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Representative Dever

Cosponsors: Representatives Anielski, Antonio, Craig, Hambley, Holmes, Hoops, Hughes, Lepore-Hagan, O'Brien, Patton, Perales, Reineke, Romanchuk, Ryan, Seitz, Smith, K., Thompson, West, Wiggam, Young

A BILL

To amend sections 1101.05, 1109.20, 1121.10, 1
1125.23, 1181.08, 1322.01, 1322.07, 1322.09, 2
1322.12, 1322.34, 1322.40, 1322.50, 1733.01, 3
1733.04, 1733.05, 1733.32, and 5726.04 and to 4
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 require registration of mortgage loan 12
servicers, and to require a specified notice be 13
given to a debtor for certain debt collection. 14

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

Section 1. That sections 1101.05, 1109.20, 1121.10, 15
1125.23, 1181.08, 1322.01, 1322.07, 1322.09, 1322.12, 1322.34, 16
1322.40, 1322.50, 1733.01, 1733.04, 1733.05, 1733.32, and 17

5726.04 be amended and sections 103.31, 1121.101, 1121.61, 18
1349.72, 1733.328, 1733.441, and 1733.53 of the Revised Code be 19
enacted to read as follows: 20

Sec. 103.31. (A) For the purpose of providing impartial, 21
accurate information to assist the general assembly in proposing 22
and evaluating legislation, the speaker of the house of 23
representatives or the president of the senate may, at any time, 24
request the director of the legislative service commission to 25
arrange for data analytics to be conducted on any publicly 26
available information regarding state banks, credit unions 27
organized under Chapter 1733. of the Revised Code, or entities 28
licensed or registered under Chapter 1321. or 1322. of the 29
Revised Code. 30

(B) The director may, in making the arrangement described 31
in division (A) of this section, retain economists, financial 32
analysts, and any other necessary professionals on a consulting 33
basis. 34

(C) As used in this section, "data analytics" means the 35
use of qualitative and quantitative techniques to examine data 36
to gain a better understanding of the data itself and the 37
organizations that produced it. 38

Sec. 1101.05. (A) Except as otherwise expressly provided, 39
the provisions of Chapters 1101. to 1127. of the Revised Code 40
and any rules adopted under those chapters: 41

~~(A)~~ (1) Are enforceable only by the superintendent of 42
financial institutions, the superintendent's designee, the 43
federal deposit insurance corporation, the federal reserve, or, 44
with respect to Chapter 1127. of the Revised Code, a prosecuting 45
attorney; and 46

~~(B)~~ (2) Do not create or provide a private right of action 47
or defense for or on behalf of any party other than the 48
superintendent or the superintendent's designee. 49

(B) Division (A) of this section does not apply with 50
respect to sections 1109.18 and 1109.20 of the Revised Code and 51
any rules adopted under those sections. 52

Sec. 1109.20. (A) A bank may contract for and receive 53
interest or finance charges at any rate or rates agreed upon or 54
consented to by the parties to the loan contract, extension of 55
credit, or revolving credit agreement, but not exceeding an 56
annual percentage rate of twenty-five per cent. In addition, a 57
bank may charge, collect, and receive, as interest, other fees 58
and charges that are agreed upon by the bank and the borrower, 59
including, but not limited to, periodic membership fees, cash 60
advance fees, charges for exceeding a designated credit limit, 61
charges for late payments, charges for the return of a 62
dishonored check or other payment instrument, guarantee fees, 63
origination fees, processing fees, application fees, and 64
prepayment fees. Any fees and charges charged, collected, or 65
received by a bank in accordance with this division shall not be 66
included in the computation of the annual percentage rate or the 67
rates of interest or finance charges for purposes of applying 68
the twenty-five per cent limitation. 69

The computation of the loan balance on which interest and 70
finance charges are assessed and the method of compounding 71
interest on the balance shall be as agreed upon by the bank and 72
the borrower. 73

(B) For the purposes of section 85 of the "National Bank 74
Act," 48 Stat. 191 (1933), 12 U.S.C.A. 85, and section 521 of 75
the "Depository Institutions Deregulation and Monetary Control 76

Act of 1980," 94 Stat. 132, 12 U.S.C.A. 1831d, both of the	77
following apply:	78
(1) All the interest and finance charges and other fees	79
and charges authorized under division (A) of this section are	80
deemed to be interest and may be charged, collected, and	81
received as interest by a bank.	82
(2) All terms, conditions, and other provisions authorized	83
by this section and other provisions contained in any agreement	84
with the borrower, including, but not limited to, terms,	85
conditions, and other provisions relating to the method of	86
determining the balance upon which interest or finance charges	87
are applied, time periods within which fees and charges may be	88
avoided, reasons for default and rights to cure any default,	89
rights to accelerate payments, account cancellation, choice of	90
law, and change-in-terms requirements, are deemed to be material	91
to the determination of the interest rate.	92
(C) Any agreement between a bank and a borrower, wherever	93
the borrower's place of residence, shall be governed solely by	94
the laws of this state and federal law, unless otherwise	95
provided for in the agreement.	96
(D) Subject to any requirements under applicable federal	97
law, a bank and a borrower may specify in their agreement any	98
terms and conditions for modifying or amending the agreement.	99
(E) Except as provided in section 1343.011 of the Revised	100
Code, the <u>The</u> charging, collection, or receipt of the interest	101
and finance charges, and other fees and charges authorized under	102
this section are deemed not to violate any provision of the	103
Revised Code that prescribes, regulates, or limits any fee,	104
charge, rate of interest, or finance charges.	105

Sec. 1121.10. (A) ~~As~~ Except as otherwise provided in 106
section 1121.101 of the Revised Code, as often 107
superintendent of financial institutions considers necessary, 108
but at least once each twenty-four-month cycle, the 109
superintendent, or any deputy or examiner appointed by the 110
superintendent for that purpose, shall thoroughly examine the 111
records and affairs of each state bank. The examination shall 112
include a review of all of the following: 113

- (1) Compliance with law; 114
- (2) Safety and soundness; 115
- (3) Other matters the superintendent determines. 116

(B) The superintendent may examine the records and affairs 117
of any of the following as the superintendent considers 118
necessary: 119

- (1) Any party to a proposed reorganization for which the 120
superintendent's approval is required by section 1115.11 or 121
1115.14 of the Revised Code; 122
- (2) Any bank, savings and loan association, or savings 123
bank proposing to convert to a bank doing business under 124
authority granted by the superintendent for which the 125
superintendent's approval is required by section 1115.02 of the 126
Revised Code; 127
- (3) Any person proposing to acquire control of a state 128
bank for which the superintendent's approval is required by 129
section 1115.06 of the Revised Code, or who acquired control of 130
a state bank without the approval of the superintendent when 131
that approval was required by section 1115.06 of the Revised 132
Code, with respect to the state bank of which control is to be, 133
or was, acquired; 134

(4) Any bank proposing to establish or acquire a branch 135
for which the superintendent's approval is required by section 136
1117.02 of the Revised Code; 137

(5) Any foreign bank that maintains, or proposes to 138
establish, one or more offices in this state; 139

(6) Any trust company. 140

(C) The board of directors or holders of a majority of the 141
shares of a state bank or trust company may request the 142
superintendent conduct a special examination of the records and 143
affairs of the bank or trust company. The superintendent has 144
sole discretion over the scope and timing of a special 145
examination, and may impose restrictions and limitations on the 146
use of the results of a special examination in addition to the 147
restrictions and limitations otherwise imposed by law. The fee 148
for a special examination shall be paid by the bank or trust 149
company examined in accordance with section 1121.29 of the 150
Revised Code. 151

(D) The superintendent may conduct all aspects of an 152
examination concurrently or may divide the examination into 153
constituent parts and conduct them at various times. 154

(E) The superintendent shall preserve the report of each 155
examination, including related correspondence received and 156
copies of related correspondence sent, for ten years after the 157
examination date. 158

Sec. 1121.101. (A) Notwithstanding section 1121.10 of the 159
Revised Code, and subject to division (B) of this section, the 160
superintendent of financial institutions shall not conduct an 161
examination of a state bank more frequently than once every 162
twenty-four-month cycle, if the bank meets both of the following 163

