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133rd General Assembly
Regular Session
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Sub. H. B. No. 38

A BILL

To amend sections 1321.52, 1322.01, 1322.07, 1
1322.09, 1322.12, 1322.29, and 2913.11; to enact 2
section 1349.73; and to repeal sections 1349.16 3
and 1349.72 of the Revised Code relating to 4
commercial credit reports, the General Loan Law, 5
and the Residential Mortgage Loan Law. 6

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

Section 1. That sections 1321.52, 1322.01, 1322.07, 7
1322.09, 1322.12, 1322.29, and 2913.11 be amended and section 8
1349.73 of the Revised Code be enacted to read as follows: 9

Sec. 1321.52. (A) (1) A registrant may make loans, other 10
than a residential mortgage loan as defined in section 1322.01 11
of the Revised Code, on terms and conditions provided by 12
sections 1321.51 to 1321.60 of the Revised Code. 13

(2) Each person issued a certificate of registration is 14
subject to all the rules prescribed under sections 1321.51 to 15
1321.60 of the Revised Code. 16

(B) (1) All loans made to persons who at the time are 17



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residents of this state are considered as made within this state 18
and subject to the laws of this state, regardless of any 19
statement in the contract or note to the contrary, except if the 20
loan is for the purpose of purchasing goods acquired by the 21
borrower when the borrower is outside of this state, the loan 22
may be governed by the laws of the other state. 23

(2) Nothing in division (B) (1) of this section prevents a 24
choice of law or requires registration of persons outside of 25
this state in a transaction involving the solicitation of 26
residents of this state to obtain non-real estate secured loans 27
that require the borrowers to physically visit a lender's out- 28
of-state office to apply for and obtain the disbursement of loan 29
funds. 30

(C) A registrant may make unsecured loans and loans 31
secured by other than residential real estate or a dwelling as 32
those terms are defined in section 1322.01 of the Revised Code. 33

(D) For the purpose of registering persons under and 34
requiring compliance with sections 1321.51 to 1321.60 of the 35
Revised Code, the superintendent may do any of the following: 36

(1) Require any person registered under or applying for 37
registration under these sections to do both of the following: 38

(a) Utilize the national multistate licensing system for 39
application, renewal, amendment, or surrender of a license or 40
for any other activity as the superintendent may require; 41

(b) Pay all applicable charges to utilize the national 42
multistate licensing system. 43

(2) Establish requirements as necessary for the use of the 44
national multistate licensing system to meet the purposes of 45
these sections, including: 46

<u>(a) Background checks for:</u>	47
<u>(i) Criminal history through fingerprint or other databases;</u>	48 49
<u>(ii) Civil or administrative records;</u>	50
<u>(iii) Credit history;</u>	51
<u>(iv) Any other information considered necessary by the national multistate licensing system or the superintendent.</u>	52 53
<u>(b) The payment of fees to apply for or renew licenses through the multistate licensing system;</u>	54 55
<u>(c) The setting or resetting of renewal or reporting dates;</u>	56 57
<u>(d) Requirements for amending or surrendering a license or any other such activities as the superintendent considers necessary for participation in the national multistate licensing system.</u>	58 59 60 61
Sec. 1322.01. As used in this chapter:	62
(A) "Administrative or clerical tasks" mean the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry, without performing any analysis of the information, and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.	63 64 65 66 67 68 69
(B) "Advertising" means a commercial message in any medium that promotes, either directly or indirectly, a residential mortgage lending transaction.	70 71 72
(C) "Application" has the same meaning as in 12 C.F.R.	73

1026.2(a)(3).	74
(D) "Approved education course" means any course approved by the nationwide mortgage licensing system and registry.	75 76
(E) "Approved test provider" means any test provider approved by the nationwide mortgage licensing system and registry.	77 78 79
(F) "Borrower" means a person seeking a residential mortgage loan or an obligor on a residential mortgage loan.	80 81
(G) "Branch office" means a location at which a licensee conducts business other than a registrant's principal place of business, if at least one of the following applies to the location:	82 83 84 85
(1) The address of the location appears on business cards, stationery, or advertising used by the registrant;	86 87
(2) The registrant's name or advertising at the location suggests that mortgage transactions are made at the location;	88 89
(3) The location is held out to the public as a licensee's place of business due to the actions of an employee or independent contractor of the registrant; or	90 91 92
(4) The location within this state is controlled directly or indirectly by the registrant.	93 94
(H) "Buyer" means an individual who is solicited to purchase or who purchases the services of a mortgage loan originator for purposes of obtaining a residential mortgage loan. "Buyer" includes an individual whose mortgage loan is serviced by a mortgage servicer.	95 96 97 98 99
(I) "Consumer reporting agency" has the same meaning as in	100

the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 101
1681a, as amended. 102

