom such information or material pertains waives, in 4378
whole or in part and at the discretion of the person, any 4379
privilege held by the nationwide mortgage licensing system and 4380
registry with respect to that information or material. 4381

(2) The superintendent, in order to promote more effective 4382
regulation and reduce regulatory burden through supervisory 4383
information sharing, may enter into sharing arrangements with 4384
other governmental agencies, the conference of state bank 4385
supervisors, and the American association of residential 4386
mortgage regulators. 4387

(3) Any state law, including section 149.43 of the Revised 4388
Code, relating to the disclosure of confidential supervisory 4389
information or any information or material described in division 4390
(A) (1) or (E) (1) of this section that is inconsistent with this 4391
section shall be superseded by the requirements of this section. 4392

(F) This section shall not apply with respect to 4393
information or material relating to the employment history of, 4394
and publicly adjudicated disciplinary and enforcement actions 4395
against, mortgage loan originators that is included in the 4396
nationwide mortgage licensing system and registry for access by 4397
the public. 4398

(G) This section does not prevent the division from 4399
releasing information relating to registrants and licensees to 4400
the attorney general, to the superintendent of real estate and 4401
professional licensing for purposes relating to the 4402

administration of Chapters 4735. and 4763. of the Revised Code, 4403
to the superintendent of insurance for purposes relating to the 4404
administration of Chapter 3953. of the Revised Code, to the 4405
commissioner of securities for purposes relating to the 4406
administration of Chapter 1707. of the Revised Code, or to local 4407
law enforcement agencies and local prosecutors. Information the 4408
division releases pursuant to this section remains confidential. 4409

(H) The superintendent of financial institutions shall, by 4410
rule adopted in accordance with Chapter 119. of the Revised 4411
Code, establish a process by which mortgage loan originators may 4412
challenge any information provided to the nationwide mortgage 4413
licensing system and registry by the superintendent. 4414

Sec. ~~1322.07~~ 1322.40. No registrant, licensee, or person 4415
required to be registered or licensed under ~~sections 1322.01 to~~ 4416
~~1322.12 of the Revised Code~~ this chapter, or individual 4417
disclosed in an application as required by ~~division (A) (2) of~~ 4418
~~section 1322.03 of the Revised Code~~ this chapter, shall do any 4419
of the following: 4420

(A) Obtain a ~~mortgage broker~~ certificate of registration 4421
or mortgage loan originator license through any false or 4422
fraudulent representation of a material fact or any omission of 4423
a material fact required by state law, or make any substantial 4424
misrepresentation in any registration or license application; 4425

(B) Make false or misleading statements of a material 4426
fact, omissions of statements required by state or federal law, 4427
or false promises regarding a material fact, through advertising 4428
or other means, or engage in a continued course of 4429
misrepresentations; 4430

(C) Engage in conduct that constitutes improper, 4431

fraudulent, or dishonest dealings; 4432

(D) Fail to notify the division of financial institutions 4433
within thirty days after any of the following: 4434

(1) Being convicted of or pleading guilty or nolo 4435
contendere to a felony in a domestic, foreign, or military 4436
court; 4437

(2) Being convicted of or pleading guilty or nolo 4438
contendere to any criminal offense involving theft, receiving 4439
stolen property, embezzlement, forgery, fraud, passing bad 4440
checks, money laundering, breach of trust, dishonesty, or drug 4441
trafficking, or any criminal offense involving money or 4442
securities, in a domestic, foreign, or military court; 4443

(3) Having a mortgage lender or mortgage broker 4444
certificate of registration or mortgage loan originator license, 4445
or any comparable authority, revoked in any governmental 4446
jurisdiction. 4447

(E) Knowingly make, propose, or solicit fraudulent, false, 4448
or misleading statements on any mortgage loan document or on any 4449
document related to a mortgage loan, including a mortgage 4450
application, real estate appraisal, or real estate settlement or 4451
closing document. For purposes of this division, "fraudulent, 4452
false, or misleading statements" does not include mathematical 4453
errors, inadvertent transposition of numbers, typographical 4454
errors, or any other bona fide error. 4455

(F) Knowingly instruct, solicit, propose, or otherwise 4456
cause a buyer to sign in blank a mortgage related document; 4457

(G) Knowingly compensate, instruct, induce, coerce, or 4458
intimidate, or attempt to compensate, instruct, induce, coerce, 4459
or intimidate, a person licensed or certified under Chapter 4460

4763. of the Revised Code for the purpose of corrupting or 4461
improperly influencing the independent judgment of the person 4462
with respect to the value of the dwelling offered as security 4463
for repayment of a mortgage loan; 4464

(H) Promise to refinance a loan in the future at a lower 4465
interest rate or with more favorable terms, unless the promise 4466
is set forth in writing and is initialed by the buyer; 4467

(I) Engage in any unfair, deceptive, or unconscionable act 4468
or practice prohibited under sections 1345.01 to 1345.13 of the 4469
Revised Code. 4470

Sec. ~~1322.074~~ 1322.41. (A) Except as otherwise provided in 4471
division (B) of this section, no registrant, or any member of 4472
the immediate family of an owner of a registrant, shall own or 4473
control a majority interest in an appraisal company. 4474

(B) Division (A) of this section shall not apply to any 4475
registrant, or any member of the immediate family of an owner of 4476
a registrant, who, on January 1, 2010, directly or indirectly 4477
owns or controls a majority interest in an appraisal company. 4478
However, such ownership or control is subject to the following 4479
conditions: 4480

(1) The registrant and members of the immediate family of 4481
an owner of a registrant shall not increase their interest in 4482
the company. 4483

(2) The interest is not transferable to a member of the 4484
immediate family of an owner of a registrant. 4485

(3) If the registrant is convicted of or pleads guilty or 4486
nolo contendere to a criminal violation of ~~sections 1322.01 to~~ 4487
~~1322.12 of the Revised Code~~ this chapter or any criminal offense 4488
described in division (A) (1) (b) of section ~~1322.10~~ 1322.50 of 4489

the Revised Code, the superintendent of financial institutions 4490
may, in addition to any of the actions authorized under section 4491
~~1322.10~~1322.50 of the Revised Code, order the registrant or 4492
members of the immediate family of an owner of a registrant to 4493
divest their interest in the company. 4494

Sec. ~~1322.075~~ 1322.42. (A) (1) No registrant or licensee or 4495
person required to be registered or licensed under ~~sections~~ 4496
~~1322.01 to 1322.12 of the Revised Code~~ this chapter shall refer 4497
a buyer to any settlement service provider, including any title 4498
insurance company, that has an affiliated business arrangement 4499
with the registrant, licensee, or person without providing the 4500
buyer with written notice ~~disclosing all of the following:~~ 4501

~~(1) Any business relationship that exists between the~~ 4502
~~registrant, licensee, or person required to be registered or~~ 4503
~~licensed under sections 1322.01 to 1322.12 of the Revised Code,~~ 4504
~~and the provider to which the buyer is being referred, and any~~ 4505
~~financial benefit that the registrant, licensee, or person may~~ 4506
~~be provided because of the relationship;~~ 4507

~~(2) The percentage of ownership interest the registrant,~~ 4508
~~licensee, or person required to be registered or licensed under~~ 4509
~~sections 1322.01 to 1322.12 of the Revised Code has in the~~ 4510
~~provider to which the buyer is being referred;~~ 4511

~~(3) The estimated charge or range of charges for the~~ 4512
~~settlement service listed;~~ 4513

~~(4) The following statement, printed in boldface type of~~ 4514
~~the minimum size of sixteen points: "There are frequently other~~ 4515
~~settlement service providers available with similar services.~~ 4516
~~You are free to shop around to determine that you are receiving~~ 4517
~~the best services and the best rate for these services." as~~ 4518

required by rule adopted by the superintendent. 4519

(2) As used in division (A) (1) of this section, 4520
"affiliated business arrangement" has the same meaning as in 12 4521
U.S.C. 2602. 4522

(B) No registrant or licensee shall refer a buyer to an 4523
appraisal company, if the registrant or licensee, a member of 4524
the immediate family of an owner of the registrant, or a member 4525
of the licensee's immediate family, has either of the following 4526
financial relationships with the appraisal company: 4527

(1) An ownership or investment interest in the company, 4528
whether through debt, equity, or other means; 4529

(2) Any compensation arrangement involving any 4530
remuneration, directly or indirectly, overtly or covertly, in 4531
cash or in kind. 4532

(C) No registrant or licensee shall knowingly enter into 4533
an arrangement or scheme, including a cross-referral 4534
arrangement, that has a principal purpose of assuring referrals 4535
by a registrant or licensee to a particular appraisal company 4536
that would violate division (B) of this section. 4537

(D) The registrant, licensee, and entity holding a valid 4538
letter of exemption under division (B) (1) of section 1322.05 of 4539
the Revised Code, or person required to be registered or 4540
licensed under ~~sections 1322.01 to 1322.12 of the Revised Code~~ 4541
this chapter shall retain proof that the buyer received the 4542
written disclosures required by division (A) of this section for 4543
four years. 4544

Sec. 1322.43. No registrant and entity holding a valid 4545
letter of exemption under division (B) (1) of section 1322.05 of 4546
the Revised Code, through its operations manager or otherwise, 4547

shall fail to do either of the following: 4548

(A) Reasonably supervise a mortgage loan originator or any 4549
other person associated with the registrant; 4550

(B) Establish reasonable procedures designed to avoid 4551
violations of any provision of this chapter or the rules adopted 4552
under this chapter, or violations of applicable state and 4553
federal consumer and lending laws or rules, by mortgage loan 4554
originators or any other person associated with the registrant. 4555

Sec. ~~1322.081~~ 1322.45. (A) A registrant, a licensee, and 4556
any person required to be registered or licensed under ~~sections~~ 4557
~~1322.01 to 1322.12 of the Revised Code~~ this chapter, in addition 4558
to duties imposed by other statutes or common law, shall do all 4559
of the following: 4560

(1) Safeguard and account for any money handled for the 4561
buyer; 4562

(2) Follow reasonable and lawful instructions from the 4563
buyer; 4564

(3) Act with reasonable skill, care, and diligence; 4565

(4) Act in good faith and with fair dealing in any 4566
transaction, practice, or course of business in connection with 4567
the brokering or originating of any residential mortgage loan; 4568

(5) Make reasonable efforts to secure a residential 4569
mortgage loan, from lenders with whom the registrant, licensee, 4570
or person regularly does business, with rates, charges, and 4571
repayment terms that are advantageous to the buyer. 4572

(B) Division (A) of this section shall not apply to 4573
wholesale lenders. However, wholesale lenders are subject to all 4574
other requirements applicable to mortgage brokers and nonbank 4575

mortgage lenders. For purposes of this division, "wholesale lender" means a company that has been issued a ~~mortgage broker~~ certificate of registration and that enters into transactions with buyers exclusively through unaffiliated third-party mortgage brokers.

(C) The duties and standards of care created in this section cannot be waived or modified.

(D) (1) A buyer injured by a ~~violation of failure to comply with~~ this section may bring an action for recovery of damages.

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

(3) The buyer may be awarded punitive damages.

(E) A buyer injured by a ~~violation of failure to comply with~~ 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 ~~1322.11-1322.52~~ of the Revised Code and the recovery of damages for a ~~violation of failure to comply with~~ this section is based on the same acts or circumstances as the basis for recovery of damages in section ~~1322.11-1322.52~~ of the Revised Code.

(F) This section shall not be interpreted by the superintendent to require a separate account for deposit of buyer funds.

