

AN ACT

To amend sections 121.04, 121.08, 169.01, 169.13, 169.99, 1322.03, 1322.031, and 4763.05 and to enact sections 169.14, 169.16, and 169.17 of the Revised Code to statutorily recognize the Division of Unclaimed Funds and the Office of Superintendent of Unclaimed Funds in the Department of Commerce and to require the registration of persons who, for compensation, agree to locate or recover the unclaimed funds of another.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 121.04, 121.08, 169.01, 169.13, 169.99, 1322.03, 1322.031, and 4763.05 be amended and sections 169.14, 169.16, and 169.17 of the Revised Code be enacted to read as follows:

Sec. 121.04. Offices are created within the several departments as follows:

In the department of commerce:

Commissioner of securities;
Superintendent of real estate and professional licensing;
Superintendent of financial institutions;
Fire marshal;
Superintendent of labor and worker safety;
~~Beginning on July 1, 1997,~~
Superintendent of liquor control;
Superintendent of industrial compliance;
Superintendent of unclaimed funds.

In the department of administrative services:

State architect and engineer;
Equal employment opportunity coordinator.

In the department of agriculture:

Chiefs of divisions as follows:

Administration;
Animal industry;

- Dairy;
- Food safety;
- Plant industry;
- Markets;
- Meat inspection;
- Consumer analytical laboratory;
- Amusement ride safety;
- Enforcement;
- Weights and measures.

In the department of natural resources:

Chiefs of divisions as follows:

- Water;
- Mineral resources management;
- Forestry;
- Natural areas and preserves;
- Wildlife;
- Geological survey;
- Parks and recreation;
- Watercraft;
- Recycling and litter prevention;
- Soil and water conservation;
- Real estate and land management;
- Engineering.

In the department of insurance:

- Deputy superintendent of insurance;
- Assistant superintendent of insurance, technical;
- Assistant superintendent of insurance, administrative;
- Assistant superintendent of insurance, research.

Sec. 121.08. (A) There is hereby created in the department of commerce the position of deputy director of administration. This officer shall be appointed by the director of commerce, serve under the director's direction, supervision, and control, perform the duties the director prescribes, and hold office during the director's pleasure. The director of commerce may designate an assistant director of commerce to serve as the deputy director of administration. The deputy director of administration shall perform the duties prescribed by the director of commerce in supervising the activities of the division of administration of the department of commerce.

(B) Except as provided in section 121.07 of the Revised Code, the department of commerce shall have all powers and perform all duties vested in the deputy director of administration, the state fire marshal, the

superintendent of financial institutions, the superintendent of real estate and professional licensing, the superintendent of liquor control, the superintendent of ~~the division of~~ industrial compliance, the superintendent of labor and worker safety, the superintendent of unclaimed funds, and the commissioner of securities, and shall have all powers and perform all duties vested by law in all officers, deputies, and employees of those offices. Except as provided in section 121.07 of the Revised Code, wherever powers are conferred or duties imposed upon any of those officers, the powers and duties shall be construed as vested in the department of commerce.

(C)(1) There is hereby created in the department of commerce a division of financial institutions, which shall have all powers and perform all duties vested by law in the superintendent of financial institutions. Wherever powers are conferred or duties imposed upon the superintendent of financial institutions, those powers and duties shall be construed as vested in the division of financial institutions. The division of financial institutions shall be administered by a the superintendent of financial institutions.

(2) All provisions of law governing the superintendent of financial institutions shall apply to and govern the superintendent of financial institutions provided for in this section; all authority vested by law in the superintendent of financial institutions with respect to the management of the division of financial institutions shall be construed as vested in the superintendent of financial institutions created by this section with respect to the division of financial institutions provided for in this section; and all rights, privileges, and emoluments conferred by law upon the superintendent of financial institutions shall be construed as conferred upon the superintendent of financial institutions as head of the division of financial institutions. The director of commerce shall not transfer from the division of financial institutions any of the functions specified in division (C)(2) of this section.

(D) There is hereby created in the department of commerce a division of liquor control, which shall have all powers and perform all duties vested by law in the superintendent of liquor control. Wherever powers are conferred or duties are imposed upon the superintendent of liquor control, those powers and duties shall be construed as vested in the division of liquor control. The division of liquor control shall be administered by a the superintendent of liquor control.

(E) The director of commerce shall not be interested, directly or indirectly, in any firm or corporation which is a dealer in securities as defined in sections 1707.01 and 1707.14 of the Revised Code, or in any firm or corporation licensed under sections 1321.01 to 1321.19 of the Revised

Code.

(F) The director of commerce shall not have any official connection with a savings and loan association, a savings bank, a bank, a bank holding company, a savings and loan association holding company, a consumer finance company, or a credit union that is under the supervision of the division of financial institutions, or a subsidiary of any of the preceding entities, or be interested in the business thereof.

(G) There is hereby created in the state treasury the division of administration fund. The fund shall receive assessments on the operating funds of the department of commerce in accordance with procedures prescribed by the director of commerce and approved by the director of budget and management. All operating expenses of the division of administration shall be paid from the division of administration fund.

(H) There is hereby created in the department of commerce a division of real estate and professional licensing, which shall be under the control and supervision of the director of commerce. The division of real estate and professional licensing shall be administered by a the superintendent of real estate and professional licensing. The superintendent of real estate and professional licensing shall exercise the powers and perform the functions and duties delegated to the superintendent under Chapters 4735., 4763., and 4767. of the Revised Code.