(J) "Control" means the power, directly or indirectly, to 103
direct the management or policies of an entity, whether through 104
ownership of securities, by contract, or otherwise. A person is 105
presumed to control an entity if that person: 106

(1) Is a director, general partner, or executive officer 107
or is an individual that occupies a similar position or performs 108
a similar function; 109

(2) Directly or indirectly has the right to vote five per 110
cent or more of a class of a voting security or has the power to 111
sell or direct the sale of five per cent or more of a class of 112
voting securities; 113

(3) In the case of a limited liability company, is a 114
managing member; or 115

(4) In the case of a partnership, has the right to receive 116
upon dissolution or has contributed five per cent or more of the 117
capital. 118

(K) "Depository institution" has the same meaning as in 119
section 3 of the "Federal Deposit Insurance Act," 12 U.S.C. 120
1813(c), and also includes any credit union. 121

(L) "Dwelling" has the same meaning as in 15 U.S.C. 122
1602(w). "Dwelling" includes a single condominium unit, 123
cooperative unit, mobile home, and trailer, if it is used as a 124
residence, whether or not that structure is attached to real 125
property. 126

(M) "Employee" means an individual for whom a mortgage 127
broker or mortgage lender, in addition to providing a wage or 128

salary, pays social security and unemployment taxes, provides 129
workers' compensation coverage, and withholds local, state, and 130
federal income taxes. "Employee" also includes any individual 131
who acts as a mortgage loan originator or operations manager of 132
a registrant, but for whom the registrant is prevented by law 133
from making income tax withholdings. 134

(N) "Entity" means a business organization, including a 135
sole proprietorship. 136

(O) "Expungement" means a court-ordered process that 137
involves the destruction of documentation related to past 138
arrests and convictions. 139

(P) "Federal banking agency" means the board of governors 140
of the federal reserve system, the comptroller of the currency, 141
the national credit union administration, or the federal deposit 142
insurance corporation. 143

(Q) "Immediate family" means an individual's spouse, 144
child, stepchild, parent, stepparent, grandparent, grandchild, 145
brother, sister, parent-in-law, brother-in-law, or sister-in- 146
law. 147

(R) "Independent contractor" means an individual who 148
performs duties for another person and is not subject to that 149
person's supervision or control. 150

(S) "Individual" means a natural person. 151

(T) "Licensee" means any individual who has been issued a 152
mortgage loan originator license under this chapter. 153

(U) "Loan commitment" means a statement transmitted in 154
writing or electronically by a mortgage lender setting forth the 155
terms and conditions upon which the mortgage lender is willing 156

to make a particular residential mortgage loan to a particular 157
borrower. 158

(V) "Loan processor or underwriter" means an individual 159
who, with respect to the origination of a residential mortgage 160
loan, performs ~~administrative or clerical tasks as an employee~~ 161
~~at the direction of and subject to the supervision of a mortgage~~ 162
~~lender or mortgage broker. For purposes of this division,~~ 163
~~"origination of a residential mortgage loan" means all~~ 164
~~activities related to a residential mortgage loan, from the~~ 165
~~taking of a loan application through the completion of all~~ 166
~~required loan closing documents and the funding of the loan~~ any 167
of the following activities at the direction or subject to the 168
supervision of a licensed mortgage loan originator or registered 169
mortgage loan originator: 170

(1) Receiving, collecting, distributing, or analyzing 171
information common for the processing or underwriting of a 172
residential mortgage loan; 173

(2) Communicating with a borrower to obtain the 174
information necessary for the processing or underwriting of a 175
loan, to the extent the communication does not include offering 176
or negotiating loan rates or terms or counseling borrowers about 177
residential mortgage loan rates or terms . 178

(W) "Mortgage" means the consensual interest in real 179
property located in this state, including improvements to that 180
property, securing a debt evidence by a mortgage, trust 181
indenture, deed of trust, or other lien on real property. 182