Sec. ~~1322.09~~ 1322.46. (A) A ~~mortgage broker-registrant~~ or mortgage loan originator shall disclose in any printed, televised, broadcast, electronically transmitted, or published

advertisement relating to the ~~mortgage broker's registrant's~~ or 4605
mortgage loan originator's services, including on any electronic 4606
site accessible through the internet, the business name ~~and~~ 4607
~~street address~~ of the ~~mortgage broker registrant~~ or mortgage 4608
loan originator and the ~~number designated on the certificate of~~ 4609
~~registration or license that is issued to~~ unique identifier of 4610
the ~~mortgage broker registrant~~ or mortgage loan originator ~~by~~ 4611
~~the superintendent of financial institutions under sections~~ 4612
~~1322.01 to 1322.12 of the Revised Code.~~ 4613

(B) In making any advertisement, a ~~mortgage broker~~ 4614
registrant shall comply with 12 C.F.R. 226.16, as amended. 4615

~~(C) No mortgage broker or loan originator shall fail to~~ 4616
~~comply with this section.~~ 4617

Sec. ~~1322.10~~ 1322.50. (A) After notice and opportunity for 4618
a hearing conducted in accordance with Chapter 119. of the 4619
Revised Code, the superintendent of financial institutions may 4620
do the following: 4621

(1) Suspend, revoke, or refuse to issue or renew a 4622
certificate of registration or license if the superintendent 4623
finds any of the following: 4624

(a) A violation of or failure to comply with any provision 4625
of ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter 4626
or the rules adopted under ~~those sections~~ this chapter, federal 4627
lending law, or any other law applicable to the business 4628
conducted under a certificate of registration or license; 4629

(b) A conviction of or guilty or nolo contendere plea to a 4630
felony in a domestic, foreign, or military court; 4631

(c) A conviction of or guilty or nolo contendere plea to 4632
any criminal offense involving theft, receiving stolen property, 4633

embezzlement, forgery, fraud, passing bad checks, money 4634
laundering, breach of trust, dishonesty, or drug trafficking, or 4635
any criminal offense involving money or securities, in a 4636
domestic, foreign, or military court; 4637

(d) The revocation of a ~~mortgage broker~~ certificate of 4638
registration or mortgage loan originator license, or any 4639
comparable authority, in any governmental jurisdiction. 4640

(2) Impose a fine of not more than one thousand dollars, 4641
for each day a violation of a law or rule is committed, 4642
repeated, or continued. If the registrant or licensee engages in 4643
a pattern of repeated violations of a law or rule, the 4644
superintendent may impose a fine of not more than two thousand 4645
dollars for each day the violation is committed, repeated, or 4646
continued. All fines collected pursuant to this division shall 4647
be paid to the treasurer of state to the credit of the consumer 4648
finance fund created in section 1321.21 of the Revised Code. In 4649
determining the amount of a fine to be imposed pursuant to this 4650
division, the superintendent may consider all of the following, 4651
to the extent known by the division of financial institutions: 4652

(a) The seriousness of the violation; 4653

(b) The registrant's or licensee's good faith efforts to 4654
prevent the violation; 4655

(c) The registrant's or licensee's history regarding 4656
violations and compliance with division orders; 4657

(d) The registrant's or licensee's financial resources; 4658

(e) Any other matters the superintendent considers 4659
appropriate in enforcing ~~sections 1322.01 to 1322.12 of the~~ 4660
~~Revised Code~~ this chapter. 4661

(B) The superintendent may investigate alleged violations 4662
of ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter 4663
or the rules adopted under ~~those sections~~ this chapter or 4664
complaints concerning any violation. 4665

(1) The superintendent may make application to the court 4666
of common pleas for an order enjoining any violation and, upon a 4667
showing by the superintendent that a person has committed or is 4668
about to commit that violation, the court shall grant an 4669
injunction, restraining order, or other appropriate relief. 4670

(2) The superintendent may make application to the court 4671
of common pleas for an order enjoining any person from acting as 4672
a mortgage lender, mortgage broker, registrant, mortgage loan 4673
originator, or licensee in violation of division (A) or (B) of 4674
section ~~1322.02-1322.07~~ of the Revised Code, and may seek and 4675
obtain civil penalties for unregistered or unlicensed conduct of 4676
not more than five thousand dollars per violation. 4677

(C) In conducting any investigation pursuant to this 4678
section, the superintendent may compel, by subpoena, witnesses 4679
to testify in relation to any matter over which the 4680
superintendent has jurisdiction and may require the production 4681
of any book, record, or other document pertaining to that 4682
matter. If a person fails to file any statement or report, obey 4683
any subpoena, give testimony, produce any book, record, or other 4684
document as required by a subpoena, or permit photocopying of 4685
any book, record, or other document subpoenaed, the court of 4686
common pleas of any county in this state, upon application made 4687
to it by the superintendent, shall compel obedience by 4688
attachment proceedings for contempt, as in the case of 4689
disobedience of the requirements of a subpoena issued from the 4690
court or a refusal to testify therein. 4691

(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 ~~sections 1322.01 to 1322.12 of the Revised Code~~ 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 broker, or mortgage loan originator in violation of division (A) or (B) of section ~~1322.02-1322.07~~ 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 ~~mortgage broker~~ certificate of registration 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 ~~mortgage broker~~ certificate of registration 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 ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter or any criminal offense described in division (A) (1) (b) or (c) of this section;

(b) Suspend the ~~mortgage broker~~ certificate of registration of a registrant who violates division (F) of section ~~1322.05-1322.32~~ of the Revised Code;

(c) Suspend the ~~mortgage broker~~ certificate of

registration or mortgage loan originator license of a registrant 4721
or licensee who fails to comply with a request made by the 4722
superintendent under section ~~1322.03~~ 1322.09 or ~~1322.031~~ 1322.20 4723
of the Revised Code to inspect qualifying education transcripts 4724
located at the registrant's or licensee's place of business. 4725

(2) The superintendent may, in accordance with Chapter 4726
119. of the Revised Code, subsequently revoke any registration 4727
or license suspended under division (F) (1) of this section. 4728

~~(3) The superintendent shall, in accordance with Chapter~~ 4729
~~119. of the Revised Code, adopt rules establishing the maximum~~ 4730
~~amount of time a suspension under division (F) (1) of this~~ 4731
~~section may continue before a hearing is conducted.~~ 4732

(G) The imposition of fines under this section does not 4733
preclude any penalty imposed under section 1322.99 of the 4734
Revised Code. 4735

Sec. ~~1322.101~~ 1322.51. On receipt of a notice pursuant to 4736
section 3123.43 of the Revised Code, the division of financial 4737
institutions shall comply with sections 3123.41 to 3123.50 of 4738
the Revised Code and any applicable rules adopted under section 4739
3123.63 of the Revised Code with respect to a certificate or 4740
license issued pursuant to this chapter. 4741

Sec. ~~1322.11~~ 1322.52. (A) (1) A buyer injured by a 4742
violation of section ~~1322.02, 1322.062, 1322.063, 1322.064,~~ 4743
~~1322.07, 1322.071, 1322.08, or 1322.09~~ 1322.40, or 1322.46 of 4744
the Revised Code may bring an action for recovery of damages. 4745

(2) Damages awarded under division (A) (1) of this section 4746
shall not be less than all compensation paid directly and 4747
indirectly to a ~~mortgage broker~~ registrant or mortgage loan 4748
originator from any source, plus reasonable attorney's fees and 4749

court costs. 4750

(3) The buyer may be awarded punitive damages. 4751

(B) (1) The superintendent of financial institutions or a 4752
buyer may directly bring an action to enjoin a violation of 4753
~~sections 1322.01 to 1322.12 of the Revised Code~~ any provision of 4754
this chapter. The attorney general may directly bring an action 4755
to enjoin a violation of ~~sections 1322.01 to 1322.12 of the~~ 4756
~~Revised Code~~ any provision of this chapter with the same rights, 4757
privileges, and powers as those described in section 1345.06 of 4758
the Revised Code. The prosecuting attorney of the county in 4759
which the action may be brought may bring an action to enjoin a 4760
violation of ~~sections 1322.01 to 1322.12 of the Revised Code~~ any 4761
provision of this chapter only if the prosecuting attorney first 4762
presents any evidence of the violation to the attorney general 4763
and, within a reasonable period of time, the attorney general 4764
has not agreed to bring the action. 4765

(2) The superintendent may initiate criminal proceedings 4766
under ~~sections 1322.01 to 1322.12 of the Revised Code~~ this 4767
chapter by presenting any evidence of criminal violation to the 4768
prosecuting attorney of the county in which the offense may be 4769
prosecuted. If the prosecuting attorney does not prosecute the 4770
violations, or at the request of the prosecuting attorney, the 4771
superintendent shall present any evidence of criminal violations 4772
to the attorney general, who may proceed in the prosecution with 4773
all the rights, privileges, and powers conferred by law on 4774
prosecuting attorneys, including the power to appear before 4775
grand juries and to interrogate witnesses before such grand 4776
juries. These powers of the attorney general shall be in 4777
addition to any other applicable powers of the attorney general. 4778

(3) The prosecuting attorney of the county in which an 4779

alleged offense may be prosecuted may initiate criminal 4780
proceedings under ~~sections 1322.01 to 1322.12 of the Revised~~ 4781
~~Code~~ this chapter. 4782

(4) In order to initiate criminal proceedings under 4783
~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter, 4784
the attorney general shall first present any evidence of 4785
criminal violations to the prosecuting attorney of the county in 4786
which the alleged offense may be prosecuted. If, within a 4787
reasonable period of time, the prosecuting attorney has not 4788
agreed to prosecute the violations, the attorney general may 4789
proceed in the prosecution with all the rights, privileges, and 4790
powers described in division (B) (2) of this section. 4791

(5) When a judgment under this section becomes final, the 4792
clerk of court shall mail a copy of the judgment, including 4793
supporting opinions, to the superintendent. 4794

(C) The remedies provided by this section are in addition 4795
to any other remedy provided by law. 4796

(D) In any proceeding or action brought under ~~sections~~ 4797
~~1322.01 to 1322.12 of the Revised Code~~ this chapter, the burden 4798
of proving an exemption under those sections is on the person 4799
claiming the benefit of the exemption. 4800

(E) No person shall be deemed to violate ~~sections 1322.01~~ 4801
~~to 1322.12 of the Revised Code~~ any provision of this chapter 4802
with respect to any act taken or omission made in reliance on a 4803
written notice, written interpretation, or written report from 4804
the superintendent, unless there is a subsequent amendment to 4805
those ~~sections~~ provisions, or rules promulgated thereunder, that 4806
affects the superintendent's notice, interpretation, or report. 4807

(F) Upon disbursement of mortgage loan proceeds to or on 4808

behalf of the buyer, the registrant that assisted the buyer to 4809
obtain the mortgage loan is deemed to have completed the 4810
performance of the registrant's services for the buyer and owes 4811
no additional duties or obligations to the buyer with respect to 4812
the mortgage loan. However, nothing in this division shall be 4813
construed to limit or preclude the civil or criminal liability 4814
of a registrant for failing to comply with ~~sections 1322.01 to~~ 4815
~~1322.12 of the Revised Code~~ this chapter or any rule adopted 4816
~~under those sections~~ this chapter, for failing to comply with 4817
any provision of or duty arising under an agreement with a buyer 4818
or lender under ~~sections 1322.01 to 1322.12 of the Revised Code~~ 4819
this chapter, or for violating any other provision of state or 4820
federal law. 4821

(G) A buyer injured by a violation of any of the sections 4822
specified in division (A) (1) of this section is precluded from 4823
recovering any damages, plus reasonable attorney's fees and 4824
costs, if the buyer has also recovered any damages in a cause of 4825
action initiated under section ~~1322.081-1322.45~~ 1322.45 of the Revised 4826
Code and the recovery of damages for a violation of any of the 4827
sections specified in division (A) (1) of this section is based 4828
on the same acts or circumstances as the basis for recovery of 4829
damages in section ~~1322.081-1322.45~~ 1322.45 of the Revised Code. 4830

Sec. ~~1322.025~~ 1322.55. (A) Notwithstanding any provision 4831
of ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter, 4832
or any rule adopted thereunder, if the "Secure and Fair 4833
Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 4834
12 U.S.C. 5101, as amended, is modified after ~~the effective date~~ 4835
~~of this section~~ October 16, 2009, or any regulation, statement, 4836
or position is adopted under that act, and the item modified or 4837
adopted affects any matter within the scope of ~~sections 1322.01~~ 4838
~~to 1322.12 of the Revised Code~~ this chapter, the superintendent 4839

of financial institutions may by rule adopt a similar provision. 4840

(B) The superintendent shall adopt the rules authorized by 4841
this section in accordance with section 111.15 of the Revised 4842
Code. Chapter 119. of the Revised Code does not apply to rules 4843
adopted under the authority of this section. 4844

(C) A rule adopted by the superintendent under the 4845
authority of this section is effective on the later of the 4846
following dates: 4847

(1) The date the superintendent issues the rule; 4848

(2) The date the regulation, rule, interpretation, 4849
procedure, or guideline the superintendent's rule is based on 4850
becomes effective. 4851

(D) The superintendent may, upon thirty days' written 4852
notice, revoke any rule adopted under the authority of this 4853
section. A rule adopted under the authority of this section, and 4854
not revoked by the superintendent, lapses and has no further 4855
force and effect eighteen months after the rule's effective 4856
date. 4857

Sec. 1322.56. The superintendent of financial institutions 4858
may adopt, in accordance with Chapter 119. of the Revised Code, 4859
any rule necessary to comply with the requirements of the 4860
nationwide mortgage licensing system and registry, including 4861
requirements pertaining to all of the following: 4862

(A) Payment of nonrefundable fees to apply for, maintain, 4863
and renew licenses through the nationwide mortgage licensing 4864
system and registry; 4865

(B) Renewal or reporting dates; 4866

(C) Procedures to amend or to surrender a license; 4867

(D) Any other activity necessary for participation in the nationwide mortgage licensing system and registry. 4868
4869

~~Sec. 1322.12~~ 1322.57. The superintendent of financial 4870
institutions, in accordance with Chapter 119. of the Revised 4871
Code, may adopt reasonable rules to administer and enforce 4872
~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter and 4873
to carry out the purposes of ~~those sections~~ this chapter. 4874

Sec. 1322.99. (A) (1) Whoever violates division (A) ~~(1) or~~ 4875
~~(2)~~ of section ~~1322.02, 1322.07~~ or division (E), (F), or (G) of 4876
section 1322.07, division (B) (1) or (2) of section 1322.071, or 4877
~~section 1322.08-1322.40~~ of the Revised Code is guilty of a 4878
felony of the fifth degree. 4879