<u>conditions:</u>	164
<u>(1) It has assets of ten billion dollars or less.</u>	165
<u>(2) Under the uniform financial institutions rating system, it maintains a composite rating of one.</u>	166 167
<u>(B) The superintendent may conduct more frequent examinations if either of the following applies:</u>	168 169
<u>(1) The superintendent has reasonable cause to believe that there is a risk of harm to the bank and the examination of the bank is necessary to fully determine the risk to the bank or to determine how best to address the risk.</u>	170 171 172 173
<u>(2) The superintendent participates with financial institution regulatory authorities of other states or the United States in a joint, concurrent, or coordinated examination.</u>	174 175 176
<u>(C) A bank's composite rating used for purposes of division (A) (2) of this section is not a public record under section 149.43 of the Revised Code.</u>	177 178 179
<u>Sec. 1121.61. (A) As used in this section, "bona fide error" means an unintentional clerical, calculation, computer malfunction or programming, or printing error.</u>	180 181 182
<u>(B) A state bank, trust company, or regulated person shall not be held civilly liable in any action brought under Title XI or under Chapter 1309., 1317., or 1345. of the Revised Code, and shall not be subject to any sanction by the superintendent of financial institutions, if all of the following conditions are met:</u>	183 184 185 186 187 188
<u>(1) The bank, trust company, or person shows by a preponderance of evidence that the compliance failure was not intentional and resulted from a bona fide error notwithstanding</u>	189 190 191

the maintenance of procedures reasonably adapted to avoid any 192
such error. 193

(2) Within sixty days after discovering the error, and 194
prior to the initiation of any action by the superintendent or 195
the receipt of written notice of the error from the consumer, 196
the bank, trust company, or person notifies the superintendent 197
and the consumer of the error and the manner in which the bank, 198
trust company, or person intends to make full restitution to the 199
consumer. 200

(3) The bank, trust company, or person promptly makes 201
reasonable restitution to the consumer. 202

(C) If, in the event of a compliance failure, the bank, 203
trust company, or regulated person does not meet the conditions 204
set forth in division (B) of this section, a consumer injured by 205
the error has a cause of action to recover damages. Such an 206
action may not, however, be maintained as a class action. 207

Sec. 1125.23. (A) The receiver shall promptly cause notice 208
of the claims procedure to be published, in print or in a 209
comparable electronic format, once a month for two consecutive 210
months in a local newspaper of general circulation and to be 211
mailed to each person whose name appears as a creditor upon the 212
books of the state bank, at the last address of record. 213

(B) (1) All parties having claims of any kind against the 214
bank, including prior judgments and claims of security, 215
preference, priority, and offset, shall present their claims 216
substantiated by legal proof to the receiver within one hundred 217
eighty days after the date of the first publication of notice of 218
the claims procedure or after actual receipt of notice of the 219
claims procedure, whichever occurs first. 220

(2) Within one hundred eighty days after receipt of a 221
claim, the receiver shall notify the claimant in writing whether 222
the claim has been allowed or disallowed. The receiver may 223
reject any claim in whole or in part, or may reject any claim of 224
security, preference, priority, or offset against the bank. Any 225
claimant whose claim has been rejected by the receiver shall 226
petition the court for a hearing on the claim within sixty days 227
after the date the notice was mailed or be forever barred from 228
asserting the rejected claim. 229

(C) Any claims filed after the claim period and 230
subsequently accepted by the receiver or allowed by the court, 231
shall be entitled to share in the distribution of assets only to 232
the extent of the undistributed assets in the hands of the 233
receiver on the date the claims are accepted or allowed. 234

Sec. 1181.08. (A) In addition to the specific authority 235
given the superintendent of financial institutions by other 236
provisions of the Revised Code, the superintendent may from time 237
to time adopt such rules as the superintendent considers 238
necessary or appropriate for the administration of the division 239
of financial institutions or to carry out any other duty of the 240
superintendent. 241

(B) The superintendent shall not adopt any rule that has a 242
retroactive effective date or apply any rule to conduct that 243
took place exclusively before the effective date of that rule. 244

Sec. 1322.01. As used in this chapter: 245

(A) "Administrative or clerical tasks" mean the receipt, 246
collection, and distribution of information common for the 247
processing or underwriting of a loan in the mortgage industry, 248
without performing any analysis of the information, and 249

communication with a consumer to obtain information necessary	250
for the processing or underwriting of a residential mortgage	251
loan.	252
(B) "Advertising" means a commercial message in any medium	253
that promotes, either directly or indirectly, a residential	254
mortgage lending transaction.	255
(C) "Application" has the same meaning as in 12 C.F.R.	256
1026.2(a)(3).	257
(D) "Approved education course" means any course approved	258
by the nationwide mortgage licensing system and registry.	259
(E) "Approved test provider" means any test provider	260
approved by the nationwide mortgage licensing system and	261
registry.	262
(F) "Borrower" means a person seeking a residential	263
mortgage loan or an obligor on a residential mortgage loan.	264
(G) "Branch office" means a location at which a licensee	265
conducts business other than a registrant's principal place of	266
business, if at least one of the following applies to the	267
location:	268
(1) The address of the location appears on business cards,	269
stationery, or advertising used by the registrant;	270
(2) The registrant's name or advertising at the location	271
suggests that mortgage transactions are made at the location;	272
(3) The location is held out to the public as a licensee's	273
place of business due to the actions of an employee or	274
independent contractor of the registrant; or	275
(4) The location within this state is controlled directly	276

or indirectly by the registrant.	277
(H) "Buyer" means an individual who is solicited to	278
purchase or who purchases the services of a mortgage loan	279
originator for purposes of obtaining a residential mortgage	280
loan. <u>"Buyer" includes an individual whose mortgage loan is</u>	281
<u>serviced by a mortgage servicer.</u>	282
(I) "Consumer reporting agency" has the same meaning as in	283
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A.	284
1681a, as amended.	285
(J) "Control" means the power, directly or indirectly, to	286
direct the management or policies of an entity, whether through	287
ownership of securities, by contract, or otherwise. A person is	288
presumed to control an entity if that person:	289
(1) Is a director, general partner, or executive officer	290
or is an individual that occupies a similar position or performs	291
a similar function;	292
(2) Directly or indirectly has the right to vote five per	293
cent or more of a class of a voting security or has the power to	294
sell or direct the sale of five per cent or more of a class of	295
voting securities;	296
(3) In the case of a limited liability company, is a	297
managing member; or	298
(4) In the case of a partnership, has the right to receive	299
upon dissolution or has contributed five per cent or more of the	300
capital.	301
(K) "Depository institution" has the same meaning as in	302
section 3 of the "Federal Deposit Insurance Act," 12 U.S.C.	303
1813(c), and also includes any credit union.	304

(L) "Dwelling" has the same meaning as in 15 U.S.C. 305
1602(w). "Dwelling" includes a single condominium unit, 306
cooperative unit, mobile home, and trailer, if it is used as a 307
residence, whether or not that structure is attached to real 308
property. 309

(M) "Employee" means an individual for whom a mortgage 310
broker or mortgage lender, in addition to providing a wage or 311
salary, pays social security and unemployment taxes, provides 312
workers' compensation coverage, and withholds local, state, and 313
federal income taxes. "Employee" also includes any individual 314
who acts as a mortgage loan originator or operations manager of 315
a registrant, but for whom the registrant is prevented by law 316
from making income tax withholdings. 317

(N) "Entity" means a business organization, including a 318
sole proprietorship. 319

(O) "Expungement" means a court-ordered process that 320
involves the destruction of documentation related to past 321
arrests and convictions. 322

(P) "Federal banking agency" means the board of governors 323
of the federal reserve system, the comptroller of the currency, 324
the national credit union administration, or the federal deposit 325
insurance corporation. 326

(Q) "Immediate family" means an individual's spouse, 327
child, stepchild, parent, stepparent, grandparent, grandchild, 328
brother, sister, parent-in-law, brother-in-law, or sister-in- 329
law. 330

(R) "Independent contractor" means an individual who 331
performs duties for another person and is not subject to that 332
person's supervision or control. 333

(S) "Individual" means a natural person.	334
(T) "Licensee" means any individual who has been issued a mortgage loan originator license under this chapter.	335 336
(U) "Loan commitment" means a statement transmitted in writing or electronically by a mortgage lender setting forth the terms and conditions upon which the mortgage lender is willing to make a particular residential mortgage loan to a particular borrower.	337 338 339 340 341
(V) "Loan processor or underwriter" means an individual who, with respect to the origination of a residential mortgage loan, performs administrative or clerical tasks as an employee at the direction of and subject to the supervision of a mortgage lender or mortgage broker. For purposes of this division, "origination of a residential mortgage loan" means all activities related to a residential mortgage loan, from the taking of a loan application through the completion of all required loan closing documents and the funding of the loan.	342 343 344 345 346 347 348 349 350
(W) "Mortgage" means the consensual interest in real property located in this state, including improvements to that property, securing a debt evidence by a mortgage, trust indenture, deed of trust, or other lien on real property.	351 352 353 354
(X) "Mortgage broker" means an entity that obtains, attempts to obtain, or assists in obtaining a mortgage loan for a borrower from a mortgage lender in return for consideration or in anticipation of consideration. For purposes of this division, "attempting to obtain or assisting in obtaining" a mortgage loan includes referring a borrower to a mortgage lender, soliciting or offering to solicit a mortgage loan on behalf of a borrower, or negotiating or offering to negotiate the terms or conditions	355 356 357 358 359 360 361 362

of a mortgage loan with a mortgage lender on behalf of a 363
borrower. 364

(Y) "Mortgage lender" means an entity that consummates a 365
residential mortgage loan, advances funds, offers to advance 366
funds, or commits to advancing funds for a residential mortgage 367
loan applicant. 368

