

As Introduced

**132nd General Assembly
Regular Session
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H. B. No. 489

Representative Dever

A BILL

To amend sections 1101.05, 1121.10, 1125.23, 1
1181.08, 1322.01, 1322.07, 1322.09, 1322.12, 2
1322.34, 1322.40, 1322.50, 1733.01, 1733.04, 3
1733.05, 1733.32, 2117.06, 5726.01, and 5726.04 4
and to enact sections 103.31, 1121.101, 1121.61, 5
1349.72, 1733.328, 1733.441, and 1733.53 of the 6
Revised Code to provide some regulatory and tax 7
relief to state banks and credit unions, to 8
provide for data analytics to be conducted on 9
publicly available information regarding banks, 10
credit unions, and consumer finance companies, 11
to modify when a creditor can file a claim 12
against an estate, to require registration of 13
mortgage loan servicers, and to require a 14
specified notice be given to a debtor for 15
certain debt collection. 16

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

Section 1. That sections 1101.05, 1121.10, 1125.23, 17
1181.08, 1322.01, 1322.07, 1322.09, 1322.12, 1322.34, 1322.40, 18
1322.50, 1733.01, 1733.04, 1733.05, 1733.32, 2117.06, 5726.01, 19
and 5726.04 be amended and sections 103.31, 1121.101, 1121.61, 20

1349.72, 1733.328, 1733.441, and 1733.53 of the Revised Code be 21
enacted to read as follows: 22

Sec. 103.31. (A) For the purpose of providing impartial, 23
accurate information to assist the general assembly in proposing 24
and evaluating legislation, the speaker of the house of 25
representatives or the president of the senate may, at any time, 26
request the director of the legislative service commission to 27
arrange for data analytics to be conducted on any publicly 28
available information regarding state banks, credit unions 29
organized under Chapter 1733. of the Revised Code, or entities 30
licensed or registered under Chapter 1321. or 1322. of the 31
Revised Code. 32

(B) The director may, in making the arrangement described 33
in division (A) of this section, retain economists, financial 34
analysts, and any other necessary professionals on a consulting 35
basis. 36

(C) As used in this section, "data analytics" means the 37
use of qualitative and quantitative techniques to examine data 38
to gain a better understanding of the data itself and the 39
organizations that produced it. 40

Sec. 1101.05. (A) Except as otherwise expressly provided, 41
the provisions of Chapters 1101. to 1127. of the Revised Code 42
and any rules adopted under those chapters: 43

~~(A)~~ (1) Are enforceable only by the superintendent of 44
financial institutions, the superintendent's designee, the 45
federal deposit insurance corporation, the federal reserve, or, 46
with respect to Chapter 1127. of the Revised Code, a prosecuting 47
attorney; and 48

~~(B)~~ (2) Do not create or provide a private right of action 49

or defense for or on behalf of any party other than the 50
superintendent or the superintendent's designee. 51

(B) Division (A) of this section does not apply with 52
respect to sections 1109.18 and 1109.20 of the Revised Code and 53
any rules adopted under those sections. 54

Sec. 1121.10. (A) ~~As~~ Except as otherwise provided in 55
section 1121.101 of the Revised Code, as often as the 56
superintendent of financial institutions considers necessary, 57
but at least once each twenty-four-month cycle, the 58
superintendent, or any deputy or examiner appointed by the 59
superintendent for that purpose, shall thoroughly examine the 60
records and affairs of each state bank. The examination shall 61
include a review of all of the following: 62

(1) Compliance with law; 63

(2) Safety and soundness; 64

(3) Other matters the superintendent determines. 65

(B) The superintendent may examine the records and affairs 66
of any of the following as the superintendent considers 67
necessary: 68

(1) Any party to a proposed reorganization for which the 69
superintendent's approval is required by section 1115.11 or 70
1115.14 of the Revised Code; 71

(2) Any bank, savings and loan association, or savings 72
bank proposing to convert to a bank doing business under 73
authority granted by the superintendent for which the 74
superintendent's approval is required by section 1115.02 of the 75
Revised Code; 76

(3) Any person proposing to acquire control of a state 77

bank for which the superintendent's approval is required by 78
section 1115.06 of the Revised Code, or who acquired control of 79
a state bank without the approval of the superintendent when 80
that approval was required by section 1115.06 of the Revised 81
Code, with respect to the state bank of which control is to be, 82
or was, acquired; 83

(4) Any bank proposing to establish or acquire a branch 84
for which the superintendent's approval is required by section 85
1117.02 of the Revised Code; 86

(5) Any foreign bank that maintains, or proposes to 87
establish, one or more offices in this state; 88

(6) Any trust company. 89

(C) The board of directors or holders of a majority of the 90
shares of a state bank or trust company may request the 91
superintendent conduct a special examination of the records and 92
affairs of the bank or trust company. The superintendent has 93
sole discretion over the scope and timing of a special 94
examination, and may impose restrictions and limitations on the 95
use of the results of a special examination in addition to the 96
restrictions and limitations otherwise imposed by law. The fee 97
for a special examination shall be paid by the bank or trust 98
company examined in accordance with section 1121.29 of the 99
Revised Code. 100

(D) The superintendent may conduct all aspects of an 101
examination concurrently or may divide the examination into 102
constituent parts and conduct them at various times. 103

(E) The superintendent shall preserve the report of each 104
examination, including related correspondence received and 105
copies of related correspondence sent, for ten years after the 106

examination date. 107

Sec. 1121.101. (A) Notwithstanding section 1121.10 of the 108
Revised Code, and subject to division (B) of this section, the 109
superintendent of financial institutions shall not conduct an 110
examination of a state bank more frequently than once every 111
twenty-four-month cycle, if the bank meets both of the following 112
conditions: 113

(1) It has assets of ten billion dollars or less. 114

(2) Under the uniform financial institutions rating 115
system, it maintains a composite rating of one. 116

(B) The superintendent may conduct more frequent 117
examinations if either of the following applies: 118

(1) The superintendent has reasonable cause to believe 119
that there is a risk of harm to the bank and the examination of 120
the bank is necessary to fully determine the risk to the bank or 121
to determine how best to address the risk. 122

(2) The superintendent participates with financial 123
institution regulatory authorities of other states or the United 124
States in a joint, concurrent, or coordinated examination. 125

(C) A bank's composite rating used for purposes of 126
division (A) (2) of this section is not a public record under 127
section 149.43 of the Revised Code. 128

Sec. 1121.61. (A) As used in this section, "bona fide 129
error" means an unintentional clerical, calculation, computer 130
malfunction or programming, or printing error. 131

(B) A state bank, trust company, or regulated person shall 132
not be held civilly liable in any action brought under Title XI 133
or under Chapter 1309., 1317., or 1345. of the Revised Code, and 134

shall not be subject to any sanction by the superintendent of 135
financial institutions, if all of the following conditions are 136
met: 137

(1) The bank, trust company, or person shows by a 138
preponderance of evidence that the compliance failure was not 139
intentional and resulted from a bona fide error notwithstanding 140
the maintenance of procedures reasonably adapted to avoid any 141
such error. 142

(2) Within sixty days after discovering the error, and 143
prior to the initiation of any action by the superintendent or 144
the receipt of written notice of the error from the consumer, 145
the bank, trust company, or person notifies the superintendent 146
and the consumer of the error and the manner in which the bank, 147
trust company, or person intends to make full restitution to the 148
consumer. 149

(3) The bank, trust company, or person promptly makes 150
reasonable restitution to the consumer. 151

(C) If, in the event of a compliance failure, the bank, 152
trust company, or regulated person does not meet the conditions 153
set forth in division (B) of this section, a consumer injured by 154
the error has a cause of action to recover damages. Such an 155
action may not, however, be maintained as a class action. 156

Sec. 1125.23. (A) The receiver shall promptly cause notice 157
of the claims procedure to be published, in print or in a 158
comparable electronic format, once a month for two consecutive 159
months in a local newspaper of general circulation and to be 160
mailed to each person whose name appears as a creditor upon the 161
books of the state bank, at the last address of record. 162

(B) (1) All parties having claims of any kind against the 163

bank, including prior judgments and claims of security, 164
preference, priority, and offset, shall present their claims 165
substantiated by legal proof to the receiver within one hundred 166
eighty days after the date of the first publication of notice of 167
the claims procedure or after actual receipt of notice of the 168
claims procedure, whichever occurs first. 169

(2) Within one hundred eighty days after receipt of a 170
claim, the receiver shall notify the claimant in writing whether 171
the claim has been allowed or disallowed. The receiver may 172
reject any claim in whole or in part, or may reject any claim of 173
security, preference, priority, or offset against the bank. Any 174
claimant whose claim has been rejected by the receiver shall 175
petition the court for a hearing on the claim within sixty days 176
after the date the notice was mailed or be forever barred from 177
asserting the rejected claim. 178

(C) Any claims filed after the claim period and 179
subsequently accepted by the receiver or allowed by the court, 180
shall be entitled to share in the distribution of assets only to 181
the extent of the undistributed assets in the hands of the 182
receiver on the date the claims are accepted or allowed. 183

Sec. 1181.08. (A) In addition to the specific authority 184
given the superintendent of financial institutions by other 185
provisions of the Revised Code, the superintendent may from time 186
to time adopt such rules as the superintendent considers 187
necessary or appropriate for the administration of the division 188
of financial institutions or to carry out any other duty of the 189
superintendent. 190

(B) The superintendent shall not adopt any rule that has a 191
retroactive effective date or apply any rule to conduct that 192
took place exclusively before the effective date of that rule. 193

Sec. 1322.01. As used in this chapter:	194
(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.	195 196 197 198 199 200 201
(B) "Advertising" means a commercial message in any medium that promotes, either directly or indirectly, a residential mortgage lending transaction.	202 203 204
(C) "Application" has the same meaning as in 12 C.F.R. 1026.2(a)(3).	205 206
(D) "Approved education course" means any course approved by the nationwide mortgage licensing system and registry.	207 208
(E) "Approved test provider" means any test provider approved by the nationwide mortgage licensing system and registry.	209 210 211
(F) "Borrower" means a person seeking a residential mortgage loan or an obligor on a residential mortgage loan.	212 213
(G) "Branch office" means a location at which a licensee conducts business other than a registrant's principal place of business, if at least one of the following applies to the location:	214 215 216 217
(1) The address of the location appears on business cards, stationery, or advertising used by the registrant;	218 219
(2) The registrant's name or advertising at the location suggests that mortgage transactions are made at the location;	220 221