~~(B) Whoever violates division (B) (3) of section 1322.071~~ 4880
~~of the Revised Code is guilty of a felony of the fourth degree.~~ 4881

~~(C) (2)~~ Whoever violates division (B) ~~or (C) (1) or (2)~~ of 4882
section ~~1322.02-1322.07~~ of the Revised Code is guilty of a 4883
misdemeanor of the first degree. 4884

(B) The offenses established under divisions (A) and (B) 4885
of section 1322.07 of the Revised Code are strict liability 4886
offenses, and section 2901.20 of the Revised Code does not 4887
apply. The designation of these offenses as strict liability 4888
offenses shall not be construed to imply that any other offense 4889
for which there is no specified degree of culpability, whether 4890
in this section or another section of the Revised Code, is not a 4891
strict liability offense. 4892

Sec. 1329.71. (A) As used in this section, "financial 4893
institution" means any bank, savings and loan association, 4894
savings bank, or credit union; any affiliate or subsidiary of a 4895
bank, savings and loan association, savings bank, or credit 4896

union; ~~or~~ any registrant as defined in section 1321.51 of the 4897
Revised Code; or any person registered as a mortgage lender 4898
under Chapter 1322. of the Revised Code. 4899

(B) Any financial institution may proceed by suit to 4900
enjoin the use of the financial institution's name or logo in 4901
connection with the sale, offering for sale, distribution, or 4902
advertising of any product or service without the express 4903
written consent of the financial institution, if such use is 4904
misleading or deceptive as to the source of origin or 4905
sponsorship of, or the affiliation with, the product or service. 4906
Any court of competent jurisdiction may grant injunctions to 4907
restrain such use as the court considers just and reasonable and 4908
may require the defendants to pay to the financial institution 4909
all profits derived from and all damages suffered by reason of 4910
the wrongful use of the name or logo. 4911

(C) Notwithstanding division (B) of this section, the only 4912
remedies that are available for the wrongful use of a financial 4913
institution's name or logo by a registrant or licensee under 4914
~~sections 1322.01 to 1322.12~~ Chapter 1322. of the Revised Code 4915
are those set forth in section ~~1322.10~~ 1322.50 of the Revised 4916
Code or otherwise provided by statute or common law. 4917

(D) The provisions of this section are not intended to be 4918
exclusive remedies and do not preclude the use of any other 4919
remedy provided by law. 4920

Sec. 1335.02. (A) As used in this section: 4921

(1) "Debtor" means a person that obtains credit or seeks a 4922
loan agreement with a financial institution or owes money to a 4923
financial institution. 4924

(2) "Financial institution" means ~~either~~ any of the 4925

following: 4926

(a) A federally or state-chartered bank, savings bank, 4927
savings and loan association, or credit union, or a holding 4928
company, subsidiary, or affiliate of a bank, savings bank, or 4929
savings and loan association; 4930

(b) A licensee under sections 1321.01 to 1321.19 of the 4931
Revised Code, or a registrant under sections 1321.51 to 1321.60 4932
of the Revised Code, or a parent company, subsidiary, or 4933
affiliate of a licensee or registrant; 4934

(c) A person registered as a mortgage lender under Chapter 4935
1322. of the Revised Code or a parent company, subsidiary, or 4936
affiliate of such a person. 4937

(3) "Loan agreement" means one or more promises, 4938
promissory notes, agreements, undertakings, security agreements, 4939
mortgages, or other documents or commitments, or any combination 4940
of these documents or commitments, pursuant to which a financial 4941
institution loans or delays, or agrees to loan or delay, 4942
repayment of money, goods, or anything of value, or otherwise 4943
extends credit or makes a financial accommodation. "Loan 4944
agreement" does not include a promise, promissory note, 4945
agreement, undertaking, or other document or commitment relating 4946
to a credit card, a charge card, a revolving budget agreement 4947
subject to section 1317.11 of the Revised Code, an open-end loan 4948
agreement subject to section 1321.16 or 1321.58 of the Revised 4949
Code, or an open-end credit agreement subject to section 1109.18 4950
of the Revised Code. 4951

(B) No party to a loan agreement may bring an action on a 4952
loan agreement unless the agreement is in writing and is signed 4953
by the party against whom the action is brought or by the 4954

authorized representative of the party against whom the action 4955
is brought. However, a loan agreement need not be signed by an 4956
officer or other authorized representative of a financial 4957
institution, if the loan agreement is in the form of a 4958
promissory note or other document or commitment that describes 4959
the credit or loan and the loan agreement, by its terms, 4960
satisfies all of the following conditions: 4961

(1) The loan agreement is intended by the parties to be 4962
signed by the debtor but not by an officer or other authorized 4963
representative of the financial institution. 4964

(2) The loan agreement has been signed by the debtor. 4965

(3) The delivery of the loan agreement has been accepted 4966
by the financial institution. 4967

(C) The terms of a loan agreement subject to this section, 4968
including the rights and obligations of the parties to the loan 4969
agreement, shall be determined solely from the written loan 4970
agreement, and shall not be varied by any oral agreements that 4971
are made or discussions that occur before or contemporaneously 4972
with the execution of the loan agreement. Any prior oral 4973
agreements between the parties are superseded by the loan 4974
agreement. 4975

(D) This section does not apply to any loan agreement in 4976
which the proceeds of the loan agreement are used by the debtor 4977
primarily for personal, household, or family purposes and either 4978
of the following applies: 4979

(1) The proceeds of the loan agreement are less than forty 4980
thousand dollars; 4981

(2) A security interest securing the loan agreement is or 4982
will be acquired in the primary residence of the debtor. 4983

Sec. 1345.01. As used in sections 1345.01 to 1345.13 of 4984
the Revised Code: 4985

(A) "Consumer transaction" means a sale, lease, 4986
assignment, award by chance, or other transfer of an item of 4987
goods, a service, a franchise, or an intangible, to an 4988
individual for purposes that are primarily personal, family, or 4989
household, or solicitation to supply any of these things. 4990
"Consumer transaction" does not include transactions between 4991
persons, defined in sections 4905.03 and 5725.01 of the Revised 4992
Code, and their customers, except for transactions involving a 4993
loan made pursuant to sections 1321.35 to 1321.48 of the Revised 4994
Code and transactions in connection with residential mortgages 4995
between loan officers, mortgage brokers, or nonbank mortgage 4996
lenders and their customers; transactions involving a home 4997
construction service contract as defined in section 4722.01 of 4998
the Revised Code; transactions between certified public 4999
accountants or public accountants and their clients; 5000
transactions between attorneys, physicians, or dentists and 5001
their clients or patients; and transactions between 5002
veterinarians and their patients that pertain to medical 5003
treatment but not ancillary services. 5004

(B) "Person" includes an individual, corporation, 5005
government, governmental subdivision or agency, business trust, 5006
estate, trust, partnership, association, cooperative, or other 5007
legal entity. 5008

(C) "Supplier" means a seller, lessor, assignor, 5009
franchisor, or other person engaged in the business of effecting 5010
or soliciting consumer transactions, whether or not the person 5011
deals directly with the consumer. If the consumer transaction is 5012
in connection with a residential mortgage, "supplier" does not 5013

include an assignee or purchaser of the loan for value, except 5014
as otherwise provided in section 1345.091 of the Revised Code. 5015
For purposes of this division, in a consumer transaction in 5016
connection with a residential mortgage, "seller" means a loan 5017
officer, mortgage broker, or nonbank mortgage lender. 5018

(D) "Consumer" means a person who engages in a consumer 5019
transaction with a supplier. 5020

(E) "Knowledge" means actual awareness, but such actual 5021
awareness may be inferred where objective manifestations 5022
indicate that the individual involved acted with such awareness. 5023

(F) "Natural gas service" means the sale of natural gas, 5024
exclusive of any distribution or ancillary service. 5025

(G) "Public telecommunications service" means the 5026
transmission by electromagnetic or other means, other than by a 5027
telephone company as defined in section 4927.01 of the Revised 5028
Code, of signs, signals, writings, images, sounds, messages, or 5029
data originating in this state regardless of actual call 5030
routing. "Public telecommunications service" excludes a system, 5031
including its construction, maintenance, or operation, for the 5032
provision of telecommunications service, or any portion of such 5033
service, by any entity for the sole and exclusive use of that 5034
entity, its parent, a subsidiary, or an affiliated entity, and 5035
not for resale, directly or indirectly; the provision of 5036
terminal equipment used to originate telecommunications service; 5037
broadcast transmission by radio, television, or satellite 5038
broadcast stations regulated by the federal government; or cable 5039
television service. 5040

(H) (1) "Loan officer" means an individual who for 5041
compensation or gain, or in anticipation of compensation or 5042

gain, takes or offers to take a residential mortgage loan 5043
application; assists or offers to assist a buyer in obtaining or 5044
applying to obtain a residential mortgage loan by, among other 5045
things, advising on loan terms, including rates, fees, and other 5046
costs; offers or negotiates terms of a residential mortgage 5047
loan; or issues or offers to issue a commitment for a 5048
residential mortgage loan. "Loan officer" also includes a 5049
mortgage loan originator as defined in division ~~(E) (1)~~ (EE) of 5050
section 1322.01 of the Revised Code. 5051

(2) "Loan officer" does not include an employee of a bank, 5052
savings bank, savings and loan association, credit union, or 5053
credit union service organization organized under the laws of 5054
this state, another state, or the United States; an employee of 5055
a subsidiary of such a bank, savings bank, savings and loan 5056
association, or credit union; or an employee of an affiliate 5057
that (a) controls, is controlled by, or is under common control 5058
with, such a bank, savings bank, savings and loan association, 5059
or credit union and (b) is subject to examination, supervision, 5060
and regulation, including with respect to the affiliate's 5061
compliance with applicable consumer protection requirements, by 5062
the board of governors of the federal reserve system, the 5063
comptroller of the currency, the office of thrift supervision, 5064
the federal deposit insurance corporation, or the national 5065
credit union administration. 5066

(I) "Residential mortgage" or "mortgage" means an 5067
obligation to pay a sum of money evidenced by a note and secured 5068
by a lien upon real property located within this state 5069
containing two or fewer residential units or on which two or 5070
fewer residential units are to be constructed and includes such 5071
an obligation on a residential condominium or cooperative unit. 5072

(J) (1) "Mortgage broker" means any of the following: 5073

(a) A person that holds that person out as being able to 5074
assist a buyer in obtaining a mortgage and charges or receives 5075
from either the buyer or lender money or other valuable 5076
consideration readily convertible into money for providing this 5077
assistance; 5078

(b) A person that solicits financial and mortgage 5079
information from the public, provides that information to a 5080
mortgage broker or a person that makes residential mortgage 5081
loans, and charges or receives from either of them money or 5082
other valuable consideration readily convertible into money for 5083
providing the information; 5084

(c) A person engaged in table-funding or warehouse-lending 5085
mortgage loans that are residential mortgage loans. 5086

(2) "Mortgage broker" does not include a bank, savings 5087
bank, savings and loan association, credit union, or credit 5088
union service organization organized under the laws of this 5089
state, another state, or the United States; a subsidiary of such 5090
a bank, savings bank, savings and loan association, or credit 5091
union; an affiliate that (a) controls, is controlled by, or is 5092
under common control with, such a bank, savings bank, savings 5093
and loan association, or credit union and (b) is subject to 5094
examination, supervision, and regulation, including with respect 5095
to the affiliate's compliance with applicable consumer 5096
protection requirements, by the board of governors of the 5097
federal reserve system, the comptroller of the currency, the 5098
office of thrift supervision, the federal deposit insurance 5099
corporation, or the national credit union administration; or an 5100
employee of any such entity. 5101

(K) "Nonbank mortgage lender" means any person that 5102
engages in a consumer transaction in connection with a 5103
residential mortgage, except for a bank, savings bank, savings 5104
and loan association, credit union, or credit union service 5105
organization organized under the laws of this state, another 5106
state, or the United States; a subsidiary of such a bank, 5107
savings bank, savings and loan association, or credit union; or 5108
an affiliate that (1) controls, is controlled by, or is under 5109
common control with, such a bank, savings bank, savings and loan 5110
association, or credit union and (2) is subject to examination, 5111
supervision, and regulation, including with respect to the 5112
affiliate's compliance with applicable consumer protection 5113
requirements, by the board of governors of the federal reserve 5114
system, the comptroller of the currency, the office of thrift 5115
supervision, the federal deposit insurance corporation, or the 5116
national credit union administration. 5117

(L) For purposes of divisions (H), (J), and (K) of this 5118
section: 5119

(1) "Control" of another entity means ownership, control, 5120
or power to vote twenty-five per cent or more of the outstanding 5121
shares of any class of voting securities of the other entity, 5122
directly or indirectly or acting through one or more other 5123
persons. 5124

(2) "Credit union service organization" means a CUSO as 5125
defined in 12 C.F.R. 702.2. 5126

Sec. 1349.27. A creditor shall not do any of the 5127
following: 5128

(A) Make a covered loan that includes any of the 5129
following: 5130

(1) Terms under which a consumer must pay a prepayment penalty for paying all or part of the principal before the date on which the principal is due. For purposes of division (A) (1) of this section, any method of computing a refund of unearned scheduled interest is a prepayment penalty if it is less favorable to the consumer than the actuarial method.

