

As Passed by the Senate

132nd General Assembly

Regular Session

2017-2018

Sub. H. B. No. 199

Representative Blessing

**Cosponsors: Representatives Seitz, Wiggam, Sprague, Brenner, Hughes, Dever,
Carfagna, Hambley, Miller, Patton, Schaffer, Scherer, Young**

**Senators Hottinger, Coley, Dolan, Eklund, Gardner, Hackett, Hoagland, Oelslager,
Terhar, Wilson**

A BILL

To amend sections 9.02, 109.572, 1181.21, 1181.25, 1
1315.21, 1319.12, 1321.02, 1321.51, 1321.52, 2
1321.53, 1321.54, 1321.55, 1321.551, 1321.57, 3
1321.58, 1321.59, 1321.60, 1321.631, 1321.72, 4
1321.99, 1322.01, 1322.02, 1322.021, 1322.023, 5
1322.024, 1322.025, 1322.03, 1322.031, 1322.04, 6
1322.041, 1322.042, 1322.043, 1322.05, 1322.051, 7
1322.052, 1322.06, 1322.061, 1322.065, 1322.07, 8
1322.072, 1322.073, 1322.074, 1322.075, 9
1322.081, 1322.09, 1322.10, 1322.11, 1322.12, 10
1322.99, 1329.71, 1335.02, 1345.01, 1349.27, 11
1349.43, 1349.44, 1349.45, 1349.99, 2923.31, 12
4712.01, 4719.01, 4728.11, 4735.05, and 4763.03; 13
to amend, for the purpose of adopting new 14
section numbers as indicated in parentheses, 15
sections 1322.02 (1322.07), 1322.021 (1322.16), 16
1322.023 (1322.05), 1322.024 (1322.02), 1322.025 17
(1322.55), 1322.03 (1322.09), 1322.031 18
(1322.20), 1322.04 (1322.10), 1322.041 19
(1322.21), 1322.042 (1322.24), 1322.043 20
(1322.25), 1322.05 (1322.32), 1322.051 21

(1322.27), 1322.052 (1322.28), 1322.06 22
(1322.34), 1322.061 (1322.36), 1322.065 23
(1322.17), 1322.07 (1322.40), 1322.072 24
(1322.35), 1322.073 (1322.15), 1322.074 25
(1322.41), 1322.075 (1322.42), 1322.081 26
(1322.45), 1322.09 (1322.46), 1322.10 (1322.50), 27
1322.101 (1322.51), 1322.11 (1322.52), and 28
1322.12 (1322.57); to enact new sections 1322.04 29
and 1322.12 and sections 1322.29, 1322.30, 30
1322.43, and 1322.56; and to repeal sections 31
1321.521, 1321.522, 1321.531, 1321.532, 32
1321.533, 1321.534, 1321.535, 1321.536, 33
1321.537, 1321.538, 1321.552, 1321.592, 34
1321.593, 1321.594, 1322.022, 1322.062, 35
1322.063, 1322.064, 1322.071, and 1322.08 of the 36
Revised Code to create the Ohio Residential 37
Mortgage Lending Act for the purpose of 38
regulating all non-depository lending secured by 39
residential real estate, to limit the 40
application of the current Mortgage Loan Law to 41
unsecured loans and loans secured by other than 42
residential real estate, and to modify an 43
exemption to the Ohio Consumer Installment Loan 44
Act. 45

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

Section 1. That sections 9.02, 109.572, 1181.21, 1181.25, 46
1315.21, 1319.12, 1321.02, 1321.51, 1321.52, 1321.53, 1321.54, 47
1321.55, 1321.551, 1321.57, 1321.58, 1321.59, 1321.60, 1321.631, 48

1321.72, 1321.99, 1322.01, 1322.02, 1322.021, 1322.023, 49
1322.024, 1322.025, 1322.03, 1322.031, 1322.04, 1322.041, 50
1322.042, 1322.043, 1322.05, 1322.051, 1322.052, 1322.06, 51
1322.061, 1322.065, 1322.07, 1322.072, 1322.073, 1322.074, 52
1322.075, 1322.081, 1322.09, 1322.10, 1322.11, 1322.12, 1322.99, 53
1329.71, 1335.02, 1345.01, 1349.27, 1349.43, 1349.44, 1349.45, 54
1349.99, 2923.31, 4712.01, 4719.01, 4728.11, 4735.05, and 55
4763.03 be amended; sections 1322.02 (1322.07), 1322.021 56
(1322.16), 1322.023 (1322.05), 1322.024 (1322.02), 1322.025 57
(1322.55), 1322.03 (1322.09), 1322.031 (1322.20), 1322.04 58
(1322.10), 1322.041 (1322.21), 1322.042 (1322.24), 1322.043 59
(1322.25), 1322.05 (1322.32), 1322.051 (1322.27), 1322.052 60
(1322.28), 1322.06 (1322.34), 1322.061 (1322.36), 1322.065 61
(1322.17), 1322.07 (1322.40), 1322.072 (1322.35), 1322.073 62
(1322.15), 1322.074 (1322.41), 1322.075 (1322.42), 1322.081 63
(1322.45), 1322.09 (1322.46), 1322.10 (1322.50), 1322.101 64
(1322.51), 1322.11 (1322.52), and 1322.12 (1322.57) be amended 65
for the purpose of adopting new section numbers as shown in 66
parentheses; and new sections 1322.04 and 1322.12 and sections 67
1322.29, 1322.30, 1322.43, and 1322.56 of the Revised Code be 68
enacted to read as follows: 69

Sec. 9.02. (A) As used in this section: 70

(1) "Customer" means any person or authorized 71
representative of that person who has maintained or is 72
maintaining an account or deposit of any type, or has utilized 73
or is utilizing any service of a financial institution, or for 74
whom a financial institution has acted or is acting as a 75
fiduciary in relation to an account or deposit maintained in the 76
person's name. 77

(2) "Governmental authority" includes the state, any 78

political subdivision, district, or court, and any agency, 79
department, officer, or authorized employee of any of those 80
entities. 81

(3) "Financial institution" means any bank, building and 82
loan association, trust company, credit union, licensee as 83
defined in section 1321.01, ~~or~~ registrant as defined in section 84
1321.51 of the Revised Code, or person registered as a mortgage 85
lender under Chapter 1322. of the Revised Code. 86

(4) "Financial record" means any record, including 87
statements or receipts, and checks, drafts, or similar 88
instruments, or information derived from such record, that is 89
maintained by a financial institution and that pertains to a 90
deposit or account of a customer, a service of the financial 91
institution utilized by a customer, or any other relationship 92
between a customer and the financial institution. 93

(5) "Supervisory review" means any examination of or other 94
supervisory action with respect to a financial institution, 95
where such examination or action is conducted or taken pursuant 96
to authority granted under the Revised Code, or rules 97
promulgated pursuant thereto by the agency having regulatory 98
jurisdiction over such institution. 99

(B) Any party, including a governmental authority, that 100
requires or requests a financial institution to assemble or 101
provide a customer's financial records in connection with any 102
investigation, action, or proceeding shall pay the financial 103
institution for all actual and necessary costs directly incurred 104
in searching for, reproducing, or transporting these records, if 105
the financial institution is not a party to the investigation, 106
action, or proceeding, is not a subject of supervisory review in 107
the investigation, action, or proceeding, or is a party to the 108

investigation, action, or proceeding solely by reason of its 109
holding of assets of another party defendant, with no cause of 110
action alleged against the financial institution. This payment 111
shall be made to the financial institution promptly, whether or 112
not the financial records are entered into evidence. If the 113
records are produced pursuant to a court order or subpoena duces 114
tecum, the party requesting the order or subpoena is responsible 115
for making the payment. With respect to any judicial or 116
administrative proceeding for which the records are requested, 117
payment of these costs shall be in addition to any witness fees. 118

(C) The rates and conditions for making payments required 119
by division (B) of this section shall be established by rule by 120
the superintendent of financial institutions. To the extent that 121
they are applicable, such respective rules shall be 122
substantially like those adopted by the board of governors of 123
the federal reserve system to regulate similar fees required by 124
the "Right to Financial Privacy Act of 1978," 92 Stat. 3708, 12
U.S.C.A. 3415. 126

(D) (1) This section is not intended to expand, limit, or 127
otherwise affect any authority granted under federal law or the 128
law of this state to any party, including a governmental 129
authority, to procure, request, or require a customer's 130
financial records. This section does not apply to investigations 131
or examinations conducted under authority granted by Chapter 132
169., 1707., 3737., or 4735. of the Revised Code. 133

(2) Division (B) of this section does not apply to 134
financial records required to be assembled or provided pursuant 135
to a subpoena, demand for production, request for records, or 136
demand for inspection issued by or on motion of the attorney 137
general or the organized crime investigations commission, to a 138

subpoena issued by or on motion of a prosecuting attorney who 139
has probable cause to believe that a crime has been committed, 140
or to a subpoena issued by a grand jury, if all of the following 141
apply: 142

(a) The financial records or copies of the financial 143
records are subpoenaed for purposes of a criminal investigation 144
or prosecution; 145

(b) The subpoena is delivered to the financial institution 146
at least ten days before the records are to be provided; 147

(c) The subpoena identifies individual items to be 148
provided or is for statements of the customer's account for a 149
specified period of time but only as is relevant to the possible 150
crime being investigated. 151

If any financial record assembled or provided by a 152
financial institution pursuant to such a subpoena or any 153
information derived from the financial record is introduced as 154
evidence in any criminal trial and if any nonindigent defendant 155
is convicted of an offense at that trial, the trial court shall 156
charge against the defendant, as a cost of prosecution, all 157
actual and necessary costs directly incurred by the financial 158
institution in searching for, reproducing, or transporting the 159
financial records provided the financial institution is not a 160
defendant at the trial. A defendant against whom costs are 161
charged pursuant to this division shall pay the costs to the 162
court which shall forward the payment to the financial 163
institution. For purposes of this division, the trial court 164
shall determine whether a defendant is indigent. The rates of 165
payment established by rule pursuant to division (C) of this 166
section shall be used by the trial court in charging costs under 167
this division. 168

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

Sec. 109.572. (A) (1) Upon receipt of a request pursuant to section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, a completed form prescribed pursuant to division (C) (1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C) (2) of this section, the superintendent of the bureau of criminal identification and

investigation shall conduct a criminal records check in the 200
manner described in division (B) of this section to determine 201
whether any information exists that indicates that the person 202
who is the subject of the request previously has been convicted 203
of or pleaded guilty to any of the following: 204

(a) A violation of section 2903.01, 2903.02, 2903.03, 205
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 206
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 207
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 208
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 209
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 210
2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 211
2925.05, 2925.06, or 3716.11 of the Revised Code, felonious 212
sexual penetration in violation of former section 2907.12 of the 213
Revised Code, a violation of section 2905.04 of the Revised Code 214
as it existed prior to July 1, 1996, a violation of section 215
2919.23 of the Revised Code that would have been a violation of 216
section 2905.04 of the Revised Code as it existed prior to July 217
1, 1996, had the violation been committed prior to that date, or 218
a violation of section 2925.11 of the Revised Code that is not a 219
minor drug possession offense; 220

(b) A violation of an existing or former law of this 221
state, any other state, or the United States that is 222
substantially equivalent to any of the offenses listed in 223
division (A)(1)(a) of this section; 224

(c) If the request is made pursuant to section 3319.39 of 225
the Revised Code for an applicant who is a teacher, any offense 226
specified in section 3319.31 of the Revised Code. 227

(2) On receipt of a request pursuant to section 3712.09 or 228
3721.121 of the Revised Code, a completed form prescribed 229

pursuant to division (C) (1) of this section, and a set of 230
fingerprint impressions obtained in the manner described in 231
division (C) (2) of this section, the superintendent of the 232
bureau of criminal identification and investigation shall 233
conduct a criminal records check with respect to any person who 234
has applied for employment in a position for which a criminal 235
records check is required by those sections. The superintendent 236
shall conduct the criminal records check in the manner described 237
in division (B) of this section to determine whether any 238
information exists that indicates that the person who is the 239
subject of the request previously has been convicted of or 240
pleaded guilty to any of the following: 241

(a) A violation of section 2903.01, 2903.02, 2903.03, 242
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 243
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 244
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 245
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 246
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 247
2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 248
2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 249
2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code; 250

(b) An existing or former law of this state, any other 251
state, or the United States that is substantially equivalent to 252
any of the offenses listed in division (A) (2) (a) of this 253
section. 254

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

in division (C) (2) of this section, the superintendent of the 260
bureau of criminal identification and investigation shall 261
conduct a criminal records check of the person for whom the 262
request is made. The superintendent shall conduct the criminal 263
records check in the manner described in division (B) of this 264
section to determine whether any information exists that 265
indicates that the person who is the subject of the request 266
previously has been convicted of, has pleaded guilty to, or 267
(except in the case of a request pursuant to section 5164.34, 268
5164.341, or 5164.342 of the Revised Code) has been found 269
eligible for intervention in lieu of conviction for any of the 270
following, regardless of the date of the conviction, the date of 271
entry of the guilty plea, or (except in the case of a request 272
pursuant to section 5164.34, 5164.341, or 5164.342 of the 273
Revised Code) the date the person was found eligible for 274
intervention in lieu of conviction: 275

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

2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42, 2925.02,	291
2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09, 2925.11,	292
2925.13, 2925.14, 2925.141, 2925.22, 2925.23, 2925.24, 2925.36,	293
2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;	294
(b) Felonious sexual penetration in violation of former	295
section 2907.12 of the Revised Code;	296
(c) A violation of section 2905.04 of the Revised Code as	297
it existed prior to July 1, 1996;	298
(d) A violation of section 2923.01, 2923.02, or 2923.03 of	299
the Revised Code when the underlying offense that is the object	300
of the conspiracy, attempt, or complicity is one of the offenses	301
listed in divisions (A) (3) (a) to (c) of this section;	302
(e) A violation of an existing or former municipal	303
ordinance or law of this state, any other state, or the United	304
States that is substantially equivalent to any of the offenses	305
listed in divisions (A) (3) (a) to (d) of this section.	306
(4) On receipt of a request pursuant to section 2151.86 of	307
the Revised Code, a completed form prescribed pursuant to	308
division (C) (1) of this section, and a set of fingerprint	309
impressions obtained in the manner described in division (C) (2)	310
of this section, the superintendent of the bureau of criminal	311
identification and investigation shall conduct a criminal	312
records check in the manner described in division (B) of this	313
section to determine whether any information exists that	314
indicates that the person who is the subject of the request	315
previously has been convicted of or pleaded guilty to any of the	316
following:	317
(a) A violation of section 959.13, 2903.01, 2903.02,	318
2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16,	319

2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 320
2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 321
2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 322
2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 323
2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 324
2917.01, 2917.02, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 325
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 326
2927.12, or 3716.11 of the Revised Code, a violation of section 327
2905.04 of the Revised Code as it existed prior to July 1, 1996, 328
a violation of section 2919.23 of the Revised Code that would 329
have been a violation of section 2905.04 of the Revised Code as 330
it existed prior to July 1, 1996, had the violation been 331
committed prior to that date, a violation of section 2925.11 of 332
the Revised Code that is not a minor drug possession offense, 333
two or more OVI or OVUAC violations committed within the three 334
years immediately preceding the submission of the application or 335
petition that is the basis of the request, or felonious sexual 336
penetration in violation of former section 2907.12 of the 337
Revised Code; 338

(b) A violation of an existing or former law of this 339
state, any other state, or the United States that is 340
substantially equivalent to any of the offenses listed in 341
division (A) (4) (a) of this section. 342

(5) Upon receipt of a request pursuant to section 5104.013 343
of the Revised Code, a completed form prescribed pursuant to 344
division (C) (1) of this section, and a set of fingerprint 345
impressions obtained in the manner described in division (C) (2) 346
of this section, the superintendent of the bureau of criminal 347
identification and investigation shall conduct a criminal 348
records check in the manner described in division (B) of this 349
section to determine whether any information exists that 350

indicates that the person who is the subject of the request has 351
been convicted of or pleaded guilty to any of the following: 352

(a) A violation of section 2151.421, 2903.01, 2903.02, 353
2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 354
2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.32, 355
2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 356
2907.09, 2907.19, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 357
2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 358
2909.03, 2909.04, 2909.05, 2911.01, 2911.02, 2911.11, 2911.12, 359
2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 360
2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.41, 361
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 362
2913.48, 2913.49, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 363
2919.22, 2919.224, 2919.225, 2919.24, 2919.25, 2921.03, 2921.11, 364
2921.13, 2921.14, 2921.34, 2921.35, 2923.01, 2923.12, 2923.13, 365
2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 366
3716.11 of the Revised Code, felonious sexual penetration in 367
violation of former section 2907.12 of the Revised Code, a 368
violation of section 2905.04 of the Revised Code as it existed 369
prior to July 1, 1996, a violation of section 2919.23 of the 370
Revised Code that would have been a violation of section 2905.04 371
of the Revised Code as it existed prior to July 1, 1996, had the 372
violation been committed prior to that date, a violation of 373
section 2925.11 of the Revised Code that is not a minor drug 374
possession offense, a violation of section 2923.02 or 2923.03 of 375
the Revised Code that relates to a crime specified in this 376
division, or a second violation of section 4511.19 of the 377
Revised Code within five years of the date of application for 378
licensure or certification. 379

(b) A violation of an existing or former law of this 380
state, any other state, or the United States that is 381

substantially equivalent to any of the offenses or violations 382
described in division (A) (5) (a) of this section. 383

(6) Upon receipt of a request pursuant to section 5153.111 384
of the Revised Code, a completed form prescribed pursuant to 385
division (C) (1) of this section, and a set of fingerprint 386
impressions obtained in the manner described in division (C) (2) 387
of this section, the superintendent of the bureau of criminal 388
identification and investigation shall conduct a criminal 389
records check in the manner described in division (B) of this 390
section to determine whether any information exists that 391
indicates that the person who is the subject of the request 392
previously has been convicted of or pleaded guilty to any of the 393
following: 394

(a) A violation of section 2903.01, 2903.02, 2903.03, 395
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 396
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 397
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 398
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 399
2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 400
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 401
2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised 402
Code, felonious sexual penetration in violation of former 403
section 2907.12 of the Revised Code, a violation of section 404
2905.04 of the Revised Code as it existed prior to July 1, 1996, 405
a violation of section 2919.23 of the Revised Code that would 406
have been a violation of section 2905.04 of the Revised Code as 407
it existed prior to July 1, 1996, had the violation been 408
committed prior to that date, or a violation of section 2925.11 409
of the Revised Code that is not a minor drug possession offense; 410

(b) A violation of an existing or former law of this 411

state, any other state, or the United States that is 412
substantially equivalent to any of the offenses listed in 413
division (A) (6) (a) of this section. 414

(7) On receipt of a request for a criminal records check 415
from an individual pursuant to section 4749.03 or 4749.06 of the 416
Revised Code, accompanied by a completed copy of the form 417
prescribed in division (C) (1) of this section and a set of 418
fingerprint impressions obtained in a manner described in 419
division (C) (2) of this section, the superintendent of the 420
bureau of criminal identification and investigation shall 421
conduct a criminal records check in the manner described in 422
division (B) of this section to determine whether any 423
information exists indicating that the person who is the subject 424
of the request has been convicted of or pleaded guilty to a 425
felony in this state or in any other state. If the individual 426
indicates that a firearm will be carried in the course of 427
business, the superintendent shall require information from the 428
federal bureau of investigation as described in division (B) (2) 429
of this section. Subject to division (F) of this section, the 430
superintendent shall report the findings of the criminal records 431
check and any information the federal bureau of investigation 432
provides to the director of public safety. 433

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

the department. The superintendent shall conduct the criminal 443
records check in the manner described in division (B) of this 444
section to determine whether any information exists that 445
indicates that the person who is the subject of the request 446
previously has been convicted of or pleaded guilty to any of the 447
following: a violation of section 2913.02, 2913.11, 2913.31, 448
2913.51, or 2925.03 of the Revised Code; any other criminal 449
offense involving theft, receiving stolen property, 450
embezzlement, forgery, fraud, passing bad checks, money 451
laundering, or drug trafficking, or any criminal offense 452
involving money or securities, as set forth in Chapters 2909., 453
2911., 2913., 2915., 2921., 2923., and 2925. of the Revised 454
Code; or any existing or former law of this state, any other 455
state, or the United States that is substantially equivalent to 456
those offenses. 457

(9) On receipt of a request for a criminal records check 458
from the treasurer of state under section 113.041 of the Revised 459
Code or from an individual under section 4701.08, 4715.101, 460
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 461
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 462
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 463
4747.051, 4753.061, 4755.70, 4757.101, 4759.061, 4760.032, 464
4760.06, 4761.051, 4762.031, 4762.06, 4774.031, 4774.06, 465
4776.021, 4778.04, 4778.07, 4779.091, or 4783.04 of the Revised 466
Code, accompanied by a completed form prescribed under division 467
(C) (1) of this section and a set of fingerprint impressions 468
obtained in the manner described in division (C) (2) of this 469
section, the superintendent of the bureau of criminal 470
identification and investigation shall conduct a criminal 471
records check in the manner described in division (B) of this 472
section to determine whether any information exists that 473

indicates that the person who is the subject of the request has 474
been convicted of or pleaded guilty to any criminal offense in 475
this state or any other state. Subject to division (F) of this 476
section, the superintendent shall send the results of a check 477
requested under section 113.041 of the Revised Code to the 478
treasurer of state and shall send the results of a check 479
requested under any of the other listed sections to the 480
licensing board specified by the individual in the request. 481

(10) On receipt of a request pursuant to section 1121.23, 482
1315.141, 1733.47, or 1761.26 of the Revised Code, a completed 483
form prescribed pursuant to division (C)(1) of this section, and 484
a set of fingerprint impressions obtained in the manner 485
described in division (C)(2) of this section, the superintendent 486
of the bureau of criminal identification and investigation shall 487
conduct a criminal records check in the manner described in 488
division (B) of this section to determine whether any 489
information exists that indicates that the person who is the 490
subject of the request previously has been convicted of or 491
pleaded guilty to any criminal offense under any existing or 492
former law of this state, any other state, or the United States. 493

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

to any offense under any existing or former law of this state, 505
any other state, or the United States that is a disqualifying 506
offense as defined in section 3772.07 of the Revised Code or 507
substantially equivalent to such an offense. 508

(12) On receipt of a request pursuant to section 2151.33 509
or 2151.412 of the Revised Code, a completed form prescribed 510
pursuant to division (C)(1) of this section, and a set of 511
fingerprint impressions obtained in the manner described in 512
division (C)(2) of this section, the superintendent of the 513
bureau of criminal identification and investigation shall 514
conduct a criminal records check with respect to any person for 515
whom a criminal records check is required under that section. 516
The superintendent shall conduct the criminal records check in 517
the manner described in division (B) of this section to 518
determine whether any information exists that indicates that the 519
person who is the subject of the request previously has been 520
convicted of or pleaded guilty to any of the following: 521

(a) A violation of section 2903.01, 2903.02, 2903.03, 522
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 523
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 524
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 525
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 526
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 527
2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 528
2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 529
2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code; 530

(b) An existing or former law of this state, any other 531
state, or the United States that is substantially equivalent to 532
any of the offenses listed in division (A)(12)(a) of this 533
section. 534

(13) On receipt of a request pursuant to section 3796.12 535
of the Revised Code, a completed form prescribed pursuant to 536
division (C)(1) of this section, and a set of fingerprint 537
impressions obtained in a manner described in division (C)(2) of 538
this section, the superintendent of the bureau of criminal 539
identification and investigation shall conduct a criminal 540
records check in the manner described in division (B) of this 541
section to determine whether any information exists that 542
indicates that the person who is the subject of the request 543
previously has been convicted of or pleaded guilty to the 544
following: 545

(a) A disqualifying offense as specified in rules adopted 546
under division (B)(2)(b) of section 3796.03 of the Revised Code 547
if the person who is the subject of the request is an 548
administrator or other person responsible for the daily 549
operation of, or an owner or prospective owner, officer or 550
prospective officer, or board member or prospective board member 551
of, an entity seeking a license from the department of commerce 552
under Chapter 3796. of the Revised Code; 553

(b) A disqualifying offense as specified in rules adopted 554
under division (B)(2)(b) of section 3796.04 of the Revised Code 555
if the person who is the subject of the request is an 556
administrator or other person responsible for the daily 557
operation of, or an owner or prospective owner, officer or 558
prospective officer, or board member or prospective board member 559
of, an entity seeking a license from the state board of pharmacy 560
under Chapter 3796. of the Revised Code. 561

(14) On receipt of a request required by section 3796.13 562
of the Revised Code, a completed form prescribed pursuant to 563
division (C)(1) of this section, and a set of fingerprint 564

impressions obtained in a manner described in division (C) (2) of 565
this section, the superintendent of the bureau of criminal 566
identification and investigation shall conduct a criminal 567
records check in the manner described in division (B) of this 568
section to determine whether any information exists that 569
indicates that the person who is the subject of the request 570
previously has been convicted of or pleaded guilty to the 571
following: 572

(a) A disqualifying offense as specified in rules adopted 573
under division (B) (8) (a) of section 3796.03 of the Revised Code 574
if the person who is the subject of the request is seeking 575
employment with an entity licensed by the department of commerce 576
under Chapter 3796. of the Revised Code; 577

(b) A disqualifying offense as specified in rules adopted 578
under division (B) (14) (a) of section 3796.04 of the Revised Code 579
if the person who is the subject of the request is seeking 580
employment with an entity licensed by the state board of 581
pharmacy under Chapter 3796. of the Revised Code. 582

(B) Subject to division (F) of this section, the 583
superintendent shall conduct any criminal records check to be 584
conducted under this section as follows: 585

(1) The superintendent shall review or cause to be 586
reviewed any relevant information gathered and compiled by the 587
bureau under division (A) of section 109.57 of the Revised Code 588
that relates to the person who is the subject of the criminal 589
records check, including, if the criminal records check was 590
requested under section 113.041, 121.08, 173.27, 173.38, 591
173.381, 1121.23, 1315.141, 1321.37, 1321.53, ~~1321.531, 1322.03,~~ 592
~~1322.031,~~ 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 593
3701.881, 3712.09, 3721.121, 3772.07, 3796.12, 3796.13, 4749.03, 594

4749.06, 4763.05, 5104.013, 5164.34, 5164.341, 5164.342, 595
5123.081, 5123.169, or 5153.111 of the Revised Code, any 596
relevant information contained in records that have been sealed 597
under section 2953.32 of the Revised Code; 598

(2) If the request received by the superintendent asks for 599
information from the federal bureau of investigation, the 600
superintendent shall request from the federal bureau of 601
investigation any information it has with respect to the person 602
who is the subject of the criminal records check, including 603
fingerprint-based checks of national crime information databases 604
as described in 42 U.S.C. 671 if the request is made pursuant to 605
section 2151.86 or 5104.013 of the Revised Code or if any other 606
Revised Code section requires fingerprint-based checks of that 607
nature, and shall review or cause to be reviewed any information 608
the superintendent receives from that bureau. If a request under 609
section 3319.39 of the Revised Code asks only for information 610
from the federal bureau of investigation, the superintendent 611
shall not conduct the review prescribed by division (B) (1) of 612
this section. 613

(3) The superintendent or the superintendent's designee 614
may request criminal history records from other states or the 615
federal government pursuant to the national crime prevention and 616
privacy compact set forth in section 109.571 of the Revised 617
Code. 618

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

the results any information the dissemination of which is 625
prohibited by federal law. 626

(5) The superintendent shall send the results of the 627
criminal records check to the person to whom it is to be sent 628
not later than the following number of days after the date the 629
superintendent receives the request for the criminal records 630
check, the completed form prescribed under division (C) (1) of 631
this section, and the set of fingerprint impressions obtained in 632
the manner described in division (C) (2) of this section: 633

(a) If the superintendent is required by division (A) of 634
this section (other than division (A) (3) of this section) to 635
conduct the criminal records check, thirty; 636

(b) If the superintendent is required by division (A) (3) 637
of this section to conduct the criminal records check, sixty. 638

(C) (1) The superintendent shall prescribe a form to obtain 639
the information necessary to conduct a criminal records check 640
from any person for whom a criminal records check is to be 641
conducted under this section. The form that the superintendent 642
prescribes pursuant to this division may be in a tangible 643
format, in an electronic format, or in both tangible and 644
electronic formats. 645

(2) The superintendent shall prescribe standard impression 646
sheets to obtain the fingerprint impressions of any person for 647
whom a criminal records check is to be conducted under this 648
section. Any person for whom a records check is to be conducted 649
under this section shall obtain the fingerprint impressions at a 650
county sheriff's office, municipal police department, or any 651
other entity with the ability to make fingerprint impressions on 652
the standard impression sheets prescribed by the superintendent. 653

The office, department, or entity may charge the person a 654
reasonable fee for making the impressions. The standard 655
impression sheets the superintendent prescribes pursuant to this 656
division may be in a tangible format, in an electronic format, 657
or in both tangible and electronic formats. 658

(3) Subject to division (D) of this section, the 659
superintendent shall prescribe and charge a reasonable fee for 660
providing a criminal records check under this section. The 661
person requesting the criminal records check shall pay the fee 662
prescribed pursuant to this division. In the case of a request 663
under section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 664
1761.26, 2151.33, 2151.412, or 5164.34 of the Revised Code, the 665
fee shall be paid in the manner specified in that section. 666

(4) The superintendent of the bureau of criminal 667
identification and investigation may prescribe methods of 668
forwarding fingerprint impressions and information necessary to 669
conduct a criminal records check, which methods shall include, 670
but not be limited to, an electronic method. 671

(D) The results of a criminal records check conducted 672
under this section, other than a criminal records check 673
specified in division (A) (7) of this section, are valid for the 674
person who is the subject of the criminal records check for a 675
period of one year from the date upon which the superintendent 676
completes the criminal records check. If during that period the 677
superintendent receives another request for a criminal records 678
check to be conducted under this section for that person, the 679
superintendent shall provide the results from the previous 680
criminal records check of the person at a lower fee than the fee 681
prescribed for the initial criminal records check. 682

(E) When the superintendent receives a request for 683

information from a registered private provider, the 684
superintendent shall proceed as if the request was received from 685
a school district board of education under section 3319.39 of 686
the Revised Code. The superintendent shall apply division (A) (1) 687
(c) of this section to any such request for an applicant who is 688
a teacher. 689

(F) (1) Subject to division (F) (2) of this section, all 690
information regarding the results of a criminal records check 691
conducted under this section that the superintendent reports or 692
sends under division (A) (7) or (9) of this section to the 693
director of public safety, the treasurer of state, or the 694
person, board, or entity that made the request for the criminal 695
records check shall relate to the conviction of the subject 696
person, or the subject person's plea of guilty to, a criminal 697
offense. 698

(2) Division (F) (1) of this section does not limit, 699
restrict, or preclude the superintendent's release of 700
information that relates to the arrest of a person who is 701
eighteen years of age or older, to an adjudication of a child as 702
a delinquent child, or to a criminal conviction of a person 703
under eighteen years of age in circumstances in which a release 704
of that nature is authorized under division (E) (2), (3), or (4) 705
of section 109.57 of the Revised Code pursuant to a rule adopted 706
under division (E) (1) of that section. 707

(G) As used in this section: 708

(1) "Criminal records check" means any criminal records 709
check conducted by the superintendent of the bureau of criminal 710
identification and investigation in accordance with division (B) 711
of this section. 712

(2) "Minor drug possession offense" has the same meaning 713
as in section 2925.01 of the Revised Code. 714

(3) "OVI or OVUAC violation" means a violation of section 715
4511.19 of the Revised Code or a violation of an existing or 716
former law of this state, any other state, or the United States 717
that is substantially equivalent to section 4511.19 of the 718
Revised Code. 719

(4) "Registered private provider" means a nonpublic school 720
or entity registered with the superintendent of public 721
instruction under section 3310.41 of the Revised Code to 722
participate in the autism scholarship program or section 3310.58 723
of the Revised Code to participate in the Jon Peterson special 724
needs scholarship program. 725

Sec. 1181.21. (A) As used in this section, "consumer 726
finance company" has the same meaning as in section 1181.05 of 727
the Revised Code. 728

(B) The superintendent of financial institutions shall see 729
that the laws relating to consumer finance companies are 730
executed and enforced. 731

(C) The deputy superintendent for consumer finance shall 732
be the principal supervisor of consumer finance companies. In 733
that position the deputy superintendent for consumer finance 734
shall, notwithstanding section 1321.421, division (A) of section 735
1321.76, and sections 1321.07, 1321.55, ~~1322.06~~ 1322.34, 736
4727.05, and 4728.05 of the Revised Code, be responsible for 737
conducting examinations and preparing examination reports under 738
those sections. In addition, the deputy superintendent for 739
consumer finance shall, notwithstanding sections 1315.27, 740
1321.10, 1321.43, 1321.54, 1321.77, ~~1322.12~~ 1322.57, 4712.14, 741

4727.13, and 4728.10 of the Revised Code, have the authority to 742
adopt rules and standards in accordance with those sections. In 743
performing or exercising any of the examination, rule-making, or 744
other regulatory functions, powers, or duties vested by this 745
division in the deputy superintendent for consumer finance, the 746
deputy superintendent for consumer finance shall be subject to 747
the control of the superintendent of financial institutions and 748
the director of commerce. 749

Sec. 1181.25. The superintendent of financial institutions 750
may introduce into evidence or disclose, or authorize to be 751
introduced into evidence or disclosed, information that, under 752
sections 1121.18, 1155.16, 1163.20, 1315.122, 1321.09, 1321.48, 753
1321.55, 1321.76, ~~1322.06~~ 1322.34, ~~1322.06~~ 1322.36, 1733.32, 754
1733.327, and 4727.18 of the Revised Code, is privileged, 755
confidential, or otherwise not public information or a public 756
record, provided that the superintendent acts only as provided 757
in those sections or in the following circumstances: 758

(A) When in the opinion of the superintendent, it is 759
appropriate with regard to any enforcement actions taken and 760
decisions made by the superintendent under Chapters 1315., 761
1321., 1322., 1733., 4712., 4727., and 4728. of the Revised Code 762
or Title XI of the Revised Code; 763

(B) When litigation has been initiated by the 764
superintendent in furtherance of the powers, duties, and 765
obligations imposed upon the superintendent by Chapters 1315., 766
1321., 1322., 1733., 4712., 4727., and 4728. of the Revised Code 767
or Title XI of the Revised Code; 768

(C) When in the opinion of the superintendent, it is 769
appropriate with regard to enforcement actions taken or 770
decisions made by other financial institution regulatory 771

authorities to whom the superintendent has provided the 772
information pursuant to authority in Chapters 1315., 1321., 773
1322., 1733., 4712., 4727., and 4728. of the Revised Code or 774
Title XI of the Revised Code. 775

Sec. 1315.21. As used in sections 1315.21 to 1315.30 of 776
the Revised Code: 777

(A) "Check" means any check, draft, money order, or other 778
instrument for the transmission or payment of money. "Check" 779
does not include a travelers check. 780

(B) "Check-cashing business" means any person that engages 781
in the business of cashing checks for a fee. "Check-cashing 782
business" does not include any of the following: 783

(1) A licensee as defined in section 1321.01 of the 784
Revised Code; 785

(2) A registrant as defined in section 1321.51 of the 786
Revised Code; 787

(3) A financial institution; 788

(4) A person that is primarily engaged in the business of 789
selling tangible personal property or services at retail and 790
does not derive more than five per cent of the person's gross 791
income from the cashing of checks; 792

(5) A person licensed under sections 1315.01 to 1315.18 of 793
the Revised Code, or any agent of that person, to the extent 794
that the person or the agent is engaged in cashing checks or 795
travelers checks issued by the licensed person; 796

(6) A person registered as a mortgage lender under Chapter 797
1322. of the Revised Code. 798

(C) "Financial institution" means any bank, trust company, savings bank, savings and loan association, or credit union, that is incorporated or organized under the laws of the United States or of any state thereof, or of Canada or any province thereof, and subject to regulation or supervision by such country, state, or province.