(I) There is hereby created in the department of commerce a division of labor and worker safety, which shall have all powers and perform all duties vested by law in the superintendent of labor and worker safety. Wherever powers are conferred or duties imposed upon the superintendent of labor and worker safety, those powers and duties shall be construed as vested in the division of labor and worker safety. The division of labor and worker safety shall be under the control and supervision of the director of commerce and be administered by a the superintendent of labor and worker safety. The superintendent of labor and worker safety shall exercise the powers and perform the duties delegated to the superintendent by the director under Chapters 4109., 4111., and 4115. of the Revised Code.

(J) There is hereby created in the department of commerce a division of unclaimed funds, which shall have all powers and perform all duties delegated to or vested by law in the superintendent of unclaimed funds. Wherever powers are conferred or duties imposed upon the superintendent of unclaimed funds, those powers and duties shall be construed as vested in the division of unclaimed funds. The division of unclaimed funds shall be under the control and supervision of the director of commerce and shall be administered by the superintendent of unclaimed funds. The superintendent

of unclaimed funds shall exercise the powers and perform the functions and duties delegated to the superintendent by the director of commerce under section 121.07 and Chapter 169. of the Revised Code, and as may otherwise be provided by law.

(K) The department of commerce or a division of the department created by the Revised Code that is acting with authorization on the department's behalf may request from the bureau of criminal identification and investigation pursuant to section 109.572 of the Revised Code, or coordinate with appropriate federal, state, and local government agencies to accomplish, criminal records checks for the persons whose identities are required to be disclosed by an applicant for the issuance or transfer of a permit, license, certificate of registration, or certification issued or transferred by the department or division. At or before the time of making a request for a criminal records check, the department or division may require any person whose identity is required to be disclosed by an applicant for the issuance or transfer of such a license, permit, certificate of registration, or certification to submit to the department or division valid fingerprint impressions in a format and by any media or means acceptable to the bureau of criminal identification and investigation and, when applicable, the federal bureau of investigation. The department or division may cause the bureau of criminal identification and investigation to conduct a criminal records check through the federal bureau of investigation only if the person for whom the criminal records check would be conducted resides or works outside of this state or has resided or worked outside of this state during the preceding five years, or if a criminal records check conducted by the bureau of criminal identification and investigation within this state indicates that the person may have a criminal record outside of this state.

In the case of a criminal records check under section 109.572 of the Revised Code, the department or division shall forward to the bureau of criminal identification and investigation the requisite form, fingerprint impressions, and fee described in division (C) of that section. When requested by the department or division in accordance with this section, the bureau of criminal identification and investigation shall request from the federal bureau of investigation any information it has with respect to the person who is the subject of the requested criminal records check and shall forward the requisite fingerprint impressions and information to the federal bureau of investigation for that criminal records check. After conducting a criminal records check or receiving the results of a criminal records check from the federal bureau of investigation, the bureau of criminal identification and investigation shall provide the results to the department or

division.

The department or division may require any person about whom a criminal records check is requested to pay to the department or division the amount necessary to cover the fee charged to the department or division by the bureau of criminal identification and investigation under division (C)(3) of section 109.572 of the Revised Code, including, when applicable, any fee for a criminal records check conducted by the federal bureau of investigation.

Sec. 169.01. As used in this chapter, unless the context otherwise requires:

(A) "Financial organization" means any bank, trust company, savings bank, safe deposit company, mutual savings bank without mutual stock, savings and loan association, credit union, or investment company.

(B)(1) "Unclaimed funds" means any moneys, rights to moneys, or intangible property, described in section 169.02 of the Revised Code, when, as shown by the records of the holder, the owner has not, within the times provided in section 169.02 of the Revised Code, done any of the following:

- (a) Increased, decreased, or adjusted the amount of such funds;
- (b) Assigned, paid premiums, or encumbered such funds;
- (c) Presented an appropriate record for the crediting of such funds or received payment of such funds by check, draft, or otherwise;
- (d) Corresponded with the holder concerning such funds;
- (e) Otherwise indicated an interest in or knowledge of such funds;
- (f) Transacted business with the holder.

(2) "Unclaimed funds" does not include any of the following:

- (a) Money received or collected under section 9.39 of the Revised Code;
- (b) Any payment or credit due to a business association from a business association representing sums payable to suppliers, or payment for services rendered, in the course of business, including, but not limited to, checks or memoranda, overpayments, unidentified remittances, nonrefunded overcharges, discounts, refunds, and rebates;

(c) Any payment or credit received by a business association from a business association for tangible goods sold, or services performed, in the course of business, including, but not limited to, checks or memoranda, overpayments, unidentified remittances, nonrefunded overcharges, discounts, refunds, and rebates;

(d) Any credit due a retail customer that is represented by a gift certificate, gift card, merchandise credit, or merchandise credit card, redeemable only for merchandise.

For purposes of divisions (B)(2)(b) and (c) of this section, "business

association" means any corporation, joint venture, business trust, limited liability company, partnership, association, or other business entity composed of one or more individuals, whether or not the entity is for profit.

(C) "Owner" means any person, or the person's legal representative, entitled to receive or having a legal or equitable interest in or claim against moneys, rights to moneys, or other intangible property, subject to this chapter.