(3) The location is held out to the public as a licensee's 222
place of business due to the actions of an employee or 223
independent contractor of the registrant; or 224

(4) The location within this state is controlled directly 225
or indirectly by the registrant. 226

(H) "Buyer" means an individual who is solicited to 227
purchase or who purchases the services of a mortgage loan 228
originator for purposes of obtaining a residential mortgage 229
loan. "Buyer" includes an individual whose mortgage loan is 230
serviced by a mortgage servicer. 231

(I) "Consumer reporting agency" has the same meaning as in 232
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 233
1681a, as amended. 234

(J) "Control" means the power, directly or indirectly, to 235
direct the management or policies of an entity, whether through 236
ownership of securities, by contract, or otherwise. A person is 237
presumed to control an entity if that person: 238

(1) Is a director, general partner, or executive officer 239
or is an individual that occupies a similar position or performs 240
a similar function; 241

(2) Directly or indirectly has the right to vote five per 242
cent or more of a class of a voting security or has the power to 243
sell or direct the sale of five per cent or more of a class of 244
voting securities; 245

(3) In the case of a limited liability company, is a 246
managing member; or 247

(4) In the case of a partnership, has the right to receive 248
upon dissolution or has contributed five per cent or more of the 249

capital.	250
(K) "Depository institution" has the same meaning as in	251
section 3 of the "Federal Deposit Insurance Act," 12 U.S.C.	252
1813(c), and also includes any credit union.	253
(L) "Dwelling" has the same meaning as in 15 U.S.C.	254
1602(w). "Dwelling" includes a single condominium unit,	255
cooperative unit, mobile home, and trailer, if it is used as a	256
residence, whether or not that structure is attached to real	257
property.	258
(M) "Employee" means an individual for whom a mortgage	259
broker or mortgage lender, in addition to providing a wage or	260
salary, pays social security and unemployment taxes, provides	261
workers' compensation coverage, and withholds local, state, and	262
federal income taxes. "Employee" also includes any individual	263
who acts as a mortgage loan originator or operations manager of	264
a registrant, but for whom the registrant is prevented by law	265
from making income tax withholdings.	266
(N) "Entity" means a business organization, including a	267
sole proprietorship.	268
(O) "Expungement" means a court-ordered process that	269
involves the destruction of documentation related to past	270
arrests and convictions.	271
(P) "Federal banking agency" means the board of governors	272
of the federal reserve system, the comptroller of the currency,	273
the national credit union administration, or the federal deposit	274
insurance corporation.	275
(Q) "Immediate family" means an individual's spouse,	276
child, stepchild, parent, stepparent, grandparent, grandchild,	277
brother, sister, parent-in-law, brother-in-law, or sister-in-	278

law.	279
(R) "Independent contractor" means an individual who	280
performs duties for another person and is not subject to that	281
person's supervision or control.	282
(S) "Individual" means a natural person.	283
(T) "Licensee" means any individual who has been issued a	284
mortgage loan originator license under this chapter.	285
(U) "Loan commitment" means a statement transmitted in	286
writing or electronically by a mortgage lender setting forth the	287
terms and conditions upon which the mortgage lender is willing	288
to make a particular residential mortgage loan to a particular	289
borrower.	290
(V) "Loan processor or underwriter" means an individual	291
who, with respect to the origination of a residential mortgage	292
loan, performs administrative or clerical tasks as an employee	293
at the direction of and subject to the supervision of a mortgage	294
lender or mortgage broker. For purposes of this division,	295
"origination of a residential mortgage loan" means all	296
activities related to a residential mortgage loan, from the	297
taking of a loan application through the completion of all	298
required loan closing documents and the funding of the loan.	299
(W) "Mortgage" means the consensual interest in real	300
property located in this state, including improvements to that	301
property, securing a debt evidence by a mortgage, trust	302
indenture, deed of trust, or other lien on real property.	303
(X) "Mortgage broker" means an entity that obtains,	304
attempts to obtain, or assists in obtaining a mortgage loan for	305
a borrower from a mortgage lender in return for consideration or	306
in anticipation of consideration. For purposes of this division,	307

"attempting to obtain or assisting in obtaining" a mortgage loan 308
includes referring a borrower to a mortgage lender, soliciting 309
or offering to solicit a mortgage loan on behalf of a borrower, 310
or negotiating or offering to negotiate the terms or conditions 311
of a mortgage loan with a mortgage lender on behalf of a 312
borrower. 313

(Y) "Mortgage lender" means an entity that consummates a 314
residential mortgage loan, advances funds, offers to advance 315
funds, or commits to advancing funds for a residential mortgage 316
loan applicant. 317

(Z) (1) "Mortgage loan originator" means an individual who 318
for compensation or gain, or in the expectation of compensation 319
or gain, does any of the following: 320

(a) Takes a residential mortgage loan application; 321

(b) Assists or offers to assist a buyer in obtaining or 322
applying to obtain a residential mortgage loan by, among other 323
things, advising on loan terms, including rates, fees, and other 324
costs; 325

(c) Offers or negotiates terms of a residential mortgage 326
loan; 327

(d) Issues or offers to issue a commitment for a 328
residential mortgage loan to a buyer. 329

(2) "Mortgage loan originator" does not include any of the 330
following: 331

(a) An individual who performs purely administrative or 332
clerical tasks on behalf of a mortgage loan originator; 333

(b) A person licensed under Chapter 4735. of the Revised 334
Code, or under the similar law of another state, who performs 335

only real estate brokerage activities permitted by that license, 336
provided the person is not compensated by a mortgage lender, 337
mortgage broker, mortgage loan originator, or by any agent 338
thereof; 339

(c) A person solely involved in extensions of credit 340
relating to timeshare plans, as that term is defined in 11 341
U.S.C. 101; 342

(d) An employee of a mortgage lender or mortgage broker 343
who acts solely as a loan processor or underwriter and who does 344
not represent to the public, through advertising or other means 345
of communicating, including the use of business cards, 346
stationery, brochures, signs, rate lists, or other promotional 347
items, that the employee can or will perform any of the 348
activities of a mortgage loan originator; 349

(e) A licensed attorney who negotiates the terms of a 350
residential mortgage loan on behalf of a client as an ancillary 351
matter to the attorney's representation of the client, unless 352
the attorney is compensated by a mortgage lender, a mortgage 353
broker, or another mortgage loan originator, or by any agent 354
thereof; 355

(f) Any person engaged in the retail sale of manufactured 356
homes, mobile homes, or industrialized units if, in connection 357
with financing those retail sales, the person only assists the 358
borrower by providing or transmitting the loan application and 359
does not do any of the following: 360

(i) Offer or negotiate the residential mortgage loan rates 361
or terms; 362

(ii) Provide any counseling with borrowers about 363
residential mortgage loan rates or terms; 364

(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;

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

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

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

(BB) "Nationwide mortgage licensing system and registry" means a licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators, or their

successor entities, for the licensing and registration of 395
persons providing non-depository financial services. 396

~~(BB)~~ (CC) "Nontraditional mortgage product" means any 397
mortgage product other than a thirty-year fixed rate mortgage. 398

~~(CC)~~ (DD) "Person" means an individual, sole 399
proprietorship, corporation, company, limited liability company, 400
partnership, limited liability partnership, trust, or 401
association. 402

~~(DD)~~ (EE) "Real estate brokerage activity" means any 403
activity that involves offering or providing real estate 404
brokerage services to the public, including all of the 405
following: 406

(1) Acting as a real estate salesperson or real estate 407
broker for a buyer, seller, lessor, or lessee of real property; 408

(2) Bringing together parties interested in the sale, 409
purchase, lease, rental, or exchange of real property; 410

(3) Negotiating, on behalf of any party, any portion of a 411
contract relating to the sale, purchase, lease, rental, or 412
exchange of real property, other than in connection with 413
providing financing for any such transaction; 414

(4) Engaging in any activity for which a person engaged in 415
that activity is required to be licensed as a real estate 416
salesperson or real estate broker under the law of this state; 417

(5) Offering to engage in any activity, or to act in any 418
capacity, described in division ~~(DD)~~ (EE) of this section. 419

~~(EE)~~ (FF) "Registered mortgage loan originator" means an 420
individual to whom both of the following apply: 421

(1) The individual is a mortgage loan originator and an 422
employee of a depository institution, a subsidiary that is owned 423
and controlled by a depository institution and regulated by a 424
federal banking agency, or an institution regulated by the farm 425
credit administration. 426

(2) The individual is registered with, and maintains a 427
unique identifier through, the nationwide mortgage licensing 428
system and registry. 429

~~(FF)~~(GG) "Registrant" means any person that has been 430
issued a certificate of registration under this chapter. 431

~~(GG)~~(HH) "Residential mortgage loan" means any loan that 432
meets both of the following requirements: 433

(1) It is primarily for personal, family, or household use 434
and is secured by a mortgage, deed of trust, or other equivalent 435
consensual security interest on a dwelling or on residential 436
real estate located in Ohio. 437

(2) It is provided and secured by a first lien holder 438
secured creditor or by a second lien holder secured creditor. 439

~~(HH)~~(II) "Residential real estate" means any real 440
property located in this state upon which is constructed a 441
dwelling or upon which a dwelling is intended to be built within 442
a two-year period, subject to 24 C.F.R. 3500.5(b)(4). For 443
purposes of this division, a borrower's intent to build a 444
dwelling within a two-year period is presumed unless the 445
borrower has submitted a written, signed statement to the 446
contrary. 447

~~(II)~~(JJ) "Superintendent of financial institutions" 448
includes the deputy superintendent for consumer finance as 449
provided in section 1181.21 of the Revised Code. 450

~~(JJ)~~-(KK) "Unique identifier" means a number or other 451
identifier assigned by protocols established by the nationwide 452
mortgage licensing system and registry. 453

Sec. 1322.07. (A) No person, on the person's own behalf or 454
on behalf of any other person, shall act as a mortgage lender, 455
mortgage servicer, or mortgage broker without first having 456
obtained a certificate of registration from the superintendent 457
of financial institutions for the principal office and every 458
branch office to be maintained by the person for the transaction 459
of business as a mortgage lender, mortgage servicer, or mortgage 460
broker in this state. A registrant shall maintain an office 461
location for the transaction of business as a mortgage lender, 462
mortgage servicer, or mortgage broker in this state. 463

(B) (1) No individual shall act as a mortgage loan 464
originator without first having obtained a license from the 465
superintendent. A mortgage loan originator shall be employed by 466
or associated with a mortgage lender, mortgage broker, or entity 467
holding a valid letter of exemption under division (B) (1) of 468
section 1322.05 of the Revised Code, but shall not be employed 469
by or associated with more than one registrant or entity holding 470
a valid letter of exemption under division (B) (1) of section 471
1322.05 of the Revised Code at any one time. 472