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

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

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

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

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

(c) Any retail seller collecting its own accounts;

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

(e) Any public officer or judicial officer acting under order of a court;	828 829
(f) Any licensee as defined either in section 1321.01 or 1321.71 of the Revised Code, or any registrant as defined in section 1321.51 of the Revised Code, <u>or any person registered as a mortgage lender under Chapter 1322. of the Revised Code;</u>	830 831 832 833
(g) Any public utility;	834
(h) Any person registered to sell interment rights under section 4767.031 of the Revised Code.	835 836
(B) A collection agency with a place of business in this state may take assignment of another person's accounts, bills, or other evidences of indebtedness in its own name for the purpose of billing, collecting, or filing suit in its own name as the real party in interest.	837 838 839 840 841
(C) No collection agency shall commence litigation for the collection of an assigned account, bill, or other evidence of indebtedness unless it has taken the assignment in accordance with all of the following requirements:	842 843 844 845
(1) The assignment was voluntary, properly executed, and acknowledged by the person transferring title to the collection agency.	846 847 848
(2) The collection agency did not require the assignment as a condition to listing the account, bill, or other evidence of indebtedness with the collection agency for collection.	849 850 851
(3) The assignment was manifested by a written agreement separate from and in addition to any document intended for the purpose of listing the account, bill, or other evidence of indebtedness with the collection agency. The written agreement	852 853 854 855

shall state the effective date of the assignment and the 856
consideration paid or given, if any, for the assignment and 857
shall expressly authorize the collection agency to refer the 858
assigned account, bill, or other evidence of indebtedness to an 859
attorney admitted to the practice of law in this state for the 860
commencement of litigation. The written agreement also shall 861
disclose that the collection agency may consolidate, for 862
purposes of filing an action, the assigned account, bill, or 863
other evidence of indebtedness with those of other creditors 864
against an individual debtor or co-debtors. 865

(4) Upon the effective date of the assignment to the 866
collection agency, the creditor's account maintained by the 867
collection agency in connection with the assigned account, bill, 868
or other evidence of indebtedness was canceled. 869

(D) A collection agency shall commence litigation for the 870
collection of an assigned account, bill, or other evidence of 871
indebtedness in a court of competent jurisdiction located in the 872
county in which the debtor resides, or in the case of co- 873
debtors, a county in which at least one of the co-debtors 874
resides. 875

(E) No collection agency shall commence any litigation 876
authorized by this section unless the agency appears by an 877
attorney admitted to the practice of law in this state. 878

(F) This section does not affect the powers and duties of 879
any person described in division (A) (2) of this section. 880

(G) Nothing in this section relieves a collection agency 881
from complying with the "Fair Debt Collection Practices Act," 91 882
Stat. 874 (1977), 15 U.S.C. 1692, as amended, or deprives any 883
debtor of the right to assert defenses as provided in section 884

1317.031 of the Revised Code and 16 C.F.R. 433, as amended. 885

(H) For purposes of filing an action, a collection agency 886
that has taken an assignment or assignments pursuant to this 887
section may consolidate the assigned accounts, bills, or other 888
evidences of indebtedness of one or more creditors against an 889
individual debtor or co-debtors. Each separate assigned account, 890
bill, or evidence of indebtedness must be separately identified 891
and pled in any consolidated action authorized by this section. 892
If a debtor or co-debtor raises a good faith dispute concerning 893
any account, bill, or other evidence of indebtedness, the court 894
shall separate each disputed account, bill, or other evidence of 895
indebtedness from the action and hear the disputed account, 896
bill, or other evidence of indebtedness on its own merits in a 897
separate action. The court shall charge the filing fee of the 898
separate action to the losing party. 899

Sec. 1321.02. No person shall engage in the business of 900
lending money, credit, or choses in action in amounts of five 901
thousand dollars or less, or exact, contract for, or receive, 902
directly or indirectly, on or in connection with any such loan, 903
any interest and charges that in the aggregate are greater than 904
the interest and charges that the lender would be permitted to 905
charge for a loan of money if the lender were not a licensee, 906
without first having obtained a license from the division of 907
financial institutions under sections 1321.01 to 1321.19 of the 908
Revised Code. 909

Sections 1321.01 to 1321.19 of the Revised Code do not 910
apply to any person doing business under and as permitted by any 911
law of this state, another state, or the United States relating 912
to banks, savings banks, savings societies, trust companies, 913
credit unions, savings and loan associations substantially all 914

the business of which is confined to loans on real estate 915
mortgages and evidences of their own indebtedness; to 916
registrants conducting business pursuant to sections 1321.51 to 917
1321.60 of the Revised Code; to licensees conducting business 918
pursuant to sections 1321.71 to 1321.83 of the Revised Code; to 919
licensees doing business pursuant to sections 1321.35 to 1321.48 920
of the Revised Code; to registrants conducting business as 921
mortgage lenders under Chapter 1322. of the Revised Code; or to 922
any entity who is licensed pursuant to Title XXXIX of the 923
Revised Code, who makes advances or loans to any person who is 924
licensed to sell insurance pursuant to that Title, and who is 925
authorized in writing by that entity to sell insurance. No 926
person engaged in the business of selling tangible goods or 927
services related thereto may receive or retain a license under 928
sections 1321.01 to 1321.19 of the Revised Code for such place 929
of business. 930

The first paragraph of this section applies to any person, 931
who by any device, subterfuge, or pretense, charges, contracts 932
for, or receives greater interest, consideration, or charges 933
than that authorized by this section for any such loan or use of 934
money or for any such loan, use, or sale of credit, or who for a 935
fee or any manner of compensation arranges or offers to find or 936
arrange for another person to make any such loan, use, or sale 937
of credit. This section does not preclude the acquiring, 938
directly or indirectly, by purchase or discount, of a bona fide 939
obligation for goods or services when such obligation is payable 940
directly to the person who provided the goods or services. 941

Any contract of loan in the making or collection of which 942
an act is done by the lender that violates this section is void 943
and the lender has no right to collect, receive, or retain any 944
principal, interest, or charges. 945

Sec. 1321.51. As used in sections 1321.51 to 1321.60 of	946
the Revised Code:	947
(A) "Person" means an individual, partnership,	948
association, trust, corporation, or any other legal entity.	949
(B) "Certificate" means a certificate of registration	950
issued under sections 1321.51 to 1321.60 of the Revised Code.	951
(C) "Registrant" means a person to whom one or more	952
certificates of registration have been issued under sections	953
1321.51 to 1321.60 of the Revised Code.	954
(D) "Principal amount" means the amount of cash paid to,	955
or paid or payable for the account of, the borrower, and	956
includes any charge, fee, or expense that is financed by the	957
borrower at origination of the loan or during the term of the	958
loan.	959
(E) "Interest" means all charges payable directly or	960
indirectly by a borrower to a registrant as a condition to a	961
loan or an application for a loan, however denominated, but does	962
not include default charges, deferment charges, insurance	963
charges or premiums, court costs, loan origination charges,	964
check collection charges, credit line charges, points,	965
prepayment penalties, or other fees and charges specifically	966
authorized by law.	967
(F) "Interest-bearing loan" means a loan in which the debt	968
is expressed as the principal amount and interest is computed,	969
charged, and collected on unpaid principal balances outstanding	970
from time to time.	971
(G) "Precomputed loan" means a loan in which the debt is a	972
sum comprising the principal amount and the amount of interest	973
computed in advance on the assumption that all scheduled	974

payments will be made when due. 975

(H) "Actuarial method" means the method of allocating 976
payments made on a loan between the principal amount and 977
interest whereby a payment is applied first to the accumulated 978
interest and the remainder to the unpaid principal amount. 979

(I) "Applicable charge" means the amount of interest 980
attributable to each monthly installment period of the loan 981
contract. The applicable charge is computed as if each 982
installment period were one month and any charge for extending 983
the first installment period beyond one month is ignored. In the 984
case of loans originally scheduled to be repaid in sixty-one 985
months or less, the applicable charge for any installment period 986
is that proportion of the total interest contracted for, as the 987
balance scheduled to be outstanding during that period bears to 988
the sum of all of the periodic balances, all determined 989
according to the payment schedule originally contracted for. In 990
all other cases, the applicable charge for any installment 991
period is that which would have been made for such period had 992
the loan been made on an interest-bearing basis, based upon the 993
assumption that all payments were made according to schedule. 994

~~(J) "Broker" means a person who acts as an intermediary or 995
agent in finding, arranging, or negotiating loans, other than 996
residential mortgage loans, and charges or receives a fee for 997
these services. 998~~

~~(K)~~ "Annual percentage rate" means the ratio of the 999
interest on a loan to the unpaid principal balances on the loan 1000
for any period of time, expressed on an annual basis. 1001

~~(L)~~ (K) "Point" means a charge equal to one per cent of 1002
either of the following: 1003

- (1) The principal amount of a precomputed loan or interest-bearing loan; 1004
1005
- (2) The original credit line of an open-end loan. 1006
- ~~(M)~~ (L) "Prepayment penalty" means a charge for prepayment of a loan at any time prior to five years from the date the loan contract is executed. 1007
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- ~~(N)~~ (M) "Refinancing" means a loan the proceeds of which are used in whole or in part to pay the unpaid balance of a prior loan made by the same registrant to the same borrower under sections 1321.51 to 1321.60 of the Revised Code. 1010
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- ~~(O)~~ (N) "Superintendent of financial institutions" includes the deputy superintendent for consumer finance as provided in section 1181.21 of the Revised Code. 1014
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- ~~(P)~~ (1) ~~"Mortgage loan originator" means an individual who for compensation or gain, or in anticipation of compensation or gain, does any of the following:~~ 1017
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- ~~(a) Takes or offers to take a residential mortgage loan application;~~ 1020
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- ~~(b) Assists or offers to assist a borrower in obtaining or applying to obtain a residential mortgage loan by, among other things, advising on loan terms, including rates, fees, and other costs;~~ 1022
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- ~~(c) Offers or negotiates terms of a residential mortgage loan;~~ 1026
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- ~~(d) Issues or offers to issue a commitment for a residential mortgage loan to a borrower.~~ 1028
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- ~~(2) "Mortgage loan originator" does not include any of the~~ 1030

- following: 1031
- ~~(a) An individual who performs purely administrative or clerical tasks on behalf of a mortgage loan originator;~~ 1032
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- ~~(b) A person licensed pursuant to Chapter 4735. of the Revised Code, or under the similar law of another state, who performs only real estate brokerage activities permitted by that license, provided the person is not compensated by a mortgage lender, mortgage broker, mortgage loan originator, or by any agent thereof;~~ 1034
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- ~~(c) A person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. 101, in effect on January 1, 2009;~~ 1040
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- ~~(d) A person acting solely as a loan processor or underwriter, who does not represent to the public, through advertising or other means of communicating, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the person can or will perform any of the activities of a mortgage loan originator;~~ 1043
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- ~~(e) A loan originator licensed under sections 1322.01 to 1322.12 of the Revised Code, when acting solely under that authority;~~ 1049
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- ~~(f) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or another mortgage loan originator, or by any agent thereof;~~ 1052
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- ~~(g) Any person engaged in the retail sale of manufactured homes, mobile homes, or industrialized units if, in connection with financing those retail sales, the person only assists the~~ 1057
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~~borrower by providing or transmitting the loan application and~~ 1060
~~does not do any of the following:~~ 1061

~~(i) Offer or negotiate the residential mortgage loan rates~~ 1062
~~or terms;~~ 1063

~~(ii) Provide any counseling with borrowers about~~ 1064
~~residential mortgage loan rates or terms;~~ 1065

~~(iii) Receive any payment or fee from any company or~~ 1066
~~individual for assisting the borrower obtain or apply for~~ 1067
~~financing to purchase the manufactured home, mobile home, or~~ 1068
~~industrialized unit;~~ 1069

~~(iv) Assist the borrower in completing the residential~~ 1070
~~mortgage loan application.~~ 1071

~~(3) An individual acting exclusively as a servicer~~ 1072
~~engaging in loss mitigation efforts with respect to existing~~ 1073
~~mortgage transactions shall not be considered a mortgage loan~~ 1074
~~originator for purposes of sections 1321.51 to 1321.60 of the~~ 1075
~~Revised Code until July 1, 2011, unless such delay is denied by~~ 1076
~~the United States department of housing and urban development.~~ 1077

~~(Q) "Residential mortgage loan" means any loan primarily~~ 1078
~~for personal, family, or household use that is secured by a~~ 1079
~~mortgage, deed of trust, or other equivalent consensual security~~ 1080
~~interest on a dwelling or on residential real estate upon which~~ 1081
~~is constructed or intended to be constructed a dwelling. For~~ 1082
~~purposes of this division, "dwelling" has the same meaning as in~~ 1083
~~the "Truth in Lending Act," 82 Stat. 146, 15 U.S.C. 1602.~~ 1084

~~(R) "Nationwide mortgage licensing system and registry"~~ 1085
~~means a mortgage licensing system developed and maintained by~~ 1086
~~the conference of state bank supervisors and the American~~ 1087
~~association of residential mortgage regulators, or their~~ 1088

~~successor entities, for the licensing and registration of~~ 1089
~~mortgage loan originators, or any system established by the~~ 1090
~~secretary of housing and urban development pursuant to the~~ 1091
~~"Secure and Fair Enforcement for Mortgage Licensing Act of~~ 1092
~~2008," 122 Stat. 2810, 12 U.S.C. 5101.~~ 1093

~~(S) "Registered mortgage loan originator" means an~~ 1094
~~individual to whom both of the following apply:~~ 1095

~~(1) The individual is a mortgage loan originator and an~~ 1096
~~employee of a depository institution, a subsidiary that is owned~~ 1097
~~and controlled by a depository institution and regulated by a~~ 1098
~~federal banking agency, or an institution regulated by the farm~~ 1099
~~credit administration.~~ 1100

~~(2) The individual is registered with, and maintains a~~ 1101
~~unique identifier through, the nationwide mortgage licensing~~ 1102
~~system and registry.~~ 1103

~~(T) "Administrative or clerical tasks" means the receipt,~~ 1104
~~collection, and distribution of information common for the~~ 1105
~~processing or underwriting of a loan in the mortgage industry,~~ 1106
~~and communication with a consumer to obtain information~~ 1107
~~necessary for the processing or underwriting of a residential~~ 1108
~~mortgage loan.~~ 1109

~~(U) "Federal banking agency" means the board of governors~~ 1110
~~of the federal reserve system, the comptroller of the currency,~~ 1111
~~the director of the office of thrift supervision, the national~~ 1112
~~credit union administration, and the federal deposit insurance~~ 1113
~~corporation.~~ 1114

~~(V) "Loan processor or underwriter" means an individual~~ 1115
~~who performs clerical or support duties at the direction of and~~ 1116
~~subject to the supervision and instruction of a licensed~~ 1117

~~mortgage loan originator or registered mortgage loan originator.~~ 1118

~~For purposes of this division, to "perform clerical or support-~~ 1119

~~duties" means to do all of the following activities:~~ 1120

~~(1) Receiving, collecting, distributing, and analyzing~~ 1121

~~information common for the processing or underwriting of a~~ 1122

~~residential mortgage loan;~~ 1123

~~(2) Communicating with a borrower to obtain the~~ 1124

~~information necessary for the processing or underwriting of a~~ 1125

~~loan, to the extent the communication does not include offering~~ 1126

~~or negotiating loan rates or terms or counseling borrowers about~~ 1127

~~residential mortgage loan rates or terms.~~ 1128

~~(W) "Real estate brokerage activity" means any activity~~ 1129

~~that involves offering or providing real estate brokerage~~ 1130

~~services to the public, including all of the following:~~ 1131

~~(1) Acting as a real estate agent or real estate broker~~ 1132

~~for a buyer, seller, lessor, or lessee of real property;~~ 1133

~~(2) Bringing together parties interested in the sale,~~ 1134

~~purchase, lease, rental, or exchange of real property;~~ 1135

~~(3) Negotiating, on behalf of any party, any portion of a~~ 1136

~~contract relating to the sale, purchase, lease, rental, or~~ 1137

~~exchange of real property, other than in connection with~~ 1138

~~providing financing for any such transaction;~~ 1139

~~(4) Engaging in any activity for which a person engaged in~~ 1140

~~that activity is required to be registered or licensed as a real~~ 1141

~~estate agent or real estate broker under any applicable law;~~ 1142

~~(5) Offering to engage in any activity, or to act in any~~ 1143

~~capacity, described in division (W) of this section.~~ 1144

~~(X) "Licensee" means any person that has been issued a~~ 1145

~~mortgage loan originator license under sections 1321.51 to 1146
1321.60 of the Revised Code. 1147~~

~~(Y) "Unique identifier" means a number or other identifier 1148
that permanently identifies a mortgage loan originator and is 1149
assigned by protocols established by the nationwide mortgage- 1150
licensing system and registry or federal banking agencies to 1151
facilitate electronic tracking of mortgage loan originators and 1152
uniform identification of, and public access to, the employment 1153
history of and the publicly adjudicated disciplinary and 1154
enforcement actions against mortgage loan originators. 1155~~

~~(Z)-(O) "State" in the context of referring to states in 1156
addition to Ohio means any state of the United States, the 1157
district of Columbia, any territory of the United States, Puerto 1158
Rico, Guam, American Samoa, the trust territory of the Pacific 1159
islands, the virgin islands, and the northern Mariana islands. 1160~~

~~(AA)-(P) "Depository institution" has the same meaning as 1161
in section 3 of the "Federal Deposit Insurance Act," 64 Stat. 1162
873, 12 U.S.C. 1813, and includes any credit union. 1163~~

~~(BB) "Bona fide third party" means a person that is not an 1164
employee of, related to, or affiliated with, the registrant, and 1165
that is not used for the purpose of circumvention or evasion of 1166
sections 1321.51 to 1321.60 of the Revised Code. 1167~~

~~(CC) "Nontraditional mortgage product" means any mortgage 1168
product other than a thirty year fixed rate mortgage. 1169~~

~~(DD) "Employee" means an individual for whom a registrant 1170
or applicant, in addition to providing a wage or salary, pays 1171
social security and unemployment taxes, provides workers' 1172
compensation coverage, and withholds local, state, and federal 1173
income taxes. "Employee" also includes any individual who acts 1174~~

~~as a mortgage loan originator or operations manager of the~~ 1175
~~registrant, but for whom the registrant is prevented by law from~~ 1176
~~making income tax withholdings.~~ 1177

~~(EE) "Primary point of contact" means the employee or~~ 1178
~~owner designated by the registrant or applicant to be the~~ 1179
~~individual who the division of financial institutions can~~ 1180
~~contact regarding compliance or licensing matters relating to~~ 1181
~~the registrant's or applicant's business or lending activities~~ 1182
~~secured by an interest in real estate.~~ 1183

~~(FF) "Consumer reporting agency" has the same meaning as~~ 1184
~~in the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.~~ 1185
~~1681a, as amended.~~ 1186

~~(GG) "Mortgage broker" has the same meaning as in section~~ 1187
~~1322.01 of the Revised Code.~~ 1188

Sec. 1321.52. ~~(A) (1) No person, on that person's own~~ 1189
~~behalf or on behalf of any other person, shall do any of the~~ 1190
~~following without having first obtained a certificate of~~ 1191
~~registration from the division of financial institutions:~~ 1192

~~(a) Advertise, solicit, or hold out that the person is~~ 1193
~~engaged in the business of making residential mortgage loans~~ 1194
~~secured by a mortgage on a borrower's real estate which is other~~ 1195
~~than a first lien on the real estate;~~ 1196

~~(b) Engage in the business of lending or collecting the~~ 1197
~~person's own or another person's money, credit, or choses in~~ 1198
~~action for non first lien residential mortgage loans;~~ 1199

~~(c) Employ or compensate mortgage loan originators~~ 1200
~~licensed or who should be licensed under sections 1321.51 to~~ 1201
~~1321.60 of the Revised Code to conduct the business of making~~ 1202
~~residential mortgage loans;~~ 1203

~~(d) Make loans in this state of the type set forth in~~ 1204
~~division (C) of this section that are unsecured or are secured~~ 1205
~~by other than real property, which loans are for more than five~~ 1206
~~thousand dollars at a rate of interest greater than permitted by~~ 1207
~~section 1343.01 or other specific provisions of the Revised Code~~ 1208
A registrant may make loans, other than a residential mortgage 1209
loan as defined in section 1322.01 of the Revised Code, on terms 1210
and conditions provided by sections 1321.51 to 1321.60 of the 1211
Revised Code. 1212

(2) Each person issued a certificate of registration ~~or~~ 1213
~~license~~ is subject to all the rules prescribed under sections 1214
1321.51 to 1321.60 of the Revised Code. 1215

(B) (1) All loans made to persons who at the time are 1216
residents of this state are considered as made within this state 1217
and subject to the laws of this state, regardless of any 1218
statement in the contract or note to the contrary, except ~~as~~ 1219
~~follows:~~ 1220

~~(a) If the loan is primarily secured by a lien on real~~ 1221
~~property in another state and is arranged by a mortgage loan~~ 1222
~~originator licensed by that state, the borrower may by choice of~~ 1223
~~law designate that the transaction be governed by the law where~~ 1224
~~the real property is located if the other state has consumer~~ 1225
~~protection laws covering the borrower that are applicable to the~~ 1226
~~transaction.~~ 1227

~~(b) If~~ if the loan is for the purpose of purchasing goods 1228
acquired by the borrower when the borrower is outside of this 1229
state, the loan may be governed by the laws of the other state. 1230

(2) Nothing in division (B) (1) of this section prevents a 1231
choice of law or requires registration ~~or licensure~~ of persons 1232

outside of this state in a transaction involving the 1233
solicitation of residents of this state to obtain non-real 1234
estate secured loans that require the borrowers to physically 1235
visit a lender's out-of-state office to apply for and obtain the 1236
disbursement of loan funds. 1237

(C) A registrant may make unsecured loans, ~~loans secured~~ 1238
~~by a mortgage on a borrower's real estate which is a first lien~~ 1239
~~or other than a first lien on the real estate, and~~ loans secured 1240
by other than residential real estate, ~~and loans secured by any~~ 1241
~~combination of mortgages and security interests, on terms and~~ 1242
~~conditions provided by sections 1321.51 to 1321.60 or a dwelling~~ 1243
as those terms are defined in section 1322.01 of the Revised 1244
Code. 1245

~~(D) (1) If a lender that is subject to sections 1321.51 to~~ 1246
~~1321.60 of the Revised Code makes a loan in violation of~~ 1247
~~division (A) (1) of this section, the lender has no right to~~ 1248
~~collect, receive, or retain any interest or charges on that~~ 1249
~~loan.~~ 1250

~~(2) If a registrant applies to the division for a renewal~~ 1251
~~of the registrant's certificate after the date required by~~ 1252
~~division (A) (7) of section 1321.53 of the Revised Code, but~~ 1253
~~prior to the first day of February of that year, and the~~ 1254
~~division approves the application, division (D) (1) of this~~ 1255
~~section does not apply with respect to any loan made by the~~ 1256
~~registrant while the registrant's certificate was expired.~~ 1257

~~(3) If a person's registration under sections 1321.51 to~~ 1258
~~1321.60 of the Revised Code terminates due to nonrenewal or~~ 1259
~~otherwise but the person continues to engage in the business of~~ 1260
~~collecting or servicing non-first lien residential mortgage~~ 1261
~~loans in violation of division (A) (1) of this section, the~~ 1262

~~superintendent of financial institutions may take administrative- 1263
action, including action on any subsequent application for a 1264
certificate of registration. In addition, no late fee, bad check- 1265
charge except as incurred, charge related to default or cost to 1266
realize on its security interest, or prepayment penalty on non- 1267
first lien residential mortgage loans shall be collected or 1268
retained by a person who is in violation of division (A) (1) (b)- 1269
of this section for the period of time in which the person was- 1270
in violation. Nothing in division (D) (3) of this section- 1271
prevents or otherwise precludes any other actions or penalties- 1272
provided by law or modifies a defense of holder in due course- 1273
that a subsequent purchaser servicing the residential mortgage- 1274
loan may raise. 1275~~

~~(E) (1) No individual shall engage in the business of a- 1276
mortgage loan originator without first obtaining and maintaining- 1277
annually a license pursuant to section 1321.532 of the Revised- 1278
Code from the division of financial institutions. A mortgage- 1279
loan originator shall be employed or associated with a- 1280
registrant or entity exempt from registration under sections- 1281
1321.51 to 1321.60 of the Revised Code, but shall not be- 1282
employed by or associated with more than one registrant or- 1283
exempt entity at any one time. 1284~~

~~(2) An individual acting under the individual's authority- 1285
as a registered mortgage loan originator shall not be required- 1286
to be licensed under division (E) (1) of this section. 1287~~

~~(3) An individual who holds a valid temporary mortgage- 1288
loan originator license issued pursuant to section 1321.537 of- 1289
the Revised Code may engage in the business of a mortgage loan- 1290
originator in accordance with sections 1321.51 to 1321.60 of the- 1291
Revised Code during the term of the temporary license. 1292~~

~~(F) (1) Each licensee shall register with, and maintain a valid unique identifier issued by, the nationwide mortgage licensing system and registry.~~ 1293
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~~(2) No person shall use a licensee's unique identifier for any purpose other than as set forth in the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.~~ 1296
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~~(G) (1) If a person that is subject to sections 1321.51 to 1321.60 of the Revised Code makes a loan in violation of division (A) (1) (d) of this section and subsequently sells or assigns that loan, the person is liable to the borrower for any interest paid on that loan to the holder or assignee in excess of the rate that would be applicable in the absence of sections 1321.51 to 1321.60 of the Revised Code, in addition to any interest or charges paid on that loan to the unauthorized lender as provided by division (D) (1) of this section.~~ 1300
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~~(2) If a person that is subject to sections 1321.51 to 1321.60 of the Revised Code makes a residential mortgage loan in violation of division (A) (1) (b) or (c) of this section and subsequently sells or assigns that loan, the lender is liable to the borrower for any interest paid on that loan to the holder or assignee in excess of the rate set forth in division (B) (4) of section 1343.01 of the Revised Code, in addition to any interest or charges paid on that loan to the unauthorized lender as provided by division (D) (1) of this section.~~ 1309
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Sec. 1321.53. (A) (1) An application for a certificate of registration under sections 1321.51 to 1321.60 of the Revised Code shall contain an undertaking by the applicant to abide by those sections. The application shall be in writing, under oath, and in the form prescribed by the division of financial 1318
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institutions, and shall contain any information that the 1323
division may require. Applicants that are foreign corporations 1324
shall obtain and maintain a license pursuant to Chapter 1703. of 1325
the Revised Code before a certificate is issued or renewed. 1326

(2) Upon the filing of the application and the payment by 1327
the applicant of a nonrefundable two-hundred-dollar 1328
investigation fee, and a nonrefundable three-hundred-dollar 1329
annual registration fee, ~~and any additional fee required by the~~ 1330
~~nationwide mortgage licensing system and registry,~~ the division 1331
shall investigate the relevant facts. If the application 1332
involves investigation outside this state, the applicant may be 1333
required by the division to advance sufficient funds to pay any 1334
of the actual expenses of such investigation, when it appears 1335
that these expenses will exceed two hundred dollars. An itemized 1336
statement of any of these expenses which the applicant is 1337
required to pay shall be furnished to the applicant by the 1338
division. No certificate shall be issued unless all the required 1339
fees have been submitted to the division. 1340

~~(3) All applicants making loans secured by an interest in~~ 1341
~~real estate shall designate an employee or owner of the~~ 1342
~~applicant as the applicant's primary point of contact. While~~ 1343
~~acting as the primary point of contact, the employee or owner~~ 1344
~~shall not be employed by any other registrant or mortgage~~ 1345
~~broker.~~ 1346

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

determination of the superintendent have the authority to direct 1353
and control the operations of the applicant. 1354

~~(5)~~ (4) (a) Notwithstanding division (K) of section 121.08 1355
of the Revised Code, the superintendent of financial 1356
institutions shall obtain a criminal history records check and, 1357
as part of that records check, request that criminal record 1358
information from the federal bureau of investigation be 1359
obtained. To fulfill this requirement, the superintendent shall 1360
~~do either of the following:~~ 1361

~~(i) Request~~ request the superintendent of the bureau of 1362
criminal identification and investigation, or a vendor approved 1363
by the bureau, to conduct a criminal records check based on the 1364
applicant's fingerprints or, if the fingerprints are unreadable, 1365
based on the applicant's social security number, in accordance 1366
with section 109.572 of the Revised Code. 1367

~~(ii) Authorize the nationwide mortgage licensing system~~ 1368
~~and registry to request a criminal history background check as~~ 1369
~~set forth in division (C) of section 1321.531 of the Revised~~ 1370
~~Code.~~ 1371

(b) Any fee required under division (C) (3) of section 1372
109.572 of the Revised Code ~~or by the nationwide mortgage~~ 1373
~~licensing system and registry~~ shall be paid by the applicant. 1374

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

electronic transmission or facsimile, the superintendent may 1382
consider the application withdrawn. 1383

~~(7)~~(6) If the division finds that the financial 1384
responsibility, experience, character, and general fitness of 1385
the applicant command the confidence of the public and warrant 1386
the belief that the business will be operated honestly and 1387
fairly in compliance with the purposes of sections 1321.51 to 1388
1321.60 of the Revised Code and the rules adopted thereunder, 1389
and that the applicant has the ~~requisite bond or~~ applicable net 1390
worth and assets required by division (B) of this section, the 1391
division shall thereupon issue a certificate of registration to 1392
the applicant. The superintendent shall not use a credit score 1393
as the sole basis for a registration denial. 1394

(a) (i) Certificates of registration issued on or after 1395
July 1, 2010, shall annually expire on the thirty-first day of 1396
December, unless renewed by the filing of a renewal application 1397
and payment of a three-hundred-dollar nonrefundable annual 1398
registration fee, and any assessment as determined by the 1399
superintendent pursuant to division (A) ~~(7)~~(6) (a) (ii) of this 1400
section, ~~and any additional fee required by the nationwide-~~ 1401
~~mortgage licensing system and registry,~~ on or before the last 1402
day of December of each year. No other fee or assessment shall 1403
be required of a registrant by the state or any political 1404
subdivision of this state. 1405

(ii) If the renewal fees billed by the superintendent 1406
pursuant to division (A) ~~(7)~~(6) (a) (i) of this section are less 1407
than the estimated expenditures of the consumer finance section 1408
of the division of financial institutions, as determined by the 1409
superintendent, for the following fiscal year, the 1410
superintendent may assess each registrant at a rate sufficient 1411

to equal in the aggregate the difference between the renewal 1412
fees billed and the estimated expenditures. Each registrant 1413
shall pay the assessed amount to the superintendent prior to the 1414
last day of June. In no case shall the assessment exceed ten 1415
cents per each one hundred dollars of interest (excluding 1416
charge-off recoveries), points, loan origination charges, and 1417
credit line charges collected by that registrant during the 1418
previous calendar year. If such an assessment is imposed, it 1419
shall not be less than two hundred fifty dollars per registrant 1420
and shall not exceed thirty thousand dollars less the total 1421
renewal fees paid pursuant to division (A) ~~(7)~~ (6) (a) (i) of this 1422
section by each registrant. 1423

(b) Registrants shall timely file renewal applications on 1424
forms prescribed by the division and provide any further 1425
information that the division may require. If a renewal 1426
application does not contain all of the information required 1427
under this section, and if that information is not submitted to 1428
the division ~~or to the nationwide mortgage licensing system and~~ 1429
~~registry~~ within ninety days after the superintendent ~~or the~~ 1430
~~nationwide mortgage licensing system and registry~~ requests the 1431
information in writing, including by electronic transmission or 1432
facsimile, the superintendent may consider the application 1433
withdrawn. 1434

(c) Renewal shall not be granted if the applicant's 1435
certificate of registration is subject to an order of 1436
suspension, revocation, or an unpaid and past due fine imposed 1437
by the superintendent. 1438

(d) If the division finds the applicant does not meet the 1439
conditions set forth in this section, it shall issue a notice of 1440
intent to deny the application, and forthwith notify the 1441

applicant of the denial, the grounds for the denial, and the 1442
applicant's reasonable opportunity to be heard on the action in 1443
accordance with Chapter 119. of the Revised Code. 1444

~~(8)~~(7) If there is a change of five per cent or more in 1445
the ownership of a registrant, the division may make any 1446
investigation necessary to determine whether any fact or 1447
condition exists that, if it had existed at the time of the 1448
original application for a certificate of registration, the fact 1449
or condition would have warranted the division to deny the 1450
application under division (A) ~~(7)~~(6) of this section. If such a 1451
fact or condition is found, the division may, in accordance with 1452
Chapter 119. of the Revised Code, revoke the registrant's 1453
certificate. 1454

(B) Each registrant that engages in lending under sections 1455
1321.51 to 1321.60 of the Revised Code shall, ~~if not otherwise~~ 1456
~~required to be bonded pursuant to section 1321.533 of the~~ 1457
~~Revised Code,~~ maintain both of the following: 1458

(1) A net worth of at least fifty thousand dollars; 1459

(2) For each certificate of registration, assets of at 1460
least fifty thousand dollars either in use or readily available 1461
for use in the conduct of the business. 1462

(C) Not more than one place of business shall be 1463
maintained under the same certificate, but the division may 1464
issue additional certificates to the same registrant upon 1465
compliance with sections 1321.51 to 1321.60 of the Revised Code, 1466
governing the issuance of a single certificate. No change in the 1467
place of business of a registrant to a location outside the 1468
original municipal corporation shall be permitted under the same 1469
certificate without the approval of a new application, the 1470

payment of the registration fee and, if required by the 1471
superintendent, the payment of an investigation fee of two 1472
hundred dollars. When a registrant wishes to change its place of 1473
business within the same municipal corporation, it shall give 1474
written notice of the change in advance to the division, which 1475
shall provide a certificate for the new address without cost. If 1476
a registrant changes its name, prior to making loans under the 1477
new name it shall give written notice of the change to the 1478
division, which shall provide a certificate in the new name 1479
without cost. Sections 1321.51 to 1321.60 of the Revised Code do 1480
not limit the loans of any registrant to residents of the 1481
community in which the registrant's place of business is 1482
situated. Each certificate shall be kept conspicuously posted in 1483
the place of business of the registrant and is not transferable 1484
or assignable. 1485

(D) Sections 1321.51 to 1321.60 of the Revised Code do not 1486
apply to any of the following: 1487

(1) Entities chartered and lawfully doing business under 1488
the authority of any law of this state, another state, or the 1489
United States as a bank, savings bank, trust company, savings 1490
and loan association, or credit union, or a subsidiary of any 1491
such entity, which subsidiary is regulated by a federal banking 1492
agency and is owned and controlled by such a depository 1493
institution; 1494

(2) Life, property, or casualty insurance companies 1495
licensed to do business in this state; 1496

(3) Any person that is a lender making a loan pursuant to 1497
sections 1321.01 to 1321.19 of the Revised Code or a business 1498
loan as described in division (B) (6) of section 1343.01 of the 1499
Revised Code; 1500

(4) Any political subdivision, or any governmental or 1501
other public entity, corporation, instrumentality, or agency, in 1502
or of the United States or any state of the United States, or 1503
any entity described in division (B) (3) of section 1343.01 of 1504
the Revised Code; 1505

(5) A college or university, or controlled entity of a 1506
college or university, as those terms are defined in section 1507
1713.05 of the Revised Code; 1508

~~(6) A credit union service organization, provided the 1509
organization utilizes services provided by registered mortgage 1510
loan originators or the organization complies with section 1511
1321.522 of the Revised Code and holds a valid letter of 1512
exemption issued by the superintendent. 1513~~

(E) No person engaged in the business of selling tangible 1514
goods or services related to tangible goods may receive or 1515
retain a certificate under sections 1321.51 to 1321.60 of the 1516
Revised Code for such place of business. 1517

Sec. 1321.54. (A) The division of financial institutions 1518
may adopt, in accordance with Chapter 119. of the Revised Code, 1519
rules that are necessary for the enforcement or administration 1520
of sections 1321.51 to 1321.60 of the Revised Code and that are 1521
consistent with those sections and rules to carry out the 1522
purposes of those sections. 1523

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

1321.51 to 1321.60 of the Revised Code if it finds any of the 1530
following: 1531

(a) A violation of or failure to comply with any provision 1532
of sections 1321.51 to 1321.60 of the Revised Code or the rules 1533
adopted thereunder, any federal lending law, or any other law 1534
applicable to the business conducted under a certificate of 1535
registration ~~or license~~; 1536

(b) The person has been convicted of or pleaded guilty or 1537
nolo contendere to any criminal felony offense in a domestic, 1538
foreign, or military court; 1539

(c) The person has been convicted of or pleaded guilty or 1540
nolo contendere to any criminal offense involving theft, 1541
receiving stolen property, embezzlement, forgery, fraud, passing 1542
bad checks, money laundering, breach of trust, dishonesty, or 1543
drug trafficking, or any criminal offense involving money or 1544
securities, in a domestic, foreign, or military court; 1545

~~(d) The person's mortgage lender certificate of 1546
registration or mortgage loan originator license, or comparable 1547
authority, has been revoked in any governmental jurisdiction. 1548~~

(2) In addition to, or in lieu of, any revocation, 1549
suspension, or denial, the division may impose a monetary fine 1550
after administrative hearing or in settlement of matters subject 1551
to claims under division (B) (1) (a) of this section. 1552

~~(3) Subject to division (D) (3) of section 1321.52 of the 1553
Revised Code, the The revocation, suspension, or refusal to 1554
renew shall not impair the obligation of any pre-existing lawful 1555
contract made under sections 1321.51 to 1321.60 of the Revised 1556
Code; provided, however, that a prior registrant shall make good 1557
faith efforts to promptly transfer the registrant's collection 1558~~

rights to another registrant or person exempt from registration, 1559
or be subject to additional monetary fines and legal or 1560
administrative action by the division. Nothing in division (B) 1561
(3) of this section shall limit a court's ability to impose a 1562
cease and desist order preventing any further business or 1563
servicing activity. 1564

(C) (1) The superintendent of financial institutions may 1565
impose a fine for a violation of sections 1321.51 to 1321.60 of 1566
the Revised Code or any rule adopted thereunder. All fines 1567
collected pursuant to this section shall be paid to the 1568
treasurer of state to the credit of the consumer finance fund 1569
created in section 1321.21 of the Revised Code. In determining 1570
the amount of a fine to be imposed pursuant to this section, the 1571
superintendent may consider all of the following to the extent 1572
it is known to the division of financial institutions: 1573

(a) The seriousness of the violation; 1574

(b) The registrant's ~~or licensee's~~ good faith efforts to 1575
prevent the violation; 1576

(c) The registrant's ~~or licensee's~~ history regarding 1577
violations and compliance with division orders; 1578

(d) The registrant's ~~or licensee's~~ financial resources; 1579

(e) Any other matters the superintendent considers 1580
appropriate in enforcing sections 1321.51 to 1321.60 of the 1581
Revised Code. 1582

(2) Monetary fines imposed under this division shall not 1583
exceed twenty-five thousand dollars and do not preclude any 1584
criminal fine imposed pursuant to section 1321.99 of the Revised 1585
Code. 1586

(D) The superintendent may investigate alleged violations 1587
of sections 1321.51 to 1321.60 of the Revised Code, or the rules 1588
adopted thereunder, or complaints concerning any such violation. 1589
The superintendent may make application to the court of common 1590
pleas for an order enjoining any violation and, upon a showing 1591
by the superintendent that a person has committed, or is about 1592
to commit, a violation, the court shall grant an injunction, 1593
restraining order, or other appropriate relief. The 1594
superintendent, in making application to the court of common 1595
pleas for an order enjoining a person from acting as a 1596
~~registrant or mortgage loan originator in violation of division~~ 1597
~~(A) or (E) of section 1321.52 of the Revised Code,~~ may also seek 1598
and obtain civil penalties for that unregistered ~~or unlicensed~~ 1599
conduct in an amount not to exceed five thousand dollars per 1600
violation. 1601

(E) In conducting an investigation pursuant to this 1602
section, the superintendent may compel, by subpoena, witnesses 1603
to testify in relation to any matter over which the 1604
superintendent has jurisdiction, and may require the production 1605
or photocopying of any book, record, or other document 1606
pertaining to such matter. If a person fails to file any 1607
statement or report, obey any subpoena, give testimony, produce 1608
any book, record, or other document as required by such a 1609
subpoena, or permit photocopying of any book, record, or other 1610
document subpoenaed, the court of common pleas of any county in 1611
this state, upon application made to it by the superintendent, 1612
shall compel obedience by attachment proceedings for contempt, 1613
as in the case of disobedience of the requirements of a subpoena 1614
issued from the court, or a refusal to testify therein. 1615

(F) If the superintendent determines that a person is 1616
engaged in, or is believed to be engaged in, activities that may 1617

constitute a violation of sections 1321.51 to 1321.60 of the Revised Code or the rules adopted thereunder, the superintendent may, after notice and a hearing conducted in accordance with Chapter 119. of the Revised Code, issue a cease and desist order. The superintendent, in taking administrative action to enjoin a person from acting as a registrant ~~or mortgage loan originator in violation of division (A) or (E) of section 1321.52 of the Revised Code~~, may also seek and impose fines for those violations in an amount not to exceed five thousand dollars per violation. Such an order shall be enforceable in the court of common pleas.