(D)(1) "Holder" means any person that has possession, custody, or control of moneys, rights to moneys, or other intangible property, or that is indebted to another, if any of the following applies:

(a) Such person resides in this state;

(b) Such person is formed under the laws of this state;

(c) Such person is formed under the laws of the United States and has an office or principal place of business in this state;

(d) The records of such person indicate that the last known address of the owner of such moneys, rights to moneys, or other intangible property is in this state;

(e) The records of such person do not indicate the last known address of the owner of the moneys, rights to moneys, or other intangible property and the entity originating or issuing the moneys, rights to moneys, or other intangible property is this state or any political subdivision of this state, or is incorporated, organized, created, or otherwise located in this state. Division (D)(1)(e) of this section applies to all moneys, rights to moneys, or other intangible property that is in the possession, custody, or control of such person on or after July 22, 1994, whether the moneys, rights to moneys, or other intangible property becomes unclaimed funds prior to or on or after that date.

(2) "Holder" does not mean any hospital granted tax-exempt status under section 501(c)(3) of the Internal Revenue Code or any hospital owned or operated by the state or by any political subdivision. Any entity in order to be exempt from the definition of "holder" pursuant to this division shall make a reasonable, good-faith effort to contact the owner of the unclaimed funds.

(E) "Person" includes a natural person; corporation, whether for profit or not for profit; copartnership; unincorporated association or organization; public authority; estate; trust; two or more persons having a joint or common interest; eleemosynary organization; fraternal or cooperative association; other legal or community entity; the United States government, including any district, territory, possession, officer, agency, department, authority, instrumentality, board, bureau, or court; or any state or political

subdivision thereof, including any officer, agency, board, bureau, commission, division, department, authority, court, or instrumentality.

(F) "Mortgage funds" means the mortgage insurance fund created by section 122.561 of the Revised Code, and the housing guarantee fund created by division (D) of section 128.11 of the Revised Code.

(G) "Lawful claims" means any vested right a holder of unclaimed funds has against the owner of such unclaimed funds.

(H) "Public utility" means any entity defined as such by division (A) of section 745.01 or by section 4905.02 of the Revised Code.

(I) "Deposit" means to place money in the custody of a financial organization for the purpose of establishing an income-bearing account by purchase or otherwise.

(J) "Income-bearing account" means a time or savings account, whether or not evidenced by a certificate of deposit, or an investment account through which investments are made solely in obligations of the United States or its agencies or instrumentalities or guaranteed as to principal and interest by the United States or its agencies or instrumentalities, debt securities rated as investment grade by at least two nationally recognized rating services, debt securities which the director of commerce has determined to have been issued for the safety and welfare of the residents of this state, and equity interests in mutual funds that invest solely in some or all of the above-listed securities and involve no general liability, without regard to whether income earned on such accounts, securities, or interests is paid periodically or at the end of a term.

(K) "Director of commerce" may be read as the "division of unclaimed funds" or the "superintendent of unclaimed funds."

Sec. 169.13. (A)(1) All agreements to pay a fee, compensation, commission, or other remuneration to locate, deliver, recover, or assist in the recovery of unclaimed funds reported under section 169.03 of the Revised Code, entered into within two years immediately after the date a report is filed under division (C) of section 169.03 of the Revised Code, are invalid.

(2) A person interested in entering into an agreement to locate, deliver, recover, or assist in the recovery of unclaimed funds for remuneration shall not initiate any contact with an owner during the two-year period immediately after the date a report is filed under division (C) of section 169.03 of the Revised Code. Failure to comply with this requirement is grounds for the invalidation of any such agreement between the person and the owner.

(B) An agreement entered into any time after such two-year period is valid only if ~~both~~ all of the following conditions are met:

(1) The aggregate fee, compensation, commission, or other remuneration agreed upon, ~~paid directly or indirectly~~, is not in excess of ten per cent of the amount recovered and paid to the owner by the auditor of state;

(2) The agreement is in writing, signed by the owner, and notarized and discloses all of the following items:

(a) The name, address, and telephone number of the owner, as shown by the records of the person or entity in possession of the unclaimed funds or contents of a safe deposit box;

(b) The name, address, and telephone number of the owner if the owner's name, address, or telephone number are different from the name, address, or telephone number of the owner as shown by the records of the person or entity in possession of the unclaimed funds or contents of a safe deposit box;

(c) The nature and value of the ~~property~~ unclaimed funds or contents of a safe deposit box;

~~(b)~~(d) The amount the owner will receive after the fee or compensation has been subtracted;

~~(e)~~(e) The name and address of the person or entity in possession of the ~~property~~ unclaimed funds or contents of a safe deposit box;

(f) That the auditor of state will pay the unclaimed funds directly to the owner or the director shall deliver the contents of a safe deposit box directly to the owner;

(g) That the person agreeing to locate, deliver, recover, or assist in the recovery of the unclaimed funds or contents of a safe deposit box is not an employee or agent of the director of commerce;

(h) That the director is not a party to the agreement;

(i) That the person agreeing to locate, deliver, recover, or assist in the recovery of the unclaimed funds or contents of a safe deposit box holds a valid certificate of registration issued by the director under section 169.16 of the Revised Code;

(j) The number designated on that certificate of registration and the date the certificate of registration expires.