(2) An individual acting under the individual's authority 473
as a registered mortgage loan originator shall not be required 474
to be licensed under division (B) (1) of this section. 475

(3) An individual who holds a valid temporary mortgage 476
loan originator license issued pursuant to section 1322.24 of 477
the Revised Code may engage in the business of a mortgage loan 478
originator in accordance with this chapter during the term of 479
the temporary license. 480

Sec. 1322.09. (A) An application for a certificate of 481
registration shall be in writing, under oath, and in a form 482
prescribed by the superintendent of financial institutions that 483
complies with the requirements of the nationwide mortgage 484
licensing system and registry. The application shall be 485
accompanied by a nonrefundable application fee of five hundred 486
dollars for each location of an office to be maintained by the 487
applicant in accordance with division (A) of section 1322.07 of 488
the Revised Code and any additional fee required by the 489
nationwide mortgage licensing system and registry. 490

(B) Upon the filing of the application and payment of the 491
nonrefundable application fee and any fee required by the 492
nationwide mortgage licensing system and registry, the 493
superintendent shall investigate the applicant and any 494
individual whose identity is required to be disclosed in the 495
application. As part of that investigation, the superintendent 496
shall conduct a civil records check. 497

If, in order to issue a certificate of registration to an 498
applicant, additional investigation by the superintendent 499
outside this state is necessary, the superintendent may require 500
the applicant to advance sufficient funds to pay the actual 501
expenses of the investigation, if it appears that these expenses 502
will exceed five hundred dollars. The superintendent shall 503
provide the applicant with an itemized statement of the actual 504
expenses that the applicant is required to pay. 505

(C) In connection with applying for a certificate of 506
registration, the applicant shall furnish to the nationwide 507
mortgage licensing system and registry information concerning 508
the applicant's identity, including all of the following: 509

(1) The applicant's fingerprints for submission to the 510

federal bureau of investigation, and any other governmental 511
agency or entity authorized to receive such information, for 512
purposes of a state, national, and international criminal 513
history background check; 514

(2) Personal history and experience in a form prescribed 515
by the nationwide mortgage licensing system and registry, along 516
with authorization for the superintendent and the nationwide 517
mortgage licensing system and registry to obtain both of the 518
following: 519

(a) An independent credit report from a consumer reporting 520
agency; 521

(b) Information related to any administrative, civil, or 522
criminal findings by any governmental jurisdiction. 523

(D) The superintendent shall pay all funds advanced and 524
application and renewal fees and penalties the superintendent 525
receives pursuant to this section and section 1322.10 of the 526
Revised Code to the treasurer of state to the credit of the 527
consumer finance fund created in section 1321.21 of the Revised 528
Code. 529

(E) If an application for a certificate of registration 530
does not contain all of the information required under this 531
section, and if that information is not submitted to the 532
superintendent or to the nationwide mortgage licensing system 533
and registry within ninety days after the superintendent or the 534
nationwide mortgage licensing system and registry requests the 535
information in writing, including by electronic transmission or 536
facsimile, the superintendent may consider the application 537
withdrawn. 538

(F) A certificate of registration and the authority 539

granted under that certificate is not transferable or assignable 540
and cannot be franchised by contract or any other means. 541

(G) (1) The superintendent may establish relationships or 542
enter into contracts with the nationwide mortgage licensing 543
system and registry, or any entities designated by it, to 544
collect and maintain records and process transaction fees or 545
other fees related to mortgage lender, mortgage servicer, or 546
mortgage broker certificates of registration or the persons 547
associated with a mortgage lender, mortgage servicer, or 548
mortgage broker. 549

(2) For purposes of this section and to reduce the points 550
of contact that the federal bureau of investigation may have to 551
maintain, the division of financial institutions may use the 552
nationwide mortgage licensing system and registry as a 553
channeling agent for requesting information from and 554
distributing information to the United States department of 555
justice or other governmental agencies. 556

(3) For purposes of this section and to reduce the points 557
of contact that the division may have to maintain, the division 558
may use the nationwide mortgage licensing system and registry as 559
a channeling agent for requesting information from and 560
distributing information to any source as determined by the 561
division. 562

Sec. 1322.12. Each registrant or entity holding a valid 563
letter of exemption under division (B) (1) of section 1322.05 of 564
the Revised Code shall designate an employee or owner of that 565
registrant's business as the operations manager. The operations 566
manager shall be responsible for the management, supervision, 567
and control of a particular location. 568

To be eligible for such a designation, an employee or 569
owner shall have at least three years of experience as a 570
mortgage loan originator or registered mortgage loan originator. 571
While acting as the operations manager, the employee or owner 572
shall be licensed as a mortgage loan originator under this 573
chapter and shall not be employed by any other mortgage lender 574
or mortgage broker. This paragraph shall not apply to the 575
designated operations manager of an entity registered 576
exclusively as a mortgage servicer. 577

Sec. 1322.34. (A) As often as the superintendent of 578
financial institutions considers it necessary, the 579
superintendent may examine the registrant's or licensee's 580
records, including all records created or processed by a 581
licensee, pertaining to business transacted pursuant to this 582
chapter. 583

(B) A registrant or licensee shall maintain records 584
pertaining to business transacted pursuant to this chapter for 585
four years. For purposes of this division, "registrant or 586
licensee" includes any person whose certificate of registration 587
or license is cancelled, surrendered, or revoked or who 588
otherwise ceases to engage in business as a mortgage lender, 589
mortgage servicer, mortgage broker, or mortgage loan originator. 590

No registrant or licensee shall fail to comply with this 591
division. 592

(C) Each registrant, licensee, and entity holding a valid 593
letter of exemption under division (B) (1) of section 1322.05 of 594
the Revised Code shall submit to the nationwide mortgage 595
licensing system and registry call reports or other reports of 596
condition, which reports shall be in such form and shall contain 597
such information as the nationwide mortgage licensing system and 598

registry may require. Each registrant and entity holding a valid 599
letter of exemption under division (B) (1) of section 1322.05 of 600
the Revised Code shall ensure that all residential mortgage 601
loans that are consummated as a result of a mortgage loan 602
originator's loan origination activities are included in the 603
report of condition submitted to the nationwide mortgage 604
licensing system and registry. 605

(D) Any document or record that is required to be signed 606
and that is filed in this state as an electronic record through 607
the nationwide mortgage licensing system and registry, and any 608
other electronic record filed through the nationwide mortgage 609
licensing system and registry, shall be considered a valid 610
original document upon reproduction to paper form by the 611
division of financial institutions. 612

Sec. 1322.40. No registrant, licensee, or person required 613
to be registered or licensed under this chapter, or individual 614
disclosed in an application as required by this chapter, shall 615
do any of the following: 616

(A) Obtain a certificate of registration or mortgage loan 617
originator license through any false or fraudulent 618
representation of a material fact or any omission of a material 619
fact required by state law, or make any substantial 620
misrepresentation in any registration or license application; 621

(B) Make false or misleading statements of a material 622
fact, omissions of statements required by state or federal law, 623
or false promises regarding a material fact, through advertising 624
or other means, or engage in a continued course of 625
misrepresentations; 626

(C) Engage in conduct that constitutes improper, 627

fraudulent, or dishonest dealings;	628
(D) Fail to notify the division of financial institutions within thirty days after any of the following:	629 630
(1) Being convicted of or pleading guilty or nolo contendere to a felony in a domestic, foreign, or military court;	631 632 633
(2) Being convicted of or pleading guilty or nolo contendere to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, breach of trust, dishonesty, or drug trafficking, or any criminal offense involving money or securities, in a domestic, foreign, or military court;	634 635 636 637 638 639
(3) Having a mortgage lender, <u>mortgage servicer</u> , or mortgage broker certificate of registration or mortgage loan originator license, or any comparable authority, revoked in any governmental jurisdiction.	640 641 642 643
(E) Knowingly make, propose, or solicit fraudulent, false, or misleading statements on any mortgage loan document or on any document related to a mortgage loan, including a mortgage application, real estate appraisal, or real estate settlement or closing document. For purposes of this division, "fraudulent, false, or misleading statements" does not include mathematical errors, inadvertent transposition of numbers, typographical errors, or any other bona fide error.	644 645 646 647 648 649 650 651
(F) Knowingly instruct, solicit, propose, or otherwise cause a buyer to sign in blank a mortgage related document;	652 653
(G) Knowingly compensate, instruct, induce, coerce, or intimidate, or attempt to compensate, instruct, induce, coerce, or intimidate, a person licensed or certified under Chapter	654 655 656

4763. of the Revised Code for the purpose of corrupting or 657
improperly influencing the independent judgment of the person 658
with respect to the value of the dwelling offered as security 659
for repayment of a mortgage loan; 660

(H) Promise to refinance a loan in the future at a lower 661
interest rate or with more favorable terms, unless the promise 662
is set forth in writing and is initialed by the buyer; 663

(I) Engage in any unfair, deceptive, or unconscionable act 664
or practice prohibited under sections 1345.01 to 1345.13 of the 665
Revised Code. 666

Sec. 1322.50. (A) After notice and opportunity for a 667
hearing conducted in accordance with Chapter 119. of the Revised 668
Code, the superintendent of financial institutions may do the 669
following: 670

(1) Suspend, revoke, or refuse to issue or renew a 671
certificate of registration or license if the superintendent 672
finds any of the following: 673

(a) A violation of or failure to comply with any provision 674
of this chapter or the rules adopted under this chapter, federal 675
lending law, or any other law applicable to the business 676
conducted under a certificate of registration or license; 677

(b) A conviction of or guilty or nolo contendere plea to a 678
felony in a domestic, foreign, or military court; 679

(c) A conviction of or guilty or nolo contendere plea to 680
any criminal offense involving theft, receiving stolen property, 681
embezzlement, forgery, fraud, passing bad checks, money 682
laundering, breach of trust, dishonesty, or drug trafficking, or 683
any criminal offense involving money or securities, in a 684
domestic, foreign, or military court; 685

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

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

(a) The seriousness of the violation;

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

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

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

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

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

(1) The superintendent may make application to the court of common pleas for an order enjoining any violation and, upon a

showing by the superintendent that a person has committed or is 714
about to commit that violation, the court shall grant an 715
injunction, restraining order, or other appropriate relief. 716