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

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

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

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

~~(c) Suspend the certificate of registration or license of a person who fails to comply with a request made by the superintendent under this section or section 1321.55 of the~~

~~Revised Code to inspect qualifying education transcripts located~~ 1647
~~at the registrant's or licensee's place of business.~~ 1648

(2) The superintendent may, in accordance with Chapter 1649
119. of the Revised Code, subsequently revoke any registration 1650
~~or license~~ suspended under division ~~(H)~~(G) (1) of this section. 1651

(3) The superintendent shall, in accordance with Chapter 1652
119. of the Revised Code, adopt rules establishing the maximum 1653
amount of time a suspension under division ~~(H)~~(G) (1) of this 1654
section may continue before a hearing is conducted. 1655

Sec. 1321.55. (A) Every registrant shall keep records 1656
pertaining to loans made under sections 1321.51 to 1321.60 of 1657
the Revised Code. Such records shall be segregated from records 1658
pertaining to transactions that are not subject to these 1659
sections of the Revised Code. Every registrant shall preserve 1660
records pertaining to loans made under sections 1321.51 to 1661
1321.60 of the Revised Code for at least two years after making 1662
the final entry on such records. Accounting systems maintained 1663
in whole or in part by mechanical or electronic data processing 1664
methods that provide information equivalent to that otherwise 1665
required are acceptable for this purpose. At least once each 1666
eighteen-month cycle, the division of financial institutions 1667
shall make or cause to be made an examination of records 1668
pertaining to loans made under sections 1321.51 to 1321.60 of 1669
the Revised Code, for the purpose of determining whether the 1670
registrant is complying with these sections and of verifying the 1671
registrant's annual report. 1672

(B) (1) As required by the superintendent of financial 1673
institutions, each registrant shall file with the division each 1674
year an annual report under oath or affirmation, on forms 1675
supplied by the division, concerning the business and operations 1676

for the preceding calendar year. Whenever a registrant operates 1677
two or more registered offices or whenever two or more 1678
affiliated registrants operate registered offices, then a 1679
composite report of the group of registered offices may be filed 1680
in lieu of individual reports. ~~For purposes of compliance with~~ 1681
~~this requirement, the superintendent may accept call reports or~~ 1682
~~other reports of condition submitted to the nationwide mortgage~~ 1683
~~licensing system and registry in lieu of the annual report.~~ 1684

(2) The superintendent shall publish annually an analysis 1685
of the information required under divisions (B) (1) and (3) of 1686
this section, but the individual reports, ~~whether filed with the~~ 1687
~~superintendent or the nationwide mortgage licensing system and~~ 1688
~~registry,~~ shall not be public records and shall not be open to 1689
public inspection. 1690

~~(3) Each mortgage licensee shall submit to the nationwide~~ 1691
~~mortgage licensing system and registry call reports or other~~ 1692
~~reports of condition, which shall be in such form and shall~~ 1693
~~contain such information as the nationwide mortgage licensing~~ 1694
~~system and registry may require.~~ 1695

(C) (1) The following information is confidential: 1696

(a) Examination information, and any information leading 1697
to or arising from an examination; 1698

(b) Investigation information, and any information arising 1699
from or leading to an investigation. 1700

(2) The information described in division (C) (1) of this 1701
section shall remain confidential for all purposes except when 1702
it is necessary for the superintendent to take official action 1703
regarding the affairs of a registrant ~~or licensee,~~ or in 1704
connection with criminal or civil proceedings to be initiated by 1705

a prosecuting attorney or the attorney general. This information 1706
may also be introduced into evidence or disclosed when and in 1707
the manner authorized by section 1181.25 of the Revised Code. 1708

(D) All application information, except social security 1709
numbers, employer identification numbers, financial account 1710
numbers, the identity of the institution where financial 1711
accounts are maintained, personal financial information, 1712
fingerprint cards and the information contained on such cards, 1713
and criminal background information, is a public record as 1714
defined in section 149.43 of the Revised Code. 1715

(E) This section does not prevent the division of 1716
financial institutions from releasing to or exchanging with 1717
other financial institution regulatory authorities information 1718
relating to registrants ~~and licensees~~. For this purpose, a 1719
"financial institution regulatory authority" includes a 1720
regulator of a business activity in which a registrant ~~or~~ 1721
~~licensee~~ is engaged, or has applied to engage in, to the extent 1722
that the regulator has jurisdiction over a registrant ~~or~~ 1723
~~licensee~~ engaged in that business activity. A registrant ~~or~~ 1724
~~licensee~~ is engaged in a business activity, and a regulator of 1725
that business activity has jurisdiction over the registrant ~~or~~ 1726
~~licensee~~, whether the registrant ~~or licensee~~ conducts the 1727
activity directly or a subsidiary or affiliate of the registrant 1728
~~or licensee~~ conducts the activity. 1729

(1) ~~Any confidentiality or privilege arising under federal~~ 1730
~~or state law with respect to any information or material~~ 1731
~~provided to the nationwide mortgage licensing system and~~ 1732
~~registry shall continue to apply to the information or material~~ 1733
~~after the information or material has been provided to the~~ 1734
~~nationwide mortgage licensing system and registry. The~~ 1735

~~information and material so provided may be shared with all- 1736
state and federal regulatory officials with mortgage industry- 1737
oversight authority without the loss of confidentiality or- 1738
privilege protections provided by federal law or the law of any- 1739
state. Information or material described in division (E) (1) of- 1740
this section to which confidentiality or privilege applies shall- 1741
not be subject to any of the following: 1742~~

~~(a) Disclosure under any federal or state law governing- 1743
disclosure to the public of information held by an officer or an- 1744
agency of the federal government or of the respective state; 1745~~

~~(b) Subpoena or discovery, or admission into evidence, in- 1746
any private civil action or administrative process, unless the- 1747
person to whom such information or material pertains waives, in- 1748
whole or in part and at the discretion of the person, any- 1749
privilege held by the nationwide mortgage licensing system and- 1750
registry with respect to that information or material. 1751~~

~~(2) The superintendent, in order to promote more effective 1752
regulation and reduce regulatory burden through supervisory 1753
information sharing, may enter into sharing arrangements with 1754
other governmental agencies, the conference of state bank- 1755
supervisors, and the American association of residential- 1756
mortgage regulators. 1757~~

~~(3) (2) Any state law, including section 149.43 of the 1758
Revised Code, relating to the disclosure of confidential 1759
supervisory information or any information or material described 1760
in division (C) (1) ~~or (E) (1)~~ of this section that is 1761
inconsistent with this section shall be superseded by the 1762
requirements of this section. 1763~~

~~(F) This section shall not apply with respect to- 1764~~

~~information or material relating to the employment history of, 1765
and publicly adjudicated disciplinary and enforcement actions 1766
against, mortgage loan originators that is included in the 1767
nationwide mortgage licensing system and registry for access by 1768
the public. 1769~~

~~(G) This section does not prevent the division from 1770
releasing information relating to registrants and licensees to 1771
the attorney general, to the superintendent of real estate and 1772
professional licensing for purposes relating to the 1773
administration of Chapters 4735. and 4763. of the Revised Code, 1774
to the superintendent of insurance for purposes relating to the 1775
administration of Chapter 3953. of the Revised Code, to the 1776
commissioner of securities for purposes relating to the 1777
administration of Chapter 1707. of the Revised Code, or to local 1778
law enforcement agencies and local prosecutors. Information the 1779
division releases pursuant to this section remains confidential. 1780~~

~~(H) The superintendent of financial institutions shall, by 1781
rule adopted in accordance with Chapter 119. of the Revised 1782
Code, establish a process by which mortgage loan originators may 1783
challenge information provided to the nationwide mortgage 1784
licensing system and registry by the superintendent. 1785~~

~~(I) No person, in connection with any examination or 1786
investigation conducted by the superintendent under sections 1787
1321.51 to 1321.60 of the Revised Code, shall knowingly do any 1788
of the following: 1789~~

~~(1) Circumvent, interfere with, obstruct, or fail to 1790
cooperate, including making a false or misleading statement, 1791
failing to produce records, or intimidating or suborning any 1792
witness; 1793~~

(2) Withhold, abstract, remove, mutilate, destroy, or 1794
secrete any books, records, computer records, or other 1795
information; 1796

(3) Tamper with, alter, or manufacture any evidence. 1797

Sec. 1321.551. ~~(A)~~ No registrant shall conduct the 1798
business of making loans under sections 1321.51 to 1321.60 of 1799
the Revised Code in any office, room, or place of business in 1800
which any other business is solicited or engaged in, or in 1801
association or conjunction with any other such business, if the 1802
superintendent of financial institutions finds, pursuant to a 1803
hearing conducted in accordance with Chapter 119. of the Revised 1804
Code, that the other business is of such a nature that the 1805
conduct tends to conceal evasion of sections 1321.51 to 1321.60 1806
of the Revised Code or of the rules adopted under those 1807
sections, and orders the registrant in writing to desist from 1808
the conduct. 1809

~~(B) The business of a mortgage loan originator shall 1810
principally be transacted at an office of the registrant with 1811
whom the licensee is employed or associated, which office is 1812
registered, if applicable, in accordance with division (A) (1) of 1813
section 1321.52 of the Revised Code. Each original mortgage loan 1814
originator license shall be deposited with and maintained at the 1815
registrant's main office. A copy of the mortgage loan originator 1816
license shall be maintained and displayed at the office where 1817
the mortgage loan originator principally transacts business. 1818~~

~~(C) If a mortgage loan originator's employment or 1819
association is terminated for any reason, the registrant shall 1820
return the original mortgage loan originator license to the 1821
superintendent within five business days after the termination. 1822
The licensee may request the transfer of the license to another 1823~~

~~registrant by submitting a transfer application, along with a~~ 1824
~~fifteen dollar fee and any fee required by the national mortgage~~ 1825
~~licensing system and registry, to the superintendent, or may~~ 1826
~~request in writing that the superintendent hold the license in~~ 1827
~~escrow. A licensee whose license is held in escrow shall cease~~ 1828
~~activity as a mortgage loan originator. A licensee whose license~~ 1829
~~is held in escrow shall be required to apply for renewal~~ 1830
~~annually and to comply with the annual continuing education~~ 1831
~~requirement.~~ 1832

~~(D) A registrant may employ or be associated with a~~ 1833
~~mortgage loan originator on a temporary basis pending the~~ 1834
~~transfer of the mortgage loan originator's license to the~~ 1835
~~registrant, if the registrant receives written confirmation from~~ 1836
~~the superintendent that the mortgage loan originator is licensed~~ 1837
~~under sections 1321.51 to 1321.60 of the Revised Code.~~ 1838

~~(E) Notwithstanding divisions (B), (C), and (D) of this~~ 1839
~~section, if a mortgage loan originator is employed by or~~ 1840
~~associated with a person claiming an exemption under division~~ 1841
~~(D) of section 1321.53 of the Revised Code, the mortgage loan~~ 1842
~~originator shall maintain and display the original mortgage loan~~ 1843
~~originator license at the office where the mortgage loan~~ 1844
~~originator principally transacts business.~~ 1845

~~If the mortgage loan originator's employment or~~ 1846
~~association is terminated for any reason, the licensee shall~~ 1847
~~return the original mortgage loan originator license to the~~ 1848
~~superintendent within five business days after the termination.~~ 1849
~~The licensee may request the transfer of the license to a~~ 1850
~~mortgage broker or other person claiming an exemption under~~ 1851
~~division (D) of section 1321.53 of the Revised Code by~~ 1852
~~submitting a transfer application, along with a fifteen dollar~~ 1853

~~fee and any fee required by the national mortgage licensing system and registry, to the superintendent, or may request the superintendent in writing to hold the license in escrow. A licensee whose license is held in escrow shall cease activity as a mortgage loan originator. A licensee whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing education requirement.~~ 1854
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~~The licensee may seek to be employed or associated with a mortgage broker or other person claiming an exemption under division (D) of section 1321.53 of the Revised Code if the mortgage broker or person receives written confirmation from the superintendent that the mortgage loan originator is licensed under sections 1321.51 to 1321.60 of the Revised Code.~~ 1861
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~~(F) No registrant, through its managers or otherwise, shall fail to do either of the following:~~ 1867
1868

~~(1) Reasonably supervise mortgage loan originators or other persons employed by or associated with the registrant;~~ 1869
1870

~~(2) Establish reasonable procedures designed to avoid violations of sections 1321.51 to 1321.60 of the Revised Code or rules adopted thereunder, or violations of applicable state and federal consumer and lending laws or rules, by mortgage loan originators or other persons employed by or associated with the registrant.~~ 1871
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~~(G) A license, or the authority granted under that license, is not assignable and cannot be franchised by contract or any other means.~~ 1877
1878
1879

Sec. 1321.57. (A) Notwithstanding any other provisions of the Revised Code, a registrant may contract for and receive interest, calculated according to the actuarial method, at a 1880
1881
1882

rate or rates not exceeding twenty-one per cent per year on the 1883
unpaid principal balances of the loan. Loans may be interest- 1884
bearing or precomputed. 1885

(B) For purposes of computation of time on interest- 1886
bearing and precomputed loans, including, but not limited to, 1887
the calculation of interest, a month is considered one-twelfth 1888
of a year, and a day is considered one three hundred sixty-fifth 1889
of a year when calculation is made for a fraction of a month. A 1890
year is as defined in section 1.44 of the Revised Code. A month 1891
is that period described in section 1.45 of the Revised Code. 1892
Alternatively, a registrant may consider a day as one three 1893
hundred sixtieth of a year and each month as having thirty days. 1894

(C) With respect to interest-bearing loans: 1895

(1) (a) Interest shall be computed on unpaid principal 1896
balances outstanding from time to time, for the time 1897
outstanding. 1898

(b) As an alternative to the method of computing interest 1899
set forth in division (C) (1) (a) of this section, a registrant 1900
may charge and collect interest for the first installment period 1901
based on elapsed time from the date of the loan to the first 1902
scheduled payment due date, and for each succeeding installment 1903
period from the scheduled payment due date to the next scheduled 1904
payment due date, regardless of the date or dates the payments 1905
are actually made. 1906

(c) Whether a registrant computes interest pursuant to 1907
division (C) (1) (a) or (b) of this section, each payment shall be 1908
applied first to unpaid charges, then to interest, and the 1909
remainder to the unpaid principal balance. However, if the 1910
amount of the payment is insufficient to pay the accumulated 1911

interest, the unpaid interest continues to accumulate to be paid 1912
from the proceeds of subsequent payments and is not added to the 1913
principal balance. 1914

(2) Interest shall not be compounded, collected, or paid 1915
in advance. However, both of the following apply: 1916

(a) Interest may be charged to extend the first monthly 1917
installment period by not more than fifteen days, and the 1918
interest charged for the extension may be added to the principal 1919
amount of the loan. 1920

(b) If part or all of the consideration for a new loan 1921
contract is the unpaid principal balance of a prior loan, the 1922
principal amount payable under the new loan contract may include 1923
any unpaid interest that has accrued. The resulting loan 1924
contract shall be deemed a new and separate loan transaction for 1925
purposes of this section. The unpaid principal balance of a 1926
precomputed loan is the balance due after refund or credit of 1927
unearned interest as provided in division (D) (3) of this 1928
section. 1929

(D) With respect to precomputed loans: 1930

(1) Loans shall be repayable in monthly installments of 1931
principal and interest combined, except that the first 1932
installment period may exceed one month by not more than fifteen 1933
days, and the first installment payment amount may be larger 1934
than the remaining payments by the amount of interest charged 1935
for the extra days; and provided further that monthly 1936
installment payment dates may be omitted to accommodate 1937
borrowers with seasonal income. 1938

(2) Payments may be applied to the combined total of 1939
principal and precomputed interest until maturity of the loan. A 1940

registrant may charge interest after the original or deferred 1941
maturity of a precomputed loan at the rate specified in division 1942
(A) of this section on all unpaid principal balances for the 1943
time outstanding. 1944

(3) When any loan contract is paid in full by cash, 1945
renewal, refinancing, or a new loan, one month or more before 1946
the final installment due date, the registrant shall refund, or 1947
credit the borrower with, the total of the applicable charges 1948
for all fully unexpired installment periods, as originally 1949
scheduled or as deferred, that follow the day of prepayment. If 1950
the prepayment is made other than on a scheduled installment due 1951
date, the nearest scheduled installment due date shall be used 1952
in such computation. If the prepayment occurs prior to the first 1953
installment due date, the registrant may retain one-thirtieth of 1954
the applicable charge for a first installment period of one 1955
month for each day from date of loan to date of prepayment, and 1956
shall refund, or credit the borrower with, the balance of the 1957
total interest contracted for. If the maturity of the loan is 1958
accelerated for any reason and judgment is entered, the 1959
registrant shall credit the borrower with the same refund as if 1960
prepayment in full had been made on the date the judgment is 1961
entered. 1962

(4) If the parties agree in writing, either in the loan 1963
contract or in a subsequent agreement, to a deferment of wholly 1964
unpaid installments, a registrant may grant a deferment and may 1965
collect a deferment charge as provided in this section. A 1966
deferment postpones the scheduled due date of the earliest 1967
unpaid installment and all subsequent installments as originally 1968
scheduled, or as previously deferred, for a period equal to the 1969
deferment period. The deferment period is that period during 1970
which no installment is scheduled to be paid by reason of the 1971

deferment. The deferment charge for a one-month period may not 1972
exceed the applicable charge for the installment period 1973
immediately following the due date of the last undeferred 1974
installment. A proportionate charge may be made for deferment 1975
for periods of more or less than one month. A deferment charge 1976
is earned pro rata during the deferment period and is fully 1977
earned on the last day of the deferment period. If a loan is 1978
prepaid in full during a deferment period, the registrant shall 1979
make, or credit to the borrower, a refund of the unearned 1980
deferment charge in addition to any other refund or credit made 1981
for prepayment of the loan in full. 1982

(E) A registrant, at the request of the borrower, may 1983
obtain, on one or more borrowers, credit life insurance, credit 1984
accident and health insurance, and unemployment insurance. The 1985
premium or identifiable charge for the insurance may be included 1986
in the principal amount of the loan and may not exceed the 1987
premium rate filed by the insurer with the superintendent of 1988
insurance and not disapproved by the superintendent. If a 1989
registrant obtains the insurance at the request of the borrower, 1990
the borrower shall have the right to cancel the insurance for a 1991
period of twenty-five days after the loan is made. If the 1992
borrower chooses to cancel the insurance, the borrower shall 1993
give the registrant written notice of this choice and shall 1994
return all of the policies or certificates of insurance or 1995
notices of proposed insurance to the registrant during such 1996
period, and the full premium or identifiable charge for the 1997
insurance shall be refunded to the borrower by the registrant. 1998
If the borrower requests, in the notice to cancel the insurance, 1999
that this refund be applied to reduce the balance of a 2000
precomputed loan, the registrant shall credit the amount of the 2001
refund plus the amount of interest applicable to the refund to 2002

the loan balance. 2003

If the registrant obtains the insurance at the request of 2004
the borrower, the registrant shall not charge or collect 2005
interest on any insured amount that remains unpaid after the 2006
insured borrower's date of death. 2007

(F) A registrant may require the borrower to provide 2008
insurance or a loss payable endorsement covering reasonable 2009
risks of loss, damage, and destruction of property used as 2010
security for the loan and with the consent of the borrower such 2011
insurance may cover property other than that which is security 2012
for the loan. The amount and term of required property insurance 2013
shall be reasonable in relation to the amount and term of the 2014
loan contract and the type and value of the security, and the 2015
insurance shall be procured in accordance with the insurance 2016
laws of this state. The purchase of this insurance through the 2017
registrant or an agent or broker designated by the registrant 2018
shall not be a condition precedent to the granting of the loan. 2019
If the borrower purchases the insurance from or through the 2020
registrant or from another source, the premium may be included 2021
in the principal amount of the loan. 2022

~~(G) On loans secured by an interest in real estate, all of~~ 2023
~~the following apply:~~ 2024

~~(1) A registrant, if not prohibited by section 1343.011 of~~ 2025
~~the Revised Code, may charge and receive up to two points, and a~~ 2026
~~prepayment penalty not in excess of one per cent of the original~~ 2027
~~principal amount of the loan. Points may be paid by the borrower~~ 2028
~~at the time of the loan or may be included in the principal~~ 2029
~~amount of the loan. On a refinancing, a registrant may not~~ 2030
~~charge under division (G) (1) of this section either of the~~ 2031
~~following:~~ 2032

~~(a) Points on the portion of the principal amount that is applied to the unpaid principal amount of the refinanced loan, if the refinancing occurs within one year after the date of the refinanced loan on which points were charged;~~ 2033
2034
2035
2036

~~(b) A prepayment penalty.~~ 2037

~~(2) As an alternative to the prepayment penalty described in division (G) (1) of this section, a registrant may contract for, charge, and receive the prepayment penalty described in division (G) (2) of this section for the prepayment of a loan prior to two years after the date the loan contract is executed. This prepayment penalty shall not exceed two per cent of the original principal amount of the loan if the loan is paid in full prior to one year after the date the loan contract is executed. The penalty shall not exceed one per cent of the original principal amount of the loan if the loan is paid in full at any time from one year, but prior to two years, after the date the loan contract is executed. A registrant shall not charge or receive a prepayment penalty under division (G) (2) of this section if any of the following applies:~~ 2038
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~~(a) The loan is a refinancing by the same registrant or a registrant to whom the loan has been assigned;~~ 2052
2053

~~(b) The loan is paid in full as a result of the sale of the real estate that secures the loan;~~ 2054
2055

~~(c) The loan is paid in full with the proceeds of an insurance claim against an insurance policy that insures the life of the borrower or an insurance policy that covers loss, damage, or destruction of the real estate that secures the loan.~~ 2056
2057
2058
2059

~~(3) Division (G) of this section is not a limitation on discount points or other charges for purposes of section 501(b)~~ 2060
2061

~~(4) of the "Depository Institutions Deregulation and Monetary Control Act of 1980," 94 Stat. 161, 12 U.S.C.A. 1735f-7 note.~~ 2062
2063

~~(H)(1) In addition to the interest and charges provided for by this section, no further or other amount, whether in the form of broker fees, placement fees, or any other fees whatsoever, shall be charged or received by the registrant, except costs and disbursements in connection with any suit to collect a loan or any lawful activity to realize on a security interest or mortgage after default, including reasonable attorney fees incurred by the registrant as a result of the suit or activity and to which the registrant becomes entitled by law, and except the following additional charges which may be included in the principal amount of the loan or collected at any time after the loan is made:~~ 2064
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~~(a) The amounts of fees authorized by law to record, file, or release security interests and mortgages on a loan;~~ 2076
2077

~~(b) With respect to a loan secured by an interest in real estate, the following closing costs, if they are bona fide, reasonable in amount, paid to third parties, and not for the purpose of circumvention or evasion of this section:~~ 2078
2079
2080
2081

~~(i) Fees or premiums for title examination, abstract of title, title insurance, surveys, title endorsements, title binders, title commitments, home inspections, or pest inspections; settlement or closing costs paid to unaffiliated third parties; courier fees; and any federally mandated flood plain certification fee;~~ 2082
2083
2084
2085
2086
2087

~~(ii) If not paid to the registrant, an employee of the registrant, or a person affiliated with the registrant, fees for preparation of a mortgage, settlement statement, or other~~ 2088
2089
2090

~~documents, fees for notarizing mortgages and other documents,~~ 2091
~~appraisal fees, and fees for any federally mandated inspection~~ 2092
~~of home improvement work financed by a second mortgage loan,~~ 2093

~~(e)~~ Fees for credit investigations not exceeding ten 2094
dollars. 2095

(2) Division ~~(H)~~ (G) (1) of this section does not limit the 2096
rights of registrants to engage in other transactions with 2097
borrowers, provided the transactions are not a condition of the 2098
loan. 2099

~~(I)~~ (H) If the loan contract or security instrument 2100
contains covenants by the borrower to perform certain duties 2101
pertaining to insuring or preserving security and the registrant 2102
pursuant to the loan contract or security instrument pays for 2103
performance of the duties on behalf of the borrower, the 2104
registrant may add the amounts paid to the unpaid principal 2105
balance of the loan or collect them separately. A charge for 2106
interest may be made for sums advanced not exceeding the rate of 2107
interest permitted by division (A) of this section. Within a 2108
reasonable time after advancing a sum, the registrant shall 2109
notify the borrower in writing of the amount advanced, any 2110
interest charged with respect to the amount advanced, any 2111
revised payment schedule, and shall include a brief description 2112
of the reason for the advance. 2113

~~(J)~~ (I) (1) ~~In addition to points authorized under division~~ 2114
~~(G) of this section, a~~ A registrant may charge and receive the 2115
following: 2116

(a) With respect to ~~loans secured by goods or real estate~~ 2117
loans: if the principal amount of the loan is five hundred 2118
dollars or less, loan origination charges not exceeding fifteen 2119

dollars; if the principal amount of the loan is more than five 2120
hundred dollars but less than one thousand dollars, loan 2121
origination charges not exceeding thirty dollars; if the 2122
principal amount of the loan is at least one thousand dollars 2123
but less than two thousand dollars, loan origination charges not 2124
exceeding one hundred dollars; if the principal amount of the 2125
loan is at least two thousand dollars but less than five 2126
thousand dollars, loan origination charges not exceeding two 2127
hundred dollars; and if the principal amount of the loan is at 2128
least five thousand dollars, loan origination charges not 2129
exceeding the greater of two hundred fifty dollars or one per 2130
cent of the principal amount of the loan. 2131

(b) With respect to loans that are not secured ~~by goods or~~ 2132
~~real estate~~: if the principal amount of the loan is five hundred 2133
dollars or less, loan origination charges not exceeding fifteen 2134
dollars; if the principal amount of the loan is more than five 2135
hundred dollars but less than one thousand dollars, loan 2136
origination charges not exceeding thirty dollars; if the 2137
principal amount of the loan is at least one thousand dollars 2138
but less than five thousand dollars, loan origination charges 2139
not exceeding one hundred dollars; and if the principal amount 2140
of the loan is at least five thousand dollars, loan origination 2141
charges not exceeding the greater of two hundred fifty dollars 2142
or one per cent of the principal amount of the loan. 2143

(2) If a refinancing occurs within ninety days after the 2144
date of the refinanced loan, a registrant may not impose loan 2145
origination charges on the portion of the principal amount that 2146
is applied to the unpaid principal amount of the refinanced 2147
loan. 2148

(3) Loan origination charges may be paid by the borrower 2149

at the time of the loan or may be included in the principal 2150
amount of the loan. 2151

~~(K)~~ (J) A registrant may charge and receive check 2152
collection charges not greater than twenty dollars plus any 2153
amount passed on from other depository institutions for each 2154
check, negotiable order of withdrawal, share draft, or other 2155
negotiable instrument returned or dishonored for any reason. 2156

~~(L)~~ (K) If the loan contract so provides, a registrant may 2157
collect a default charge on any installment not paid in full 2158
within ten days after its due date. For this purpose, all 2159
installments are considered paid in the order in which they 2160
become due. Any amounts applied to an outstanding loan balance 2161
as a result of voluntary release of a security interest, sale of 2162
security on the loan, or cancellation of insurance shall be 2163
considered payments on the loan, unless the parties otherwise 2164
agree in writing at the time the amounts are applied. The amount 2165
of the default charge shall not exceed the greater of five per 2166
cent of the scheduled installment or fifteen dollars. 2167

Sec. 1321.58. (A) A registrant may make open-end loans 2168
pursuant to an agreement between the registrant and the borrower 2169
whereby: 2170

(1) The registrant may permit the borrower to obtain 2171
advances of money from the registrant from time to time or the 2172
registrant may advance money on behalf of the borrower from time 2173
to time as directed by the borrower. 2174

(2) The amount of each advance and permitted interest, 2175
charges, and costs are debited to the borrower's account and 2176
payments and other credits are credited to the same account. 2177

(3) The interest and charges are computed on the unpaid 2178

balance or balances of the account from time to time. 2179

(4) The borrower has the privilege of paying the account 2180
in full at any time or, if the account is not in default, in 2181
installments of determinable amounts as provided in the 2182
agreement. 2183

For open-end loans, "billing cycle" means the time 2184
interval between periodic billing dates. A billing cycle shall 2185
be considered monthly if the closing date of the cycle is the 2186
same date each month or does not vary by more than four days 2187
from such date. 2188

(B) Notwithstanding any other provisions of the Revised 2189
Code, a registrant may contract for and receive interest for 2190
open-end loans at a rate or rates not exceeding twenty-one per 2191
cent per year and may compute interest in each billing cycle by 2192
either of the following methods: 2193

(1) By multiplying the daily rate by the daily unpaid 2194
balance of the account, in which case the daily rate is 2195
determined by dividing the annual rate by three hundred sixty- 2196
five; 2197

(2) By multiplying the monthly rate by the average daily 2198
unpaid balance of the account in the billing cycle, in which 2199
case the average daily unpaid balance is the sum of all of the 2200
daily unpaid balances each day during the cycle divided by the 2201
number of days in the cycle. The monthly rate is determined by 2202
dividing the annual rate by twelve. 2203

The billing cycle shall be monthly and the unpaid balance 2204
on any day shall be determined by adding to any balance unpaid 2205
as of the beginning of that day all advances and permitted 2206
interest, charges, and costs and deducting all payments and 2207

other credits made or received that day. 2208

(C) In addition to the interest permitted in division (B) 2209
of this section, a registrant may charge and receive or add to 2210
the unpaid balance any or all of the following: 2211

(1) All charges and costs authorized by divisions (E), 2212
(F), (G), (H), ~~(I)~~, and ~~(K)~~ (J) of section 1321.57 of the 2213
Revised Code; 2214

(2) An annual credit line charge, for the privilege of 2215
maintaining a line of credit, as follows: 2216

(a) For the first year: 2217

(i) If the original credit line is less than five thousand 2218
dollars, an amount not exceeding one hundred fifty dollars; 2219

(ii) If the original credit line is at least five thousand 2220
dollars, an amount not exceeding the greater of one per cent of 2221
the original credit line or two hundred fifty dollars. 2222

(b) For subsequent years an amount not exceeding the 2223
greater of one-half per cent of the credit line on the 2224
anniversary date or fifty dollars. 2225

(3) A default charge on any required minimum payment not 2226
paid in full within ten days after its due date. For this 2227
purpose, all required minimum payments are considered paid in 2228
the order in which they become due. The amount of the default 2229
charge shall not exceed the greater of five per cent of the 2230
required minimum payment or fifteen dollars. 2231

(D) The borrower at any time may pay all or any part of 2232
the unpaid balance on the account or, if the account is not in 2233
default, the borrower may pay the unpaid balance in installments 2234
subject to minimum payment requirements as determined by the 2235

registrant and set forth in the open-end loan agreement. 2236

(E) If credit life insurance or credit accident and health 2237
insurance is obtained by the registrant and if the insured dies 2238
or becomes disabled when there is an outstanding open-end loan 2239
indebtedness, the insurance shall be sufficient to pay the 2240
unpaid balance on the loan due on the date of the borrower's 2241
death in the case of credit life insurance or all minimum 2242
payments that become due on the loan during the covered period 2243
of disability in the case of credit accident and health 2244
insurance. The additional charge for credit life insurance, 2245
credit accident and health insurance, or unemployment insurance 2246
shall be calculated each billing cycle by applying the current 2247
monthly premium rate for the insurance, filed by the insurer 2248
with the superintendent of insurance and not disapproved by the 2249
superintendent, to the unpaid balances in the borrower's 2250
account, using one of the methods specified in division (B) of 2251
this section for the calculation of interest. No credit life 2252
insurance, credit accident and health insurance, or unemployment 2253
insurance written in connection with an open-end loan shall be 2254
canceled by the registrant because of delinquency of the 2255
borrower in making the required minimum payments on the loan 2256
unless one or more such payments is past due for a period of 2257
thirty days or more. The registrant shall advance to the insurer 2258
the amounts required to keep the insurance in force during such 2259
period, which amounts may be debited to the borrower's account. 2260

(F) Whenever there is no unpaid balance in an open-end 2261
loan account, the account may be terminated by written notice, 2262
by the borrower or the registrant, to the other party. ~~If a~~ 2263
~~registrant has taken a mortgage on real property to secure the~~ 2264
~~open-end loan, the registrant shall deliver, within thirty days~~ 2265
~~following termination of the account, a release of the mortgage~~ 2266

~~to the borrower.~~ If a registrant has taken a security interest 2267
in personal property to secure the open-end loan, the registrant 2268
shall release the security interest and terminate any financing 2269
statement in accordance with section 1309.513 of the Revised 2270
Code. 2271

Sec. 1321.59. (A) No registrant under sections 1321.51 to 2272
1321.60 of the Revised Code shall permit any borrower to be 2273
indebted for a loan made under sections 1321.51 to 1321.60 of 2274
the Revised Code at any time while the borrower is also indebted 2275
to an affiliate or agent of the registrant for a loan made under 2276
sections 1321.01 to 1321.19 of the Revised Code for the purpose 2277
or with the result of obtaining greater charges than otherwise 2278
would be permitted by sections 1321.51 to 1321.60 of the Revised 2279
Code. 2280

(B) No registrant shall induce or permit any person to 2281
become obligated to the registrant under sections 1321.51 to 2282
1321.60 of the Revised Code, directly or contingently, or both, 2283
under more than one contract of loan at the same time for the 2284
purpose or with the result of obtaining greater charges than 2285
would otherwise be permitted by sections 1321.51 to 1321.60 of 2286
the Revised Code. 2287

(C) No registrant shall refuse to provide information 2288
regarding the amount required to pay in full a loan under 2289
sections 1321.51 to 1321.60 of the Revised Code when requested 2290
by the borrower or by another person designated in writing by 2291
the borrower. 2292

~~(D) On any loan or application for a loan under sections~~ 2293
~~1321.51 to 1321.60 of the Revised Code secured by a mortgage on~~ 2294
~~a borrower's real estate which is other than a first lien on the~~ 2295
~~real estate, no person shall pay or receive, directly or~~ 2296

~~indirectly, fees or any other type of compensation for services~~ 2297
~~of a mortgage broker that, in the aggregate, exceed the lesser~~ 2298
~~of one thousand dollars or one per cent of the principal amount~~ 2299
~~of the loan.~~ 2300

~~(E) No registrant or licensee shall obtain a certificate~~ 2301
~~of registration or license through any false or fraudulent~~ 2302
~~representation of a material fact or any omission of a material~~ 2303
~~fact required by state or federal law, or make any substantial~~ 2304
~~misrepresentation in the registration or license application, to~~ 2305
~~engage in lending secured by real estate.~~ 2306

~~(F) No registrant or licensee, in connection with the~~ 2307
~~business of making or offering to make residential mortgage~~ 2308
~~loans, shall knowingly make false or misleading statements of a~~ 2309
~~material fact, omissions of statements required by state or~~ 2310
~~federal law, or false promises regarding a material fact,~~ 2311
~~through advertising or other means, or engage in a continued~~ 2312
~~course of misrepresentations.~~ 2313

~~(G) No registrant, licensee, or person making loans~~ 2314
~~without a certificate of registration in violation of division~~ 2315
~~(A) of section 1321.52 of the Revised Code, shall knowingly~~ 2316
~~engage in conduct, in connection with the business of making or~~ 2317
~~offering to make residential mortgage loans, that constitutes~~ 2318
~~improper, fraudulent, or dishonest dealings.~~ 2319

~~(H) No registrant, licensee, or applicant involved in the~~ 2320
~~business of making or offering to make residential mortgage~~ 2321
~~loans shall fail to notify the division of financial~~ 2322
~~institutions within thirty days after knowing any of the~~ 2323
~~following:~~ 2324

~~(1) That the registrant, licensee, or applicant has been~~ 2325

~~convicted of or pleaded guilty or nolo contendere to a felony-~~ 2326
~~offense in a domestic, foreign, or military court;~~ 2327

~~(2) That the registrant, licensee, or applicant has been~~ 2328
~~convicted of or pleaded guilty or nolo contendere to any~~ 2329
~~criminal offense involving theft, receiving stolen property,~~ 2330
~~embezzlement, forgery, fraud, passing bad checks, money~~ 2331
~~laundering, breach of trust, dishonesty, or drug trafficking, or~~ 2332
~~any criminal offense involving money or securities, in a~~ 2333
~~domestic, foreign, or military court;~~ 2334

~~(3) That the registrant, licensee, or applicant has had a~~ 2335
~~mortgage lender registration or mortgage loan originator~~ 2336
~~license, or comparable authority, revoked in any governmental~~ 2337
~~jurisdiction.~~ 2338

~~(I) No registrant or licensee shall knowingly make,~~ 2339
~~propose, or solicit fraudulent, false, or misleading statements~~ 2340
~~on any mortgage document or on any document related to a~~ 2341
~~mortgage loan, including a mortgage application, real estate~~ 2342
~~appraisal, or real estate settlement or closing document. For~~ 2343
~~purposes of this division, "fraudulent, false, or misleading~~ 2344
~~statements" does not include mathematical errors, inadvertent~~ 2345
~~transposition of numbers, typographical errors, or any other~~ 2346
~~bona fide error.~~ 2347

~~(J) No registrant or licensee shall knowingly instruct,~~ 2348
~~solicit, propose, or otherwise cause a borrower to sign in blank~~ 2349
~~a loan related document in connection with a residential~~ 2350
~~mortgage loan.~~ 2351

~~(K) No registrant or licensee shall knowingly compensate,~~ 2352
~~instruct, induce, coerce, or intimidate, or attempt to~~ 2353
~~compensate, instruct, induce, coerce, or intimidate, a person~~ 2354

~~licensed or certified as an appraiser under Chapter 4763. of the~~ 2355
~~Revised Code for the purpose of corrupting or improperly~~ 2356
~~influencing the independent judgment of the person with respect~~ 2357
~~to the value of the dwelling offered as security for repayment~~ 2358
~~of a mortgage loan.~~ 2359

~~(L) No registrant or licensee shall willfully retain~~ 2360
~~original documents provided to the registrant or licensee by the~~ 2361
~~borrower in connection with the residential mortgage loan~~ 2362
~~application, including income tax returns, account statements,~~ 2363
~~or other financial related documents.~~ 2364

~~(M) No registrant or licensee shall, in connection with~~ 2365
~~making residential mortgage loans, receive, directly or~~ 2366
~~indirectly, a premium on the fees charged for services performed~~ 2367
~~by a bona fide third party.~~ 2368

~~(N) No registrant or licensee shall, in connection with~~ 2369
~~making residential mortgage loans, pay or receive, directly or~~ 2370
~~indirectly, a referral fee or kickback of any kind to or from a~~ 2371
~~bona fide third party or other party with a related interest in~~ 2372
~~the transaction, including a home improvement builder, real~~ 2373
~~estate developer, or real estate broker or agent, for the~~ 2374
~~referral of business. Nothing in this division shall prevent~~ 2375
~~remuneration to a registrant or licensee for the licensed sale~~ 2376
~~of any insurance product that is permitted under section 1321.57~~ 2377
~~of the Revised Code, provided there is no additional fee or~~ 2378
~~premium added to the cost for the insurance and paid directly or~~ 2379
~~indirectly by the borrower.~~ 2380

~~(O) No registrant, licensee, or person making loans~~ 2381
~~without a certificate of registration in violation of division~~ 2382
~~(A) of section 1321.52 of the Revised Code shall, in connection~~ 2383
~~with making or offering to make residential mortgage loans,~~ 2384

~~engage in any unfair, deceptive, or unconscionable act or~~ 2385
~~practice prohibited under sections 1345.01 to 1345.13 of the~~ 2386
~~Revised Code.~~ 2387

Sec. 1321.60. (A) ~~(1)~~ Advertising for loans subject to 2388
sections 1321.51 to 1321.60 of the Revised Code shall not be 2389
false, misleading, or deceptive. 2390

~~(2) False, misleading, or deceptive advertising includes,~~ 2391
~~but is not limited to, the following:~~ 2392

~~(a) Placing, or causing to be placed, any advertisement~~ 2393
~~indicating that special terms, reduced rates, guaranteed rates,~~ 2394
~~particular rates, or any other special feature of mortgage loans~~ 2395
~~is available unless the advertisement clearly states any~~ 2396
~~limitations that apply.~~ 2397

~~(b) Placing, or causing to be placed, any advertisement~~ 2398
~~containing a rate or special fee offer that is not a bona fide~~ 2399
~~available rate or fee.~~ 2400

(B) In making any advertisement, a registrant shall comply 2401
with 12 C.F.R. ~~226.16~~ 1026.16, as ~~amended~~ applicable. 2402

Sec. 1321.631. Sections 1321.62 to 1321.702 of the Revised 2403
Code do not apply to any of the following: 2404

(A) Any credit transaction with a loan term of less than 2405
six months from the loan transaction date; 2406

(B) Any credit transaction that does not require equal 2407
monthly payments, unless either of the following ~~apply~~ applies: 2408

(1) The credit transaction contains an interest rate that 2409
is tied to a published and verifiable index and the contractual 2410
rate of interest is adjusted in accordance with changes in that 2411
index. 2412

(2) The credit transaction provides for an extension of 2413
the first monthly installment period pursuant to division (C) (2) 2414
(a) or (D) (1) (a) of section 1321.68 of the Revised Code. 2415

(C) Any credit transaction with an interest rate in excess 2416
of that provided for under section 1321.68 of the Revised Code; 2417

(D) Any credit transaction secured by an interest in the 2418
covered borrower's residential mortgage loan, including a 2419
transaction to finance the purchase or initial construction of a 2420
dwelling, any refinance transaction, home equity loan or home 2421
equity line of credit, or reverse mortgage; 2422

(E) Any credit transaction that originates as a result, 2423
directly or indirectly, of a referral from a person registered 2424
or acting as a credit services organization under sections 2425
4712.01 to 4712.14 of the Revised Code; 2426

(F) Any credit transaction made by a person licensed as a 2427
check-cashing business under sections 1315.21 to 1315.30 of the 2428
Revised Code; 2429