(3) No agreement described in division (B)(2) of this section shall include a power of attorney for the payment of the unclaimed funds or delivery of the contents of a safe deposit box to any person other than the owner of the unclaimed funds or contents of a safe deposit box.

(4) If the agreement involves recovery of the contents of a safe deposit box, the agreement stipulates that the person receiving any fee, compensation, commission, or other remuneration for engaging in any

activity for the purpose of locating, delivering, recovering, or assisting in the recovery of unclaimed funds or other items stored in a safe deposit box on behalf of any other person shall do all of the following:

(a) Make arrangements to have an appraiser and the director of commerce view the contents of the safe deposit box together, at a time mutually agreeable to the appraiser and director;

(b) State that the value of the property in the safe deposit box is the amount established by the appraiser who viewed the safe deposit box contents;

(c) Base the fee, compensation, commission, or other remuneration for locating, delivering, recovering, or assisting in the recovery of unclaimed funds or other items stored in a safe deposit box on the appraised value established by the appraiser who viewed the safe deposit box contents.

(C) No person shall receive a fee, compensation, commission, or other remuneration, or engage in any activity for the purpose of locating, delivering, recovering, or assisting in the recovery of unclaimed funds or contents of a safe deposit box, under an agreement that is invalid under this section.

~~(D) Whoever violates division (C) of this section is guilty of a misdemeanor of the first degree for a first offense and of a felony of the fifth degree for each subsequent offense~~ A person who receives any fee, compensation, commission, or other remuneration for engaging in any activity for the purpose of locating, delivering, recovering, or assisting in the recovery of unclaimed funds or other items stored in a safe deposit box on behalf of any other person cannot function as an appraiser of the contents of the safe deposit box for purposes of division (B)(4) of this section.

(E) The director shall not recognize or make any delivery and the auditor of state shall not make any payment pursuant to any power of attorney between an owner of the unclaimed funds or contents of a safe deposit box and the person with whom the owner entered into an agreement pursuant to division (B)(2) of this section to locate, deliver, recover, or assist in the recovery of the unclaimed funds or contents of a safe deposit box if that power of attorney is entered into on or after the effective date of this amendment and that power of attorney specifically provides for the payment of unclaimed funds or delivery of the contents of a safe deposit box to any person other than the owner of the unclaimed funds or contents of a safe deposit box. Nothing in this section shall be construed as prohibiting the payment of unclaimed funds or delivery of the contents of a safe deposit box to the legal representative of the owner of the unclaimed funds or contents of the safe deposit box. Notwithstanding the definition of "owner" specified

in division (C) of section 169.01 of the Revised Code, for purposes of the payment of unclaimed funds or delivery of the contents of the safe deposit box, a person with whom an owner entered into an agreement under division (B)(2) of this section is not a legal representative.

Sec. 169.14. (A) Each person that files a claim with the director of commerce, pursuant to an agreement entered into under section 169.13 of the Revised Code, shall include with that claim the number designated on the certificate of registration that is issued to the person under section 169.16 of the Revised Code.

(B) The division of unclaimed funds shall not process any claim described in division (A) of this section that does not include the required certificate of registration number.

Sec. 169.16. (A) No person, on behalf of any other person, shall engage in any activity for the purpose of locating, delivering, recovering, or assisting in the recovery of unclaimed funds or contents of a safe deposit box, and receive a fee, compensation, commission, or other remuneration for such activity, without first having obtained a certificate of registration from the director of commerce in accordance with this section.

(B) An application for a certificate of registration shall be in writing and in the form prescribed by the director. The application shall be accompanied by a recent full-face color photograph of the applicant and notarized character reference letters from two reputable character witnesses. The application shall, at a minimum, provide all of the following:

(1) The applicant's full name, home address, and work address;

(2) The name, address, and telephone number of the two character witnesses who have provided the character reference letters;

(3) A statement that the applicant has not, during the ten-year period immediately preceding the submission of the application, violated division (A) of this section on or after the effective date of this section, or division (C) of section 169.13 of the Revised Code, or been convicted of, or pleaded guilty to, any felony or any offense involving moral turpitude, including theft, attempted theft, falsification, tampering with records, securing writings by deception, fraud, forgery, and perjury;

(4) The notarized signature of the applicant immediately following an acknowledgment that any false or perjured statement subjects the applicant to criminal liability under section 2921.13 of the Revised Code.

(C) Upon the filing of the application with the division of unclaimed funds, the division may investigate the applicant to verify the information provided in the application and to determine the applicant's eligibility for a certificate of registration under this section. False information on an

application is grounds for the denial or revocation of the applicant's certificate of registration.

(D) The director shall issue a certificate of registration to an applicant if the director finds that the following conditions are met:

(1) The applicant has not, during the ten-year period immediately preceding the submission of the application, violated division (A) of this section on or after the effective date of this section, or division (C) of section 169.13 of the Revised Code, or been convicted of, or pleaded guilty to, any felony or any offense involving moral turpitude, including theft, attempted theft, falsification, tampering with records, securing writings by deception, fraud, forgery, and perjury.

(2) The applicant's character and general fitness command the confidence of the public and warrant the belief that the applicant's business will be conducted honestly and fairly.

(E) The certificate of registration issued pursuant to division (D) of this section may be renewed annually if the director finds that the following conditions are met:

(1) The applicant submits a renewal application form prescribed by the director.