Division (A) (1) of this section does not apply to a prepayment penalty imposed in accordance with section 129(c) (2) of the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2190, 15 U.S.C.A. 1639(c) (2), as amended, and the regulations adopted thereunder by the federal reserve board, as amended.

(2) Terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due;

(3) Terms under which more than two periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the consumer;

(4) Terms under which a rebate of interest arising from a loan acceleration due to default is calculated by a method less favorable than the actuarial method.

(B) Make a covered loan that provides for an interest rate applicable after default that is higher than the interest rate that applies before default;

(C) Make a covered loan having a term of less than five years that includes terms under which the aggregate amount of the regular periodic payments would not fully amortize the outstanding principal balance. This division does not apply to

any covered loan with a maturity of less than one year, if the 5160
purpose of the loan is a "bridge" loan connected with the 5161
acquisition or construction of a dwelling intended to become the 5162
consumer's principal dwelling. 5163

(D) Engage in a pattern or practice of extending credit to 5164
consumers under covered loans based on the consumers' collateral 5165
without regard to the consumers' repayment ability, including 5166
the consumers' current and expected income, current obligations, 5167
and employment; 5168

(E) Make a payment to a contractor under a home 5169
improvement contract from amounts extended as credit under a 5170
covered loan, except in either of the following ways: 5171

(1) By an instrument that is payable to the consumer or 5172
jointly to the consumer and the contractor; 5173

(2) At the election of the consumer, by a third party 5174
escrow agent in accordance with terms established in a written 5175
agreement signed by the consumer, the creditor, and the 5176
contractor before the date of payment. 5177

(F) On or after October 1, 2002, make a covered loan that 5178
includes a demand feature that permits the creditor to terminate 5179
the loan in advance of the original maturity date and to demand 5180
repayment of the entire outstanding balance, except in any of 5181
the following circumstances: 5182

(1) There is fraud or material misrepresentation by the 5183
consumer in connection with the loan. 5184

(2) The consumer fails to meet the repayment terms of the 5185
agreement for any outstanding balance. 5186

(3) There is any action or inaction by the consumer that 5187

adversely affects the creditor's security for the loan or any 5188
right of the creditor in that security. 5189

(G) (1) Within one year after having made a covered loan, 5190
refinance a covered loan to the same borrower into another 5191
covered loan, unless the refinancing is in the consumer's 5192
interest. An assignee holding or servicing a covered loan shall 5193
not, for the remainder of the one-year period following the date 5194
of origination of the covered loan, refinance any covered loan 5195
to the same consumer into another covered loan, unless the 5196
refinancing is in the consumer's interest. 5197

A creditor or assignee shall not engage in acts or 5198
practices to evade division (G) (1) of this section, including a 5199
pattern or practice of arranging for the refinancing of its own 5200
loans by affiliated or unaffiliated creditors, or modifying a 5201
loan agreement, whether or not the existing loan is satisfied 5202
and replaced by the new loan, and charging a fee. 5203

(2) Division (G) (1) of this section shall apply on and 5204
after October 1, 2002. 5205

~~(H) Make a covered loan without first obtaining a copy of 5206
the mortgage loan origination disclosure statement that was 5207
delivered to the buyer in accordance with division (A) (1) of 5208
section 1322.062 of the Revised Code; 5209~~

~~(I) Finance, directly or indirectly, into a covered loan 5210
or finance to the same borrower within thirty days of a covered 5211
loan any credit life or credit disability insurance premiums 5212
sold in connection with the covered loan, provided that any 5213
credit life or credit disability insurance premiums calculated 5214
and paid on a monthly or other periodic basis shall not be 5215
considered financed by the person originating the loan. For 5216~~

purposes of this division, credit life or credit disability insurance does not include a contract issued by a government agency or private mortgage insurance company to insure the lender against loss caused by a mortgagor's default.

~~(J)~~ (I) Replace or consolidate a zero interest rate or other low-rate loan made by a governmental or nonprofit lender with a covered loan within the first ten years of the low-rate loan unless the current holder of the loan consents in writing to the refinancing. For purposes of this division, a "low-rate loan" means a loan that carries a current interest rate two percentage points or more below the current yield on United States treasury securities with a comparable maturity. If the loan's current interest rate is either a discounted introductory rate or a rate that automatically steps up over time, the fully indexed rate or the fully stepped-up rate, as applicable, shall be used, in lieu of the current rate, to determine whether a loan is a low-rate loan.

~~(K)~~ (J) Make a covered loan if, at the time the loan was consummated, the consumer's total monthly debt, including amounts owed under the loan, exceed fifty per cent of the consumer's monthly gross income, as verified by the credit application, the consumer's financial statement, a credit report, financial information provided to the person originating the loan by or on behalf of the consumer, or any other reasonable means, unless the consumer submits both of the following:

(1) Verification that the consumer received prepurchase counseling from a counseling service that meets the criteria established by the superintendent of financial institutions under section 1349.271 of the Revised Code;

(2) A disclosure, signed by the consumer, that 5247
acknowledges the risk of entering into such a loan. 5248

Sec. 1349.43. (A) As used in this section, "loan officer," 5249
"mortgage broker," and "nonbank mortgage lender" have the same 5250
meanings as in section 1345.01 of the Revised Code. 5251

(B) The department of commerce shall establish and 5252
maintain an electronic database accessible through the internet 5253
that contains information on all of the following: 5254

(1) The enforcement actions taken by the superintendent of 5255
financial institutions for each violation of or failure to 5256
comply with any provision of ~~sections 1322.01 to 1322.12~~ Chapter 5257
1322. of the Revised Code, upon final disposition of the action; 5258

(2) The enforcement actions taken by the attorney general 5259
under Chapter 1345. of the Revised Code against loan officers, 5260
mortgage brokers, and nonbank mortgage lenders, upon final 5261
disposition of each action; 5262

(3) All judgments by courts of this state, concerning 5263
which appellate remedies have been exhausted or lost by the 5264
expiration of the time for appeal, finding either of the 5265
following: 5266

(a) A violation of any provision of ~~sections 1322.01 to~~ 5267
~~1322.12~~ Chapter 1322. of the Revised Code; 5268

(b) That specific acts or practices by a loan officer, 5269
mortgage broker, or nonbank mortgage lender violate section 5270
1345.02, 1345.03, or 1345.031 of the Revised Code. 5271

(C) The attorney general shall notify the department of 5272
all enforcement actions and judgments described in divisions (B) 5273
(2) and (3)(b) of this section. 5274

(D) The department may adopt rules in accordance with 5275
Chapter 119. of the Revised Code that are necessary to implement 5276
this section. 5277

(E) The electronic database maintained by the department 5278
in accordance with this section shall not include information 5279
that, pursuant to section ~~1322.061~~1322.36 of the Revised Code, 5280
is confidential. 5281

Sec. 1349.44. (A) The superintendent of financial 5282
institutions shall report semiannually to the governor and the 5283
general assembly on the operations of the division of financial 5284
institutions with respect to the following: 5285

(1) Enforcement actions instituted by the superintendent 5286
for a violation of or failure to comply with any provision of 5287
~~sections 1322.01 to 1322.12~~ Chapter 1322. of the Revised Code, 5288
and their final dispositions; 5289

(2) Suspensions, revocations, or refusals to issue or 5290
renew certificates of registration and licenses under ~~sections~~ 5291
~~1322.01 to 1322.12~~ Chapter 1322. of the Revised Code; 5292

(3) Outreach efforts of the office of consumer affairs to 5293
provide education regarding predatory lending, borrowing, and 5294
related financial topics. 5295

(B) The information required under divisions (A) (1) and 5296
(2) of this section does not include information that, pursuant 5297
to section ~~1322.061~~1322.36 of the Revised Code, is 5298
confidential. 5299

Sec. 1349.45. (A) As used in this section, "financial 5300
institution" means any bank, savings and loan association, 5301
savings bank, or credit union; any affiliate or subsidiary of a 5302
bank, savings and loan association, savings bank, or credit 5303

union; ~~or~~ any registrant as defined in section 1321.51 of the 5304
Revised Code; or any person registered as a mortgage lender 5305
under Chapter 1322. of the Revised Code. 5306

(B) No person shall use the name or logo of any financial 5307
institution in connection with the sale, offering for sale, 5308
distribution, or advertising of any product or service without 5309
the express written consent of the financial institution, if 5310
such use is misleading or deceptive as to the source of origin 5311
or sponsorship of, or the affiliation with, the product or 5312
service. 5313

Sec. 1349.99. (A) Whoever violates section 1349.06 or 5314
1349.17 of the Revised Code is guilty of a minor misdemeanor. 5315

(B) (1) Whoever violates section 1349.45 of the Revised 5316
Code is guilty of a misdemeanor of the first degree. 5317

(2) Notwithstanding division (B) (1) of this section, the 5318
only remedies that are available for a violation of section 5319
1349.45 of the Revised Code by a registrant or licensee under 5320
~~sections 1322.01 to 1322.12 Chapter 1322.~~ of the Revised Code 5321
are those set forth in section ~~1322.10~~ 1322.50 of the Revised 5322
Code or otherwise provided by statute or common law. 5323

(3) The provisions of division (B) of this section are not 5324
intended to be exclusive remedies and do not preclude the use of 5325
any other remedy provided by law. 5326

Sec. 2923.31. As used in sections 2923.31 to 2923.36 of 5327
the Revised Code: 5328

(A) "Beneficial interest" means any of the following: 5329

(1) The interest of a person as a beneficiary under a 5330
trust in which the trustee holds title to personal or real 5331

property; 5332

(2) The interest of a person as a beneficiary under any 5333
other trust arrangement under which any other person holds title 5334
to personal or real property for the benefit of such person; 5335

(3) The interest of a person under any other form of 5336
express fiduciary arrangement under which any other person holds 5337
title to personal or real property for the benefit of such 5338
person. 5339

"Beneficial interest" does not include the interest of a 5340
stockholder in a corporation or the interest of a partner in 5341
either a general or limited partnership. 5342

(B) "Costs of investigation and prosecution" and "costs of 5343
investigation and litigation" mean all of the costs incurred by 5344
the state or a county or municipal corporation under sections 5345
2923.31 to 2923.36 of the Revised Code in the prosecution and 5346
investigation of any criminal action or in the litigation and 5347
investigation of any civil action, and includes, but is not 5348
limited to, the costs of resources and personnel. 5349

(C) "Enterprise" includes any individual, sole 5350
proprietorship, partnership, limited partnership, corporation, 5351
trust, union, government agency, or other legal entity, or any 5352
organization, association, or group of persons associated in 5353
fact although not a legal entity. "Enterprise" includes illicit 5354
as well as licit enterprises. 5355

(D) "Innocent person" includes any bona fide purchaser of 5356
property that is allegedly involved in a violation of section 5357
2923.32 of the Revised Code, including any person who 5358
establishes a valid claim to or interest in the property in 5359
accordance with division (E) of section 2981.04 of the Revised 5360

Code, and any victim of an alleged violation of that section or 5361
of any underlying offense involved in an alleged violation of 5362
that section. 5363

(E) "Pattern of corrupt activity" means two or more 5364
incidents of corrupt activity, whether or not there has been a 5365
prior conviction, that are related to the affairs of the same 5366
enterprise, are not isolated, and are not so closely related to 5367
each other and connected in time and place that they constitute 5368
a single event. 5369

At least one of the incidents forming the pattern shall 5370
occur on or after January 1, 1986. Unless any incident was an 5371
aggravated murder or murder, the last of the incidents forming 5372
the pattern shall occur within six years after the commission of 5373
any prior incident forming the pattern, excluding any period of 5374
imprisonment served by any person engaging in the corrupt 5375
activity. 5376

For the purposes of the criminal penalties that may be 5377
imposed pursuant to section 2923.32 of the Revised Code, at 5378
least one of the incidents forming the pattern shall constitute 5379
a felony under the laws of this state in existence at the time 5380
it was committed or, if committed in violation of the laws of 5381
the United States or of any other state, shall constitute a 5382
felony under the law of the United States or the other state and 5383
would be a criminal offense under the law of this state if 5384
committed in this state. 5385

(F) "Pecuniary value" means money, a negotiable 5386
instrument, a commercial interest, or anything of value, as 5387
defined in section 1.03 of the Revised Code, or any other 5388
property or service that has a value in excess of one hundred 5389
dollars. 5390

(G) "Person" means any person, as defined in section 1.59 of the Revised Code, and any governmental officer, employee, or entity.

(H) "Personal property" means any personal property, any interest in personal property, or any right, including, but not limited to, bank accounts, debts, corporate stocks, patents, or copyrights. Personal property and any beneficial interest in personal property are deemed to be located where the trustee of the property, the personal property, or the instrument evidencing the right is located.