(G) Any credit transaction made by a retail seller under 2430
Chapter 1317. of the Revised Code; 2431

(H) Any credit transaction made by a person licensed or 2432
acting as a pawnbroker under Chapter 4727. of the Revised Code; 2433

(I) Any credit transaction made by a person licensed under 2434
sections 1321.35 to 1321.48 of the Revised Code; 2435

(J) Any credit transaction made by a collection agency 2436
pursuant to section 1319.12 of the Revised Code; 2437

(K) Any credit transaction made by a premium finance 2438
company licensed under sections 1321.71 to 1321.83 of the 2439
Revised Code; 2440

(L) Any credit transaction made by a person chartered and 2441
lawfully doing business under the authority of any law of this 2442
state, another state, or the United States as a bank, savings 2443
bank, trust company, savings and loan association, or credit 2444
union, or a subsidiary of any such entity, which subsidiary is 2445
regulated by a federal banking agency and is owned and 2446
controlled by such a depository institution; 2447

(M) Any credit transaction made by a life, property, or 2448
casualty insurance company licensed to do business in this state 2449
or any entity licensed under Title XXXIX of the Revised Code 2450
that makes advances or loans to any person who is licensed to 2451
sell insurance pursuant to that title and who is authorized in 2452
writing by that entity to sell insurance; 2453

(N) Any licensee doing business under sections 1321.01 to 2454
1321.19 of the Revised Code; 2455

(O) Any registrant doing business under sections 1321.51 2456
to 1321.60 of the Revised Code; 2457

(P) Any person making a business loan described in 2458
division (B) (6) of section 1343.01 of the Revised Code; 2459

(Q) Any political subdivision, or any governmental or 2460
other public entity, corporation, instrumentality, or agency, in 2461
or of the United States or any state of the United States, or 2462
any entity mentioned in division (B) (3) of section 1343.01 of 2463
the Revised Code; 2464

(R) Any college or university, or controlled entity of a 2465
college or university, as those terms are defined in section 2466
1713.05 of the Revised Code; 2467

(S) Any person doing business under and as permitted by 2468
any law of this state, another state, or the United States 2469

relating to banks, savings banks, savings societies, trust 2470
companies, credit unions, or savings and loan associations 2471
substantially all the business of which is confined to loans on 2472
real estate mortgages and evidences of their own indebtedness. 2473

Sec. 1321.72. Except as provided in division (D) of 2474
section 1321.78, sections 1321.71 to 1321.83 of the Revised Code 2475
do not apply with respect to any of the following: 2476

(A) Life, property, or casualty insurance companies 2477
authorized to do business in this state as to policies issued by 2478
those companies; 2479

(B) The inclusion of a charge for insurance in connection 2480
with any installment transaction pursuant to Chapter 1317. of 2481
the Revised Code; 2482

(C) The financing of insurance premiums at a rate of 2483
interest not exceeding the maximum rate permitted by section 2484
1343.01 of the Revised Code; 2485

(D) Persons lawfully doing business under the authority of 2486
any law of this state, another state, or the United States 2487
relating to banks, savings banks, trust companies, savings and 2488
loan associations, lenders authorized to make loans pursuant to 2489
sections 1321.01 to 1321.19 of the Revised Code, lenders 2490
authorized to make loans pursuant to sections 1321.51 to 1321.60 2491
of the Revised Code, mortgage lenders authorized to make loans 2492
under Chapter 1322. of the Revised Code, or any credit union; 2493

(E) Any person who purchases or otherwise acquires a 2494
premium finance agreement from a licensee if the licensee 2495
remains responsible for collecting payments due under the 2496
agreement, and for otherwise servicing the agreement, in 2497
compliance with sections 1321.71 to 1321.83 of the Revised Code. 2498

Sec. 1321.99. (A) Whoever violates section 1321.02 of the Revised Code is guilty of a felony of the fifth degree. 2499
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(B) Whoever violates section 1321.13 of the Revised Code shall be fined not less than one hundred nor more than five hundred dollars or imprisoned not more than six months, or both. 2501
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(C) Whoever violates section 1321.14 of the Revised Code shall be fined not less than fifty nor more than two hundred dollars for a first offense; for a second offense such person shall be fined not less than two hundred nor more than five hundred dollars and imprisoned for not more than six months. 2504
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(D) Whoever willfully violates section 1321.57, 1321.58, division (A), (B), or (C), ~~or (D)~~ of section 1321.59, 1321.591, or 1321.60 of the Revised Code is guilty of a minor misdemeanor and shall be fined not less than one nor more than five hundred dollars. 2509
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~~(E) Whoever violates section 1321.52 or division (I), (J), (K), (L), or (M) of section 1321.59 of the Revised Code is guilty of a felony of the fifth degree.~~ 2514
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~~(F)~~ Whoever violates division (A) of section 1321.73 of the Revised Code shall be fined not more than five hundred dollars or imprisoned not more than six months, or both. 2517
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~~(G)~~ (F) Whoever violates section 1321.41 of the Revised Code is guilty of a misdemeanor of the first degree. 2520
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~~(H) Whoever violates division (N) of section 1321.59 of the Revised Code is guilty of a felony of the fourth degree.~~ 2522
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~~(I)~~ (G) The imposition of fines pursuant to this section does not preclude the imposition of any administrative fines or civil penalties authorized under section 1321.54 or any other 2524
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section of the Revised Code. 2527

Sec. 1322.01. As used in ~~sections 1322.01 to 1322.12 of~~ 2528
~~the Revised Code~~ this chapter: 2529

(A) "Administrative or clerical tasks" mean the receipt, 2530
collection, and distribution of information common for the 2531
processing or underwriting of a loan in the mortgage industry, 2532
without performing any analysis of the information, and 2533
communication with a consumer to obtain information necessary 2534
for the processing or underwriting of a residential mortgage 2535
loan. 2536

(B) "Advertising" means a commercial message in any medium 2537
that promotes, either directly or indirectly, a residential 2538
mortgage lending transaction. 2539

(C) "Application" has the same meaning as in 12 C.F.R. 2540
1026.2(a)(3). 2541

(D) "Approved education course" means any course approved 2542
by the nationwide mortgage licensing system and registry. 2543

(E) "Approved test provider" means any test provider 2544
approved by the nationwide mortgage licensing system and 2545
registry. 2546

(F) "Borrower" means a person seeking a residential 2547
mortgage loan or an obligor on a residential mortgage loan. 2548

(G) "Branch office" means a location at which a licensee 2549
conducts business other than a registrant's principal place of 2550
business, if at least one of the following applies to the 2551
location: 2552

(1) The address of the location appears on business cards, 2553
stationery, or advertising used by the registrant; 2554

- (2) The registrant's name or advertising at the location suggests that mortgage transactions are made at the location; 2555
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- (3) The location is held out to the public as a licensee's place of business due to the actions of an employee or independent contractor of the registrant; or 2557
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- (4) The location within this state is controlled directly or indirectly by the registrant. 2560
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- (H) "Buyer" means an individual who is solicited to purchase or who purchases the services of a mortgage ~~broker~~ loan originator for purposes of obtaining a residential mortgage loan. 2562
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- ~~(B)~~ (I) "Consumer reporting agency" has the same meaning as in the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as amended. 2566
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- ~~(C)~~ (J) "Control" means the power, directly or indirectly, to direct the management or policies of an entity, whether through ownership of securities, by contract, or otherwise. A person is presumed to control an entity if that person: 2569
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- (1) Is a director, general partner, or executive officer or is an individual that occupies a similar position or performs a similar function; 2573
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- (2) Directly or indirectly has the right to vote five per cent or more of a class of a voting security or has the power to sell or direct the sale of five per cent or more of a class of voting securities; 2576
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- (3) In the case of a limited liability company, is a managing member; or 2580
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- (4) In the case of a partnership, has the right to receive 2582

upon dissolution or has contributed five per cent or more of the 2583
capital. 2584

(K) "Depository institution" has the same meaning as in 2585
section 3 of the "Federal Deposit Insurance Act," 12 U.S.C. 2586
1813(c), and also includes any credit union. 2587

(L) "Dwelling" has the same meaning as in 15 U.S.C. 2588
1602(w). "Dwelling" includes a single condominium unit, 2589
cooperative unit, mobile home, and trailer, if it is used as a 2590
residence, whether or not that structure is attached to real 2591
property. 2592

(M) "Employee" means an individual for whom a mortgage 2593
broker or mortgage lender, in addition to providing a wage or 2594
salary, pays social security and unemployment taxes, provides 2595
workers' compensation coverage, and withholds local, state, and 2596
federal income taxes. "Employee" also includes any individual 2597
who acts as a mortgage loan originator or operations manager of 2598
a registrant, but for whom the registrant is prevented by law 2599
from making income tax withholdings. 2600

~~(D)~~ (N) "Entity" means a business organization, including 2601
a sole proprietorship. 2602

(O) "Expungement" means a court-ordered process that 2603
involves the destruction of documentation related to past 2604
arrests and convictions. 2605

(P) "Federal banking agency" means the board of governors 2606
of the federal reserve system, the comptroller of the currency, 2607
the national credit union administration, or the federal deposit 2608
insurance corporation. 2609

(Q) "Immediate family" means an individual's spouse, 2610
child, stepchild, parent, stepparent, grandparent, grandchild, 2611

brother, sister, parent-in-law, brother-in-law, or sister-in-law. 2612
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(R) "Independent contractor" means an individual who performs duties for another person and is not subject to that person's supervision or control. 2614
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(S) "Individual" means a natural person. 2617

(T) "Licensee" means any individual who has been issued a mortgage loan originator license under ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter. 2618
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~~(E)(1)~~(U) "Loan commitment" means a statement transmitted in writing or electronically by a mortgage lender setting forth the terms and conditions upon which the mortgage lender is willing to make a particular residential mortgage loan to a particular borrower. 2621
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(V) "Loan processor or underwriter" means an individual who, with respect to the origination of a residential mortgage loan, performs administrative or clerical tasks as an employee at the direction of and subject to the supervision of a mortgage lender or mortgage broker. For purposes of this division, "origination of a residential mortgage loan" means all activities related to a residential mortgage loan, from the taking of a loan application through the completion of all required loan closing documents and the funding of the loan. 2626
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(W) "Mortgage" means the consensual interest in real property located in this state, including improvements to that property, securing a debt evidence by a mortgage, trust indenture, deed of trust, or other lien on real property. 2635
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(X) "Mortgage broker" means an entity that obtains, attempts to obtain, or assists in obtaining a mortgage loan for 2639
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a borrower from a mortgage lender in return for consideration or 2641
in anticipation of consideration. For purposes of this division, 2642
"attempting to obtain or assisting in obtaining" a mortgage loan 2643
includes referring a borrower to a mortgage lender, soliciting 2644
or offering to solicit a mortgage loan on behalf of a borrower, 2645
or negotiating or offering to negotiate the terms or conditions 2646
of a mortgage loan with a mortgage lender on behalf of a 2647
borrower. 2648

(Y) "Mortgage lender" means an entity that consummates a 2649
residential mortgage loan, advances funds, offers to advance 2650
funds, or commits to advancing funds for a residential mortgage 2651
loan applicant. 2652

(Z) (1) "~~Loan~~ Mortgage loan originator" means an individual 2653
who for compensation or gain, or in ~~anticipation~~ the expectation 2654
of compensation or gain, does any of the following: 2655

(a) Takes ~~or offers to take~~ a residential mortgage loan 2656
application; 2657

(b) Assists or offers to assist a buyer in obtaining or 2658
applying to obtain a residential mortgage loan by, among other 2659
things, advising on loan terms, including rates, fees, and other 2660
costs; 2661

(c) Offers or negotiates terms of a residential mortgage 2662
loan; 2663

(d) Issues or offers to issue a commitment for a 2664
residential mortgage loan to a buyer. 2665

(2) "~~Loan~~ Mortgage loan originator" does not include any 2666
of the following: 2667

(a) An individual who performs purely administrative or 2668

clerical tasks on behalf of a mortgage loan originator; 2669

(b) A person licensed under Chapter 4735. of the Revised 2670
Code, or under the similar law of another state, who performs 2671
only real estate brokerage activities permitted by that license, 2672
provided the person is not compensated by a mortgage lender, 2673
mortgage broker, mortgage loan originator, or by any agent 2674
thereof; 2675

(c) A person solely involved in extensions of credit 2676
relating to timeshare plans, as that term is defined in 11 2677
U.S.C. 101 ~~in effect on January 1, 2009;~~ 2678

(d) An employee of a ~~registrant~~ mortgage lender or 2679
mortgage broker who acts solely as a loan processor or 2680
underwriter and who does not represent to the public, through 2681
advertising or other means of communicating, including the use 2682
of business cards, stationery, brochures, signs, rate lists, or 2683
other promotional items, that the employee can or will perform 2684
any of the activities of a mortgage loan originator; 2685

(e) ~~A mortgage loan originator licensed under sections~~ 2686
~~1321.51 to 1321.60 of the Revised Code, when acting solely under~~ 2687
~~that authority;~~ 2688

~~(f)~~ A licensed attorney who negotiates the terms of a 2689
residential mortgage loan on behalf of a client as an ancillary 2690
matter to the attorney's representation of the client, unless 2691
the attorney is compensated by a mortgage lender, a mortgage 2692
broker, or another mortgage loan originator, or by any agent 2693
thereof; 2694

~~(g)~~ ~~(f)~~ Any person engaged in the retail sale of 2695
manufactured homes, mobile homes, or industrialized units if, in 2696
connection with financing those retail sales, the person only 2697

assists the borrower by providing or transmitting the loan	2698
application and does not do any of the following:	2699
(i) Offer or negotiate the residential mortgage loan rates	2700
or terms;	2701
(ii) Provide any counseling with borrowers about	2702
residential mortgage loan rates or terms;	2703
(iii) Receive any payment or fee from any company or	2704
individual for assisting the borrower obtain or apply for	2705
financing to purchase the manufactured home, mobile home, or	2706
industrialized unit;	2707
(iv) Assist the borrower in completing a residential	2708
mortgage loan application.	2709
(h) <u>(g)</u> An individual employed by a nonprofit organization	2710
that is recognized as tax exempt under 26 U.S.C. 501(c) (3) and	2711
whose primary activity is the construction, remodeling, or	2712
rehabilitation of homes for use by low-income families, provided	2713
that the nonprofit organization makes no-profit mortgage loans	2714
or mortgage loans at zero per cent interest to low-income	2715
families and no fees accrue directly to the nonprofit	2716
organization or individual employed by the nonprofit	2717
organization from those mortgage loans and that the United	2718
States department of housing and urban development does not deny	2719
this exemption.	2720
(F) "Mortgage" means any indebtedness secured by a deed of	2721
trust, security deed, or other lien on real property.	2722
(G) (1) "Mortgage broker" means any of the following:	2723
(a) A person that holds that person out as being able to	2724
assist a buyer in obtaining a mortgage and charges or receives	2725

~~from either the buyer or lender money or other valuable
consideration readily convertible into money for providing this
assistance;~~ 2726
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~~(b) A person that solicits financial and mortgage
information from the public, provides that information to a
mortgage broker or a person that makes residential mortgage
loans, and charges or receives from either of them money or
other valuable consideration readily convertible into money for
providing the information;~~ 2729
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~~(c) A person engaged in table-funding or warehouse-lending
mortgage loans that are first lien residential mortgage loans.~~ 2735
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~~(2) "Mortgage broker" does not include any of the
following persons only with respect to business engaged in or
authorized by the person's charter, license, authority,
approval, or certificate, or as otherwise authorized by division
(G) (2) (h) of this section:~~ 2737
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~~(a) A person that makes residential mortgage loans and
receives a scheduled payment on each of those mortgage loans;~~ 2742
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~~(b) Any entity chartered and lawfully doing business under
the authority of any law of this state, another state, or the
United States as a bank, savings bank, trust company, savings
and loan association, or credit union, or a subsidiary of any
such entity, which subsidiary is regulated by a federal banking
agency and is owned and controlled by a depository institution;~~ 2744
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~~(c) A consumer reporting agency that is in substantial
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128,
15 U.S.C.A. 1681a, as amended;~~ 2750
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~~(d) Any political subdivision, or any governmental or
other public entity, corporation, instrumentality, or agency, in~~ 2753
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~~or of the United States or any state;~~ 2755

~~(e) A college or university, or controlled entity of a college or university, as those terms are defined in section 1713.05 of the Revised Code;~~ 2756
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~~(f) Any entity created solely for the purpose of securitizing loans secured by an interest in real estate, provided the entity does not service the loans. For purposes of division (G) (2) (f) of this section, "securitizing" means the packaging and sale of mortgage loans as a unit for sale as investment securities, but only to the extent of those activities.~~ 2759
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~~(g) Any person engaged in the retail sale of manufactured homes, mobile homes, or industrialized units if, in connection with obtaining financing by others for those retail sales, the person only assists the borrower by providing or transmitting the loan application and does not do any of the following:~~ 2766
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~~(i) Offer or negotiate the residential mortgage loan rates or terms;~~ 2771
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~~(ii) Provide any counseling with borrowers about residential mortgage loan rates or terms;~~ 2773
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~~(iii) Receive any payment or fee from any company or individual for assisting the borrower obtain or apply for financing to purchase the manufactured home, mobile home, or industrialized unit;~~ 2775
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~~(iv) Assist the borrower in completing the residential mortgage loan application.~~ 2779
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~~(h) A mortgage banker, provided it complies with section 1322.022 of the Revised Code and holds a valid letter of~~ 2781
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~~exemption issued by the superintendent. For purposes of this~~ 2783
~~section, "mortgage banker" means any person that makes,~~ 2784
~~services, buys, or sells residential mortgage loans secured by a~~ 2785
~~first lien, that underwrites the loans, and that meets at least~~ 2786
~~one of the following criteria:~~ 2787

~~(i) The person has been directly approved by the United~~ 2788
~~States department of housing and urban development as a~~ 2789
~~nonsupervised mortgagee with participation in the direct~~ 2790
~~endorsement program. Division (G) (2) (h) (i) of this section~~ 2791
~~includes a person that has been directly approved by the United~~ 2792
~~States department of housing and urban development as a~~ 2793
~~nonsupervised mortgagee with participation in the direct~~ 2794
~~endorsement program and that makes loans in excess of the~~ 2795
~~applicable loan limit set by the federal national mortgage~~ 2796
~~association, provided that the loans in all respects, except~~ 2797
~~loan amounts, comply with the underwriting and documentation~~ 2798
~~requirements of the United States department of housing and~~ 2799
~~urban development. Division (G) (2) (h) (i) of this section does~~ 2800
~~not include a mortgagee approved as a loan correspondent.~~ 2801

~~(ii) The person has been directly approved by the federal~~ 2802
~~national mortgage association as a seller/servicer. Division (G)~~ 2803
~~(2) (h) (ii) of this section includes a person that has been~~ 2804
~~directly approved by the federal national mortgage association~~ 2805
~~as a seller/servicer and that makes loans in excess of the~~ 2806
~~applicable loan limit set by the federal national mortgage~~ 2807
~~association, provided that the loans in all respects, except~~ 2808
~~loan amounts, comply with the underwriting and documentation~~ 2809
~~requirements of the federal national mortgage association.~~ 2810

~~(iii) The person has been directly approved by the federal~~ 2811
~~home loan mortgage corporation as a seller/servicer. Division~~ 2812

~~(G) (2) (h) (iii) of this section includes a person that has been directly approved by the federal home loan mortgage corporation as a seller/servicer and that makes loans in excess of the applicable loan limit set by the federal home loan mortgage corporation, provided that the loans in all respects, except loan amounts, comply with the underwriting and documentation requirements of the federal home loan mortgage corporation.~~ 2813
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~~(iv) The person has been directly approved by the United States department of veterans affairs as a nonsupervised automatic lender. Division (G) (2) (h) (iv) of this section does not include a person directly approved by the United States department of veterans affairs as a nonsupervised lender, an agent of a nonsupervised automatic lender, or an agent of a nonsupervised lender.~~ 2820
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~~(i) 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 percent interest to low-income families and no fees accrue directly to the nonprofit organization from those mortgage loans and that the United States department of housing and urban development does not deny this exemption.~~ 2827
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~~(j) A credit union service organization, provided that the organization utilizes services provided by registered loan originators or that it holds a valid letter of exemption issued by the superintendent under section 1322.023 of the Revised Code and complies with that section.~~ 2836
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~~(H) "Operations manager" means the employee or owner responsible for the everyday operations, compliance~~ 2841
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~~requirements, and management of a mortgage broker business.~~ 2843

~~(I) "Registered loan originator" means an individual to~~ 2844
~~whom both of the following apply:~~ 2845

~~(1) The individual is a loan originator and an employee of~~ 2846
~~a depository institution, a subsidiary that is owned and~~ 2847
~~controlled by a depository institution and regulated by a~~ 2848
~~federal banking agency, or an institution regulated by the farm-~~ 2849
~~credit administration.~~ 2850

~~(2) The individual is registered with, and maintains a~~ 2851
~~unique identifier through, the nationwide mortgage licensing~~ 2852
~~system and registry.~~ 2853

~~(J) "Registrant" means any person that has been issued a~~ 2854
~~mortgage broker certificate of registration under sections~~ 2855
~~1322.01 to 1322.12 of the Revised Code.~~ 2856

~~(K) "Superintendent of financial institutions" includes~~ 2857
~~the deputy superintendent for consumer finance as provided in~~ 2858
~~section 1181.21 of the Revised Code.~~ 2859

~~(L) "Table funding mortgage loan" means a residential~~ 2860
~~mortgage loan transaction in which the residential mortgage loan~~ 2861
~~is initially payable to the mortgage broker, the mortgage broker~~ 2862
~~does not use the mortgage broker's own funds to fund the~~ 2863
~~transaction, and, by the terms of the mortgage or other~~ 2864
~~agreement, the mortgage is simultaneously assigned to another~~ 2865
~~person.~~ 2866

~~(M) "Warehouse lending mortgage loan" means a residential~~ 2867
~~mortgage loan transaction in which the residential mortgage loan~~ 2868
~~is initially payable to the mortgage broker, the mortgage broker~~ 2869
~~uses the mortgage broker's own funds to fund the transaction,~~ 2870
~~and the mortgage is sold or assigned before the mortgage broker~~ 2871

~~receives a scheduled payment on the residential mortgage loan.~~ 2872

~~(N) "Administrative or clerical tasks" means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry, and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.~~ 2873
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~~(O) "Appraisal company" means a sole proprietorship, partnership, corporation, limited liability company, or any other business entity or association, that employs or retains the services of a person licensed or certified under Chapter 4763. of the Revised Code for purposes of performing residential real estate appraisals for mortgage loans.~~ 2879
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~~(P) "Depository institution" has the same meaning as in section 3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813, and includes any credit union.~~ 2885
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~~(Q) "Federal banking agency" means the board of governors of the federal reserve system, the comptroller of the currency, the director of the office of thrift supervision, the national credit union administration, and the federal deposit insurance corporation.~~ 2888
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~~(R) "Immediate family" means an individual's spouse, child, stepchild, parent, stepparent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, or sister-in-law.~~ 2893
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~~(S) "Individual" means a natural person.~~ 2897

~~(T) "Loan processor or underwriter" means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of a licensed loan~~ 2898
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~~originator or registered loan originator. For purposes of this
division, to "perform clerical or support duties" means to do
all of the following activities:~~ 2901
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~~(1) Receiving, collecting, distributing, and analyzing
information common for the processing or underwriting of a
residential mortgage loan;~~ 2904
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~~(2) Communicating with a buyer to obtain the information
necessary for the processing or underwriting of a loan, to the
extent the communication does not include offering or
negotiating loan rates or terms or counseling buyers about
residential mortgage loan rates or terms.~~ 2907
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~~(U) (AA) "Nationwide mortgage licensing system and
registry" means a mortgage licensing system developed and
maintained by the conference of state bank supervisors and the
American association of residential mortgage regulators, or
their successor entities, for the licensing and registration of
loan originators, or any system established by the secretary of
housing and urban development pursuant to the "Secure and Fair
Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810,
12 U.S.C. 5101 persons providing non-depository financial
services.~~ 2912
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~~(V) (BB) "Nontraditional mortgage product" means any
mortgage product other than a thirty-year fixed rate mortgage.~~ 2922
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~~(W) (CC) "Person" means an individual, sole
proprietorship, corporation, company, limited liability company,
partnership, limited liability partnership, trust, or
association.~~ 2924
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~~(DD) "Real estate brokerage activity" means any activity
that involves offering or providing real estate brokerage~~ 2928
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services to the public, including all of the following:	2930
(1) Acting as a real estate agent <u>salesperson</u> or real estate broker for a buyer, seller, lessor, or lessee of real property;	2931 2932 2933
(2) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing for any such transaction;	2934 2935 2936 2937
(3) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing for any such transaction;	2938 2939 2940 2941
(4) Engaging in any activity for which a person engaged in that activity is required to be registered or licensed as a real estate agent <u>salesperson</u> or real estate broker under any applicable the law of this state;	2942 2943 2944 2945
(5) Offering to engage in any activity, or to act in any capacity, described in division (W) <u>(DD)</u> of this section.	2946 2947
(X) <u>(EE) "Registered mortgage loan originator" means an individual to whom both of the following apply:</u>	2948 2949
<u>(1) The individual is a mortgage loan originator and an employee of a depository institution, a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the farm credit administration.</u>	2950 2951 2952 2953 2954
<u>(2) The individual is registered with, and maintains a unique identifier through, the nationwide mortgage licensing system and registry.</u>	2955 2956 2957

(FF) "Registrant" means any person that has been issued a certificate of registration under this chapter. 2958
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(GG) "Residential mortgage loan" means any loan that meets both of the following requirements: 2960
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(1) It is primarily for personal, family, or household use that and is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real estate upon which is constructed or intended to be constructed a dwelling. For purposes of this division, "dwelling" has the same meaning as in section 103 of the "Truth in Lending Act," 82 Stat. 146, 15 U.S.C 1602 located in Ohio. 2962
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(2) It is provided and secured by a first lien holder secured creditor or by a second lien holder secured creditor. 2969
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~~(Y) "State," in the context of referring to states in addition to Ohio, means any state of the United States, the district of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the trust territory of the Pacific islands, the virgin islands, and the northern Mariana islands.~~ 2971
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~~(Z)~~ (HH) "Residential real estate" means any real property located in this state upon which is constructed a dwelling or upon which a dwelling is intended to be built within a two-year period, subject to 24 C.F.R. 3500.5(b)(4). For purposes of this division, a borrower's intent to build a dwelling within a two-year period is presumed unless the borrower has submitted a written, signed statement to the contrary. 2976
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(II) "Superintendent of financial institutions" includes the deputy superintendent for consumer finance as provided in section 1181.21 of the Revised Code. 2983
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(JJ) "Unique identifier" means a number or other 2986

identifier that permanently identifies a loan originator and is 2987
assigned by protocols established by the nationwide mortgage 2988
licensing system and registry or federal banking agencies to 2989
facilitate electronic tracking of loan originators and uniform 2990
identification of, and public access to, the employment history 2991
of and the publicly adjudicated disciplinary and enforcement 2992
actions against loan originators. 2993

Sec. ~~1322.024~~ 1322.02. The superintendent of financial 2994
institutions may, by rule, ~~expand~~ amend the definition of 2995
mortgage loan originator or, mortgage broker, or mortgage 2996
lender in section 1322.01 of the Revised Code ~~by adding~~ 2997
~~individuals, persons, or entities, or may exempt additional~~ 2998
~~individuals, persons, or entities from those definitions, or the~~ 2999
criteria for an entity to obtain a letter of exemption under 3000
division (B) (1) of section 1322.05 of the Revised Code, if the 3001
superintendent finds that the ~~addition or exemption change~~ is 3002
necessary to remain consistent with the purposes ~~fairly~~ intended 3003
by the policy and provisions of ~~sections 1322.01 to 1322.12 of~~ 3004
~~the Revised Code and the "Secure and Fair Enforcement for~~ 3005
~~Mortgage Licensing Act of 2008,"~~ 122 Stat. 2810, 12 U.S.C. 5101. 3006

Rules authorized by this section shall be adopted in 3007
accordance with Chapter 119. of the Revised Code. 3008

Sec. 1322.04. This chapter does not apply to any of the 3009
following: 3010

(A) Any entity chartered and lawfully doing business under 3011
the authority of any law of this state, another state, or the 3012
United States as a bank, savings bank, trust company, savings 3013
and loan association, or credit union, or a subsidiary of any 3014
such entity, which subsidiary is regulated by a federal banking 3015
agency and is owned and controlled by a depository institution; 3016

(B) A consumer reporting agency that is in substantial 3017
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 3018
15 U.S.C. 1681a, as amended; 3019

(C) Any political subdivision, or any governmental or 3020
other public entity, corporation, instrumentality, or agency, in 3021
or of the United States or any state; 3022

(D) A college or university, or controlled entity of a 3023
college or university, as those terms are defined in section 3024
1713.05 of the Revised Code; 3025

(E) Any entity created solely for the purpose of 3026
securitizing loans secured by an interest in real estate, 3027
provide the entity does not service the loans. As used in this 3028
division, "securitizing" means the packaging and sale of 3029
mortgage loans as a unit for sale as investment securities, but 3030
only to the extent of those activities. 3031

(F) Any person engaged in the retail sale of manufactured 3032
homes, mobile homes, or industrialized units if, in connection 3033
with obtaining financing by others for those retail sales, the 3034
person only assists the borrower by providing or transmitting 3035
the loan application and does not do any of the following: 3036

(1) Offer or negotiate the residential mortgage loan rates 3037
or terms; 3038

(2) Provide any counseling with borrowers about 3039
residential mortgage loan rates or terms; 3040

(3) Receive any payment or fee from any company or 3041
individual for assisting the borrower to obtain or apply for 3042
financing to purchase the manufactured home, mobile home, or 3043
industrialized unit; 3044

(4) Assist the borrower in completing the residential mortgage loan application. 3045
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(G) A bona fide 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 organization makes no-profit mortgage loans or mortgage loans at zero per cent interest to low-income families and no fees accrue directly to the organization from those mortgage loans and that the United States department of housing and urban development does not deny this exemption; 3047
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(H) A credit union service organization, provided that the organization utilizes services provided by registered mortgage loan originators or that it holds a valid letter of exemption issued by the superintendent of financial institutions under division (B) (1) of section 1322.05 of the Revised Code. 3056
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(I) A depository institution not otherwise required to be licensed under this chapter that voluntarily makes a filing on the nationwide mortgage licensing system and registry as an exempt entity for the purpose of licensing loan originators exclusively associated with the institution and that holds a valid letter of exemption issued by the superintendent pursuant to division (B) (1) of section 1322.05 of the Revised Code. 3061
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Sec. ~~1322.023~~ 1322.05. (A) A credit union service organization or depository institution seeking exemption from registration pursuant to division ~~(G) (2) (j)~~ (H) or (I) of section ~~1322.01~~ 1322.04 of the Revised Code or rules adopted by the superintendent in accordance with section 1322.02 of the Revised Code shall submit an application to the superintendent of financial institutions along with a nonrefundable fee of 3068
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three hundred fifty dollars for each location of an office to be maintained by the organization or institution seeking exemption.
The application shall be in a form prescribed by the superintendent and shall include all of the following:

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

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

(3) An attestation to all of the following:

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

(b) That the organization or institution and its owners, officers, or partners identified in division (A)(2) of this section have not been convicted of, or pleaded guilty or nolo contendere to, any of the following in a domestic, foreign, or military court:

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

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

(c) That, with respect to financing residential mortgage

loans, the organization or institution conducts business with 3103
residents of this state or secures its loans with property 3104
located in this state. 3105

(4) The names of all mortgage loan originators or 3106
licensees under the organization's or institution's control and 3107
direction; 3108

(5) An acknowledgment of understanding that the 3109
organization or institution is subject to the regulatory 3110
authority of the division of financial institutions as described
in this section; 3111
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(6) Any further reasonable information that the 3113
superintendent may require. 3114

(B) (1) If the superintendent determines that the credit 3115
union service organization ~~honestly made the attestation~~
~~required under division (A) (3) of this section and otherwise~~ or 3116
depository institution qualifies for exemption, the 3117
superintendent shall issue a letter of exemption. Additional 3118
certified copies of a letter of exemption shall be provided upon 3119
request and the payment of seventy-five dollars per copy. 3120
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(2) If the superintendent determines that the organization 3122
or institution does not qualify for exemption, the 3123
superintendent shall issue a notice of denial, and the 3124
organization or institution may request a hearing in accordance 3125
with Chapter 119. of the Revised Code. 3126

(C) All of the following conditions apply to any credit 3127
union service organization or depository institution holding a 3128
valid letter of exemption: 3129

(1) The organization or institution shall be subject to 3130
examination in the same manner as a registrant with respect to 3131

the conduct of the organization's or institution's mortgage loan 3132
originators. In conducting any out-of-state examination, the 3133
organization or institution shall be responsible for paying the 3134
costs of the division in the same manner as a registrant. 3135

(2) The organization or institution shall have an 3136
affirmative duty to supervise the conduct of its mortgage loan 3137
originators, and to cooperate with investigations by the 3138
division with respect to that conduct, in the same manner as is 3139
required of registrants. 3140

(3) The organization or institution shall keep and 3141
maintain records of all transactions relating to the conduct of 3142
its mortgage loan originators in the same manner as is required 3143
of registrants. 3144

(4) The organization or institution may provide the surety 3145
bond for its licensees in the same manner as is permitted for 3146
registrants. 3147

(D) A letter of exemption expires annually on the thirty- 3148
first day of December and may be renewed on or before that date 3149
by submitting an application that meets the requirements of 3150
division (A) of this section and a nonrefundable renewal fee of 3151
three hundred fifty dollars for each location of an office to be 3152
maintained by the credit union service organization or 3153
depository institution. 3154

(E) The superintendent may issue a notice to revoke or 3155
suspend a letter of exemption if the superintendent finds that 3156
the letter was obtained through a false or fraudulent 3157
representation of a material fact, or the omission of a material 3158
fact, required by law, or that a condition for exemption is no 3159
longer being met. Prior to issuing an order of revocation or 3160

suspension, the credit union service organization or depository 3161
institution shall be given an opportunity for a hearing in 3162
accordance with Chapter 119. of the Revised Code. 3163

(F) All information obtained by the division pursuant to 3164
an examination or investigation under this section shall be 3165
subject to the confidentiality requirements set forth in section 3166
~~1322.061~~ 1322.36 of the Revised Code. 3167

(G) All money collected under this section shall be 3168
deposited into the state treasury to the credit of the consumer 3169
finance fund created in section 1321.21 of the Revised Code. 3170

Sec. ~~1322.02~~ 1322.07. (A) ~~(1)~~ No person, on the person's 3171
own behalf or on behalf of any other person, shall act as a 3172
mortgage lender or mortgage broker without first having obtained 3173
a certificate of registration from the superintendent of 3174
financial institutions for ~~every~~ the principal office and every 3175
branch office to be maintained by the person for the transaction 3176
of business as a mortgage lender or mortgage broker in this 3177
state. A registrant shall maintain an office location ~~in this~~ 3178
~~state~~ for the transaction of business as a mortgage lender or 3179
mortgage broker in this state. 3180

~~(2) No person shall act or hold that person's self out as~~ 3181
~~a mortgage broker under the authority or name of a registrant or~~ 3182
~~person exempt from sections 1322.01 to 1322.12 of the Revised~~ 3183
~~Code without first having obtained a certificate of registration~~ 3184
~~from the superintendent for every office to be maintained by the~~ 3185
~~person for the transaction of business as a mortgage broker in~~ 3186
~~this state.~~ 3187

(B) (1) No individual shall act as a mortgage loan 3188
originator without first having obtained a license from the 3189

superintendent. A mortgage loan originator shall be employed by 3190
or associated with a mortgage lender, mortgage broker ~~or any~~ 3191
~~person or entity listed in division (G) (2) of section 1322.01 of~~ 3192
~~the Revised Code, or entity holding a valid letter of exemption~~ 3193
under division (B) (1) of section 1322.05 of the Revised Code, 3194
but shall not be employed by or associated with more than one 3195
~~mortgage broker or person or entity registrant or entity holding~~ 3196
a valid letter of exemption under division (B) (1) of section 3197
1322.05 of the Revised Code at any one time. 3198

(2) An individual acting under the individual's authority 3199
as a registered mortgage loan originator shall not be required 3200
to be licensed under division (B) (1) of this section. 3201

(3) An individual who holds a valid temporary mortgage 3202
loan originator license issued pursuant to section ~~1322.042-~~ 3203
1322.24 of the Revised Code may engage in the business of a 3204
mortgage loan originator in accordance with ~~sections 1322.01 to-~~ 3205
~~1322.12 of the Revised Code~~ this chapter during the term of the 3206
temporary license. 3207

~~(C) (1) No person acting as a mortgage broker or loan-~~ 3208
~~originator shall fail to register with, and maintain a valid-~~ 3209
~~unique identifier issued by, the nationwide mortgage licensing-~~ 3210
~~system and registry.~~ 3211

~~(2) No person shall use a mortgage broker's or loan-~~ 3212
~~originator's unique identifier for any purpose other than as set-~~ 3213
~~forth in the "Secure and Fair Enforcement for Mortgage Licensing-~~ 3214
~~Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.~~ 3215

Sec. ~~1322.03~~ 1322.09. (A) An application for a certificate 3216
of registration ~~as a mortgage broker~~ shall be in writing, under 3217
oath, and in ~~the~~ a form prescribed by the superintendent of 3218

financial institutions that complies with the requirements of 3219
the nationwide mortgage licensing system and registry. The 3220
application shall be accompanied by a nonrefundable application 3221
fee of five hundred dollars for each location of an office to be 3222
maintained by the applicant in accordance with division (A) of 3223
section ~~1322.02~~ 1322.07 of the Revised Code and any additional 3224
fee required by the nationwide mortgage licensing system and 3225
registry. ~~The application shall provide all of the following:—~~ 3226

~~(1) The location or locations where the business is to be~~ 3227
~~transacted and whether any location is a residence. If any~~ 3228
~~location where the business is to be transacted is a residence,~~ 3229
~~the superintendent may require that the application be~~ 3230
~~accompanied by a copy of a zoning permit authorizing the use of~~ 3231
~~the residence for commercial purposes, or by a written opinion~~ 3232
~~or other document issued by the county or political subdivision~~ 3233
~~where the residence is located certifying that the use of the~~ 3234
~~residence to transact business as a mortgage broker is not~~ 3235
~~prohibited by the county or political subdivision.~~ 3236

~~(2) (a) In the case of a sole proprietor, the name and~~ 3237
~~address of the sole proprietor;~~ 3238

~~(b) In the case of a partnership, the name and address of~~ 3239
~~each partner;~~ 3240

~~(c) In the case of a corporation, the name and address of~~ 3241
~~each shareholder owning five per cent or more of the~~ 3242
~~corporation;~~ 3243

~~(d) In the case of any other entity, the name and address~~ 3244
~~of any person that owns five per cent or more of the entity that~~ 3245
~~will transact business as a mortgage broker.~~ 3246

~~(3) Each applicant shall designate an employee or owner of~~ 3247

~~the applicant as the applicant's operations manager. While~~ 3248
~~acting as the operations manager, the employee or owner shall be~~ 3249
~~licensed as a loan originator under sections 1322.01 to 1322.12~~ 3250
~~of the Revised Code and shall not be employed by any other~~ 3251
~~mortgage broker.~~ 3252

~~(4) Evidence that the person designated on the application~~ 3253
~~pursuant to division (A) (3) of this section possesses at least~~ 3254
~~three years of experience in the residential mortgage and~~ 3255
~~lending field, which experience may include employment with or~~ 3256
~~as a mortgage broker or with a depository institution, mortgage~~ 3257
~~lending institution, or other lending institution, or possesses~~ 3258
~~at least three years of other experience related specifically to~~ 3259
~~the business of residential mortgage loans that the~~ 3260
~~superintendent determines meets the requirements of division (A)~~ 3261
~~(4) of this section;~~ 3262