(2) The superintendent may make application to the court 717
of common pleas for an order enjoining any person from acting as 718
a mortgage lender, mortgage servicer, mortgage broker, 719
registrant, mortgage loan originator, or licensee in violation 720
of division (A) or (B) of section 1322.07 of the Revised Code, 721
and may seek and obtain civil penalties for unregistered or 722
unlicensed conduct of not more than five thousand dollars per 723
violation. 724

(C) In conducting any investigation pursuant to this 725
section, the superintendent may compel, by subpoena, witnesses 726
to testify in relation to any matter over which the 727
superintendent has jurisdiction and may require the production 728
of any book, record, or other document pertaining to that 729
matter. If a person fails to file any statement or report, obey 730
any subpoena, give testimony, produce any book, record, or other 731
document as required by a subpoena, or permit photocopying of 732
any book, record, or other document subpoenaed, the court of 733
common pleas of any county in this state, upon application made 734
to it by the superintendent, shall compel obedience by 735
attachment proceedings for contempt, as in the case of 736
disobedience of the requirements of a subpoena issued from the 737
court or a refusal to testify therein. 738

(D) If the superintendent determines that a person is 739
engaged in or is believed to be engaged in activities that may 740
constitute a violation of this chapter or any rule adopted 741
thereunder, the superintendent, after notice and a hearing 742
conducted in accordance with Chapter 119. of the Revised Code, 743

may issue a cease and desist order. If the administrative action 744
is to enjoin a person from acting as a mortgage lender, mortgage 745
servicer, mortgage broker, or mortgage loan originator in 746
violation of division (A) or (B) of section 1322.07 of the 747
Revised Code, the superintendent may seek and impose fines for 748
that conduct in an amount not to exceed five thousand dollars 749
per violation. Such an order shall be enforceable in the court 750
of common pleas. 751

(E) If the superintendent revokes a certificate of 752
registration or mortgage loan originator license, the revocation 753
shall be permanent and with prejudice. 754

(F) (1) To protect the public interest, the superintendent 755
may, without a prior hearing, do any of the following: 756

(a) Suspend the certificate of registration or mortgage 757
loan originator license of a registrant or licensee who is 758
convicted of or pleads guilty or nolo contendere to a criminal 759
violation of any provision of this chapter or any criminal 760
offense described in division (A) (1) (b) or (c) of this section; 761

(b) Suspend the certificate of registration of a 762
registrant who violates division (F) of section 1322.32 of the 763
Revised Code; 764

(c) Suspend the certificate of registration or mortgage 765
loan originator license of a registrant or licensee who fails to 766
comply with a request made by the superintendent under section 767
1322.09 or 1322.20 of the Revised Code to inspect qualifying 768
education transcripts located at the registrant's or licensee's 769
place of business. 770

(2) The superintendent may, in accordance with Chapter 771
119. of the Revised Code, subsequently revoke any registration 772

or license suspended under division (F) (1) of this section. 773

(G) The imposition of fines under this section does not 774
preclude any penalty imposed under section 1322.99 of the 775
Revised Code. 776

Sec. 1349.72. (A) Before a person collecting a debt 777
secured by residential real property collects or attempts to 778
collect any part of the debt, the person shall first send a 779
written notice as described in division (B) of this section via 780
United States mail to the residential address of the debtor, if 781
both of the following apply: 782

(1) The debt is a second mortgage or junior lien on the 783
debtor's residential real property. 784

(2) The debt is in default. 785

(B) The written notice shall be printed in at least 786
twelve-point type and state the following: 787

(1) The name and contact information of the person 788
collecting the debt; 789

(2) The amount of the debt; 790

(3) A statement that the debtor has a right to an 791
attorney; 792

(4) A statement that the debtor may qualify for debt 793
relief under Chapter 7 or 13 of the United States Bankruptcy 794
Code, 11 U.S.C. Chapter 7 or 13, as amended; 795

(5) A statement that a debtor that qualifies under Chapter 796
13 of the United States Bankruptcy Code may be able to protect 797
their residential real property from foreclosure. 798

(C) Upon written request of the debtor, the owner of the 799

debt shall provide a copy of the note and the loan history to 800
the debtor. 801

(D) (1) As used in this division, "bona fide error" means 802
an unintentional clerical, calculation, computer malfunction or 803
programming, or printing error. 804

(2) Any owner of debt subject to divisions (A), (B), and 805
(C) of this section shall not be held civilly liable in any 806
action, if all of the following are met: 807

(a) The owner of the debt shows by a preponderance of 808
evidence that the compliance failure was not intentional and 809
resulted from a bona fide error notwithstanding the maintenance 810
of procedures reasonably adapted to avoid any such error. 811

(b) Within sixty days after discovering the error, and 812
prior to the initiation of any action, the owner of the debt 813
notifies the debtor of the error and the manner in which the 814
owner of the debt intends to make full restitution to the 815
debtor. 816

(c) The owner of the debt promptly makes reasonable 817
restitution to the debtor. 818

(3) If, in the event of a compliance failure, the owner of 819
the debt does not meet the conditions set forth in division (D) 820
(2) of this section, a debtor injured by the error has a cause 821
of action to recover damages. Such an action shall not, however, 822
be maintained as a class action. 823

Sec. 1733.01. As used in this chapter, unless the context 824
otherwise requires: 825

(A) "Credit union" means a corporation organized and 826
qualified as such under this chapter. In addition to the powers 827

enumerated in this chapter and unless restricted in this 828
chapter, every credit union has the general powers conferred 829
upon corporations by Chapter 1701. of the Revised Code. A credit 830
union is a nonprofit cooperative financial institution and as 831
such is organized and operates for the mutual benefit and 832
general welfare of its members with the earnings, savings, 833
benefits, or services of the credit union being distributed to 834
its members as patron savers and borrowers and not to its 835
members as individuals. 836

(B) "Corporate credit union" means a credit union, 837
eligibility for membership in which is being a credit union 838
qualified to do business in this state. Such credit union shall 839
use the term "corporate" in its official name. 840

(C) "Foreign credit union" means a credit union formed 841
under the laws of another state which are substantially similar 842
to this chapter. 843

(D) "Member" means a person who is a member of a credit 844
union. 845

(E) "Association member" means any member of a credit 846
union other than a credit union or an individual member. 847

(F) "Voting member" means an association member or an 848
individual member who is qualified to vote as provided by law, 849
the articles, or the regulations. 850

(G) "Person" includes, without limitation, an individual, 851
a corporation, an unincorporated society or association, or any 852
other organization of individuals. 853

(H) "Articles" includes original articles of 854
incorporation, agreements of merger, amended articles, and 855
amendments to any of these. 856

(I) "Regulations" includes the code of regulations of a 857
credit union and any amendments thereto or an amended code of 858
regulations and any amendments thereto. 859

(J) Persons having a "common bond of association" include 860
those persons and their families. 861

~~(K) "Membership share" means a share of the credit union,~~ 862
~~the subscription to which shall be a prerequisite for membership~~ 863
~~in the credit union.~~ 864

~~(L)~~ "Share account" means an account established for a 865
member for which no share certificates are issued but which are 866
included in the registry of shares, which includes all 867
transactions of the credit union pertaining to such shares. 868

~~(M)~~ (L) "Undivided earnings" consist of all accumulated 869
net earnings and reserves required under division (B) of section 870
1733.31 of the Revised Code. 871

~~(N)~~ (M) "State" means the United States, any state, 872
territory, insular possession, or other political subdivision of 873
the United States, including the District of Columbia. 874

~~(O)~~ (N) An "emergency" exists when an emergency exists for 875
other corporations as the same is defined and described in 876
section 1701.01 of the Revised Code. 877

~~(P)~~ (O) "Superintendent of credit unions" means the 878
"division of financial institutions," ~~or~~ the "superintendent of 879
~~the division of financial institutions of this state,~~" or the 880
"deputy superintendent for credit unions"; and whenever the 881
context requires it, may be read as "director of commerce" ~~or as~~ 882
~~"chief of the division of financial institutions."~~ Whenever the 883
division or superintendent of credit unions is referred to or 884
designated in any statute, rule, contract, or other document, 885

the reference or designation shall be deemed to refer to the 886
division ~~or of financial institutions, the~~ superintendent of 887
financial institutions, or the deputy superintendent for credit 888
unions, as the case may be. 889

~~(Q)~~(P) "Outside auditor" means an accountant who is 890
licensed to practice as a certified public accountant or public 891
accountant by this state, and who is retained by a credit union 892
to audit its accounts, but who is not otherwise employed by the 893
credit union. 894

~~(R)~~(Q) "Regulated individual" means a director, committee 895
member, officer, or employee of a credit union. 896

~~(S)~~(R) "Financial institution regulatory authority" 897
includes a regulator of business activity in which a credit 898
union is engaged, or has applied to engage in, to the extent 899
that the regulator has jurisdiction over a credit union engaged 900
in that business activity. A credit union is engaged in a 901
business activity, and a regulator of that business activity has 902
jurisdiction over the credit union, whether the credit union 903
conducts the activity directly or a subsidiary or affiliate of 904
the credit union conducts the activity. 905

Sec. 1733.04. (A) In addition to the authority conferred 906
by section 1701.13 of the Revised Code, but subject to any 907
limitations contained in sections 1733.01 to 1733.45 of the 908
Revised Code, and its articles and regulations, a credit union 909
may do any of the following: 910

(1) Make loans as provided in section 1733.25 of the 911
Revised Code; 912

(2) Invest its money as provided in section 1733.30 of the 913
Revised Code; 914

(3) If authorized by the code of regulations, rebate to 915
the borrowing members a portion of the member's interest paid to 916
the credit union; 917

(4) If authorized by the regulations, charge a membership 918
or entrance fee not to exceed one dollar per member; 919

(5) Purchase group savings life insurance and group credit 920
life insurance; 921

(6) Make reasonable contributions to any nonprofit civic, 922
charitable, or service organizations; 923

(7) Act as trustee or custodian, for which reasonable 924
compensation may be received, under any written trust instrument 925
or custodial agreement created or organized in the United States 926
and forming part of a tax-advantaged savings plan that qualifies 927
for specific tax treatment under sections 223, 401(d), 408, 928
408A, and 530 of the Internal Revenue Code, 26 U.S.C. 223, 929
401(d), 408, 408A, and 530, as amended, for its members or 930
groups of its members, provided that the funds of such plans are 931
invested in share accounts or share certificate accounts of the 932
credit union. These services include, but are not limited to, 933
acting as a trustee or custodian for member retirement, 934
education, or health savings accounts. 935

