

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 199

Representative Blessing

Cosponsors: Representatives Seitz, Wiggam, Sprague, Brenner, Hughes

A BILL

To amend sections 9.02, 109.572, 1181.21, 1181.25, 1
1315.21, 1319.12, 1321.02, 1321.51, 1321.52, 2
1321.53, 1321.531, 1321.532, 1321.54, 1321.55, 3
1321.551, 1321.57, 1321.58, 1321.59, 1321.593, 4
1321.60, 1321.72, 1321.99, 1322.01, 1322.02, 5
1322.021, 1322.023, 1322.024, 1322.025, 1322.03, 6
1322.031, 1322.04, 1322.041, 1322.042, 1322.043, 7
1322.05, 1322.051, 1322.052, 1322.06, 1322.061, 8
1322.065, 1322.07, 1322.072, 1322.073, 1322.074, 9
1322.075, 1322.081, 1322.09, 1322.10, 1322.11, 10
1322.12, 1322.99, 1329.71, 1335.02, 1345.01, 11
1349.27, 1349.43, 1349.44, 1349.45, 1349.99, 12
2923.31, 4712.01, 4719.01, 4728.11, 4735.05, and 13
4763.03; to amend, for the purpose of adopting 14
new section numbers as indicated in parentheses, 15
sections 1322.02 (1322.07), 1322.021 (1322.16), 16
1322.023 (1322.05), 1322.024 (1322.02), 1322.025 17
(1322.55), 1322.03 (1322.09), 1322.031 18
(1322.20), 1322.04 (1322.10), 1322.041 19
(1322.21), 1322.042 (1322.24), 1322.043 20
(1322.25), 1322.05 (1322.32), 1322.051 21
(1322.27), 1322.052 (1322.28), 1322.06 22
(1322.34), 1322.061 (1322.36), 1322.065 23

(1322.17), 1322.07 (1322.40), 1322.072 24
(1322.35), 1322.073 (1322.15), 1322.074 25
(1322.41), 1322.075 (1322.42), 1322.081 26
(1322.45), 1322.09 (1322.46), 1322.10 (1322.50), 27
1322.101 (1322.51), 1322.11 (1322.52), and 28
1322.12 (1322.57); to enact new sections 1322.04 29
and 1322.12 and sections 1322.29, 1322.43, and 30
1322.56; and to repeal sections 1321.521, 31
1321.533, 1321.534, 1321.535, 1321.536, 32
1321.537, 1321.538, 1321.552, 1321.592, 33
1321.594, 1322.022, 1322.062, 1322.063, 34
1322.064, 1322.071, and 1322.08 of the Revised 35
Code to create the Ohio Residential Mortgage 36
Lending Act for the purpose of regulating all 37
non-depository lending secured by residential 38
real estate and to limit the application of the 39
current Mortgage Loan Law to unsecured loans and 40
loans secured by other than residential real 41
estate. 42

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

Section 1. That sections 9.02, 109.572, 1181.21, 1181.25, 43
1315.21, 1319.12, 1321.02, 1321.51, 1321.52, 1321.53, 1321.531, 44
1321.532, 1321.54, 1321.55, 1321.551, 1321.57, 1321.58, 1321.59, 45
1321.593, 1321.60, 1321.72, 1321.99, 1322.01, 1322.02, 1322.021, 46
1322.023, 1322.024, 1322.025, 1322.03, 1322.031, 1322.04, 47
1322.041, 1322.042, 1322.043, 1322.05, 1322.051, 1322.052, 48
1322.06, 1322.061, 1322.065, 1322.07, 1322.072, 1322.073, 49
1322.074, 1322.075, 1322.081, 1322.09, 1322.10, 1322.11, 50

1322.12, 1322.99, 1329.71, 1335.02, 1345.01, 1349.27, 1349.43, 51
1349.44, 1349.45, 1349.99, 2923.31, 4712.01, 4719.01, 4728.11, 52
4735.05, and 4763.03 be amended; sections 1322.02 (1322.07), 53
1322.021 (1322.16), 1322.023 (1322.05), 1322.024 (1322.02), 54
1322.025 (1322.55), 1322.03 (1322.09), 1322.031 (1322.20), 55
1322.04 (1322.10), 1322.041 (1322.21), 1322.042 (1322.24), 56
1322.043 (1322.25), 1322.05 (1322.32), 1322.051 (1322.27), 57
1322.052 (1322.28), 1322.06 (1322.34), 1322.061 (1322.36), 58
1322.065 (1322.17), 1322.07 (1322.40), 1322.072 (1322.35), 59
1322.073 (1322.15), 1322.074 (1322.41), 1322.075 (1322.42), 60
1322.081 (1322.45), 1322.09 (1322.46), 1322.10 (1322.50), 61
1322.101 (1322.51), 1322.11 (1322.52), and 1322.12 (1322.57) be 62
amended for the purpose of adopting new section numbers as shown 63
in parentheses; and new sections 1322.04 and 1322.12 and 64
sections 1322.29, 1322.43, and 1322.56 of the Revised Code be 65
enacted to read as follows: 66

Sec. 9.02. (A) As used in this section: 67

(1) "Customer" means any person or authorized 68
representative of that person who has maintained or is 69
maintaining an account or deposit of any type, or has utilized 70
or is utilizing any service of a financial institution, or for 71
whom a financial institution has acted or is acting as a 72
fiduciary in relation to an account or deposit maintained in the 73
person's name. 74

(2) "Governmental authority" includes the state, any 75
political subdivision, district, or court, and any agency, 76
department, officer, or authorized employee of any of those 77
entities. 78

(3) "Financial institution" means any bank, building and 79
loan association, trust company, credit union, licensee as 80

defined in section 1321.01, ~~or~~ registrant as defined in section 81
1321.51 of the Revised Code, or person registered as a mortgage 82
lender under Chapter 1322. of the Revised Code. 83

(4) "Financial record" means any record, including 84
statements or receipts, and checks, drafts, or similar 85
instruments, or information derived from such record, that is 86
maintained by a financial institution and that pertains to a 87
deposit or account of a customer, a service of the financial 88
institution utilized by a customer, or any other relationship 89
between a customer and the financial institution. 90

(5) "Supervisory review" means any examination of or other 91
supervisory action with respect to a financial institution, 92
where such examination or action is conducted or taken pursuant 93
to authority granted under the Revised Code, or rules 94
promulgated pursuant thereto by the agency having regulatory 95
jurisdiction over such institution. 96

(B) Any party, including a governmental authority, that 97
requires or requests a financial institution to assemble or 98
provide a customer's financial records in connection with any 99
investigation, action, or proceeding shall pay the financial 100
institution for all actual and necessary costs directly incurred 101
in searching for, reproducing, or transporting these records, if 102
the financial institution is not a party to the investigation, 103
action, or proceeding, is not a subject of supervisory review in 104
the investigation, action, or proceeding, or is a party to the 105
investigation, action, or proceeding solely by reason of its 106
holding of assets of another party defendant, with no cause of 107
action alleged against the financial institution. This payment 108
shall be made to the financial institution promptly, whether or 109
not the financial records are entered into evidence. If the 110

records are produced pursuant to a court order or subpoena duces 111
tecum, the party requesting the order or subpoena is responsible 112
for making the payment. With respect to any judicial or 113
administrative proceeding for which the records are requested, 114
payment of these costs shall be in addition to any witness fees. 115

(C) The rates and conditions for making payments required 116
by division (B) of this section shall be established by rule by 117
the superintendent of financial institutions. To the extent that 118
they are applicable, such respective rules shall be 119
substantially like those adopted by the board of governors of 120
the federal reserve system to regulate similar fees required by 121
the "Right to Financial Privacy Act of 1978," 92 Stat. 3708, 12
U.S.C.A. 3415. 123

(D) (1) This section is not intended to expand, limit, or 124
otherwise affect any authority granted under federal law or the 125
law of this state to any party, including a governmental 126
authority, to procure, request, or require a customer's 127
financial records. This section does not apply to investigations 128
or examinations conducted under authority granted by Chapter 129
169., 1707., 3737., or 4735. of the Revised Code. 130

(2) Division (B) of this section does not apply to 131
financial records required to be assembled or provided pursuant 132
to a subpoena, demand for production, request for records, or 133
demand for inspection issued by or on motion of the attorney 134
general or the organized crime investigations commission, to a 135
subpoena issued by or on motion of a prosecuting attorney who 136
has probable cause to believe that a crime has been committed, 137
or to a subpoena issued by a grand jury, if all of the following 138
apply: 139

(a) The financial records or copies of the financial 140

records are subpoenaed for purposes of a criminal investigation 141
or prosecution; 142

(b) The subpoena is delivered to the financial institution 143
at least ten days before the records are to be provided; 144

(c) The subpoena identifies individual items to be 145
provided or is for statements of the customer's account for a 146
specified period of time but only as is relevant to the possible 147
crime being investigated. 148

If any financial record assembled or provided by a 149
financial institution pursuant to such a subpoena or any 150
information derived from the financial record is introduced as 151
evidence in any criminal trial and if any nonindigent defendant 152
is convicted of an offense at that trial, the trial court shall 153
charge against the defendant, as a cost of prosecution, all 154
actual and necessary costs directly incurred by the financial 155
institution in searching for, reproducing, or transporting the 156
financial records provided the financial institution is not a 157
defendant at the trial. A defendant against whom costs are 158
charged pursuant to this division shall pay the costs to the 159
court which shall forward the payment to the financial 160
institution. For purposes of this division, the trial court 161
shall determine whether a defendant is indigent. The rates of 162
payment established by rule pursuant to division (C) of this 163
section shall be used by the trial court in charging costs under 164
this division. 165

(E) Notwithstanding division (D) of this section, in any 166
proceeding, action, or investigation that involves an alleged 167
violation of section 2921.02, 2921.41, 2921.42, or 2921.43 of 168
the Revised Code, that either involves a property interest of 169
the state or occurred within the scope of state employment or 170

during the performance of a state public official's or state public servant's duties, and in which a financial institution is required or requested to assemble or provide financial records, the financial institution has a right of reimbursement from the state treasury for all actual and necessary costs incurred in searching for, reproducing, or transporting the financial records, at the rates established by rule under division (C) of this section. The reimbursement shall be made only if the financial institution is not a party to, or subject of the investigation, action, or proceeding, or is a party to the investigation, action, or proceeding solely by reason of its holding assets of another party defendant, with no cause of action alleged against the financial institution, and only if the financial institution has not acted negligently in the management of the deposit, account, service, or other relationship to which those financial records pertain. The reimbursement shall be made promptly, whether or not the financial records are entered into evidence. As used in this division, "state" means only the state of Ohio and does not include any political subdivision.

Sec. 109.572. (A) (1) Upon receipt of a request pursuant to section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, a completed form prescribed pursuant to division (C) (1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C) (2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 202
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 203
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 204
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 205
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 206
2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 207
2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 208
2925.05, 2925.06, or 3716.11 of the Revised Code, felonious 209
sexual penetration in violation of former section 2907.12 of the 210
Revised Code, a violation of section 2905.04 of the Revised Code 211
as it existed prior to July 1, 1996, a violation of section 212
2919.23 of the Revised Code that would have been a violation of 213
section 2905.04 of the Revised Code as it existed prior to July 214
1, 1996, had the violation been committed prior to that date, or 215
a violation of section 2925.11 of the Revised Code that is not a 216
minor drug possession offense; 217

(b) A violation of an existing or former law of this 218
state, any other state, or the United States that is 219
substantially equivalent to any of the offenses listed in 220
division (A)(1)(a) of this section; 221

(c) If the request is made pursuant to section 3319.39 of 222
the Revised Code for an applicant who is a teacher, any offense 223
specified in section 3319.31 of the Revised Code. 224

(2) On receipt of a request pursuant to section 3712.09 or 225
3721.121 of the Revised Code, a completed form prescribed 226
pursuant to division (C)(1) of this section, and a set of 227
fingerprint impressions obtained in the manner described in 228
division (C)(2) of this section, the superintendent of the 229
bureau of criminal identification and investigation shall 230
conduct a criminal records check with respect to any person who 231

has applied for employment in a position for which a criminal 232
records check is required by those sections. The superintendent 233
shall conduct the criminal records check in the manner described 234
in division (B) of this section to determine whether any 235
information exists that indicates that the person who is the 236
subject of the request previously has been convicted of or 237
pleaded guilty to any of the following: 238

(a) A violation of section 2903.01, 2903.02, 2903.03, 239
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 240
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 241
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 242
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 243
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 244
2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 245
2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 246
2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code; 247

(b) An existing or former law of this state, any other 248
state, or the United States that is substantially equivalent to 249
any of the offenses listed in division (A)(2)(a) of this 250
section. 251

(3) On receipt of a request pursuant to section 173.27, 252
173.38, 173.381, 3701.881, 5164.34, 5164.341, 5164.342, 253
5123.081, or 5123.169 of the Revised Code, a completed form 254
prescribed pursuant to division (C)(1) of this section, and a 255
set of fingerprint impressions obtained in the manner described 256
in division (C)(2) of this section, the superintendent of the 257
bureau of criminal identification and investigation shall 258
conduct a criminal records check of the person for whom the 259
request is made. The superintendent shall conduct the criminal 260
records check in the manner described in division (B) of this 261

section to determine whether any information exists that 262
indicates that the person who is the subject of the request 263
previously has been convicted of, has pleaded guilty to, or 264
(except in the case of a request pursuant to section 5164.34,
5164.341, or 5164.342 of the Revised Code) has been found 265
eligible for intervention in lieu of conviction for any of the 266
following, regardless of the date of the conviction, the date of 267
entry of the guilty plea, or (except in the case of a request 268
pursuant to section 5164.34, 5164.341, or 5164.342 of the 269
Revised Code) the date the person was found eligible for 270
intervention in lieu of conviction: 271
272

(a) A violation of section 959.13, 959.131, 2903.01, 273
2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 274
2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 275
2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2905.32, 2905.33, 276
2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 277
2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 278
2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 279
2909.03, 2909.04, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 280
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 281
2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 282
2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 283
2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 284
2919.121, 2919.123, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 285
2921.11, 2921.12, 2921.13, 2921.21, 2921.24, 2921.32, 2921.321, 286
2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 2923.122, 2923.123, 287
2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42, 2925.02, 288
2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09, 2925.11, 289
2925.13, 2925.14, 2925.141, 2925.22, 2925.23, 2925.24, 2925.36, 290
2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code; 291

(b) Felonious sexual penetration in violation of former 292

| | |
|---|---|
| section 2907.12 of the Revised Code; | 293 |
| (c) A violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996; | 294 295 |
| (d) A violation of section 2923.01, 2923.02, or 2923.03 of the Revised Code when the underlying offense that is the object of the conspiracy, attempt, or complicity is one of the offenses listed in divisions (A) (3) (a) to (c) of this section; | 296 297 298 299 |
| (e) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in divisions (A) (3) (a) to (d) of this section. | 300 301 302 303 |
| (4) On receipt of a request pursuant to section 2151.86 of the Revised Code, a completed form prescribed pursuant to division (C) (1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C) (2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following: | 304 305 306 307 308 309 310 311 312 313 314 |
| (a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.49, | 315 316 317 318 319 320 321 |

2917.01, 2917.02, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 322
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 323
2927.12, or 3716.11 of the Revised Code, a violation of section 324
2905.04 of the Revised Code as it existed prior to July 1, 1996, 325
a violation of section 2919.23 of the Revised Code that would 326
have been a violation of section 2905.04 of the Revised Code as 327
it existed prior to July 1, 1996, had the violation been 328
committed prior to that date, a violation of section 2925.11 of 329
the Revised Code that is not a minor drug possession offense, 330
two or more OVI or OVUAC violations committed within the three 331
years immediately preceding the submission of the application or 332
petition that is the basis of the request, or felonious sexual 333
penetration in violation of former section 2907.12 of the 334
Revised Code; 335

(b) A violation of an existing or former law of this 336
state, any other state, or the United States that is 337
substantially equivalent to any of the offenses listed in 338
division (A) (4) (a) of this section. 339

(5) Upon receipt of a request pursuant to section 5104.013 340
of the Revised Code, a completed form prescribed pursuant to 341
division (C) (1) of this section, and a set of fingerprint 342
impressions obtained in the manner described in division (C) (2) 343
of this section, the superintendent of the bureau of criminal 344
identification and investigation shall conduct a criminal 345
records check in the manner described in division (B) of this 346
section to determine whether any information exists that 347
indicates that the person who is the subject of the request has 348
been convicted of or pleaded guilty to any of the following: 349

(a) A violation of section 2151.421, 2903.01, 2903.02, 350
2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 351