(Z) (1) "Mortgage loan originator" means an individual who 369
for compensation or gain, or in the expectation of compensation 370
or gain, does any of the following: 371

(a) Takes a residential mortgage loan application; 372

(b) Assists or offers to assist a buyer in obtaining or 373
applying to obtain a residential mortgage loan by, among other 374
things, advising on loan terms, including rates, fees, and other 375
costs; 376

(c) Offers or negotiates terms of a residential mortgage 377
loan; 378

(d) Issues or offers to issue a commitment for a 379
residential mortgage loan to a buyer. 380

(2) "Mortgage loan originator" does not include any of the 381
following: 382

(a) An individual who performs purely administrative or 383
clerical tasks on behalf of a mortgage loan originator; 384

(b) A person licensed under Chapter 4735. of the Revised 385
Code, or under the similar law of another state, who performs 386
only real estate brokerage activities permitted by that license, 387
provided the person is not compensated by a mortgage lender, 388
mortgage broker, mortgage loan originator, or by any agent 389
thereof; 390

(c) A person solely involved in extensions of credit	391
relating to timeshare plans, as that term is defined in 11	392
U.S.C. 101;	393
(d) An employee of a mortgage lender or mortgage broker	394
who acts solely as a loan processor or underwriter and who does	395
not represent to the public, through advertising or other means	396
of communicating, including the use of business cards,	397
stationery, brochures, signs, rate lists, or other promotional	398
items, that the employee can or will perform any of the	399
activities of a mortgage loan originator;	400
(e) A licensed attorney who negotiates the terms of a	401
residential mortgage loan on behalf of a client as an ancillary	402
matter to the attorney's representation of the client, unless	403
the attorney is compensated by a mortgage lender, a mortgage	404
broker, or another mortgage loan originator, or by any agent	405
thereof;	406
(f) Any person engaged in the retail sale of manufactured	407
homes, mobile homes, or industrialized units if, in connection	408
with financing those retail sales, the person only assists the	409
borrower by providing or transmitting the loan application and	410
does not do any of the following:	411
(i) Offer or negotiate the residential mortgage loan rates	412
or terms;	413
(ii) Provide any counseling with borrowers about	414
residential mortgage loan rates or terms;	415
(iii) Receive any payment or fee from any company or	416
individual for assisting the borrower obtain or apply for	417
financing to purchase the manufactured home, mobile home, or	418
industrialized unit;	419

(iv) Assist the borrower in completing a residential mortgage loan application. 420
421

(g) An individual employed by a nonprofit organization 422
that is recognized as tax exempt under 26 U.S.C. 501(c)(3) and 423
whose primary activity is the construction, remodeling, or 424
rehabilitation of homes for use by low-income families, provided 425
that the nonprofit organization makes no-profit mortgage loans 426
or mortgage loans at zero per cent interest to low-income 427
families and no fees accrue directly to the nonprofit 428
organization or individual employed by the nonprofit 429
organization from those mortgage loans and that the United 430
States department of housing and urban development does not deny 431
this exemption. 432

(AA) "Mortgage servicer" means an entity that, for itself 433
or on behalf of the holder of a mortgage loan, holds the 434
servicing rights, records mortgage payments on its books, or 435
performs other functions to carry out the mortgage holder's 436
obligations or rights under the mortgage agreement including, 437
when applicable, the receipt of funds from the mortgagor to be 438
held in escrow for payment of real estate taxes and insurance 439
premiums and the distribution of such funds to the taxing 440
authority and insurance company. 441

(BB) "Nationwide mortgage licensing system and registry" 442
means a licensing system developed and maintained by the 443
conference of state bank supervisors and the American 444
association of residential mortgage regulators, or their 445
successor entities, for the licensing and registration of 446
persons providing non-depository financial services. 447

~~(BB)~~ (CC) "Nontraditional mortgage product" means any 448
mortgage product other than a thirty-year fixed rate mortgage. 449

~~(CC)~~ (DD) "Person" means an individual, sole 450
proprietorship, corporation, company, limited liability company, 451
partnership, limited liability partnership, trust, or 452
association. 453

~~(DD)~~ (EE) "Real estate brokerage activity" means any 454
activity that involves offering or providing real estate 455
brokerage services to the public, including all of the 456
following: 457

(1) Acting as a real estate salesperson or real estate 458
broker for a buyer, seller, lessor, or lessee of real property; 459

(2) Bringing together parties interested in the sale, 460
purchase, lease, rental, or exchange of real property; 461

(3) Negotiating, on behalf of any party, any portion of a 462
contract relating to the sale, purchase, lease, rental, or 463
exchange of real property, other than in connection with 464
providing financing for any such transaction; 465

(4) Engaging in any activity for which a person engaged in 466
that activity is required to be licensed as a real estate 467
salesperson or real estate broker under the law of this state; 468

(5) Offering to engage in any activity, or to act in any 469
capacity, described in division ~~(DD)~~ (EE) of this section. 470

~~(EE)~~ (FF) "Registered mortgage loan originator" means an 471
individual to whom both of the following apply: 472

(1) The individual is a mortgage loan originator and an 473
employee of a depository institution, a subsidiary that is owned 474
and controlled by a depository institution and regulated by a 475
federal banking agency, or an institution regulated by the farm 476
credit administration. 477

(2) The individual is registered with, and maintains a 478
unique identifier through, the nationwide mortgage licensing 479
system and registry. 480

~~(FF)~~(GG) "Registrant" means any person that has been 481
issued a certificate of registration under this chapter. 482

~~(GG)~~(HH) "Residential mortgage loan" means any loan that 483
meets both of the following requirements: 484

(1) It is primarily for personal, family, or household use 485
and is secured by a mortgage, deed of trust, or other equivalent 486
consensual security interest on a dwelling or on residential 487
real estate located in Ohio. 488

(2) It is provided and secured by a first lien holder 489
secured creditor or by a second lien holder secured creditor. 490

~~(HH)~~(II) "Residential real estate" means any real 491
property located in this state upon which is constructed a 492
dwelling or upon which a dwelling is intended to be built within 493
a two-year period, subject to 24 C.F.R. 3500.5(b)(4). For 494
purposes of this division, a borrower's intent to build a 495
dwelling within a two-year period is presumed unless the 496
borrower has submitted a written, signed statement to the 497
contrary. 498

~~(II)~~(JJ) "Superintendent of financial institutions" 499
includes the deputy superintendent for consumer finance as 500
provided in section 1181.21 of the Revised Code. 501

~~(JJ)~~(KK) "Unique identifier" means a number or other 502
identifier assigned by protocols established by the nationwide 503
mortgage licensing system and registry. 504

Sec. 1322.07. (A) No person, on the person's own behalf or 505

on behalf of any other person, shall act as a mortgage lender, mortgage servicer, or mortgage broker without first having obtained a certificate of registration from the superintendent of financial institutions for the principal office and every branch office to be maintained by the person for the transaction of business as a mortgage lender, mortgage servicer, or mortgage broker in this state. A registrant shall maintain an office location for the transaction of business as a mortgage lender, mortgage servicer, or mortgage broker in this state.