(2) The applicant meets the conditions set forth in division (D) of this section.

(3) The applicant's certificate of registration is not subject to an order of revocation by the director.

Sec. 169.17. (A) After notice and an opportunity for a hearing conducted in accordance with Chapter 119. of the Revised Code, the director of commerce shall revoke or refuse to issue or renew a certificate of registration if the director finds either of the following:

(1) During the immediately preceding ten-year period, the person violated division (A) of section 169.16 on or after the effective date of this section, or division (C) of section 169.13 of the Revised Code, or has been convicted of, or pleaded guilty to, any felony or any offense involving moral turpitude, including theft, attempted theft, falsification, tampering with records, securing writings by deception, fraud, forgery, and perjury.

(2) The person's character and general fitness do not command the confidence of the public or warrant the belief that the person's business will be conducted honestly and fairly.

(B) The director may investigate alleged violations of division (C) of section 169.13 or division (A) of section 169.16 of the Revised Code or complaints concerning any such violation. The director may make application to the court of common pleas for an order enjoining any such

violation and, upon a showing by the director that a person has committed or is about to commit such a violation, the court shall grant an injunction, restraining order, or other appropriate relief.

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

(D) If the director determines that a person is engaged in or is believed to be engaged in activities that may constitute a violation of division (C) of section 169.13 or division (A) of section 169.16 of the Revised Code, the director, after notice and a hearing conducted in accordance with Chapter 119. of the Revised Code, may issue a cease and desist order. Such an order shall be enforceable in the court of common pleas.

Sec. 169.99. (A) Whoever violates section 169.10 of the Revised Code shall be fined not more than five hundred dollars. Each day of continuance of such violation is a separate offense.

(B) Whoever violates division (C) of section 169.13 or division (A) of section 169.16 of the Revised Code is guilty of a misdemeanor of the first degree for a first offense and of a felony of the fifth degree for any subsequent offense.

Sec. 1322.03. (A) An application for a certificate of registration as a mortgage broker shall be in writing, under oath, and in the form prescribed by the superintendent of financial institutions. The application shall be accompanied by a nonrefundable application fee of three hundred fifty dollars for each location of an office to be maintained by the applicant in accordance with division (A) of section 1322.02 of the Revised Code; however, an applicant that is registered under sections 1321.51 to 1321.60 of the Revised Code shall not be required to pay an application fee. The application shall provide all of the following:

(1) The location or locations where the business is to be transacted and whether any location is a residence. If any location where the business is to be transacted is a residence, the application shall be accompanied by a certified copy of a zoning permit authorizing the use of the residence for

commercial purposes, or shall be accompanied by a written opinion or other document issued by the county or political subdivision where the residence is located certifying that the use of the residence to transact business as a mortgage broker is not prohibited by the county or political subdivision. The application also shall be accompanied by a photograph of each location at which the business will be transacted.

(2)(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 the entity that will transact business as a mortgage broker.

(3) If the applicant is a partnership, corporation, limited liability company, or any other business entity or association, the applicant shall designate an employee or owner of the applicant as the applicant's operations manager. While acting as the operations manager, the employee or owner shall not be employed by any other mortgage broker.

(4) Evidence that the sole proprietor or the person designated on the application pursuant to division (A)(3) of this section, as applicable, possesses at least three years of experience in the mortgage and lending field, which experience may include employment with or as a mortgage broker or with a financial institution, mortgage lending institution, or other lending institution, or possesses at least three years of other experience related specifically to the business of mortgage loans that the superintendent determines meets the requirements of division (A)(4) of this section;

(5) On or after January 1, 2007, evidence that the sole proprietor or the person designated on the application pursuant to division (A)(3) of this section has successfully completed either of the following:

(a) At least twenty-four hours of live classroom instruction in a course or program of study approved by the superintendent that consists of at least all of the following:

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

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

(iii) Four hours of instruction concerning the loan application process;

(iv) Two hours of instruction concerning the underwriting process;

(v) Two hours of instruction concerning the secondary market for mortgage loans;

(vi) Four hours of instruction concerning the loan closing process;

(vii) Two hours of instruction covering basic mortgage financing concepts and terms;

(viii) Two hours of instruction concerning the ethical responsibilities of a registrant, including with respect to confidentiality, consumer counseling, and the duties and standards of care created in section 1322.081 of the Revised Code.

(b) Other post-secondary education related specifically to the business of mortgage loans that the superintendent determines meets the requirements of division (A)(5)(a) of this section.

Division (A)(5) of this section does not apply to any applicant who has an application on file with the division of financial institutions prior to January 1, 2007.

The evidence submitted by the applicant pursuant to division (A)(5) of this section may be in the form of transcripts or a statement indicating that the applicant has, and will maintain, transcripts at the applicant's place of business for a period of five years for inspection by the superintendent at the superintendent's request.

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

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

(8) A statement as to whether the applicant or, to the best of the applicant's knowledge, any shareholder, member, partner, operations manager, or employee of the applicant has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities;

(9) A statement as to whether the applicant or, to the best of the applicant's knowledge, any shareholder, member, partner, operations manager, or employee of the applicant has been subject to any adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty;

(10) Evidence that the applicant's operations manager has successfully completed the examination required under division (A) of section 1322.051 of the Revised Code;

(11) Any further information that the superintendent requires.