(I) "Corrupt activity" means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any of the following:

(1) Conduct defined as "racketeering activity" under the "Organized Crime Control Act of 1970," 84 Stat. 941, 18 U.S.C. 1961(1)(B), (1)(C), (1)(D), and (1)(E), as amended;

(2) Conduct constituting any of the following:

(a) A violation of section 1315.55, ~~1322.02~~ 1322.07, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02, 2905.11, 2905.22, 2905.32 as specified in division (I) (2)(g) of this section, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2913.05, 2913.06, 2921.02, 2921.03, 2921.04, 2921.11, 2921.12, 2921.32, 2921.41, 2921.42, 2921.43, 2923.12, or 2923.17; division (F)(1)(a), (b), or (c) of section 1315.53; division (A)(1) or (2) of section 1707.042; division (B), (C)(4), (D), (E), or (F) of section 1707.44; division (A)(1) or (2) of section 2923.20; division (E) or (G) of section 3772.99; division (J)(1)

of section 4712.02; section 4719.02, 4719.05, or 4719.06; 5420
division (C), (D), or (E) of section 4719.07; section 4719.08; 5421
or division (A) of section 4719.09 of the Revised Code. 5422

(b) Any violation of section 3769.11, 3769.15, 3769.16, or 5423
3769.19 of the Revised Code as it existed prior to July 1, 1996, 5424
any violation of section 2915.02 of the Revised Code that occurs 5425
on or after July 1, 1996, and that, had it occurred prior to 5426
that date, would have been a violation of section 3769.11 of the 5427
Revised Code as it existed prior to that date, or any violation 5428
of section 2915.05 of the Revised Code that occurs on or after 5429
July 1, 1996, and that, had it occurred prior to that date, 5430
would have been a violation of section 3769.15, 3769.16, or 5431
3769.19 of the Revised Code as it existed prior to that date. 5432

(c) Any violation of section 2907.21, 2907.22, 2907.31, 5433
2913.02, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.42, 5434
2913.47, 2913.51, 2915.03, 2925.03, 2925.04, 2925.05, or 2925.37 5435
of the Revised Code, any violation of section 2925.11 of the 5436
Revised Code that is a felony of the first, second, third, or 5437
fourth degree and that occurs on or after July 1, 1996, any 5438
violation of section 2915.02 of the Revised Code that occurred 5439
prior to July 1, 1996, any violation of section 2915.02 of the 5440
Revised Code that occurs on or after July 1, 1996, and that, had 5441
it occurred prior to that date, would not have been a violation 5442
of section 3769.11 of the Revised Code as it existed prior to 5443
that date, any violation of section 2915.06 of the Revised Code 5444
as it existed prior to July 1, 1996, or any violation of 5445
division (B) of section 2915.05 of the Revised Code as it exists 5446
on and after July 1, 1996, when the proceeds of the violation, 5447
the payments made in the violation, the amount of a claim for 5448
payment or for any other benefit that is false or deceptive and 5449
that is involved in the violation, or the value of the 5450

contraband or other property illegally possessed, sold, or 5451
purchased in the violation exceeds one thousand dollars, or any 5452
combination of violations described in division (I) (2) (c) of 5453
this section when the total proceeds of the combination of 5454
violations, payments made in the combination of violations, 5455
amount of the claims for payment or for other benefits that is 5456
false or deceptive and that is involved in the combination of 5457
violations, or value of the contraband or other property 5458
illegally possessed, sold, or purchased in the combination of 5459
violations exceeds one thousand dollars; 5460

(d) Any violation of section 5743.112 of the Revised Code 5461
when the amount of unpaid tax exceeds one hundred dollars; 5462

(e) Any violation or combination of violations of section 5463
2907.32 of the Revised Code involving any material or 5464
performance containing a display of bestiality or of sexual 5465
conduct, as defined in section 2907.01 of the Revised Code, that 5466
is explicit and depicted with clearly visible penetration of the 5467
genitals or clearly visible penetration by the penis of any 5468
orifice when the total proceeds of the violation or combination 5469
of violations, the payments made in the violation or combination 5470
of violations, or the value of the contraband or other property 5471
illegally possessed, sold, or purchased in the violation or 5472
combination of violations exceeds one thousand dollars; 5473

(f) Any combination of violations described in division 5474
(I) (2) (c) of this section and violations of section 2907.32 of 5475
the Revised Code involving any material or performance 5476
containing a display of bestiality or of sexual conduct, as 5477
defined in section 2907.01 of the Revised Code, that is explicit 5478
and depicted with clearly visible penetration of the genitals or 5479
clearly visible penetration by the penis of any orifice when the 5480

total proceeds of the combination of violations, payments made 5481
in the combination of violations, amount of the claims for 5482
payment or for other benefits that is false or deceptive and 5483
that is involved in the combination of violations, or value of 5484
the contraband or other property illegally possessed, sold, or 5485
purchased in the combination of violations exceeds one thousand 5486
dollars; 5487

(g) Any violation of section 2905.32 of the Revised Code 5488
to the extent the violation is not based solely on the same 5489
conduct that constitutes corrupt activity pursuant to division 5490
(I) (2) (c) of this section due to the conduct being in violation 5491
of section 2907.21 of the Revised Code. 5492

(3) Conduct constituting a violation of any law of any 5493
state other than this state that is substantially similar to the 5494
conduct described in division (I) (2) of this section, provided 5495
the defendant was convicted of the conduct in a criminal 5496
proceeding in the other state; 5497

(4) Animal or ecological terrorism; 5498

(5) (a) Conduct constituting any of the following: 5499

(i) Organized retail theft; 5500

(ii) Conduct that constitutes one or more violations of 5501
any law of any state other than this state, that is 5502
substantially similar to organized retail theft, and that if 5503
committed in this state would be organized retail theft, if the 5504
defendant was convicted of or pleaded guilty to the conduct in a 5505
criminal proceeding in the other state. 5506

(b) By enacting division (I) (5) (a) of this section, it is 5507
the intent of the general assembly to add organized retail theft 5508
and the conduct described in division (I) (5) (a) (ii) of this 5509

section as conduct constituting corrupt activity. The enactment 5510
of division (I) (5) (a) of this section and the addition by 5511
division (I) (5) (a) of this section of organized retail theft and 5512
the conduct described in division (I) (5) (a) (ii) of this section 5513
as conduct constituting corrupt activity does not limit or 5514
preclude, and shall not be construed as limiting or precluding, 5515
any prosecution for a violation of section 2923.32 of the 5516
Revised Code that is based on one or more violations of section 5517
2913.02 or 2913.51 of the Revised Code, one or more similar 5518
offenses under the laws of this state or any other state, or any 5519
combination of any of those violations or similar offenses, even 5520
though the conduct constituting the basis for those violations 5521
or offenses could be construed as also constituting organized 5522
retail theft or conduct of the type described in division (I) (5) 5523
(a) (ii) of this section. 5524

(J) "Real property" means any real property or any 5525
interest in real property, including, but not limited to, any 5526
lease of, or mortgage upon, real property. Real property and any 5527
beneficial interest in it is deemed to be located where the real 5528
property is located. 5529

(K) "Trustee" means any of the following: 5530

(1) Any person acting as trustee under a trust in which 5531
the trustee holds title to personal or real property; 5532

(2) Any person who holds title to personal or real 5533
property for which any other person has a beneficial interest; 5534

(3) Any successor trustee. 5535

"Trustee" does not include an assignee or trustee for an 5536
insolvent debtor or an executor, administrator, administrator 5537
with the will annexed, testamentary trustee, guardian, or 5538

committee, appointed by, under the control of, or accountable to 5539
a court. 5540

(L) "Unlawful debt" means any money or other thing of 5541
value constituting principal or interest of a debt that is 5542
legally unenforceable in this state in whole or in part because 5543
the debt was incurred or contracted in violation of any federal 5544
or state law relating to the business of gambling activity or 5545
relating to the business of lending money at an usurious rate 5546
unless the creditor proves, by a preponderance of the evidence, 5547
that the usurious rate was not intentionally set and that it 5548
resulted from a good faith error by the creditor, 5549
notwithstanding the maintenance of procedures that were adopted 5550
by the creditor to avoid an error of that nature. 5551

(M) "Animal activity" means any activity that involves the 5552
use of animals or animal parts, including, but not limited to, 5553
hunting, fishing, trapping, traveling, camping, the production, 5554
preparation, or processing of food or food products, clothing or 5555
garment manufacturing, medical research, other research, 5556
entertainment, recreation, agriculture, biotechnology, or 5557
service activity that involves the use of animals or animal 5558
parts. 5559

(N) "Animal facility" means a vehicle, building, 5560
structure, nature preserve, or other premises in which an animal 5561
is lawfully kept, handled, housed, exhibited, bred, or offered 5562
for sale, including, but not limited to, a zoo, rodeo, circus, 5563
amusement park, hunting preserve, or premises in which a horse 5564
or dog event is held. 5565

(O) "Animal or ecological terrorism" means the commission 5566
of any felony that involves causing or creating a substantial 5567
risk of physical harm to any property of another, the use of a 5568

deadly weapon or dangerous ordnance, or purposely, knowingly, or 5569
recklessly causing serious physical harm to property and that 5570
involves an intent to obstruct, impede, or deter any person from 5571
participating in a lawful animal activity, from mining, 5572
forestry, harvesting, gathering, or processing natural 5573
resources, or from being lawfully present in or on an animal 5574
facility or research facility. 5575

(P) "Research facility" means a place, laboratory, 5576
institution, medical care facility, government facility, or 5577
public or private educational institution in which a scientific 5578
test, experiment, or investigation involving the use of animals 5579
or other living organisms is lawfully carried out, conducted, or 5580
attempted. 5581

(Q) "Organized retail theft" means the theft of retail 5582
property with a retail value of one thousand dollars or more 5583
from one or more retail establishments with the intent to sell, 5584
deliver, or transfer that property to a retail property fence. 5585

(R) "Retail property" means any tangible personal property 5586
displayed, held, stored, or offered for sale in or by a retail 5587
establishment. 5588

(S) "Retail property fence" means a person who possesses, 5589
procures, receives, or conceals retail property that was 5590
represented to the person as being stolen or that the person 5591
knows or believes to be stolen. 5592

(T) "Retail value" means the full retail value of the 5593
retail property. In determining whether the retail value of 5594
retail property equals or exceeds one thousand dollars, the 5595
value of all retail property stolen from the retail 5596
establishment or retail establishments by the same person or 5597

persons within any one-hundred-eighty-day period shall be 5598
aggregated. 5599

Sec. 4712.01. As used in sections 4712.01 to 4712.14 of 5600
the Revised Code: 5601

(A) "Buyer" means an individual who is solicited to 5602
purchase or who purchases the services of a credit services 5603
organization for purposes other than obtaining a business loan 5604
as described in division (B) (6) of section 1343.01 of the 5605
Revised Code. 5606

(B) "Consumer reporting agency" has the same meaning as in 5607
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 5608
1681a, as amended. 5609

(C) (1) "Credit services organization" means any person 5610
that, in return for the payment of money or other valuable 5611
consideration readily convertible into money for the following 5612
services, sells, provides, or performs, or represents that the 5613
person can or will sell, provide, or perform, one or more of the 5614
following services: 5615

(a) Improving a buyer's credit record, history, or rating; 5616

(b) Obtaining an extension of credit by others for a 5617
buyer; 5618

(c) Providing advice or assistance to a buyer in 5619
connection with division (C) (1) (a) or (b) of this section; 5620

(d) Removing adverse credit information that is accurate 5621
and not obsolete from the buyer's credit record, history, or 5622
rating; 5623

(e) Altering the buyer's identification to prevent the 5624
display of the buyer's credit record, history, or rating. 5625

- (2) "Credit services organization" does not include any of the following: 5626
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- (a) A person that makes or collects loans, to the extent these activities are subject to licensure or registration by this state; 5628
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- (b) A mortgage broker, as defined in section 1322.01 of the Revised Code, that holds a valid certificate of registration under ~~sections 1322.01 to 1322.12~~ Chapter 1322. of the Revised Code; 5631
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- (c) A lender approved by the United States secretary of housing and urban development for participation in a mortgage insurance program under the "National Housing Act," 48 Stat. 1246 (1934), 12 U.S.C.A. 1701, as amended; 5635
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5638
- (d) A bank, savings bank, or savings and loan association, or a subsidiary or an affiliate of a bank, savings bank, or savings and loan association. For purposes of division (C) (2) (d) of this section, "affiliate" has the same meaning as in division (A) of section 1101.01 of the Revised Code and "bank," as used in division (A) of section 1101.01 of the Revised Code, is deemed to include a savings bank or savings and loan association. 5639
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- (e) A credit union organized and qualified under Chapter 1733. of the Revised Code or the "Federal Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751, as amended; 5647
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- (f) A budget and debt counseling service, as defined in division (D) of section 2716.03 of the Revised Code, provided that the service is a nonprofit organization exempt from taxation under section 501(c) (3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, and that 5650
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the service is in compliance with Chapter 4710. of the Revised Code; 5655
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(g) A consumer reporting agency that is in substantial compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as amended. 5657
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(h) A mortgage banker; 5660