(X) "Mortgage broker" means an entity that obtains, 183
attempts to obtain, or assists in obtaining a mortgage loan for 184
a borrower from a mortgage lender in return for consideration or 185

in anticipation of consideration. For purposes of this division, 186
"attempting to obtain or assisting in obtaining" a mortgage loan 187
includes referring a borrower to a mortgage lender, soliciting 188
or offering to solicit a mortgage loan on behalf of a borrower, 189
or negotiating or offering to negotiate the terms or conditions 190
of a mortgage loan with a mortgage lender on behalf of a 191
borrower. 192

(Y) "Mortgage lender" means an entity that consummates a 193
residential mortgage loan, advances funds, offers to advance 194
funds, or commits to advancing funds for a residential mortgage 195
loan applicant. 196

(Z) (1) "Mortgage loan originator" means an individual who 197
for compensation or gain, or in the expectation of compensation 198
or gain, does any of the following: 199

(a) Takes a residential mortgage loan application; 200

(b) Assists or offers to assist a buyer in obtaining or 201
applying to obtain a residential mortgage loan by, among other 202
things, advising on loan terms, including rates, fees, and other 203
costs; 204

(c) Offers or negotiates terms of a residential mortgage 205
loan; 206

(d) Issues or offers to issue a commitment for a 207
residential mortgage loan to a buyer. 208

(2) "Mortgage loan originator" does not include any of the 209
following: 210

(a) An individual who performs purely administrative or 211
clerical tasks on behalf of a mortgage loan originator; 212

(b) A person licensed under Chapter 4735. of the Revised 213

Code, or under the similar law of another state, who performs 214
only real estate brokerage activities permitted by that license, 215
provided the person is not compensated by a mortgage lender, 216
mortgage broker, mortgage loan originator, or by any agent 217
thereof; 218

(c) A person solely involved in extensions of credit 219
relating to timeshare plans, as that term is defined in 11 220
U.S.C. 101; 221

(d) An employee of a mortgage lender or mortgage broker 222
who acts solely as a loan processor or underwriter and who does 223
not represent to the public, through advertising or other means 224
of communicating, including the use of business cards, 225
stationery, brochures, signs, rate lists, or other promotional 226
items, that the employee can or will perform any of the 227
activities of a mortgage loan originator; 228

(e) A licensed attorney who negotiates the terms of a 229
residential mortgage loan on behalf of a client as an ancillary 230
matter to the attorney's representation of the client, unless 231
the attorney is compensated by a mortgage lender, a mortgage 232
broker, or another mortgage loan originator, or by any agent 233
thereof; 234

(f) Any person engaged in the retail sale of manufactured 235
homes, mobile homes, or industrialized units if, in connection 236
with financing those retail sales, the person only assists the 237
borrower by providing or transmitting the loan application and 238
does not do any of the following: 239

(i) Offer or negotiate the residential mortgage loan rates 240
or terms; 241

(ii) Provide any counseling with borrowers about 242

residential mortgage loan rates or terms;	243
(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;	244 245 246 247
(iv) Assist the borrower in completing a residential mortgage loan application.	248 249
(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.	250 251 252 253 254 255 256 257 258 259 260
(AA) "Mortgage servicer" means an entity <u>a person</u> that, for itself or on behalf of the holder of a mortgage loan, holds the servicing rights <u>for more than five mortgage loans</u> , records mortgage payments on its books <u>for more than five mortgage loans</u> , or performs other functions to carry out the mortgage holder's obligations or rights under the mortgage agreement <u>for more than five mortgage loans</u> 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.	261 262 263 264 265 266 267 268 269 270 271

(BB) "Nationwide mortgage licensing system and registry"	272
means a licensing system developed and maintained by the	273
conference of state bank supervisors and the American	274
association of residential mortgage regulators, or their	275
successor entities, for the licensing and registration of	276
persons providing non-depository financial services.	277
(CC) "Nontraditional mortgage product" means any mortgage	278
product other than a thirty-year fixed rate mortgage.	279
(DD) "Person" means an individual, sole proprietorship,	280
corporation, company, limited liability company, partnership,	281
limited liability partnership, trust, or association.	282
(EE) "Real estate brokerage activity" means any activity	283
that involves offering or providing real estate brokerage	284
services to the public, including all of the following:	285
(1) Acting as a real estate salesperson or real estate	286
broker for a buyer, seller, lessor, or lessee of real property;	287
(2) Bringing together parties interested in the sale,	288
purchase, lease, rental, or exchange of real property;	289
(3) Negotiating, on behalf of any party, any portion of a	290
contract relating to the sale, purchase, lease, rental, or	291
exchange of real property, other than in connection with	292
providing financing for any such transaction;	293
(4) Engaging in any activity for which a person engaged in	294
that activity is required to be licensed as a real estate	295
salesperson or real estate broker under the law of this state;	296
(5) Offering to engage in any activity, or to act in any	297
capacity, described in division (EE) of this section.	298
(FF) "Registered mortgage loan originator" means an	299