(8) Participate in and pledge assets in connection with 936
the business linked deposit program under sections 135.77 to 937
135.774 of the Revised Code and the agricultural linked deposit 938
program under sections 135.71 to 135.76 of the Revised Code. 939

(B) The authority of a credit union shall be subject to 940
the following: 941

(1) A credit union may not borrow money in excess of 942
twenty-five per cent of its shares and undivided earnings, 943

without prior specific authorization by the superintendent of 944
credit unions. 945

(2) A credit union may not pay a commission or other 946
compensation to any person for securing members or for the sale 947
of its shares, except that reasonable incentives may be made 948
available directly to members or potential members to promote 949
thrift. 950

(3) A credit union, subject to the approval of the 951
superintendent, may have service facilities other than its home 952
office. 953

(4) Real estate may be acquired by lease, purchase, or 954
otherwise as necessary and to the extent required for use of the 955
credit union presently and in the future operation of its office 956
or headquarters, and in case of a purchase of real estate, the 957
superintendent must first be notified in writing prior to the 958
purchase of the real estate. ~~The superintendent shall notify the~~ 959
~~credit union not more than thirty days after receipt of the~~ 960
~~notification to purchase the real estate if the purchase is~~ 961
~~denied, approved, or modified. If the superintendent does not~~ 962
~~respond within thirty days after receipt of the notification to~~ 963
~~purchase the real estate, it shall be deemed approved.~~ Nothing 964
herein contained shall be deemed to prohibit a credit union from 965
taking title to real estate in connection with a default in the 966
payment of a loan, provided that title to such real estate shall 967
not be held by the credit union for more than two years without 968
the prior written approval of the superintendent. A credit union 969
also may lease space in any real estate it acquires in 970
accordance with rules adopted by the superintendent. 971

(C) (1) As used in division (C) of this section: 972

(a) "School" means an elementary or secondary school.	973
(b) "Student" means a child enrolled in a school.	974
(c) "Student branch" means the designation provided to the credit union for the in-school services and financial education offered to students.	975 976 977
(2) A credit union, upon agreement with a school board, in the case of a public school, or the governing authority, in the case of a nonpublic school, and with the permission of the superintendent, may open and maintain a student branch.	978 979 980 981
(3) Notwithstanding any other provision of this section, any student enrolled in the school maintaining a student branch who is not otherwise qualified for membership in the credit union maintaining the student branch is qualified to be a member of that student branch.	982 983 984 985 986
(4) The student's membership in the student branch expires upon the student's graduation from secondary school.	987 988
(5) The student branch is for the express use of students and may not be used by faculty, staff, or lineal ancestors or descendents of students.	989 990 991
(6) Faculty, staff, or lineal ancestors or descendents of students are not eligible for membership in the credit union maintaining the student branch unless otherwise qualified by this section to be members.	992 993 994 995
(7) The superintendent may adopt rules appropriate to the formation and operation of student branches.	996 997
(D) A credit union may guarantee the signature of a member in connection with a transaction involving tangible or intangible property in which a member has or seeks to acquire an	998 999 1000

interest. 1001

Sec. 1733.05. (A) Persons otherwise qualifying for 1002
membership in a credit union under this section, the articles, 1003
and the regulations, and who are elected to membership by the 1004
board of directors, shall become members of a credit union, 1005
provided that in lieu of electing persons to membership, the 1006
board of directors may elect or appoint one or more membership 1007
officers and delegate authority to any such membership officer 1008
to accept persons into membership. 1009

~~(B) No (1) A person shall qualified for membership may~~ 1010
become a member of a credit union ~~who has not subscribed to or~~ 1011
~~purchased at least one upon the occurrence of any of the~~ 1012
following: 1013

(a) The purchase of a membership share of such in the 1014
credit union as provided in the credit union's bylaws; 1015

(b) The payment of an entrance fee established from time 1016
to time by the board of directors of the credit union; 1017

(c) The purchase of one or more shares in the credit union 1018
as provided in the credit union's bylaws. 1019

(2) Each member is responsible for maintaining a current 1020
address with the credit union. 1021

(C) The membership of a credit union shall be limited to 1022
groups having a common bond of occupation or association or 1023
groups within a well-defined neighborhood, community, or rural 1024
district; however, except as otherwise provided in the articles 1025
or regulations, a person shall be deemed to retain affiliation 1026
with the credit union so long as ~~he~~ the person remains a member 1027
of the credit union even though no longer within the field of 1028
membership. 1029

(D) Unless otherwise provided in the articles of 1030
incorporation or the code of regulations, and subject to such 1031
conditions as the superintendent of credit unions may establish, 1032
groups composed of persons within the field of membership of a 1033
credit union may become members of such credit union. 1034

(1) Any credit union may, with the approval of the 1035
superintendent, pursuant to section 1733.33 of the Revised Code, 1036
amend its articles of incorporation and, if appropriate, its 1037
code of regulations, to permit select groups having a common 1038
bond of occupation or association or select groups within a 1039
well-defined neighborhood, community, or rural district, to 1040
become members of such credit union in accordance with rules 1041
adopted by the superintendent. 1042

(2) Before the select group is permitted membership in a 1043
credit union, the superintendent must approve, in writing, both 1044
the select group and the credit union. 1045

(E) With the approval of the superintendent, any select 1046
group, within a field of membership and described in division 1047
(D) (1) of this section, may disaffiliate from the credit union 1048
with which it is associated if a majority of the persons within 1049
the select group vote for disaffiliation. Any such proposed 1050
disaffiliation must be pursuant to a written plan approved by 1051
the superintendent. This plan shall be distributed to such 1052
persons in advance of the vote on the proposed disaffiliation, 1053
which plan must have due regard for the equitable division of 1054
assets and liabilities, including share accounts and loans of 1055
the select group seeking to disaffiliate, and any other 1056
consideration required by the superintendent. 1057

(F) Credit unions qualified to do business in this state 1058
have a common bond of association for the purpose of forming and 1059

operating a corporate credit union. 1060

(G) No interstate charter amendment, conversion, merger, 1061
or other expansion of a credit union field of membership shall 1062
be authorized without the approval of all supervisory 1063
authorities affected, whether state or federal, in accordance 1064
with rules adopted by the superintendent in terms of 1065
administrative control and authority, the location of the 1066
surviving credit union in the case of a merger, or the home 1067
office in the case of an expansion, is controlling. 1068

Sec. 1733.32. (A) (1) The superintendent of financial 1069
institutions shall see that the laws relating to credit unions 1070
are executed and enforced. 1071

(2) The deputy superintendent for credit unions shall be 1072
the principal supervisor of credit unions. In that position, the 1073
deputy superintendent for credit unions shall, notwithstanding 1074
division (A) (3) of this section, be responsible for conducting 1075
examinations and preparing examination reports under that 1076
division. In addition, the deputy superintendent for credit 1077
unions shall, notwithstanding sections 1733.191, 1733.41, 1078
1733.411, and 1733.412 of the Revised Code, have the authority 1079
to adopt rules in accordance with those sections, and, 1080
notwithstanding section 1733.05 of the Revised Code, shall have 1081
the authority to approve issues and matters pertaining to fields 1082
of membership. In performing or exercising any of the 1083
examination, rule-making, or other regulatory functions, powers, 1084
or duties vested by division (A) (2) of this section in the 1085
deputy superintendent for credit unions, the deputy 1086
superintendent for credit unions shall be subject to the control 1087
of the superintendent of financial institutions. 1088

(3) The superintendent of financial institutions shall 1089

develop and implement a system for evaluating the safety and 1090
soundness of credit unions and for determining when examinations 1091
and supervisory actions are necessary. ~~Credit~~ Except as 1092
otherwise provided in section 1733.328 of the Revised Code, 1093
credit unions shall be subject to periodic examinations, as 1094
specified in rules adopted by the superintendent, and their 1095
books, records, and accounts shall be open to the inspection of 1096
the superintendent at all times. For the purpose of such 1097
examination or inspection, the superintendent may subpoena 1098
witnesses, administer oaths, receive testimony, and order the 1099
submission of documents. 1100

(B) Every credit union shall prepare and submit, on forms 1101
provided by the superintendent, a financial report to the 1102
superintendent showing its assets and liabilities whenever 1103
requested to do so by the superintendent. Every financial report 1104
shall be verified by the oaths of the two principal officers in 1105
charge of the affairs of the credit union at the time of such 1106
verification and shall be submitted to the superintendent within 1107
thirty days after the superintendent requests the financial 1108
report. 1109

(C) An annual financial report of the affairs and business 1110
of the credit union, showing its condition as of the thirty- 1111
first day of December unless otherwise authorized by the 1112
superintendent, shall be filed with the superintendent not later 1113
than the date authorized in the rules adopted by the 1114
superintendent. 1115

(D) If a financial report or an annual financial report is 1116
not filed with the superintendent in accordance with division 1117
(B) or (C) of this section, the superintendent may do both of 1118
the following: 1119

(1) Assess a fine, determined by rule adopted by the 1120
superintendent, for each day the report is in arrears; 1121

(2) If the superintendent gives written notice to the 1122
president of the credit union of the superintendent's intention 1123
to do so, issue an order revoking the credit union's articles of 1124
incorporation and appointing a liquidating agent to liquidate 1125
the credit union in accordance with section 1733.37 of the 1126
Revised Code. 1127

(E)(1) Except as provided in division (E)(2) of this 1128
section, each credit union doing business in this state shall 1129
remit, semiannually and within fifteen days after billing, to 1130
the treasurer of state, a supervisory fee in an amount 1131
determined by the superintendent and confirmed by the credit 1132
union council. The supervisory fee described in division (E)(1) 1133
of this section shall be based on a percentage of the gross 1134
assets of the credit union as shown by its last annual financial 1135
report filed with the superintendent in accordance with division 1136
(C) of this section. The minimum supervisory fee shall be 1137
determined by the superintendent and confirmed by the credit 1138
union council. 1139

(2) Each corporate credit union doing business in this 1140
state shall remit, semiannually and within fifteen days after 1141
billing, to the treasurer of state, a supervisory fee determined 1142
by rule adopted by the superintendent and confirmed by the 1143
credit union council. The aggregate annual amount of the fee 1144
shall not exceed the annual operating fee that the national 1145
credit union administration charges a federally chartered credit 1146
union pursuant to the "Federal Credit Union Act," 84 Stat. 994 1147
(1970), 12 U.S.C.A. 1751. 1148

(3) The superintendent annually shall present to the 1149

credit union council for confirmation the supervisory fees to be 1150
billed credit unions and corporate credit unions pursuant to 1151
division (E) of this section. 1152