(i) Any political subdivision, or any governmental or other public entity, corporation, or agency, in or of the United States or any state of the United States; 5661
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(j) A college or university, or controlled entity of a college or university, as defined in section 1713.05 of the Revised Code; 5664
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(k) A motor vehicle dealer licensed pursuant to Chapter 4517. of the Revised Code acting within the scope and authority of that license or a motor vehicle auction owner licensed pursuant to Chapters 4517. and 4707. of the Revised Code acting within the scope and authority of that license; 5667
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(l) An attorney at law admitted to the practice of law in this state who offers, provides, or performs a legal service that is privileged by reason of the attorney-client relationship, provided that the service is not a service described in division (C) (1) (b) or (e) of this section. 5672
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(D) "Extension of credit" means the right to defer payment of debt, or to incur debt and defer its payment, offered or granted primarily for personal, family, or household purposes. "Extension of credit" does not include a mortgage. 5677
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(E) "Mortgage" means any indebtedness secured by a deed of trust, security deed, or other lien on real property. 5681
5682

(F) "Mortgage banker" means any person that makes, 5683
services, or buys and sells mortgage loans and is approved by 5684
the United States department of housing and urban development, 5685
the United States department of veterans affairs, the federal 5686
national mortgage association, or the federal home loan mortgage 5687
corporation. 5688

(G) "Superintendent of financial institutions" includes 5689
the deputy superintendent for consumer finance as provided in 5690
section 1181.21 of the Revised Code. 5691

Sec. 4719.01. (A) As used in sections 4719.01 to 4719.18 5692
of the Revised Code: 5693

(1) "Affiliate" means a business entity that is owned by, 5694
operated by, controlled by, or under common control with another 5695
business entity. 5696

(2) "Communication" means a written or oral notification 5697
or advertisement that meets both of the following criteria, as 5698
applicable: 5699

(a) The notification or advertisement is transmitted by or 5700
on behalf of the seller of goods or services and by or through 5701
any printed, audio, video, cinematic, telephonic, or electronic 5702
means. 5703

(b) In the case of a notification or advertisement other 5704
than by telephone, either of the following conditions is met: 5705

(i) The notification or advertisement is followed by a 5706
telephone call from a telephone solicitor or salesperson. 5707

(ii) The notification or advertisement invites a response 5708
by telephone, and, during the course of that response, a 5709
telephone solicitor or salesperson attempts to make or makes a 5710

sale of goods or services. As used in division (A) (2) (b) (ii) of 5711
this section, "invites a response by telephone" excludes the 5712
mere listing or inclusion of a telephone number in a 5713
notification or advertisement. 5714

(3) "Gift, award, or prize" means anything of value that 5715
is offered or purportedly offered, or given or purportedly given 5716
by chance, at no cost to the receiver and with no obligation to 5717
purchase goods or services. As used in this division, "chance" 5718
includes a situation in which a person is guaranteed to receive 5719
an item and, at the time of the offer or purported offer, the 5720
telephone solicitor does not identify the specific item that the 5721
person will receive. 5722

(4) "Goods or services" means any real property or any 5723
tangible or intangible personal property, or services of any 5724
kind provided or offered to a person. "Goods or services" 5725
includes, but is not limited to, advertising; labor performed 5726
for the benefit of a person; personal property intended to be 5727
attached to or installed in any real property, regardless of 5728
whether it is so attached or installed; timeshare estates or 5729
licenses; and extended service contracts. 5730

(5) "Purchaser" means a person that is solicited to become 5731
or does become financially obligated as a result of a telephone 5732
solicitation. 5733

(6) "Salesperson" means an individual who is employed, 5734
appointed, or authorized by a telephone solicitor to make 5735
telephone solicitations but does not mean any of the following: 5736

(a) An individual who comes within one of the exemptions 5737
in division (B) of this section; 5738

(b) An individual employed, appointed, or authorized by a 5739

person who comes within one of the exemptions in division (B) of 5740
this section; 5741

(c) An individual under a written contract with a person 5742
who comes within one of the exemptions in division (B) of this 5743
section, if liability for all transactions with purchasers is 5744
assumed by the person so exempted. 5745

(7) "Telephone solicitation" means a communication to a 5746
person that meets both of the following criteria: 5747

(a) The communication is initiated by or on behalf of a 5748
telephone solicitor or by a salesperson. 5749

(b) The communication either represents a price or the 5750
quality or availability of goods or services or is used to 5751
induce the person to purchase goods or services, including, but 5752
not limited to, inducement through the offering of a gift, 5753
award, or prize. 5754

(8) "Telephone solicitor" means a person that engages in 5755
telephone solicitation directly or through one or more 5756
salespersons either from a location in this state, or from a 5757
location outside this state to persons in this state. "Telephone 5758
solicitor" includes, but is not limited to, any such person that 5759
is an owner, operator, officer, or director of, partner in, or 5760
other individual engaged in the management activities of, a 5761
business. 5762

(B) A telephone solicitor is exempt from the provisions of 5763
sections 4719.02 to 4719.18 and section 4719.99 of the Revised 5764
Code if the telephone solicitor is any one of the following: 5765

(1) A person engaging in a telephone solicitation that is 5766
a one-time or infrequent transaction not done in the course of a 5767
pattern of repeated transactions of a like nature; 5768

(2) A person engaged in telephone solicitation solely for religious or political purposes; a charitable organization, fund-raising counsel, or professional solicitor in compliance with the registration and reporting requirements of Chapter 1716. of the Revised Code; or any person or other entity exempt under section 1716.03 of the Revised Code from filing a registration statement under section 1716.02 of the Revised Code;

(3) A person, making a telephone solicitation involving a home solicitation sale as defined in section 1345.21 of the Revised Code, that makes the sales presentation and completes the sale at a later, face-to-face meeting between the seller and the purchaser rather than during the telephone solicitation. However, if the person, following the telephone solicitation, causes another person to collect the payment of any money, this exemption does not apply.

(4) A licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person when making a telephone solicitation within the scope of the person's license. As used in division (B)(4) of this section, "licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person" means a person subject to licensure or registration as such by the securities and exchange commission; the National Association of Securities Dealers or other self-regulatory organization, as defined by 15 U.S.C.A. 78c; by the division of securities under Chapter 1707. of the Revised Code; or by an official or agency of any other state of the United States.

(5) (a) A person primarily engaged in soliciting the sale of a newspaper of general circulation;

(b) As used in division (B) (5) (a) of this section, 5799
"newspaper of general circulation" includes, but is not limited 5800
to, both of the following: 5801

(i) A newspaper that is a daily law journal designated as 5802
an official publisher of court calendars pursuant to section 5803
2701.09 of the Revised Code; 5804

(ii) A newspaper or publication that has at least twenty- 5805
five per cent editorial, non-advertising content, exclusive of 5806
inserts, measured relative to total publication space, and an 5807
audited circulation to at least fifty per cent of the households 5808
in the newspaper's retail trade zone as defined by the audit. 5809

(6) (a) An issuer, or its subsidiary, that has a class of 5810
securities to which all of the following apply: 5811

(i) The class of securities is subject to section 12 of 5812
the "Securities Exchange Act of 1934," 15 U.S.C.A. 781, and is 5813
registered or is exempt from registration under 15 U.S.C.A. 5814
781(g) (2) (A), (B), (C), (E), (F), (G), or (H); 5815

(ii) The class of securities is listed on the New York 5816
stock exchange, the American stock exchange, or the NASDAQ 5817
national market system; 5818

(iii) The class of securities is a reported security as 5819
defined in 17 C.F.R. 240.11Aa3-1(a) (4). 5820

(b) An issuer, or its subsidiary, that formerly had a 5821
class of securities that met the criteria set forth in division 5822
(B) (6) (a) of this section if the issuer, or its subsidiary, has 5823
a net worth in excess of one hundred million dollars, files or 5824
its parent files with the securities and exchange commission an 5825
S.E.C. form 10-K, and has continued in substantially the same 5826
business since it had a class of securities that met the 5827

criteria in division (B) (6) (a) of this section. As used in 5828
division (B) (6) (b) of this section, "issuer" and "subsidiary" 5829
include the successor to an issuer or subsidiary. 5830

(7) A person soliciting a transaction regulated by the 5831
commodity futures trading commission, if the person is 5832
registered or temporarily registered for that activity with the 5833
commission under 7 U.S.C.A. 1 et seq. and the registration or 5834
temporary registration has not expired or been suspended or 5835
revoked; 5836

(8) A person soliciting the sale of any book, record, 5837
audio tape, compact disc, or video, if the person allows the 5838
purchaser to review the merchandise for at least seven days and 5839
provides a full refund within thirty days to a purchaser who 5840
returns the merchandise or if the person solicits the sale on 5841
behalf of a membership club operating in compliance with 5842
regulations adopted by the federal trade commission in 16 C.F.R. 5843
425; 5844

(9) A supervised financial institution or its subsidiary. 5845
As used in division (B) (9) of this section, "supervised 5846
financial institution" means a bank, trust company, savings and 5847
loan association, savings bank, credit union, industrial loan 5848
company, consumer finance lender, commercial finance lender, or 5849
institution described in section 2(c) (2) (F) of the "Bank Holding 5850
Company Act of 1956," 12 U.S.C.A. 1841(c) (2) (F), as amended, 5851
supervised by an official or agency of the United States, this 5852
state, or any other state of the United States; or a licensee or 5853
registrant under sections 1321.01 to 1321.19, 1321.51 to 5854
1321.60, or 1321.71 to 1321.83, or Chapter 1322. of the Revised 5855
Code. 5856

(10) (a) An insurance company, association, or other 5857

organization that is licensed or authorized to conduct business 5858
in this state by the superintendent of insurance pursuant to 5859
Title XXXIX of the Revised Code or Chapter 1751. of the Revised 5860
Code, when soliciting within the scope of its license or 5861
authorization. 5862

(b) A licensed insurance broker, agent, or solicitor when 5863
soliciting within the scope of the person's license. As used in 5864
division (B) (10) (b) of this section, "licensed insurance broker, 5865
agent, or solicitor" means any person licensed as an insurance 5866
broker, agent, or solicitor by the superintendent of insurance 5867
pursuant to Title XXXIX of the Revised Code. 5868

(11) A person soliciting the sale of services provided by 5869
a cable television system operating under authority of a 5870
governmental franchise or permit; 5871

(12) A person soliciting a business-to-business sale under 5872
which any of the following conditions are met: 5873

(a) The telephone solicitor has been operating 5874
continuously for at least three years under the same business 5875
name under which it solicits purchasers, and at least fifty-one 5876
per cent of its gross dollar volume of sales consists of repeat 5877
sales to existing customersto whom it has made sales under the 5878
same business name. 5879

(b) The purchaser business intends to resell the goods 5880
purchased. 5881

(c) The purchaser business intends to use the goods or 5882
services purchased in a recycling, reuse, manufacturing, or 5883
remanufacturing process. 5884

(d) The telephone solicitor is a publisher of a periodical 5885
or of magazines distributed as controlled circulation 5886

publications as defined in division (CC) of section 5739.01 of 5887
the Revised Code and is soliciting sales of advertising, 5888
subscriptions, reprints, lists, information databases, 5889
conference participation or sponsorships, trade shows or media 5890
products related to the periodical or magazine, or other 5891
publishing services provided by the controlled circulation 5892
publication. 5893

(13) A person that, not less often than once each year, 5894
publishes and delivers to potential purchasers a catalog that 5895
complies with both of the following: 5896

(a) It includes all of the following: 5897

(i) The business address of the seller; 5898

(ii) A written description or illustration of each good or 5899
service offered for sale; 5900

(iii) A clear and conspicuous disclosure of the sale price 5901
of each good or service; shipping, handling, and other charges; 5902
and return policy. 5903

(b) One of the following applies: 5904

(i) The catalog includes at least twenty-four pages of 5905
written material and illustrations, is distributed in more than 5906
one state, and has an annual postage-paid mail circulation of 5907
not less than two hundred fifty thousand households; 5908

(ii) The catalog includes at least ten pages of written 5909
material or an equivalent amount of material in electronic form 5910
on the internet or an on-line computer service, the person does 5911
not solicit customers by telephone but solely receives telephone 5912
calls made in response to the catalog, and during the calls the 5913
person takes orders but does not engage in further solicitation 5914

of the purchaser. As used in division (B) (13) (b) (ii) of this 5915
section, "further solicitation" does not include providing the 5916
purchaser with information about, or attempting to sell, any 5917
other item in the catalog that prompted the purchaser's call or 5918
in a substantially similar catalog issued by the seller. 5919

(14) A political subdivision or instrumentality of the 5920
United States, this state, or any state of the United States; 5921

(15) A college or university or any other public or 5922
private institution of higher education in this state; 5923

(16) A public utility as defined in section 4905.02 of the 5924
Revised Code or a retail natural gas supplier as defined in 5925
section 4929.01 of the Revised Code, if the utility or supplier 5926
is subject to regulation by the public utilities commission, or 5927
the affiliate of the utility or supplier; 5928

(17) A person that solicits sales through a television 5929
program or advertisement that is presented in the same market 5930
area no fewer than twenty days per month or offers for sale no 5931
fewer than ten distinct items of goods or services; and offers 5932
to the purchaser an unconditional right to return any good or 5933
service purchased within a period of at least seven days and to 5934
receive a full refund within thirty days after the purchaser 5935
returns the good or cancels the service; 5936