individual to whom both of the following apply:	300
(1) The individual is a mortgage loan originator and an employee of a depository institution, a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the farm credit administration.	301 302 303 304 305
(2) The individual is registered with, and maintains a unique identifier through, the nationwide mortgage licensing system and registry.	306 307 308
(GG) "Registrant" means any person that has been issued a certificate of registration under this chapter.	309 310
(HH) "Residential mortgage loan" means any loan that meets both of the following requirements:	311 312
(1) It is primarily for personal, family, or household use and is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real estate located in Ohio .	313 314 315 316
(2) It is provided and secured by a first lien holder secured creditor or by a second <u>subordinate</u> lien holder secured creditor.	317 318 319
(II) "Residential real estate" means any real property located in this state upon which is constructed a dwelling or upon which a dwelling is intended to be built within a two-year period, subject to 24 C.F.R. 3500.5(b)(4). For purposes of this division, a borrower's intent to build a dwelling within a two-year period is presumed unless the borrower has submitted a written, signed statement to the contrary.	320 321 322 323 324 325 326
(JJ) "Superintendent of financial institutions" includes	327

the deputy superintendent for consumer finance as provided in 328
section 1181.21 of the Revised Code. 329

(KK) "Transaction of business as a mortgage lender, 330
mortgage servicer, or mortgage broker in this state" means the 331
provision or offering of mortgage lender, mortgage servicer, or 332
mortgage broker services on a residential mortgage loan in any 333
of the following circumstances: 334

(1) For any resident in this state; 335

(2) For any property in this state; 336

(3) By a person who is physically located in this state 337
but who regularly provides or offers to provide mortgage lender 338
or mortgage broker services in, or for property located in, 339
other states. 340

(LL) "Unique identifier" means a number or other 341
identifier assigned by protocols established by the nationwide 342
mortgage licensing system and registry. 343

Sec. 1322.07. (A) (1) No person, on the person's own behalf 344
or on behalf of any other person, shall ~~act~~ engage in the 345
transaction of business as a mortgage lender, mortgage servicer, 346
or mortgage broker in this state without first having obtained a 347
certificate of registration from the superintendent of financial 348
institutions for the principal office and every branch office to 349
be maintained by the person for the transaction of business as a 350
mortgage lender, mortgage servicer, or mortgage broker in this 351
state. ~~A-~~ 352

(2) A registrant shall maintain an office location for the 353
transaction of business as a mortgage lender, mortgage servicer, 354
or mortgage broker in ~~this any state~~ of the United States. 355
Registrants are not required to maintain a physical location in 356

this state. 357

(B) (1) No individual shall act as a mortgage loan 358
originator without first having obtained a license from the 359
superintendent. A mortgage loan originator shall be employed by 360
or associated with a mortgage lender, mortgage broker, or entity 361
holding a valid letter of exemption under division (B) (1) of 362
section 1322.05 of the Revised Code, but shall not be employed 363
by or associated with more than one registrant or entity holding 364
a valid letter of exemption under division (B) (1) of section 365
1322.05 of the Revised Code at any one time. 366

(2) An individual acting under the individual's authority 367
as a registered mortgage loan originator shall not be required 368
to be licensed under division (B) (1) of this section. 369

(3) An individual who holds a valid temporary mortgage 370
loan originator license issued pursuant to section 1322.24 of 371
the Revised Code may engage in the business of a mortgage loan 372
originator in accordance with this chapter during the term of 373
the temporary license. 374

Sec. 1322.09. (A) (1) An application for a certificate of 375
registration shall be in writing, under oath, and in a form 376
prescribed by the superintendent of financial institutions that 377
complies with the requirements of the nationwide mortgage 378
licensing system and registry. The application shall be 379
accompanied by a nonrefundable application fee of five hundred 380
dollars for each location of an office to be maintained by the 381
applicant in accordance with division (A) of section 1322.07 of 382
the Revised Code and any additional fee required by the 383
nationwide mortgage licensing system and registry. 384

(2) The application shall include the names and addresses 385

of the owners, officers, or partners having control of the 386
applicant, including all of the following: 387

(a) In the case of a sole proprietor, the name and address 388
of the sole proprietor; 389