2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.32, 352
2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 353
2907.09, 2907.19, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 354
2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 355
2909.03, 2909.04, 2909.05, 2911.01, 2911.02, 2911.11, 2911.12, 356
2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 357
2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.41, 358
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 359
2913.48, 2913.49, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 360
2919.22, 2919.224, 2919.225, 2919.24, 2919.25, 2921.03, 2921.11, 361
2921.13, 2921.14, 2921.34, 2921.35, 2923.01, 2923.12, 2923.13, 362
2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 363
3716.11 of the Revised Code, felonious sexual penetration in 364
violation of former section 2907.12 of the Revised Code, a 365
violation of section 2905.04 of the Revised Code as it existed 366
prior to July 1, 1996, a violation of section 2919.23 of the 367
Revised Code that would have been a violation of section 2905.04 368
of the Revised Code as it existed prior to July 1, 1996, had the 369
violation been committed prior to that date, a violation of 370
section 2925.11 of the Revised Code that is not a minor drug 371
possession offense, a violation of section 2923.02 or 2923.03 of 372
the Revised Code that relates to a crime specified in this 373
division, or a second violation of section 4511.19 of the 374
Revised Code within five years of the date of application for 375
licensure or certification. 376

(b) A violation of an existing or former law of this 377
state, any other state, or the United States that is 378
substantially equivalent to any of the offenses or violations 379
described in division (A) (5) (a) of this section. 380

(6) Upon receipt of a request pursuant to section 5153.111 381
of the Revised Code, a completed form prescribed pursuant to 382

division (C) (1) of this section, and a set of fingerprint 383
impressions obtained in the manner described in division (C) (2) 384
of this section, the superintendent of the bureau of criminal 385
identification and investigation shall conduct a criminal 386
records check in the manner described in division (B) of this 387
section to determine whether any information exists that 388
indicates that the person who is the subject of the request 389
previously has been convicted of or pleaded guilty to any of the 390
following: 391

(a) A violation of section 2903.01, 2903.02, 2903.03, 392
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 393
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 394
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 395
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 396
2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 397
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 398
2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised 399
Code, felonious sexual penetration in violation of former 400
section 2907.12 of the Revised Code, a violation of section 401
2905.04 of the Revised Code as it existed prior to July 1, 1996, 402
a violation of section 2919.23 of the Revised Code that would 403
have been a violation of section 2905.04 of the Revised Code as 404
it existed prior to July 1, 1996, had the violation been 405
committed prior to that date, or a violation of section 2925.11 406
of the Revised Code that is not a minor drug possession offense; 407

(b) A violation of an existing or former law of this 408
state, any other state, or the United States that is 409
substantially equivalent to any of the offenses listed in 410
division (A) (6) (a) of this section. 411

(7) On receipt of a request for a criminal records check 412

from an individual pursuant to section 4749.03 or 4749.06 of the Revised Code, accompanied by a completed copy of the form prescribed in division (C)(1) of this section and a set of fingerprint impressions obtained in a manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists indicating that the person who is the subject of the request has been convicted of or pleaded guilty to a felony in this state or in any other state. If the individual indicates that a firearm will be carried in the course of business, the superintendent shall require information from the federal bureau of investigation as described in division (B)(2) of this section. Subject to division (F) of this section, the superintendent shall report the findings of the criminal records check and any information the federal bureau of investigation provides to the director of public safety.

(8) On receipt of a request pursuant to section 1321.37, 1321.53, 1321.531, ~~1322.03, 1322.031,~~ or 4763.05 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person who has applied for a license, permit, or certification from the department of commerce or a division in the department. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request

previously has been convicted of or pleaded guilty to any of the 444
following: a violation of section 2913.02, 2913.11, 2913.31, 445
2913.51, or 2925.03 of the Revised Code; any other criminal 446
offense involving theft, receiving stolen property, 447
embezzlement, forgery, fraud, passing bad checks, money 448
laundering, or drug trafficking, or any criminal offense 449
involving money or securities, as set forth in Chapters 2909., 450
2911., 2913., 2915., 2921., 2923., and 2925. of the Revised 451
Code; or any existing or former law of this state, any other 452
state, or the United States that is substantially equivalent to 453
those offenses. 454

(9) On receipt of a request for a criminal records check 455
from the treasurer of state under section 113.041 of the Revised 456
Code or from an individual under section 4701.08, 4715.101, 457
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 458
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 459
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 460
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 461
4762.031, 4762.06, 4776.021, 4779.091, or 4783.04 of the Revised 462
Code, accompanied by a completed form prescribed under division 463
(C) (1) of this section and a set of fingerprint impressions 464
obtained in the manner described in division (C) (2) of this 465
section, the superintendent of the bureau of criminal 466
identification and investigation shall conduct a criminal 467
records check in the manner described in division (B) of this 468
section to determine whether any information exists that 469
indicates that the person who is the subject of the request has 470
been convicted of or pleaded guilty to any criminal offense in 471
this state or any other state. Subject to division (F) of this 472
section, the superintendent shall send the results of a check 473
requested under section 113.041 of the Revised Code to the 474

treasurer of state and shall send the results of a check 475
requested under any of the other listed sections to the 476
licensing board specified by the individual in the request. 477

(10) On receipt of a request pursuant to section 1121.23, 478
1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised 479
Code, a completed form prescribed pursuant to division (C)(1) of 480
this section, and a set of fingerprint impressions obtained in 481
the manner described in division (C)(2) of this section, the 482
superintendent of the bureau of criminal identification and 483
investigation shall conduct a criminal records check in the 484
manner described in division (B) of this section to determine 485
whether any information exists that indicates that the person 486
who is the subject of the request previously has been convicted 487
of or pleaded guilty to any criminal offense under any existing 488
or former law of this state, any other state, or the United 489
States. 490

(11) On receipt of a request for a criminal records check 491
from an appointing or licensing authority under section 3772.07 492
of the Revised Code, a completed form prescribed under division 493
(C)(1) of this section, and a set of fingerprint impressions 494
obtained in the manner prescribed in division (C)(2) of this 495
section, the superintendent of the bureau of criminal 496
identification and investigation shall conduct a criminal 497
records check in the manner described in division (B) of this 498
section to determine whether any information exists that 499
indicates that the person who is the subject of the request 500
previously has been convicted of or pleaded guilty or no contest 501
to any offense under any existing or former law of this state, 502
any other state, or the United States that is a disqualifying 503
offense as defined in section 3772.07 of the Revised Code or 504
substantially equivalent to such an offense. 505

(12) On receipt of a request pursuant to section 2151.33 506
or 2151.412 of the Revised Code, a completed form prescribed 507
pursuant to division (C)(1) of this section, and a set of 508
fingerprint impressions obtained in the manner described in 509
division (C)(2) of this section, the superintendent of the 510
bureau of criminal identification and investigation shall 511
conduct a criminal records check with respect to any person for 512
whom a criminal records check is required under that section. 513
The superintendent shall conduct the criminal records check in 514
the manner described in division (B) of this section to 515
determine whether any information exists that indicates that the 516
person who is the subject of the request previously has been 517
convicted of or pleaded guilty to any of the following: 518

(a) A violation of section 2903.01, 2903.02, 2903.03, 519
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 520
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 521
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 522
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 523
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 524
2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 525
2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 526
2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code; 527

(b) An existing or former law of this state, any other 528
state, or the United States that is substantially equivalent to 529
any of the offenses listed in division (A)(12)(a) of this 530
section. 531

(13) On receipt of a request pursuant to section 3796.12 532
of the Revised Code, a completed form prescribed pursuant to 533
division (C)(1) of this section, and a set of fingerprint 534
impressions obtained in a manner described in division (C)(2) of 535

this section, the superintendent of the bureau of criminal 536
identification and investigation shall conduct a criminal 537
records check in the manner described in division (B) of this 538
section to determine whether any information exists that 539
indicates that the person who is the subject of the request 540
previously has been convicted of or pleaded guilty to the 541
following: 542

(a) A disqualifying offense as specified in rules adopted 543
under division (B) (2) (b) of section 3796.03 of the Revised Code 544
if the person who is the subject of the request is an 545
administrator or other person responsible for the daily 546
operation of, or an owner or prospective owner, officer or 547
prospective officer, or board member or prospective board member 548
of, an entity seeking a license from the department of commerce 549
under Chapter 3796. of the Revised Code; 550

(b) A disqualifying offense as specified in rules adopted 551
under division (B) (2) (b) of section 3796.04 of the Revised Code 552
if the person who is the subject of the request is an 553
administrator or other person responsible for the daily 554
operation of, or an owner or prospective owner, officer or 555
prospective officer, or board member or prospective board member 556
of, an entity seeking a license from the state board of pharmacy 557
under Chapter 3796. of the Revised Code. 558

(14) On receipt of a request required by section 3796.13 559
of the Revised Code, a completed form prescribed pursuant to 560
division (C) (1) of this section, and a set of fingerprint 561
impressions obtained in a manner described in division (C) (2) of 562
this section, the superintendent of the bureau of criminal 563
identification and investigation shall conduct a criminal 564
records check in the manner described in division (B) of this 565

section to determine whether any information exists that 566
indicates that the person who is the subject of the request 567
previously has been convicted of or pleaded guilty to the 568
following: 569

(a) A disqualifying offense as specified in rules adopted 570
under division (B) (8) (a) of section 3796.03 of the Revised Code 571
if the person who is the subject of the request is seeking 572
employment with an entity licensed by the department of commerce 573
under Chapter 3796. of the Revised Code; 574

(b) A disqualifying offense as specified in rules adopted 575
under division (B) (14) (a) of section 3796.04 of the Revised Code 576
if the person who is the subject of the request is seeking 577
employment with an entity licensed by the state board of 578
pharmacy under Chapter 3796. of the Revised Code. 579

(B) Subject to division (F) of this section, the 580
superintendent shall conduct any criminal records check to be 581
conducted under this section as follows: 582

(1) The superintendent shall review or cause to be 583
reviewed any relevant information gathered and compiled by the 584
bureau under division (A) of section 109.57 of the Revised Code 585
that relates to the person who is the subject of the criminal 586
records check, including, if the criminal records check was 587
requested under section 113.041, 121.08, 173.27, 173.38, 588
173.381, 1121.23, 1155.03, 1163.05, 1315.141, 1321.37, 1321.53, 589
1321.531, ~~1322.03, 1322.031~~, 1733.47, 1761.26, 2151.86, 3301.32, 590
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3772.07, 591
3796.12, 4749.03, 4749.06, 4763.05, 5104.013, 5164.34, 5164.341, 592
5164.342, 5123.081, 5123.169, or 5153.111 of the Revised Code, 593
any relevant information contained in records that have been 594
sealed under section 2953.32 of the Revised Code; 595

(2) If the request received by the superintendent asks for information from the federal bureau of investigation, the superintendent shall request from the federal bureau of investigation any information it has with respect to the person who is the subject of the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 if the request is made pursuant to section 2151.86 or 5104.013 of the Revised Code or if any other Revised Code section requires fingerprint-based checks of that nature, and shall review or cause to be reviewed any information the superintendent receives from that bureau. If a request under section 3319.39 of the Revised Code asks only for information from the federal bureau of investigation, the superintendent shall not conduct the review prescribed by division (B)(1) of this section.

(3) The superintendent or the superintendent's designee may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code.

(4) The superintendent shall include in the results of the criminal records check a list or description of the offenses listed or described in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), or (14) of this section, whichever division requires the superintendent to conduct the criminal records check. The superintendent shall exclude from the results any information the dissemination of which is prohibited by federal law.

(5) The superintendent shall send the results of the criminal records check to the person to whom it is to be sent

not later than the following number of days after the date the 626
superintendent receives the request for the criminal records 627
check, the completed form prescribed under division (C) (1) of 628
this section, and the set of fingerprint impressions obtained in 629
the manner described in division (C) (2) of this section: 630

(a) If the superintendent is required by division (A) of 631
this section (other than division (A) (3) of this section) to 632
conduct the criminal records check, thirty; 633

(b) If the superintendent is required by division (A) (3) 634
of this section to conduct the criminal records check, sixty. 635

(C) (1) The superintendent shall prescribe a form to obtain 636
the information necessary to conduct a criminal records check 637
from any person for whom a criminal records check is to be 638
conducted under this section. The form that the superintendent 639
prescribes pursuant to this division may be in a tangible 640
format, in an electronic format, or in both tangible and 641
electronic formats. 642

(2) The superintendent shall prescribe standard impression 643
sheets to obtain the fingerprint impressions of any person for 644
whom a criminal records check is to be conducted under this 645
section. Any person for whom a records check is to be conducted 646
under this section shall obtain the fingerprint impressions at a 647
county sheriff's office, municipal police department, or any 648
other entity with the ability to make fingerprint impressions on 649
the standard impression sheets prescribed by the superintendent. 650
The office, department, or entity may charge the person a 651
reasonable fee for making the impressions. The standard 652
impression sheets the superintendent prescribes pursuant to this 653
division may be in a tangible format, in an electronic format, 654
or in both tangible and electronic formats. 655

(3) Subject to division (D) of this section, the 656
superintendent shall prescribe and charge a reasonable fee for 657
providing a criminal records check under this section. The 658
person requesting the criminal records check shall pay the fee 659
prescribed pursuant to this division. In the case of a request 660
under section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 661
1761.26, 2151.33, 2151.412, or 5164.34 of the Revised Code, the 662
fee shall be paid in the manner specified in that section. 663

(4) The superintendent of the bureau of criminal 664
identification and investigation may prescribe methods of 665
forwarding fingerprint impressions and information necessary to 666
conduct a criminal records check, which methods shall include, 667
but not be limited to, an electronic method. 668

(D) The results of a criminal records check conducted 669
under this section, other than a criminal records check 670
specified in division (A)(7) of this section, are valid for the 671
person who is the subject of the criminal records check for a 672
period of one year from the date upon which the superintendent 673
completes the criminal records check. If during that period the 674
superintendent receives another request for a criminal records 675
check to be conducted under this section for that person, the 676
superintendent shall provide the results from the previous 677
criminal records check of the person at a lower fee than the fee 678
prescribed for the initial criminal records check. 679

(E) When the superintendent receives a request for 680
information from a registered private provider, the 681
superintendent shall proceed as if the request was received from 682
a school district board of education under section 3319.39 of 683
the Revised Code. The superintendent shall apply division (A)(1) 684
(c) of this section to any such request for an applicant who is 685

a teacher. 686

(F) (1) Subject to division (F) (2) of this section, all 687
information regarding the results of a criminal records check 688
conducted under this section that the superintendent reports or 689
sends under division (A) (7) or (9) of this section to the 690
director of public safety, the treasurer of state, or the 691
person, board, or entity that made the request for the criminal 692
records check shall relate to the conviction of the subject 693
person, or the subject person's plea of guilty to, a criminal 694
offense. 695

(2) Division (F) (1) of this section does not limit, 696
restrict, or preclude the superintendent's release of 697
information that relates to the arrest of a person who is 698
eighteen years of age or older, to an adjudication of a child as 699
a delinquent child, or to a criminal conviction of a person 700
under eighteen years of age in circumstances in which a release 701
of that nature is authorized under division (E) (2), (3), or (4) 702
of section 109.57 of the Revised Code pursuant to a rule adopted 703
under division (E) (1) of that section. 704

(G) As used in this section: 705

(1) "Criminal records check" means any criminal records 706
check conducted by the superintendent of the bureau of criminal 707
identification and investigation in accordance with division (B) 708
of this section. 709

(2) "Minor drug possession offense" has the same meaning 710
as in section 2925.01 of the Revised Code. 711

(3) "OVI or OVUAC violation" means a violation of section 712
4511.19 of the Revised Code or a violation of an existing or 713
former law of this state, any other state, or the United States 714

that is substantially equivalent to section 4511.19 of the Revised Code.

(4) "Registered private provider" means a nonpublic school or entity registered with the superintendent of public instruction under section 3310.41 of the Revised Code to participate in the autism scholarship program or section 3310.58 of the Revised Code to participate in the Jon Peterson special needs scholarship program.

Sec. 1181.21. (A) As used in this section, "consumer finance company" has the same meaning as in section 1181.05 of the Revised Code.

(B) The superintendent of financial institutions shall see that the laws relating to consumer finance companies are executed and enforced.