(18) (a) A person that, for at least one year, has been 5937
operating a retail business under the same name as that used in 5938
connection with telephone solicitation and both of the following 5939
occur on a continuing basis: 5940

(i) The person either displays goods and offers them for 5941
retail sale at the person's business premises or offers services 5942
for sale and provides them at the person's business premises. 5943

(ii) At least fifty-one per cent of the person's gross 5944
dollar volume of retail sales involves purchases of goods or 5945
services at the person's business premises. 5946

(b) An affiliate of a person that meets the requirements 5947
in division (B)(18)(a) of this section if the affiliate meets 5948
all of the following requirements: 5949

(i) The affiliate has operated a retail business for a 5950
period of less than one year; 5951

(ii) The affiliate either displays goods and offers them 5952
for retail sale at the affiliate's business premises or offers 5953
services for sale and provides them at the affiliate's business 5954
premises; 5955

(iii) At least fifty-one per cent of the affiliate's gross 5956
dollar volume of retail sales involves purchases of goods or 5957
services at the affiliate's business premises. 5958

(c) A person that, for a period of less than one year, has 5959
been operating a retail business in this state under the same 5960
name as that used in connection with telephone solicitation, as 5961
long as all of the following requirements are met: 5962

(i) The person either displays goods and offers them for 5963
retail sale at the person's business premises or offers services 5964
for sale and provides them at the person's business premises; 5965

(ii) The goods or services that are the subject of 5966
telephone solicitation are sold at the person's business 5967
premises, and at least sixty-five per cent of the person's gross 5968
dollar volume of retail sales involves purchases of goods or 5969
services at the person's business premises; 5970

(iii) The person conducts all telephone solicitation 5971

activities according to sections 310.3, 310.4, and 310.5 of the 5972
telemarketing sales rule adopted by the federal trade commission 5973
in 16 C.F.R. part 310. 5974

(19) A person who performs telephone solicitation sales 5975
services on behalf of other persons and to whom one of the 5976
following applies: 5977

(a) The person has operated under the same ownership, 5978
control, and business name for at least five years, and the 5979
person receives at least seventy-five per cent of its gross 5980
revenues from written telephone solicitation contracts with 5981
persons who come within one of the exemptions in division (B) of 5982
this section. 5983

(b) The person is an affiliate of one or more exempt 5984
persons and makes telephone solicitations on behalf of only the 5985
exempt persons of which it is an affiliate. 5986

(c) The person makes telephone solicitations on behalf of 5987
only exempt persons, the person and each exempt person on whose 5988
behalf telephone solicitations are made have entered into a 5989
written contract that specifies the manner in which the 5990
telephone solicitations are to be conducted and that at a 5991
minimum requires compliance with the telemarketing sales rule 5992
adopted by the federal trade commission in 16 C.F.R. part 310, 5993
and the person conducts the telephone solicitations in the 5994
manner specified in the written contract. 5995

(d) The person performs telephone solicitation for 5996
religious or political purposes, a charitable organization, a 5997
fund-raising council, or a professional solicitor in compliance 5998
with the registration and reporting requirements of Chapter 5999
1716. of the Revised Code; and meets all of the following 6000

requirements: 6001

(i) The person has operated under the same ownership, 6002
control, and business name for at least five years, and the 6003
person receives at least fifty-one per cent of its gross 6004
revenues from written telephone solicitation contracts with 6005
persons who come within the exemption in division (B) (2) of this 6006
section; 6007

(ii) The person does not conduct a prize promotion or 6008
offer the sale of an investment opportunity; 6009

(iii) The person conducts all telephone solicitation 6010
activities according to sections 310.3, 310.4, and 310.5 of the 6011
telemarketing sales rules adopted by the federal trade 6012
commission in 16 C.F.R. part 310. 6013

(20) A person that is a licensed real estate salesperson 6014
or broker under Chapter 4735. of the Revised Code when 6015
soliciting within the scope of the person's license; 6016

(21) (a) Either of the following: 6017

(i) A publisher that solicits the sale of the publisher's 6018
periodical or magazine of general, paid circulation, or a person 6019
that solicits a sale of that nature on behalf of a publisher 6020
under a written agreement directly between the publisher and the 6021
person. 6022

(ii) A publisher that solicits the sale of the publisher's 6023
periodical or magazine of general, paid circulation, or a person 6024
that solicits a sale of that nature as authorized by a publisher 6025
under a written agreement directly with a publisher's 6026
clearinghouse provided the person is a resident of Ohio for more 6027
than three years and initiates all telephone solicitations from 6028
Ohio and the person conducts the solicitation and sale in 6029

compliance with 16 C.F.R. part 310, as adopted by the federal 6030
trade commission. 6031

(b) As used in division (B) (21) of this section, 6032
"periodical or magazine of general, paid circulation" excludes a 6033
periodical or magazine circulated only as part of a membership 6034
package or given as a free gift or prize from the publisher or 6035
person. 6036

(22) A person that solicits the sale of food, as defined 6037
in section 3715.01 of the Revised Code, or the sale of products 6038
of horticulture, as defined in section 5739.01 of the Revised 6039
Code, if the person does not intend the solicitation to result 6040
in, or the solicitation actually does not result in, a sale that 6041
costs the purchaser an amount greater than five hundred dollars. 6042

(23) A funeral director licensed pursuant to Chapter 4717. 6043
of the Revised Code when soliciting within the scope of that 6044
license, if both of the following apply: 6045

(a) The solicitation and sale are conducted in compliance 6046
with 16 C.F.R. part 453, as adopted by the federal trade 6047
commission, and with sections 1107.33 and 1345.21 to 1345.28 of 6048
the Revised Code; 6049

(b) The person provides to the purchaser of any preneed 6050
funeral contract a notice that clearly and conspicuously sets 6051
forth the cancellation rights specified in division (G) of 6052
section 1107.33 of the Revised Code, and retains a copy of the 6053
notice signed by the purchaser. 6054

(24) A person, or affiliate thereof, licensed to sell or 6055
issue Ohio instruments designated as travelers checks pursuant 6056
to sections 1315.01 to 1315.18 of the Revised Code. 6057

(25) A person that solicits sales from its previous 6058

purchasers and meets all of the following requirements: 6059

(a) The solicitation is made under the same business name 6060
that was previously used to sell goods or services to the 6061
purchaser; 6062

(b) The person has, for a period of not less than three 6063
years, operated a business under the same business name as that 6064
used in connection with telephone solicitation; 6065

(c) The person does not conduct a prize promotion or offer 6066
the sale of an investment opportunity; 6067

(d) The person conducts all telephone solicitation 6068
activities according to sections 310.3, 310.4, and 310.5 of the 6069
telemarketing sales rules adopted by the federal trade 6070
commission in 16 C.F.R. part 310; 6071

(e) Neither the person nor any of its principals has been 6072
convicted of, pleaded guilty to, or has entered a plea of no 6073
contest for a felony or a theft offense as defined in sections 6074
2901.02 and 2913.01 of the Revised Code or similar law of 6075
another state or of the United States; 6076

(f) Neither the person nor any of its principals has had 6077
entered against them an injunction or a final judgment or order, 6078
including an agreed judgment or order, an assurance of voluntary 6079
compliance, or any similar instrument, in any civil or 6080
administrative action involving engaging in a pattern of corrupt 6081
practices, fraud, theft, embezzlement, fraudulent conversion, or 6082
misappropriation of property; the use of any untrue, deceptive, 6083
or misleading representation; or the use of any unfair, 6084
unlawful, deceptive, or unconscionable trade act or practice. 6085

(26) An institution defined as a home health agency in 6086
section 3701.881 of the Revised Code, that conducts all 6087

telephone solicitation activities according to sections 310.3, 6088
310.4, and 310.5 of the telemarketing sales rules adopted by the 6089
federal trade commission in 16 C.F.R. part 310, and engages in 6090
telephone solicitation only within the scope of the 6091
institution's certification, accreditation, contract with the 6092
department of aging, or status as a home health agency; and that 6093
meets one of the following requirements: 6094

(a) The institution is certified as a provider of home 6095
health services under Title XVIII of the Social Security Act, 49 6096
Stat. 620, 42 U.S.C. 301, as amended; 6097

(b) The institution is accredited by either the joint 6098
commission on accreditation of health care organizations or the 6099
community health accreditation program; 6100

(c) The institution is providing PASSPORT services under 6101
the direction of the department of aging under sections 173.52 6102
to 173.523 of the Revised Code; 6103

(d) An affiliate of an institution that meets the 6104
requirements of division (B) (26) (a), (b), or (c) of this section 6105
when offering for sale substantially the same goods and services 6106
as those that are offered by the institution that meets the 6107
requirements of division (B) (26) (a), (b), or (c) of this 6108
section. 6109

(27) A person licensed by the department of health 6110
pursuant to section 3712.04 or 3712.041 of the Revised Code to 6111
provide a hospice care program or pediatric respite care program 6112
when conducting telephone solicitations within the scope of the 6113
person's license and according to sections 310.3, 310.4, and 6114
310.5 of the telemarketing sales rules adopted by the federal 6115
trade commission in 16 C.F.R. part 310. 6116

Sec. 4728.11. This chapter does not apply to any of the 6117
following: 6118

(A) Any purchase of an article that is made of or contains 6119
gold, silver, platinum, or other precious metals or jewels of 6120
any description if both the buyer and seller, or the respective 6121
agents, brokers, or other intermediaries of both the buyer and 6122
seller, deal in such articles or otherwise by their respective 6123
occupations, or by their respective avocations as collectors, 6124
speculators, or investors, hold themselves out as having 6125
knowledge or skill peculiar to such articles or the practices 6126
involved in their purchase or sale; 6127

(B) Licensees who obtain licenses under sections 1321.01 6128
to 1321.19 of the Revised Code ~~or~~, registrants who obtain 6129
certificates of registration under sections 1321.51 to 1321.60 6130
of the Revised Code, or persons registered as mortgage lenders 6131
under Chapter 1322. of the Revised Code; 6132

(C) National banks, state banks, credit unions, or savings 6133
and loan associations; 6134

(D) The holder of a salvage motor vehicle dealer's license 6135
under Chapter 4738. of the Revised Code who purchases or sells 6136
precious metal which, in its original form, is a motor vehicle 6137
component part, or a scrap metal processor subject to Chapter 6138
4737. of the Revised Code; 6139

(E) Any purchase of silverware or an article of jewelry 6140
made of or containing gold, silver, platinum, or other precious 6141
metals or jewels that is made by a person who complies with all 6142
of the following: 6143

(1) The person is engaged in the business of selling, at 6144
retail, articles of jewelry and silverware; 6145

- (2) The person holds a valid vendor's license issued under section 5739.17 of the Revised Code; 6146
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- (3) The person maintains a fixed place of business in this state at which the person regularly exhibits articles of jewelry and silverware that are for sale at retail; 6148
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- (4) The person establishes to the satisfaction of the superintendent of financial institutions or the chief or head of the local police department, upon their request, that the person's purchases of silverware and articles of jewelry that are made of or contain gold, silver, platinum, or other precious metals or jewels are incidental to the person's primary business as described in division (E) (1) of this section. Such purchases are "incidental" if: 6151
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- (a) In the case of a person who has been in business for less than one year, the average monthly value of the person's purchases of jewelry from the public represents less than twenty-five per cent of the person's total inventory of articles of jewelry held for sale at retail to the public, as computed under section 5711.15 of the Revised Code; 6159
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- (b) In the case of a person who has been in business for at least one year, the total value of the person's purchases of jewelry from the public represents less than twenty-five per cent of the person's total retail sales of articles of jewelry to the public during the immediately preceding year; 6165
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- (c) The purchases are of items described in division (F) of this section. 6170
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- (F) Any purchase of coins, hallmark bars, registered ingots, and other items as numismatic objects, and not for their content of precious metals. 6172
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(G) Any purchase made under the supervision of a probate court from the estate of a decedent as provided under section 2113.40 of the Revised Code. 6175
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(H) Except as specified in division (B) of section 4728.02 of the Revised Code, any person licensed under Chapter 4727. of the Revised Code. 6178
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Sec. 4735.05. (A) The Ohio real estate commission is a part of the department of commerce for administrative purposes. The director of commerce is ex officio the executive officer of the commission, or the director may designate any employee of the department as superintendent of real estate and professional licensing to act as executive officer of the commission. 6181
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The commission and the real estate appraiser board created pursuant to section 4763.02 of the Revised Code shall each submit to the director a list of three persons whom the commission and the board consider qualified to be superintendent within sixty days after the office of superintendent becomes vacant. The director shall appoint a superintendent from the lists submitted by the commission and the board, and the superintendent shall serve at the pleasure of the director. 6187
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(B) The superintendent, except as otherwise provided, shall do all of the following in regard to this chapter: 6195
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(1) Administer this chapter; 6197