~~(5) Evidence that the person designated on the application~~ 3263
~~pursuant to division (A) (3) of this section has successfully~~ 3264
~~completed the pre-licensing instruction requirements set forth~~ 3265
~~in section 1322.031 of the Revised Code;~~ 3266

~~(6) Evidence of compliance with the surety bond~~ 3267
~~requirements of section 1322.05 of the Revised Code and with~~ 3268
~~sections 1322.01 to 1322.12 of the Revised Code;~~ 3269

~~(7) In the case of a foreign business entity, evidence~~ 3270
~~that it maintains a license or registration pursuant to Chapter~~ 3271
~~1703., 1705., 1775., 1776., 1777., 1782., or 1783. of the~~ 3272
~~Revised Code to transact business in this state;~~ 3273

~~(8) Evidence that the applicant's operations manager has~~ 3274
~~successfully completed the written test required by section~~ 3275
~~1322.051 of the Revised Code;~~ 3276

~~(9) Any further information that the superintendent requires.~~ 3277
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(B) Upon the filing of the application and payment of the nonrefundable application fee and any fee required by the nationwide mortgage licensing system and registry, the superintendent ~~of financial institutions~~ shall investigate the applicant, and any individual whose identity is required to be disclosed in the application, ~~as set forth in division (B) of this section.~~ 3279
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~~(1) (a) Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent shall obtain a criminal history records check and, as part of that records check, request that criminal record information from the federal bureau of investigation be obtained. To fulfill this requirement, the superintendent shall do either of the following:~~ 3286
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~~(i) Request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints or, if the fingerprints are unreadable, based on the applicant's social security number, in accordance with section 109.572 of the Revised Code;~~ 3292
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~~(ii) Authorize the nationwide mortgage licensing system and registry to request a criminal history background check.~~ 3298
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~~(b) Any fee required under division (C) (3) of section 109.572 of the Revised Code or by the nationwide mortgage licensing system and registry shall be paid by the applicant.~~ 3300
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~~(2) The . As part of that investigation, the superintendent shall conduct a civil records check.~~ 3303
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~~(3) If, in order to issue a certificate of registration to~~ 3305

an applicant, additional investigation by the superintendent 3306
outside this state is necessary, the superintendent may require 3307
the applicant to advance sufficient funds to pay the actual 3308
expenses of the investigation, if it appears that these expenses 3309
will exceed five hundred dollars. The superintendent shall 3310
provide the applicant with an itemized statement of the actual 3311
expenses that the applicant is required to pay. 3312

(C) In connection with applying for a certificate of 3313
registration, the applicant shall furnish to the nationwide 3314
mortgage licensing system and registry information concerning 3315
the applicant's identity, including all of the following: 3316

(1) The applicant's fingerprints for submission to the 3317
federal bureau of investigation, and any other governmental 3318
agency or entity authorized to receive such information, for 3319
purposes of a state, national, and international criminal 3320
history background check; 3321

(2) Personal history and experience in a form prescribed 3322
by the nationwide mortgage licensing system and registry, along 3323
with authorization for the superintendent and the nationwide 3324
mortgage licensing system and registry to obtain both of the 3325
following: 3326

(a) An independent credit report from a consumer reporting 3327
agency; 3328

(b) Information related to any administrative, civil, or 3329
criminal findings by any governmental jurisdiction. 3330

(D) The superintendent shall pay all funds advanced and 3331
application and renewal fees and penalties the superintendent 3332
receives pursuant to this section and section ~~1322.04~~ 1322.10 of 3333
the Revised Code to the treasurer of state to the credit of the 3334

consumer finance fund created in section 1321.21 of the Revised Code. 3335
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~~(D)~~ (E) If an application for a ~~mortgage broker~~ certificate of registration does not contain all of the information required under ~~division (A)~~ of this section, and if that information is not submitted to the superintendent or to the nationwide mortgage licensing system and registry within ninety days after the superintendent or the nationwide mortgage licensing system and registry requests the information in writing, including by electronic transmission or facsimile, the superintendent may consider the application withdrawn. 3337
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~~(E)~~ (F) A ~~mortgage broker~~ certificate of registration and the authority granted under that certificate is not transferable or assignable and cannot be franchised by contract or any other means. 3346
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~~(F)~~ ~~The registration requirements of this chapter apply to any person acting as a mortgage broker, and no person is exempt from the requirements of this chapter on the basis of prior work or employment as a mortgage broker.~~ 3350
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(G) (1) The superintendent may establish relationships or enter into contracts with the nationwide mortgage licensing system and registry, or any entities designated by it, to collect and maintain records and process transaction fees or other fees related to mortgage lender or mortgage broker certificates of registration or the persons associated with a mortgage lender or mortgage broker. 3354
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(2) For purposes of this section and to reduce the points of contact that the federal bureau of investigation may have to maintain, the division of financial institutions may use the 3361
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nationwide mortgage licensing system and registry as a 3364
channeling agent for requesting information from and 3365
distributing information to the United States department of 3366
justice or other governmental agencies. 3367

(3) For purposes of this section and to reduce the points 3368
of contact that the division may have to maintain, the division 3369
may use the nationwide mortgage licensing system and registry as 3370
a channeling agent for requesting information from and 3371
distributing information to any source as determined by the 3372
division. 3373

Sec. ~~1322.04~~ 1322.10. (A) Upon the conclusion of the 3374
investigation required under division (B) of section ~~1322.03~~ 3375
~~1322.09~~ of the Revised Code, the superintendent of financial 3376
institutions shall issue a certificate of registration to the 3377
applicant if the superintendent finds that the following 3378
conditions are met: 3379

(1) The application is accompanied by the application fee 3380
and any fee required by the nationwide mortgage licensing system 3381
and registry. 3382

(a) If a check or other draft instrument is returned to 3383
the superintendent for insufficient funds, the superintendent 3384
shall notify the applicant by certified mail, return receipt 3385
requested, that the application will be withdrawn unless the 3386
applicant, within thirty days after receipt of the notice, 3387
submits the application fee and a one-hundred-dollar penalty to 3388
the superintendent. If the applicant does not submit the 3389
application fee and penalty within that time period, or if any 3390
check or other draft instrument used to pay the fee or penalty 3391
is returned to the superintendent for insufficient funds, the 3392
application shall be withdrawn. 3393

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

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

~~(3) The person designated on the application pursuant to division (A) (3) of section 1322.03 of the Revised Code meets the experience requirements provided in division (A) (4) of section 1322.03 of the Revised Code and the education requirements set forth in division (A) (5) of section 1322.03 of the Revised Code.~~

~~(4) The applicant maintains all necessary filings and approvals required by the secretary of state.~~

~~(5) (4) The applicant complies with the surety bond requirements of section ~~1322.05~~ 1322.32 of the Revised Code.~~

~~(6) (5) The applicant complies with sections 1322.01 to~~

~~1322.12 of the Revised Code and the rules adopted thereunder has~~ 3423
~~not made a material misstatement of fact or material omission of~~ 3424
~~fact in the application.~~ 3425

~~(7)~~ (6) Neither the applicant nor any person whose 3426
identity is required to be disclosed on an application for a 3427
~~mortgage broker~~ certificate of registration has had such a 3428
~~mortgage broker~~ certificate of registration or mortgage loan 3429
originator license, or any comparable authority, revoked in any 3430
governmental jurisdiction or has pleaded guilty or nolo 3431
contendere to or been convicted of any of the following in a 3432
domestic, foreign, or military court: 3433

(a) During the seven-year period immediately preceding the 3434
date of application for the certificate of registration, a 3435
misdemeanor involving theft or any felony; 3436

(b) At any time prior to the date the application for the 3437
certificate of registration is approved, a felony involving an 3438
act of fraud, dishonesty, a breach of trust, theft, or money 3439
laundering. 3440

~~(8) Based on the totality of the circumstances and~~ 3441
~~information submitted in the application, the applicant has~~ 3442
~~proven to the superintendent, by a preponderance of the~~ 3443
~~evidence, that the applicant is of good business repute, appears~~ 3444
~~qualified to act as a mortgage broker, has fully complied with~~ 3445
~~sections 1322.01 to 1322.12 of the Revised Code and the rules~~ 3446
~~adopted thereunder, and meets all of the conditions for issuing~~ 3447
~~a mortgage broker certificate of registration.~~ 3448

~~(9)~~ (7) The applicant's operations manager successfully 3449
completed the examination required by section ~~1322.051~~ 1322.27 3450
of the Revised Code. 3451

~~(10)~~(8) The applicant's financial responsibility, 3452
experience, character, and general fitness command the 3453
confidence of the public and warrant the belief that the 3454
business will be operated honestly ~~and~~, fairly, and efficiently 3455
in compliance with the purposes of ~~sections 1322.01 to 1322.12~~ 3456
~~of the Revised Code this chapter~~ and the rules adopted 3457
thereunder. The superintendent shall not use a credit score or a 3458
bankruptcy as the sole basis for registration denial. 3459

(B) For purposes of determining whether an applicant that 3460
is a partnership, corporation, or other business entity or 3461
association has met the conditions set forth in divisions ~~(A)~~ 3462
~~(7)~~, (A) (6) and (8), ~~and (A) (10)~~ of this section, the 3463
superintendent shall determine which partners, shareholders, or 3464
persons named in the application ~~pursuant to division (A) (2) of~~ 3465
~~section 1322.03 of the Revised Code~~ must meet the those 3466
~~conditions set forth in divisions (A) (7), (A) (8), and (A) (10) of~~ 3467
~~this section~~. This determination shall be based on the extent 3468
and nature of the partner's, shareholder's, or person's 3469
ownership interest in the partnership, corporation, or other 3470
business entity or association that is the applicant and on 3471
whether the person is in a position to direct, control, or 3472
adversely influence the operations of the applicant. 3473

(C) The certificate of registration issued pursuant to 3474
division (A) of this section may be renewed annually on or 3475
before the thirty-first day of December if the superintendent 3476
finds that all of the following conditions are met: 3477

(1) The renewal application is accompanied by a 3478
nonrefundable renewal fee of five hundred dollars for each 3479
location of an office to be maintained by the applicant in 3480
accordance with division (A) of section ~~1322.02~~ 1322.07 of the 3481

Revised Code and any fee required by the nationwide mortgage 3482
licensing system and registry. If a check or other draft 3483
instrument is returned to the superintendent for insufficient 3484
funds, the superintendent shall notify the registrant by 3485
certified mail, return receipt requested, that the certificate 3486
of registration renewed in reliance on the check or other draft 3487
instrument will be canceled unless the registrant, within thirty 3488
days after receipt of the notice, submits the renewal fee and a 3489
one-hundred-dollar penalty to the superintendent. If the 3490
registrant does not submit the renewal fee and penalty within 3491
that time period, or if any check or other draft instrument used 3492
to pay the fee or penalty is returned to the superintendent for 3493
insufficient funds, the certificate of registration shall be 3494
canceled immediately without a hearing and the registrant shall 3495
cease activity as a mortgage broker. 3496

(2) The operations manager designated under ~~division (A)~~ 3497
~~(3) of section 1322.03-1322.12~~ of the Revised Code has 3498
completed, at least eight hours of continuing education as 3499
required under section ~~1322.052-1322.28~~ of the Revised Code. 3500

(3) The applicant meets the conditions set forth in 3501
divisions (A) (2) to ~~(10)-(8)~~ of this section. 3502

(4) The applicant's ~~mortgage broker~~ certificate of 3503
registration is not subject to an order of suspension or an 3504
unpaid and past due fine imposed by the superintendent. 3505

(D) (1) Subject to division (D) (2) of this section, if a 3506
renewal fee or additional fee required by the nationwide 3507
mortgage licensing system and registry is received by the 3508
superintendent after the thirty-first day of December, the 3509
~~mortgage broker~~ certificate of registration shall not be 3510
considered renewed, and the applicant shall cease activity as a 3511

mortgage lender or mortgage broker. 3512

(2) Division (D) (1) of this section shall not apply if the 3513
applicant, ~~no~~ not later than ~~the thirty-first day of January-~~ 3514
forty-five days after the renewal deadline, submits the renewal 3515
fee or additional fee and a one-hundred-dollar penalty to the 3516
superintendent. 3517

~~(E) If the person designated as the operations manager-~~ 3518
~~pursuant to division (A) (3) of section 1322.03 of the Revised-~~ 3519
~~Code is no longer the operations manager, the registrant shall-~~ 3520
~~do all of the following:~~ 3521

~~(1) Within ninety days after the departure of the-~~ 3522
~~designated operations manager, designate another person as the-~~ 3523
~~operations manager;~~ 3524

~~(2) Within ten days after the designation described in-~~ 3525
~~division (E) (1) of this section, notify the superintendent in-~~ 3526
~~writing of the designation;~~ 3527

~~(3) Submit any additional information that the-~~ 3528
~~superintendent requires to establish that the newly designated-~~ 3529
~~operations manager complies with the requirements set forth in-~~ 3530
~~section 1322.03 of the Revised Code.~~ 3531

~~(F) The registrant shall cease operations if it is without-~~ 3532
~~an operations manager approved by the superintendent for more-~~ 3533
~~than one hundred eighty days unless otherwise authorized in-~~ 3534
~~writing by the superintendent due to exigent circumstances.~~ 3535

~~(G) Mortgage broker certificates~~ Certificates of 3536
registration issued ~~on or after May 1, 2010,~~ under this chapter 3537
annually expire on the thirty-first day of December. 3538

(F) The pardon or expungement of a conviction shall not be 3539

considered a conviction for purposes of this section. When 3540
determining the eligibility of an applicant, the superintendent 3541
may consider the underlying crime, facts, or circumstances 3542
connected with a pardoned or expunged conviction. 3543

Sec. 1322.12. Each registrant or entity holding a valid 3544
letter of exemption under division (B) (1) of section 1322.05 of 3545
the Revised Code shall designate an employee or owner of that 3546
registrant's business as the operations manager. The operations 3547
manager shall be responsible for the management, supervision, 3548
and control of a particular location. 3549

To be eligible for such a designation, an employee or 3550
owner shall have at least three years of experience as a 3551
mortgage loan originator or registered mortgage loan originator. 3552
While acting as the operations manager, the employee or owner 3553
shall be licensed as a mortgage loan originator under this 3554
chapter and shall not be employed by any other mortgage lender 3555
or mortgage broker. 3556

Sec. ~~1322.073~~ 1322.15. No person shall acquire, sell, 3557
transfer, or hypothecate any interest in a registrant or an 3558
applicant for a certificate of registration under this chapter 3559
in order to obfuscate or conceal the true ownership or control 3560
of the registrant or applicant. 3561

Sec. ~~1322.021~~ 1322.16. (A) A registrant that is a 3562
corporation, limited liability company, partnership, trust, or 3563
other business entity or association shall notify the division 3564
of financial institutions of every sale, transfer, or 3565
hypothecation of any stock, security, membership, partnership, 3566
or other equitable, beneficial, or ownership interest in the 3567
entity or association, if the interest represents at least a 3568
five per cent membership, partnership, or other equitable, 3569

beneficial, or ownership interest in the entity or association. 3570

(B) Every person that acquires or otherwise receives an 3571
interest described in division (A) of this section is subject to 3572
~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter. 3573
The division may make any investigation necessary to determine 3574
whether any fact or condition exists that, if it had existed at 3575
the time of the original application for a certificate of 3576
registration, the fact or condition would have warranted the 3577
division to deny the application under section ~~1322.04~~ 1322.10 3578
of the Revised Code. If such a fact or condition is found, the 3579
division may, in accordance with Chapter 119. of the Revised 3580
Code, revoke the registrant's certificate. 3581

Sec. ~~1322.065~~ 1322.17. A person registered as ~~a mortgage~~ 3582
~~broker under this chapter~~ solely to sell leads of potential 3583
buyers to residential mortgage lenders or mortgage brokers, or 3584
solely to match buyers with residential mortgage lenders or 3585
mortgage brokers through a computerized loan origination system 3586
recognized by the United States department of housing and urban 3587
development, shall be required to make only those disclosures 3588
under ~~sections 1322.01 to 1322.12 of the Revised Code~~ this 3589
chapter that apply to the portion of the transaction during 3590
which they have direct buyer contact, and shall be subject to 3591
all fair conduct and prohibition requirements in their dealing 3592
with buyers. 3593

Sec. ~~1322.031~~ 1322.20. (A) An application for a license as 3594
a mortgage loan originator shall be in writing, under oath, and 3595
in ~~the a~~ form prescribed by the superintendent of financial 3596
institutions that complies with the requirements of the 3597
nationwide mortgage licensing system and registry. The 3598
application shall be accompanied by a nonrefundable application 3599

fee of one hundred fifty dollars and any additional fee required 3600
by the nationwide mortgage licensing system and registry. 3601

(B) (1) The application shall provide evidence, acceptable 3602
to the superintendent, that the applicant has successfully 3603
completed at least twenty-four hours of pre-licensing 3604
instruction consisting of all of the following: 3605

(a) Twenty hours of instruction in ~~a~~ an approved education 3606
~~course or program of study reviewed and approved by the~~ 3607
~~nationwide mortgage licensing system and registry;~~ 3608

(b) Four hours of instruction in a course or program of 3609
study reviewed and approved by the superintendent concerning 3610
~~state~~ Ohio lending laws and the Ohio consumer sales practices 3611
act, Chapter 1345. of the Revised Code, as it applies to 3612
registrants and licensees. 3613

(2) ~~Notwithstanding division (B) (1) of this section, until~~ 3614
~~the nationwide mortgage licensing system and registry implements~~ 3615
~~a review and approval program, the application shall provide~~ 3616
~~evidence, as determined by the superintendent, that the~~ 3617
~~applicant has successfully completed at least twenty four hours~~ 3618
~~of instruction in a course or program of study approved by the~~ 3619
~~superintendent that consists of at least all of the following:~~ 3620

~~(a) Four hours of instruction concerning state and federal~~ 3621
~~mortgage lending laws, which shall include no less than two~~ 3622
~~hours on this chapter;~~ 3623

~~(b) Four hours of instruction concerning the Ohio consumer~~ 3624
~~sales practices act, Chapter 1345. of the Revised Code, as it~~ 3625
~~applies to registrants and licensees;~~ 3626

~~(c) Four hours of instruction concerning the loan~~ 3627
~~application process;~~ 3628

~~(d) Two hours of instruction concerning the underwriting process;~~ 3629
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~~(e) Two hours of instruction concerning the secondary market for mortgage loans;~~ 3631
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~~(f) Four hours of instruction concerning the loan closing process;~~ 3633
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~~(g) Two hours of instruction covering basic mortgage financing concepts and terms;~~ 3635
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~~(h) Two hours of instruction concerning the ethical responsibilities of a registrant and a licensee, including with respect to confidentiality, consumer counseling, and the duties and standards of care created in section 1322.081 of the Revised Code.~~ 3637
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~~(3) For purposes of division (B)(1)(a) of this section, the review and approval of a course or program of study includes the review and approval of the provider of the course or program of study.~~ 3642
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~~(4)~~ If an applicant held a valid mortgage loan originator license issued by this state at any time during the immediately preceding five-year period, the applicant shall not be required to complete any additional pre-licensing instruction. For this purpose, any time during which the individual is a registered mortgage loan originator shall not be taken into account. 3646
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~~(5)~~ ~~(3)~~ A person having successfully completed the pre-licensing education requirement reviewed and approved by the nationwide mortgage licensing system and registry for any state within the previous five years shall be granted credit toward completion of the pre-licensing education requirement of this state. 3652
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(C) In addition to the information required under division 3658
(B) of this section, the application shall provide both of the 3659
following: 3660

(1) Evidence that the applicant passed a written test that 3661
meets the requirements described in section ~~1322.051~~ 1322.27 of 3662
the Revised Code; 3663

(2) Any further information that the superintendent 3664
requires. 3665

(D) Upon the filing of the application and payment of the 3666
application fee and any fee required by the nationwide mortgage 3667
licensing system and registry, the superintendent of financial 3668
institutions shall investigate the applicant ~~as set forth in~~ 3669
~~division (D) of this section.~~ 3670

~~(1) (a) Notwithstanding division (K) of section 121.08 of~~ 3671
~~the Revised Code, the superintendent shall obtain a criminal~~ 3672
~~history records check and, as part of the records check, request~~ 3673
~~that criminal record information from the federal bureau of~~ 3674
~~investigation be obtained. To fulfill this requirement, the~~ 3675
~~superintendent shall do either of the following:~~ 3676

~~(i) Request the superintendent of the bureau of criminal~~ 3677
~~identification and investigation, or a vendor approved by the~~ 3678
~~bureau, to conduct a criminal records check based on the~~ 3679
~~applicant's fingerprints or, if the fingerprints are unreadable,~~ 3680
~~based on the applicant's social security number, in accordance~~ 3681
~~with section 109.572 of the Revised Code;~~ 3682

~~(ii) Authorize the nationwide mortgage licensing system~~ 3683
~~and registry to request a criminal history background check.~~ 3684

~~(b) Any fee required under division (C) (3) of section~~ 3685
~~109.572 of the Revised Code or by the nationwide mortgage~~ 3686

~~licensing system and registry shall be paid by the applicant.~~ 3687

~~(2) The~~. As part of that investigation, the 3688
superintendent shall conduct a civil records check. 3689

~~(3)~~If, in order to issue a license to an applicant, 3690
additional investigation by the superintendent outside this 3691
state is necessary, the superintendent may require the applicant 3692
to advance sufficient funds to pay the actual expenses of the 3693
investigation, if it appears that these expenses will exceed ~~one~~ 3694
five hundred fifty dollars. The superintendent shall provide the 3695
applicant with an itemized statement of the actual expenses that 3696
the applicant is required to pay. 3697

(E) ~~(1)~~ In connection with applying for a loan originator 3698
license, the applicant shall furnish to the nationwide mortgage 3699
licensing system and registry ~~the following~~ information 3700
concerning the applicant's identity, including all of the 3701
following: 3702

~~(a)~~ (1) The applicant's fingerprints for submission to the 3703
federal bureau of investigation, and any other governmental 3704
agency or entity authorized to receive such information, for 3705
purposes of a state, national, and international criminal 3706
history background check; 3707

~~(b)~~ (2) Personal history and experience in a form 3708
prescribed by the nationwide mortgage licensing system and 3709
registry, along with authorization for the superintendent and 3710
the nationwide mortgage licensing system and registry to obtain 3711
both of the following: 3712

~~(i)~~ (a) An independent credit report from a consumer 3713
reporting agency; 3714

~~(ii)~~ (b) Information related to any administrative, civil, 3715

or criminal findings by any governmental jurisdiction. 3716

~~(2) In order to effectuate the purposes of divisions (E) 3717
(1)(a) and (E) (1)(b)(ii) of this section, the superintendent may 3718
use the conference of state bank supervisors, or a wholly owned 3719
subsidiary, as a channeling agent for requesting information 3720
from and distributing information to the United States 3721
department of justice or any other governmental agency. The 3722
superintendent may also use the nationwide mortgage licensing 3723
system and registry as a channeling agent for requesting 3724
information from and distributing information to any source 3725
related to matters subject to those divisions of this section. 3726~~

(F) The superintendent shall pay all funds advanced and 3727
application and renewal fees and penalties the superintendent 3728
receives pursuant to this section and section ~~1322.041~~1322.21 3729
of the Revised Code to the treasurer of state to the credit of 3730
the consumer finance fund created in section 1321.21 of the 3731
Revised Code. 3732

(G) If an application for a mortgage loan originator 3733
license does not contain all of the information required under 3734
this section, and if that information is not submitted to the 3735
superintendent or to the nationwide mortgage licensing system 3736
and registry within ninety days after the superintendent or the 3737
nationwide mortgage licensing system and registry requests the 3738
information in writing, including by electronic transmission or 3739
facsimile, the superintendent may consider the application 3740
withdrawn. 3741

~~(H) (1) The business of a loan originator shall principally 3742
be transacted at an office of the mortgage broker with whom the 3743
licensee is employed or associated, which office is registered 3744
in accordance with division (A) of section 1322.02 of the 3745~~

~~Revised Code. Each original loan originator license shall be deposited with and maintained by the mortgage broker at the mortgage broker's main office. A copy of the license shall be maintained and displayed at the office where the loan originator principally transacts business.~~ 3746
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~~(2) If a loan originator's employment or association is terminated for any reason, the mortgage broker shall return the original loan originator license to the superintendent within five business days after the termination. The licensee may request the transfer of the license to another mortgage broker by submitting a transfer application, along with a fifteen dollar fee and any fee required by the national mortgage licensing system and registry, to the superintendent or may request the superintendent in writing to hold the license in escrow. Any licensee whose license is held in escrow shall cease activity as a loan originator. A licensee whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing education requirement.~~ 3751
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~~(3) A mortgage broker may employ or be associated with a loan originator on a temporary basis pending the transfer of the loan originator's license to the mortgage broker, if the mortgage broker receives written confirmation from the superintendent that the loan originator is licensed under sections 1322.01 to 1322.12 of the Revised Code.~~ 3764
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~~(4) Notwithstanding divisions (H) (1) to (3) of this section, if a licensee is employed by or associated with a person or entity listed in division (G) (2) of section 1322.01 of the Revised Code, all of the following apply:~~ 3770
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~~(a) The licensee shall maintain and display the original loan originator license at the office where the licensee~~ 3774
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~~principally transacts business;~~ 3776

~~(b) If the loan originator's employment or association is terminated, the loan originator shall return the original loan originator license to the superintendent within five business days after termination. The licensee may request the transfer of the license to a mortgage broker or another person or entity listed in division (G) (2) of section 1322.01 of the Revised Code by submitting a transfer application, along with a fifteen dollar fee and any fee required by the national mortgage licensing system and registry, to the superintendent or may request the superintendent in writing to hold the license in escrow. A licensee whose license is held in escrow shall cease activity as a loan originator. A licensee whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing education requirement.~~ 3777
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~~(c) The licensee may seek to be employed or associated with a mortgage broker or person or entity listed in division (G) (2) of section 1322.01 of the Revised Code if the mortgage broker or person or entity receives written confirmation from the superintendent that the loan originator is licensed under sections 1322.01 to 1322.12 of the Revised Code.~~ 3791
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~~(I) The superintendent may establish relationships or enter into contracts with the nationwide mortgage licensing system and registry, or any entities designated by it, to collect and maintain records and process transaction fees or other fees related to mortgage loan originator licenses or the persons associated with a licensee.~~ 3797
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(2) For purposes of this section and to reduce the points of contact that the federal bureau of investigation may have to maintain, the division of financial institutions may use the 3803
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nationwide mortgage licensing system and registry as a 3806
channeling agent for requesting information from and 3807
distributing information to the United States department of 3808
justice or other governmental agencies. 3809

(3) For purposes of this section and to reduce the points 3810
of contact that the division may have to maintain, the division 3811
may use the nationwide mortgage licensing system and registry as 3812
a channeling agent for requesting information from and 3813
distributing information to any source as determined by the 3814
division. 3815

~~(J)~~(I) A mortgage loan originator license, or the 3816
authority granted under that license, is not assignable ~~and~~ 3817
~~cannot be franchised by contract or any other means or~~ 3818
transferable. 3819

Sec. ~~1322.041~~ 1322.21. (A) Upon the conclusion of the 3820
investigation required under division ~~(D)~~(C) of section 3821
~~1322.031~~1322.20 of the Revised Code, the superintendent of 3822
financial institutions shall issue a mortgage loan originator 3823
license to the applicant if the superintendent finds that the 3824
following conditions are met: 3825

(1) The application is accompanied by the application fee 3826
and any fee required by the nationwide mortgage licensing system 3827
and registry. 3828

(a) If a check or other draft instrument is returned to 3829
the superintendent for insufficient funds, the superintendent 3830
shall notify the applicant by certified mail, return receipt 3831
requested, that the application will be withdrawn unless the 3832
applicant, within thirty days after receipt of the notice, 3833
submits the application fee and a one-hundred-dollar penalty to 3834

the superintendent. If the applicant does not submit the 3835
application fee and penalty within that time period, or if any 3836
check or other draft instrument used to pay the fee or penalty 3837
is returned to the superintendent for insufficient funds, the 3838
application shall be withdrawn. 3839

(b) If a check or other draft instrument is returned to 3840
the superintendent for insufficient funds after the license has 3841
been issued, the superintendent shall notify the licensee by 3842
certified mail, return receipt requested, that the license 3843
issued in reliance on the check or other draft instrument will 3844
be canceled unless the licensee, within thirty days after 3845
receipt of the notice, submits the application fee and a one- 3846
hundred-dollar penalty to the superintendent. If the licensee 3847
does not submit the application fee and penalty within that time 3848
period, or if any check or other draft instrument used to pay 3849
the fee or penalty is returned to the superintendent for 3850
insufficient funds, the license shall be canceled immediately 3851
without a hearing, and the licensee shall cease activity as a 3852
loan originator. 3853

(2) ~~The applicant complies with sections 1322.01 to~~ 3854
~~1322.12 of the Revised Code and the rules adopted thereunder~~ has 3855
not made a material misstatement of fact or material omission of 3856
fact in the application. 3857

(3) The applicant has not been convicted of or pleaded 3858
guilty or nolo contendere to any of the following in a domestic, 3859
foreign, or military court: 3860

(a) During the seven-year period immediately preceding the 3861
date of application for the license, a misdemeanor involving 3862
theft or any felony; 3863

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

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

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

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

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

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

(B) The license issued under division (A) of this section

may be renewed annually on or before the thirty-first day of 3893
December if the superintendent finds that all of the following 3894
conditions are met: 3895

(1) The renewal application is accompanied by a 3896
nonrefundable renewal fee of one hundred fifty dollars and any 3897
fee required by the nationwide mortgage licensing system and 3898
registry. If a check or other draft instrument is returned to 3899
the superintendent for insufficient funds, the superintendent 3900
shall notify the licensee by certified mail, return receipt 3901
requested, that the license renewed in reliance on the check or 3902
other draft instrument will be canceled unless the licensee, 3903
within thirty days after receipt of the notice, submits the 3904
renewal fee and a one-hundred-dollar penalty to the 3905
superintendent. If the licensee does not submit the renewal fee 3906
and penalty within that time period, or if any check or other 3907
draft instrument used to pay the fee or penalty is returned to 3908
the superintendent for insufficient funds, the license shall be 3909
canceled immediately without a hearing, and the licensee shall 3910
cease activity as a loan originator. 3911

(2) The applicant has completed at least eight hours of 3912
continuing education as required under section ~~1322.052~~1322.28 3913
of the Revised Code. 3914

(3) The applicant meets the conditions set forth in 3915
divisions (A) (2) to ~~(8)~~(7) of this section; ~~provided, however,~~ 3916
~~that an applicant who was issued a loan officer license prior to~~ 3917
~~January 1, 2010, and has continuously maintained that license~~ 3918
~~shall not be required to meet the condition described in~~ 3919
~~division (B) (1) (b) of section 1322.031 of the Revised Code.~~ 3920

(4) The applicant's license is not subject to an order of 3921
suspension or an unpaid and past due fine imposed by the 3922

superintendent. 3923

(C) (1) Subject to division (C) (2) of this section, if a 3924
license renewal application ~~or renewal fee~~, including any fee 3925
required by the nationwide mortgage licensing system and 3926
registry, is received by the superintendent after the thirty- 3927
first day of December, the license shall not be considered 3928
renewed, and the applicant shall cease activity as a mortgage 3929
loan originator. 3930

(2) Division (C) (1) of this section shall not apply if the 3931
applicant, ~~no not later than the thirty-first day of January-~~ 3932
forty-five days after the renewal deadline, submits the renewal 3933
application and any other required fees and a one-hundred-dollar 3934
penalty to the superintendent. 3935

(D) ~~Loan-Mortgage~~ originator licenses ~~issued on or after~~ 3936
~~May 1, 2010~~, annually expire on the thirty-first day of 3937
December. 3938

(E) The pardon or expungement of a conviction shall not be 3939
considered a conviction for purposes of this section. When 3940
determining the eligibility of an applicant, the superintendent 3941
may consider the underlying crime, facts, or circumstances 3942
connected with a pardoned or expunged conviction. 3943

Sec. ~~1322.042~~ 1322.24. (A) As used in this section: 3944

(1) "Out-of-state mortgage loan originator" means an 3945
individual to whom both of the following apply: 3946

(a) The individual holds a valid mortgage loan originator 3947
license, or comparable authority, issued pursuant to the law of 3948
any other state of the United States. 3949

(b) The individual is registered, fingerprinted, and 3950

maintains a unique identifier through the nationwide mortgage 3951
licensing system and registry. 3952

(2) "Sponsor" means a registrant ~~or entity described in~~ 3953
~~division (C) (2) of section 1322.01 of the Revised Code that~~ 3954
employs or is associated with an applicant for a temporary 3955
mortgage loan originator license and, during the term of the 3956
applicant's temporary license, covers the applicant under its 3957
corporate surety bond or requires the applicant to obtain and 3958
maintain a corporate surety bond. 3959

(B) The superintendent of financial institutions may, in 3960
accordance with this section, issue to an out-of-state mortgage 3961
loan originator a temporary mortgage loan originator license 3962
that enables the licensee to engage in the business of a 3963
mortgage loan originator while the individual completes the 3964
requirements necessary to meet the conditions set forth in 3965
section ~~1322.041~~-1322.21 of the Revised Code for a mortgage loan 3966
originator license. A temporary mortgage loan originator license 3967
shall be valid for a term of not more than one hundred twenty 3968
days from the date of issuance. A temporary mortgage loan 3969
originator license may not be renewed. 3970

(C) An application for a temporary mortgage loan 3971
originator license shall be in writing, under oath, and in a 3972
form that meets the requirements of the nationwide mortgage 3973
licensing system and registry. The application shall be 3974
accompanied by a nonrefundable application fee, the amount of 3975
which shall be determined by the superintendent in rule, and a 3976
certification that, as of the date of application, the applicant 3977
meets the following conditions: 3978

(1) The applicant has at least two years of experience in 3979
the field of residential mortgage lending in the five years 3980

immediately preceding the date of application for the temporary
mortgage loan originator license. 3981
3982

(2) The applicant has not previously applied for a 3983
temporary mortgage loan originator license in this state. 3984

(3) The applicant has not had a mortgage loan originator 3985
license, or comparable authority, revoked in any governmental 3986
jurisdiction. For purposes of division (C)(3) of this section, a 3987
subsequent formal vacation of such a revocation shall not be 3988
considered a revocation. 3989

(4) The applicant has not been convicted of, or pleaded 3990
guilty or nolo contendere to, any of the following in a 3991
domestic, foreign, or military court: 3992

(a) During the seven-year period immediately preceding the 3993
date of application, a misdemeanor involving theft or any 3994
felony; 3995

(b) At any time prior to the date of application, a felony 3996
involving an act of fraud, dishonesty, a breach of trust, theft, 3997
or money laundering. 3998

For purposes of division (C)(4) of this section, any 3999
conviction for which the applicant has received a pardon shall 4000
not be considered a conviction. 4001

(D) The superintendent shall issue a temporary mortgage 4002
loan originator license to the applicant if the superintendent 4003
finds that all of the following conditions are met: 4004

(1) The application is accompanied by the application fee 4005
and the certification described in division (C) of this section. 4006

(2) The applicant is registered, fingerprinted, and has a 4007
valid unique identifier through the nationwide mortgage 4008

licensing system and registry as of the date of application. 4009

(3) The applicant has authorized the nationwide mortgage 4010
licensing system and registry to obtain a credit report for 4011
submission to the superintendent. 4012

(4) The applicant has a sponsor that certifies employment 4013
of, or association with, the applicant and has signed the 4014
application. 4015

(E) The sponsor of a temporary licensee shall have an 4016
affirmative duty to supervise the conduct of ~~each the~~ temporary 4017
~~loan originator licensee~~ in the same manner as is required of 4018
its other licensees. If the temporary licensee's employment or 4019
association with the sponsor is terminated, the sponsor shall 4020
notify the division of financial institutions of the termination 4021
through the nationwide mortgage licensing system and registry. 4022
Upon the division's receipt of the notice, the sponsor shall no 4023
longer be held responsible for the conduct of the temporary 4024
licensee. 4025

~~(F) The superintendent may, in accordance with Chapter~~ 4026
~~119. of the Revised Code, adopt rules necessary for the~~ 4027
~~implementation and operation of this section.~~ 4028

Sec. ~~1322.043~~ 1322.25. If the "Secure and Fair Enforcement 4029
for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 4030
5101, as amended, is modified after the effective date of this 4031
section amendment, or any regulation, statement, or position is 4032
adopted under that act, to permit states to issue a temporary 4033
mortgage loan originator license to a registered loan 4034
originator, the superintendent shall, in accordance with section 4035
111.15 of the Revised Code, adopt rules the superintendent 4036
considers necessary and appropriate to issue a temporary license 4037

to a registered loan originator. 4038

~~Sec. 1322.051~~ 1322.27. Each ~~person designated under~~ 4039
~~division (A) (3) of section 1322.03 of the Revised Code to act as~~ 4040
~~operations manager for a mortgage broker business and each~~ 4041
applicant for a mortgage loan originator license shall submit to 4042
a written test that is developed and approved by the nationwide 4043
mortgage licensing system and registry and administered by ~~a~~ an 4044
approved test provider ~~approved by the nationwide mortgage~~ 4045
~~licensing system and registry based on reasonable standards.~~ 4046

(A) The test shall adequately measure the ~~designee's or~~ 4047
applicant's knowledge and comprehension in appropriate subject 4048
areas, including ethics, federal and state law related to 4049
mortgage origination, fraud, consumer protection, and the 4050
nontraditional mortgage marketplace, and fair lending issues. 4051

(B) An individual shall not be considered to have passed 4052
the written test unless the individual answers at least seventy- 4053
five per cent of the questions correctly. 4054

(C) An individual may retake the test three consecutive 4055
times provided the period between taking the tests is at least 4056
thirty days. If an individual fails three consecutive tests, the 4057
individual shall be required to wait at least six months before 4058
taking the test again. 4059

(D) If a mortgage loan originator fails to maintain a 4060
valid mortgage loan originator license for a period of five 4061
years or longer, the individual shall be required to retake the 4062
test. 4063

For this purpose, any time during which the individual is 4064
a registered mortgage loan originator shall not be taken into 4065
account. 4066

~~Sec. 1322.052~~ 1322.28. (A) Each licensee ~~and each person~~ 4067
~~designated under division (A) (3) of section 1322.03 of the~~ 4068
~~Revised Code to act as operations manager for a mortgage broker~~ 4069
~~business~~ shall complete at least eight hours of continuing 4070
education every calendar year. To fulfill this requirement, the 4071
eight hours of continuing education must be offered in a course 4072
or program of study reviewed and approved by the ~~nationwide~~ 4073
~~mortgage licensing system and registry superintendent of~~ 4074
financial institutions. The course or program of study shall 4075
include all of the following: 4076

(1) Three hours of applicable federal law and regulations; 4077

(2) Two hours of ethics, which shall include instruction 4078
on fraud, consumer protection, and fair lending issues; 4079

(3) Two hours of training related to lending standards for 4080
non-qualified mortgages, as defined in 12 C.F.R. 1026.43, or the 4081
nontraditional mortgage product marketplace. 4082

(B) Continuing education courses shall be reviewed and 4083
approved by the nationwide mortgage licensing system and 4084
registry based upon reasonable standards. 4085

(C) The following conditions shall apply to the continuing 4086
education required by this section: 4087

(1) An individual cannot take the same approved course in 4088
the same or successive years to meet the annual requirement for 4089
continuing education. 4090