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

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

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

Sec. 1322.09. (A) An application for a certificate of registration shall be in writing, under oath, and in a form prescribed by the superintendent of financial institutions that complies with the requirements of the nationwide mortgage

licensing system and registry. The application shall be 536
accompanied by a nonrefundable application fee of five hundred 537
dollars for each location of an office to be maintained by the 538
applicant in accordance with division (A) of section 1322.07 of 539
the Revised Code and any additional fee required by the 540
nationwide mortgage licensing system and registry. 541

(B) Upon the filing of the application and payment of the 542
nonrefundable application fee and any fee required by the 543
nationwide mortgage licensing system and registry, the 544
superintendent shall investigate the applicant and any 545
individual whose identity is required to be disclosed in the 546
application. As part of that investigation, the superintendent 547
shall conduct a civil records check. 548

If, in order to issue a certificate of registration to an 549
applicant, additional investigation by the superintendent 550
outside this state is necessary, the superintendent may require 551
the applicant to advance sufficient funds to pay the actual 552
expenses of the investigation, if it appears that these expenses 553
will exceed five hundred dollars. The superintendent shall 554
provide the applicant with an itemized statement of the actual 555
expenses that the applicant is required to pay. 556

(C) In connection with applying for a certificate of 557
registration, the applicant shall furnish to the nationwide 558
mortgage licensing system and registry information concerning 559
the applicant's identity, including all of the following: 560

(1) The applicant's fingerprints for submission to the 561
federal bureau of investigation, and any other governmental 562
agency or entity authorized to receive such information, for 563
purposes of a state, national, and international criminal 564
history background check; 565

(2) Personal history and experience in a form prescribed	566
by the nationwide mortgage licensing system and registry, along	567
with authorization for the superintendent and the nationwide	568
mortgage licensing system and registry to obtain both of the	569
following:	570
(a) An independent credit report from a consumer reporting	571
agency;	572
(b) Information related to any administrative, civil, or	573
criminal findings by any governmental jurisdiction.	574
(D) The superintendent shall pay all funds advanced and	575
application and renewal fees and penalties the superintendent	576
receives pursuant to this section and section 1322.10 of the	577
Revised Code to the treasurer of state to the credit of the	578
consumer finance fund created in section 1321.21 of the Revised	579
Code.	580
(E) If an application for a certificate of registration	581
does not contain all of the information required under this	582
section, and if that information is not submitted to the	583
superintendent or to the nationwide mortgage licensing system	584
and registry within ninety days after the superintendent or the	585
nationwide mortgage licensing system and registry requests the	586
information in writing, including by electronic transmission or	587
facsimile, the superintendent may consider the application	588
withdrawn.	589
(F) A certificate of registration and the authority	590
granted under that certificate is not transferable or assignable	591
and cannot be franchised by contract or any other means.	592
(G) (1) The superintendent may establish relationships or	593
enter into contracts with the nationwide mortgage licensing	594

system and registry, or any entities designated by it, to 595
collect and maintain records and process transaction fees or 596
other fees related to mortgage lender, mortgage servicer, or 597
mortgage broker certificates of registration or the persons 598
associated with a mortgage lender, mortgage servicer, or 599
mortgage broker. 600

(2) For purposes of this section and to reduce the points 601
of contact that the federal bureau of investigation may have to 602
maintain, the division of financial institutions may use the 603
nationwide mortgage licensing system and registry as a 604
channeling agent for requesting information from and 605
distributing information to the United States department of 606
justice or other governmental agencies. 607

(3) For purposes of this section and to reduce the points 608
of contact that the division may have to maintain, the division 609
may use the nationwide mortgage licensing system and registry as 610
a channeling agent for requesting information from and 611
distributing information to any source as determined by the 612
division. 613

Sec. 1322.12. Each registrant or entity holding a valid 614
letter of exemption under division (B) (1) of section 1322.05 of 615
the Revised Code shall designate an employee or owner of that 616
registrant's business as the operations manager. The operations 617
manager shall be responsible for the management, supervision, 618
and control of a particular location. 619

To be eligible for such a designation, an employee or 620
owner shall have at least three years of experience as a 621
mortgage loan originator or registered mortgage loan originator. 622
While acting as the operations manager, the employee or owner 623
shall be licensed as a mortgage loan originator under this 624

chapter and shall not be employed by any other mortgage lender 625
or mortgage broker. This paragraph shall not apply to the 626
designated operations manager of an entity registered 627
exclusively as a mortgage servicer. 628

Sec. 1322.34. (A) As often as the superintendent of 629
financial institutions considers it necessary, the 630
superintendent may examine the registrant's or licensee's 631
records, including all records created or processed by a 632
licensee, pertaining to business transacted pursuant to this 633
chapter. 634

(B) A registrant or licensee shall maintain records 635
pertaining to business transacted pursuant to this chapter for 636
four years. For purposes of this division, "registrant or 637
licensee" includes any person whose certificate of registration 638
or license is cancelled, surrendered, or revoked or who 639
otherwise ceases to engage in business as a mortgage lender, 640
mortgage servicer, mortgage broker, or mortgage loan originator. 641

No registrant or licensee shall fail to comply with this 642
division. 643

(C) Each registrant, licensee, and entity holding a valid 644
letter of exemption under division (B) (1) of section 1322.05 of 645
the Revised Code shall submit to the nationwide mortgage 646
licensing system and registry call reports or other reports of 647
condition, which reports shall be in such form and shall contain 648
such information as the nationwide mortgage licensing system and 649
registry may require. Each registrant and entity holding a valid 650
letter of exemption under division (B) (1) of section 1322.05 of 651
the Revised Code shall ensure that all residential mortgage 652
loans that are consummated as a result of a mortgage loan 653
originator's loan origination activities are included in the 654

report of condition submitted to the nationwide mortgage 655
licensing system and registry. 656

(D) Any document or record that is required to be signed 657
and that is filed in this state as an electronic record through 658
the nationwide mortgage licensing system and registry, and any 659
other electronic record filed through the nationwide mortgage 660
licensing system and registry, shall be considered a valid 661
original document upon reproduction to paper form by the 662
division of financial institutions. 663

Sec. 1322.40. No registrant, licensee, or person required 664
to be registered or licensed under this chapter, or individual 665
disclosed in an application as required by this chapter, shall 666
do any of the following: 667

(A) Obtain a certificate of registration or mortgage loan 668
originator license through any false or fraudulent 669
representation of a material fact or any omission of a material 670
fact required by state law, or make any substantial 671
misrepresentation in any registration or license application; 672

(B) Make false or misleading statements of a material 673
fact, omissions of statements required by state or federal law, 674
or false promises regarding a material fact, through advertising 675
or other means, or engage in a continued course of 676
misrepresentations; 677

(C) Engage in conduct that constitutes improper, 678
fraudulent, or dishonest dealings; 679

(D) Fail to notify the division of financial institutions 680
within thirty days after any of the following: 681

(1) Being convicted of or pleading guilty or nolo 682
contendere to a felony in a domestic, foreign, or military 683

court; 684

(2) Being convicted of or pleading guilty or nolo
contendere to any criminal offense involving theft, receiving 685
stolen property, embezzlement, forgery, fraud, passing bad 686
checks, money laundering, breach of trust, dishonesty, or drug 687
trafficking, or any criminal offense involving money or 688
securities, in a domestic, foreign, or military court; 689
690

(3) Having a mortgage lender, mortgage servicer, or 691
mortgage broker certificate of registration or mortgage loan 692
originator license, or any comparable authority, revoked in any 693
governmental jurisdiction. 694

(E) Knowingly make, propose, or solicit fraudulent, false, 695
or misleading statements on any mortgage loan document or on any 696
document related to a mortgage loan, including a mortgage 697
application, real estate appraisal, or real estate settlement or 698
closing document. For purposes of this division, "fraudulent, 699
false, or misleading statements" does not include mathematical 700
errors, inadvertent transposition of numbers, typographical 701
errors, or any other bona fide error. 702

(F) Knowingly instruct, solicit, propose, or otherwise 703
cause a buyer to sign in blank a mortgage related document; 704

(G) Knowingly compensate, instruct, induce, coerce, or 705
intimidate, or attempt to compensate, instruct, induce, coerce, 706
or intimidate, a person licensed or certified under Chapter 707
4763. of the Revised Code for the purpose of corrupting or 708
improperly influencing the independent judgment of the person 709
with respect to the value of the dwelling offered as security 710
for repayment of a mortgage loan; 711

(H) Promise to refinance a loan in the future at a lower 712

interest rate or with more favorable terms, unless the promise 713
is set forth in writing and is initialed by the buyer; 714

(I) Engage in any unfair, deceptive, or unconscionable act 715
or practice prohibited under sections 1345.01 to 1345.13 of the 716
Revised Code. 717

Sec. 1322.50. (A) After notice and opportunity for a 718
hearing conducted in accordance with Chapter 119. of the Revised 719
Code, the superintendent of financial institutions may do the 720
following: 721

(1) Suspend, revoke, or refuse to issue or renew a 722
certificate of registration or license if the superintendent 723
finds any of the following: 724

(a) A violation of or failure to comply with any provision 725
of this chapter or the rules adopted under this chapter, federal 726
lending law, or any other law applicable to the business 727
conducted under a certificate of registration or license; 728

(b) A conviction of or guilty or nolo contendere plea to a 729
felony in a domestic, foreign, or military court; 730

(c) A conviction of or guilty or nolo contendere plea to 731
any criminal offense involving theft, receiving stolen property, 732
embezzlement, forgery, fraud, passing bad checks, money 733
laundering, breach of trust, dishonesty, or drug trafficking, or 734
any criminal offense involving money or securities, in a 735
domestic, foreign, or military court; 736