(C) The deputy superintendent for consumer finance shall be the principal supervisor of consumer finance companies. In that position the deputy superintendent for consumer finance shall, notwithstanding section 1321.421, division (A) of section 1321.76, and sections 1321.07, 1321.55, ~~1322.06~~ 1322.34, 4727.05, and 4728.05 of the Revised Code, be responsible for conducting examinations and preparing examination reports under those sections. In addition, the deputy superintendent for consumer finance shall, notwithstanding sections 1315.27, 1321.10, 1321.43, 1321.54, 1321.77, ~~1322.12~~ 1322.57, 4712.14, 4727.13, and 4728.10 of the Revised Code, have the authority to adopt rules and standards in accordance with those sections. In performing or exercising any of the examination, rule-making, or other regulatory functions, powers, or duties vested by this division in the deputy superintendent for consumer finance, the deputy superintendent for consumer finance shall be subject to

the control of the superintendent of financial institutions and 745
the director of commerce. 746

Sec. 1181.25. The superintendent of financial institutions 747
may introduce into evidence or disclose, or authorize to be 748
introduced into evidence or disclosed, information that, under 749
sections 1121.18, 1155.16, 1163.20, 1315.122, 1321.09, 1321.48, 750
1321.55, 1321.76, ~~1322.06~~ 1322.34, ~~1322.061~~ 1322.36, 1733.32, 751
1733.327, and 4727.18 of the Revised Code, is privileged, 752
confidential, or otherwise not public information or a public 753
record, provided that the superintendent acts only as provided 754
in those sections or in the following circumstances: 755

(A) When in the opinion of the superintendent, it is 756
appropriate with regard to any enforcement actions taken and 757
decisions made by the superintendent under Chapters 1315., 758
1321., 1322., 1733., 4712., 4727., and 4728. of the Revised Code 759
or Title XI of the Revised Code; 760

(B) When litigation has been initiated by the 761
superintendent in furtherance of the powers, duties, and 762
obligations imposed upon the superintendent by Chapters 1315., 763
1321., 1322., 1733., 4712., 4727., and 4728. of the Revised Code 764
or Title XI of the Revised Code; 765

(C) When in the opinion of the superintendent, it is 766
appropriate with regard to enforcement actions taken or 767
decisions made by other financial institution regulatory 768
authorities to whom the superintendent has provided the 769
information pursuant to authority in Chapters 1315., 1321., 770
1322., 1733., 4712., 4727., and 4728. of the Revised Code or 771
Title XI of the Revised Code. 772

Sec. 1315.21. As used in sections 1315.21 to 1315.30 of 773

the Revised Code: 774

(A) "Check" means any check, draft, money order, or other 775
instrument for the transmission or payment of money. "Check" 776
does not include a travelers check. 777

(B) "Check-cashing business" means any person that engages 778
in the business of cashing checks for a fee. "Check-cashing 779
business" does not include any of the following: 780

(1) A licensee as defined in section 1321.01 of the 781
Revised Code; 782

(2) A registrant as defined in section 1321.51 of the 783
Revised Code; 784

(3) A financial institution; 785

(4) A person that is primarily engaged in the business of 786
selling tangible personal property or services at retail and 787
does not derive more than five per cent of the person's gross 788
income from the cashing of checks; 789

(5) A person licensed under sections 1315.01 to 1315.18 of 790
the Revised Code, or any agent of that person, to the extent 791
that the person or the agent is engaged in cashing checks or 792
travelers checks issued by the licensed person; 793

(6) A person registered as a mortgage lender under Chapter 794
1322. of the Revised Code. 795

(C) "Financial institution" means any bank, trust company, 796
savings bank, savings and loan association, or credit union, 797
that is incorporated or organized under the laws of the United 798
States or of any state thereof, or of Canada or any province 799
thereof, and subject to regulation or supervision by such 800
country, state, or province. 801

(D) "Superintendent of financial institutions" includes 802
the deputy superintendent for consumer finance as provided in 803
section 1181.21 of the Revised Code. 804

Sec. 1319.12. (A) (1) As used in this section, "collection 805
agency" means any person who, for compensation, contingent or 806
otherwise, or for other valuable consideration, offers services 807
to collect an alleged debt asserted to be owed to another. 808

(2) "Collection agency" does not mean a person whose 809
collection activities are confined to and directly related to 810
the operation of another business, including, but not limited 811
to, the following: 812

(a) Any bank, including the trust department of a bank, 813
trust company, savings and loan association, savings bank, 814
credit union, or fiduciary as defined in section 5815.04 of the 815
Revised Code, except those that own or operate a collection 816
agency; 817

(b) Any real estate broker or real estate salesperson, as 818
defined in section 4735.01 of the Revised Code; 819

(c) Any retail seller collecting its own accounts; 820

(d) Any insurance company authorized to do business in 821
this state under Title XXXIX of the Revised Code or a health 822
insuring corporation authorized to operate in this state under 823
Chapter 1751. of the Revised Code; 824

(e) Any public officer or judicial officer acting under 825
order of a court; 826

(f) Any licensee as defined either in section 1321.01 or 827
1321.71 of the Revised Code, ~~or~~ any registrant as defined in 828
section 1321.51 of the Revised Code, or any person registered as 829

| | |
|---|--|
| <u>a mortgage lender under Chapter 1322. of the Revised Code;</u> | 830 |
| (g) Any public utility; | 831 |
| (h) Any person registered to sell interment rights under section 4767.031 of the Revised Code. | 832 833 |
| (B) A collection agency with a place of business in this state may take assignment of another person's accounts, bills, or other evidences of indebtedness in its own name for the purpose of billing, collecting, or filing suit in its own name as the real party in interest. | 834 835 836 837 838 |
| (C) No collection agency shall commence litigation for the collection of an assigned account, bill, or other evidence of indebtedness unless it has taken the assignment in accordance with all of the following requirements: | 839 840 841 842 |
| (1) The assignment was voluntary, properly executed, and acknowledged by the person transferring title to the collection agency. | 843 844 845 |
| (2) The collection agency did not require the assignment as a condition to listing the account, bill, or other evidence of indebtedness with the collection agency for collection. | 846 847 848 |
| (3) The assignment was manifested by a written agreement separate from and in addition to any document intended for the purpose of listing the account, bill, or other evidence of indebtedness with the collection agency. The written agreement shall state the effective date of the assignment and the consideration paid or given, if any, for the assignment and shall expressly authorize the collection agency to refer the assigned account, bill, or other evidence of indebtedness to an attorney admitted to the practice of law in this state for the commencement of litigation. The written agreement also shall | 849 850 851 852 853 854 855 856 857 858 |

disclose that the collection agency may consolidate, for 859
purposes of filing an action, the assigned account, bill, or 860
other evidence of indebtedness with those of other creditors 861
against an individual debtor or co-debtors. 862

(4) Upon the effective date of the assignment to the 863
collection agency, the creditor's account maintained by the 864
collection agency in connection with the assigned account, bill, 865
or other evidence of indebtedness was canceled. 866

(D) A collection agency shall commence litigation for the 867
collection of an assigned account, bill, or other evidence of 868
indebtedness in a court of competent jurisdiction located in the 869
county in which the debtor resides, or in the case of co- 870
debtors, a county in which at least one of the co-debtors 871
resides. 872

(E) No collection agency shall commence any litigation 873
authorized by this section unless the agency appears by an 874
attorney admitted to the practice of law in this state. 875

(F) This section does not affect the powers and duties of 876
any person described in division (A) (2) of this section. 877

(G) Nothing in this section relieves a collection agency 878
from complying with the "Fair Debt Collection Practices Act," 91 879
Stat. 874 (1977), 15 U.S.C. 1692, as amended, or deprives any 880
debtor of the right to assert defenses as provided in section 881
1317.031 of the Revised Code and 16 C.F.R. 433, as amended. 882

(H) For purposes of filing an action, a collection agency 883
that has taken an assignment or assignments pursuant to this 884
section may consolidate the assigned accounts, bills, or other 885
evidences of indebtedness of one or more creditors against an 886
individual debtor or co-debtors. Each separate assigned account, 887

bill, or evidence of indebtedness must be separately identified 888
and pled in any consolidated action authorized by this section. 889
If a debtor or co-debtor raises a good faith dispute concerning 890
any account, bill, or other evidence of indebtedness, the court 891
shall separate each disputed account, bill, or other evidence of 892
indebtedness from the action and hear the disputed account, 893
bill, or other evidence of indebtedness on its own merits in a 894
separate action. The court shall charge the filing fee of the 895
separate action to the losing party. 896

Sec. 1321.02. No person shall engage in the business of 897
lending money, credit, or choses in action in amounts of five 898
thousand dollars or less, or exact, contract for, or receive, 899
directly or indirectly, on or in connection with any such loan, 900
any interest and charges that in the aggregate are greater than 901
the interest and charges that the lender would be permitted to 902
charge for a loan of money if the lender were not a licensee, 903
without first having obtained a license from the division of 904
financial institutions under sections 1321.01 to 1321.19 of the 905
Revised Code. 906

Sections 1321.01 to 1321.19 of the Revised Code do not 907
apply to any person doing business under and as permitted by any 908
law of this state, another state, or the United States relating 909
to banks, savings banks, savings societies, trust companies, 910
credit unions, savings and loan associations substantially all 911
the business of which is confined to loans on real estate 912
mortgages and evidences of their own indebtedness; to 913
registrants conducting business pursuant to sections 1321.51 to 914
1321.60 of the Revised Code; to licensees conducting business 915
pursuant to sections 1321.71 to 1321.83 of the Revised Code; to 916
licensees doing business pursuant to sections 1321.35 to 1321.48 917
of the Revised Code; to registrants conducting business as 918

mortgage lenders under Chapter 1322. of the Revised Code; or to 919
any entity who is licensed pursuant to Title XXXIX of the 920
Revised Code, who makes advances or loans to any person who is 921
licensed to sell insurance pursuant to that Title, and who is 922
authorized in writing by that entity to sell insurance. No 923
person engaged in the business of selling tangible goods or 924
services related thereto may receive or retain a license under 925
sections 1321.01 to 1321.19 of the Revised Code for such place 926
of business. 927

The first paragraph of this section applies to any person, 928
who by any device, subterfuge, or pretense, charges, contracts 929
for, or receives greater interest, consideration, or charges 930
than that authorized by this section for any such loan or use of 931
money or for any such loan, use, or sale of credit, or who for a 932
fee or any manner of compensation arranges or offers to find or 933
arrange for another person to make any such loan, use, or sale 934
of credit. This section does not preclude the acquiring, 935
directly or indirectly, by purchase or discount, of a bona fide 936
obligation for goods or services when such obligation is payable 937
directly to the person who provided the goods or services. 938

Any contract of loan in the making or collection of which 939
an act is done by the lender that violates this section is void 940
and the lender has no right to collect, receive, or retain any 941
principal, interest, or charges. 942

Sec. 1321.51. As used in sections 1321.51 to 1321.60 of 943
the Revised Code: 944

(A) "Person" means an individual, partnership, 945
association, trust, corporation, or any other legal entity. 946

(B) "Certificate" means a certificate of registration 947

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| issued under sections 1321.51 to 1321.60 of the Revised Code. | 948 |
| (C) "Registrant" means a person to whom one or more | 949 |
| certificates of registration have been issued under sections | 950 |
| 1321.51 to 1321.60 of the Revised Code. | 951 |
| (D) "Principal amount" means the amount of cash paid to, | 952 |
| or paid or payable for the account of, the borrower, and | 953 |
| includes any charge, fee, or expense that is financed by the | 954 |
| borrower at origination of the loan or during the term of the | 955 |
| loan. | 956 |
| (E) "Interest" means all charges payable directly or | 957 |
| indirectly by a borrower to a registrant as a condition to a | 958 |
| loan or an application for a loan, however denominated, but does | 959 |
| not include default charges, deferment charges, insurance | 960 |
| charges or premiums, court costs, loan origination charges, | 961 |
| check collection charges, credit line charges, points, | 962 |
| prepayment penalties, or other fees and charges specifically | 963 |
| authorized by law. | 964 |
| (F) "Interest-bearing loan" means a loan in which the debt | 965 |
| is expressed as the principal amount and interest is computed, | 966 |
| charged, and collected on unpaid principal balances outstanding | 967 |
| from time to time. | 968 |
| (G) "Precomputed loan" means a loan in which the debt is a | 969 |
| sum comprising the principal amount and the amount of interest | 970 |
| computed in advance on the assumption that all scheduled | 971 |
| payments will be made when due. | 972 |
| (H) "Actuarial method" means the method of allocating | 973 |
| payments made on a loan between the principal amount and | 974 |
| interest whereby a payment is applied first to the accumulated | 975 |
| interest and the remainder to the unpaid principal amount. | 976 |

| | |
|--|------|
| (I) "Applicable charge" means the amount of interest | 977 |
| attributable to each monthly installment period of the loan | 978 |
| contract. The applicable charge is computed as if each | 979 |
| installment period were one month and any charge for extending | 980 |
| the first installment period beyond one month is ignored. In the | 981 |
| case of loans originally scheduled to be repaid in sixty-one | 982 |
| months or less, the applicable charge for any installment period | 983 |
| is that proportion of the total interest contracted for, as the | 984 |
| balance scheduled to be outstanding during that period bears to | 985 |
| the sum of all of the periodic balances, all determined | 986 |
| according to the payment schedule originally contracted for. In | 987 |
| all other cases, the applicable charge for any installment | 988 |
| period is that which would have been made for such period had | 989 |
| the loan been made on an interest-bearing basis, based upon the | 990 |
| assumption that all payments were made according to schedule. | 991 |
| (J) "Broker" means a person who acts as an intermediary or | 992 |
| agent in finding, arranging, or negotiating loans, other than | 993 |
| residential mortgage loans, and charges or receives a fee for | 994 |
| these services. | 995 |
| (K) "Annual percentage rate" means the ratio of the | 996 |
| interest on a loan to the unpaid principal balances on the loan | 997 |
| for any period of time, expressed on an annual basis. | 998 |
| (L) "Point" means a charge equal to one per cent of either | 999 |
| of the following: | 1000 |
| (1) The principal amount of a precomputed loan or | 1001 |
| interest-bearing loan; | 1002 |
| (2) The original credit line of an open-end loan. | 1003 |
| (M) "Prepayment penalty" means a charge for prepayment of | 1004 |
| a loan at any time prior to five years from the date the loan | 1005 |

contract is executed. 1006

(N) "Refinancing" means a loan the proceeds of which are 1007
used in whole or in part to pay the unpaid balance of a prior 1008
loan made by the same registrant to the same borrower under 1009
sections 1321.51 to 1321.60 of the Revised Code. 1010

(O) "Superintendent of financial institutions" includes 1011
the deputy superintendent for consumer finance as provided in 1012
section 1181.21 of the Revised Code. 1013

(P) (1) "~~Mortgage loan~~ Loan originator" means an individual 1014
who for compensation or gain, or in anticipation of compensation 1015
or gain, does any of the following: 1016

(a) Takes or offers to take ~~a residential mortgage loan~~ an 1017
application for a loan made under sections 1321.51 to 1321.60 of 1018
the Revised Code; 1019

(b) Assists or offers to assist a borrower in obtaining or 1020
applying to obtain such a ~~residential mortgage loan~~ by, among 1021
other things, advising on loan terms, including rates, fees, and 1022
other costs; 1023

(c) Offers or negotiates terms of such a ~~residential-~~ 1024
~~mortgage loan;~~ 1025

(d) Issues or offers to issue a commitment for such a 1026
~~residential mortgage loan~~ to a borrower. 1027

(2) "~~Mortgage loan~~ Loan originator" does not include any 1028
of the following: 1029

(a) An individual who performs purely administrative or 1030
clerical tasks on behalf of a ~~mortgage loan~~ originator; 1031

(b) ~~A person licensed pursuant to Chapter 4735. of the~~ 1032

~~Revised Code, or under the similar law of another state, who~~ 1033
~~performs only real estate brokerage activities permitted by that~~ 1034
~~license, provided the person is not compensated by a mortgage~~ 1035
~~lender, mortgage broker, mortgage loan originator, or by any~~ 1036
~~agent thereof;~~ 1037

~~(e)~~ A person solely involved in extensions of credit 1038
relating to timeshare plans, as that term is defined in 11 1039
U.S.C. 101, in effect on January 1, 2009; 1040

~~(d)~~ (c) A person acting solely as a loan processor or 1041
underwriter, who does not represent to the public, through 1042
advertising or other means of communicating, including the use 1043
of business cards, stationery, brochures, signs, rate lists, or 1044
other promotional items, that the person can or will perform any 1045
of the activities of a ~~mortgage~~ loan originator; 1046

~~(e)~~ (d) A mortgage loan originator licensed under ~~sections~~ 1047
~~1322.01 to 1322.12 Chapter 1322.~~ of the Revised Code, when 1048
acting solely under that authority; 1049

~~(f)~~ (e) A licensed attorney who negotiates the terms of a 1050
~~residential mortgage~~ loan on behalf of a client as an ancillary 1051
matter to the attorney's representation of the client, unless 1052
the attorney is compensated by a lender, ~~a mortgage broker,~~ or 1053
another ~~mortgage~~ loan originator, or by any agent thereof; 1054

~~(g)~~ (f) Any person engaged in the retail sale of 1055
manufactured homes, mobile homes, or industrialized units if, in 1056
connection with financing those retail sales, the person only 1057
assists the borrower by providing or transmitting the loan 1058
application and does not do any of the following: 1059

(i) Offer or negotiate the ~~residential mortgage~~ loan rates 1060
or terms; 1061

(ii) Provide any counseling with borrowers about 1062
~~residential mortgage~~ loan rates or terms; 1063

(iii) Receive any payment or fee from any company or 1064
individual for assisting the borrower obtain or apply for 1065
financing to purchase the manufactured home, mobile home, or 1066
industrialized unit; 1067

(iv) Assist the borrower in completing the ~~residential-~~ 1068
~~mortgage~~ loan application. 1069

~~(3) An individual acting exclusively as a servicer-~~ 1070
~~engaging in loss mitigation efforts with respect to existing-~~ 1071
~~mortgage transactions shall not be considered a mortgage loan-~~ 1072
~~originator for purposes of sections 1321.51 to 1321.60 of the~~ 1073
~~Revised Code until July 1, 2011, unless such delay is denied by-~~ 1074
~~the United States department of housing and urban development.~~ 1075