(4) If any supervisory fee is not remitted in accordance 1153
with division (E)(1) or (2) of this section, the superintendent 1154
may assess a fine, determined by rule adopted by the 1155
superintendent, for each day that each fee is in arrears. 1156

(5) (a) Subject to division (E) (5) (b) of this section, the 1157
total amount of each semiannual billing to all credit unions and 1158
corporate credit unions combined shall equal one-half of the 1159
appropriation made by the main operating appropriation act, 1160
including any modifications made by the controlling board, to 1161
the division of financial institutions for the regulation of 1162
credit unions for the fiscal year in which the billings occur, 1163
except that the superintendent, in determining the supervisory 1164
fees, may take into consideration any funds lapsed from the 1165
appropriation made in the previous fiscal year. 1166

(b) If during the period between the credit union 1167
council's confirmation of supervisory fees and when supervisory 1168
fees described in this section are collected, the credit union 1169
council determines additional money is required to adequately 1170
fund the operations of the division of financial institutions 1171
for that fiscal year, the credit union council may, by the 1172
affirmative vote of five of its members, increase the 1173
supervisory fees billed. The superintendent promptly shall 1174
notify each credit union and corporate credit union of the 1175
increased supervisory fees, and each credit union or corporate 1176
credit union shall pay the increased supervisory fees billed by 1177
the superintendent. 1178

(6) The fees or fines collected pursuant to this section 1179

shall be credited to the credit unions fund created in section 1180
1733.321 of the Revised Code. 1181

(F) A report of such examination shall be forwarded to the 1182
president of each credit union after the completion of the 1183
examination. The report may contain comments relative to the 1184
management of the affairs of the credit union and also as to the 1185
general condition of its assets. Within thirty days of the 1186
receipt of the report, a meeting of the directors shall be 1187
called to consider matters contained in the report, and the 1188
president shall notify the superintendent of any action taken at 1189
the meeting. 1190

(G) (1) The superintendent shall furnish reports of 1191
examinations or other appropriate information to any 1192
organization referred to in section 1733.041 of the Revised Code 1193
when requested by the organization and authorized by the credit 1194
union. The superintendent may charge a fee for such reports and 1195
other information as may be established by rules adopted by the 1196
superintendent. 1197

(2) A report of examination furnished pursuant to division 1198
(G) (1) of this section is the property of the division of credit 1199
unions and may be used by the examined credit union only in the 1200
conduct of its business. Under no circumstances may the credit 1201
union, its current or former directors, officers, employees, 1202
agents, shareholders, participants in the conduct of its 1203
affairs, or their agents disclose or make public, in any manner, 1204
a report of examination or its contents. 1205

(H) Except as provided in this division, information 1206
obtained by the superintendent of financial institutions and the 1207
superintendent's employees as a result of or arising out of the 1208
examination or independent audit of a credit union, from 1209

required reports, or because of their official position, shall 1210
be confidential. Such information may be disclosed only in 1211
connection with criminal proceedings or, subject to section 1212
1733.327 of the Revised Code, when it is necessary for the 1213
superintendent to take official action pursuant to Chapter 1733. 1214
of the Revised Code and the rules adopted thereunder regarding 1215
the affairs of the credit union examined. Such information may 1216
also be introduced into evidence or disclosed when and in the 1217
manner authorized in section 1181.25 of the Revised Code. This 1218
division does not prevent the superintendent from properly 1219
exchanging information relating to an examined credit union 1220
pursuant to division (F) or (G) of this section, with officials 1221
of properly authorized state or federal financial institution 1222
regulatory authorities, with any insurer recognized under 1223
section 1733.041, or with any surety recognized under section 1224
1733.23 of the Revised Code. This division also does not prevent 1225
the superintendent from disclosing information contained in the 1226
financial reports or annual financial reports described in 1227
division (B) or (C) of this section to recognized credit union 1228
trade associations, to share guarantee insurance organizations, 1229
to federal or state agencies, or to the general public. 1230
Financial reports and annual financial reports described in 1231
divisions (B) and (C) of this section, call reports, or 1232
financial statements required to be filed with the division of 1233
financial institutions are public records for purposes of 1234
section 149.43 of the Revised Code. Information relating to the 1235
examination or independent audit of a credit union, other than 1236
information that is permitted to be disclosed by this section or 1237
is a public record, is not a public record for purposes of 1238
section 149.43 of the Revised Code. 1239

Sec. 1733.328. (A) Notwithstanding section 1733.32 of the 1240

Revised Code, and subject to division (B) of this section, the 1241
superintendent of financial institutions shall not conduct an 1242
examination of a credit union more frequently than once every 1243
twenty-four-month cycle, if the credit union meets both of the 1244
following conditions: 1245

(1) It has assets of ten billion dollars or less. 1246

(2) Under the uniform financial institutions rating 1247
system, it maintains a composite rating of one. 1248

(B) The superintendent may conduct more frequent 1249
examinations if either of the following applies: 1250

(1) The superintendent has reasonable cause to believe 1251
that there is a risk of harm to the credit union and the 1252
examination of the credit union is necessary to fully determine 1253
the risk to the credit union or to determine how best to address 1254
the risk. 1255

(2) The superintendent participates with financial 1256
institution regulatory authorities of other states or the United 1257
States in a joint, concurrent, or coordinated examination. 1258

(C) A credit union's composite rating used for purposes of 1259
division (A) (2) of this section is not a public record under 1260
section 149.43 of the Revised Code. 1261

Sec. 1733.441. (A) Absent the express written permission 1262
of the credit union, no person shall use the name of a credit 1263
union in an advertisement, solicitation, promotional, or other 1264
material in a way that may mislead another person, or cause 1265
another person to be misled, into believing that the person 1266
issuing the advertisement, solicitation, promotional, or other 1267
material is associated or affiliated with the credit union. 1268

(B) (1) Whoever violates division (A) of this section shall 1269
be subject to a civil penalty of up to ten thousand dollars for 1270
each day the violation is committed, repeated, or continued. 1271

(2) A credit union injured by a violation of division (A) 1272
of this section may bring an action in law or equity for 1273
recovery of damages, a temporary restraining order, an 1274
injunction, or any other available remedy. 1275

Sec. 1733.53. (A) As used in this section, "bona fide 1276
error" means an unintentional clerical, calculation, computer 1277
malfunction or programming, or printing error. 1278

(B) A credit union or regulated individual shall not be 1279
held civilly liable in any action brought under this chapter or 1280
Chapter 1309., 1317., or 1345. of the Revised Code, and shall 1281
not be subject to any sanction by the superintendent of 1282
financial institutions, if all of the following conditions are 1283
met: 1284

(1) The credit union or individual shows by a 1285
preponderance of evidence that the compliance failure was not 1286
intentional and resulted from a bona fide error notwithstanding 1287
the maintenance of procedures reasonably adapted to avoid any 1288
such error. 1289

(2) Within sixty days after discovering the error, and 1290
prior to the initiation of any action by the superintendent or 1291
the receipt of written notice of the error from the member, the 1292
credit union or individual notifies the superintendent and the 1293
member of the error and the manner in which the credit union or 1294
individual intends to make full restitution to the member. 1295

(3) The credit union or individual promptly makes 1296
reasonable restitution to the member. 1297

(C) If, in the event of a compliance failure, the credit union or regulated individual does not meet the conditions set forth in division (B) of this section, a member injured by the error has a cause of action to recover damages. Such an action may not, however, be maintained as a class action.

Sec. 2117.06. (A) All creditors having claims against an estate, including claims arising out of contract, out of tort, on cognovit notes, or on judgments, whether due or not due, secured or unsecured, liquidated or unliquidated, shall present their claims in one of the following manners:

(1) After the appointment of an executor or administrator and prior to the filing of a final account or a certificate of termination, in one of the following manners:

(a) To the executor or administrator in a writing;

(b) To the executor or administrator in a writing, and to the probate court by filing a copy of the writing with it;

(c) In a writing that is sent by ordinary mail addressed to the decedent and that is actually received by the executor or administrator within the appropriate time specified in division (B) of this section. For purposes of this division, if an executor or administrator is not a natural person, the writing shall be considered as being actually received by the executor or administrator only if the person charged with the primary responsibility of administering the estate of the decedent actually receives the writing within the appropriate time specified in division (B) of this section.

(2) If the final account or certificate of termination has been filed, in a writing to those distributees of the decedent's estate who may share liability for the payment of the claim.

(B) (1) Except as provided in section 2117.061 of the Revised Code, all claims shall be presented within ~~six~~ the later of either of the following:

(a) Six months after the death of the decedent, whether or not the estate is released from administration or an executor or administrator is appointed during that six-month period;

(b) Six months after the decedent's estate is opened.

(2) Every claim presented shall set forth the claimant's address.

(C) Except as provided in section 2117.061 of the Revised Code, a claim that is not presented within the later of six months after the death of the decedent or six months after the opening of the decedent's estate shall be forever barred as to all parties, including, but not limited to, devisees, legatees, and distributees. No payment shall be made on the claim and no action shall be maintained on the claim, except as otherwise provided in sections 2117.37 to 2117.42 of the Revised Code with reference to contingent claims.

(D) In the absence of any prior demand for allowance, the executor or administrator shall allow or reject all claims, except tax assessment claims, within thirty days after their presentation, provided that failure of the executor or administrator to allow or reject within that time shall not prevent the executor or administrator from doing so after that time and shall not prejudice the rights of any claimant. Upon the allowance of a claim, the executor or the administrator, on demand of the creditor, shall furnish the creditor with a written statement or memorandum of the fact and date of the allowance.