(2) Issue all orders necessary to implement this chapter; 6198

(3) Investigate complaints concerning the violation of this chapter or the conduct of any licensee; 6199
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(4) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, 6201
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audits, and other inquiries as in the judgment of the 6203
superintendent are appropriate to enforce this chapter. The 6204
investigators or auditors have the right to review and audit the 6205
business records of licensees and continuing education course 6206
providers during normal business hours. 6207

(5) Appoint a hearing examiner for any proceeding 6208
involving disciplinary action under section 3123.47, 4735.052, 6209
or 4735.18 of the Revised Code; 6210

(6) Administer the real estate recovery fund. 6211

(C) The superintendent may do all of the following: 6212

(1) In connection with investigations and audits under 6213
division (B) of this section, subpoena witnesses as provided in 6214
section 4735.04 of the Revised Code; 6215

(2) Apply to the appropriate court to enjoin any violation 6216
of this chapter. Upon a showing by the superintendent that any 6217
person has violated or is about to violate any provision of this 6218
chapter, the court shall grant an injunction, restraining order, 6219
or other appropriate order. 6220

(3) Upon the death of a licensed broker or the revocation 6221
or suspension of the broker's license, if there is no other 6222
licensed broker within the business entity of the broker, 6223
appoint upon application by any interested party, or, in the 6224
case of a deceased broker, subject to the approval by the 6225
appropriate probate court, recommend the appointment of, an 6226
ancillary trustee who is qualified as determined by the 6227
superintendent to conclude the business transactions of the 6228
deceased, revoked, or suspended broker; 6229

(4) In conjunction with the enforcement of this chapter, 6230
when the superintendent of real estate has reasonable cause to 6231

believe that an applicant or licensee has committed a criminal 6232
offense, the superintendent of real estate may request the 6233
superintendent of the bureau of criminal identification and 6234
investigation to conduct a criminal records check of the 6235
applicant or licensee. The superintendent of the bureau of 6236
criminal identification and investigation shall obtain 6237
information from the federal bureau of investigation as part of 6238
the criminal records check of the applicant or licensee. The 6239
superintendent of real estate may assess the applicant or 6240
licensee a fee equal to the fee assessed for the criminal 6241
records check. 6242

(5) In conjunction with the enforcement of this chapter, 6243
issue advisory letters in lieu of initiating disciplinary action 6244
under section 4735.051 or 4735.052 of the Revised Code or 6245
issuing a citation under section 4735.16 or 4735.181 of the 6246
Revised Code. 6247

(D) All information that is obtained by investigators and 6248
auditors performing investigations or conducting inspections, 6249
audits, and other inquiries pursuant to division (B)(4) of this 6250
section, from licensees, complainants, or other persons, and all 6251
reports, documents, and other work products that arise from that 6252
information and that are prepared by the investigators, 6253
auditors, or other personnel of the department, shall be held in 6254
confidence by the superintendent, the investigators and 6255
auditors, and other personnel of the department. Notwithstanding 6256
division (D) of section 2317.023 of the Revised Code, all 6257
information obtained by investigators or auditors from an 6258
informal mediation meeting held pursuant to section 4735.051 of 6259
the Revised Code, including but not limited to the agreement to 6260
mediate and the accommodation agreement, shall be held in 6261
confidence by the superintendent, investigators, auditors, and 6262

other personnel of the department. 6263

(E) This section does not prevent the division of real 6264
estate and professional licensing from releasing information 6265
relating to licensees to the superintendent of financial 6266
institutions for purposes relating to the administration of 6267
~~sections 1322.01 to 1322.12~~ Chapter 1322. of the Revised Code, 6268
to the superintendent of insurance for purposes relating to the 6269
administration of Chapter 3953. of the Revised Code, to the 6270
attorney general, or to local law enforcement agencies and local 6271
prosecutors. Information released by the division pursuant to 6272
this section remains confidential. 6273

Sec. 4763.03. (A) In addition to any other duties imposed 6274
on the real estate appraiser board under this chapter, the board 6275
shall: 6276

(1) Adopt rules, in accordance with Chapter 119. of the 6277
Revised Code, in furtherance of this chapter, including, but not 6278
limited to, all of the following: 6279

(a) Defining, with respect to state-certified general real 6280
estate appraisers, state-certified residential real estate 6281
appraisers, and state-licensed residential real estate 6282
appraisers, the type of educational experience, appraisal 6283
experience, and other equivalent experience that satisfy the 6284
requirements of this chapter. The rules shall require that all 6285
appraisal experience performed after January 1, 1996, meet the 6286
uniform standards of professional practice established by the 6287
appraisal foundation. 6288

(b) Establishing the examination specifications for state- 6289
certified general real estate appraisers, state-certified 6290
residential real estate appraisers, and state-licensed 6291

residential real estate appraisers;	6292
(c) Relating to disciplinary proceedings conducted in accordance with section 4763.11 of the Revised Code, including rules governing the reinstatement of certificates, registrations, and licenses that have been suspended pursuant to those proceedings;	6293 6294 6295 6296 6297
(d) Identifying any additional information to be included on the forms specified in division (C) of section 4763.12 of the Revised Code, provided that the rules shall not require any less information than is required in that division;	6298 6299 6300 6301
(e) Establishing the fees set forth in section 4763.09 of the Revised Code;	6302 6303
(f) Establishing the amount of the assessment required by division (A)(2) of section 4763.05 of the Revised Code. The board annually shall determine the amount due from each applicant for an initial certificate, registration, and license in an amount that will maintain the real estate appraiser recovery fund at the level specified in division (A) of section 4763.16 of the Revised Code. The board may, if the fund falls below that amount, require current certificate holders, registrants, and licensees to pay an additional assessment.	6304 6305 6306 6307 6308 6309 6310 6311 6312
(g) Defining the educational requirements pursuant to division (C) of section 4763.05 of the Revised Code;	6313 6314
(h) Establishing a real estate appraiser assistant program for the registration of real estate appraiser assistants.	6315 6316
(2) Prescribe by rule the requirements for the examinations required by division (D) of section 4763.05 of the Revised Code;	6317 6318 6319

(3) Periodically review the standards for the development and reporting of appraisal reports provided in this chapter and adopt rules explaining and interpreting those standards;

(4) Hear appeals, pursuant to Chapter 119. of the Revised Code, from decisions and orders the superintendent of real estate issues pursuant to this chapter;

(5) Request the initiation by the superintendent of investigations of violations of this chapter or the rules adopted pursuant thereto, as the board determines appropriate;

(6) Determine the appropriate disciplinary actions to be taken against certificate holders, registrants, and licensees under this chapter as provided in section 4763.11 of the Revised Code.

(B) In addition to any other duties imposed on the superintendent of real estate under this chapter, the superintendent shall:

(1) Prescribe the form and content of all applications required by this chapter;

(2) Receive applications for certifications, registrations, and licenses and renewal thereof under this chapter and establish the procedures for processing, approving, and disapproving those applications;

(3) Retain records and all application materials submitted to the superintendent;

(4) Establish the time and place for conducting the examinations required by division (D) of section 4763.05 of the Revised Code;

(5) Issue certificates, registrations, and licenses and

maintain a register of the names and addresses of all persons 6348
issued a certificate, registration, or license under this 6349
chapter; 6350

(6) Perform any other functions and duties, including the 6351
employment of staff, necessary to administer this chapter; 6352

(7) Administer this chapter; 6353

(8) Issue all orders necessary to implement this chapter; 6354

(9) Investigate complaints, upon the superintendent's own 6355
motion or upon receipt of a complaint or upon a request of the 6356
board, concerning any violation of this chapter or the rules 6357
adopted pursuant thereto or the conduct of any person holding a 6358
certificate, registration, or license issued pursuant to this 6359
chapter; 6360

(10) Establish and maintain an investigation and audit 6361
section to investigate complaints and conduct inspections, 6362
audits, and other inquiries as in the judgment of the 6363
superintendent are appropriate to enforce this chapter. The 6364
investigators and auditors have the right to review and audit 6365
the business records of certificate holders, registrants, and 6366
licensees during normal business hours. The superintendent may 6367
utilize the investigators and auditors employed pursuant to 6368
division (B) (4) of section 4735.05 of the Revised Code or 6369
currently licensed certificate holders or licensees to assist in 6370
performing the duties of this division. 6371

(11) Appoint a referee or examiner for any proceeding 6372
involving the disciplinary action of a certificate holder, 6373
licensee, or registrant under section 4763.11 of the Revised 6374
Code; 6375

(12) Administer the real estate appraiser recovery fund; 6376

(13) Conduct the examinations required by division (D) of 6377
section 4763.05 of the Revised Code at least four times per 6378
year. 6379

(C) The superintendent may do all of the following: 6380

(1) In connection with investigations and audits under 6381
division (B) of this section, subpoena witnesses as provided in 6382
section 4763.04 of the Revised Code; 6383

(2) Apply to the appropriate court to enjoin any violation 6384
of this chapter. Upon a showing by the superintendent that any 6385
person has violated or is about to violate this chapter, the 6386
court shall grant an injunction, restraining order, or other 6387
appropriate relief, or any combination thereof. 6388

(D) All information that is obtained by investigators and 6389
auditors performing investigations or conducting inspections, 6390
audits, and other inquiries pursuant to division (B)(10) of this 6391
section, from certificate holders, registrants, licensees, 6392
complainants, or other persons, and all reports, documents, and 6393
other work products that arise from that information and that 6394
are prepared by the investigators, auditors, or other personnel 6395
of the department of commerce, shall be held in confidence by 6396
the superintendent, the investigators and auditors, and other 6397
personnel of the department. 6398

(E) This section does not prevent the division of real 6399
estate and professional licensing from releasing information 6400
relating to certificate holders, registrants, and licensees to 6401
the superintendent of financial institutions for purposes 6402
relating to the administration of ~~sections 1322.01 to 1322.12~~ 6403
Chapter 1322. of the Revised Code, to the superintendent of 6404
insurance for purposes relating to the administration of Chapter 6405

3953. of the Revised Code, to the attorney general, or to local 6406
law enforcement agencies and local prosecutors. Information 6407
released by the division pursuant to this section remains 6408
confidential. 6409

(F) Any rule the board adopts shall not exceed the 6410
requirements specified in federal law or regulations. 6411

Section 2. That existing sections 9.02, 109.572, 1181.21, 6412
1181.25, 1315.21, 1319.12, 1321.02, 1321.51, 1321.52, 1321.53, 6413
1321.54, 1321.55, 1321.551, 1321.57, 1321.58, 1321.59, 1321.60, 6414
1321.72, 1321.99, 1322.01, 1322.02, 1322.021, 1322.023, 6415
1322.024, 1322.025, 1322.03, 1322.031, 1322.04, 1322.041, 6416
1322.042, 1322.043, 1322.05, 1322.051, 1322.052, 1322.06, 6417
1322.061, 1322.065, 1322.07, 1322.072, 1322.073, 1322.074, 6418
1322.075, 1322.081, 1322.09, 1322.10, 1322.101, 1322.11, 6419
1322.12, 1322.99, 1329.71, 1335.02, 1345.01, 1349.27, 1349.43, 6420
1349.44, 1349.45, 1349.99, 2923.31, 4712.01, 4719.01, 4728.11, 6421
4735.05, and 4763.03 and sections 1321.521, 1321.522, 1321.531, 6422
1321.532, 1321.533, 1321.534, 1321.535, 1321.536, 1321.537, 6423
1321.538, 1321.552, 1321.592, 1321.593, 1321.594, 1322.022, 6424
1322.062, 1322.063, 1322.064, 1322.071, and 1322.08 of the 6425
Revised Code are hereby repealed. 6426

Section 3. (A) The Superintendent of Financial 6427
Institutions may take whatever actions the Superintendent 6428
considers necessary to ensure full compliance with this act. 6429

(B) Persons holding a valid mortgage lender certificate of 6430
registration or mortgage loan originator license issued under 6431
sections 1321.51 to 1321.60 of the Revised Code as of the 6432
effective date of this act and persons holding a valid mortgage 6433
broker certificate of registration or loan originator license 6434
issued under Chapter 1322. of the Revised Code as of the 6435

effective date of this act, shall not be required to be 6436
registered or licensed under section 1322.07 or 1322.20 of the 6437
Revised Code, as amended by this act, until the first renewal of 6438
that certificate of registration or license after that date. 6439

Section 4. The General Assembly, applying the principle 6440
stated in division (B) of section 1.52 of the Revised Code that 6441
amendments are to be harmonized if reasonably capable of 6442
simultaneous operation, finds that the following sections, 6443
presented in this act as composites of the sections as amended 6444
by the acts indicated, are the resulting versions of the 6445
sections in effect prior to the effective date of the sections 6446
as presented in this act: 6447

Section 109.572 of the Revised Code as amended by both 6448
Sub. H.B. 523 and Am. Sub. S.B. 227 of the 132nd General 6449
Assembly. 6450

Sections 1322.03 and 1322.031 of the Revised Code as 6451
amended by Am. Sub. H.B. 487 of the 129th General Assembly and 6452
Am. Sub. H.B. 483 of the 130th General Assembly. 6453

Section 2923.31 of the Revised Code as amended by both Am. 6454
Sub. H.B. 386 and Am. Sub. H.B. 262 of the 129th General 6455
Assembly. 6456