(Q) ~~"Residential mortgage loan" means any loan primarily-~~ 1076
~~for personal, family, or household use that is secured by a-~~ 1077
~~mortgage, deed of trust, or other equivalent consensual security-~~ 1078
~~interest on a dwelling or on residential real estate upon which-~~ 1079
~~is constructed or intended to be constructed a dwelling. For-~~ 1080
~~purposes of this division, "dwelling" has the same meaning as in-~~ 1081
~~the "Truth in Lending Act," 82 Stat. 146, 15 U.S.C. 1602.~~ 1082

~~(R) "Nationwide mortgage licensing system and registry"-~~ 1083
~~means a mortgage licensing system developed and maintained by-~~ 1084
~~the conference of state bank supervisors and the American-~~ 1085
~~association of residential mortgage regulators, or their-~~ 1086
~~successor entities, for the licensing and registration of-~~ 1087
~~mortgage loan originators, or any system established by the-~~ 1088
~~secretary of housing and urban development pursuant to the-~~ 1089
~~"Secure and Fair Enforcement for Mortgage Licensing Act of-~~ 1090

~~2008, " 122 Stat. 2810, 12 U.S.C. 5101.~~ 1091

~~(S) "Registered mortgage loan originator" means an individual to whom both of the following apply:~~ 1092
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~~(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.~~ 1094
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~~(2) The individual is registered with, and maintains a unique identifier through, the nationwide mortgage licensing system and registry.~~ 1099
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~~(T) "Administrative or clerical tasks" means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry, and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.~~ 1102
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~~(U) (R) "Federal banking agency" means the board of governors of the federal reserve system, the comptroller of the currency, the director of the office of thrift supervision, the national credit union administration, and the federal deposit insurance corporation.~~ 1108
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~~(V) (S) "Loan processor or underwriter" means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of a licensed mortgage loan originator or registered mortgage loan originator. For purposes of this division, to "perform clerical or support duties" means to do all of the following activities:~~ 1113
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(1) Receiving, collecting, distributing, and analyzing 1119

information common for the processing or underwriting of a 1120
~~residential mortgage loan;~~ 1121

(2) Communicating with a borrower to obtain the 1122
information necessary for the processing or underwriting of a 1123
loan, to the extent the communication does not include offering 1124
or negotiating loan rates or terms or counseling borrowers about 1125
~~residential mortgage loan rates or terms.~~ 1126

~~(W) "Real estate brokerage activity" means any activity~~ 1127
~~that involves offering or providing real estate brokerage~~ 1128
~~services to the public, including all of the following:~~ 1129

~~(1) Acting as a real estate agent or real estate broker~~ 1130
~~for a buyer, seller, lessor, or lessee of real property;~~ 1131

~~(2) Bringing together parties interested in the sale,~~ 1132
~~purchase, lease, rental, or exchange of real property;~~ 1133

~~(3) Negotiating, on behalf of any party, any portion of a~~ 1134
~~contract relating to the sale, purchase, lease, rental, or~~ 1135
~~exchange of real property, other than in connection with~~ 1136
~~providing financing for any such transaction;~~ 1137

~~(4) Engaging in any activity for which a person engaged in~~ 1138
~~that activity is required to be registered or licensed as a real~~ 1139
~~estate agent or real estate broker under any applicable law;~~ 1140

~~(5) Offering to engage in any activity, or to act in any~~ 1141
~~capacity, described in division (W) of this section.~~ 1142

~~(X)~~(T) "Licensee" means any person that has been issued a 1143
~~mortgage loan originator license under sections 1321.51 to~~ 1144
1321.60 of the Revised Code. 1145

~~(Y) "Unique identifier" means a number or other identifier~~ 1146
~~that permanently identifies a mortgage loan originator and is~~ 1147

~~assigned by protocols established by the nationwide mortgage- 1148
licensing system and registry or federal banking agencies to 1149
facilitate electronic tracking of mortgage loan originators and 1150
uniform identification of, and public access to, the employment- 1151
history of and the publicly adjudicated disciplinary and 1152
enforcement actions against mortgage loan originators. 1153~~

~~(Z)~~ (U) "State" in the context of referring to states in 1154
addition to Ohio means any state of the United States, the 1155
district of Columbia, any territory of the United States, Puerto 1156
Rico, Guam, American Samoa, the trust territory of the Pacific 1157
islands, the virgin islands, and the northern Mariana islands. 1158

~~(AA)~~ (V) "Depository institution" has the same meaning as 1159
in section 3 of the "Federal Deposit Insurance Act," 64 Stat. 1160
873, 12 U.S.C. 1813, and includes any credit union. 1161

~~(BB)~~ (W) "Bona fide third party" means a person that is 1162
not an employee of, related to, or affiliated with, the 1163
registrant, and that is not used for the purpose of 1164
circumvention or evasion of sections 1321.51 to 1321.60 of the 1165
Revised Code. 1166

~~(CC) "Nontraditional mortgage product" means any mortgage- 1167
product other than a thirty-year fixed rate mortgage. 1168~~

~~(DD) "Employee" means an individual for whom a registrant- 1169
or applicant, in addition to providing a wage or salary, pays- 1170
social security and unemployment taxes, provides workers'- 1171
compensation coverage, and withholds local, state, and federal- 1172
income taxes. "Employee" also includes any individual who acts- 1173
as a mortgage loan originator or operations manager of the- 1174
registrant, but for whom the registrant is prevented by law from- 1175
making income tax withholdings. 1176~~

~~(EE) "Primary point of contact" means the employee or
owner designated by the registrant or applicant to be the
individual who the division of financial institutions can
contact regarding compliance or licensing matters relating to
the registrant's or applicant's business or lending activities
secured by an interest in real estate.~~ 1177
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~~(FF) "Consumer reporting agency" has the same meaning as
in the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.
1681a, as amended.~~ 1183
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~~(GG) "Mortgage broker" has the same meaning as in section
1322.01 of the Revised Code.~~ 1186
1187

Sec. 1321.52. (A) (1) No person, on that person's own 1188
behalf or on behalf of any other person, shall do any of the 1189
following without having first obtained a certificate of 1190
registration from the division of financial institutions: 1191

~~(a) Advertise, solicit, or hold out that the person is
engaged in the business of making residential mortgage loans
secured by a mortgage on a borrower's real estate which is other
than a first lien on the real estate;~~ 1192
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~~(b) Engage in the business of lending or collecting the
person's own or another person's money, credit, or choses in
action for non-first lien residential mortgage loans;~~ 1196
1197
1198

~~(c) Employ or compensate mortgage loan originators
licensed or who should be licensed under sections 1321.51 to
1321.60 of the Revised Code to conduct the business of making
residential mortgage loans;~~ 1199
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~~(d) (b) Make loans in this state of the type set forth in
division (C) of this section that are unsecured or are secured
by other than real property, which loans are for more than five~~ 1203
1204
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thousand dollars at a rate of interest greater than permitted by 1206
section 1343.01 or other specific provisions of the Revised 1207
Code. 1208

(2) Each person issued a certificate of registration or 1209
license is subject to all the rules prescribed under sections 1210
1321.51 to 1321.60 of the Revised Code. 1211

(B) (1) All loans made to persons who at the time are 1212
residents of this state are considered as made within this state 1213
and subject to the laws of this state, regardless of any 1214
statement in the contract or note to the contrary, except as 1215
~~follows:~~ 1216

~~(a) If the loan is primarily secured by a lien on real 1217
property in another state and is arranged by a mortgage loan 1218
originator licensed by that state, the borrower may by choice of 1219
law designate that the transaction be governed by the law where 1220
the real property is located if the other state has consumer 1221
protection laws covering the borrower that are applicable to the 1222
transaction. 1223~~

~~(b) If if the loan is for the purpose of purchasing goods 1224
acquired by the borrower when the borrower is outside of this 1225
state, the loan may be governed by the laws of the other state. 1226~~

(2) Nothing in division (B) (1) of this section prevents a 1227
choice of law or requires registration or licensure of persons 1228
outside of this state in a transaction involving the 1229
solicitation of residents of this state to obtain non-real 1230
estate secured loans that require the borrowers to physically 1231
visit a lender's out-of-state office to apply for and obtain the 1232
disbursement of loan funds. 1233

(C) A registrant may make unsecured loans, ~~loans secured~~ 1234

~~by a mortgage on a borrower's real estate which is a first lien~~ 1235
~~or other than a first lien on the real estate, and~~ loans secured 1236
by other than real estate, ~~and loans secured by any combination~~ 1237
~~of mortgages and security interests,~~ on terms and conditions 1238
provided by sections 1321.51 to 1321.60 of the Revised Code. 1239

(D) (1) If a lender that is subject to sections 1321.51 to 1240
1321.60 of the Revised Code makes a loan in violation of 1241
division (A) (1) of this section, the lender has no right to 1242
collect, receive, or retain any interest or charges on that 1243
loan. 1244

(2) If a registrant applies to the division for a renewal 1245
of the registrant's certificate after the date required by 1246
division (A) ~~(7)~~ (6) of section 1321.53 of the Revised Code, but 1247
prior to the first day of February of that year, and the 1248
division approves the application, division (D) (1) of this 1249
section does not apply with respect to any loan made by the 1250
registrant while the registrant's certificate was expired. 1251

(3) If a person's registration under sections 1321.51 to 1252
1321.60 of the Revised Code terminates due to nonrenewal or 1253
otherwise but the person continues to engage in the business of 1254
collecting or servicing ~~non-first lien residential mortgage~~ 1255
loans in violation of division (A) (1) of this section, the 1256
superintendent of financial institutions may take administrative 1257
action, including action on any subsequent application for a 1258
certificate of registration. ~~In addition, no late fee, bad check~~ 1259
~~charge except as incurred, charge related to default or cost to~~ 1260
~~realize on its security interest, or prepayment penalty on non-~~ 1261
~~first lien residential mortgage loans shall be collected or~~ 1262
~~retained by a person who is in violation of division (A) (1) (b)~~ 1263
~~of this section for the period of time in which the person was~~ 1264

~~in violation.~~ Nothing in division (D) (3) of this section 1265
prevents or otherwise precludes any other actions or penalties 1266
provided by law or modifies a defense of holder in due course 1267
that a subsequent purchaser servicing the ~~residential mortgage~~ 1268
loan may raise. 1269

(E) ~~(1)~~ No individual shall engage in the business of a 1270
~~mortgage~~ loan originator without first obtaining and maintaining 1271
annually a license pursuant to section 1321.532 of the Revised 1272
Code from the division of financial institutions. A ~~mortgage~~ 1273
loan originator shall be employed or associated with a 1274
registrant or entity exempt from registration under sections 1275
1321.51 to 1321.60 of the Revised Code, but shall not be 1276
employed by or associated with more than one registrant or 1277
exempt entity at any one time. 1278

~~(2) An individual acting under the individual's authority~~ 1279
~~as a registered mortgage loan originator shall not be required~~ 1280
~~to be licensed under division (E) (1) of this section.~~ 1281

~~(3) An individual who holds a valid temporary mortgage~~ 1282
~~loan originator license issued pursuant to section 1321.537 of~~ 1283
~~the Revised Code may engage in the business of a mortgage loan~~ 1284
~~originator in accordance with sections 1321.51 to 1321.60 of the~~ 1285
~~Revised Code during the term of the temporary license.~~ 1286

(F) (1) ~~Each licensee shall register with, and maintain a~~ 1287
~~valid unique identifier issued by, the nationwide mortgage~~ 1288
~~licensing system and registry.~~ 1289

~~(2) No person shall use a licensee's unique identifier for~~ 1290
~~any purpose other than as set forth in the "Secure and Fair~~ 1291
~~Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810,~~ 1292
~~12 U.S.C. 5101.~~ 1293

~~(G) (1)~~ If a person that is subject to sections 1321.51 to 1294
1321.60 of the Revised Code makes a loan in violation of 1295
division (A) (1) ~~(d)~~ (b) of this section and subsequently sells or 1296
assigns that loan, the person is liable to the borrower for any 1297
interest paid on that loan to the holder or assignee in excess 1298
of the rate that would be applicable in the absence of sections 1299
1321.51 to 1321.60 of the Revised Code, in addition to any 1300
interest or charges paid on that loan to the unauthorized lender 1301
as provided by division (D) (1) of this section. 1302

(2) If a person that is subject to sections 1321.51 to 1303
1321.60 of the Revised Code makes a ~~residential mortgage~~ loan in 1304
violation of division (A) (1) ~~(b) or (c)~~ (a) of this section and 1305
subsequently sells or assigns that loan, the lender is liable to 1306
the borrower for any interest paid on that loan to the holder or 1307
assignee in excess of the rate set forth in division (B) (4) of 1308
section 1343.01 of the Revised Code, in addition to any interest 1309
or charges paid on that loan to the unauthorized lender as 1310
provided by division (D) (1) of this section. 1311

Sec. 1321.53. (A) (1) An application for a certificate of 1312
registration under sections 1321.51 to 1321.60 of the Revised 1313
Code shall contain an undertaking by the applicant to abide by 1314
those sections. The application shall be in writing, under oath, 1315
and in the form prescribed by the division of financial 1316
institutions, and shall contain any information that the 1317
division may require. Applicants that are foreign corporations 1318
shall obtain and maintain a license pursuant to Chapter 1703. of 1319
the Revised Code before a certificate is issued or renewed. 1320

(2) Upon the filing of the application and the payment by 1321
the applicant of a nonrefundable two-hundred-dollar 1322
investigation fee, and a nonrefundable three-hundred-dollar 1323

annual registration fee, ~~and any additional fee required by the~~ 1324
~~nationwide mortgage licensing system and registry,~~ the division 1325
shall investigate the relevant facts. If the application 1326
involves investigation outside this state, the applicant may be 1327
required by the division to advance sufficient funds to pay any 1328
of the actual expenses of such investigation, when it appears 1329
that these expenses will exceed two hundred dollars. An itemized 1330
statement of any of these expenses which the applicant is 1331
required to pay shall be furnished to the applicant by the 1332
division. No certificate shall be issued unless all the required 1333
fees have been submitted to the division. 1334

~~(3) All applicants making loans secured by an interest in~~ 1335
~~real estate shall designate an employee or owner of the~~ 1336
~~applicant as the applicant's primary point of contact. While~~ 1337
~~acting as the primary point of contact, the employee or owner~~ 1338
~~shall not be employed by any other registrant or mortgage~~ 1339
~~broker.~~ 1340

~~(4)~~The investigation undertaken upon application shall 1341
include both a civil and criminal records check of the applicant 1342
including any individual whose identity is required to be 1343
disclosed in the application. Where the applicant is a business 1344
entity the superintendent shall have the authority to require a 1345
civil and criminal background check of those persons that in the 1346
determination of the superintendent have the authority to direct 1347
and control the operations of the applicant. 1348

~~(5)~~(4)(a) Notwithstanding division (K) of section 121.08 1349
of the Revised Code, the superintendent of financial 1350
institutions shall obtain a criminal history records check and, 1351
as part of that records check, request that criminal record 1352
information from the federal bureau of investigation be 1353

obtained. To fulfill this requirement, the superintendent shall 1354
~~do either of the following:~~ 1355

~~(i) Request~~ request the superintendent of the bureau of 1356
criminal identification and investigation, or a vendor approved 1357
by the bureau, to conduct a criminal records check based on the 1358
applicant's fingerprints or, if the fingerprints are unreadable, 1359
based on the applicant's social security number, in accordance 1360
with section 109.572 of the Revised Code. 1361

~~(ii) Authorize the nationwide mortgage licensing system~~ 1362
~~and registry to request a criminal history background check as~~ 1363
~~set forth in division (C) of section 1321.531 of the Revised~~ 1364
~~Code.~~ 1365

(b) Any fee required under division (C) (3) of section 1366
109.572 of the Revised Code ~~or by the nationwide mortgage~~ 1367
~~licensing system and registry~~ shall be paid by the applicant. 1368

~~(6)~~ (5) If an application for a certificate of 1369
registration does not contain all of the information required 1370
under division (A) of this section, and if such information is 1371
not submitted to the division ~~or to the nationwide mortgage~~ 1372
~~licensing system and registry~~ within ninety days after the 1373
superintendent ~~or the nationwide mortgage licensing system and~~ 1374
~~registry~~ requests the information in writing, including by 1375
electronic transmission or facsimile, the superintendent may 1376
consider the application withdrawn. 1377

~~(7)~~ (6) If the division finds that the financial 1378
responsibility, experience, character, and general fitness of 1379
the applicant command the confidence of the public and warrant 1380
the belief that the business will be operated honestly and 1381
fairly in compliance with the purposes of sections 1321.51 to 1382

1321.60 of the Revised Code and the rules adopted thereunder, 1383
and that the applicant has the ~~requisite bond or~~ applicable net 1384
worth and assets required by division (B) of this section, the 1385
division shall thereupon issue a certificate of registration to 1386
the applicant. The superintendent shall not use a credit score 1387
as the sole basis for a registration denial. 1388