(d) The revocation of a certificate of registration or 737
mortgage loan originator license, or any comparable authority, 738
in any governmental jurisdiction. 739

(2) Impose a fine of not more than one thousand dollars, 740

for each day a violation of a law or rule is committed, 741
repeated, or continued. If the registrant or licensee engages in 742
a pattern of repeated violations of a law or rule, the 743
superintendent may impose a fine of not more than two thousand 744
dollars for each day the violation is committed, repeated, or 745
continued. All fines collected pursuant to this division shall 746
be paid to the treasurer of state to the credit of the consumer 747
finance fund created in section 1321.21 of the Revised Code. In 748
determining the amount of a fine to be imposed pursuant to this 749
division, the superintendent may consider all of the following, 750
to the extent known by the division of financial institutions: 751

- (a) The seriousness of the violation; 752
- (b) The registrant's or licensee's good faith efforts to 753
prevent the violation; 754
- (c) The registrant's or licensee's history regarding 755
violations and compliance with division orders; 756
- (d) The registrant's or licensee's financial resources; 757
- (e) Any other matters the superintendent considers 758
appropriate in enforcing this chapter. 759

(B) The superintendent may investigate alleged violations 760
of this chapter or the rules adopted under this chapter or 761
complaints concerning any violation. 762

- (1) The superintendent may make application to the court 763
of common pleas for an order enjoining any violation and, upon a 764
showing by the superintendent that a person has committed or is 765
about to commit that violation, the court shall grant an 766
injunction, restraining order, or other appropriate relief. 767
- (2) The superintendent may make application to the court 768

of common pleas for an order enjoining any person from acting as 769
a mortgage lender, mortgage servicer, mortgage broker, 770
registrant, mortgage loan originator, or licensee in violation 771
of division (A) or (B) of section 1322.07 of the Revised Code, 772
and may seek and obtain civil penalties for unregistered or 773
unlicensed conduct of not more than five thousand dollars per 774
violation. 775

(C) In conducting any investigation pursuant to this 776
section, the superintendent may compel, by subpoena, witnesses 777
to testify in relation to any matter over which the 778
superintendent has jurisdiction and may require the production 779
of any book, record, or other document pertaining to that 780
matter. If a person fails to file any statement or report, obey 781
any subpoena, give testimony, produce any book, record, or other 782
document as required by a subpoena, or permit photocopying of 783
any book, record, or other document subpoenaed, the court of 784
common pleas of any county in this state, upon application made 785
to it by the superintendent, shall compel obedience by 786
attachment proceedings for contempt, as in the case of 787
disobedience of the requirements of a subpoena issued from the 788
court or a refusal to testify therein. 789

(D) If the superintendent determines that a person is 790
engaged in or is believed to be engaged in activities that may 791
constitute a violation of this chapter or any rule adopted 792
thereunder, the superintendent, after notice and a hearing 793
conducted in accordance with Chapter 119. of the Revised Code, 794
may issue a cease and desist order. If the administrative action 795
is to enjoin a person from acting as a mortgage lender, mortgage 796
servicer, mortgage broker, or mortgage loan originator in 797
violation of division (A) or (B) of section 1322.07 of the 798
Revised Code, the superintendent may seek and impose fines for 799

that conduct in an amount not to exceed five thousand dollars 800
per violation. Such an order shall be enforceable in the court 801
of common pleas. 802

(E) If the superintendent revokes a certificate of 803
registration or mortgage loan originator license, the revocation 804
shall be permanent and with prejudice. 805

(F) (1) To protect the public interest, the superintendent 806
may, without a prior hearing, do any of the following: 807

(a) Suspend the certificate of registration or mortgage 808
loan originator license of a registrant or licensee who is 809
convicted of or pleads guilty or nolo contendere to a criminal 810
violation of any provision of this chapter or any criminal 811
offense described in division (A) (1) (b) or (c) of this section; 812

(b) Suspend the certificate of registration of a 813
registrant who violates division (F) of section 1322.32 of the 814
Revised Code; 815

(c) Suspend the certificate of registration or mortgage 816
loan originator license of a registrant or licensee who fails to 817
comply with a request made by the superintendent under section 818
1322.09 or 1322.20 of the Revised Code to inspect qualifying 819
education transcripts located at the registrant's or licensee's 820
place of business. 821

(2) The superintendent may, in accordance with Chapter 822
119. of the Revised Code, subsequently revoke any registration 823
or license suspended under division (F) (1) of this section. 824

(G) The imposition of fines under this section does not 825
preclude any penalty imposed under section 1322.99 of the 826
Revised Code. 827

Sec. 1349.72. (A) Before a person collecting a debt 828
secured by residential real property collects or attempts to 829
collect any part of the debt, the person shall first send a 830
written notice as described in division (B) of this section via 831
United States mail to the residential address of the debtor, if 832
both of the following apply: 833

(1) The debt is a second mortgage or junior lien on the 834
debtor's residential real property. 835

(2) The debt is in default. 836

(B) The written notice shall be printed in at least 837
twelve-point type and state the following: 838

(1) The name and contact information of the person 839
collecting the debt; 840

(2) The amount of the debt; 841

(3) A statement that the debtor has a right to an 842
attorney; 843

(4) A statement that the debtor may qualify for debt 844
relief under Chapter 7 or 13 of the United States Bankruptcy 845
Code, 11 U.S.C. Chapter 7 or 13, as amended; 846

(5) A statement that a debtor that qualifies under Chapter 847
13 of the United States Bankruptcy Code may be able to protect 848
their residential real property from foreclosure. 849

(C) Upon written request of the debtor, the owner of the 850
debt shall provide a copy of the note and the loan history to 851
the debtor. 852

(D) (1) As used in this division, "bona fide error" means 853
an unintentional clerical, calculation, computer malfunction or 854

programming, or printing error. 855

(2) Any owner of debt subject to divisions (A), (B), and 856
(C) of this section shall not be held civilly liable in any 857
action, if all of the following are met: 858

(a) The owner of the debt shows by a preponderance of 859
evidence that the compliance failure was not intentional and 860
resulted from a bona fide error notwithstanding the maintenance 861
of procedures reasonably adapted to avoid any such error. 862

(b) Within sixty days after discovering the error, and 863
prior to the initiation of any action, the owner of the debt 864
notifies the debtor of the error and the manner in which the 865
owner of the debt intends to make full restitution to the 866
debtor. 867

(c) The owner of the debt promptly makes reasonable 868
restitution to the debtor. 869

(3) If, in the event of a compliance failure, the owner of 870
the debt does not meet the conditions set forth in division (D) 871
(2) of this section, a debtor injured by the error has a cause 872
of action to recover damages. Such an action shall not, however, 873
be maintained as a class action. 874

Sec. 1733.01. As used in this chapter, unless the context 875
otherwise requires: 876

(A) "Credit union" means a corporation organized and 877
qualified as such under this chapter. In addition to the powers 878
enumerated in this chapter and unless restricted in this 879
chapter, every credit union has the general powers conferred 880
upon corporations by Chapter 1701. of the Revised Code. A credit 881
union is a nonprofit cooperative financial institution and as 882
such is organized and operates for the mutual benefit and 883

general welfare of its members with the earnings, savings, 884
benefits, or services of the credit union being distributed to 885
its members as patron savers and borrowers and not to its 886
members as individuals. 887

(B) "Corporate credit union" means a credit union, 888
eligibility for membership in which is being a credit union 889
qualified to do business in this state. Such credit union shall 890
use the term "corporate" in its official name. 891

(C) "Foreign credit union" means a credit union formed 892
under the laws of another state which are substantially similar 893
to this chapter. 894

(D) "Member" means a person who is a member of a credit 895
union. 896

(E) "Association member" means any member of a credit 897
union other than a credit union or an individual member. 898

(F) "Voting member" means an association member or an 899
individual member who is qualified to vote as provided by law, 900
the articles, or the regulations. 901

(G) "Person" includes, without limitation, an individual, 902
a corporation, an unincorporated society or association, or any 903
other organization of individuals. 904

(H) "Articles" includes original articles of 905
incorporation, agreements of merger, amended articles, and 906
amendments to any of these. 907

(I) "Regulations" includes the code of regulations of a 908
credit union and any amendments thereto or an amended code of 909
regulations and any amendments thereto. 910

(J) Persons having a "common bond of association" include 911

those persons and their families. 912

(K) ~~"Membership share" means a share of the credit union,~~ 913
~~the subscription to which shall be a prerequisite for membership~~ 914
~~in the credit union.~~ 915