(E) If the executor or administrator has actual knowledge 1356
of a pending action commenced against the decedent prior to the 1357
decedent's death in a court of record in this state, the 1358
executor or administrator shall file a notice of the appointment 1359
of the executor or administrator in the pending action within 1360
ten days after acquiring that knowledge. If the administrator or 1361
executor is not a natural person, actual knowledge of a pending 1362
suit against the decedent shall be limited to the actual 1363
knowledge of the person charged with the primary responsibility 1364
of administering the estate of the decedent. Failure to file the 1365
notice within the ten-day period does not extend the claim 1366
period established by this section. 1367

(F) This section applies to any person who is required to 1368
give written notice to the executor or administrator of a motion 1369
or application to revive an action pending against the decedent 1370
at the date of the death of the decedent. 1371

(G) Nothing in this section or in section 2117.07 of the 1372
Revised Code shall be construed to reduce the periods of 1373
limitation or periods prior to repose in section 2125.02 or 1374
Chapter 2305. of the Revised Code, provided that no portion of 1375
any recovery on a claim brought pursuant to that section or any 1376
section in that chapter shall come from the assets of an estate 1377
unless the claim has been presented against the estate in 1378
accordance with Chapter 2117. of the Revised Code. 1379

(H) Any person whose claim has been presented and has not 1380
been rejected after presentment is a creditor as that term is 1381
used in Chapters 2113. to 2125. of the Revised Code. Claims that 1382
are contingent need not be presented except as provided in 1383
sections 2117.37 to 2117.42 of the Revised Code, but, whether 1384
presented pursuant to those sections or this section, contingent 1385

claims may be presented in any of the manners described in 1386
division (A) of this section. 1387

(I) If a creditor presents a claim against an estate in 1388
accordance with division (A) (1) (b) of this section, the probate 1389
court shall not close the administration of the estate until 1390
that claim is allowed or rejected. 1391

(J) The probate court shall not require an executor or 1392
administrator to make and return into the court a schedule of 1393
claims against the estate. 1394

(K) If the executor or administrator makes a distribution 1395
of the assets of the estate pursuant to section 2113.53 of the 1396
Revised Code and prior to the expiration of the time for the 1397
presentation of claims as set forth in this section, the 1398
executor or administrator shall provide notice on the account 1399
delivered to each distributee that the distributee may be liable 1400
to the estate if a claim is presented prior to the filing of the 1401
final account and may be liable to the claimant if the claim is 1402
presented after the filing of the final account up to the value 1403
of the distribution and may be required to return all or any 1404
part of the value of the distribution if a valid claim is 1405
subsequently made against the estate within the time permitted 1406
under this section. 1407

Sec. 5726.01. As used in this chapter: 1408

(A) "Affiliated group" means a group of two or more 1409
persons with fifty per cent or greater of the value of each 1410
person's ownership interests owned or controlled directly, 1411
indirectly, or constructively through related interests by 1412
common owners during all or any portion of the taxable year, and 1413
the common owners. "Affiliated group" includes, but is not 1414

limited to, any person eligible to be included in a consolidated 1415
elected taxpayer group under section 5751.011 of the Revised 1416
Code or a combined taxpayer group under section 5751.012 of the 1417
Revised Code. 1418

(B) "Bank organization" means any of the following: 1419

(1) A national bank organized and operating as a national 1420
bank association pursuant to the "National Bank Act," 13 Stat. 1421
100 (1864), 12 U.S.C. 21, et seq.; 1422

(2) A federal savings association or federal savings bank 1423
chartered under 12 U.S.C. 1464; 1424

(3) A bank, banking association, trust company, savings 1425
and loan association, savings bank, or other banking institution 1426
that is organized or incorporated under the laws of the United 1427
States, any state, or a foreign country; 1428

(4) Any corporation organized and operating pursuant to 12 1429
U.S.C. 611, et seq.; 1430

(5) Any agency or branch of a foreign bank, as those terms 1431
are defined in 12 U.S.C. 3101. 1432

"Bank organization" does not include an institution 1433
organized under the "Federal Farm Loan Act," 39 Stat. 360 1434
(1916), or a successor of such an institution, a company 1435
chartered under the "Farm Credit Act of 1933," 48 Stat. 257, or 1436
a successor of such a company, an association formed pursuant to 1437
12 U.S.C. 2279c-1, an insurance company, or a credit union. 1438

(C) "Call report" means the consolidated reports of 1439
condition and income prescribed by the federal financial 1440
institutions examination council that a person is required to 1441
file with a federal regulatory agency pursuant to 12 U.S.C. 161, 1442

12 U.S.C. 324, or 12 U.S.C. 1817. 1443

(D) "Captive finance company" means a person that derived 1444
at least seventy-five per cent of its gross income for the 1445
current taxable year and the two taxable years preceding the 1446
current taxable year from one or more of the following 1447
transactions: 1448

(1) Financing transactions with members of its affiliated 1449
group; 1450

(2) Financing transactions with or for customers of 1451
products manufactured or sold by a member of its affiliated 1452
group; 1453

(3) Financing transactions with or for a distributor or 1454
franchisee that sells, leases, or services a product 1455
manufactured or sold by a member of the person's affiliated 1456
group; 1457

(4) Financing transactions with or for a supplier to a 1458
member of the person's affiliated group in connection with the 1459
member's manufacturing business; 1460

(5) Issuing bonds or other publicly traded debt 1461
instruments for the benefit of the affiliated group; 1462

(6) Short-term or long-term investments whereby the person 1463
invests the cash reserves of the affiliated group and the 1464
affiliated group utilizes the proceeds from the investments. 1465

For the purposes of division (D) of this section, 1466
"financing transaction" means making or selling loans, extending 1467
credit, leasing, earning or receiving subvention, including 1468
interest supplements and other support costs related thereto, or 1469
acquiring, selling, or servicing accounts receivable, notes, 1470

loans, leases, debt, or installment obligations that arise from 1471
the sale or lease of tangible personal property or the 1472
performance of services, and "gross income" has the same meaning 1473
as in section 61 of the Internal Revenue Code and includes 1474
income from transactions between the captive finance company and 1475
other members of its affiliated group. 1476

A person that has not been in continuous existence for the 1477
two taxable years preceding the current taxable year qualifies 1478
as a "captive finance company" for purposes of division (D) of 1479
this section if the person derived at least seventy-five per 1480
cent of its gross income for the period of its existence from 1481
one or more of the transactions described in divisions (D)(1) to 1482
(6) of this section. 1483

"Captive finance company" does not include a small dollar 1484
lender. 1485

(E) "Credit union" means a nonprofit cooperative financial 1486
institution organized or chartered under the laws of this state, 1487
any other state, or the United States. 1488

(F) "Diversified savings and loan holding company" has the 1489
same meaning as in 12 U.S.C. 1467a, as that section existed on 1490
January 1, 2012. 1491

(G) "Document of creation" means the articles of 1492
incorporation of a corporation, articles of organization of a 1493
limited liability company, registration of a foreign limited 1494
liability company, certificate of limited partnership, 1495
registration of a foreign limited partnership, registration of a 1496
domestic or foreign limited liability partnership, or 1497
registration of a trade name. 1498

(H) "Financial institution" means a bank organization, a 1499

holding company of a bank organization, or a nonbank financial 1500
organization, except when one of the following applies: 1501

(1) If two or more such entities are consolidated for the 1502
purposes of filing an FR Y-9, "financial institution" means a 1503
group consisting of all entities that are included in the FR Y- 1504
9. 1505

(2) If two or more such entities are consolidated for the 1506
purposes of filing a call report, "financial institution" means 1507
a group consisting of all entities that are included in the call 1508
report and that are not included in a group described in 1509
division (H) (1) of this section. 1510

(3) If a bank organization is owned directly by a 1511
grandfathered unitary savings and loan holding company or 1512
directly or indirectly by an entity that was a grandfathered 1513
unitary savings and loan holding company on January 1, 2012, 1514
"financial institution" means a group consisting only of that 1515
bank organization and the entities included in that bank 1516
organization's call report, notwithstanding division (H) (1) or 1517
(2) of this section. 1518

"Financial institution" does not include a diversified 1519
savings and loan holding company, a grandfathered unitary 1520
savings and loan holding company, any entity that was a 1521
grandfathered unitary savings and loan holding company on 1522
January 1, 2012, or any entity that is not a bank organization 1523
or owned by a bank organization and that is owned directly or 1524
indirectly by an entity that was a grandfathered unitary savings 1525
and loan holding company on January 1, 2012. 1526

(I) "FR Y-9" means the consolidated or parent-only 1527
financial statements that a holding company is required to file 1528

with the federal reserve board pursuant to 12 U.S.C. 1844. In 1529
the case of a holding company required to file both consolidated 1530
and parent-only financial statements, "FR Y-9" means the 1531
consolidated financial statements that the holding company is 1532
required to file. 1533

(J) "Grandfathered unitary savings and loan holding 1534
company" means an entity described in 12 U.S.C. 1467a(c)(9)(C), 1535
as that section existed on December 31, 1999. 1536

(K) "Gross receipts" means all items of income, without 1537
deduction for expenses. If the reporting person for a taxpayer 1538
is a holding company, "gross receipts" includes all items of 1539
income reported on the FR Y-9 filed by the holding company. If 1540
the reporting person for a taxpayer is a bank organization, 1541
"gross receipts" includes all items of income reported on the 1542
call report filed by the bank organization. If the reporting 1543
person for a taxpayer is a nonbank financial organization, 1544
"gross receipts" includes all items of income reported in 1545
accordance with generally accepted accounting principles. 1546

(L) "Insurance company" means every corporation, 1547
association, and society engaged in the business of insurance of 1548
any character, or engaged in the business of entering into 1549
contracts substantially amounting to insurance of any character, 1550
or of indemnifying or guaranteeing against loss or damage, or 1551
acting as surety on bonds or undertakings. "Insurance company" 1552
also includes any health insuring corporation as defined in 1553
section 1751.01 of the Revised Code. 1554

(M) (1) "Nonbank financial organization" means every person 1555
that is not a bank organization or a holding company of a bank 1556
organization and that engages in business primarily as a small 1557
dollar lender. "Nonbank financial organization" does not include 1558

an institution organized under the "Federal Farm Loan Act," 39 1559
Stat. 360 (1916), or a successor of such an institution, an 1560
insurance company, a captive finance company, a credit union, an 1561
institution organized and operated exclusively for charitable 1562
purposes within the meaning of section 501(c)(3) of the Internal 1563
Revenue Code, or a person that facilitates or services one or 1564
more securitizations for a bank organization, a holding company 1565
of a bank organization, a captive finance company, or any member 1566
of the person's affiliated group. 1567

(2) A person is engaged in business primarily as a small 1568
dollar lender if the person has, for the taxable year, gross 1569
income from the activities described in division (O) of this 1570
section that exceeds the person's gross income from all other 1571
activities. As used in division (M) of this section, "gross 1572
income" has the same meaning as in section 61 of the Internal 1573
Revenue Code, and income from transactions between the person 1574
and the other members of the affiliated group shall be 1575
eliminated, and any sales, exchanges, and other dispositions of 1576
commercial paper to persons outside the affiliated group 1577
produces gross income only to the extent the proceeds from such 1578
transactions exceed the affiliated group's basis in such 1579
commercial paper. 1580

(N) "Reporting person" means one of the following: 1581

(1) In the case of a financial institution described in 1582
division (H)(1) of this section, the top-tier holding company 1583
required to file an FR Y-9. 1584

(2) In the case of a financial institution described in 1585
division (H)(2) or (3) of this section, the bank organization 1586
required to file the call report. 1587

(3) In the case of a bank organization or nonbank financial organization that is not included in a group described in division (H) (1) or (2) of this section, the bank organization or nonbank financial organization.