(a) (i) Certificates of registration issued on or after 1389
July 1, 2010, shall annually expire on the thirty-first day of 1390
December, unless renewed by the filing of a renewal application 1391
and payment of a three-hundred-dollar nonrefundable annual 1392
registration fee, and any assessment as determined by the 1393
superintendent pursuant to division (A) ~~(7)~~ (6) (a) (ii) of this 1394
section, ~~and any additional fee required by the nationwide~~ 1395
~~mortgage licensing system and registry,~~ on or before the last 1396
day of December of each year. No other fee or assessment shall 1397
be required of a registrant by the state or any political 1398
subdivision of this state. 1399

(ii) If the renewal fees billed by the superintendent 1400
pursuant to division (A) ~~(7)~~ (6) (a) (i) of this section are less 1401
than the estimated expenditures of the consumer finance section 1402
of the division of financial institutions, as determined by the 1403
superintendent, for the following fiscal year, the 1404
superintendent may assess each registrant at a rate sufficient 1405
to equal in the aggregate the difference between the renewal 1406
fees billed and the estimated expenditures. Each registrant 1407
shall pay the assessed amount to the superintendent prior to the 1408
last day of June. In no case shall the assessment exceed ten 1409
cents per each one hundred dollars of interest (excluding 1410
charge-off recoveries), points, loan origination charges, and 1411
credit line charges collected by that registrant during the 1412
previous calendar year. If such an assessment is imposed, it 1413

shall not be less than two hundred fifty dollars per registrant 1414
and shall not exceed thirty thousand dollars less the total 1415
renewal fees paid pursuant to division (A) ~~(7)~~ (6) (a) (i) of this 1416
section by each registrant. 1417

(b) Registrants shall timely file renewal applications on 1418
forms prescribed by the division and provide any further 1419
information that the division may require. If a renewal 1420
application does not contain all of the information required 1421
under this section, and if that information is not submitted to 1422
the division ~~or to the nationwide mortgage licensing system and~~ 1423
~~registry~~ within ninety days after the superintendent ~~or the~~ 1424
~~nationwide mortgage licensing system and registry~~ requests the 1425
information in writing, including by electronic transmission or 1426
facsimile, the superintendent may consider the application 1427
withdrawn. 1428

(c) Renewal shall not be granted if the applicant's 1429
certificate of registration is subject to an order of 1430
suspension, revocation, or an unpaid and past due fine imposed 1431
by the superintendent. 1432

(d) If the division finds the applicant does not meet the 1433
conditions set forth in this section, it shall issue a notice of 1434
intent to deny the application, and forthwith notify the 1435
applicant of the denial, the grounds for the denial, and the 1436
applicant's reasonable opportunity to be heard on the action in 1437
accordance with Chapter 119. of the Revised Code. 1438

~~(8)~~ (7) If there is a change of five per cent or more in 1439
the ownership of a registrant, the division may make any 1440
investigation necessary to determine whether any fact or 1441
condition exists that, if it had existed at the time of the 1442
original application for a certificate of registration, the fact 1443

or condition would have warranted the division to deny the 1444
application under division (A) ~~(7)~~ (6) of this section. If such a 1445
fact or condition is found, the division may, in accordance with 1446
Chapter 119. of the Revised Code, revoke the registrant's 1447
certificate. 1448

(B) Each registrant that engages in lending under sections 1449
1321.51 to 1321.60 of the Revised Code shall, ~~if not otherwise~~ 1450
~~required to be bonded pursuant to section 1321.533 of the~~ 1451
~~Revised Code,~~ maintain both of the following: 1452

(1) A net worth of at least fifty thousand dollars; 1453

(2) For each certificate of registration, assets of at 1454
least fifty thousand dollars either in use or readily available 1455
for use in the conduct of the business. 1456

(C) Not more than one place of business shall be 1457
maintained under the same certificate, but the division may 1458
issue additional certificates to the same registrant upon 1459
compliance with sections 1321.51 to 1321.60 of the Revised Code, 1460
governing the issuance of a single certificate. No change in the 1461
place of business of a registrant to a location outside the 1462
original municipal corporation shall be permitted under the same 1463
certificate without the approval of a new application, the 1464
payment of the registration fee and, if required by the 1465
superintendent, the payment of an investigation fee of two 1466
hundred dollars. When a registrant wishes to change its place of 1467
business within the same municipal corporation, it shall give 1468
written notice of the change in advance to the division, which 1469
shall provide a certificate for the new address without cost. If 1470
a registrant changes its name, prior to making loans under the 1471
new name it shall give written notice of the change to the 1472
division, which shall provide a certificate in the new name 1473

without cost. Sections 1321.51 to 1321.60 of the Revised Code do 1474
not limit the loans of any registrant to residents of the 1475
community in which the registrant's place of business is 1476
situated. Each certificate shall be kept conspicuously posted in 1477
the place of business of the registrant and is not transferable 1478
or assignable. 1479

(D) Sections 1321.51 to 1321.60 of the Revised Code do not 1480
apply to any of the following: 1481

(1) Entities chartered and lawfully doing business under 1482
the authority of any law of this state, another state, or the 1483
United States as a bank, savings bank, trust company, savings 1484
and loan association, or credit union, or a subsidiary of any 1485
such entity, which subsidiary is regulated by a federal banking 1486
agency and is owned and controlled by such a depository 1487
institution; 1488

(2) Life, property, or casualty insurance companies 1489
licensed to do business in this state; 1490

(3) Any person that is a lender making a loan pursuant to 1491
sections 1321.01 to 1321.19 of the Revised Code or a business 1492
loan as described in division (B) (6) of section 1343.01 of the 1493
Revised Code; 1494

(4) Any political subdivision, or any governmental or 1495
other public entity, corporation, instrumentality, or agency, in 1496
or of the United States or any state of the United States, or 1497
any entity described in division (B) (3) of section 1343.01 of 1498
the Revised Code; 1499

(5) A college or university, or controlled entity of a 1500
college or university, as those terms are defined in section 1501
1713.05 of the Revised Code; 1502

(6) A credit union service organization, provided the organization ~~utilizes services provided by registered mortgage loan originators or the organization~~ complies with section 1321.522 of the Revised Code and holds a valid letter of exemption issued by the superintendent.

(E) No person engaged in the business of selling tangible goods or services related to tangible goods may receive or retain a certificate under sections 1321.51 to 1321.60 of the Revised Code for such place of business.

Sec. 1321.531. (A) An application for a ~~mortgage loan~~ originator license 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 fifty dollars and all other required fees, ~~including any fees required by the nationwide mortgage licensing system and registry.~~

(B) ~~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 loan originator licensees or other persons subject to or involved in their licensure.~~

~~(C) In connection with applying for a mortgage loan originator license, the applicant shall furnish to the nationwide mortgage licensing system and registry the following information concerning the applicant's identity:~~

~~(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- 1532
history background check, 1533~~

~~(2) Personal history and experience in a form prescribed- 1534
by the nationwide mortgage licensing system and registry, along- 1535
with authorization for the superintendent and the nationwide- 1536
mortgage licensing system and registry to obtain the following: 1537~~

~~(a) An independent credit report from a consumer reporting- 1538
agency, 1539~~

~~(b) Information related to any administrative, civil, or- 1540
criminal findings by any governmental jurisdiction. 1541~~

~~(D) In order to effectuate the purposes of divisions (C)- 1542
(1) and (C) (2) (b) of this section, the superintendent may use- 1543
the conference of state bank supervisors, or a wholly owned- 1544
subsidiary, as a channeling agent for requesting information- 1545
from and distributing information to the United States- 1546
department of justice or any other governmental agency. The- 1547
superintendent may also use the nationwide mortgage licensing- 1548
system and registry as a channeling agent for requesting- 1549
information from and distributing information to any source- 1550
related to matters subject to divisions (C) (2) (a) and (b) of- 1551
this section. 1552~~

~~(E) Upon the filing of the application, payment of the 1553
application fee, and payment of any additional fee, including- 1554
any fee required by the nationwide mortgage licensing system and- 1555
registry, the superintendent shall investigate the applicant as 1556
set forth in division ~~(E)~~ (B) of this section. 1557~~

(1) (a) Notwithstanding division (K) of section 121.08 of 1558
the Revised Code, the superintendent shall obtain a criminal 1559
history records check and, as part of that records check, 1560

request that criminal record information from the federal bureau 1561
of investigation be obtained. To fulfill this requirement, the 1562
superintendent shall ~~do either of the following:~~ 1563

~~(i) Request~~ request the superintendent of the bureau of 1564
criminal identification and investigation, or a vendor approved 1565
by the bureau, to conduct a criminal records check based on the 1566
applicant's fingerprints or, if the fingerprints are unreadable, 1567
based on the applicant's social security number in accordance 1568
with section 109.572 of the Revised Code. 1569

~~(ii) Authorize the nationwide mortgage licensing system 1570
and registry to request a criminal history background check as 1571
set forth in division (C) of this section. 1572~~

(b) Any fee required under division (C) (3) of section 1573
109.572 of the Revised Code ~~or by the nationwide mortgage 1574
licensing system and registry~~ shall be paid by the applicant. 1575

(2) The superintendent of financial institutions shall 1576
conduct a civil records check. 1577

(3) If, in order to issue a license to an applicant, 1578
additional investigation by the superintendent outside this 1579
state is necessary, the superintendent may require the applicant 1580
to advance sufficient funds to pay the actual expenses of the 1581
investigation, if it appears that these expenses will exceed one 1582
hundred dollars. The superintendent shall provide the applicant 1583
with an itemized statement of the actual expenses that the 1584
applicant is required to pay. 1585

~~(F) (C)~~ If an application for a ~~mortgage~~ loan originator 1586
license does not contain all of the information required under 1587
this section, and if that information is not submitted to the 1588
superintendent ~~or to the nationwide mortgage licensing system~~ 1589

~~and registry~~ within ninety days after the superintendent ~~or the~~ 1590
~~nationwide mortgage licensing system and registry~~ requests the 1591
information in writing, including by electronic transmission or 1592
facsimile, the superintendent may consider the application 1593
withdrawn. 1594

Sec. 1321.532. (A) Upon the conclusion of the 1595
investigation required under division ~~(E)~~ (B) of section 1596
1321.531 of the Revised Code, the superintendent of financial 1597
institutions shall issue a ~~mortgage~~ loan originator license to 1598
the applicant if the superintendent finds that all of the 1599
following conditions are met: 1600

(1) The application is accompanied by the application fee 1601
~~and any additional fee required by the nationwide mortgage~~ 1602
~~licensing system and registry.~~ 1603

If a check or other draft instrument is returned to the 1604
superintendent for insufficient funds, the superintendent shall 1605
notify the licensee by certified mail, return receipt requested, 1606
that the license issued in reliance on the check or other draft 1607
instrument will be canceled unless the licensee, within thirty 1608
days after receipt of the notice, submits the application fee 1609
and a one-hundred-dollar penalty to the superintendent. If the 1610
licensee does not submit the application fee and penalty within 1611
that time period, or if any check or other draft instrument used 1612
to pay the fee or penalty is returned to the superintendent for 1613
insufficient funds, the license shall be canceled immediately 1614
without a hearing, and the licensee shall cease activity as a 1615
mortgage loan originator. 1616

(2) The applicant complies with sections 1321.51 to 1617
1321.60 of the Revised Code. 1618

(3) The applicant has not had a ~~mortgage~~-loan originator license, or comparable authority, revoked in any governmental jurisdiction. 1619
1620
1621

(4) The applicant has not been convicted of, or pleaded guilty or nolo contendere to, any of the following in a domestic, foreign, or military court: 1622
1623
1624

(a) During the seven-year period immediately preceding the date of application for licensure, a misdemeanor involving theft or any felony; 1625
1626
1627

(b) At any time prior to the date of application for licensure, a felony involving an act of fraud, dishonesty, a breach of trust, theft, or money laundering. 1628
1629
1630

(5) Based on the totality of the circumstances and information submitted in the application, the applicant has proven to the division of financial institutions, by a preponderance of the evidence, that the applicant is of good business repute, appears qualified to act as a ~~mortgage~~-loan originator, and has fully complied with sections 1321.51 to 1321.60 of the Revised Code and rules adopted thereunder, and that the applicant meets all of the conditions for issuing a ~~mortgage~~-loan originator license. 1631
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~~(6) The applicant successfully completed the written test required under section 1321.535 of the Revised Code and the education requirements set forth in section 1321.534 of the Revised Code.~~ 1640
1641
1642
1643

~~(7) The applicant is covered under a valid bond in compliance with section 1321.533 of the Revised Code.~~ 1644
1645

~~(8)~~ The applicant's financial responsibility, character, and general fitness command the confidence of the public and 1646
1647

warrant the belief that the ~~mortgage~~-loan originator will 1648
operate honestly and fairly in compliance with the purposes of 1649
sections 1321.51 to 1321.60 of the Revised Code. The 1650
superintendent shall not use a credit score as the sole basis 1651
for a license denial. 1652

(B) The license issued under division (A) of this section 1653
may be renewed annually on or before the thirty-first day of 1654
December if the superintendent finds that all of the following 1655
conditions are met: 1656

(1) The renewal application is accompanied by a 1657
nonrefundable renewal fee of one hundred fifty dollars, ~~and any~~ 1658
~~additional fee required by the nationwide mortgage licensing~~ 1659
~~system and registry.~~ If a check or other draft instrument is 1660
returned to the superintendent for insufficient funds, the 1661
superintendent shall notify the licensee by certified mail, 1662
return receipt requested, that the license renewed in reliance 1663
on the check or other draft instrument will be canceled unless 1664
the licensee, within thirty days after receipt of the notice, 1665
submits the renewal fee and a one-hundred-dollar penalty to the 1666
superintendent. If the licensee does not submit the renewal fee 1667
and penalty within that time period, or if any check or other 1668
draft instrument used to pay the fee or penalty is returned to 1669
the superintendent for insufficient funds, the license shall be 1670
canceled immediately without a hearing, and the licensee shall 1671
cease activity as a ~~mortgage~~-loan originator. 1672

(2) ~~The applicant has completed at least eight hours of~~ 1673
~~continuing education as required under section 1321.536 of the~~ 1674
~~Revised Code.~~ 1675

~~(3)~~The applicant meets the conditions set forth in 1676
divisions (A) (2) to ~~(8)~~ (6) of this section. 1677

~~(4)~~ (3) The applicant's license is not subject to an order 1678
of suspension or an unpaid and past due fine imposed by the 1679
superintendent. 1680

(C) (1) Subject to division (C) (2) of this section, if a 1681
license renewal application or fee, ~~including any additional fee~~ 1682
~~required by nationwide mortgage licensing system and registry,~~ 1683
is received by the superintendent after the thirty-first day of 1684
December, the license shall not be considered renewed, and the 1685
applicant shall cease activity as a ~~mortgage~~ loan originator. 1686

(2) Division (C) (1) of this section shall not apply if the 1687
applicant, no later than the thirty-first day of January, 1688
submits the renewal application and fee, ~~including any~~ 1689
~~additional fee required by nationwide mortgage licensing system~~ 1690
~~and registry,~~ and a one-hundred-dollar penalty to the 1691
superintendent. 1692

(D) ~~Mortgage loan~~ Loan originator licenses issued on or 1693
after July 1, 2010, shall annually expire on the thirty-first 1694
day of December. 1695

(E) If a renewal application does not contain all of the 1696
information required under this section, and if that information 1697
is not submitted to the superintendent ~~or to the nationwide~~ 1698
~~mortgage licensing system and registry~~ within ninety days after 1699
the superintendent ~~or the nationwide mortgage licensing system~~ 1700
~~and registry~~ requests the information in writing, including by 1701
electronic transmission or facsimile, the superintendent may 1702
consider the application withdrawn. 1703

Sec. 1321.54. (A) The division of financial institutions 1704
may adopt, in accordance with Chapter 119. of the Revised Code, 1705
rules that are necessary for the enforcement or administration 1706

of sections 1321.51 to 1321.60 of the Revised Code and that are 1707
consistent with those sections and rules to carry out the 1708
purposes of those sections. 1709

(B)(1) The division may, upon written notice to the 1710
registrant or licensee stating the contemplated action, the 1711
grounds for the action, and the registrant's or licensee's 1712
reasonable opportunity to be heard on the action in accordance 1713
with Chapter 119. of the Revised Code, revoke, suspend, or 1714
refuse to renew any certificate or license issued under sections 1715
1321.51 to 1321.60 of the Revised Code if it finds any of the 1716
following: 1717

(a) A violation of or failure to comply with any provision 1718
of sections 1321.51 to 1321.60 of the Revised Code or the rules 1719
adopted thereunder, any federal lending law, or any other law 1720
applicable to the business conducted under a certificate of 1721
registration or license; 1722

(b) The person has been convicted of or pleaded guilty or 1723
nolo contendere to any criminal felony offense in a domestic, 1724
foreign, or military court; 1725

(c) The person has been convicted of or pleaded guilty or 1726
nolo contendere to any criminal offense involving theft, 1727
receiving stolen property, embezzlement, forgery, fraud, passing 1728
bad checks, money laundering, breach of trust, dishonesty, or 1729
drug trafficking, or any criminal offense involving money or 1730
securities, in a domestic, foreign, or military court; 1731

(d) The person's ~~mortgage lender~~ certificate of 1732
registration or ~~mortgage~~ loan originator license, or comparable 1733
authority, has been revoked in any governmental jurisdiction. 1734

