

**As Introduced**

**132nd General Assembly  
Regular Session  
2017-2018**

**H. B. No. 489**

**Representative Dever**

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**A BILL**

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Compliance with law; 63

(2) Safety and soundness; 64

(3) Other matters the superintendent determines. 65

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

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

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

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

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

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

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

(6) Any trust company. 89

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

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

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

examination date. 107

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<b>Sec. 1322.01.</b> As used in this chapter:	194
(A) "Administrative or clerical tasks" mean the receipt,	195
collection, and distribution of information common for the	196
processing or underwriting of a loan in the mortgage industry,	197
without performing any analysis of the information, and	198
communication with a consumer to obtain information necessary	199
for the processing or underwriting of a residential mortgage	200
loan.	201
(B) "Advertising" means a commercial message in any medium	202
that promotes, either directly or indirectly, a residential	203
mortgage lending transaction.	204
(C) "Application" has the same meaning as in 12 C.F.R.	205
1026.2(a)(3).	206
(D) "Approved education course" means any course approved	207
by the nationwide mortgage licensing system and registry.	208
(E) "Approved test provider" means any test provider	209
approved by the nationwide mortgage licensing system and	210
registry.	211
(F) "Borrower" means a person seeking a residential	212
mortgage loan or an obligor on a residential mortgage loan.	213
(G) "Branch office" means a location at which a licensee	214
conducts business other than a registrant's principal place of	215
business, if at least one of the following applies to the	216
location:	217
(1) The address of the location appears on business cards,	218
stationery, or advertising used by the registrant;	219
(2) The registrant's name or advertising at the location	220
suggests that mortgage transactions are made at the location;	221



(3) The location is held out to the public as a licensee's	222
place of business due to the actions of an employee or	223
independent contractor of the registrant; or	224
(4) The location within this state is controlled directly	225
or indirectly by the registrant.	226
(H) "Buyer" means an individual who is solicited to	227
purchase or who purchases the services of a mortgage loan	228
originator for purposes of obtaining a residential mortgage	229
loan. <u>"Buyer" includes an individual whose mortgage loan is</u>	230
<u>serviced by a mortgage servicer.</u>	231
(I) "Consumer reporting agency" has the same meaning as in	232
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A.	233
1681a, as amended.	234
(J) "Control" means the power, directly or indirectly, to	235
direct the management or policies of an entity, whether through	236
ownership of securities, by contract, or otherwise. A person is	237
presumed to control an entity if that person:	238
(1) Is a director, general partner, or executive officer	239
or is an individual that occupies a similar position or performs	240
a similar function;	241
(2) Directly or indirectly has the right to vote five per	242
cent or more of a class of a voting security or has the power to	243
sell or direct the sale of five per cent or more of a class of	244
voting securities;	245
(3) In the case of a limited liability company, is a	246
managing member; or	247
(4) In the case of a partnership, has the right to receive	248
upon dissolution or has contributed five per cent or more of the	249

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

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

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

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

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

(a) Takes a residential mortgage loan application; 321

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(F) A certificate of registration and the authority 539

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) Engage in conduct that constitutes improper, 627

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

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

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

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

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

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

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

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

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



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

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

(a) The seriousness of the violation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The debt is in default. 785

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

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

(2) The amount of the debt; 790

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

interest. 1001

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

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

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

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

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

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

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

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

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

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

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

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

operating a corporate credit union. 1060

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

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

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

(3) The superintendent of financial institutions shall 1089

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

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

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

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

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

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

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

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

(3) The superintendent annually shall present to the 1149



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

**Sec. 5726.01.** As used in this chapter: 1408

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



Ohio pursuant to section 5726.05 of the Revised Code. 1617

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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