(b) In the case of a partnership, the name and address of 390
each partner; 391

(c) In the case of a corporation, the name and address of 392
each shareholder owning five per cent or more of the 393
corporation; 394

(d) In the case of any other entity, the name and address 395
of any person that owns five per cent or more of any entity that 396
will transact business under the certificate of registration. 397

(3) In addition to any information required by this 398
section, an applicant shall furnish to the superintendent any 399
reasonable information the superintendent may require. 400

(B) Upon the filing of the application and payment of the 401
nonrefundable application fee and any fee required by the 402
nationwide mortgage licensing system and registry, the 403
superintendent shall investigate the applicant and any 404
individual whose identity is required to be disclosed in the 405
application. As part of that investigation, the superintendent 406
shall conduct a civil records check. 407

If, in order to issue a certificate of registration to an 408
applicant, additional investigation by the superintendent 409
outside this state is necessary, the superintendent may require 410
the applicant to advance sufficient funds to pay the actual 411
expenses of the investigation, if it appears that these expenses 412
will exceed five hundred dollars. The superintendent shall 413
provide the applicant with an itemized statement of the actual 414

expenses that the applicant is required to pay. 415

(C) In connection with applying for a certificate of 416
registration, the applicant shall furnish to the nationwide 417
mortgage licensing system and registry information concerning 418
the applicant's identity, including all of the following: 419

(1) The applicant's fingerprints for submission to the 420
federal bureau of investigation, and any other governmental 421
agency or entity authorized to receive such information, for 422
purposes of a state, national, and international criminal 423
history background check; 424

(2) Personal history and experience in a form prescribed 425
by the nationwide mortgage licensing system and registry, along 426
with authorization for the superintendent and the nationwide 427
mortgage licensing system and registry to obtain both of the 428
following: 429

(a) An independent credit report from a consumer reporting 430
agency; 431

(b) Information related to any administrative, civil, or 432
criminal findings by any governmental jurisdiction. 433

(D) The superintendent shall pay all funds advanced and 434
application and renewal fees and penalties the superintendent 435
receives pursuant to this section and section 1322.10 of the 436
Revised Code to the treasurer of state to the credit of the 437
consumer finance fund created in section 1321.21 of the Revised 438
Code. 439

(E) If an application for a certificate of registration 440
does not contain all of the information required under this 441
section, and if that information is not submitted to the 442
superintendent or to the nationwide mortgage licensing system 443

and registry within ninety days after the superintendent or the 444
nationwide mortgage licensing system and registry requests the 445
information in writing, including by electronic transmission or 446
facsimile, the superintendent may consider the application 447
withdrawn. 448

(F) A certificate of registration and the authority 449
granted under that certificate is not transferable or assignable 450
and cannot be franchised by contract or any other means. 451

(G) (1) The superintendent may establish relationships or 452
enter into contracts with the nationwide mortgage licensing 453
system and registry, or any entities designated by it, to 454
collect and maintain records and process transaction fees or 455
other fees related to mortgage lender, mortgage servicer, or 456
mortgage broker certificates of registration or the persons 457
associated with a mortgage lender, mortgage servicer, or 458
mortgage broker. 459

(2) For purposes of this section and to reduce the points 460
of contact that the federal bureau of investigation may have to 461
maintain, the division of financial institutions may use the 462
nationwide mortgage licensing system and registry as a 463
channeling agent for requesting information from and 464
distributing information to the United States department of 465
justice or other governmental agencies. 466

(3) For purposes of this section and to reduce the points 467
of contact that the division may have to maintain, the division 468
may use the nationwide mortgage licensing system and registry as 469
a channeling agent for requesting information from and 470
distributing information to any source as determined by the 471
division. 472

Sec. 1322.12. (A) Each registrant or entity holding a 473
valid letter of exemption under division (B) (1) of section 474
1322.05 of the Revised Code shall designate an employee or owner 475
of that registrant's business as the operations manager. The 476
operations manager shall be responsible for the management, 477
supervision, and control of a particular ~~location~~ registrant. 478

(B) To be eligible for such a designation, an employee or 479
owner shall have at least three years of experience in the 480
residential mortgage and lending field including experience as a 481
mortgage loan originator ~~or,~~ registered mortgage loan 482
originator, or other experience related to the business of 483
residential mortgage lending that the superintendent determines 484
is sufficient. While acting as the operations manager, the 485
employee or owner shall be licensed as a mortgage loan 486
originator under this chapter and shall not be employed by any 487
other mortgage lender or mortgage broker. This paragraph shall 488
not apply to the designated operations manager of an entity 489
registered exclusively as a mortgage servicer. 490