(2) In addition to, or in lieu of, any revocation, 1735

suspension, or denial, the division may impose a monetary fine 1736
after administrative hearing or in settlement of matters subject 1737
to claims under division (B) (1) (a) of this section. 1738

(3) Subject to division (D) (3) of section 1321.52 of the 1739
Revised Code, the revocation, suspension, or refusal to renew 1740
shall not impair the obligation of any pre-existing lawful 1741
contract made under sections 1321.51 to 1321.60 of the Revised 1742
Code; provided, however, that a prior registrant shall make good 1743
faith efforts to promptly transfer the registrant's collection 1744
rights to another registrant or person exempt from registration, 1745
or be subject to additional monetary fines and legal or 1746
administrative action by the division. Nothing in division (B) 1747
(3) of this section shall limit a court's ability to impose a 1748
cease and desist order preventing any further business or 1749
servicing activity. 1750

(C) (1) The superintendent of financial institutions may 1751
impose a fine for a violation of sections 1321.51 to 1321.60 of 1752
the Revised Code or any rule adopted thereunder. All fines 1753
collected pursuant to this section shall be paid to the 1754
treasurer of state to the credit of the consumer finance fund 1755
created in section 1321.21 of the Revised Code. In determining 1756
the amount of a fine to be imposed pursuant to this section, the 1757
superintendent may consider all of the following to the extent 1758
it is known to the division of financial institutions: 1759

(a) The seriousness of the violation; 1760

(b) The registrant's or licensee's good faith efforts to 1761
prevent the violation; 1762

(c) The registrant's or licensee's history regarding 1763
violations and compliance with division orders; 1764

(d) The registrant's or licensee's financial resources; 1765

(e) Any other matters the superintendent considers 1766
appropriate in enforcing sections 1321.51 to 1321.60 of the 1767
Revised Code. 1768

(2) Monetary fines imposed under this division shall not 1769
exceed twenty-five thousand dollars and do not preclude any 1770
criminal fine imposed pursuant to section 1321.99 of the Revised 1771
Code. 1772

(D) The superintendent may investigate alleged violations 1773
of sections 1321.51 to 1321.60 of the Revised Code, or the rules 1774
adopted thereunder, or complaints concerning any such violation. 1775
The superintendent may make application to the court of common 1776
pleas for an order enjoining any violation and, upon a showing 1777
by the superintendent that a person has committed, or is about 1778
to commit, a violation, the court shall grant an injunction, 1779
restraining order, or other appropriate relief. The 1780
superintendent, in making application to the court of common 1781
pleas for an order enjoining a person from acting as a 1782
registrant or ~~mortgage~~-loan originator in violation of division 1783
(A) or (E) of section 1321.52 of the Revised Code, may also seek 1784
and obtain civil penalties for that unregistered or unlicensed 1785
conduct in an amount not to exceed five thousand dollars per 1786
violation. 1787

(E) In conducting an investigation pursuant to this 1788
section, the superintendent may compel, by subpoena, witnesses 1789
to testify in relation to any matter over which the 1790
superintendent has jurisdiction, and may require the production 1791
or photocopying of any book, record, or other document 1792
pertaining to such matter. If a person fails to file any 1793
statement or report, obey any subpoena, give testimony, produce 1794

any book, record, or other document as required by such a 1795
subpoena, or permit photocopying of any book, record, or other 1796
document subpoenaed, the court of common pleas of any county in 1797
this state, upon application made to it by the superintendent, 1798
shall compel obedience by attachment proceedings for contempt, 1799
as in the case of disobedience of the requirements of a subpoena 1800
issued from the court, or a refusal to testify therein. 1801

(F) If the superintendent determines that a person is 1802
engaged in, or is believed to be engaged in, activities that may 1803
constitute a violation of sections 1321.51 to 1321.60 of the 1804
Revised Code or the rules adopted thereunder, the superintendent 1805
may, after notice and a hearing conducted in accordance with 1806
Chapter 119. of the Revised Code, issue a cease and desist 1807
order. The superintendent, in taking administrative action to 1808
enjoin a person from acting as a registrant or ~~mortgage~~-loan 1809
originator in violation of division (A) or (E) of section 1810
1321.52 of the Revised Code, may also seek and impose fines for 1811
those violations in an amount not to exceed five thousand 1812
dollars per violation. Such an order shall be enforceable in the 1813
court of common pleas. 1814

~~(G) The superintendent shall regularly report violations of sections 1321.51 to 1321.60 of the Revised Code, as well as enforcement actions and other relevant information, to the nationwide mortgage licensing system and registry pursuant to division (E) of section 1321.55 of the Revised Code.~~ 1815
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1817
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~~(H)(1) To protect the public interest, the superintendent may, without a prior hearing, do any of the following:~~ 1820
1821

~~(a) Suspend~~ suspend the certificate of registration or 1822
license of a person who is convicted of or pleads guilty or nolo 1823
contendere to a criminal violation of sections 1321.51 to 1824

1321.60 of the Revised Code or any criminal offense described in 1825
division (B) (1) (b) or (c) of this section; 1826

~~(b) Suspend the certificate of registration or license of 1827
a person who violates division (F) of section 1321.533 of the 1828
Revised Code; 1829~~

~~(c) Suspend the certificate of registration or license of 1830
a person who fails to comply with a request made by the 1831
superintendent under this section or section 1321.55 of the 1832
Revised Code to inspect qualifying education transcripts located 1833
at the registrant's or licensee's place of business. 1834~~

(2) The superintendent may, in accordance with Chapter 1835
119. of the Revised Code, subsequently revoke any registration 1836
or license suspended under division ~~(H)~~ (G) (1) of this section. 1837

(3) The superintendent shall, in accordance with Chapter 1838
119. of the Revised Code, adopt rules establishing the maximum 1839
amount of time a suspension under division ~~(H)~~ (G) (1) of this 1840
section may continue before a hearing is conducted. 1841

Sec. 1321.55. (A) Every registrant shall keep records 1842
pertaining to loans made under sections 1321.51 to 1321.60 of 1843
the Revised Code. Such records shall be segregated from records 1844
pertaining to transactions that are not subject to these 1845
sections of the Revised Code. Every registrant shall preserve 1846
records pertaining to loans made under sections 1321.51 to 1847
1321.60 of the Revised Code for at least two years after making 1848
the final entry on such records. Accounting systems maintained 1849
in whole or in part by mechanical or electronic data processing 1850
methods that provide information equivalent to that otherwise 1851
required are acceptable for this purpose. At least once each 1852
eighteen-month cycle, the division of financial institutions 1853

shall make or cause to be made an examination of records 1854
pertaining to loans made under sections 1321.51 to 1321.60 of 1855
the Revised Code, for the purpose of determining whether the 1856
registrant is complying with these sections and of verifying the 1857
registrant's annual report. 1858

(B) (1) As required by the superintendent of financial 1859
institutions, each registrant shall file with the division each 1860
year an annual report under oath or affirmation, on forms 1861
supplied by the division, concerning the business and operations 1862
for the preceding calendar year. Whenever a registrant operates 1863
two or more registered offices or whenever two or more 1864
affiliated registrants operate registered offices, then a 1865
composite report of the group of registered offices may be filed 1866
in lieu of individual reports. ~~For purposes of compliance with~~ 1867
~~this requirement, the superintendent may accept call reports or~~ 1868
~~other reports of condition submitted to the nationwide mortgage~~ 1869
~~licensing system and registry in lieu of the annual report.~~ 1870

(2) The superintendent shall publish annually an analysis 1871
of the information required under divisions (B) (1) and (3) of 1872
this section, but the individual reports, ~~whether filed with the~~ 1873
~~superintendent or the nationwide mortgage licensing system and~~ 1874
~~registry,~~ shall not be public records and shall not be open to 1875
public inspection. 1876

~~(3) Each mortgage licensee shall submit to the nationwide~~ 1877
~~mortgage licensing system and registry call reports or other~~ 1878
~~reports of condition, which shall be in such form and shall~~ 1879
~~contain such information as the nationwide mortgage licensing~~ 1880
~~system and registry may require.~~ 1881

(C) (1) The following information is confidential: 1882

(a) Examination information, and any information leading 1883
to or arising from an examination; 1884

(b) Investigation information, and any information arising 1885
from or leading to an investigation. 1886

(2) The information described in division (C) (1) of this 1887
section shall remain confidential for all purposes except when 1888
it is necessary for the superintendent to take official action 1889
regarding the affairs of a registrant or licensee, or in 1890
connection with criminal or civil proceedings to be initiated by 1891
a prosecuting attorney or the attorney general. This information 1892
may also be introduced into evidence or disclosed when and in 1893
the manner authorized by section 1181.25 of the Revised Code. 1894

(D) All application information, except social security 1895
numbers, employer identification numbers, financial account 1896
numbers, the identity of the institution where financial 1897
accounts are maintained, personal financial information, 1898
fingerprint cards and the information contained on such cards, 1899
and criminal background information, is a public record as 1900
defined in section 149.43 of the Revised Code. 1901

(E) This section does not prevent the division of 1902
financial institutions from releasing to or exchanging with 1903
other financial institution regulatory authorities information 1904
relating to registrants and licensees. For this purpose, a 1905
"financial institution regulatory authority" includes a 1906
regulator of a business activity in which a registrant or 1907
licensee is engaged, or has applied to engage in, to the extent 1908
that the regulator has jurisdiction over a registrant or 1909
licensee engaged in that business activity. A registrant or 1910
licensee is engaged in a business activity, and a regulator of 1911
that business activity has jurisdiction over the registrant or 1912

licensee, whether the registrant or licensee conducts the 1913
activity directly or a subsidiary or affiliate of the registrant 1914
or licensee conducts the activity. 1915

~~(1) Any confidentiality or privilege arising under federal 1916
or state law with respect to any information or material 1917
provided to the nationwide mortgage licensing system and 1918
registry shall continue to apply to the information or material 1919
after the information or material has been provided to the 1920
nationwide mortgage licensing system and registry. The 1921
information and material so provided may be shared with all 1922
state and federal regulatory officials with mortgage industry 1923
oversight authority without the loss of confidentiality or 1924
privilege protections provided by federal law or the law of any 1925
state. Information or material described in division (E) (1) of 1926
this section to which confidentiality or privilege applies shall 1927
not be subject to any of the following: 1928~~

~~(a) Disclosure under any federal or state law governing 1929
disclosure to the public of information held by an officer or an 1930
agency of the federal government or of the respective state; 1931~~

~~(b) Subpoena or discovery, or admission into evidence, in 1932
any private civil action or administrative process, unless the 1933
person to whom such information or material pertains waives, in 1934
whole or in part and at the discretion of the person, any 1935
privilege held by the nationwide mortgage licensing system and 1936
registry with respect to that information or material. 1937~~

~~(2) The superintendent, in order to promote more effective 1938
regulation and reduce regulatory burden through supervisory 1939
information sharing, may enter into sharing arrangements with 1940
other governmental agencies, the conference of state bank 1941
supervisors, and the American association of residential 1942~~

~~mortgage regulators.~~ 1943

~~(3)~~ (2) Any state law, including section 149.43 of the Revised Code, relating to the disclosure of confidential supervisory information or any information or material described in division (C) (1) ~~or (E) (1)~~ of this section that is inconsistent with this section shall be superseded by the requirements of this section. 1944
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~~(F) This section shall not apply with respect to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that is included in the nationwide mortgage licensing system and registry for access by the public.~~ 1950
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~~(G) This section does not prevent the division from releasing information relating to registrants and licensees to the attorney general, to the superintendent of real estate and professional licensing for purposes relating to the administration of Chapters 4735. and 4763. of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the commissioner of securities for purposes relating to the administration of Chapter 1707. of the Revised Code, or to local law enforcement agencies and local prosecutors. Information the division releases pursuant to this section remains confidential.~~ 1956
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~~(H) The superintendent of financial institutions shall, by rule adopted in accordance with Chapter 119. of the Revised Code, establish a process by which mortgage loan originators may challenge information provided to the nationwide mortgage licensing system and registry by the superintendent.~~ 1967
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~~(I)~~—No person, in connection with any examination or 1972
investigation conducted by the superintendent under sections 1973
1321.51 to 1321.60 of the Revised Code, shall knowingly do any 1974
of the following: 1975

(1) Circumvent, interfere with, obstruct, or fail to 1976
cooperate, including making a false or misleading statement, 1977
failing to produce records, or intimidating or suborning any 1978
witness; 1979

(2) Withhold, abstract, remove, mutilate, destroy, or 1980
secrete any books, records, computer records, or other 1981
information; 1982

(3) Tamper with, alter, or manufacture any evidence. 1983

Sec. 1321.551. (A) No registrant shall conduct the 1984
business of making loans under sections 1321.51 to 1321.60 of 1985
the Revised Code in any office, room, or place of business in 1986
which any other business is solicited or engaged in, or in 1987
association or conjunction with any other such business, if the 1988
superintendent of financial institutions finds, pursuant to a 1989
hearing conducted in accordance with Chapter 119. of the Revised 1990
Code, that the other business is of such a nature that the 1991
conduct tends to conceal evasion of sections 1321.51 to 1321.60 1992
of the Revised Code or of the rules adopted under those 1993
sections, and orders the registrant in writing to desist from 1994
the conduct. 1995

(B) The business of a ~~mortgage~~-loan originator shall 1996
principally be transacted at an office of the registrant with 1997
whom the licensee is employed or associated, which office is 1998
registered, if applicable, in accordance with division (A)(1) of 1999
section 1321.52 of the Revised Code. Each original ~~mortgage~~-loan 2000

originator license shall be deposited with and maintained at the 2001
registrant's main office. A copy of the ~~mortgage~~-loan originator 2002
license shall be maintained and displayed at the office where 2003
the ~~mortgage~~-loan originator principally transacts business. 2004

(C) If a ~~mortgage~~-loan originator's employment or 2005
association is terminated for any reason, the registrant shall 2006
return the original ~~mortgage~~-loan originator license to the 2007
superintendent within five business days after the termination. 2008
~~The licensee may request the transfer of the license to another~~ 2009
~~registrant by submitting a transfer application, along with a~~ 2010
~~fifteendollar fee and any fee required by the national mortgage~~ 2011
~~licensing system and registry, to the superintendent, or may~~ 2012
~~request in writing that the superintendent hold the license in~~ 2013
~~escrow. A licensee whose license is held in escrow shall cease~~ 2014
~~activity as a mortgage loan originator. A licensee whose license~~ 2015
~~is held in escrow shall be required to apply for renewal~~ 2016
~~annually and to comply with the annual continuing education~~ 2017
~~requirement.~~ 2018

(D) ~~A registrant may employ or be associated with a~~ 2019
~~mortgage loan originator on a temporary basis pending the~~ 2020
~~transfer of the mortgage loan originator's license to the~~ 2021
~~registrant, if the registrant receives written confirmation from~~ 2022
~~the superintendent that the mortgage loan originator is licensed~~ 2023
~~under sections 1321.51 to 1321.60 of the Revised Code.~~ 2024

~~(E)~~ Notwithstanding divisions (B), 7, and (C), ~~and (D)~~ of 2025
this section, if a ~~mortgage~~-loan originator is employed by or 2026
associated with a person claiming an exemption under division 2027
(D) of section 1321.53 of the Revised Code, the ~~mortgage~~-loan 2028
originator shall maintain and display the original ~~mortgage~~-loan 2029
originator license at the office where the ~~mortgage~~-loan 2030

originator principally transacts business. 2031

If the ~~mortgage~~-loan originator's employment or 2032
association is terminated for any reason, the licensee shall 2033
return the original ~~mortgage~~-loan originator license to the 2034
superintendent within five business days after the termination. 2035
~~The licensee may request the transfer of the license to a~~ 2036
~~mortgage broker or other person claiming an exemption under~~ 2037
~~division (D) of section 1321.53 of the Revised Code by~~ 2038
~~submitting a transfer application, along with a fifteen-dollar~~ 2039
~~fee and any fee required by the national mortgage licensing~~ 2040
~~system and registry, to the superintendent, or may request the~~ 2041
~~superintendent in writing to hold the license in escrow. A~~ 2042
~~licensee whose license is held in escrow shall cease activity as~~ 2043
~~a mortgage loan originator. A licensee whose license is held in~~ 2044
~~escrow shall be required to apply for renewal annually and to~~ 2045
~~comply with the annual continuing education requirement.~~ 2046

~~The licensee may seek to be employed or associated with a~~ 2047
~~mortgage broker or other person claiming an exemption under~~ 2048
~~division (D) of section 1321.53 of the Revised Code if the~~ 2049
~~mortgage broker or person receives written confirmation from the~~ 2050
~~superintendent that the mortgage loan originator is licensed~~ 2051
~~under sections 1321.51 to 1321.60 of the Revised Code.~~ 2052

~~(F) No registrant, through its managers or otherwise,~~ 2053
~~shall fail to do either of the following:~~ 2054

~~(1) Reasonably supervise mortgage loan originators or~~ 2055
~~other persons employed by or associated with the registrant;~~ 2056