(2) An individual can only receive credit for a continuing 4091
education course in the year in which the course is taken, 4092
unless the individual is making up a deficiency in continuing 4093
education as permitted by rule or order of the superintendent ~~of~~ 4094
~~financial institutions~~. 4095

(3) A licensee who subsequently becomes unlicensed must 4096
complete the continuing education requirement for the last year 4097
in which the license was held prior to the issuance of a new or 4098
renewed license. 4099

(4) A licensee who is approved as an instructor of a 4100
continuing education course receives credit for the licensee's 4101
own annual continuing education requirement at the rate of two 4102
credit hours for every one hour taught. 4103

(5) If an individual successfully completed a continuing 4104
education course reviewed and approved by the nationwide 4105
mortgage licensing system and registry as required by another 4106
state, the individual can receive credit toward completion of 4107
the continuing education requirement of this state. 4108

~~(D) Notwithstanding division (A) of this section, until 4109
the nationwide mortgage licensing system and registry implements 4110
a review and approval process, each licensee or person 4111
designated under division (A) (3) of section 1322.03 of the 4112
Revised Code shall provide evidence that the licensee or person 4113
has successfully completed at least eight hours of continuing 4114
education in a course or program of study approved by the 4115
superintendent of financial institutions. 4116~~

Sec. 1322.29. (A) A registrant or entity holding a valid 4117
letter of exemption under division (B) (1) of section 1322.05 of 4118
the Revised Code shall supervise all business of a mortgage loan 4119
originator conducted at the principal office, any branch office, 4120
or other location used by the individual mortgage loan 4121
originator. 4122

(B) If a mortgage loan originator's employment or 4123
association is terminated for any reason, the licensee may 4124

request the transfer of the license to another mortgage lender 4125
or mortgage broker by submitting a transfer application, along 4126
with a fifteen-dollar fee and any fee required by the national 4127
mortgage licensing system and registry, to the superintendent of 4128
financial institutions or may request the superintendent in 4129
writing to hold the license in escrow. Any licensee whose 4130
license is held in escrow shall cease activity as a mortgage 4131
loan originator. A licensee whose license is held in escrow 4132
shall be required to apply for renewal annually and to comply 4133
with the annual continuing education requirement. 4134

(C) A registrant may employ or be associated with a 4135
mortgage loan originator on a temporary basis pending the 4136
transfer of the mortgage loan originator's license to the 4137
registrant, if the registrant receives written confirmation from 4138
the superintendent that the mortgage loan originator is licensed 4139
under this chapter. 4140

(D) Notwithstanding divisions (A) to (C) of this section, 4141
if a licensee is employed by or associated with a person or 4142
entity holding a valid letter of exemption under division (B) (1) 4143
of section 1322.05 of the Revised Code, all of the following 4144
apply: 4145

(1) The licensee shall maintain and display a copy of the 4146
mortgage loan originator license at the office where the 4147
licensee principally transacts business. 4148

(2) If the mortgage loan originator's employment or 4149
association is terminated, the mortgage loan originator shall 4150
notify the superintendent within five business days after 4151
termination. The licensee may request the transfer of the 4152
license to another person or entity holding a valid letter of 4153
exemption under division (B) (1) of section 1322.05 of the 4154

Revised Code by submitting a transfer application, along with a 4155
fifteen-dollar fee and any fee required by the national mortgage 4156
licensing system and registry, to the superintendent or may 4157
request the superintendent in writing to hold the license in 4158
escrow. A licensee whose license is held in escrow shall cease 4159
activity as a mortgage loan originator. A licensee whose license 4160
is held in escrow shall be required to apply for renewal 4161
annually and to comply with the annual continuing education 4162
requirement. 4163

(E) A licensee may seek to be employed by or associated 4164
with a registrant or a person or entity holding a valid letter 4165
of exemption under division (B)(1) of section 1322.05 of the 4166
Revised Code, if the mortgage lender, mortgage broker, or person 4167
or entity receives written confirmation from the superintendent 4168
that the mortgage loan originator is licensed under this 4169
chapter. 4170

Sec. 1322.30. A registrant may contract for and receive 4171
interest at any rate or rates agreed upon or consented to by the 4172
parties to the dwelling secured loan or mortgage, but not 4173
exceeding an annual percentage rate of twenty-five per cent. 4174

Sec. ~~1322.05~~ 1322.32. (A) (1) No registrant shall conduct 4175
business in this state, unless the registrant has obtained and 4176
maintains in effect at all times a corporate surety bond issued 4177
by a bonding company or insurance company authorized to do 4178
business in this state. The bond shall be in favor of the 4179
superintendent of financial institutions and in the penal sum of 4180
one-half per cent of the aggregate loan amount of residential 4181
mortgage loans originated in the immediately preceding calendar 4182
year, but not exceeding one hundred fifty thousand dollars. 4183
Under no circumstances, however, shall the bond be less than 4184

fifty thousand dollars and an additional penal sum of ten 4185
thousand dollars for each location, in excess of one, at which 4186
the registrant conducts business. The term of the bond shall 4187
coincide with the term of registration. A copy of the bond shall 4188
be filed with the superintendent. The bond shall be for the 4189
exclusive benefit of any buyer injured by a violation by an 4190
employee of the registrant, mortgage loan originator employed by 4191
or associated with the registrant, or registrant of any 4192
provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ 4193
this chapter or any rule adopted thereunder. The aggregate 4194
liability of the corporate surety for any and all breaches of 4195
the conditions of the bond shall not exceed the penal sum of the 4196
bond. 4197

(2) (a) No licensee who is employed by or associated with a 4198
person or entity ~~listed in holding a valid letter of exemption~~ 4199
under division (C) (2) (B) (1) of section 1322.01-1322.05 of the 4200
Revised Code shall conduct business in this state, unless either 4201
the licensee or the person or entity on the licensee's behalf 4202
has obtained and maintains in effect at all times a corporate 4203
surety bond issued by a bonding company or insurance company 4204
authorized to do business in this state. The bond shall be in 4205
favor of the superintendent of financial institutions and in the 4206
penal sum of one-half per cent of the aggregate loan amount of 4207
residential mortgage loans originated in the immediately 4208
preceding calendar year, but not exceeding one hundred thousand 4209
dollars. Under no circumstances, however, shall the bond be less 4210
than fifty thousand dollars. The term of the bond shall coincide 4211
with the term of licensure. A copy of the bond shall be filed 4212
with the superintendent. The bond shall be for the exclusive 4213
benefit of any buyer injured by a violation by the licensee of 4214
any provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ 4215

this chapter or any rule adopted thereunder. The aggregate 4216
liability of the corporate surety for any and all breaches of 4217
the conditions of the bond shall not exceed the penal sum of the 4218
bond. 4219

(b) Licensees covered by a corporate surety bond obtained 4220
by a registrant, or by a person or entity ~~listed in holding a~~ 4221
valid letter of exemption under division (G) (2) (B) (1) of 4222
section ~~1322.01-1322.05~~ of the Revised Code, they are employed 4223
by or associated with shall not be required to obtain an 4224
individual bond. 4225

(B) (1) (a) The registrant shall give notice to the 4226
superintendent by certified mail of any action that is brought 4227
by a buyer against the registrant, mortgage loan originator, or 4228
employee alleging injury by a violation of any provision of 4229
~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter or 4230
any rule adopted thereunder, and of any judgment that is entered 4231
against the registrant, mortgage loan originator, or employee by 4232
a buyer injured by a violation of any provision of ~~sections~~ 4233
~~1322.01 to 1322.12 of the Revised Code~~ this chapter or any rule 4234
adopted thereunder. The notice shall provide details sufficient 4235
to identify the action or judgment, and shall be filed with the 4236
superintendent within ten days after the commencement of the 4237
action or notice to the registrant of entry of a judgment. 4238

(b) The licensee shall give notice to the superintendent 4239
by certified mail of any action that is brought by a buyer 4240
against the licensee alleging injury by a violation of any 4241
provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ 4242
this chapter or any rule adopted thereunder, and of any judgment 4243
that is entered against the licensee by a buyer injured by a 4244
violation of any provision of ~~sections 1322.01 to 1322.12 of the~~ 4245

~~Revised Code~~ this chapter or any rule adopted thereunder. The 4246
notice shall provide details sufficient to identify the action 4247
or judgment, and shall be filed with the superintendent within 4248
ten days after the commencement of the action or notice to the 4249
licensee of entry of a judgment. A person or entity ~~listed in~~ 4250
holding a valid letter of exemption under division ~~(G) (2)~~ (B) (1) 4251
of section ~~1322.01-1322.05~~ of the Revised Code that secures 4252
bonding for the licensees employed by or associated with the 4253
person or entity shall report such actions or judgments in the 4254
same manner as is required of registrants. 4255

(2) A corporate surety, within ten days after it pays any 4256
claim or judgment, shall give notice to the superintendent by 4257
certified mail of the payment, with details sufficient to 4258
identify the person and the claim or judgment paid. 4259

(C) Whenever the penal sum of the corporate surety bond is 4260
reduced by one or more recoveries or payments, the registrant or 4261
licensee shall furnish a new or additional bond under this 4262
section, so that the total or aggregate penal sum of the bond or 4263
bonds equals the sum required by this section, or shall furnish 4264
an endorsement executed by the corporate surety reinstating the 4265
bond to the required penal sum of it. 4266

(D) The liability of the corporate surety on the bond to 4267
the superintendent and to any buyer injured by a violation of 4268
any provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ 4269
this chapter or any rule adopted thereunder shall not be 4270
affected in any way by any misrepresentation, breach of 4271
warranty, or failure to pay the premium, by any act or omission 4272
upon the part of the registrant or licensee, by the insolvency 4273
or bankruptcy of the registrant or licensee, or by the 4274
insolvency of the registrant's or licensee's estate. The 4275

liability for any act or omission that occurs during the term of 4276
the corporate surety bond shall be maintained and in effect for 4277
at least two years after the date on which the corporate surety 4278
bond is terminated or canceled. 4279

(E) The corporate surety bond shall not be canceled by the 4280
registrant, the licensee, or the corporate surety except upon 4281
notice to the superintendent by certified mail, return receipt 4282
requested. The cancellation shall not be effective prior to 4283
thirty days after the superintendent receives the notice. 4284

(F) No registrant or licensee employed by or associated 4285
with a person or entity ~~listed in holding a valid letter of~~ 4286
~~exemption under division (G) (2) (B) (1) of section 1322.01-~~ 4287
~~1322.05~~ of the Revised Code shall fail to comply with this 4288
section. Any registrant or licensee that fails to comply with 4289
this section shall cease all mortgage lender, mortgage broker, 4290
or mortgage loan originator activity in this state until the 4291
registrant or licensee complies with this section. 4292

Sec. ~~1322.06~~ 1322.34. (A) As often as the superintendent 4293
of financial institutions considers it necessary, the 4294
superintendent may examine the registrant's or licensee's 4295
records, including all records created or processed by a 4296
licensee, pertaining to business transacted pursuant to ~~sections~~ 4297
~~1322.01 to 1322.12 of the Revised Code~~ this chapter. 4298

(B) A registrant or licensee shall maintain records 4299
pertaining to business transacted pursuant to ~~sections 1322.01-~~ 4300
~~to 1322.12 of the Revised Code, including copies of all mortgage-~~ 4301
~~loan origination disclosure statements prepared in accordance-~~ 4302
~~with section 1322.062 of the Revised Code, this chapter~~ for four 4303
years. For purposes of this division, "registrant or licensee" 4304
includes any person whose certificate of registration or license 4305

is cancelled, surrendered, or revoked or who otherwise ceases to 4306
engage in business as a mortgage lender, mortgage broker, or 4307
mortgage loan originator. 4308

No registrant or licensee shall fail to comply with this 4309
division. 4310

(C) Each registrant ~~and~~, licensee, and entity holding a 4311
valid letter of exemption under division (B) (1) of section 4312
1322.05 of the Revised Code shall submit to the nationwide 4313
mortgage licensing system and registry call reports or other 4314
reports of condition, which reports shall be in such form and 4315
shall contain such information as the nationwide mortgage 4316
licensing system and registry may require. Each registrant and 4317
entity holding a valid letter of exemption under division (B) (1) 4318
of section 1322.05 of the Revised Code shall ensure that all 4319
residential mortgage loans that are consummated as a result of a 4320
mortgage loan originator's loan origination activities are 4321
included in the report of condition submitted to the nationwide 4322
mortgage licensing system and registry. 4323

~~(D) (1) As required by the superintendent, each registrant~~ 4324
~~shall file with the division of financial institutions an annual~~ 4325
~~report under oath or affirmation, on forms supplied by the~~ 4326
~~division, concerning the business and operations of the~~ 4327
~~registrant for the preceding calendar year. If a registrant~~ 4328
~~operates two or more registered offices, or two or more~~ 4329
~~affiliated registrants operate registered offices, a composite~~ 4330
~~report of the group of registered offices may be filed in lieu~~ 4331
~~of individual reports. For purposes of compliance with this~~ 4332
~~requirement, the superintendent may accept call reports or other~~ 4333
~~reports of condition submitted to the nationwide mortgage~~ 4334
~~licensing system and registry in lieu of the annual report.~~ 4335

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

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

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

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

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

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

(a) Examination information, and any information leading

to or arising from an examination; 4365

(b) Investigation information, and any information arising 4366
from or leading to an investigation. 4367

(2) The information described in division (A)(1) of this 4368
section shall remain confidential for all purposes except when 4369
it is necessary for the superintendent of financial institutions 4370
to take official action regarding the affairs of a registrant or 4371
licensee, or in connection with criminal or civil proceedings to 4372
be initiated by a prosecuting attorney or the attorney general. 4373
This information may also be introduced into evidence or 4374
disclosed when and in the manner authorized by section 1181.25 4375
of the Revised Code. 4376

(B) All application information, except social security 4377
numbers, employer identification numbers, financial account 4378
numbers, the identity of the institution where financial 4379
accounts are maintained, personal financial information, 4380
fingerprint cards and the information contained on such cards, 4381
and criminal background information, is a public record as 4382
defined in section 149.43 of the Revised Code. 4383

(C) This section does not prevent the division of 4384
financial institutions from releasing to or exchanging with 4385
other financial institution regulatory authorities information 4386
relating to registrants and licensees. For this purpose, a 4387
"financial institution regulatory authority" includes a 4388
regulator of a business activity in which a registrant or 4389
licensee is engaged, or has applied to engage in, to the extent 4390
that the regulator has jurisdiction over a registrant or 4391
licensee engaged in that business activity. A registrant or 4392
licensee is engaged in a business activity, and a regulator of 4393
that business activity has jurisdiction over the registrant or 4394

licensee, whether the registrant or licensee conducts the 4395
activity directly or a subsidiary or affiliate of the registrant 4396
or licensee conducts the activity. 4397

(D) The superintendent shall, on a regular basis, report 4398
violations of ~~sections 1322.01 to 1322.12 of the Revised Code~~ 4399
any provision of this chapter, as well as enforcement actions 4400
and other relevant information, to the nationwide mortgage 4401
licensing system and registry. 4402

(E) (1) Any confidentiality or privilege arising under 4403
federal or state law with respect to any information or material 4404
provided to the nationwide mortgage licensing system and 4405
registry shall continue to apply to the information or material 4406
after the information or material is provided to the nationwide 4407
mortgage licensing system and registry. The information and 4408
material so provided may be released to any state or federal 4409
regulatory official with mortgage industry oversight authority 4410
without the loss of confidentiality or privilege protections 4411
provided by federal law or the law of any state. Information or 4412
material described in division (E) (1) of this section to which 4413
confidentiality or privilege applies shall not be subject to any 4414
of the following: 4415

(a) Disclosure under any federal or state law governing 4416
disclosure to the public of information held by an officer or an 4417
agency of the federal government or of the respective state; 4418

(b) Subpoena or discovery, or admission into evidence, in 4419
any private civil action or administrative process, unless the 4420
person to whom such information or material pertains waives, in 4421
whole or in part and at the discretion of the person, any 4422
privilege held by the nationwide mortgage licensing system and 4423
registry with respect to that information or material. 4424

(2) The superintendent, in order to promote more effective 4425
regulation and reduce regulatory burden through supervisory 4426
information sharing, may enter into sharing arrangements with 4427
other governmental agencies, the conference of state bank 4428
supervisors, and the American association of residential 4429
mortgage regulators. 4430

(3) Any state law, including section 149.43 of the Revised 4431
Code, relating to the disclosure of confidential supervisory 4432
information or any information or material described in division 4433
(A) (1) or (E) (1) of this section that is inconsistent with this 4434
section shall be superseded by the requirements of this section. 4435

(F) This section shall not apply with respect to 4436
information or material relating to the employment history of, 4437
and publicly adjudicated disciplinary and enforcement actions 4438
against, mortgage loan originators that is included in the 4439
nationwide mortgage licensing system and registry for access by 4440
the public. 4441

(G) This section does not prevent the division from 4442
releasing information relating to registrants and licensees to 4443
the attorney general, to the superintendent of real estate and 4444
professional licensing for purposes relating to the 4445
administration of Chapters 4735. and 4763. of the Revised Code, 4446
to the superintendent of insurance for purposes relating to the 4447
administration of Chapter 3953. of the Revised Code, to the 4448
commissioner of securities for purposes relating to the 4449
administration of Chapter 1707. of the Revised Code, or to local 4450
law enforcement agencies and local prosecutors. Information the 4451
division releases pursuant to this section remains confidential. 4452

(H) The superintendent of financial institutions shall, by 4453
rule adopted in accordance with Chapter 119. of the Revised 4454

Code, establish a process by which mortgage loan originators may 4455
challenge any information provided to the nationwide mortgage 4456
licensing system and registry by the superintendent. 4457

Sec. ~~1322.07~~ 1322.40. No registrant, licensee, or person 4458
required to be registered or licensed under ~~sections 1322.01 to~~ 4459
~~1322.12 of the Revised Code~~ this chapter, or individual 4460
disclosed in an application as required by ~~division (A) (2) of~~ 4461
~~section 1322.03 of the Revised Code~~ this chapter, shall do any 4462
of the following: 4463

(A) Obtain a ~~mortgage broker~~ certificate of registration 4464
or mortgage loan originator license through any false or 4465
fraudulent representation of a material fact or any omission of 4466
a material fact required by state law, or make any substantial 4467
misrepresentation in any registration or license application; 4468

(B) Make false or misleading statements of a material 4469
fact, omissions of statements required by state or federal law, 4470
or false promises regarding a material fact, through advertising 4471
or other means, or engage in a continued course of 4472
misrepresentations; 4473

(C) Engage in conduct that constitutes improper, 4474
fraudulent, or dishonest dealings; 4475

(D) Fail to notify the division of financial institutions 4476
within thirty days after any of the following: 4477

(1) Being convicted of or pleading guilty or nolo 4478
contendere to a felony in a domestic, foreign, or military 4479
court; 4480

(2) Being convicted of or pleading guilty or nolo 4481
contendere to any criminal offense involving theft, receiving 4482
stolen property, embezzlement, forgery, fraud, passing bad 4483

checks, money laundering, breach of trust, dishonesty, or drug 4484
trafficking, or any criminal offense involving money or 4485
securities, in a domestic, foreign, or military court; 4486

(3) Having a mortgage lender or mortgage broker 4487
certificate of registration or mortgage loan originator license, 4488
or any comparable authority, revoked in any governmental 4489
jurisdiction. 4490

(E) Knowingly make, propose, or solicit fraudulent, false, 4491
or misleading statements on any mortgage loan document or on any 4492
document related to a mortgage loan, including a mortgage 4493
application, real estate appraisal, or real estate settlement or 4494
closing document. For purposes of this division, "fraudulent, 4495
false, or misleading statements" does not include mathematical 4496
errors, inadvertent transposition of numbers, typographical 4497
errors, or any other bona fide error. 4498

(F) Knowingly instruct, solicit, propose, or otherwise 4499
cause a buyer to sign in blank a mortgage related document; 4500

(G) Knowingly compensate, instruct, induce, coerce, or 4501
intimidate, or attempt to compensate, instruct, induce, coerce, 4502
or intimidate, a person licensed or certified under Chapter 4503
4763. of the Revised Code for the purpose of corrupting or 4504
improperly influencing the independent judgment of the person 4505
with respect to the value of the dwelling offered as security 4506
for repayment of a mortgage loan; 4507

(H) Promise to refinance a loan in the future at a lower 4508
interest rate or with more favorable terms, unless the promise 4509
is set forth in writing and is initialed by the buyer; 4510

(I) Engage in any unfair, deceptive, or unconscionable act 4511
or practice prohibited under sections 1345.01 to 1345.13 of the 4512

Revised Code. 4513

Sec. ~~1322.074~~ 1322.41. (A) Except as otherwise provided in 4514
division (B) of this section, no registrant, or any member of 4515
the immediate family of an owner of a registrant, shall own or 4516
control a majority interest in an appraisal company. 4517

(B) Division (A) of this section shall not apply to any 4518
registrant, or any member of the immediate family of an owner of 4519
a registrant, who, on January 1, 2010, directly or indirectly 4520
owns or controls a majority interest in an appraisal company. 4521
However, such ownership or control is subject to the following 4522
conditions: 4523

(1) The registrant and members of the immediate family of 4524
an owner of a registrant shall not increase their interest in 4525
the company. 4526

(2) The interest is not transferable to a member of the 4527
immediate family of an owner of a registrant. 4528

(3) If the registrant is convicted of or pleads guilty or 4529
nolo contendere to a criminal violation of ~~sections 1322.01 to~~ 4530
~~1322.12 of the Revised Code~~ this chapter or any criminal offense 4531
described in division (A) (1) (b) of section ~~1322.10-1322.50~~ of 4532
the Revised Code, the superintendent of financial institutions 4533
may, in addition to any of the actions authorized under section 4534
~~1322.10-1322.50~~ of the Revised Code, order the registrant or 4535
members of the immediate family of an owner of a registrant to 4536
divest their interest in the company. 4537

Sec. ~~1322.075~~ 1322.42. (A) (1) No registrant or licensee or 4538
person required to be registered or licensed under ~~sections~~ 4539
~~1322.01 to 1322.12 of the Revised Code~~ this chapter shall refer 4540
a buyer to any settlement service provider, including any title 4541

insurance company, that has an affiliated business arrangement 4542
with the registrant, licensee, or person without providing the 4543
buyer with written notice ~~disclosing all of the following:~~ 4544

~~(1) Any business relationship that exists between the~~ 4545
~~registrant, licensee, or person required to be registered or~~ 4546
~~licensed under sections 1322.01 to 1322.12 of the Revised Code,~~ 4547
~~and the provider to which the buyer is being referred, and any~~ 4548
~~financial benefit that the registrant, licensee, or person may~~ 4549
~~be provided because of the relationship;~~ 4550

~~(2) The percentage of ownership interest the registrant,~~ 4551
~~licensee, or person required to be registered or licensed under~~ 4552
~~sections 1322.01 to 1322.12 of the Revised Code has in the~~ 4553
~~provider to which the buyer is being referred;~~ 4554

~~(3) The estimated charge or range of charges for the~~ 4555
~~settlement service listed;~~ 4556

~~(4) The following statement, printed in boldface type of~~ 4557
~~the minimum size of sixteen points: "There are frequently other~~ 4558
~~settlement service providers available with similar services.~~ 4559
~~You are free to shop around to determine that you are receiving~~ 4560
~~the best services and the best rate for these services." as~~ 4561
~~required by rule adopted by the superintendent.~~ 4562

(2) As used in division (A) (1) of this section, 4563
"affiliated business arrangement" has the same meaning as in 12 4564
U.S.C. 2602. 4565

(B) No registrant or licensee shall refer a buyer to an 4566
appraisal company, if the registrant or licensee, a member of 4567
the immediate family of an owner of the registrant, or a member 4568
of the licensee's immediate family, has either of the following 4569
financial relationships with the appraisal company: 4570

(1) An ownership or investment interest in the company, 4571
whether through debt, equity, or other means; 4572

(2) Any compensation arrangement involving any 4573
remuneration, directly or indirectly, overtly or covertly, in 4574
cash or in kind. 4575

(C) No registrant or licensee shall knowingly enter into 4576
an arrangement or scheme, including a cross-referral 4577
arrangement, that has a principal purpose of assuring referrals 4578
by a registrant or licensee to a particular appraisal company 4579
that would violate division (B) of this section. 4580

(D) The registrant, licensee, and entity holding a valid 4581
letter of exemption under division (B) (1) of section 1322.05 of 4582
the Revised Code, or person required to be registered or 4583
licensed under ~~sections 1322.01 to 1322.12 of the Revised Code~~ 4584
this chapter shall retain proof that the buyer received the 4585
written disclosures required by division (A) of this section for 4586
four years. 4587

Sec. 1322.43. No registrant and entity holding a valid 4588
letter of exemption under division (B) (1) of section 1322.05 of 4589
the Revised Code, through its operations manager or otherwise, 4590
shall fail to do either of the following: 4591

(A) Reasonably supervise a mortgage loan originator or any 4592
other person associated with the registrant; 4593

(B) Establish reasonable procedures designed to avoid 4594
violations of any provision of this chapter or the rules adopted 4595
under this chapter, or violations of applicable state and 4596
federal consumer and lending laws or rules, by mortgage loan 4597
originators or any other person associated with the registrant. 4598

~~Sec. 1322.081~~ 1322.45. (A) A registrant, a licensee, and 4599

any person required to be registered or licensed under ~~sections~~ 4600
~~1322.01 to 1322.12 of the Revised Code~~ this chapter, in addition 4601
to duties imposed by other statutes or common law, shall do all 4602
of the following: 4603

(1) Safeguard and account for any money handled for the 4604
buyer; 4605

(2) Follow reasonable and lawful instructions from the 4606
buyer; 4607

(3) Act with reasonable skill, care, and diligence; 4608

(4) Act in good faith and with fair dealing in any 4609
transaction, practice, or course of business in connection with 4610
the brokering or originating of any residential mortgage loan; 4611

(5) Make reasonable efforts to secure a residential 4612
mortgage loan, from lenders with whom the registrant, licensee, 4613
or person regularly does business, with rates, charges, and 4614
repayment terms that are advantageous to the buyer. 4615

(B) Division (A) of this section shall not apply to 4616
wholesale lenders. However, wholesale lenders are subject to all 4617
other requirements applicable to mortgage brokers and nonbank 4618
mortgage lenders. For purposes of this division, "wholesale 4619
lender" means a company that has been issued a ~~mortgage broker~~ 4620
certificate of registration and that enters into transactions 4621
with buyers exclusively through unaffiliated third-party 4622
mortgage brokers. 4623

(C) The duties and standards of care created in this 4624
section cannot be waived or modified. 4625

(D) (1) A buyer injured by a ~~violation of~~ failure to comply 4626
with this section may bring an action for recovery of damages. 4627

(2) Damages awarded under division (D) (1) of this section 4628
shall not be less than all compensation paid directly or 4629
indirectly to a mortgage broker from any source, plus reasonable 4630
attorney's fees and court costs. 4631

(3) The buyer may be awarded punitive damages. 4632

(E) A buyer injured by a ~~violation of failure to comply~~ 4633
with this section is precluded from recovering any damages, plus 4634
reasonable attorney's fees and costs, if the buyer has also 4635
recovered any damages in a cause of action initiated under 4636
section ~~1322.11-1322.52~~ of the Revised Code and the recovery of 4637
damages for a ~~violation of failure to comply with this section~~ 4638
is based on the same acts or circumstances as the basis for 4639
recovery of damages in section ~~1322.11-1322.52~~ of the Revised 4640
Code. 4641

(F) This section shall not be interpreted by the 4642
superintendent to require a separate account for deposit of 4643
buyer funds. 4644

Sec. ~~1322.09~~ 1322.46. (A) A ~~mortgage broker-registrant or~~ 4645
mortgage loan originator shall disclose in any printed, 4646
televised, broadcast, electronically transmitted, or published 4647
advertisement relating to the ~~mortgage broker's-registrant's or~~ 4648
mortgage loan originator's services, including on any electronic 4649
site accessible through the internet, the business name and 4650
~~street address~~ of the ~~mortgage broker-registrant or mortgage~~ 4651
loan originator and the ~~number designated on the certificate of~~ 4652
~~registration or license that is issued to~~ unique identifier of 4653
the ~~mortgage broker-registrant or mortgage loan~~ originator ~~by~~ 4654
~~the superintendent of financial institutions under sections~~ 4655
~~1322.01 to 1322.12 of the Revised Code.~~ 4656

(B) In making any advertisement, a ~~mortgage broker~~ 4657
registrant shall comply with 12 C.F.R. 226.16, as amended. 4658

~~(C) No mortgage broker or loan originator shall fail to 4659
comply with this section. 4660~~

Sec. ~~1322.10~~ 1322.50. (A) After notice and opportunity for 4661
a hearing conducted in accordance with Chapter 119. of the 4662
Revised Code, the superintendent of financial institutions may 4663
do the following: 4664

(1) Suspend, revoke, or refuse to issue or renew a 4665
certificate of registration or license if the superintendent 4666
finds any of the following: 4667

(a) A violation of or failure to comply with any provision 4668
of ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter 4669
or the rules adopted under ~~those sections~~ this chapter, federal 4670
lending law, or any other law applicable to the business 4671
conducted under a certificate of registration or license; 4672

(b) A conviction of or guilty or nolo contendere plea to a 4673
felony in a domestic, foreign, or military court; 4674

(c) A conviction of or guilty or nolo contendere plea to 4675
any criminal offense involving theft, receiving stolen property, 4676
embezzlement, forgery, fraud, passing bad checks, money 4677
laundering, breach of trust, dishonesty, or drug trafficking, or 4678
any criminal offense involving money or securities, in a 4679
domestic, foreign, or military court; 4680

(d) The revocation of a ~~mortgage broker~~ certificate of 4681
registration or mortgage loan originator license, or any 4682
comparable authority, in any governmental jurisdiction. 4683

(2) Impose a fine of not more than one thousand dollars, 4684

for each day a violation of a law or rule is committed, 4685
repeated, or continued. If the registrant or licensee engages in 4686
a pattern of repeated violations of a law or rule, the 4687
superintendent may impose a fine of not more than two thousand 4688
dollars for each day the violation is committed, repeated, or 4689
continued. All fines collected pursuant to this division shall 4690
be paid to the treasurer of state to the credit of the consumer 4691
finance fund created in section 1321.21 of the Revised Code. In 4692
determining the amount of a fine to be imposed pursuant to this 4693
division, the superintendent may consider all of the following, 4694
to the extent known by the division of financial institutions: 4695

(a) The seriousness of the violation; 4696

(b) The registrant's or licensee's good faith efforts to 4697
prevent the violation; 4698

(c) The registrant's or licensee's history regarding 4699
violations and compliance with division orders; 4700

(d) The registrant's or licensee's financial resources; 4701

(e) Any other matters the superintendent considers 4702
appropriate in enforcing ~~sections 1322.01 to 1322.12 of the~~ 4703
~~Revised Code~~ this chapter. 4704

(B) The superintendent may investigate alleged violations 4705
of ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter 4706
or the rules adopted under ~~those sections~~ this chapter or 4707
complaints concerning any violation. 4708

(1) The superintendent may make application to the court 4709
of common pleas for an order enjoining any violation and, upon a 4710
showing by the superintendent that a person has committed or is 4711
about to commit that violation, the court shall grant an 4712
injunction, restraining order, or other appropriate relief. 4713

(2) The superintendent may make application to the court 4714
of common pleas for an order enjoining any person from acting as 4715
a mortgage lender, mortgage broker, registrant, mortgage loan 4716
originator, or licensee in violation of division (A) or (B) of 4717
section ~~1322.02~~1322.07 of the Revised Code, and may seek and 4718
obtain civil penalties for unregistered or unlicensed conduct of 4719
not more than five thousand dollars per violation. 4720

(C) In conducting any investigation pursuant to this 4721
section, the superintendent may compel, by subpoena, witnesses 4722
to testify in relation to any matter over which the 4723
superintendent has jurisdiction and may require the production 4724
of any book, record, or other document pertaining to that 4725
matter. If a person fails to file any statement or report, obey 4726
any subpoena, give testimony, produce any book, record, or other 4727
document as required by a subpoena, or permit photocopying of 4728
any book, record, or other document subpoenaed, the court of 4729
common pleas of any county in this state, upon application made 4730
to it by the superintendent, shall compel obedience by 4731
attachment proceedings for contempt, as in the case of 4732
disobedience of the requirements of a subpoena issued from the 4733
court or a refusal to testify therein. 4734

(D) If the superintendent determines that a person is 4735
engaged in or is believed to be engaged in activities that may 4736
constitute a violation of ~~sections 1322.01 to 1322.12 of the~~ 4737
~~Revised Code~~ this chapter or any rule adopted thereunder, the 4738
superintendent, after notice and a hearing conducted in 4739
accordance with Chapter 119. of the Revised Code, may issue a 4740
cease and desist order. If the administrative action is to 4741
enjoin a person from acting as a mortgage lender, mortgage 4742
broker, or mortgage loan originator in violation of division (A) 4743
or (B) of section ~~1322.02~~1322.07 of the Revised Code, the 4744

superintendent may seek and impose fines for that conduct in an amount not to exceed five thousand dollars per violation. Such an order shall be enforceable in the court of common pleas.

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

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

(a) Suspend the ~~mortgage broker~~ certificate of registration or mortgage loan originator license of a registrant or licensee who is convicted of or pleads guilty or nolo contendere to a criminal violation of any provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter or any criminal offense described in division (A) (1) (b) or (c) of this section;

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

(c) Suspend the ~~mortgage broker~~ certificate of registration or mortgage loan originator license of a registrant or licensee who fails to comply with a request made by the superintendent under section ~~1322.03-1322.09 or 1322.031-1322.20~~ of the Revised Code to inspect qualifying education transcripts located at the registrant's or licensee's place of business.

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

~~(3) The superintendent shall, in accordance with Chapter 119. of the Revised Code, adopt rules establishing the maximum~~

~~amount of time a suspension under division (F) (1) of this section may continue before a hearing is conducted.~~ 4774
4775

(G) The imposition of fines under this section does not 4776
preclude any penalty imposed under section 1322.99 of the 4777
Revised Code. 4778

Sec. ~~1322.101~~ 1322.51. On receipt of a notice pursuant to 4779
section 3123.43 of the Revised Code, the division of financial 4780
institutions shall comply with sections 3123.41 to 3123.50 of 4781
the Revised Code and any applicable rules adopted under section 4782
3123.63 of the Revised Code with respect to a certificate or 4783
license issued pursuant to this chapter. 4784

Sec. ~~1322.11~~ 1322.52. (A) (1) A buyer injured by a 4785
violation of section ~~1322.02, 1322.062, 1322.063, 1322.064,~~ 4786
~~1322.07, 1322.071, 1322.08, or 1322.09~~ 1322.40, or 1322.46 of 4787
the Revised Code may bring an action for recovery of damages. 4788

(2) Damages awarded under division (A) (1) of this section 4789
shall not be less than all compensation paid directly and 4790
indirectly to a ~~mortgage broker registrant~~ or mortgage loan 4791
originator from any source, plus reasonable attorney's fees and 4792
court costs. 4793

(3) The buyer may be awarded punitive damages. 4794

(B) (1) The superintendent of financial institutions or a 4795
buyer may directly bring an action to enjoin a violation of 4796
~~sections 1322.01 to 1322.12 of the Revised Code~~ any provision of 4797
this chapter. The attorney general may directly bring an action 4798
to enjoin a violation of ~~sections 1322.01 to 1322.12 of the~~ 4799
~~Revised Code~~ any provision of this chapter with the same rights, 4800
privileges, and powers as those described in section 1345.06 of 4801
the Revised Code. The prosecuting attorney of the county in 4802

which the action may be brought may bring an action to enjoin a 4803
violation of ~~sections 1322.01 to 1322.12 of the Revised Code~~ any 4804
provision of this chapter only if the prosecuting attorney first 4805
presents any evidence of the violation to the attorney general 4806
and, within a reasonable period of time, the attorney general 4807
has not agreed to bring the action. 4808

(2) The superintendent may initiate criminal proceedings 4809
under ~~sections 1322.01 to 1322.12 of the Revised Code~~ this 4810
chapter by presenting any evidence of criminal violation to the 4811
prosecuting attorney of the county in which the offense may be 4812
prosecuted. If the prosecuting attorney does not prosecute the 4813
violations, or at the request of the prosecuting attorney, the 4814
superintendent shall present any evidence of criminal violations 4815
to the attorney general, who may proceed in the prosecution with 4816
all the rights, privileges, and powers conferred by law on 4817
prosecuting attorneys, including the power to appear before 4818
grand juries and to interrogate witnesses before such grand 4819
juries. These powers of the attorney general shall be in 4820
addition to any other applicable powers of the attorney general. 4821

(3) The prosecuting attorney of the county in which an 4822
alleged offense may be prosecuted may initiate criminal 4823
proceedings under ~~sections 1322.01 to 1322.12 of the Revised~~ 4824
~~Code~~ this chapter. 4825

(4) In order to initiate criminal proceedings under 4826
~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter, 4827
the attorney general shall first present any evidence of 4828
criminal violations to the prosecuting attorney of the county in 4829
which the alleged offense may be prosecuted. If, within a 4830
reasonable period of time, the prosecuting attorney has not 4831
agreed to prosecute the violations, the attorney general may 4832

proceed in the prosecution with all the rights, privileges, and 4833
powers described in division (B) (2) of this section. 4834

(5) When a judgment under this section becomes final, the 4835
clerk of court shall mail a copy of the judgment, including 4836
supporting opinions, to the superintendent. 4837

(C) The remedies provided by this section are in addition 4838
to any other remedy provided by law. 4839

(D) In any proceeding or action brought under ~~sections~~ 4840
~~1322.01 to 1322.12 of the Revised Code~~ this chapter, the burden 4841
of proving an exemption under those sections is on the person 4842
claiming the benefit of the exemption. 4843

(E) No person shall be deemed to violate ~~sections 1322.01~~ 4844
~~to 1322.12 of the Revised Code~~ any provision of this chapter 4845
with respect to any act taken or omission made in reliance on a 4846
written notice, written interpretation, or written report from 4847
the superintendent, unless there is a subsequent amendment to 4848
those ~~sections~~ provisions, or rules promulgated thereunder, that 4849
affects the superintendent's notice, interpretation, or report. 4850

(F) Upon disbursement of mortgage loan proceeds to or on 4851
behalf of the buyer, the registrant that assisted the buyer to 4852
obtain the mortgage loan is deemed to have completed the 4853
performance of the registrant's services for the buyer and owes 4854
no additional duties or obligations to the buyer with respect to 4855
the mortgage loan. However, nothing in this division shall be 4856
construed to limit or preclude the civil or criminal liability 4857
of a registrant for failing to comply with ~~sections 1322.01 to~~ 4858
~~1322.12 of the Revised Code~~ this chapter or any rule adopted 4859
under ~~those sections~~ this chapter, for failing to comply with 4860
any provision of or duty arising under an agreement with a buyer 4861

or lender under ~~sections 1322.01 to 1322.12 of the Revised Code~~ 4862
this chapter, or for violating any other provision of state or 4863
federal law. 4864

(G) A buyer injured by a violation of any of the sections 4865
specified in division (A) (1) of this section is precluded from 4866
recovering any damages, plus reasonable attorney's fees and 4867
costs, if the buyer has also recovered any damages in a cause of 4868
action initiated under section ~~1322.081~~-1322.45 of the Revised 4869
Code and the recovery of damages for a violation of any of the 4870
sections specified in division (A) (1) of this section is based 4871
on the same acts or circumstances as the basis for recovery of 4872
damages in section ~~1322.081~~-1322.45 of the Revised Code. 4873