~~(L)~~ "Share account" means an account established for a 916
member for which no share certificates are issued but which are 917
included in the registry of shares, which includes all 918
transactions of the credit union pertaining to such shares. 919

~~(M)~~ ~~(L)~~ "Undivided earnings" consist of all accumulated 920
net earnings and reserves required under division (B) of section 921
1733.31 of the Revised Code. 922

~~(N)~~ ~~(M)~~ "State" means the United States, any state, 923
territory, insular possession, or other political subdivision of 924
the United States, including the District of Columbia. 925

~~(O)~~ ~~(N)~~ An "emergency" exists when an emergency exists for 926
other corporations as the same is defined and described in 927
section 1701.01 of the Revised Code. 928

~~(P)~~ ~~(O)~~ "Superintendent of credit unions" means the 929
"division of financial institutions," ~~or~~ the "superintendent of 930
~~the division of financial institutions of this state,~~" or the 931
"deputy superintendent for credit unions"; and whenever the 932
context requires it, may be read as "director of commerce" ~~or as~~ 933
~~"chief of the division of financial institutions."~~ Whenever the 934
division or superintendent of credit unions is referred to or 935
designated in any statute, rule, contract, or other document, 936
the reference or designation shall be deemed to refer to the 937
division ~~or of financial institutions,~~ the superintendent of 938
financial institutions, or the deputy superintendent for credit 939
unions, as the case may be. 940

~~(Q)~~ (P) "Outside auditor" means an accountant who is 941
licensed to practice as a certified public accountant or public 942
accountant by this state, and who is retained by a credit union 943
to audit its accounts, but who is not otherwise employed by the 944
credit union. 945

~~(R)~~ (Q) "Regulated individual" means a director, committee 946
member, officer, or employee of a credit union. 947

~~(S)~~ (R) "Financial institution regulatory authority" 948
includes a regulator of business activity in which a credit 949
union is engaged, or has applied to engage in, to the extent 950
that the regulator has jurisdiction over a credit union engaged 951
in that business activity. A credit union is engaged in a 952
business activity, and a regulator of that business activity has 953
jurisdiction over the credit union, whether the credit union 954
conducts the activity directly or a subsidiary or affiliate of 955
the credit union conducts the activity. 956

Sec. 1733.04. (A) In addition to the authority conferred 957
by section 1701.13 of the Revised Code, but subject to any 958
limitations contained in sections 1733.01 to 1733.45 of the 959
Revised Code, and its articles and regulations, a credit union 960
may do any of the following: 961

(1) Make loans as provided in section 1733.25 of the 962
Revised Code; 963

(2) Invest its money as provided in section 1733.30 of the 964
Revised Code; 965

(3) If authorized by the code of regulations, rebate to 966
the borrowing members a portion of the member's interest paid to 967
the credit union; 968

(4) If authorized by the regulations, charge a membership 969

or entrance fee not to exceed one dollar per member;	970
(5) Purchase group savings life insurance and group credit life insurance;	971 972
(6) Make reasonable contributions to any nonprofit civic, charitable, or service organizations;	973 974
(7) Act as trustee or custodian, for which reasonable compensation may be received, under any written trust instrument or custodial agreement created or organized in the United States and forming part of a tax-advantaged savings plan that qualifies for specific tax treatment under sections 223, 401(d), 408, 408A, and 530 of the Internal Revenue Code, 26 U.S.C. 223, 401(d), 408, 408A, and 530, as amended, for its members or groups of its members, provided that the funds of such plans are invested in share accounts or share certificate accounts of the credit union. These services include, but are not limited to, acting as a trustee or custodian for member retirement, education, or health savings accounts.	975 976 977 978 979 980 981 982 983 984 985 986
(8) Participate in and pledge assets in connection with the business linked deposit program under sections 135.77 to 135.774 of the Revised Code and the agricultural linked deposit program under sections 135.71 to 135.76 of the Revised Code.	987 988 989 990
(B) The authority of a credit union shall be subject to the following:	991 992
(1) A credit union may not borrow money in excess of twenty-five per cent of its shares and undivided earnings, without prior specific authorization by the superintendent of credit unions.	993 994 995 996
(2) A credit union may not pay a commission or other compensation to any person for securing members or for the sale	997 998

of its shares, except that reasonable incentives may be made 999
available directly to members or potential members to promote 1000
thrift. 1001

(3) A credit union, subject to the approval of the 1002
superintendent, may have service facilities other than its home 1003
office. 1004

(4) Real estate may be acquired by lease, purchase, or 1005
otherwise as necessary and to the extent required for use of the 1006
credit union presently and in the future operation of its office 1007
or headquarters, and in case of a purchase of real estate, the 1008
superintendent must first be notified in writing prior to the 1009
purchase of the real estate. ~~The superintendent shall notify the~~ 1010
~~credit union not more than thirty days after receipt of the~~ 1011
~~notification to purchase the real estate if the purchase is~~ 1012
~~denied, approved, or modified. If the superintendent does not~~ 1013
~~respond within thirty days after receipt of the notification to~~ 1014
~~purchase the real estate, it shall be deemed approved.~~ 1015
Nothing 1016
herein contained shall be deemed to prohibit a credit union from 1017
taking title to real estate in connection with a default in the 1018
payment of a loan, provided that title to such real estate shall 1019
not be held by the credit union for more than two years without 1020
the prior written approval of the superintendent. A credit union 1021
also may lease space in any real estate it acquires in 1022
accordance with rules adopted by the superintendent.

(C) (1) As used in division (C) of this section: 1023

(a) "School" means an elementary or secondary school. 1024

(b) "Student" means a child enrolled in a school. 1025

(c) "Student branch" means the designation provided to the 1026
credit union for the in-school services and financial education 1027

offered to students. 1028

(2) A credit union, upon agreement with a school board, in 1029
the case of a public school, or the governing authority, in the 1030
case of a nonpublic school, and with the permission of the 1031
superintendent, may open and maintain a student branch. 1032

(3) Notwithstanding any other provision of this section, 1033
any student enrolled in the school maintaining a student branch 1034
who is not otherwise qualified for membership in the credit 1035
union maintaining the student branch is qualified to be a member 1036
of that student branch. 1037

(4) The student's membership in the student branch expires 1038
upon the student's graduation from secondary school. 1039

(5) The student branch is for the express use of students 1040
and may not be used by faculty, staff, or lineal ancestors or 1041
descendents of students. 1042

(6) Faculty, staff, or lineal ancestors or descendents of 1043
students are not eligible for membership in the credit union 1044
maintaining the student branch unless otherwise qualified by 1045
this section to be members. 1046

(7) The superintendent may adopt rules appropriate to the 1047
formation and operation of student branches. 1048

(D) A credit union may guarantee the signature of a member 1049
in connection with a transaction involving tangible or 1050
intangible property in which a member has or seeks to acquire an 1051
interest. 1052

Sec. 1733.05. (A) Persons otherwise qualifying for 1053
membership in a credit union under this section, the articles, 1054
and the regulations, and who are elected to membership by the 1055

board of directors, shall become members of a credit union, 1056
provided that in lieu of electing persons to membership, the 1057
board of directors may elect or appoint one or more membership 1058
officers and delegate authority to any such membership officer 1059
to accept persons into membership. 1060

~~(B) No (1) A person shall qualified for membership may~~ 1061
become a member of a credit union ~~who has not subscribed to or~~ 1062
~~purchased at least one upon the occurrence of any of the~~ 1063
following: 1064

(a) The purchase of a membership share of such in the 1065
credit union as provided in the credit union's bylaws; 1066

(b) The payment of an entrance fee established from time 1067
to time by the board of directors of the credit union; 1068

(c) The purchase of one or more shares in the credit union 1069
as provided in the credit union's bylaws. 1070

(2) Each member is responsible for maintaining a current 1071
address with the credit union. 1072

(C) The membership of a credit union shall be limited to 1073
groups having a common bond of occupation or association or 1074
groups within a well-defined neighborhood, community, or rural 1075
district; however, except as otherwise provided in the articles 1076
or regulations, a person shall be deemed to retain affiliation 1077
with the credit union so long as ~~he~~ the person remains a member 1078
of the credit union even though no longer within the field of 1079
membership. 1080

(D) Unless otherwise provided in the articles of 1081
incorporation or the code of regulations, and subject to such 1082
conditions as the superintendent of credit unions may establish, 1083
groups composed of persons within the field of membership of a 1084

credit union may become members of such credit union. 1085

(1) Any credit union may, with the approval of the 1086
superintendent, pursuant to section 1733.33 of the Revised Code, 1087
amend its articles of incorporation and, if appropriate, its 1088
code of regulations, to permit select groups having a common 1089
bond of occupation or association or select groups within a 1090
well-defined neighborhood, community, or rural district, to 1091
become members of such credit union in accordance with rules 1092
adopted by the superintendent. 1093