(B) Upon the filing of the application and payment of the application fee, the superintendent of financial institutions shall investigate the applicant as set forth in division (B) of this section.

(1) The superintendent shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints in accordance with division (A)(11) of section 109.572 of the Revised Code. Notwithstanding division ~~(J)~~(K) of section 121.08 of the Revised Code, the superintendent of financial institutions shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check. Any fee required under division (C)(3) of section 109.572 of the Revised Code shall be paid by the applicant.

(2) The superintendent shall conduct a civil records check.

(3) 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 three hundred fifty dollars. The superintendent shall provide the applicant with an itemized statement of the actual expenses that the applicant is required to pay.

(C) The superintendent shall pay all funds advanced and application and renewal fees and penalties the superintendent receives pursuant to this section and section 1322.04 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.

(D) If an application for a certificate of registration does not contain all of the information required under division (A) of this section, and if that information is not submitted to the superintendent within ninety days after the superintendent requests the information in writing, the superintendent may consider the application withdrawn.

(E) 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.

(F) The registration requirements of this chapter apply to any person acting as a mortgage broker, and no person is exempt from the requirements of this chapter on the basis of prior work or employment as a mortgage broker.

Sec. 1322.031. (A) An application for a license as a loan officer shall be

in writing, under oath, and in the form prescribed by the superintendent of financial institutions. The application shall be accompanied by a nonrefundable application fee of one hundred dollars and shall provide all of the following:

- (1) The name and address of the applicant;
- (2) A statement as to whether the applicant has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities;
- (3) A statement as to whether the applicant has been subject to an adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty;
- (4) For loan officer applications submitted on or after January 1, 2007, proof, as determined by the superintendent, that the applicant has successfully completed at least twenty-four hours of live classroom instruction in a course or program of study approved by the superintendent that consists of at least all of the following:
 - (a) Four hours of instruction concerning state and federal mortgage lending laws, which shall include no less than two hours on this chapter;
 - (b) Four hours of instruction concerning the Ohio consumer sales practices act, Chapter 1345. of the Revised Code, as it applies to registrants and licensees;
 - (c) Four hours of instruction concerning the loan application process;
 - (d) Two hours of instruction concerning the underwriting process;
 - (e) Two hours of instruction concerning the secondary market for mortgage loans;
 - (f) Four hours of instruction concerning the loan closing process;
 - (g) Two hours of instruction covering basic mortgage financing concepts and terms;
 - (h) Two hours of instruction concerning the ethical responsibilities of a licensee, including with respect to confidentiality, consumer counseling, and the duties and standards of care created in section 1322.081 of the Revised Code.

Division (A)(4) of this section does not apply to any applicant who has an application on file with the division of financial institutions prior to January 1, 2007.

The proof submitted by the applicant pursuant to division (A)(4) of this section may be in the form of transcripts or a statement indicating that the applicant has, and will maintain, transcripts at the applicant's place of

business for a period of five years for inspection by the superintendent at the superintendent's request.

(5) Any further information that the superintendent requires.

(B) Upon the filing of the application and payment of the application fee, the superintendent of financial institutions shall investigate the applicant as set forth in division (B) of this section.

(1) The superintendent shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints in accordance with division (A)(11) of section 109.572 of the Revised Code. Notwithstanding division ~~(D)(K)~~ of section 121.08 of the Revised Code, the superintendent of financial institutions shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check. Any fee required under division (C)(3) of section 109.572 of the Revised Code shall be paid by the applicant.

(2) The superintendent shall conduct a civil records check.

(3) If, in order to issue a license 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 one hundred dollars. The superintendent shall provide the applicant with an itemized statement of the actual expenses that the applicant is required to pay.

(C) The superintendent shall pay all funds advanced and application and renewal fees and penalties the superintendent receives pursuant to this section and section 1322.041 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.

(D) If an application for a license does not contain all of the information required under division (A) of this section, and if that information is not submitted to the superintendent within ninety days after the superintendent requests the information in writing, the superintendent may consider the application withdrawn.

(E)(1) The business of a loan officer shall principally be transacted at an office of the employing mortgage broker, which office is registered in accordance with division (A) of section 1322.02 of the Revised Code. Each original license shall be deposited with and maintained by the employing mortgage broker at the mortgage broker's main office. A copy of the license shall be maintained and displayed at the office where the loan officer

principally transacts business.

(2) If a loan officer's employment is terminated, the mortgage broker shall return the original license to the superintendent within five business days after the termination. The licensee may request the transfer of the license to another mortgage broker by submitting a relocation application, along with a fifteen dollar fee, to the superintendent or may request the superintendent in writing to hold the license in escrow for a period not to exceed one year. Any licensee whose license is held in escrow shall cease activity as a loan officer.

A mortgage broker may employ a loan officer on a temporary basis pending the transfer of the loan officer's license to the mortgage broker, if the mortgage broker receives written confirmation from the superintendent that the loan officer is licensed under sections 1322.01 to 1322.12 of the Revised Code.

(F) A license, or the authority granted under that license, is not assignable and cannot be franchised by contract or any other means.