Sec. ~~1322.025~~ 1322.55. (A) Notwithstanding any provision 4874
of ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter, 4875
or any rule adopted thereunder, if the "Secure and Fair 4876
Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 4877
12 U.S.C. 5101, as amended, is modified after ~~the effective date~~ 4878
~~of this section~~ October 16, 2009, or any regulation, statement, 4879
or position is adopted under that act, and the item modified or 4880
adopted affects any matter within the scope of ~~sections 1322.01~~ 4881
~~to 1322.12 of the Revised Code~~ this chapter, the superintendent 4882
of financial institutions may by rule adopt a similar provision. 4883

(B) The superintendent shall adopt the rules authorized by 4884
this section in accordance with section 111.15 of the Revised 4885
Code. Chapter 119. of the Revised Code does not apply to rules 4886
adopted under the authority of this section. 4887

(C) A rule adopted by the superintendent under the 4888
authority of this section is effective on the later of the 4889
following dates: 4890

(1) The date the superintendent issues the rule; 4891

(2) The date the regulation, rule, interpretation, 4892
procedure, or guideline the superintendent's rule is based on 4893
becomes effective. 4894

(D) The superintendent may, upon thirty days' written 4895
notice, revoke any rule adopted under the authority of this 4896
section. A rule adopted under the authority of this section, and 4897
not revoked by the superintendent, lapses and has no further 4898
force and effect eighteen months after the rule's effective 4899
date. 4900

Sec. 1322.56. The superintendent of financial institutions 4901
may adopt, in accordance with Chapter 119. of the Revised Code, 4902
any rule necessary to comply with the requirements of the 4903
nationwide mortgage licensing system and registry, including 4904
requirements pertaining to all of the following: 4905

(A) Payment of nonrefundable fees to apply for, maintain, 4906
and renew licenses through the nationwide mortgage licensing 4907
system and registry; 4908

(B) Renewal or reporting dates; 4909

(C) Procedures to amend or to surrender a license; 4910

(D) Any other activity necessary for participation in the 4911
nationwide mortgage licensing system and registry. 4912

~~Sec. 1322.12~~ 1322.57. The superintendent of financial 4913
institutions, in accordance with Chapter 119. of the Revised 4914
Code, may adopt reasonable rules to administer and enforce 4915
~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter and 4916
to carry out the purposes of ~~those sections~~ this chapter. 4917

Sec. 1322.99. (A) (1) Whoever violates division (A) ~~(1) or~~ 4918

~~(2) of section 1322.02, 1322.07 or division (E), (F), or (G) of~~ 4919
~~section 1322.07, division (B) (1) or (2) of section 1322.071, or~~ 4920
~~section 1322.08 1322.40 of the Revised Code is guilty of a~~ 4921
felony of the fifth degree. 4922

~~(B) Whoever violates division (B) (3) of section 1322.071~~ 4923
~~of the Revised Code is guilty of a felony of the fourth degree.~~ 4924

~~(C) (2) Whoever violates division (B) or (C) (1) or (2) of~~ 4925
~~section 1322.02 1322.07 of the Revised Code is guilty of a~~ 4926
misdemeanor of the first degree. 4927

(B) The offenses established under divisions (A) and (B) 4928
of section 1322.07 of the Revised Code are strict liability 4929
offenses, and section 2901.20 of the Revised Code does not 4930
apply. The designation of these offenses as strict liability 4931
offenses shall not be construed to imply that any other offense 4932
for which there is no specified degree of culpability, whether 4933
in this section or another section of the Revised Code, is not a 4934
strict liability offense. 4935

Sec. 1329.71. (A) As used in this section, "financial 4936
institution" means any bank, savings and loan association, 4937
savings bank, or credit union; any affiliate or subsidiary of a 4938
bank, savings and loan association, savings bank, or credit 4939
union; ~~or~~ any registrant as defined in section 1321.51 of the 4940
Revised Code; or any person registered as a mortgage lender 4941
under Chapter 1322. of the Revised Code. 4942

(B) Any financial institution may proceed by suit to 4943
enjoin the use of the financial institution's name or logo in 4944
connection with the sale, offering for sale, distribution, or 4945
advertising of any product or service without the express 4946
written consent of the financial institution, if such use is 4947

misleading or deceptive as to the source of origin or 4948
sponsorship of, or the affiliation with, the product or service. 4949
Any court of competent jurisdiction may grant injunctions to 4950
restrain such use as the court considers just and reasonable and 4951
may require the defendants to pay to the financial institution 4952
all profits derived from and all damages suffered by reason of 4953
the wrongful use of the name or logo. 4954

(C) Notwithstanding division (B) of this section, the only 4955
remedies that are available for the wrongful use of a financial 4956
institution's name or logo by a registrant or licensee under 4957
~~sections 1322.01 to 1322.12~~ Chapter 1322. of the Revised Code 4958
are those set forth in section ~~1322.10-1322.50~~ of the Revised 4959
Code or otherwise provided by statute or common law. 4960

(D) The provisions of this section are not intended to be 4961
exclusive remedies and do not preclude the use of any other 4962
remedy provided by law. 4963

Sec. 1335.02. (A) As used in this section: 4964

(1) "Debtor" means a person that obtains credit or seeks a 4965
loan agreement with a financial institution or owes money to a 4966
financial institution. 4967

(2) "Financial institution" means ~~either~~ any of the 4968
following: 4969

(a) A federally or state-chartered bank, savings bank, 4970
savings and loan association, or credit union, or a holding 4971
company, subsidiary, or affiliate of a bank, savings bank, or 4972
savings and loan association; 4973

(b) A licensee under sections 1321.01 to 1321.19 of the 4974
Revised Code, or a registrant under sections 1321.51 to 1321.60 4975
of the Revised Code, or a parent company, subsidiary, or 4976

affiliate of a licensee or registrant; 4977

(c) A person registered as a mortgage lender under Chapter 4978
1322. of the Revised Code or a parent company, subsidiary, or 4979
affiliate of such a person. 4980

(3) "Loan agreement" means one or more promises, 4981
promissory notes, agreements, undertakings, security agreements, 4982
mortgages, or other documents or commitments, or any combination 4983
of these documents or commitments, pursuant to which a financial 4984
institution loans or delays, or agrees to loan or delay, 4985
repayment of money, goods, or anything of value, or otherwise 4986
extends credit or makes a financial accommodation. "Loan 4987
agreement" does not include a promise, promissory note, 4988
agreement, undertaking, or other document or commitment relating 4989
to a credit card, a charge card, a revolving budget agreement 4990
subject to section 1317.11 of the Revised Code, an open-end loan 4991
agreement subject to section 1321.16 or 1321.58 of the Revised 4992
Code, or an open-end credit agreement subject to section 1109.18 4993
of the Revised Code. 4994

(B) No party to a loan agreement may bring an action on a 4995
loan agreement unless the agreement is in writing and is signed 4996
by the party against whom the action is brought or by the 4997
authorized representative of the party against whom the action 4998
is brought. However, a loan agreement need not be signed by an 4999
officer or other authorized representative of a financial 5000
institution, if the loan agreement is in the form of a 5001
promissory note or other document or commitment that describes 5002
the credit or loan and the loan agreement, by its terms, 5003
satisfies all of the following conditions: 5004

(1) The loan agreement is intended by the parties to be 5005
signed by the debtor but not by an officer or other authorized 5006

representative of the financial institution. 5007

(2) The loan agreement has been signed by the debtor. 5008

(3) The delivery of the loan agreement has been accepted 5009
by the financial institution. 5010

(C) The terms of a loan agreement subject to this section, 5011
including the rights and obligations of the parties to the loan 5012
agreement, shall be determined solely from the written loan 5013
agreement, and shall not be varied by any oral agreements that 5014
are made or discussions that occur before or contemporaneously 5015
with the execution of the loan agreement. Any prior oral 5016
agreements between the parties are superseded by the loan 5017
agreement. 5018

(D) This section does not apply to any loan agreement in 5019
which the proceeds of the loan agreement are used by the debtor 5020
primarily for personal, household, or family purposes and either 5021
of the following applies: 5022

(1) The proceeds of the loan agreement are less than forty 5023
thousand dollars; 5024

(2) A security interest securing the loan agreement is or 5025
will be acquired in the primary residence of the debtor. 5026

Sec. 1345.01. As used in sections 1345.01 to 1345.13 of 5027
the Revised Code: 5028

(A) "Consumer transaction" means a sale, lease, 5029
assignment, award by chance, or other transfer of an item of 5030
goods, a service, a franchise, or an intangible, to an 5031
individual for purposes that are primarily personal, family, or 5032
household, or solicitation to supply any of these things. 5033
"Consumer transaction" does not include transactions between 5034

persons, defined in sections 4905.03 and 5725.01 of the Revised Code, and their customers, except for transactions involving a loan made pursuant to sections 1321.35 to 1321.48 of the Revised Code and transactions in connection with residential mortgages between loan officers, mortgage brokers, or nonbank mortgage lenders and their customers; transactions involving a home construction service contract as defined in section 4722.01 of the Revised Code; transactions between certified public accountants or public accountants and their clients; transactions between attorneys, physicians, or dentists and their clients or patients; and transactions between veterinarians and their patients that pertain to medical treatment but not ancillary services.

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

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

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

(E) "Knowledge" means actual awareness, but such actual

awareness may be inferred where objective manifestations 5065
indicate that the individual involved acted with such awareness. 5066

(F) "Natural gas service" means the sale of natural gas, 5067
exclusive of any distribution or ancillary service. 5068

(G) "Public telecommunications service" means the 5069
transmission by electromagnetic or other means, other than by a 5070
telephone company as defined in section 4927.01 of the Revised 5071
Code, of signs, signals, writings, images, sounds, messages, or 5072
data originating in this state regardless of actual call 5073
routing. "Public telecommunications service" excludes a system, 5074
including its construction, maintenance, or operation, for the 5075
provision of telecommunications service, or any portion of such 5076
service, by any entity for the sole and exclusive use of that 5077
entity, its parent, a subsidiary, or an affiliated entity, and 5078
not for resale, directly or indirectly; the provision of 5079
terminal equipment used to originate telecommunications service; 5080
broadcast transmission by radio, television, or satellite 5081
broadcast stations regulated by the federal government; or cable 5082
television service. 5083

(H) (1) "Loan officer" means an individual who for 5084
compensation or gain, or in anticipation of compensation or 5085
gain, takes or offers to take a residential mortgage loan 5086
application; assists or offers to assist a buyer in obtaining or 5087
applying to obtain a residential mortgage loan by, among other 5088
things, advising on loan terms, including rates, fees, and other 5089
costs; offers or negotiates terms of a residential mortgage 5090
loan; or issues or offers to issue a commitment for a 5091
residential mortgage loan. "Loan officer" also includes a 5092
mortgage loan originator as defined in division ~~(E) (1)~~ (Z) of 5093
section 1322.01 of the Revised Code. 5094

(2) "Loan officer" does not include an employee of a bank, 5095
savings bank, savings and loan association, credit union, or 5096
credit union service organization organized under the laws of 5097
this state, another state, or the United States; an employee of 5098
a subsidiary of such a bank, savings bank, savings and loan 5099
association, or credit union; or an employee of an affiliate 5100
that (a) controls, is controlled by, or is under common control 5101
with, such a bank, savings bank, savings and loan association, 5102
or credit union and (b) is subject to examination, supervision, 5103
and regulation, including with respect to the affiliate's 5104
compliance with applicable consumer protection requirements, by 5105
the board of governors of the federal reserve system, the 5106
comptroller of the currency, the office of thrift supervision, 5107
the federal deposit insurance corporation, or the national 5108
credit union administration. 5109

(I) "Residential mortgage" or "mortgage" means an 5110
obligation to pay a sum of money evidenced by a note and secured 5111
by a lien upon real property located within this state 5112
containing two or fewer residential units or on which two or 5113
fewer residential units are to be constructed and includes such 5114
an obligation on a residential condominium or cooperative unit. 5115

(J) (1) "Mortgage broker" means any of the following: 5116

(a) A person that holds that person out as being able to 5117
assist a buyer in obtaining a mortgage and charges or receives 5118
from either the buyer or lender money or other valuable 5119
consideration readily convertible into money for providing this 5120
assistance; 5121

(b) A person that solicits financial and mortgage 5122
information from the public, provides that information to a 5123
mortgage broker or a person that makes residential mortgage 5124

loans, and charges or receives from either of them money or 5125
other valuable consideration readily convertible into money for 5126
providing the information; 5127

(c) A person engaged in table-funding or warehouse-lending 5128
mortgage loans that are residential mortgage loans. 5129

(2) "Mortgage broker" does not include a bank, savings 5130
bank, savings and loan association, credit union, or credit 5131
union service organization organized under the laws of this 5132
state, another state, or the United States; a subsidiary of such 5133
a bank, savings bank, savings and loan association, or credit 5134
union; an affiliate that (a) controls, is controlled by, or is 5135
under common control with, such a bank, savings bank, savings 5136
and loan association, or credit union and (b) is subject to 5137
examination, supervision, and regulation, including with respect 5138
to the affiliate's compliance with applicable consumer 5139
protection requirements, by the board of governors of the 5140
federal reserve system, the comptroller of the currency, the 5141
office of thrift supervision, the federal deposit insurance 5142
corporation, or the national credit union administration; or an 5143
employee of any such entity. 5144

(K) "Nonbank mortgage lender" means any person that 5145
engages in a consumer transaction in connection with a 5146
residential mortgage, except for a bank, savings bank, savings 5147
and loan association, credit union, or credit union service 5148
organization organized under the laws of this state, another 5149
state, or the United States; a subsidiary of such a bank, 5150
savings bank, savings and loan association, or credit union; or 5151
an affiliate that (1) controls, is controlled by, or is under 5152
common control with, such a bank, savings bank, savings and loan 5153
association, or credit union and (2) is subject to examination, 5154

supervision, and regulation, including with respect to the 5155
affiliate's compliance with applicable consumer protection 5156
requirements, by the board of governors of the federal reserve 5157
system, the comptroller of the currency, the office of thrift 5158
supervision, the federal deposit insurance corporation, or the 5159
national credit union administration. 5160

(L) For purposes of divisions (H), (J), and (K) of this 5161
section: 5162

(1) "Control" of another entity means ownership, control, 5163
or power to vote twenty-five per cent or more of the outstanding 5164
shares of any class of voting securities of the other entity, 5165
directly or indirectly or acting through one or more other 5166
persons. 5167

(2) "Credit union service organization" means a CUSO as 5168
defined in 12 C.F.R. 702.2. 5169

Sec. 1349.27. A creditor shall not do any of the 5170
following: 5171

(A) Make a covered loan that includes any of the 5172
following: 5173

(1) Terms under which a consumer must pay a prepayment 5174
penalty for paying all or part of the principal before the date 5175
on which the principal is due. For purposes of division (A) (1) 5176
of this section, any method of computing a refund of unearned 5177
scheduled interest is a prepayment penalty if it is less 5178
favorable to the consumer than the actuarial method. 5179

Division (A) (1) of this section does not apply to a 5180
prepayment penalty imposed in accordance with section 129(c) (2) 5181
of the "Home Ownership and Equity Protection Act of 1994," 108 5182
Stat. 2190, 15 U.S.C.A. 1639(c) (2), as amended, and the 5183

regulations adopted thereunder by the federal reserve board, as 5184
amended. 5185

(2) Terms under which the outstanding principal balance 5186
will increase at any time over the course of the loan because 5187
the regular periodic payments do not cover the full amount of 5188
interest due; 5189

(3) Terms under which more than two periodic payments 5190
required under the loan are consolidated and paid in advance 5191
from the loan proceeds provided to the consumer; 5192

(4) Terms under which a rebate of interest arising from a 5193
loan acceleration due to default is calculated by a method less 5194
favorable than the actuarial method. 5195

(B) Make a covered loan that provides for an interest rate 5196
applicable after default that is higher than the interest rate 5197
that applies before default; 5198

(C) Make a covered loan having a term of less than five 5199
years that includes terms under which the aggregate amount of 5200
the regular periodic payments would not fully amortize the 5201
outstanding principal balance. This division does not apply to 5202
any covered loan with a maturity of less than one year, if the 5203
purpose of the loan is a "bridge" loan connected with the 5204
acquisition or construction of a dwelling intended to become the 5205
consumer's principal dwelling. 5206

(D) Engage in a pattern or practice of extending credit to 5207
consumers under covered loans based on the consumers' collateral 5208
without regard to the consumers' repayment ability, including 5209
the consumers' current and expected income, current obligations, 5210
and employment; 5211

(E) Make a payment to a contractor under a home 5212

improvement contract from amounts extended as credit under a 5213
covered loan, except in either of the following ways: 5214

(1) By an instrument that is payable to the consumer or 5215
jointly to the consumer and the contractor; 5216

(2) At the election of the consumer, by a third party 5217
escrow agent in accordance with terms established in a written 5218
agreement signed by the consumer, the creditor, and the 5219
contractor before the date of payment. 5220

(F) On or after October 1, 2002, make a covered loan that 5221
includes a demand feature that permits the creditor to terminate 5222
the loan in advance of the original maturity date and to demand 5223
repayment of the entire outstanding balance, except in any of 5224
the following circumstances: 5225

(1) There is fraud or material misrepresentation by the 5226
consumer in connection with the loan. 5227

(2) The consumer fails to meet the repayment terms of the 5228
agreement for any outstanding balance. 5229

(3) There is any action or inaction by the consumer that 5230
adversely affects the creditor's security for the loan or any 5231
right of the creditor in that security. 5232

(G) (1) Within one year after having made a covered loan, 5233
refinance a covered loan to the same borrower into another 5234
covered loan, unless the refinancing is in the consumer's 5235
interest. An assignee holding or servicing a covered loan shall 5236
not, for the remainder of the one-year period following the date 5237
of origination of the covered loan, refinance any covered loan 5238
to the same consumer into another covered loan, unless the 5239
refinancing is in the consumer's interest. 5240

A creditor or assignee shall not engage in acts or 5241
practices to evade division (G) (1) of this section, including a 5242
pattern or practice of arranging for the refinancing of its own 5243
loans by affiliated or unaffiliated creditors, or modifying a 5244
loan agreement, whether or not the existing loan is satisfied 5245
and replaced by the new loan, and charging a fee. 5246

(2) Division (G) (1) of this section shall apply on and 5247
after October 1, 2002. 5248

~~(H) Make a covered loan without first obtaining a copy of 5249
the mortgage loan origination disclosure statement that was 5250
delivered to the buyer in accordance with division (A) (1) of 5251
section 1322.062 of the Revised Code; 5252~~

~~(I) Finance, directly or indirectly, into a covered loan 5253
or finance to the same borrower within thirty days of a covered 5254
loan any credit life or credit disability insurance premiums 5255
sold in connection with the covered loan, provided that any 5256
credit life or credit disability insurance premiums calculated 5257
and paid on a monthly or other periodic basis shall not be 5258
considered financed by the person originating the loan. For 5259
purposes of this division, credit life or credit disability 5260
insurance does not include a contract issued by a government 5261
agency or private mortgage insurance company to insure the 5262
lender against loss caused by a mortgagor's default. 5263~~

~~(J) (I) Replace or consolidate a zero interest rate or 5264
other low-rate loan made by a governmental or nonprofit lender 5265
with a covered loan within the first ten years of the low-rate 5266
loan unless the current holder of the loan consents in writing 5267
to the refinancing. For purposes of this division, a "low-rate 5268
loan" means a loan that carries a current interest rate two 5269
percentage points or more below the current yield on United 5270~~

States treasury securities with a comparable maturity. If the 5271
loan's current interest rate is either a discounted introductory 5272
rate or a rate that automatically steps up over time, the fully 5273
indexed rate or the fully stepped-up rate, as applicable, shall 5274
be used, in lieu of the current rate, to determine whether a 5275
loan is a low-rate loan. 5276

~~(K)~~ (J) Make a covered loan if, at the time the loan was 5277
consummated, the consumer's total monthly debt, including 5278
amounts owed under the loan, exceed fifty per cent of the 5279
consumer's monthly gross income, as verified by the credit 5280
application, the consumer's financial statement, a credit 5281
report, financial information provided to the person originating 5282
the loan by or on behalf of the consumer, or any other 5283
reasonable means, unless the consumer submits both of the 5284
following: 5285

(1) Verification that the consumer received prepurchase 5286
counseling from a counseling service that meets the criteria 5287
established by the superintendent of financial institutions 5288
under section 1349.271 of the Revised Code; 5289

(2) A disclosure, signed by the consumer, that 5290
acknowledges the risk of entering into such a loan. 5291

Sec. 1349.43. (A) As used in this section, "loan officer," 5292
"mortgage broker," and "nonbank mortgage lender" have the same 5293
meanings as in section 1345.01 of the Revised Code. 5294

(B) The department of commerce shall establish and 5295
maintain an electronic database accessible through the internet 5296
that contains information on all of the following: 5297

(1) The enforcement actions taken by the superintendent of 5298
financial institutions for each violation of or failure to 5299

comply with any provision of ~~sections 1322.01 to 1322.12~~ Chapter 1322. of the Revised Code, upon final disposition of the action; 5300
5301

(2) The enforcement actions taken by the attorney general 5302
under Chapter 1345. of the Revised Code against loan officers, 5303
mortgage brokers, and nonbank mortgage lenders, upon final 5304
disposition of each action; 5305

(3) All judgments by courts of this state, concerning 5306
which appellate remedies have been exhausted or lost by the 5307
expiration of the time for appeal, finding either of the 5308
following: 5309

(a) A violation of any provision of ~~sections 1322.01 to~~ 5310
~~1322.12~~ Chapter 1322. of the Revised Code; 5311

(b) That specific acts or practices by a loan officer, 5312
mortgage broker, or nonbank mortgage lender violate section 5313
1345.02, 1345.03, or 1345.031 of the Revised Code. 5314

(C) The attorney general shall notify the department of 5315
all enforcement actions and judgments described in divisions (B) 5316
(2) and (3)(b) of this section. 5317

(D) The department may adopt rules in accordance with 5318
Chapter 119. of the Revised Code that are necessary to implement 5319
this section. 5320

(E) The electronic database maintained by the department 5321
in accordance with this section shall not include information 5322
that, pursuant to section ~~1322.061~~ 1322.36 of the Revised Code, 5323
is confidential. 5324

Sec. 1349.44. (A) The superintendent of financial 5325
institutions shall report semiannually to the governor and the 5326
general assembly on the operations of the division of financial 5327

institutions with respect to the following: 5328

(1) Enforcement actions instituted by the superintendent 5329
for a violation of or failure to comply with any provision of 5330
~~sections 1322.01 to 1322.12~~ Chapter 1322. of the Revised Code, 5331
and their final dispositions; 5332

(2) Suspensions, revocations, or refusals to issue or 5333
renew certificates of registration and licenses under ~~sections~~ 5334
~~1322.01 to 1322.12~~ Chapter 1322. of the Revised Code; 5335

(3) Outreach efforts of the office of consumer affairs to 5336
provide education regarding predatory lending, borrowing, and 5337
related financial topics. 5338

(B) The information required under divisions (A) (1) and 5339
(2) of this section does not include information that, pursuant 5340
to section ~~1322.061~~ 1322.36 of the Revised Code, is 5341
confidential. 5342

Sec. 1349.45. (A) As used in this section, "financial 5343
institution" means any bank, savings and loan association, 5344
savings bank, or credit union; any affiliate or subsidiary of a 5345
bank, savings and loan association, savings bank, or credit 5346
union; ~~or~~ any registrant as defined in section 1321.51 of the 5347
Revised Code; or any person registered as a mortgage lender 5348
under Chapter 1322. of the Revised Code. 5349

(B) No person shall use the name or logo of any financial 5350
institution in connection with the sale, offering for sale, 5351
distribution, or advertising of any product or service without 5352
the express written consent of the financial institution, if 5353
such use is misleading or deceptive as to the source of origin 5354
or sponsorship of, or the affiliation with, the product or 5355
service. 5356

Sec. 1349.99. (A) Whoever violates section 1349.06 or 1349.17 of the Revised Code is guilty of a minor misdemeanor. 5357
5358

(B) (1) Whoever violates section 1349.45 of the Revised Code is guilty of a misdemeanor of the first degree. 5359
5360

(2) Notwithstanding division (B) (1) of this section, the only remedies that are available for a violation of section 1349.45 of the Revised Code by a registrant or licensee under ~~sections 1322.01 to 1322.12~~ Chapter 1322. of the Revised Code are those set forth in section ~~1322.10~~ 1322.50 of the Revised Code or otherwise provided by statute or common law. 5361
5362
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(3) The provisions of division (B) of this section are not intended to be exclusive remedies and do not preclude the use of any other remedy provided by law. 5367
5368
5369

Sec. 2923.31. As used in sections 2923.31 to 2923.36 of the Revised Code: 5370
5371

(A) "Beneficial interest" means any of the following: 5372

(1) The interest of a person as a beneficiary under a trust in which the trustee holds title to personal or real property; 5373
5374
5375

(2) The interest of a person as a beneficiary under any other trust arrangement under which any other person holds title to personal or real property for the benefit of such person; 5376
5377
5378

(3) The interest of a person under any other form of express fiduciary arrangement under which any other person holds title to personal or real property for the benefit of such person. 5379
5380
5381
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"Beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in 5383
5384

either a general or limited partnership. 5385

(B) "Costs of investigation and prosecution" and "costs of 5386
investigation and litigation" mean all of the costs incurred by 5387
the state or a county or municipal corporation under sections 5388
2923.31 to 2923.36 of the Revised Code in the prosecution and 5389
investigation of any criminal action or in the litigation and 5390
investigation of any civil action, and includes, but is not 5391
limited to, the costs of resources and personnel. 5392

(C) "Enterprise" includes any individual, sole 5393
proprietorship, partnership, limited partnership, corporation, 5394
trust, union, government agency, or other legal entity, or any 5395
organization, association, or group of persons associated in 5396
fact although not a legal entity. "Enterprise" includes illicit 5397
as well as licit enterprises. 5398

(D) "Innocent person" includes any bona fide purchaser of 5399
property that is allegedly involved in a violation of section 5400
2923.32 of the Revised Code, including any person who 5401
establishes a valid claim to or interest in the property in 5402
accordance with division (E) of section 2981.04 of the Revised 5403
Code, and any victim of an alleged violation of that section or 5404
of any underlying offense involved in an alleged violation of 5405
that section. 5406

(E) "Pattern of corrupt activity" means two or more 5407
incidents of corrupt activity, whether or not there has been a 5408
prior conviction, that are related to the affairs of the same 5409
enterprise, are not isolated, and are not so closely related to 5410
each other and connected in time and place that they constitute 5411
a single event. 5412

At least one of the incidents forming the pattern shall 5413

occur on or after January 1, 1986. Unless any incident was an 5414
aggravated murder or murder, the last of the incidents forming 5415
the pattern shall occur within six years after the commission of 5416
any prior incident forming the pattern, excluding any period of 5417
imprisonment served by any person engaging in the corrupt 5418
activity. 5419

For the purposes of the criminal penalties that may be 5420
imposed pursuant to section 2923.32 of the Revised Code, at 5421
least one of the incidents forming the pattern shall constitute 5422
a felony under the laws of this state in existence at the time 5423
it was committed or, if committed in violation of the laws of 5424
the United States or of any other state, shall constitute a 5425
felony under the law of the United States or the other state and 5426
would be a criminal offense under the law of this state if 5427
committed in this state. 5428

(F) "Pecuniary value" means money, a negotiable 5429
instrument, a commercial interest, or anything of value, as 5430
defined in section 1.03 of the Revised Code, or any other 5431
property or service that has a value in excess of one hundred 5432
dollars. 5433

(G) "Person" means any person, as defined in section 1.59 5434
of the Revised Code, and any governmental officer, employee, or 5435
entity. 5436

(H) "Personal property" means any personal property, any 5437
interest in personal property, or any right, including, but not 5438
limited to, bank accounts, debts, corporate stocks, patents, or 5439
copyrights. Personal property and any beneficial interest in 5440
personal property are deemed to be located where the trustee of 5441
the property, the personal property, or the instrument 5442
evidencing the right is located. 5443

(I) "Corrupt activity" means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any of the following:

(1) Conduct defined as "racketeering activity" under the "Organized Crime Control Act of 1970," 84 Stat. 941, 18 U.S.C. 1961(1)(B), (1)(C), (1)(D), and (1)(E), as amended;

(2) Conduct constituting any of the following:

(a) A violation of section 1315.55, ~~1322.02~~ 1322.07, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02, 2905.11, 2905.22, 2905.32 as specified in division (I) (2)(g) of this section, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2913.05, 2913.06, 2921.02, 2921.03, 2921.04, 2921.11, 2921.12, 2921.32, 2921.41, 2921.42, 2921.43, 2923.12, or 2923.17; division (F)(1)(a), (b), or (c) of section 1315.53; division (A)(1) or (2) of section 1707.042; division (B), (C)(4), (D), (E), or (F) of section 1707.44; division (A)(1) or (2) of section 2923.20; division (E) or (G) of section 3772.99; division (J)(1) of section 4712.02; section 4719.02, 4719.05, or 4719.06; division (C), (D), or (E) of section 4719.07; section 4719.08; or division (A) of section 4719.09 of the Revised Code.

(b) Any violation of section 3769.11, 3769.15, 3769.16, or 3769.19 of the Revised Code as it existed prior to July 1, 1996, any violation of section 2915.02 of the Revised Code that occurs on or after July 1, 1996, and that, had it occurred prior to that date, would have been a violation of section 3769.11 of the Revised Code as it existed prior to that date, or any violation of section 2915.05 of the Revised Code that occurs on or after July 1, 1996, and that, had it occurred prior to that date,

would have been a violation of section 3769.15, 3769.16, or 5474
3769.19 of the Revised Code as it existed prior to that date. 5475

(c) Any violation of section 2907.21, 2907.22, 2907.31, 5476
2913.02, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.42, 5477
2913.47, 2913.51, 2915.03, 2925.03, 2925.04, 2925.05, or 2925.37 5478
of the Revised Code, any violation of section 2925.11 of the 5479
Revised Code that is a felony of the first, second, third, or 5480
fourth degree and that occurs on or after July 1, 1996, any 5481
violation of section 2915.02 of the Revised Code that occurred 5482
prior to July 1, 1996, any violation of section 2915.02 of the 5483
Revised Code that occurs on or after July 1, 1996, and that, had 5484
it occurred prior to that date, would not have been a violation 5485
of section 3769.11 of the Revised Code as it existed prior to 5486
that date, any violation of section 2915.06 of the Revised Code 5487
as it existed prior to July 1, 1996, or any violation of 5488
division (B) of section 2915.05 of the Revised Code as it exists 5489
on and after July 1, 1996, when the proceeds of the violation, 5490
the payments made in the violation, the amount of a claim for 5491
payment or for any other benefit that is false or deceptive and 5492
that is involved in the violation, or the value of the 5493
contraband or other property illegally possessed, sold, or 5494
purchased in the violation exceeds one thousand dollars, or any 5495
combination of violations described in division (I) (2) (c) of 5496
this section when the total proceeds of the combination of 5497
violations, payments made in the combination of violations, 5498
amount of the claims for payment or for other benefits that is 5499
false or deceptive and that is involved in the combination of 5500
violations, or value of the contraband or other property 5501
illegally possessed, sold, or purchased in the combination of 5502
violations exceeds one thousand dollars; 5503

(d) Any violation of section 5743.112 of the Revised Code 5504

when the amount of unpaid tax exceeds one hundred dollars; 5505

(e) Any violation or combination of violations of section 5506
2907.32 of the Revised Code involving any material or 5507
performance containing a display of bestiality or of sexual 5508
conduct, as defined in section 2907.01 of the Revised Code, that 5509
is explicit and depicted with clearly visible penetration of the 5510
genitals or clearly visible penetration by the penis of any 5511
orifice when the total proceeds of the violation or combination 5512
of violations, the payments made in the violation or combination 5513
of violations, or the value of the contraband or other property 5514
illegally possessed, sold, or purchased in the violation or 5515
combination of violations exceeds one thousand dollars; 5516

(f) Any combination of violations described in division 5517
(I) (2) (c) of this section and violations of section 2907.32 of 5518
the Revised Code involving any material or performance 5519
containing a display of bestiality or of sexual conduct, as 5520
defined in section 2907.01 of the Revised Code, that is explicit 5521
and depicted with clearly visible penetration of the genitals or 5522
clearly visible penetration by the penis of any orifice when the 5523
total proceeds of the combination of violations, payments made 5524
in the combination of violations, amount of the claims for 5525
payment or for other benefits that is false or deceptive and 5526
that is involved in the combination of violations, or value of 5527
the contraband or other property illegally possessed, sold, or 5528
purchased in the combination of violations exceeds one thousand 5529
dollars; 5530

(g) Any violation of section 2905.32 of the Revised Code 5531
to the extent the violation is not based solely on the same 5532
conduct that constitutes corrupt activity pursuant to division 5533
(I) (2) (c) of this section due to the conduct being in violation 5534

of section 2907.21 of the Revised Code. 5535

(3) Conduct constituting a violation of any law of any 5536
state other than this state that is substantially similar to the 5537
conduct described in division (I)(2) of this section, provided 5538
the defendant was convicted of the conduct in a criminal 5539
proceeding in the other state; 5540

(4) Animal or ecological terrorism; 5541

(5) (a) Conduct constituting any of the following: 5542

(i) Organized retail theft; 5543

(ii) Conduct that constitutes one or more violations of 5544
any law of any state other than this state, that is 5545
substantially similar to organized retail theft, and that if 5546
committed in this state would be organized retail theft, if the 5547
defendant was convicted of or pleaded guilty to the conduct in a 5548
criminal proceeding in the other state. 5549

(b) By enacting division (I)(5)(a) of this section, it is 5550
the intent of the general assembly to add organized retail theft 5551
and the conduct described in division (I)(5)(a)(ii) of this 5552
section as conduct constituting corrupt activity. The enactment 5553
of division (I)(5)(a) of this section and the addition by 5554
division (I)(5)(a) of this section of organized retail theft and 5555
the conduct described in division (I)(5)(a)(ii) of this section 5556
as conduct constituting corrupt activity does not limit or 5557
preclude, and shall not be construed as limiting or precluding, 5558
any prosecution for a violation of section 2923.32 of the 5559
Revised Code that is based on one or more violations of section 5560
2913.02 or 2913.51 of the Revised Code, one or more similar 5561
offenses under the laws of this state or any other state, or any 5562
combination of any of those violations or similar offenses, even 5563

though the conduct constituting the basis for those violations 5564
or offenses could be construed as also constituting organized 5565
retail theft or conduct of the type described in division (I) (5) 5566
(a) (ii) of this section. 5567

(J) "Real property" means any real property or any 5568
interest in real property, including, but not limited to, any 5569
lease of, or mortgage upon, real property. Real property and any 5570
beneficial interest in it is deemed to be located where the real 5571
property is located. 5572

(K) "Trustee" means any of the following: 5573

(1) Any person acting as trustee under a trust in which 5574
the trustee holds title to personal or real property; 5575

(2) Any person who holds title to personal or real 5576
property for which any other person has a beneficial interest; 5577

(3) Any successor trustee. 5578

"Trustee" does not include an assignee or trustee for an 5579
insolvent debtor or an executor, administrator, administrator 5580
with the will annexed, testamentary trustee, guardian, or 5581
committee, appointed by, under the control of, or accountable to 5582
a court. 5583

(L) "Unlawful debt" means any money or other thing of 5584
value constituting principal or interest of a debt that is 5585
legally unenforceable in this state in whole or in part because 5586
the debt was incurred or contracted in violation of any federal 5587
or state law relating to the business of gambling activity or 5588
relating to the business of lending money at an usurious rate 5589
unless the creditor proves, by a preponderance of the evidence, 5590
that the usurious rate was not intentionally set and that it 5591
resulted from a good faith error by the creditor, 5592

notwithstanding the maintenance of procedures that were adopted 5593
by the creditor to avoid an error of that nature. 5594

(M) "Animal activity" means any activity that involves the 5595
use of animals or animal parts, including, but not limited to, 5596
hunting, fishing, trapping, traveling, camping, the production, 5597
preparation, or processing of food or food products, clothing or 5598
garment manufacturing, medical research, other research, 5599
entertainment, recreation, agriculture, biotechnology, or 5600
service activity that involves the use of animals or animal 5601
parts. 5602

(N) "Animal facility" means a vehicle, building, 5603
structure, nature preserve, or other premises in which an animal 5604
is lawfully kept, handled, housed, exhibited, bred, or offered 5605
for sale, including, but not limited to, a zoo, rodeo, circus, 5606
amusement park, hunting preserve, or premises in which a horse 5607
or dog event is held. 5608

(O) "Animal or ecological terrorism" means the commission 5609
of any felony that involves causing or creating a substantial 5610
risk of physical harm to any property of another, the use of a 5611
deadly weapon or dangerous ordnance, or purposely, knowingly, or 5612
recklessly causing serious physical harm to property and that 5613
involves an intent to obstruct, impede, or deter any person from 5614
participating in a lawful animal activity, from mining, 5615
forestry, harvesting, gathering, or processing natural 5616
resources, or from being lawfully present in or on an animal 5617
facility or research facility. 5618

(P) "Research facility" means a place, laboratory, 5619
institution, medical care facility, government facility, or 5620
public or private educational institution in which a scientific 5621
test, experiment, or investigation involving the use of animals 5622

or other living organisms is lawfully carried out, conducted, or 5623
attempted. 5624

(Q) "Organized retail theft" means the theft of retail 5625
property with a retail value of one thousand dollars or more 5626
from one or more retail establishments with the intent to sell, 5627
deliver, or transfer that property to a retail property fence. 5628

(R) "Retail property" means any tangible personal property 5629
displayed, held, stored, or offered for sale in or by a retail 5630
establishment. 5631

(S) "Retail property fence" means a person who possesses, 5632
procures, receives, or conceals retail property that was 5633
represented to the person as being stolen or that the person 5634
knows or believes to be stolen. 5635

(T) "Retail value" means the full retail value of the 5636
retail property. In determining whether the retail value of 5637
retail property equals or exceeds one thousand dollars, the 5638
value of all retail property stolen from the retail 5639
establishment or retail establishments by the same person or 5640
persons within any one-hundred-eighty-day period shall be 5641
aggregated. 5642

Sec. 4712.01. As used in sections 4712.01 to 4712.14 of 5643
the Revised Code: 5644

(A) "Buyer" means an individual who is solicited to 5645
purchase or who purchases the services of a credit services 5646
organization for purposes other than obtaining a business loan 5647
as described in division (B) (6) of section 1343.01 of the 5648
Revised Code. 5649

(B) "Consumer reporting agency" has the same meaning as in 5650
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 5651

1681a, as amended. 5652

(C) (1) "Credit services organization" means any person 5653
that, in return for the payment of money or other valuable 5654
consideration readily convertible into money for the following 5655
services, sells, provides, or performs, or represents that the 5656
person can or will sell, provide, or perform, one or more of the 5657
following services: 5658

(a) Improving a buyer's credit record, history, or rating; 5659

(b) Obtaining an extension of credit by others for a 5660
buyer; 5661

(c) Providing advice or assistance to a buyer in 5662
connection with division (C) (1) (a) or (b) of this section; 5663

(d) Removing adverse credit information that is accurate 5664
and not obsolete from the buyer's credit record, history, or 5665
rating; 5666

(e) Altering the buyer's identification to prevent the 5667
display of the buyer's credit record, history, or rating. 5668

(2) "Credit services organization" does not include any of 5669
the following: 5670

(a) A person that makes or collects loans, to the extent 5671
these activities are subject to licensure or registration by 5672
this state; 5673

(b) A mortgage broker, as defined in section 1322.01 of 5674
the Revised Code, that holds a valid certificate of registration 5675
under ~~sections 1322.01 to 1322.12~~ Chapter 1322. of the Revised 5676
Code; 5677

(c) A lender approved by the United States secretary of 5678

housing and urban development for participation in a mortgage 5679
insurance program under the "National Housing Act," 48 Stat. 5680
1246 (1934), 12 U.S.C.A. 1701, as amended; 5681

(d) A bank, savings bank, or savings and loan association, 5682
or a subsidiary or an affiliate of a bank, savings bank, or 5683
savings and loan association. For purposes of division (C) (2) (d) 5684
of this section, "affiliate" has the same meaning as in division 5685
(A) of section 1101.01 of the Revised Code and "bank," as used 5686
in division (A) of section 1101.01 of the Revised Code, is 5687
deemed to include a savings bank or savings and loan 5688
association. 5689

(e) A credit union organized and qualified under Chapter 5690
1733. of the Revised Code or the "Federal Credit Union Act," 84 5691
Stat. 994 (1970), 12 U.S.C.A. 1751, as amended; 5692

(f) A budget and debt counseling service, as defined in 5693
division (D) of section 2716.03 of the Revised Code, provided 5694
that the service is a nonprofit organization exempt from 5695
taxation under section 501(c) (3) of the "Internal Revenue Code 5696
of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, and that 5697
the service is in compliance with Chapter 4710. of the Revised 5698
Code; 5699

(g) A consumer reporting agency that is in substantial 5700
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 5701
15 U.S.C.A. 1681a, as amended. 5702

(h) A mortgage banker; 5703

(i) Any political subdivision, or any governmental or 5704
other public entity, corporation, or agency, in or of the United 5705
States or any state of the United States; 5706

(j) A college or university, or controlled entity of a 5707

college or university, as defined in section 1713.05 of the Revised Code;

(k) A motor vehicle dealer licensed pursuant to Chapter 4517. of the Revised Code acting within the scope and authority of that license or a motor vehicle auction owner licensed pursuant to Chapters 4517. and 4707. of the Revised Code acting within the scope and authority of that license;

(l) An attorney at law admitted to the practice of law in this state who offers, provides, or performs a legal service that is privileged by reason of the attorney-client relationship, provided that the service is not a service described in division (C) (1) (b) or (e) of this section.