(2) Before the select group is permitted membership in a 1094
credit union, the superintendent must approve, in writing, both 1095
the select group and the credit union. 1096

(E) With the approval of the superintendent, any select 1097
group, within a field of membership and described in division 1098
(D)(1) of this section, may disaffiliate from the credit union 1099
with which it is associated if a majority of the persons within 1100
the select group vote for disaffiliation. Any such proposed 1101
disaffiliation must be pursuant to a written plan approved by 1102
the superintendent. This plan shall be distributed to such 1103
persons in advance of the vote on the proposed disaffiliation, 1104
which plan must have due regard for the equitable division of 1105
assets and liabilities, including share accounts and loans of 1106
the select group seeking to disaffiliate, and any other 1107
consideration required by the superintendent. 1108

(F) Credit unions qualified to do business in this state 1109
have a common bond of association for the purpose of forming and 1110
operating a corporate credit union. 1111

(G) No interstate charter amendment, conversion, merger, 1112
or other expansion of a credit union field of membership shall 1113

be authorized without the approval of all supervisory 1114
authorities affected, whether state or federal, in accordance 1115
with rules adopted by the superintendent in terms of 1116
administrative control and authority, the location of the 1117
surviving credit union in the case of a merger, or the home 1118
office in the case of an expansion, is controlling. 1119

Sec. 1733.32. (A) (1) The superintendent of financial 1120
institutions shall see that the laws relating to credit unions 1121
are executed and enforced. 1122

(2) The deputy superintendent for credit unions shall be 1123
the principal supervisor of credit unions. In that position, the 1124
deputy superintendent for credit unions shall, notwithstanding 1125
division (A) (3) of this section, be responsible for conducting 1126
examinations and preparing examination reports under that 1127
division. In addition, the deputy superintendent for credit 1128
unions shall, notwithstanding sections 1733.191, 1733.41, 1129
1733.411, and 1733.412 of the Revised Code, have the authority 1130
to adopt rules in accordance with those sections, and, 1131
notwithstanding section 1733.05 of the Revised Code, shall have 1132
the authority to approve issues and matters pertaining to fields 1133
of membership. In performing or exercising any of the 1134
examination, rule-making, or other regulatory functions, powers, 1135
or duties vested by division (A) (2) of this section in the 1136
deputy superintendent for credit unions, the deputy 1137
superintendent for credit unions shall be subject to the control 1138
of the superintendent of financial institutions. 1139

(3) The superintendent of financial institutions shall 1140
develop and implement a system for evaluating the safety and 1141
soundness of credit unions and for determining when examinations 1142
and supervisory actions are necessary. ~~Credit~~ Except as 1143

otherwise provided in section 1733.328 of the Revised Code, 1144
credit unions shall be subject to periodic examinations, as 1145
specified in rules adopted by the superintendent, and their 1146
books, records, and accounts shall be open to the inspection of 1147
the superintendent at all times. For the purpose of such 1148
examination or inspection, the superintendent may subpoena 1149
witnesses, administer oaths, receive testimony, and order the 1150
submission of documents. 1151

(B) Every credit union shall prepare and submit, on forms 1152
provided by the superintendent, a financial report to the 1153
superintendent showing its assets and liabilities whenever 1154
requested to do so by the superintendent. Every financial report 1155
shall be verified by the oaths of the two principal officers in 1156
charge of the affairs of the credit union at the time of such 1157
verification and shall be submitted to the superintendent within 1158
thirty days after the superintendent requests the financial 1159
report. 1160

(C) An annual financial report of the affairs and business 1161
of the credit union, showing its condition as of the thirty- 1162
first day of December unless otherwise authorized by the 1163
superintendent, shall be filed with the superintendent not later 1164
than the date authorized in the rules adopted by the 1165
superintendent. 1166

(D) If a financial report or an annual financial report is 1167
not filed with the superintendent in accordance with division 1168
(B) or (C) of this section, the superintendent may do both of 1169
the following: 1170

(1) Assess a fine, determined by rule adopted by the 1171
superintendent, for each day the report is in arrears; 1172

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

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

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

(3) The superintendent annually shall present to the credit union council for confirmation the supervisory fees to be billed credit unions and corporate credit unions pursuant to

division (E) of this section. 1203

(4) If any supervisory fee is not remitted in accordance 1204
with division (E) (1) or (2) of this section, the superintendent 1205
may assess a fine, determined by rule adopted by the 1206
superintendent, for each day that each fee is in arrears. 1207

(5) (a) Subject to division (E) (5) (b) of this section, the 1208
total amount of each semiannual billing to all credit unions and 1209
corporate credit unions combined shall equal one-half of the 1210
appropriation made by the main operating appropriation act, 1211
including any modifications made by the controlling board, to 1212
the division of financial institutions for the regulation of 1213
credit unions for the fiscal year in which the billings occur, 1214
except that the superintendent, in determining the supervisory 1215
fees, may take into consideration any funds lapsed from the 1216
appropriation made in the previous fiscal year. 1217

(b) If during the period between the credit union 1218
council's confirmation of supervisory fees and when supervisory 1219
fees described in this section are collected, the credit union 1220
council determines additional money is required to adequately 1221
fund the operations of the division of financial institutions 1222
for that fiscal year, the credit union council may, by the 1223
affirmative vote of five of its members, increase the 1224
supervisory fees billed. The superintendent promptly shall 1225
notify each credit union and corporate credit union of the 1226
increased supervisory fees, and each credit union or corporate 1227
credit union shall pay the increased supervisory fees billed by 1228
the superintendent. 1229

(6) The fees or fines collected pursuant to this section 1230
shall be credited to the credit unions fund created in section 1231
1733.321 of the Revised Code. 1232

(F) A report of such examination shall be forwarded to the 1233
president of each credit union after the completion of the 1234
examination. The report may contain comments relative to the 1235
management of the affairs of the credit union and also as to the 1236
general condition of its assets. Within thirty days of the 1237
receipt of the report, a meeting of the directors shall be 1238
called to consider matters contained in the report, and the 1239
president shall notify the superintendent of any action taken at 1240
the meeting. 1241

(G) (1) The superintendent shall furnish reports of 1242
examinations or other appropriate information to any 1243
organization referred to in section 1733.041 of the Revised Code 1244
when requested by the organization and authorized by the credit 1245
union. The superintendent may charge a fee for such reports and 1246
other information as may be established by rules adopted by the 1247
superintendent. 1248

(2) A report of examination furnished pursuant to division 1249
(G) (1) of this section is the property of the division of credit 1250
unions and may be used by the examined credit union only in the 1251
conduct of its business. Under no circumstances may the credit 1252
union, its current or former directors, officers, employees, 1253
agents, shareholders, participants in the conduct of its 1254
affairs, or their agents disclose or make public, in any manner, 1255
a report of examination or its contents. 1256

(H) Except as provided in this division, information 1257
obtained by the superintendent of financial institutions and the 1258
superintendent's employees as a result of or arising out of the 1259
examination or independent audit of a credit union, from 1260
required reports, or because of their official position, shall 1261
be confidential. Such information may be disclosed only in 1262

connection with criminal proceedings or, subject to section 1263
1733.327 of the Revised Code, when it is necessary for the 1264
superintendent to take official action pursuant to Chapter 1733. 1265
of the Revised Code and the rules adopted thereunder regarding 1266
the affairs of the credit union examined. Such information may 1267
also be introduced into evidence or disclosed when and in the 1268
manner authorized in section 1181.25 of the Revised Code. This 1269
division does not prevent the superintendent from properly 1270
exchanging information relating to an examined credit union 1271
pursuant to division (F) or (G) of this section, with officials 1272
of properly authorized state or federal financial institution 1273
regulatory authorities, with any insurer recognized under 1274
section 1733.041, or with any surety recognized under section 1275
1733.23 of the Revised Code. This division also does not prevent 1276
the superintendent from disclosing information contained in the 1277
financial reports or annual financial reports described in 1278
division (B) or (C) of this section to recognized credit union 1279
trade associations, to share guarantee insurance organizations, 1280
to federal or state agencies, or to the general public. 1281
Financial reports and annual financial reports described in 1282
divisions (B) and (C) of this section, call reports, or 1283
financial statements required to be filed with the division of 1284
financial institutions are public records for purposes of 1285
section 149.43 of the Revised Code. Information relating to the 1286
examination or independent audit of a credit union, other than 1287
information that is permitted to be disclosed by this section or 1288
is a public record, is not a public record for purposes of 1289
section 149.43 of the Revised Code. 1290