Sec. 4763.05. (A)(1)(a) A person shall make application for an initial state-certified general real estate appraiser certificate, an initial state-certified residential real estate appraiser certificate, an initial state-licensed residential real estate appraiser license, or an initial state-registered real estate appraiser assistant registration in writing to the superintendent of real estate on a form the superintendent prescribes. The application shall include the address of the applicant's principal place of business and all other addresses at which the applicant currently engages in the business of preparing real estate appraisals and the address of the applicant's current residence. The superintendent shall retain the applicant's current residence address in a separate record which shall not constitute a public record for purposes of section 149.03 of the Revised Code. The application shall indicate whether the applicant seeks certification as a general real estate appraiser or as a residential real estate appraiser, licensure as a residential real estate appraiser, or registration as a real estate appraiser assistant and be accompanied by the prescribed examination and certification, registration, or licensure fees set forth in section 4763.09 of the Revised Code. The application also shall include a fingerprint of the applicant; a pledge, signed by the applicant, that the applicant will comply with the standards set forth in this chapter; and a statement that the applicant understands the types of misconduct for which disciplinary proceedings may be initiated against the applicant pursuant to this chapter.

(b) Upon the filing of an application and payment of any examination and certification, registration, or licensure fees, the superintendent of real

estate shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints in accordance with division (A)(11) of section 109.572 of the Revised Code. Notwithstanding division ~~(J)(K)~~ of section 121.08 of the Revised Code, the superintendent of real estate shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check. Any fee required under division (C)(3) of section 109.572 of the Revised Code shall be paid by the applicant.

(2) For purposes of providing funding for the real estate appraiser recovery fund established by section 4763.16 of the Revised Code, the real estate appraiser board shall levy an assessment against each person issued an initial certificate, registration, or license and against current licensees, registrants, and certificate holders, as required by board rule. The assessment is in addition to the application and examination fees for initial applicants required by division (A)(1) of this section and the renewal fees required for current certificate holders, registrants, and licensees. The superintendent of real estate shall deposit the assessment into the state treasury to the credit of the real estate appraiser recovery fund. The assessment for initial certificate holders, registrants, and licensees shall be paid prior to the issuance of a certificate, registration, or license, and for current certificate holders, registrants, and licensees, at the time of renewal.

(B) An applicant for an initial general real estate appraiser certificate shall possess at least thirty months of experience in real estate appraisal, or any equivalent experience the board prescribes. An applicant for a residential real estate appraiser certificate or residential real estate appraiser license shall possess at least two years of experience in real estate appraisal, or any equivalent experience the board prescribes. In addition to any other information required by the board, the applicant shall furnish, under oath, a detailed listing of the appraisal reports or file memoranda for each year for which experience is claimed and, upon request of the superintendent or the board, shall make available for examination a sample of the appraisal reports prepared by the applicant in the course of the applicant's practice.

(C)(1) Except as provided in division (C)(2) of this section, an applicant for an initial certificate, registration, or license shall be at least eighteen years of age, honest, truthful, and of good reputation and shall present satisfactory evidence to the superintendent of the following, as appropriate:

(a) If the applicant is seeking a state-certified general real estate appraiser certificate, that the applicant has successfully completed at least one hundred sixty-five classroom hours of courses in subjects related to real

estate appraisal, including at least one course devoted exclusively to federal, state, and municipal fair housing law, presented by a nationally recognized appraisal organization, an institution of higher education, a career school registered by the state board of career colleges and schools, a state or federal commission or agency, or any other organization that represents the interests of financial institutions or real estate brokers, appraisers, or agents and that provides appraisal education, plus fifteen classroom hours related to standards of professional practice and the provisions of this chapter;

(b) If the applicant is seeking a state-certified residential real estate appraiser certificate, that the applicant has successfully completed at least one hundred five classroom hours of courses in subjects related to real estate appraisal, including at least one course devoted exclusively to federal, state, and municipal fair housing law, presented by a nationally recognized appraisal organization, an institution of higher education, a career school registered by the state board of career colleges and schools, or any other organization that represents the interests of financial institutions or real estate brokers, appraisers, or agents and that provides appraisal education, plus fifteen classroom hours related to standards of professional practice and the provisions of this chapter;

(c) If the applicant is seeking a state-licensed residential real estate appraiser license, that the applicant has successfully completed at least seventy-five classroom hours of courses in subjects related to real estate appraisal, including at least one course devoted exclusively to federal, state, and municipal fair housing law, presented by a nationally recognized appraisal organization, an institution of higher education, a career school registered by the state board of career colleges and schools, a state or federal commission or agency, or any other organization that represents the interests of financial institutions or real estate brokers, appraisers, or agents and that provides appraisal education, plus fifteen classroom hours related to standards of professional practice and the provisions of this chapter;

(d) If the applicant is seeking a state-registered real estate appraiser assistant registration, that the applicant has successfully completed at least seventy-five classroom hours of courses in subjects related to real estate appraisal, including at least one course devoted exclusively to federal, state, and municipal fair housing law, presented by a nationally recognized appraisal organization, an institution of higher education, a career school registered by the state board of career colleges and schools, or any other organization that represents the interests of financial institutions or real estate brokers, appraisers, or agents, and that provides appraisal education that included at least fifteen classroom hours of instruction related to

standards of professional practice and the requirements of this chapter and the rules adopted under this chapter.