(D) "Extension of credit" means the right to defer payment of debt, or to incur debt and defer its payment, offered or granted primarily for personal, family, or household purposes. "Extension of credit" does not include a mortgage.

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

(F) "Mortgage banker" means any person that makes, services, or buys and sells mortgage loans and is approved by the United States department of housing and urban development, the United States department of veterans affairs, the federal national mortgage association, or the federal home loan mortgage corporation.

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

Sec. 4719.01. (A) As used in sections 4719.01 to 4719.18 of the Revised Code:

(1) "Affiliate" means a business entity that is owned by, 5737
operated by, controlled by, or under common control with another 5738
business entity. 5739

(2) "Communication" means a written or oral notification 5740
or advertisement that meets both of the following criteria, as 5741
applicable: 5742

(a) The notification or advertisement is transmitted by or 5743
on behalf of the seller of goods or services and by or through 5744
any printed, audio, video, cinematic, telephonic, or electronic 5745
means. 5746

(b) In the case of a notification or advertisement other 5747
than by telephone, either of the following conditions is met: 5748

(i) The notification or advertisement is followed by a 5749
telephone call from a telephone solicitor or salesperson. 5750

(ii) The notification or advertisement invites a response 5751
by telephone, and, during the course of that response, a 5752
telephone solicitor or salesperson attempts to make or makes a 5753
sale of goods or services. As used in division (A) (2) (b) (ii) of 5754
this section, "invites a response by telephone" excludes the 5755
mere listing or inclusion of a telephone number in a 5756
notification or advertisement. 5757

(3) "Gift, award, or prize" means anything of value that 5758
is offered or purportedly offered, or given or purportedly given 5759
by chance, at no cost to the receiver and with no obligation to 5760
purchase goods or services. As used in this division, "chance" 5761
includes a situation in which a person is guaranteed to receive 5762
an item and, at the time of the offer or purported offer, the 5763
telephone solicitor does not identify the specific item that the 5764
person will receive. 5765

(4) "Goods or services" means any real property or any tangible or intangible personal property, or services of any kind provided or offered to a person. "Goods or services" includes, but is not limited to, advertising; labor performed for the benefit of a person; personal property intended to be attached to or installed in any real property, regardless of whether it is so attached or installed; timeshare estates or licenses; and extended service contracts.

(5) "Purchaser" means a person that is solicited to become or does become financially obligated as a result of a telephone solicitation.

(6) "Salesperson" means an individual who is employed, appointed, or authorized by a telephone solicitor to make telephone solicitations but does not mean any of the following:

(a) An individual who comes within one of the exemptions in division (B) of this section;

(b) An individual employed, appointed, or authorized by a person who comes within one of the exemptions in division (B) of this section;

(c) An individual under a written contract with a person who comes within one of the exemptions in division (B) of this section, if liability for all transactions with purchasers is assumed by the person so exempted.

(7) "Telephone solicitation" means a communication to a person that meets both of the following criteria:

(a) The communication is initiated by or on behalf of a telephone solicitor or by a salesperson.

(b) The communication either represents a price or the

quality or availability of goods or services or is used to 5794
induce the person to purchase goods or services, including, but 5795
not limited to, inducement through the offering of a gift, 5796
award, or prize. 5797

(8) "Telephone solicitor" means a person that engages in 5798
telephone solicitation directly or through one or more 5799
salespersons either from a location in this state, or from a 5800
location outside this state to persons in this state. "Telephone 5801
solicitor" includes, but is not limited to, any such person that 5802
is an owner, operator, officer, or director of, partner in, or 5803
other individual engaged in the management activities of, a 5804
business. 5805

(B) A telephone solicitor is exempt from the provisions of 5806
sections 4719.02 to 4719.18 and section 4719.99 of the Revised 5807
Code if the telephone solicitor is any one of the following: 5808

(1) A person engaging in a telephone solicitation that is 5809
a one-time or infrequent transaction not done in the course of a 5810
pattern of repeated transactions of a like nature; 5811

(2) A person engaged in telephone solicitation solely for 5812
religious or political purposes; a charitable organization, 5813
fund-raising counsel, or professional solicitor in compliance 5814
with the registration and reporting requirements of Chapter 5815
1716. of the Revised Code; or any person or other entity exempt 5816
under section 1716.03 of the Revised Code from filing a 5817
registration statement under section 1716.02 of the Revised 5818
Code; 5819

(3) A person, making a telephone solicitation involving a 5820
home solicitation sale as defined in section 1345.21 of the 5821
Revised Code, that makes the sales presentation and completes 5822

the sale at a later, face-to-face meeting between the seller and 5823
the purchaser rather than during the telephone solicitation. 5824
However, if the person, following the telephone solicitation, 5825
causes another person to collect the payment of any money, this 5826
exemption does not apply. 5827

(4) A licensed securities, commodities, or investment 5828
broker, dealer, investment advisor, or associated person when 5829
making a telephone solicitation within the scope of the person's 5830
license. As used in division (B) (4) of this section, "licensed 5831
securities, commodities, or investment broker, dealer, 5832
investment advisor, or associated person" means a person subject 5833
to licensure or registration as such by the securities and 5834
exchange commission; the National Association of Securities 5835
Dealers or other self-regulatory organization, as defined by 15 5836
U.S.C.A. 78c; by the division of securities under Chapter 1707. 5837
of the Revised Code; or by an official or agency of any other 5838
state of the United States. 5839

(5) (a) A person primarily engaged in soliciting the sale 5840
of a newspaper of general circulation; 5841

(b) As used in division (B) (5) (a) of this section, 5842
"newspaper of general circulation" includes, but is not limited 5843
to, both of the following: 5844

(i) A newspaper that is a daily law journal designated as 5845
an official publisher of court calendars pursuant to section 5846
2701.09 of the Revised Code; 5847

(ii) A newspaper or publication that has at least twenty- 5848
five per cent editorial, non-advertising content, exclusive of 5849
inserts, measured relative to total publication space, and an 5850
audited circulation to at least fifty per cent of the households 5851

in the newspaper's retail trade zone as defined by the audit. 5852

(6) (a) An issuer, or its subsidiary, that has a class of securities to which all of the following apply: 5853
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(i) The class of securities is subject to section 12 of the "Securities Exchange Act of 1934," 15 U.S.C.A. 781, and is registered or is exempt from registration under 15 U.S.C.A. 781(g) (2) (A), (B), (C), (E), (F), (G), or (H); 5855
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(ii) The class of securities is listed on the New York stock exchange, the American stock exchange, or the NASDAQ national market system; 5859
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(iii) The class of securities is a reported security as defined in 17 C.F.R. 240.11Aa3-1(a) (4). 5862
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(b) An issuer, or its subsidiary, that formerly had a class of securities that met the criteria set forth in division (B) (6) (a) of this section if the issuer, or its subsidiary, has a net worth in excess of one hundred million dollars, files or its parent files with the securities and exchange commission an S.E.C. form 10-K, and has continued in substantially the same business since it had a class of securities that met the criteria in division (B) (6) (a) of this section. As used in division (B) (6) (b) of this section, "issuer" and "subsidiary" include the successor to an issuer or subsidiary. 5864
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(7) A person soliciting a transaction regulated by the commodity futures trading commission, if the person is registered or temporarily registered for that activity with the commission under 7 U.S.C.A. 1 et seq. and the registration or temporary registration has not expired or been suspended or revoked; 5874
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(8) A person soliciting the sale of any book, record, 5880

audio tape, compact disc, or video, if the person allows the purchaser to review the merchandise for at least seven days and provides a full refund within thirty days to a purchaser who returns the merchandise or if the person solicits the sale on behalf of a membership club operating in compliance with regulations adopted by the federal trade commission in 16 C.F.R. 425;

(9) A supervised financial institution or its subsidiary. As used in division (B) (9) of this section, "supervised financial institution" means a bank, trust company, savings and loan association, savings bank, credit union, industrial loan company, consumer finance lender, commercial finance lender, or institution described in section 2(c) (2) (F) of the "Bank Holding Company Act of 1956," 12 U.S.C.A. 1841(c) (2) (F), as amended, supervised by an official or agency of the United States, this state, or any other state of the United States; or a licensee or registrant under sections 1321.01 to 1321.19, 1321.51 to 1321.60, or 1321.71 to 1321.83, or Chapter 1322. of the Revised Code.

(10) (a) An insurance company, association, or other organization that is licensed or authorized to conduct business in this state by the superintendent of insurance pursuant to Title XXXIX of the Revised Code or Chapter 1751. of the Revised Code, when soliciting within the scope of its license or authorization.

(b) A licensed insurance broker, agent, or solicitor when soliciting within the scope of the person's license. As used in division (B) (10) (b) of this section, "licensed insurance broker, agent, or solicitor" means any person licensed as an insurance broker, agent, or solicitor by the superintendent of insurance

pursuant to Title XXXIX of the Revised Code. 5911

(11) A person soliciting the sale of services provided by 5912
a cable television system operating under authority of a 5913
governmental franchise or permit; 5914

(12) A person soliciting a business-to-business sale under 5915
which any of the following conditions are met: 5916

(a) The telephone solicitor has been operating 5917
continuously for at least three years under the same business 5918
name under which it solicits purchasers, and at least fifty-one 5919
per cent of its gross dollar volume of sales consists of repeat 5920
sales to existing customers to whom it has made sales under the 5921
same business name. 5922

(b) The purchaser business intends to resell the goods 5923
purchased. 5924

(c) The purchaser business intends to use the goods or 5925
services purchased in a recycling, reuse, manufacturing, or 5926
remanufacturing process. 5927

(d) The telephone solicitor is a publisher of a periodical 5928
or of magazines distributed as controlled circulation 5929
publications as defined in division (CC) of section 5739.01 of 5930
the Revised Code and is soliciting sales of advertising, 5931
subscriptions, reprints, lists, information databases, 5932
conference participation or sponsorships, trade shows or media 5933
products related to the periodical or magazine, or other 5934
publishing services provided by the controlled circulation 5935
publication. 5936

(13) A person that, not less often than once each year, 5937
publishes and delivers to potential purchasers a catalog that 5938
complies with both of the following: 5939

- (a) It includes all of the following: 5940
- (i) The business address of the seller; 5941
 - (ii) A written description or illustration of each good or service offered for sale; 5942
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 - (iii) A clear and conspicuous disclosure of the sale price of each good or service; shipping, handling, and other charges; and return policy. 5944
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- (b) One of the following applies: 5947
- (i) The catalog includes at least twenty-four pages of written material and illustrations, is distributed in more than one state, and has an annual postage-paid mail circulation of not less than two hundred fifty thousand households; 5948
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 - (ii) The catalog includes at least ten pages of written material or an equivalent amount of material in electronic form on the internet or an on-line computer service, the person does not solicit customers by telephone but solely receives telephone calls made in response to the catalog, and during the calls the person takes orders but does not engage in further solicitation of the purchaser. As used in division (B) (13) (b) (ii) of this section, "further solicitation" does not include providing the purchaser with information about, or attempting to sell, any other item in the catalog that prompted the purchaser's call or in a substantially similar catalog issued by the seller. 5952
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- (14) A political subdivision or instrumentality of the United States, this state, or any state of the United States; 5963
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- (15) A college or university or any other public or private institution of higher education in this state; 5965
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- (16) A public utility as defined in section 4905.02 of the 5967

Revised Code or a retail natural gas supplier as defined in 5968
section 4929.01 of the Revised Code, if the utility or supplier 5969
is subject to regulation by the public utilities commission, or 5970
the affiliate of the utility or supplier; 5971

(17) A person that solicits sales through a television 5972
program or advertisement that is presented in the same market 5973
area no fewer than twenty days per month or offers for sale no 5974
fewer than ten distinct items of goods or services; and offers 5975
to the purchaser an unconditional right to return any good or 5976
service purchased within a period of at least seven days and to 5977
receive a full refund within thirty days after the purchaser 5978
returns the good or cancels the service; 5979

(18) (a) A person that, for at least one year, has been 5980
operating a retail business under the same name as that used in 5981
connection with telephone solicitation and both of the following 5982
occur on a continuing basis: 5983

(i) The person either displays goods and offers them for 5984
retail sale at the person's business premises or offers services 5985
for sale and provides them at the person's business premises. 5986

(ii) At least fifty-one per cent of the person's gross 5987
dollar volume of retail sales involves purchases of goods or 5988
services at the person's business premises. 5989

(b) An affiliate of a person that meets the requirements 5990
in division (B) (18) (a) of this section if the affiliate meets 5991
all of the following requirements: 5992

(i) The affiliate has operated a retail business for a 5993
period of less than one year; 5994

(ii) The affiliate either displays goods and offers them 5995
for retail sale at the affiliate's business premises or offers 5996

services for sale and provides them at the affiliate's business premises; 5997
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(iii) At least fifty-one per cent of the affiliate's gross dollar volume of retail sales involves purchases of goods or services at the affiliate's business premises. 5999
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(c) A person that, for a period of less than one year, has been operating a retail business in this state under the same name as that used in connection with telephone solicitation, as long as all of the following requirements are met: 6002
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(i) The person either displays goods and offers them for retail sale at the person's business premises or offers services for sale and provides them at the person's business premises; 6006
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(ii) The goods or services that are the subject of telephone solicitation are sold at the person's business premises, and at least sixty-five per cent of the person's gross dollar volume of retail sales involves purchases of goods or services at the person's business premises; 6009
6010
6011
6012
6013

(iii) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rule adopted by the federal trade commission in 16 C.F.R. part 310. 6014
6015
6016
6017

(19) A person who performs telephone solicitation sales services on behalf of other persons and to whom one of the following applies: 6018
6019
6020

(a) The person has operated under the same ownership, control, and business name for at least five years, and the person receives at least seventy-five per cent of its gross revenues from written telephone solicitation contracts with persons who come within one of the exemptions in division (B) of 6021
6022
6023
6024
6025

this section. 6026

(b) The person is an affiliate of one or more exempt 6027
persons and makes telephone solicitations on behalf of only the 6028
exempt persons of which it is an affiliate. 6029

(c) The person makes telephone solicitations on behalf of 6030
only exempt persons, the person and each exempt person on whose 6031
behalf telephone solicitations are made have entered into a 6032
written contract that specifies the manner in which the 6033
telephone solicitations are to be conducted and that at a 6034
minimum requires compliance with the telemarketing sales rule 6035
adopted by the federal trade commission in 16 C.F.R. part 310, 6036
and the person conducts the telephone solicitations in the 6037
manner specified in the written contract. 6038

(d) The person performs telephone solicitation for 6039
religious or political purposes, a charitable organization, a 6040
fund-raising council, or a professional solicitor in compliance 6041
with the registration and reporting requirements of Chapter 6042
1716. of the Revised Code; and meets all of the following 6043
requirements: 6044

(i) The person has operated under the same ownership, 6045
control, and business name for at least five years, and the 6046
person receives at least fifty-one per cent of its gross 6047
revenues from written telephone solicitation contracts with 6048
persons who come within the exemption in division (B) (2) of this 6049
section; 6050

(ii) The person does not conduct a prize promotion or 6051
offer the sale of an investment opportunity; 6052

(iii) The person conducts all telephone solicitation 6053
activities according to sections 310.3, 310.4, and 310.5 of the 6054

telemarketing sales rules adopted by the federal trade 6055
commission in 16 C.F.R. part 310. 6056

(20) A person that is a licensed real estate salesperson 6057
or broker under Chapter 4735. of the Revised Code when 6058
soliciting within the scope of the person's license; 6059

(21) (a) Either of the following: 6060

(i) A publisher that solicits the sale of the publisher's 6061
periodical or magazine of general, paid circulation, or a person 6062
that solicits a sale of that nature on behalf of a publisher 6063
under a written agreement directly between the publisher and the 6064
person. 6065

(ii) A publisher that solicits the sale of the publisher's 6066
periodical or magazine of general, paid circulation, or a person 6067
that solicits a sale of that nature as authorized by a publisher 6068
under a written agreement directly with a publisher's 6069
clearinghouse provided the person is a resident of Ohio for more 6070
than three years and initiates all telephone solicitations from 6071
Ohio and the person conducts the solicitation and sale in 6072
compliance with 16 C.F.R. part 310, as adopted by the federal 6073
trade commission. 6074

(b) As used in division (B) (21) of this section, 6075
"periodical or magazine of general, paid circulation" excludes a 6076
periodical or magazine circulated only as part of a membership 6077
package or given as a free gift or prize from the publisher or 6078
person. 6079

(22) A person that solicits the sale of food, as defined 6080
in section 3715.01 of the Revised Code, or the sale of products 6081
of horticulture, as defined in section 5739.01 of the Revised 6082
Code, if the person does not intend the solicitation to result 6083

in, or the solicitation actually does not result in, a sale that 6084
costs the purchaser an amount greater than five hundred dollars. 6085

(23) A funeral director licensed pursuant to Chapter 4717. 6086
of the Revised Code when soliciting within the scope of that 6087
license, if both of the following apply: 6088

(a) The solicitation and sale are conducted in compliance 6089
with 16 C.F.R. part 453, as adopted by the federal trade 6090
commission, and with sections 1107.33 and 1345.21 to 1345.28 of 6091
the Revised Code; 6092

(b) The person provides to the purchaser of any preneed 6093
funeral contract a notice that clearly and conspicuously sets 6094
forth the cancellation rights specified in division (G) of 6095
section 1107.33 of the Revised Code, and retains a copy of the 6096
notice signed by the purchaser. 6097

(24) A person, or affiliate thereof, licensed to sell or 6098
issue Ohio instruments designated as travelers checks pursuant 6099
to sections 1315.01 to 1315.18 of the Revised Code. 6100

(25) A person that solicits sales from its previous 6101
purchasers and meets all of the following requirements: 6102

(a) The solicitation is made under the same business name 6103
that was previously used to sell goods or services to the 6104
purchaser; 6105

(b) The person has, for a period of not less than three 6106
years, operated a business under the same business name as that 6107
used in connection with telephone solicitation; 6108

(c) The person does not conduct a prize promotion or offer 6109
the sale of an investment opportunity; 6110

(d) The person conducts all telephone solicitation 6111

activities according to sections 310.3, 310.4, and 310.5 of the 6112
telemarketing sales rules adopted by the federal trade 6113
commission in 16 C.F.R. part 310; 6114

(e) Neither the person nor any of its principals has been 6115
convicted of, pleaded guilty to, or has entered a plea of no 6116
contest for a felony or a theft offense as defined in sections 6117
2901.02 and 2913.01 of the Revised Code or similar law of 6118
another state or of the United States; 6119

(f) Neither the person nor any of its principals has had 6120
entered against them an injunction or a final judgment or order, 6121
including an agreed judgment or order, an assurance of voluntary 6122
compliance, or any similar instrument, in any civil or 6123
administrative action involving engaging in a pattern of corrupt 6124
practices, fraud, theft, embezzlement, fraudulent conversion, or 6125
misappropriation of property; the use of any untrue, deceptive, 6126
or misleading representation; or the use of any unfair, 6127
unlawful, deceptive, or unconscionable trade act or practice. 6128

(26) An institution defined as a home health agency in 6129
section 3701.881 of the Revised Code, that conducts all 6130
telephone solicitation activities according to sections 310.3, 6131
310.4, and 310.5 of the telemarketing sales rules adopted by the 6132
federal trade commission in 16 C.F.R. part 310, and engages in 6133
telephone solicitation only within the scope of the 6134
institution's certification, accreditation, contract with the 6135
department of aging, or status as a home health agency; and that 6136
meets one of the following requirements: 6137

(a) The institution is certified as a provider of home 6138
health services under Title XVIII of the Social Security Act, 49 6139
Stat. 620, 42 U.S.C. 301, as amended; 6140

(b) The institution is accredited by either the joint 6141
commission on accreditation of health care organizations or the 6142
community health accreditation program; 6143

(c) The institution is providing PASSPORT services under 6144
the direction of the department of aging under sections 173.52 6145
to 173.523 of the Revised Code; 6146

(d) An affiliate of an institution that meets the 6147
requirements of division (B) (26) (a), (b), or (c) of this section 6148
when offering for sale substantially the same goods and services 6149
as those that are offered by the institution that meets the 6150
requirements of division (B) (26) (a), (b), or (c) of this 6151
section. 6152

(27) A person licensed by the department of health 6153
pursuant to section 3712.04 or 3712.041 of the Revised Code to 6154
provide a hospice care program or pediatric respite care program 6155
when conducting telephone solicitations within the scope of the 6156
person's license and according to sections 310.3, 310.4, and 6157
310.5 of the telemarketing sales rules adopted by the federal 6158
trade commission in 16 C.F.R. part 310. 6159

Sec. 4728.11. This chapter does not apply to any of the 6160
following: 6161

(A) Any purchase of an article that is made of or contains 6162
gold, silver, platinum, or other precious metals or jewels of 6163
any description if both the buyer and seller, or the respective 6164
agents, brokers, or other intermediaries of both the buyer and 6165
seller, deal in such articles or otherwise by their respective 6166
occupations, or by their respective avocations as collectors, 6167
speculators, or investors, hold themselves out as having 6168
knowledge or skill peculiar to such articles or the practices 6169

involved in their purchase or sale; 6170

(B) Licensees who obtain licenses under sections 1321.01 6171
to 1321.19 of the Revised Code ~~or~~, registrants who obtain 6172
certificates of registration under sections 1321.51 to 1321.60 6173
of the Revised Code, or persons registered as mortgage lenders 6174
under Chapter 1322. of the Revised Code; 6175

(C) National banks, state banks, credit unions, or savings 6176
and loan associations; 6177

(D) The holder of a salvage motor vehicle dealer's license 6178
under Chapter 4738. of the Revised Code who purchases or sells 6179
precious metal which, in its original form, is a motor vehicle 6180
component part, or a scrap metal processor subject to Chapter 6181
4737. of the Revised Code; 6182

(E) Any purchase of silverware or an article of jewelry 6183
made of or containing gold, silver, platinum, or other precious 6184
metals or jewels that is made by a person who complies with all 6185
of the following: 6186

(1) The person is engaged in the business of selling, at 6187
retail, articles of jewelry and silverware; 6188

(2) The person holds a valid vendor's license issued under 6189
section 5739.17 of the Revised Code; 6190

(3) The person maintains a fixed place of business in this 6191
state at which the person regularly exhibits articles of jewelry 6192
and silverware that are for sale at retail; 6193

(4) The person establishes to the satisfaction of the 6194
superintendent of financial institutions or the chief or head of 6195
the local police department, upon their request, that the 6196
person's purchases of silverware and articles of jewelry that 6197

are made of or contain gold, silver, platinum, or other precious 6198
metals or jewels are incidental to the person's primary business 6199
as described in division (E)(1) of this section. Such purchases 6200
are "incidental" if: 6201

(a) In the case of a person who has been in business for 6202
less than one year, the average monthly value of the person's 6203
purchases of jewelry from the public represents less than 6204
twenty-five per cent of the person's total inventory of articles 6205
of jewelry held for sale at retail to the public, as computed 6206
under section 5711.15 of the Revised Code; 6207

(b) In the case of a person who has been in business for 6208
at least one year, the total value of the person's purchases of 6209
jewelry from the public represents less than twenty-five per 6210
cent of the person's total retail sales of articles of jewelry 6211
to the public during the immediately preceding year; 6212

(c) The purchases are of items described in division (F) 6213
of this section. 6214

(F) Any purchase of coins, hallmark bars, registered 6215
ingots, and other items as numismatic objects, and not for their 6216
content of precious metals. 6217

(G) Any purchase made under the supervision of a probate 6218
court from the estate of a decedent as provided under section 6219
2113.40 of the Revised Code. 6220

(H) Except as specified in division (B) of section 4728.02 6221
of the Revised Code, any person licensed under Chapter 4727. of 6222
the Revised Code. 6223

Sec. 4735.05. (A) The Ohio real estate commission is a 6224
part of the department of commerce for administrative purposes. 6225
The director of commerce is ex officio the executive officer of 6226

the commission, or the director may designate any employee of 6227
the department as superintendent of real estate and professional 6228
licensing to act as executive officer of the commission. 6229

The commission and the real estate appraiser board created 6230
pursuant to section 4763.02 of the Revised Code shall each 6231
submit to the director a list of three persons whom the 6232
commission and the board consider qualified to be superintendent 6233
within sixty days after the office of superintendent becomes 6234
vacant. The director shall appoint a superintendent from the 6235
lists submitted by the commission and the board, and the 6236
superintendent shall serve at the pleasure of the director. 6237

(B) The superintendent, except as otherwise provided, 6238
shall do all of the following in regard to this chapter: 6239

(1) Administer this chapter; 6240

(2) Issue all orders necessary to implement this chapter; 6241

(3) Investigate complaints concerning the violation of 6242
this chapter or the conduct of any licensee; 6243

(4) Establish and maintain an investigation and audit 6244
section to investigate complaints and conduct inspections, 6245
audits, and other inquiries as in the judgment of the 6246
superintendent are appropriate to enforce this chapter. The 6247
investigators or auditors have the right to review and audit the 6248
business records of licensees and continuing education course 6249
providers during normal business hours. 6250

(5) Appoint a hearing examiner for any proceeding 6251
involving disciplinary action under section 3123.47, 4735.052, 6252
or 4735.18 of the Revised Code; 6253

(6) Administer the real estate recovery fund. 6254

(C) The superintendent may do all of the following: 6255

(1) In connection with investigations and audits under 6256
division (B) of this section, subpoena witnesses as provided in 6257
section 4735.04 of the Revised Code; 6258

(2) Apply to the appropriate court to enjoin any violation 6259
of this chapter. Upon a showing by the superintendent that any 6260
person has violated or is about to violate any provision of this 6261
chapter, the court shall grant an injunction, restraining order, 6262
or other appropriate order. 6263

(3) Upon the death of a licensed broker or the revocation 6264
or suspension of the broker's license, if there is no other 6265
licensed broker within the business entity of the broker, 6266
appoint upon application by any interested party, or, in the 6267
case of a deceased broker, subject to the approval by the 6268
appropriate probate court, recommend the appointment of, an 6269
ancillary trustee who is qualified as determined by the 6270
superintendent to conclude the business transactions of the 6271
deceased, revoked, or suspended broker; 6272

(4) In conjunction with the enforcement of this chapter, 6273
when the superintendent of real estate has reasonable cause to 6274
believe that an applicant or licensee has committed a criminal 6275
offense, the superintendent of real estate may request the 6276
superintendent of the bureau of criminal identification and 6277
investigation to conduct a criminal records check of the 6278
applicant or licensee. The superintendent of the bureau of 6279
criminal identification and investigation shall obtain 6280
information from the federal bureau of investigation as part of 6281
the criminal records check of the applicant or licensee. The 6282
superintendent of real estate may assess the applicant or 6283
licensee a fee equal to the fee assessed for the criminal 6284

records check. 6285

(5) In conjunction with the enforcement of this chapter, 6286
issue advisory letters in lieu of initiating disciplinary action 6287
under section 4735.051 or 4735.052 of the Revised Code or 6288
issuing a citation under section 4735.16 or 4735.181 of the 6289
Revised Code. 6290

(D) All information that is obtained by investigators and 6291
auditors performing investigations or conducting inspections, 6292
audits, and other inquiries pursuant to division (B) (4) of this 6293
section, from licensees, complainants, or other persons, and all 6294
reports, documents, and other work products that arise from that 6295
information and that are prepared by the investigators, 6296
auditors, or other personnel of the department, shall be held in 6297
confidence by the superintendent, the investigators and 6298
auditors, and other personnel of the department. Notwithstanding 6299
division (D) of section 2317.023 of the Revised Code, all 6300
information obtained by investigators or auditors from an 6301
informal mediation meeting held pursuant to section 4735.051 of 6302
the Revised Code, including but not limited to the agreement to 6303
mediate and the accommodation agreement, shall be held in 6304
confidence by the superintendent, investigators, auditors, and 6305
other personnel of the department. 6306

(E) This section does not prevent the division of real 6307
estate and professional licensing from releasing information 6308
relating to licensees to the superintendent of financial 6309
institutions for purposes relating to the administration of 6310
~~sections 1322.01 to 1322.12~~ Chapter 1322. of the Revised Code, 6311
to the superintendent of insurance for purposes relating to the 6312
administration of Chapter 3953. of the Revised Code, to the 6313
attorney general, or to local law enforcement agencies and local 6314

prosecutors. Information released by the division pursuant to 6315
this section remains confidential. 6316

Sec. 4763.03. (A) In addition to any other duties imposed 6317
on the real estate appraiser board under this chapter, the board 6318
shall: 6319

(1) Adopt rules, in accordance with Chapter 119. of the 6320
Revised Code, in furtherance of this chapter, including, but not 6321
limited to, all of the following: 6322

(a) Defining, with respect to state-certified general real 6323
estate appraisers, state-certified residential real estate 6324
appraisers, and state-licensed residential real estate 6325
appraisers, the type of educational experience, appraisal 6326
experience, and other equivalent experience that satisfy the 6327
requirements of this chapter. The rules shall require that all 6328
appraisal experience performed after January 1, 1996, meet the 6329
uniform standards of professional practice established by the 6330
appraisal foundation. 6331

(b) Establishing the examination specifications for state- 6332
certified general real estate appraisers, state-certified 6333
residential real estate appraisers, and state-licensed 6334
residential real estate appraisers; 6335

(c) Relating to disciplinary proceedings conducted in 6336
accordance with section 4763.11 of the Revised Code, including 6337
rules governing the reinstatement of certificates, 6338
registrations, and licenses that have been suspended pursuant to 6339
those proceedings; 6340

(d) Identifying any additional information to be included 6341
on the forms specified in division (C) of section 4763.12 of the 6342
Revised Code, provided that the rules shall not require any less 6343

information than is required in that division; 6344

(e) Establishing the fees set forth in section 4763.09 of 6345
the Revised Code; 6346

(f) Establishing the amount of the assessment required by 6347
division (A) (2) of section 4763.05 of the Revised Code. The 6348
board annually shall determine the amount due from each 6349
applicant for an initial certificate, registration, and license 6350
in an amount that will maintain the real estate appraiser 6351
recovery fund at the level specified in division (A) of section 6352
4763.16 of the Revised Code. The board may, if the fund falls 6353
below that amount, require current certificate holders, 6354
registrants, and licensees to pay an additional assessment. 6355

(g) Defining the educational requirements pursuant to 6356
division (C) of section 4763.05 of the Revised Code; 6357

(h) Establishing a real estate appraiser assistant program 6358
for the registration of real estate appraiser assistants. 6359

(2) Prescribe by rule the requirements for the 6360
examinations required by division (D) of section 4763.05 of the 6361
Revised Code; 6362

(3) Periodically review the standards for the development 6363
and reporting of appraisal reports provided in this chapter and 6364
adopt rules explaining and interpreting those standards; 6365

(4) Hear appeals, pursuant to Chapter 119. of the Revised 6366
Code, from decisions and orders the superintendent of real 6367
estate issues pursuant to this chapter; 6368

(5) Request the initiation by the superintendent of 6369
investigations of violations of this chapter or the rules 6370
adopted pursuant thereto, as the board determines appropriate; 6371

- (6) Determine the appropriate disciplinary actions to be taken against certificate holders, registrants, and licensees under this chapter as provided in section 4763.11 of the Revised Code. 6372
6373
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6375
- (B) In addition to any other duties imposed on the superintendent of real estate under this chapter, the superintendent shall: 6376
6377
6378
- (1) Prescribe the form and content of all applications required by this chapter; 6379
6380
- (2) Receive applications for certifications, registrations, and licenses and renewal thereof under this chapter and establish the procedures for processing, approving, and disapproving those applications; 6381
6382
6383
6384
- (3) Retain records and all application materials submitted to the superintendent; 6385
6386
- (4) Establish the time and place for conducting the examinations required by division (D) of section 4763.05 of the Revised Code; 6387
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6389
- (5) Issue certificates, registrations, and licenses and maintain a register of the names and addresses of all persons issued a certificate, registration, or license under this chapter; 6390
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- (6) Perform any other functions and duties, including the employment of staff, necessary to administer this chapter; 6394
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- (7) Administer this chapter; 6396
- (8) Issue all orders necessary to implement this chapter; 6397
- (9) Investigate complaints, upon the superintendent's own 6398

motion or upon receipt of a complaint or upon a request of the 6399
board, concerning any violation of this chapter or the rules 6400
adopted pursuant thereto or the conduct of any person holding a 6401
certificate, registration, or license issued pursuant to this 6402
chapter; 6403

(10) Establish and maintain an investigation and audit 6404
section to investigate complaints and conduct inspections, 6405
audits, and other inquiries as in the judgment of the 6406
superintendent are appropriate to enforce this chapter. The 6407
investigators and auditors have the right to review and audit 6408
the business records of certificate holders, registrants, and 6409
licensees during normal business hours. The superintendent may 6410
utilize the investigators and auditors employed pursuant to 6411
division (B) (4) of section 4735.05 of the Revised Code or 6412
currently licensed certificate holders or licensees to assist in 6413
performing the duties of this division. 6414

(11) Appoint a referee or examiner for any proceeding 6415
involving the disciplinary action of a certificate holder, 6416
licensee, or registrant under section 4763.11 of the Revised 6417
Code; 6418

(12) Administer the real estate appraiser recovery fund; 6419

(13) Conduct the examinations required by division (D) of 6420
section 4763.05 of the Revised Code at least four times per 6421
year. 6422

(C) The superintendent may do all of the following: 6423

(1) In connection with investigations and audits under 6424
division (B) of this section, subpoena witnesses as provided in 6425
section 4763.04 of the Revised Code; 6426

(2) Apply to the appropriate court to enjoin any violation 6427

of this chapter. Upon a showing by the superintendent that any person has violated or is about to violate this chapter, the court shall grant an injunction, restraining order, or other appropriate relief, or any combination thereof.

(D) All information that is obtained by investigators and auditors performing investigations or conducting inspections, audits, and other inquiries pursuant to division (B)(10) of this section, from certificate holders, registrants, licensees, complainants, or other persons, and all reports, documents, and other work products that arise from that information and that are prepared by the investigators, auditors, or other personnel of the department of commerce, shall be held in confidence by the superintendent, the investigators and auditors, and other personnel of the department.

(E) This section does not prevent the division of real estate and professional licensing from releasing information relating to certificate holders, registrants, and licensees to the superintendent of financial institutions for purposes relating to the administration of ~~sections 1322.01 to 1322.12~~ Chapter 1322. of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the attorney general, or to local law enforcement agencies and local prosecutors. Information released by the division pursuant to this section remains confidential.

(F) Any rule the board adopts shall not exceed the requirements specified in federal law or regulations.

Section 2. That existing sections 9.02, 109.572, 1181.21, 1181.25, 1315.21, 1319.12, 1321.02, 1321.51, 1321.52, 1321.53, 1321.54, 1321.55, 1321.551, 1321.57, 1321.58, 1321.59, 1321.60,

1321.631, 1321.72, 1321.99, 1322.01, 1322.02, 1322.021, 6458
1322.023, 1322.024, 1322.025, 1322.03, 1322.031, 1322.04, 6459
1322.041, 1322.042, 1322.043, 1322.05, 1322.051, 1322.052, 6460
1322.06, 1322.061, 1322.065, 1322.07, 1322.072, 1322.073, 6461
1322.074, 1322.075, 1322.081, 1322.09, 1322.10, 1322.101, 6462
1322.11, 1322.12, 1322.99, 1329.71, 1335.02, 1345.01, 1349.27, 6463
1349.43, 1349.44, 1349.45, 1349.99, 2923.31, 4712.01, 4719.01, 6464
4728.11, 4735.05, and 4763.03 and sections 1321.521, 1321.522, 6465
1321.531, 1321.532, 1321.533, 1321.534, 1321.535, 1321.536, 6466
1321.537, 1321.538, 1321.552, 1321.592, 1321.593, 1321.594, 6467
1322.022, 1322.062, 1322.063, 1322.064, 1322.071, and 1322.08 of 6468
the Revised Code are hereby repealed. 6469

Section 3. (A) The Superintendent of Financial 6470
Institutions may take actions necessary to ensure full 6471
compliance with this act, including actions to facilitate the 6472
transition of existing registrants and licensees and those 6473
persons holding valid letters of exemption as of the effective 6474
date of this act. 6475

(B) Persons holding a valid mortgage lender certificate of 6476
registration or mortgage loan originator license issued under 6477
sections 1321.51 to 1321.60 of the Revised Code as of the 6478
effective date of this act and persons holding a valid mortgage 6479
broker certificate of registration or loan originator license 6480
issued under Chapter 1322. of the Revised Code as of the 6481
effective date of this act, shall not be required to be 6482
registered or licensed under section 1322.07 or 1322.20 of the 6483
Revised Code, as amended by this act, until the first renewal of 6484
that certificate of registration or license after that date. The 6485
Superintendent may treat the applications submitted by those 6486
persons as renewal applications, and may use prior application 6487
materials as the basis for issuing registrations, licenses, and 6488

letters of exemption after the effective date of this act. 6489

Section 4. The General Assembly, applying the principle 6490
stated in division (B) of section 1.52 of the Revised Code that 6491
amendments are to be harmonized if reasonably capable of 6492
simultaneous operation, finds that the following sections, 6493
presented in this act as composites of the sections as amended 6494
by the acts indicated, are the resulting versions of the 6495
sections in effect prior to the effective date of the sections 6496
as presented in this act: 6497

Sections 1322.03 and 1322.031 of the Revised Code as 6498
amended by Am. Sub. H.B. 487 of the 129th General Assembly and 6499
Am. Sub. H.B. 483 of the 130th General Assembly. 6500

Section 2923.31 of the Revised Code as amended by both Am. 6501
Sub. H.B. 386 and Am. Sub. H.B. 262 of the 129th General 6502
Assembly. 6503