Sec. 1733.328. (A) Notwithstanding section 1733.32 of the 1291
Revised Code, and subject to division (B) of this section, the 1292
superintendent of financial institutions shall not conduct an 1293

examination of a credit union more frequently than once every 1294
twenty-four-month cycle, if the credit union meets both of the 1295
following conditions: 1296

(1) It has assets of ten billion dollars or less. 1297

(2) Under the uniform financial institutions rating 1298
system, it maintains a composite rating of one. 1299

(B) The superintendent may conduct more frequent 1300
examinations if either of the following applies: 1301

(1) The superintendent has reasonable cause to believe 1302
that there is a risk of harm to the credit union and the 1303
examination of the credit union is necessary to fully determine 1304
the risk to the credit union or to determine how best to address 1305
the risk. 1306

(2) The superintendent participates with financial 1307
institution regulatory authorities of other states or the United 1308
States in a joint, concurrent, or coordinated examination. 1309

(C) A credit union's composite rating used for purposes of 1310
division (A) (2) of this section is not a public record under 1311
section 149.43 of the Revised Code. 1312

Sec. 1733.441. (A) Absent the express written permission 1313
of the credit union, no person shall use the name of a credit 1314
union in an advertisement, solicitation, promotional, or other 1315
material in a way that may mislead another person, or cause 1316
another person to be misled, into believing that the person 1317
issuing the advertisement, solicitation, promotional, or other 1318
material is associated or affiliated with the credit union. 1319

(B) (1) Whoever violates division (A) of this section shall 1320
be subject to a civil penalty of up to ten thousand dollars for 1321

each day the violation is committed, repeated, or continued. 1322

(2) A credit union injured by a violation of division (A) of this section may bring an action in law or equity for recovery of damages, a temporary restraining order, an injunction, or any other available remedy. 1323
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Sec. 1733.53. (A) As used in this section, "bona fide error" means an unintentional clerical, calculation, computer malfunction or programming, or printing error. 1327
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(B) A credit union or regulated individual shall not be held civilly liable in any action brought under this chapter or Chapter 1309., 1317., or 1345. of the Revised Code, and shall not be subject to any sanction by the superintendent of financial institutions, if all of the following conditions are met: 1330
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(1) The credit union or individual shows by a preponderance of evidence that the compliance failure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. 1336
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(2) Within sixty days after discovering the error, and prior to the initiation of any action by the superintendent or the receipt of written notice of the error from the member, the credit union or individual notifies the superintendent and the member of the error and the manner in which the credit union or individual intends to make full restitution to the member. 1341
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(3) The credit union or individual promptly makes reasonable restitution to the member. 1347
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(C) If, in the event of a compliance failure, the credit union or regulated individual does not meet the conditions set 1349
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forth in division (B) of this section, a member injured by the 1351
error has a cause of action to recover damages. Such an action 1352
may not, however, be maintained as a class action. 1353

Sec. 5726.04. (A) The tax levied on a financial 1354
institution under this chapter shall be the greater of the 1355
following: 1356

(1) A minimum tax equal to one thousand dollars; 1357

(2) The product of the total Ohio equity capital of the 1358
financial institution, as determined under this section, 1359
multiplied by eight mills for each dollar of the first two 1360
hundred million dollars of total Ohio equity capital, by four 1361
mills for each dollar of total Ohio equity capital greater than 1362
two hundred million and less than one billion three hundred 1363
million dollars, and by two and one-half mills for each dollar 1364
of total Ohio equity capital equal to or greater than one 1365
billion three hundred million dollars. 1366

(B) If the reporting person for a financial institution 1367
files an FR Y-9 or call report, the total equity capital of the 1368
financial institution shall equal the total equity capital shown 1369
on the reporting person's FR Y-9 or call report as of the end of 1370
the taxable year. The total equity capital of all other 1371
financial institutions shall be reported as of the end of the 1372
taxable year in accordance with generally accepted accounting 1373
principles. 1374

(C) For the purposes of this section, "total Ohio equity 1375
capital" means the product of (1) the total equity capital of a 1376
financial institution as of the end of a taxable year to the 1377
extent that the total equity capital does not exceed fourteen 1378
per cent of the financial institution's total assets shown on 1379

the reporting person's FR-Y9 or call report as of the end of the 1380
taxable year, multiplied by (2) the Ohio apportionment ratio 1381
calculated for the financial institution under section 5726.05 1382
of the Revised Code, except as provided in section 5726.041 of 1383
the Revised Code. 1384

(D) All payments received from the tax levied under this 1385
chapter shall be credited to the general revenue fund. 1386

(E) (1) As used in this division: 1387

(a) "First target tax amount" means two hundred million 1388
dollars. 1389

(b) "Second target tax amount" means one hundred six per 1390
cent of the first target tax amount or, if applicable, the first 1391
target tax amount as adjusted under division (E) (2) or (3) of 1392
this section. 1393

(c) "Amount of taxes collected" means the amount of taxes 1394
received by the tax commissioner from the tax levied under this 1395
chapter for a tax year, plus the total amount of the tax credit 1396
authorized by section 5726.57 of the Revised Code claimed on tax 1397
year 2014 reports, less any amounts refunded to taxpayers for 1398
the same tax year. 1399

(2) If, for the tax year beginning on January 1, 2014, the 1400
total amount of taxes collected from all taxpayers under this 1401
chapter is greater than one hundred ten per cent of the first 1402
target tax amount, the tax commissioner shall decrease each tax 1403
rate provided in division (A) (2) of this section by a percentage 1404
equal to the percentage by which the amount of taxes collected 1405
exceeded the first target tax amount. 1406

(3) If, for the tax year beginning on January 1, 2014, the 1407
total amount of taxes collected from all taxpayers under this 1408

chapter is less than ninety per cent of the first target tax amount, the tax commissioner shall increase the tax rate for each dollar of total Ohio equity capital equal to or greater than one billion three hundred million dollars as provided in division (A) (2) of this section by a percentage equal to a fraction, the denominator of which is the aggregate sum of each dollar of each taxpayer's Ohio equity capital greater than or equal to one billion three hundred million dollars, as reported by each taxpayer for tax year 2014, multiplied by the tax rate for each dollar of total Ohio equity capital greater than or equal to one billion three hundred million dollars provided under division (A) (2) of this section, and the numerator of which is the sum of the denominator and the difference obtained by subtracting the amount of taxes collected under this chapter in tax year 2014 from ninety per cent of the first target tax amount.

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

(5) If, for the tax year beginning on January 1, 2016, the total amount of taxes collected from all taxpayers under this chapter is less than ninety per cent of the second target tax amount, the tax commissioner shall increase the tax rate for each dollar of total Ohio equity capital equal to or greater than one billion three hundred million dollars as provided in division (A) (2) of this section by a percentage equal to a fraction, the denominator of which is the aggregate sum of each

dollar of each taxpayer's Ohio equity capital greater than or 1440
equal to one billion three hundred million dollars, as reported 1441
by each taxpayer for tax year 2016, multiplied by the tax rate 1442
for each dollar of total Ohio equity capital greater than or 1443
equal to one billion three hundred million dollars provided 1444
under division (A) (2) of this section, and the numerator of 1445
which is the sum of the denominator and the difference obtained 1446
by subtracting the amount of taxes collected under this chapter 1447
in tax year 2016 from ninety per cent of the second target tax 1448
amount. 1449

(6) Tax rates adjusted pursuant to division (E) (2), (3), 1450
(4), or (5) of this section shall be rounded to the nearest one- 1451
tenth of one mill per dollar. The tax commissioner shall publish 1452
the new tax rates by journal entry and provide notice of the new 1453
tax rates to taxpayers. The new tax rates adjusted pursuant to 1454
division (E) (2) or (3) of this section shall apply to tax years 1455
beginning on or after January 1, 2015. The new tax rates 1456
adjusted pursuant to division (E) (4) or (5) of this section 1457
shall apply to tax years beginning on or after January 1, 2017. 1458

Section 2. That existing sections 1101.05, 1109.20, 1459
1121.10, 1125.23, 1181.08, 1322.01, 1322.07, 1322.09, 1322.12, 1460
1322.34, 1322.40, 1322.50, 1733.01, 1733.04, 1733.05, 1733.32, 1461
and 5726.04 of the Revised Code are hereby repealed. 1462

Section 3. This act shall be known as the "Ohio Financial 1463
Institutions Reform Act." 1464

Section 4. Sections 1321.51 to 1321.60 of the Revised 1465
Code, as amended or enacted by Sub. H.B. 199 of the 132nd 1466
General Assembly, shall be known as the "General Loan Law." 1467

Section 5. The amendment by this act of section 5726.04 of 1468

the Revised Code applies to tax years beginning on or after	1469
January 1, 2019.	1470