~~(2) Establish reasonable procedures designed to avoid~~ 2057
~~violations of sections 1321.51 to 1321.60 of the Revised Code or~~ 2058
~~rules adopted thereunder, or violations of applicable state and~~ 2059

~~federal consumer and lending laws or rules, by mortgage loan- 2060
originators or other persons employed by or associated with the- 2061
registrant. 2062~~

~~(C) A license, or the authority granted under that- 2063
license, is not assignable and cannot be franchised by contract- 2064
or any other means. 2065~~

Sec. 1321.57. (A) Notwithstanding any other provisions of 2066
the Revised Code, a registrant may contract for and receive 2067
interest, calculated according to the actuarial method, at a 2068
rate or rates not exceeding twenty-one per cent per year on the 2069
unpaid principal balances of the loan. Loans may be interest- 2070
bearing or precomputed. 2071

(B) For purposes of computation of time on interest- 2072
bearing and precomputed loans, including, but not limited to, 2073
the calculation of interest, a month is considered one-twelfth 2074
of a year, and a day is considered one three hundred sixty-fifth 2075
of a year when calculation is made for a fraction of a month. A 2076
year is as defined in section 1.44 of the Revised Code. A month 2077
is that period described in section 1.45 of the Revised Code. 2078
Alternatively, a registrant may consider a day as one three 2079
hundred sixtieth of a year and each month as having thirty days. 2080

(C) With respect to interest-bearing loans: 2081

(1) (a) Interest shall be computed on unpaid principal 2082
balances outstanding from time to time, for the time 2083
outstanding. 2084

(b) As an alternative to the method of computing interest 2085
set forth in division (C) (1) (a) of this section, a registrant 2086
may charge and collect interest for the first installment period 2087
based on elapsed time from the date of the loan to the first 2088

scheduled payment due date, and for each succeeding installment 2089
period from the scheduled payment due date to the next scheduled 2090
payment due date, regardless of the date or dates the payments 2091
are actually made. 2092

(c) Whether a registrant computes interest pursuant to 2093
division (C) (1) (a) or (b) of this section, each payment shall be 2094
applied first to unpaid charges, then to interest, and the 2095
remainder to the unpaid principal balance. However, if the 2096
amount of the payment is insufficient to pay the accumulated 2097
interest, the unpaid interest continues to accumulate to be paid 2098
from the proceeds of subsequent payments and is not added to the 2099
principal balance. 2100

(2) Interest shall not be compounded, collected, or paid 2101
in advance. However, both of the following apply: 2102

(a) Interest may be charged to extend the first monthly 2103
installment period by not more than fifteen days, and the 2104
interest charged for the extension may be added to the principal 2105
amount of the loan. 2106

(b) If part or all of the consideration for a new loan 2107
contract is the unpaid principal balance of a prior loan, the 2108
principal amount payable under the new loan contract may include 2109
any unpaid interest that has accrued. The resulting loan 2110
contract shall be deemed a new and separate loan transaction for 2111
purposes of this section. The unpaid principal balance of a 2112
precomputed loan is the balance due after refund or credit of 2113
unearned interest as provided in division (D) (3) of this 2114
section. 2115

(D) With respect to precomputed loans: 2116

(1) Loans shall be repayable in monthly installments of 2117

principal and interest combined, except that the first 2118
installment period may exceed one month by not more than fifteen 2119
days, and the first installment payment amount may be larger 2120
than the remaining payments by the amount of interest charged 2121
for the extra days; and provided further that monthly 2122
installment payment dates may be omitted to accommodate 2123
borrowers with seasonal income. 2124

(2) Payments may be applied to the combined total of 2125
principal and precomputed interest until maturity of the loan. A 2126
registrant may charge interest after the original or deferred 2127
maturity of a precomputed loan at the rate specified in division 2128
(A) of this section on all unpaid principal balances for the 2129
time outstanding. 2130

(3) When any loan contract is paid in full by cash, 2131
renewal, refinancing, or a new loan, one month or more before 2132
the final installment due date, the registrant shall refund, or 2133
credit the borrower with, the total of the applicable charges 2134
for all fully unexpired installment periods, as originally 2135
scheduled or as deferred, that follow the day of prepayment. If 2136
the prepayment is made other than on a scheduled installment due 2137
date, the nearest scheduled installment due date shall be used 2138
in such computation. If the prepayment occurs prior to the first 2139
installment due date, the registrant may retain one-thirtieth of 2140
the applicable charge for a first installment period of one 2141
month for each day from date of loan to date of prepayment, and 2142
shall refund, or credit the borrower with, the balance of the 2143
total interest contracted for. If the maturity of the loan is 2144
accelerated for any reason and judgment is entered, the 2145
registrant shall credit the borrower with the same refund as if 2146
prepayment in full had been made on the date the judgment is 2147
entered. 2148

(4) If the parties agree in writing, either in the loan contract or in a subsequent agreement, to a deferment of wholly unpaid installments, a registrant may grant a deferment and may collect a deferment charge as provided in this section. A deferment postpones the scheduled due date of the earliest unpaid installment and all subsequent installments as originally scheduled, or as previously deferred, for a period equal to the deferment period. The deferment period is that period during which no installment is scheduled to be paid by reason of the deferment. The deferment charge for a one-month period may not exceed the applicable charge for the installment period immediately following the due date of the last undeferred installment. A proportionate charge may be made for deferment for periods of more or less than one month. A deferment charge is earned pro rata during the deferment period and is fully earned on the last day of the deferment period. If a loan is prepaid in full during a deferment period, the registrant shall make, or credit to the borrower, a refund of the unearned deferment charge in addition to any other refund or credit made for prepayment of the loan in full.

(E) A registrant, at the request of the borrower, may obtain, on one or more borrowers, credit life insurance, credit accident and health insurance, and unemployment insurance. The premium or identifiable charge for the insurance may be included in the principal amount of the loan and may not exceed the premium rate filed by the insurer with the superintendent of insurance and not disapproved by the superintendent. If a registrant obtains the insurance at the request of the borrower, the borrower shall have the right to cancel the insurance for a period of twenty-five days after the loan is made. If the borrower chooses to cancel the insurance, the borrower shall

give the registrant written notice of this choice and shall 2180
return all of the policies or certificates of insurance or 2181
notices of proposed insurance to the registrant during such 2182
period, and the full premium or identifiable charge for the 2183
insurance shall be refunded to the borrower by the registrant. 2184
If the borrower requests, in the notice to cancel the insurance, 2185
that this refund be applied to reduce the balance of a 2186
precomputed loan, the registrant shall credit the amount of the 2187
refund plus the amount of interest applicable to the refund to 2188
the loan balance. 2189

If the registrant obtains the insurance at the request of 2190
the borrower, the registrant shall not charge or collect 2191
interest on any insured amount that remains unpaid after the 2192
insured borrower's date of death. 2193

(F) A registrant may require the borrower to provide 2194
insurance or a loss payable endorsement covering reasonable 2195
risks of loss, damage, and destruction of property used as 2196
security for the loan and with the consent of the borrower such 2197
insurance may cover property other than that which is security 2198
for the loan. The amount and term of required property insurance 2199
shall be reasonable in relation to the amount and term of the 2200
loan contract and the type and value of the security, and the 2201
insurance shall be procured in accordance with the insurance 2202
laws of this state. The purchase of this insurance through the 2203
registrant or an agent or broker designated by the registrant 2204
shall not be a condition precedent to the granting of the loan. 2205
If the borrower purchases the insurance from or through the 2206
registrant or from another source, the premium may be included 2207
in the principal amount of the loan. 2208

~~(G) On loans secured by an interest in real estate, all of~~ 2209

~~the following apply:~~ 2210

~~(1) A registrant, if not prohibited by section 1343.011 of
the Revised Code, may charge and receive up to two points, and a
prepayment penalty not in excess of one per cent of the original
principal amount of the loan. Points may be paid by the borrower
at the time of the loan or may be included in the principal
amount of the loan. On a refinancing, a registrant may not
charge under division (G) (1) of this section either of the
following:~~ 2211
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~~(a) Points on the portion of the principal amount that is
applied to the unpaid principal amount of the refinanced loan,
if the refinancing occurs within one year after the date of the
refinanced loan on which points were charged;~~ 2219
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~~(b) A prepayment penalty.~~ 2223

~~(2) As an alternative to the prepayment penalty described
in division (G) (1) of this section, a registrant may contract
for, charge, and receive the prepayment penalty described in
division (G) (2) of this section for the prepayment of a loan
prior to two years after the date the loan contract is executed.
This prepayment penalty shall not exceed two per cent of the
original principal amount of the loan if the loan is paid in
full prior to one year after the date the loan contract is
executed. The penalty shall not exceed one per cent of the
original principal amount of the loan if the loan is paid in
full at any time from one year, but prior to two years, after
the date the loan contract is executed. A registrant shall not
charge or receive a prepayment penalty under division (G) (2) of
this section if any of the following applies:~~ 2224
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~~(a) The loan is a refinancing by the same registrant or a~~ 2238

~~registrant to whom the loan has been assigned;~~ 2239

~~(b) The loan is paid in full as a result of the sale of the real estate that secures the loan;~~ 2240
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~~(c) The loan is paid in full with the proceeds of an insurance claim against an insurance policy that insures the life of the borrower or an insurance policy that covers loss, damage, or destruction of the real estate that secures the loan.~~ 2242
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~~(3) Division (G) of this section is not a limitation on discount points or other charges for purposes of section 501(b)(4) of the "Depository Institutions Deregulation and Monetary Control Act of 1980," 94 Stat. 161, 12 U.S.C.A. 1735f-7 note.~~ 2246
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~~(H)~~(1) In addition to the interest and charges provided for by this section, no further or other amount, whether in the form of broker fees, placement fees, or any other fees whatsoever, shall be charged or received by the registrant, except costs and disbursements in connection with any suit to collect a loan or any lawful activity to realize on a security interest ~~or mortgage~~ after default, including reasonable attorney fees incurred by the registrant as a result of the suit or activity and to which the registrant becomes entitled by law, and except the following additional charges which may be included in the principal amount of the loan or collected at any time after the loan is made: 2250
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(a) The amounts of fees authorized by law to record, file, or release security interests ~~and mortgages~~ on a loan; 2262
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~~(b) With respect to a loan secured by an interest in real estate, the following closing costs, if they are bona fide, reasonable in amount, paid to third parties, and not for the purpose of circumvention or evasion of this section:~~ 2264
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~~(i) Fees or premiums for title examination, abstract of title, title insurance, surveys, title endorsements, title binders, title commitments, home inspections, or pest inspections; settlement or closing costs paid to unaffiliated third parties; courier fees; and any federally mandated flood plain certification fee;~~ 2268
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~~(ii) If not paid to the registrant, an employee of the registrant, or a person affiliated with the registrant, fees for preparation of a mortgage, settlement statement, or other documents, fees for notarizing mortgages and other documents, appraisal fees, and fees for any federally mandated inspection of home improvement work financed by a second mortgage loan;~~ 2274
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~~(e) Fees for credit investigations not exceeding ten dollars.~~ 2280
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(2) Division ~~(H)~~(G)(1) of this section does not limit the rights of registrants to engage in other transactions with borrowers, provided the transactions are not a condition of the loan. 2282
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~~(I)~~(H) If the loan contract or security instrument contains covenants by the borrower to perform certain duties pertaining to insuring or preserving security and the registrant pursuant to the loan contract or security instrument pays for performance of the duties on behalf of the borrower, the registrant may add the amounts paid to the unpaid principal balance of the loan or collect them separately. A charge for interest may be made for sums advanced not exceeding the rate of interest permitted by division (A) of this section. Within a reasonable time after advancing a sum, the registrant shall notify the borrower in writing of the amount advanced, any interest charged with respect to the amount advanced, any 2286
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revised payment schedule, and shall include a brief description 2298
of the reason for the advance. 2299

~~(J)(I)~~ (1) ~~In addition to points authorized under division~~ 2300
~~(G) of this section, a~~ A registrant may charge and receive the 2301
following: 2302

(a) With respect to loans secured by goods ~~or real estate~~: 2303
if the principal amount of the loan is five hundred dollars or 2304
less, loan origination charges not exceeding fifteen dollars; if 2305
the principal amount of the loan is more than five hundred 2306
dollars but less than one thousand dollars, loan origination 2307
charges not exceeding thirty dollars; if the principal amount of 2308
the loan is at least one thousand dollars but less than two 2309
thousand dollars, loan origination charges not exceeding one 2310
hundred dollars; if the principal amount of the loan is at least 2311
two thousand dollars but less than five thousand dollars, loan 2312
origination charges not exceeding two hundred dollars; and if 2313
the principal amount of the loan is at least five thousand 2314
dollars, loan origination charges not exceeding the greater of 2315
two hundred fifty dollars or one per cent of the principal 2316
amount of the loan. 2317

(b) With respect to loans that are not secured by goods ~~or~~ 2318
~~real estate~~: if the principal amount of the loan is five hundred 2319
dollars or less, loan origination charges not exceeding fifteen 2320
dollars; if the principal amount of the loan is more than five 2321
hundred dollars but less than one thousand dollars, loan 2322
origination charges not exceeding thirty dollars; if the 2323
principal amount of the loan is at least one thousand dollars 2324
but less than five thousand dollars, loan origination charges 2325
not exceeding one hundred dollars; and if the principal amount 2326
of the loan is at least five thousand dollars, loan origination 2327

charges not exceeding the greater of two hundred fifty dollars 2328
or one per cent of the principal amount of the loan. 2329

(2) If a refinancing occurs within ninety days after the 2330
date of the refinanced loan, a registrant may not impose loan 2331
origination charges on the portion of the principal amount that 2332
is applied to the unpaid principal amount of the refinanced 2333
loan. 2334

(3) Loan origination charges may be paid by the borrower 2335
at the time of the loan or may be included in the principal 2336
amount of the loan. 2337

~~(K)~~ (J) A registrant may charge and receive check 2338
collection charges not greater than twenty dollars plus any 2339
amount passed on from other depository institutions for each 2340
check, negotiable order of withdrawal, share draft, or other 2341
negotiable instrument returned or dishonored for any reason. 2342

~~(L)~~ (K) If the loan contract so provides, a registrant may 2343
collect a default charge on any installment not paid in full 2344
within ten days after its due date. For this purpose, all 2345
installments are considered paid in the order in which they 2346
become due. Any amounts applied to an outstanding loan balance 2347
as a result of voluntary release of a security interest, sale of 2348
security on the loan, or cancellation of insurance shall be 2349
considered payments on the loan, unless the parties otherwise 2350
agree in writing at the time the amounts are applied. The amount 2351
of the default charge shall not exceed the greater of five per 2352
cent of the scheduled installment or fifteen dollars. 2353

Sec. 1321.58. (A) A registrant may make open-end loans 2354
pursuant to an agreement between the registrant and the borrower 2355
whereby: 2356

(1) The registrant may permit the borrower to obtain 2357
advances of money from the registrant from time to time or the 2358
registrant may advance money on behalf of the borrower from time 2359
to time as directed by the borrower. 2360

(2) The amount of each advance and permitted interest, 2361
charges, and costs are debited to the borrower's account and 2362
payments and other credits are credited to the same account. 2363

(3) The interest and charges are computed on the unpaid 2364
balance or balances of the account from time to time. 2365

(4) The borrower has the privilege of paying the account 2366
in full at any time or, if the account is not in default, in 2367
installments of determinable amounts as provided in the 2368
agreement. 2369

For open-end loans, "billing cycle" means the time 2370
interval between periodic billing dates. A billing cycle shall 2371
be considered monthly if the closing date of the cycle is the 2372
same date each month or does not vary by more than four days 2373
from such date. 2374

(B) Notwithstanding any other provisions of the Revised 2375
Code, a registrant may contract for and receive interest for 2376
open-end loans at a rate or rates not exceeding twenty-one per 2377
cent per year and may compute interest in each billing cycle by 2378
either of the following methods: 2379

(1) By multiplying the daily rate by the daily unpaid 2380
balance of the account, in which case the daily rate is 2381
determined by dividing the annual rate by three hundred sixty- 2382
five; 2383

(2) By multiplying the monthly rate by the average daily 2384
unpaid balance of the account in the billing cycle, in which 2385

case the average daily unpaid balance is the sum of all of the
daily unpaid balances each day during the cycle divided by the
number of days in the cycle. The monthly rate is determined by
dividing the annual rate by twelve.

The billing cycle shall be monthly and the unpaid balance
on any day shall be determined by adding to any balance unpaid
as of the beginning of that day all advances and permitted
interest, charges, and costs and deducting all payments and
other credits made or received that day.

(C) In addition to the interest permitted in division (B)
of this section, a registrant may charge and receive or add to
the unpaid balance any or all of the following:

(1) All charges and costs authorized by divisions (E),
(F), (G), (H), ~~(I)~~, and ~~(K)~~ (J) of section 1321.57 of the
Revised Code;

(2) An annual credit line charge, for the privilege of
maintaining a line of credit, as follows:

(a) For the first year:

(i) If the original credit line is less than five thousand
dollars, an amount not exceeding one hundred fifty dollars;

(ii) If the original credit line is at least five thousand
dollars, an amount not exceeding the greater of one per cent of
the original credit line or two hundred fifty dollars.