(C) If the person designated as the operations manager 491
pursuant to this section ceases to be the operations manager, 492
the registrant shall do all of the following: 493

(1) Within ninety days after the person ceases to be the 494
operations manager, designate another person as the operations 495
manager; 496

(2) Within ten days after the designation described in 497
division (C) (1) of this section, notify the superintendent in 498
writing of the new designation; 499

(3) Submit any additional information that the 500
superintendent requires to establish that the newly designated 501

operations manager meets the requirements set forth in this 502
section. 503

(D) The registrant shall cease operations if it is without 504
an operations manager approved by the superintendent for more 505
than one hundred eighty days unless otherwise authorized in 506
writing by the superintendent due to exigent circumstances. 507

Sec. 1322.29. (A) A registrant or entity holding a valid 508
letter of exemption under division (B) (1) of section 1322.05 of 509
the Revised Code shall supervise all business of a mortgage loan 510
originator conducted at the principal office, any branch office, 511
or other location used by the individual mortgage loan 512
originator. 513

(B) If a mortgage loan originator's employment or 514
association is terminated for any reason, the licensee may 515
request the transfer of the license to another mortgage lender 516
or mortgage broker by submitting a transfer application, along 517
with a fifteen-dollar fee and any fee required by the national 518
mortgage licensing system and registry, to the superintendent of 519
financial institutions or may request the superintendent in 520
writing to hold the license in escrow. Any licensee whose 521
license is held in escrow shall cease activity as a mortgage 522
loan originator. A licensee whose license is held in escrow 523
shall be required to apply for renewal annually and to comply 524
with the annual continuing education requirement. 525

(C) A registrant may employ or be associated with a 526
mortgage loan originator on a temporary basis pending the 527
transfer of the mortgage loan originator's license to the 528
registrant, if the registrant receives written confirmation from 529
the superintendent that the mortgage loan originator is licensed 530
under this chapter. 531

(D) Notwithstanding divisions (A) to (C) of this section, 532
if a licensee is employed by or associated with a person or 533
entity holding a valid letter of exemption under division (B) (1) 534
of section 1322.05 of the Revised Code, ~~all of the following~~ 535
~~apply:~~ 536

~~(1) The licensee shall maintain and display a copy of the~~ 537
~~mortgage loan originator license at the office where the~~ 538
~~licensee principally transacts business.~~ 539

~~(2) If and if~~ the mortgage loan originator's employment or 540
association is terminated, the mortgage loan originator shall 541
notify the superintendent within five business days after 542
termination. The licensee may request the transfer of the 543
license to another person or entity holding a valid letter of 544
exemption under division (B) (1) of section 1322.05 of the 545
Revised Code by submitting a transfer application, along with a 546
fifteen-dollar fee and any fee required by the national mortgage 547
licensing system and registry, to the superintendent or may 548
request the superintendent in writing to hold the license in 549
escrow. A licensee whose license is held in escrow shall cease 550
activity as a mortgage loan originator. A licensee whose license 551
is held in escrow shall be required to apply for renewal 552
annually and to comply with the annual continuing education 553
requirement. 554

(E) A licensee may seek to be employed by or associated 555
with a registrant or a person or entity holding a valid letter 556
of exemption under division (B) (1) of section 1322.05 of the 557
Revised Code, if the mortgage lender, mortgage broker, or person 558
or entity receives written confirmation from the superintendent 559
that the mortgage loan originator is licensed under this 560
chapter. 561