(2) Each person who files an application for an initial certificate or license within one year of the date established by the board as the first date on which applications will be accepted under this section, which date shall be no later than September 1, 1990, and who, at the time of filing that application, does not satisfy the educational requirements for the certification or licensure sought of either division (C)(1)(a) or (b) of this section is exempt from those educational requirements for the term of the initial certification or licensure. In applying for a renewal certificate or license pursuant to section 4763.06 of the Revised Code, a certificate holder or licensee who was exempted from the educational requirements of division (C)(1)(a) or (b) of this section when applying for the initial certificate or license shall present satisfactory evidence to the superintendent that the certificate holder or licensee has completed the educational requirements for the certification or licensure to be renewed of one of those divisions before the renewal certificate or license may be issued.

(D) An applicant for an initial general real estate appraiser or residential real estate appraiser certificate or residential real estate appraiser license shall take and successfully complete a written examination in order to qualify for the certificate or license. The examination shall require the applicant to demonstrate all of the following:

(1) Appropriate knowledge of technical terms commonly used in or related to real estate appraising, appraisal report writing, and the economic concepts applicable to real estate;

(2) Understanding of the principles of land economics, real estate appraisal processes, and problems likely to be encountered in gathering, interpreting, and processing of data in carrying out appraisal disciplines;

(3) Understanding of the standards for the development and communication of real estate appraisals as provided in this chapter and the rules adopted thereunder;

(4) Knowledge of theories of depreciation, cost estimating, methods of capitalization, direct sales comparison, and the mathematics of real estate appraisal that are appropriate for the certification or licensure for which the applicant has applied;

(5) Knowledge of other principles and procedures as appropriate for the certification or license;

(6) Basic understanding of real estate law;

(7) Understanding of the types of misconduct for which disciplinary proceedings may be initiated against a certificate holder and licensee.

(E)(1) A nonresident, natural person of this state who has complied with this section may obtain a certificate, registration, or license. The board shall adopt rules relating to the certification, registration, and licensure of a nonresident applicant whose state of residence the board determines to have certification, registration, or licensure requirements that are substantially similar to those set forth in this chapter and the rules adopted thereunder.

(2) The board shall recognize on a temporary basis a certification or license issued in another state and shall register on a temporary basis an appraiser who is certified or licensed in another state if all of the following apply:

(a) The temporary registration is to perform an appraisal assignment that is part of a federally related transaction.

(b) The appraiser's business in this state is of a temporary nature.

(c) The appraiser registers with the board pursuant to this division.

An appraiser who is certified or licensed in another state shall register with the board for temporary practice before performing an appraisal assignment in this state in connection with a federally related transaction.

The board shall adopt rules relating to registration for the temporary recognition of certification and licensure of appraisers from another state. The registration for temporary recognition of certified or licensed appraisers from another state shall not authorize completion of more than one appraisal assignment in this state. The board shall not issue more than two registrations for temporary practice to any one applicant in any calendar year.

(3) In addition to any other information required to be submitted with the nonresident applicant's or appraiser's application for a certificate, registration, license, or temporary recognition of a certificate or license, each nonresident applicant or appraiser shall submit a statement consenting to the service of process upon the nonresident applicant or appraiser by means of delivering that process to the secretary of state if, in an action against the applicant, certificate holder, registrant, or licensee arising from the applicant's, certificate holder's, registrant's, or licensee's activities as a certificate holder, registrant, or licensee, the plaintiff, in the exercise of due diligence, cannot effect personal service upon the applicant, certificate holder, registrant, or licensee.

(F) The superintendent shall not issue a certificate, registration, or license to, or recognize on a temporary basis an appraiser from another state that is a corporation, partnership, or association. This prohibition shall not be construed to prevent a certificate holder or licensee from signing an appraisal report on behalf of a corporation, partnership, or association.

(G) Every person licensed, registered, or certified under this chapter shall notify the superintendent, on a form provided by the superintendent, of a change in the address of the licensee's, registrant's, or certificate holder's principal place of business or residence within thirty days of the change. If a licensee's, registrant's, or certificate holder's license, registration, or certificate is revoked or not renewed, the licensee, registrant, or certificate holder immediately shall return the annual and any renewal certificate, registration, or license to the superintendent.

(H)(1) The superintendent shall not issue a certificate, registration, or license to any person, or recognize on a temporary basis an appraiser from another state, who does not meet applicable minimum criteria for state certification, registration, or licensure prescribed by federal law or rule.

(2) The superintendent shall not issue a general real estate appraiser certificate, residential real estate appraiser certificate, residential real estate appraiser license, or real estate appraiser assistant registration to any person who has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities, including a violation of an existing or former law of this state, any other state, or the United States that substantially is equivalent to such an offense. However, if the applicant has pleaded guilty to or been convicted of such an offense, the superintendent shall not consider the offense if the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again.

SECTION 2. That existing sections 121.04, 121.08, 169.01, 169.13, 169.99, 1322.03, 1322.031, and 4763.05 of the Revised Code are hereby repealed.

SECTION 3. Sections 169.13 and 169.14 of the Revised Code, as amended or enacted by this act, shall apply only to agreements that are entered into on or after the effective date of this act.

SECTION 4. All of the following provisions of this act shall take effect sixty days after the effective date of this act:

- (A) Division (B)(2)(i) and (j) of section 169.13 of the Revised Code;
- (B) Section 169.14 of the Revised Code;
- (C) Division (A) of section 169.16 of the Revised Code;

(D) Division (B) of section 169.99 of the Revised Code.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____