(O) "Small dollar lender" means any person engaged primarily in the business of loaning money to individuals, provided that the loan amounts do not exceed five thousand dollars and the duration of the loans do not exceed twelve months. A "small dollar lender" does not include a bank organization, credit union, or captive finance company.

(P) "Tax year" means the calendar year for which the tax levied under section 5726.02 of the Revised Code is required to be paid.

(Q) "Taxable year" means the calendar year preceding the year in which an annual report is required to be filed under section 5726.03 of the Revised Code.

(R) "Taxpayer" means a financial institution subject to the tax levied under section 5726.02 of the Revised Code.

(S) "Total equity capital" means the sum of the common stock at par value, perpetual preferred stock and related surplus, other surplus not related to perpetual preferred stock, retained earnings, accumulated other comprehensive income, treasury stock, unearned employee stock ownership plan shares, and other equity components of a financial institution. "Total equity capital" shall not include any noncontrolling (minority) interests as reported on an FR Y-9 or call report, unless such interests are in a bank organization or a bank holding company.

(T) "Total Ohio equity capital" means the portion of the total equity capital of a financial institution apportioned to

Ohio pursuant to section 5726.05 of the Revised Code. 1617

(U) "Holding company" does not include a diversified 1618
savings and loan holding company, a grandfathered unitary 1619
savings and loan holding company, any entity that was a 1620
grandfathered unitary savings and loan holding company on 1621
January 1, 2012, or any entity that is not a bank organization 1622
or owned by a bank organization and that is owned directly or 1623
indirectly by an entity that was a grandfathered unitary savings 1624
and loan holding company on January 1, 2012. 1625

(V) "Securitization" means transferring one or more assets 1626
to one or more persons and subsequently issuing securities 1627
backed by the right to receive payment from the asset or assets 1628
so transferred. 1629

(W) "Total consolidated assets" means the sum of cash and 1630
balances due from depository institutions, securities that are 1631
held-to-maturity, available-for-sale, or purchased under 1632
agreements to resell, federal funds sold in domestic offices, 1633
loans and leases held for sale, loans and leases net of earned 1634
income and allowance for loan and lease losses, trading assets, 1635
premises and fixed assets including capitalized leases, other 1636
owned real estate, investments in unconsolidated subsidiaries 1637
and associated companies, direct and indirect investments in 1638
real estate ventures, goodwill and other intangible assets, 1639
accrued interest receivable on loans, leases, and debt 1640
securities, net deferred tax assets, interest-only strips 1641
receivable not in the form of a security on mortgage loans and 1642
other financial assets, equity securities that do not have 1643
readily determinable fair values, life insurance assets, and 1644
other assets that may be reported on an FR Y-9 or call report. 1645

(X) "Liabilities" means the sum of deposits in domestic 1646

offices, foreign offices, edge and agreement subsidiaries, and 1647
international banking facilities, federal funds purchased in 1648
domestic offices, securities sold under agreements to 1649
repurchase, trading liabilities, other borrowed money such as 1650
mortgage indebtedness and obligations under capitalized leases, 1651
subordinated notes and debentures, subordinated notes payable to 1652
unconsolidated trusts preferred securities, trust preferred 1653
securities issued by consolidated special purpose entities, net 1654
deferred tax liabilities, allowance for credit losses on off- 1655
balance-sheet credit exposures, and other liabilities that may 1656
be reported on an FR Y-9 or call report. 1657

(Y) "Net worth" means total consolidated assets minus 1658
liabilities. 1659

(Z) "Adjusted total Ohio equity capital" means the total 1660
Ohio equity capital of a qualified financial institution less 1661
the product obtained by multiplying (1) the amount by which the 1662
financial institution's total equity capital exceeds fourteen 1663
per cent of its net worth by (2) the Ohio apportionment ratio 1664
calculated for the financial institution under section 5726.05 1665
of the Revised Code. 1666

(AA) "Qualified financial institution" means a financial 1667
institution that, for the entire taxable year, maintains total 1668
equity capital in an amount exceeding fourteen per cent of its 1669
net worth. 1670

Sec. 5726.04. (A) The Except as provided in divisions (E) 1671
and (F) of this section, the tax levied on a financial 1672
institution under this chapter shall be the greater of the 1673
following: 1674

(1) A minimum tax equal to one thousand dollars; 1675

(2) The product of the total Ohio equity capital of the financial institution, as determined under this section, multiplied by eight mills for each dollar of the first two hundred million dollars of total Ohio equity capital, by four mills for each dollar of total Ohio equity capital greater than two hundred million and less than one billion three hundred million dollars, and by two and one-half mills for each dollar of total Ohio equity capital equal to or greater than one billion three hundred million dollars.

(B) If the reporting person for a financial institution files an FR Y-9 or call report, the total equity capital of the financial institution shall equal the total equity capital shown on the reporting person's FR Y-9 or call report as of the end of the taxable year. The total equity capital of all other financial institutions shall be reported as of the end of the taxable year in accordance with generally accepted accounting principles.

(C) For the purposes of this section, "total Ohio equity capital" means the product of the total equity capital of a financial institution as of the end of a taxable year multiplied by the Ohio apportionment ratio calculated for the financial institution under section 5726.05 of the Revised Code, except as provided in section 5726.041 of the Revised Code.

(D) All payments received from the tax levied under this chapter shall be credited to the general revenue fund.

(E) (1) As used in this division:

(a) "First target tax amount" means two hundred million dollars.

(b) "Second target tax amount" means one hundred six per

cent of the first target tax amount or, if applicable, the first 1705
target tax amount as adjusted under division (E) (2) or (3) of 1706
this section. 1707

(c) "Amount of taxes collected" means the amount of taxes 1708
received by the tax commissioner from the tax levied under this 1709
chapter for a tax year, plus the total amount of the tax credit 1710
authorized by section 5726.57 of the Revised Code claimed on tax 1711
year 2014 reports, less any amounts refunded to taxpayers for 1712
the same tax year. 1713

(2) If, for the tax year beginning on January 1, 2014, the 1714
total amount of taxes collected from all taxpayers under this 1715
chapter is greater than one hundred ten per cent of the first 1716
target tax amount, the tax commissioner shall decrease each tax 1717
rate provided in division (A) (2) of this section by a percentage 1718
equal to the percentage by which the amount of taxes collected 1719
exceeded the first target tax amount. 1720

(3) If, for the tax year beginning on January 1, 2014, the 1721
total amount of taxes collected from all taxpayers under this 1722
chapter is less than ninety per cent of the first target tax 1723
amount, the tax commissioner shall increase the tax rate for 1724
each dollar of total Ohio equity capital equal to or greater 1725
than one billion three hundred million dollars as provided in 1726
division (A) (2) of this section by a percentage equal to a 1727
fraction, the denominator of which is the aggregate sum of each 1728
dollar of each taxpayer's Ohio equity capital greater than or 1729
equal to one billion three hundred million dollars, as reported 1730
by each taxpayer for tax year 2014, multiplied by the tax rate 1731
for each dollar of total Ohio equity capital greater than or 1732
equal to one billion three hundred million dollars provided 1733
under division (A) (2) of this section, and the numerator of 1734

which is the sum of the denominator and the difference obtained 1735
by subtracting the amount of taxes collected under this chapter 1736
in tax year 2014 from ninety per cent of the first target tax 1737
amount. 1738

(4) If, for the tax year beginning on January 1, 2016, the 1739
total amount of taxes collected from all taxpayers under this 1740
chapter is greater than one hundred ten per cent of the second 1741
target tax amount, the tax commissioner shall decrease each tax 1742
rate in effect on January 1, 2016, by a percentage equal to the 1743
percentage by which the amount of taxes collected exceeded the 1744
second target tax amount. 1745

(5) If, for the tax year beginning on January 1, 2016, the 1746
total amount of taxes collected from all taxpayers under this 1747
chapter is less than ninety per cent of the second target tax 1748
amount, the tax commissioner shall increase the tax rate for 1749
each dollar of total Ohio equity capital equal to or greater 1750
than one billion three hundred million dollars as provided in 1751
division (A) (2) of this section by a percentage equal to a 1752
fraction, the denominator of which is the aggregate sum of each 1753
dollar of each taxpayer's Ohio equity capital greater than or 1754
equal to one billion three hundred million dollars, as reported 1755
by each taxpayer for tax year 2016, multiplied by the tax rate 1756
for each dollar of total Ohio equity capital greater than or 1757
equal to one billion three hundred million dollars provided 1758
under division (A) (2) of this section, and the numerator of 1759
which is the sum of the denominator and the difference obtained 1760
by subtracting the amount of taxes collected under this chapter 1761
in tax year 2016 from ninety per cent of the second target tax 1762
amount. 1763

(6) Tax rates adjusted pursuant to division (E) (2), (3), 1764

(4), or (5) of this section shall be rounded to the nearest one- 1765
tenth of one mill per dollar. The tax commissioner shall publish 1766
the new tax rates by journal entry and provide notice of the new 1767
tax rates to taxpayers. The new tax rates adjusted pursuant to 1768
division (E) (2) or (3) of this section shall apply to tax years 1769
beginning on or after January 1, 2015. The new tax rates 1770
adjusted pursuant to division (E) (4) or (5) of this section 1771
shall apply to tax years beginning on or after January 1, 2017. 1772

(F) For tax years beginning on or after January 1, 2019, 1773
in the case of a qualified financial institution, adjusted total 1774
Ohio equity capital shall be used in lieu of total Ohio equity 1775
capital in the computation prescribed by division (A) (2) of this 1776
section. 1777

Section 2. That existing sections 1101.05, 1121.10, 1778
1125.23, 1181.08, 1322.01, 1322.07, 1322.09, 1322.12, 1322.34, 1779
1322.40, 1322.50, 1733.01, 1733.04, 1733.05, 1733.32, 2117.06, 1780
5726.01, and 5726.04 of the Revised Code are hereby repealed. 1781

Section 3. This act shall be known as the "Ohio Financial 1782
Institutions Reform Act." 1783

Section 4. Sections 1321.51 to 1321.60 of the Revised 1784
Code, as amended or enacted by Sub. H.B. 199 of the 132nd 1785
General Assembly, shall be known as the "General Loan Law." 1786