<u>Sec. 1349.73. (A) As used in this section:</u>	562
<u>(1) "Business" means a sole proprietorship, partnership,</u>	563
<u>corporation, limited liability company, or other commercial</u>	564
<u>entity, whether for profit or not for profit.</u>	565
<u>(2) "Commercial credit report" means any report provided</u>	566
<u>to a business for a legitimate business purpose, relating to the</u>	567
<u>financial status or payment habits of a business that is the</u>	568
<u>subject of the report. "Commercial credit report" does not</u>	569
<u>include any of the following:</u>	570
<u>(a) A report prepared for commercial insurance</u>	571
<u>underwriting, claims, or auditing purposes;</u>	572
<u>(b) A report containing information related to</u>	573
<u>transactions or experiences between the subject and the person</u>	574
<u>making the report;</u>	575
<u>(c) An authorization or approval of a specific extension</u>	576
<u>of credit directly or indirectly by the issuer of a credit card</u>	577
<u>or similar device;</u>	578
<u>(d) Any report in which a person that has been requested</u>	579
<u>by a third party to make a specific extension of credit directly</u>	580
<u>or indirectly to the subject conveys its decision with respect</u>	581
<u>to that request.</u>	582
<u>(3) "Commercial credit reporting agency" means any person</u>	583
<u>or entity that, for monetary fees, dues, or on a cooperative</u>	584
<u>nonprofit basis, provides commercial credit reports on a</u>	585
<u>business operating in this state to third parties.</u>	586
<u>(4) "Cure offer" means a written offer of one or more</u>	587
<u>things of value, including the payment of money, that is all of</u>	588
<u>the following:</u>	589

(a) It is made by the commercial credit reporting agency 590
and delivered to a person or entity claiming to have suffered a 591
loss as a result of the commercial credit reporting agency 592
failing to comply with division (C) of this section or to the 593
attorney for the person or entity. 594

(b) It is reasonably calculated to remedy the loss claimed 595
by the person or entity. 596

(c) It is accompanied by an offer of a minimum additional 597
amount. 598

(5) "Loss" includes economic damages and any presumed 599
reputational injury to the business that results from the 600
publication of an inaccurate statement of fact. 601

(6) "Minimum additional amount" is an amount offered by a 602
commercial credit reporting agency, in addition to the cure 603
offer, as compensation for inconvenience, any attorney's or 604
other fees, expenses, or other costs of any kind that a person 605
or entity claiming to have suffered a loss as a result of the 606
commercial credit reporting agency failing to comply with 607
division (C) of this section may have incurred in relation to 608
the loss. The minimum additional amount shall equal the greater 609
of ten per cent of the value of the cure offer or five hundred 610
dollars, but shall not exceed four thousand dollars. 611

(7) "Subject" means the business operating in this state 612
about which a commercial credit report has been compiled. 613

(B) (1) Upon the request of a representative of the subject 614
of a commercial credit report, a commercial credit reporting 615
agency shall provide, annually, a complete copy of the subject's 616
commercial credit report. The report may be printed or in 617
electronic form. The report shall be in a format routinely made 618

available to third parties and include information identifying 619
the source, date, and specific amount, if any, of information 620
that was provided to the commercial credit reporting agency 621
concerning the subject. 622

(2) A commercial credit reporting agency may charge a 623
reasonable fee, which shall not exceed one hundred dollars, to 624
the representative of the subject of a commercial credit report 625
for the report described in division (B)(1) of this section. 626

(C) Within thirty days after receipt of a commercial 627
credit report, a representative of the subject of the report may 628
file with the commercial credit reporting agency a written 629
summary statement identifying each particular statement in the 630
report that the subject of the report believes contains an 631
inaccurate statement of fact and indicating the nature of the 632
disagreement with the statement. Within thirty days after 633
receipt of a subject's summary statement of disagreement, the 634
commercial credit reporting agency at no cost to the subject 635
shall do either of the following: 636

(1) Delete the disputed statement of fact from the report 637
and, thereafter, block any repeat reporting of that disputed 638
statement unless its accuracy has been verified; 639

(2) Include in the report a notice of the subject's 640
assertion that the statement of fact is inaccurate. 641

(D)(1) A person or entity that suffers a loss as the 642
result of a commercial credit reporting agency violating 643
division (C) of this section may initiate a civil action against 644
the agency to recover actual damages, or five hundred dollars, 645
whichever is greater. The person or entity may also seek a 646
declaratory judgment, an injunction, or other appropriate relief 647

and damages in an individual capacity or, where warranted, in a 648
class action. 649

(2) If the trier of fact finds that the violation was 650
willful, the trier of fact may increase damages to an amount not 651
exceeding three times the actual damages sustained, or one 652
thousand dollars, whichever is greater. 653

(3) In addition to any damages awarded, a person or entity 654
also may be awarded reasonable attorney's fees and court costs. 655

(4) A civil action pursuant to division (D) of this 656
section shall not be brought more than two years after the 657
occurrence of the violation that is the subject of the action. 658

(E)(1) Any person or entity who accepts a cure offer under 659
this section may not initiate or maintain any other action that 660
is substantially based on the same allegations of fact on which 661
the action initiated under division (D) of this section is 662
based. 663