(b) For subsequent years an amount not exceeding the
greater of one-half per cent of the credit line on the
anniversary date or fifty dollars.

(3) A default charge on any required minimum payment not
paid in full within ten days after its due date. For this

purpose, all required minimum payments are considered paid in 2414
the order in which they become due. The amount of the default 2415
charge shall not exceed the greater of five per cent of the 2416
required minimum payment or fifteen dollars. 2417

(D) The borrower at any time may pay all or any part of 2418
the unpaid balance on the account or, if the account is not in 2419
default, the borrower may pay the unpaid balance in installments 2420
subject to minimum payment requirements as determined by the 2421
registrant and set forth in the open-end loan agreement. 2422

(E) If credit life insurance or credit accident and health 2423
insurance is obtained by the registrant and if the insured dies 2424
or becomes disabled when there is an outstanding open-end loan 2425
indebtedness, the insurance shall be sufficient to pay the 2426
unpaid balance on the loan due on the date of the borrower's 2427
death in the case of credit life insurance or all minimum 2428
payments that become due on the loan during the covered period 2429
of disability in the case of credit accident and health 2430
insurance. The additional charge for credit life insurance, 2431
credit accident and health insurance, or unemployment insurance 2432
shall be calculated each billing cycle by applying the current 2433
monthly premium rate for the insurance, filed by the insurer 2434
with the superintendent of insurance and not disapproved by the 2435
superintendent, to the unpaid balances in the borrower's 2436
account, using one of the methods specified in division (B) of 2437
this section for the calculation of interest. No credit life 2438
insurance, credit accident and health insurance, or unemployment 2439
insurance written in connection with an open-end loan shall be 2440
canceled by the registrant because of delinquency of the 2441
borrower in making the required minimum payments on the loan 2442
unless one or more such payments is past due for a period of 2443
thirty days or more. The registrant shall advance to the insurer 2444

the amounts required to keep the insurance in force during such 2445
period, which amounts may be debited to the borrower's account. 2446

(F) Whenever there is no unpaid balance in an open-end 2447
loan account, the account may be terminated by written notice, 2448
by the borrower or the registrant, to the other party. ~~If a~~ 2449
~~registrant has taken a mortgage on real property to secure the~~ 2450
~~open-end loan, the registrant shall deliver, within thirty days~~ 2451
~~following termination of the account, a release of the mortgage~~ 2452
~~to the borrower.~~ If a registrant has taken a security interest 2453
in personal property to secure the open-end loan, the registrant 2454
shall release the security interest and terminate any financing 2455
statement in accordance with section 1309.513 of the Revised 2456
Code. 2457

Sec. 1321.59. (A) No registrant under sections 1321.51 to 2458
1321.60 of the Revised Code shall permit any borrower to be 2459
indebted for a loan made under sections 1321.51 to 1321.60 of 2460
the Revised Code at any time while the borrower is also indebted 2461
to an affiliate or agent of the registrant for a loan made under 2462
sections 1321.01 to 1321.19 of the Revised Code for the purpose 2463
or with the result of obtaining greater charges than otherwise 2464
would be permitted by sections 1321.51 to 1321.60 of the Revised 2465
Code. 2466

(B) No registrant shall induce or permit any person to 2467
become obligated to the registrant under sections 1321.51 to 2468
1321.60 of the Revised Code, directly or contingently, or both, 2469
under more than one contract of loan at the same time for the 2470
purpose or with the result of obtaining greater charges than 2471
would otherwise be permitted by sections 1321.51 to 1321.60 of 2472
the Revised Code. 2473

(C) No registrant shall refuse to provide information 2474

regarding the amount required to pay in full a loan under 2475
sections 1321.51 to 1321.60 of the Revised Code when requested 2476
by the borrower or by another person designated in writing by 2477
the borrower. 2478

~~(D) On any loan or application for a loan under sections 2479
1321.51 to 1321.60 of the Revised Code secured by a mortgage on 2480
a borrower's real estate which is other than a first lien on the 2481
real estate, no person shall pay or receive, directly or 2482
indirectly, fees or any other type of compensation for services 2483
of a mortgage broker that, in the aggregate, exceed the lesser 2484
of one thousand dollars or one per cent of the principal amount 2485
of the loan. 2486~~

~~(E)~~ No registrant or licensee shall obtain a certificate 2487
of registration or license through any false or fraudulent 2488
representation of a material fact or any omission of a material 2489
fact required by state or federal law, or make any substantial 2490
misrepresentation in the registration or license application, to 2491
engage in lending secured by real estate under sections 1321.51 2492
to 1321.60 of the Revised Code. 2493

~~(F)~~ (E) No registrant or licensee, in connection with the 2494
business of making or offering to make ~~residential mortgage~~ 2495
loans under sections 1321.51 to 1321.60 of the Revised Code, 2496
shall knowingly make false or misleading statements of a 2497
material fact, omissions of statements required by state or 2498
federal law, or false promises regarding a material fact, 2499
through advertising or other means, or engage in a continued 2500
course of misrepresentations. 2501

~~(G)~~ (F) No registrant, licensee, or person making loans 2502
without a certificate of registration in violation of division 2503
(A) of section 1321.52 of the Revised Code, shall knowingly 2504

engage in conduct, in connection with the business of making or 2505
offering to make ~~residential mortgage loans~~ under sections 2506
1321.51 to 1321.60 of the Revised Code, that constitutes 2507
improper, fraudulent, or dishonest dealings. 2508

~~(H)~~ (G) No registrant, licensee, or applicant involved in 2509
the business of making or offering to make ~~residential mortgage-~~ 2510
loans under sections 1321.51 to 1321.60 of the Revised Code 2511
shall fail to notify the division of financial institutions 2512
within thirty days after knowing any of the following: 2513

(1) That the registrant, licensee, or applicant has been 2514
convicted of or pleaded guilty or nolo contendere to a felony 2515
offense in a domestic, foreign, or military court; 2516

(2) That the registrant, licensee, or applicant has been 2517
convicted of or pleaded guilty or nolo contendere to any 2518
criminal offense involving theft, receiving stolen property, 2519
embezzlement, forgery, fraud, passing bad checks, money 2520
laundering, breach of trust, dishonesty, or drug trafficking, or 2521
any criminal offense involving money or securities, in a 2522
domestic, foreign, or military court; 2523

(3) That the registrant, licensee, or applicant has had a 2524
~~mortgage lender certificate of registration or mortgage loan~~ 2525
originator license, or comparable authority, revoked in any 2526
governmental jurisdiction. 2527

~~(I)~~ (H) No registrant or licensee shall knowingly make, 2528
propose, or solicit fraudulent, false, or misleading statements 2529
on any ~~mortgage document or on any document related to a~~ 2530
~~mortgage loan~~ made under sections 1321.51 to 1321.60 of the 2531
Revised Code, including a ~~mortgage an application, real estate-~~ 2532
~~appraisal, or real estate settlement or closing document for a~~ 2533

loan. For purposes of this division, "fraudulent, false, or 2534
misleading statements" does not include mathematical errors, 2535
inadvertent transposition of numbers, typographical errors, or 2536
any other bona fide error. 2537

~~(J)~~ (I) No registrant or licensee shall knowingly 2538
instruct, solicit, propose, or otherwise cause a borrower to 2539
sign in blank a loan-related document in connection with a 2540
~~residential mortgage loan made under sections 1321.51 to 1321.60~~ 2541
of the Revised Code. 2542

~~(K) No registrant or licensee shall knowingly compensate,~~ 2543
~~instruct, induce, coerce, or intimidate, or attempt to~~ 2544
~~compensate, instruct, induce, coerce, or intimidate, a person~~ 2545
~~licensed or certified as an appraiser under Chapter 4763. of the~~ 2546
~~Revised Code for the purpose of corrupting or improperly~~ 2547
~~influencing the independent judgment of the person with respect~~ 2548
~~to the value of the dwelling offered as security for repayment~~ 2549
~~of a mortgage loan.~~ 2550

~~(L)~~ (J) No registrant or licensee shall willfully retain 2551
original documents provided to the registrant or licensee by the 2552
borrower in connection with the ~~residential mortgage loan~~ 2553
application, including income tax returns, account statements, 2554
or other financial-related documents. 2555

~~(M)~~ (K) No registrant or licensee shall, in connection 2556
with making ~~residential mortgage loans under sections 1321.51 to~~ 2557
1321.60 of the Revised Code, receive, directly or indirectly, a 2558
premium on the fees charged for services performed by a bona 2559
fide third party. 2560

~~(N) No registrant or licensee shall, in connection with~~ 2561
~~making residential mortgage loans, pay or receive, directly or~~ 2562

~~indirectly, a referral fee or kickback of any kind to or from a~~ 2563
~~bona fide third party or other party with a related interest in~~ 2564
~~the transaction, including a home improvement builder, real~~ 2565
~~estate developer, or real estate broker or agent, for the~~ 2566
~~referral of business. Nothing in this division shall prevent~~ 2567
~~remuneration to a registrant or licensee for the licensed sale~~ 2568
~~of any insurance product that is permitted under section 1321.57~~ 2569
~~of the Revised Code, provided there is no additional fee or~~ 2570
~~premium added to the cost for the insurance and paid directly or~~ 2571
~~indirectly by the borrower.~~ 2572

~~(O)~~ (L) No registrant, licensee, or person making loans 2573
without a certificate of registration in violation of division 2574
(A) of section 1321.52 of the Revised Code shall, in connection 2575
with making or offering to make residential mortgage loans under 2576
sections 1321.51 to 1321.60 of the Revised Code, engage in any 2577
unfair, deceptive, or unconscionable act or practice prohibited 2578
under sections 1345.01 to 1345.13 of the Revised Code. 2579

Sec. 1321.593. (A) A registrant, licensee, and any person 2580
required to be registered or licensed under sections 1321.51 to 2581
1321.60 of the Revised Code shall, in connection with the 2582
business of making or offering to make ~~residential mortgage~~ 2583
loans under sections 1321.51 to 1321.60 of the Revised Code, do 2584
all of the following: 2585

(1) Safeguard and account for any money handled for the 2586
borrower; 2587

(2) Follow reasonable and lawful instructions from the 2588
borrower; 2589

(3) Act with reasonable skill, care, and diligence; 2590

(4) Act in good faith and with fair dealing in any 2591

transaction, practice, or course of business in connection with 2592
making or originating any ~~residential mortgage~~ loan under 2593
sections 1321.51 to 1321.60 of the Revised Code. 2594

~~(B) Division (A) of this section shall not apply to 2595
wholesale lenders. However, wholesale lender registrants are 2596
subject to all other requirements applicable to registrants. For 2597
purposes of this division, "wholesale lender" means a company 2598
that has been issued a certificate of registration and that 2599
enters into transactions with borrowers exclusively through 2600
unaffiliated third party mortgage brokers or lenders. 2601~~

~~(C) The duties and standards of care created in this 2602
section cannot be waived or modified. 2603~~

Sec. 1321.60. (A) (1) Advertising for loans subject to 2604
sections 1321.51 to 1321.60 of the Revised Code shall not be 2605
false, misleading, or deceptive. 2606

(2) False, misleading, or deceptive advertising includes, 2607
but is not limited to, the following: 2608

(a) Placing, or causing to be placed, any advertisement 2609
indicating that special terms, reduced rates, guaranteed rates, 2610
particular rates, or any other special feature of ~~mortgage~~ loans 2611
made under sections 1321.51 to 1321.60 of the Revised Code is 2612
available unless the advertisement clearly states any 2613
limitations that apply; 2614

(b) Placing, or causing to be placed, any advertisement 2615
containing a rate or special fee offer that is not a bona fide 2616
available rate or fee. 2617

(B) In making any advertisement, a registrant shall comply 2618
with 12 C.F.R. 226.16, as amended. 2619

Sec. 1321.72. Except as provided in division (D) of 2620
section 1321.78, sections 1321.71 to 1321.83 of the Revised Code 2621
do not apply with respect to any of the following: 2622

(A) Life, property, or casualty insurance companies 2623
authorized to do business in this state as to policies issued by 2624
those companies; 2625

(B) The inclusion of a charge for insurance in connection 2626
with any installment transaction pursuant to Chapter 1317. of 2627
the Revised Code; 2628

(C) The financing of insurance premiums at a rate of 2629
interest not exceeding the maximum rate permitted by section 2630
1343.01 of the Revised Code; 2631

(D) Persons lawfully doing business under the authority of 2632
any law of this state, another state, or the United States 2633
relating to banks, savings banks, trust companies, savings and 2634
loan associations, lenders authorized to make loans pursuant to 2635
sections 1321.01 to 1321.19 of the Revised Code, lenders 2636
authorized to make loans pursuant to sections 1321.51 to 1321.60 2637
of the Revised Code, mortgage lenders authorized to make loans 2638
under Chapter 1322. of the Revised Code, or any credit union; 2639

(E) Any person who purchases or otherwise acquires a 2640
premium finance agreement from a licensee if the licensee 2641
remains responsible for collecting payments due under the 2642
agreement, and for otherwise servicing the agreement, in 2643
compliance with sections 1321.71 to 1321.83 of the Revised Code. 2644

Sec. 1321.99. (A) Whoever violates section 1321.02 of the 2645
Revised Code is guilty of a felony of the fifth degree. 2646

(B) Whoever violates section 1321.13 of the Revised Code 2647
shall be fined not less than one hundred nor more than five 2648

hundred dollars or imprisoned not more than six months, or both. 2649

(C) Whoever violates section 1321.14 of the Revised Code 2650
shall be fined not less than fifty nor more than two hundred 2651
dollars for a first offense; for a second offense such person 2652
shall be fined not less than two hundred nor more than five 2653
hundred dollars and imprisoned for not more than six months. 2654

(D) Whoever willfully violates section 1321.57, 1321.58, 2655
division (A), (B), or (C), ~~or (D)~~ of section 1321.59, 1321.591, 2656
or 1321.60 of the Revised Code is guilty of a minor misdemeanor 2657
and shall be fined not less than one nor more than five hundred 2658
dollars. 2659

(E) Whoever violates section 1321.52 or division (H), (I), 2660
(J), or (K), ~~(L)~~, ~~or (M)~~ of section 1321.59 of the Revised Code 2661
is guilty of a felony of the fifth degree. 2662

(F) Whoever violates division (A) of section 1321.73 of 2663
the Revised Code shall be fined not more than five hundred 2664
dollars or imprisoned not more than six months, or both. 2665

(G) Whoever violates section 1321.41 of the Revised Code 2666
is guilty of a misdemeanor of the first degree. 2667

~~(H) Whoever violates division (N) of section 1321.59 of~~ 2668
~~the Revised Code is guilty of a felony of the fourth degree.~~ 2669

~~(I)~~The imposition of fines pursuant to this section does 2670
not preclude the imposition of any administrative fines or civil 2671
penalties authorized under section 1321.54 or any other section 2672
of the Revised Code. 2673

Sec. 1322.01. As used in ~~sections 1322.01 to 1322.12 of~~ 2674
~~the Revised Code~~ this chapter: 2675

(A) "Administrative or clerical tasks" mean the receipt, 2676

collection, and distribution of information common for the 2677
processing or underwriting of a loan in the mortgage industry, 2678
without performing any analysis of the information, and 2679
communication with a consumer to obtain information necessary 2680
for the processing or underwriting of a residential mortgage 2681
loan. 2682

(B) "Advertising" means a commercial message in any medium 2683
that promotes, either directly or indirectly, a residential 2684
mortgage lending transaction. 2685

(C) "Application" has the same meaning as in 12 C.F.R. 2686
1026.2(a)(3). 2687

(D) "Approved education course" means any course approved 2688
by the nationwide mortgage licensing system and registry. 2689

(E) "Approved test provider" means any test provider 2690
approved by the nationwide mortgage licensing system and 2691
registry. 2692

(F) "Bona fide third party" means a person that provides 2693
services relative to the origination of a residential mortgage 2694
loan, including, but not limited to, real estate appraisers and 2695
credit reporting agencies. 2696

(G) "Borrower" means a person seeking a residential 2697
mortgage loan or an obligor on a residential mortgage loan. 2698

(H) "Branch office" means a location at which a licensee 2699
conducts business other than a registrant's principal place of 2700
business, if at least one of the following applies to the 2701
location: 2702

(1) The address of the location appears on business cards, 2703
stationery, or advertising used by the registrant; 2704

- (2) The registrant's name or advertising at the location suggests that mortgage transactions are made at the location; 2705
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- (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 2707
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- (4) The location within this state is controlled directly or indirectly by the registrant. 2710
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- (I) "Buyer" means an individual who is solicited to purchase or who purchases the services of a mortgage ~~broker~~ loan originator for purposes of obtaining a residential mortgage loan. 2712
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- ~~(B)~~ (J) "Commercial context" means that an individual who acts as a mortgage loan originator does so for the purpose of obtaining profit for an entity or individual for which the individual acts, including a sole proprietorship or other entity that includes only the individual, rather than exclusively for public, charitable, or family purposes. 2716
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- (K) "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. 2722
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- ~~(C)~~ (L) "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: 2725
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- (1) