A BILL

To amend sections 1321.52, 1322.01, 1322.07, 1322.09, 1322.12, 1322.29, 1349.72, and 2913.11; to enact section 1319.17; and to repeal section 1349.16 of the Revised Code relating to commercial credit reports, the General Loan Law, and the Residential Mortgage Loan Law.

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

Section 1. That sections 1321.52, 1322.01, 1322.07, 1322.09, 1322.12, 1322.29, 1349.72, and 2913.11 be amended and section 1319.17 of the Revised Code be enacted to read as follows:

Sec. 1319.17. (A) As used in this section:

(1) "Business" means a sole proprietorship, partnership, corporation, limited liability company, or other commercial entity, whether for profit or not for profit.

(2) "Commercial credit report" means any report provided
to a business for a legitimate business purpose, relating to the
financial status or payment habits of a business that is the
subject of the report. "Commercial credit report" does not
include any of the following:

(a) A report prepared for commercial insurance
underwriting, claims, or auditing purposes;

(b) A report containing information related to
transactions or experiences between the subject and the person
making the report;

(c) An authorization or approval of a specific extension
of credit directly or indirectly by the issuer of a credit card
or similar device;

(d) Any report in which a person that has been requested
by a third party to make a specific extension of credit directly
or indirectly to the subject conveys its decision with respect
to that request.

(3) "Commercial credit reporting agency" means any person
or entity that regularly engages in the practice of compiling
and maintaining commercial credit reports on a business
operating in this state for the purpose of providing commercial
credit reports and, for monetary fees, dues, or on a cooperative
nonprofit basis, provides such commercial credit reports on a
business operating in this state to third parties.

"Commercial credit reporting agency" does not include a
person or entity that does not maintain a database of commercial
credit reports from which new commercial credit reports are
produced.

(4) "Subject" means the business operating in this state
about which a commercial credit report has been compiled.
(B) Upon the request of a representative of the subject of a commercial credit report, a commercial credit reporting agency shall provide the subject's commercial credit report. The report shall be provided to the subject at a cost not greater than what is charged to third parties and may be printed or in electronic form. The report shall be in a format routinely made available to third parties. A commercial credit reporting agency may protect the identity of sources of information to be used in commercial credit reports.

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

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

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

(D) Nothing in this section shall be construed to provide a private right of action, including a class action, with respect to any act or practice regulated under this section.

Sec. 1321.52. (A)(1) A registrant may make loans, other than a residential mortgage loan as defined in section 1322.01
of the Revised Code, on terms and conditions provided by  
sections 1321.51 to 1321.60 of the Revised Code.  
(2) Each person issued a certificate of registration is  
subject to all the rules prescribed under sections 1321.51 to  
1321.60 of the Revised Code.  
(B)(1) All loans made to persons who at the time are  
residents of this state are considered as made within this state  
and subject to the laws of this state, regardless of any  
statement in the contract or note to the contrary, except if the  
loan is for the purpose of purchasing goods acquired by the  
borrower when the borrower is outside of this state, the loan  
may be governed by the laws of the other state.  
(2) Nothing in division (B)(1) of this section prevents a  
choice of law or requires registration of persons outside of  
this state in a transaction involving the solicitation of  
residents of this state to obtain non-real estate secured loans  
that require the borrowers to physically visit a lender's out- 
of-state office to apply for and obtain the disbursement of loan  
funds.  
(C) A registrant may make unsecured loans and loans  
secured by other than residential real estate or a dwelling as  
those terms are defined in section 1322.01 of the Revised Code.  
(D) For the purpose of registering persons under and  
requiring compliance with sections 1321.51 to 1321.60 of the  
Revised Code, the superintendent may do any of the following:  
(1) Require any person registered under or applying for  
registration under these sections to do both of the following:  
(a) Utilize the national multistate licensing system for  
application, renewal, amendment, or surrender of a license or
for any other activity as the superintendent may require;

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

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

(a) Background checks for:

(i) Criminal history through fingerprint or other databases;

(ii) Civil or administrative records;

(iii) Credit history;

(iv) Any other information considered necessary by the national multistate licensing system or the superintendent.

(b) The payment of fees to apply for or renew licenses through the multistate licensing system;

(c) The setting or resetting of renewal or reporting dates;

(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.

Sec. 1322.01. As used in this chapter:

(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.

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

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

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

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

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

(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:

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

(2) The registrant's name or advertising at the location suggests that mortgage transactions are made at the location;

(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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(S) "Individual" means a natural person.
(T) "Licensee" means any individual who has been issued a mortgage loan originator license under this chapter.

(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.

(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 any of the following activities at the direction or subject to the supervision of a licensed mortgage loan originator or registered mortgage loan originator:

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

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

(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.

(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
of a mortgage loan with a mortgage lender on behalf of a
borrower.

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

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

(a) Takes a residential mortgage loan application;

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

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

(d) Issues or offers to issue a commitment for a
residential mortgage loan to a buyer.
(2) "Mortgage loan originator" does not include any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(DD) "Person" means an individual, sole proprietorship, corporation, company, limited liability company, partnership, limited liability partnership, trust, or association.

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

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

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

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

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

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

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

(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.

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

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

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

(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.

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

(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.

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

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

(1) For any resident in this state;

(2) For any property in this state;

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

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

Sec. 1322.07. (A)(1) No person, on the person's own behalf or on behalf of any other person, shall engage in the transaction of business as a mortgage lender, mortgage servicer, or mortgage broker in this state 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.
(2) A registrant shall maintain an office location for the transaction of business as a mortgage lender, mortgage servicer, or mortgage broker in this state.

Registrants are not required to maintain a physical location 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)(1) 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 accompanied by a nonrefundable application fee of five hundred
dollars for each location of an office to be maintained by the applicant in accordance with division (A) of section 1322.07 of the Revised Code and any additional fee required by the nationwide mortgage licensing system and registry.

(2) The application shall include the names and addresses of the owners, officers, or partners having control of the applicant, including all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Within ninety days after the person ceases to be the operations manager, designate another person as the operations manager:
(2) Within ten days after the designation described in division (C)(1) of this section, notify the superintendent in writing of the new designation;

(3) Submit any additional information that the superintendent requires to establish that the newly designated operations manager meets the requirements set forth in this section.

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

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

(B) If a mortgage loan originator's employment or association is terminated for any reason, the licensee may request the transfer of the license to another mortgage lender or mortgage broker by submitting a transfer application, along with a fifteen-dollar fee and any fee required by the national mortgage licensing system and registry, to the superintendent of financial institutions or may request the superintendent in writing to hold the license in escrow. Any licensee whose license is held in escrow shall cease activity as a mortgage loan originator. A licensee whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing education requirement.
(C) A registrant may employ or be associated with a mortgage loan originator on a temporary basis pending the transfer of the mortgage loan originator's license to the registrant, if the registrant receives written confirmation from the superintendent that the mortgage loan originator is licensed under this chapter.

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

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

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

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

**Sec. 1349.72.** (A) Before Not less than thirty days prior to a person collecting or attempting to collect on a debt secured by residential real property collects or attempts to collect any part of the debt, the person shall first send a written notice as described in division (B) of this section via United States mail to the residential address of the debtor, if both of the following apply:

1. The debt is a second-secured by a mortgage or junior lien on the debtor's residential real property that is not in the first mortgage position.
2. The debt has either been accelerated or is in default in accordance with the terms set forth in the promissory note.

(B) The written notice may be included on, or accompany, any other communication, and shall be printed in at least twelve-point type and state include the following:

1. The name and contact information of the person collecting the debt;
2. The statement of the amount of the debt;
3. A statement that the debtor has a right to engage an attorney;
4. A statement that the debtor may qualify for debt relief under Chapter 7 or 13 of the United States Bankruptcy
Code, 11 U.S.C. Chapter 7 or 13, as amended;

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

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

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

(a) "Bona fide error" means an unintentional clerical, calculation, computer malfunction or programming, or printing error.

(b) "Restitution" means either of the following:

(i) A waiver of all fees, costs, or expenses proximately associated with the failure to provide the notice to the debtor;

   or

(ii) Actual damages.

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

(a) The owner of the debt 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.

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

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

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

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

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

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

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

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

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

(C) For purposes of this section, a person who issues or transfers a check or other negotiable instrument is presumed to know that it will be dishonored if either of the following occurs:
(1) The drawer had no account with the drawee at the time of issue or the stated date, whichever is later;

(2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within thirty days after issue or the stated date, whichever is later, and the liability of the drawer, indorser, or any party who may be liable thereon is not discharged by payment or satisfaction within ten days after receiving notice of dishonor.

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

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

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

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

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

(F) Whoever violates this section is guilty of passing
bad checks. Except as otherwise provided in this division, passing bad checks is a misdemeanor of the first degree. If the check or checks or other negotiable instrument or instruments are issued or transferred to a single vendor or single other person for the payment of one thousand dollars or more but less than seven thousand five hundred dollars or if the check or checks or other negotiable instrument or instruments are issued or transferred to multiple vendors or persons for the payment of one thousand five hundred dollars or more but less than seven thousand five hundred dollars, passing bad checks is a felony of the fifth degree. If the check or checks or other negotiable instrument or instruments are for the payment of seven thousand five hundred dollars or more but less than one hundred fifty thousand dollars, passing bad checks is a felony of the fourth degree. If the check or checks or other negotiable instrument or instruments are for the payment of one hundred fifty thousand dollars or more, passing bad checks is a felony of the third degree.

Section 2. That existing sections 1321.52, 1322.01, 1322.07, 1322.09, 1322.12, 1322.29, 1349.72, and 2913.11 of the Revised Code are hereby repealed.

Section 3. That section 1349.16 of the Revised Code is hereby repealed.