(2) A cure offer is admissible in an action initiated 664
under division (D) of this section only if the cure offer is 665
delivered by a representative of the commercial credit reporting 666
agency: 667

(a) To the person or entity claiming a loss or to any 668
attorney representing that person or entity; and 669

(b) Before the commercial credit reporting agency filed 670
its initial responsive pleading in the action. 671

(3) If the commercial credit reporting agency timely 672
delivers the cure offer, it may introduce the cure offer into 673
evidence at trial in the action. The commercial credit reporting 674
agency shall then be liable for such person's or entity's 675

attorney's fees and court costs incurred following delivery of 676
the cure offer only if the plaintiff's actual damages, excluding 677
attorney's fees and court costs, exceed the value of the cure 678
offer plus the minimum additional amount. 679

Sec. 2913.11. (A) As used in this section: 680

(1) "Check" includes any form of debit from a demand 681
deposit account, including, but not limited to any of the 682
following: 683

(a) A check, bill of exchange, draft, order of withdrawal, 684
or similar negotiable or non-negotiable instrument; 685

(b) An electronic check, electronic transaction, debit 686
card transaction, check card transaction, substitute check, web 687
check, or any form of automated clearing house transaction. 688

(2) "Issue a check" means causing any form of debit from a 689
demand deposit account. 690

(B) No person, with purpose to defraud, shall issue or 691
transfer or cause to be issued or transferred a check or other 692
negotiable instrument, knowing that it will be dishonored or 693
knowing that a person has ordered or will order stop payment on 694
the check or other negotiable instrument. 695

(C) For purposes of this section, a person who issues or 696
transfers a check or other negotiable instrument is presumed to 697
know that it will be dishonored if either of the following 698
occurs: 699

(1) The drawer had no account with the drawee at the time 700
of issue or the stated date, whichever is later; 701

(2) The check or other negotiable instrument was properly 702
refused payment for insufficient funds upon presentment within 703

thirty days after issue or the stated date, whichever is later, 704
and the liability of the drawer, indorser, or any party who may 705
be liable thereon is not discharged by payment or satisfaction 706
within ten days after receiving notice of dishonor. 707

~~(D) For purposes of this section, a person who issues or 708
transfers a check, bill of exchange, or other draft is presumed 709
to have the purpose to defraud if the drawer fails to comply 710
with section 1349.16 of the Revised Code by doing any of the 711
following when opening a checking account intended for personal, 712
family, or household purposes at a financial institution: 713~~

~~(1) Falsely stating that the drawer has not been issued a 714
valid driver's or commercial driver's license or identification 715
card issued under section 4507.50 of the Revised Code; 716~~

~~(2) Furnishing such license or card, or another 717
identification document that contains false information; 718~~

~~(3) Making a false statement with respect to the drawer's 719
current address or any additional relevant information 720
reasonably required by the financial institution. 721~~

~~(E)~~ In determining the value of the payment for purposes 722
of division ~~(F)~~ (E) of this section, the court may aggregate all 723
checks and other negotiable instruments that the offender issued 724
or transferred or caused to be issued or transferred in 725
violation of division (A) of this section within a period of one 726
hundred eighty consecutive days. 727

~~(F)~~ (E) Whoever violates this section is guilty of passing 728
bad checks. Except as otherwise provided in this division, 729
passing bad checks is a misdemeanor of the first degree. If the 730
check or checks or other negotiable instrument or instruments 731
are issued or transferred to a single vendor or single other 732

person for the payment of one thousand dollars or more but less 733
than seven thousand five hundred dollars or if the check or 734
checks or other negotiable instrument or instruments are issued 735
or transferred to multiple vendors or persons for the payment of 736
one thousand five hundred dollars or more but less than seven 737
thousand five hundred dollars, passing bad checks is a felony of 738
the fifth degree. If the check or checks or other negotiable 739
instrument or instruments are for the payment of seven thousand 740
five hundred dollars or more but less than one hundred fifty 741
thousand dollars, passing bad checks is a felony of the fourth 742
degree. If the check or checks or other negotiable instrument or 743
instruments are for the payment of one hundred fifty thousand 744
dollars or more, passing bad checks is a felony of the third 745
degree. 746

Section 2. That existing sections 1321.52, 1322.01, 747
1322.07, 1322.09, 1322.12, 1322.29, and 2913.11 of the Revised 748
Code are hereby repealed. 749

Section 3. That sections 1349.16 and 1349.72 of the 750
Revised Code are hereby repealed. 751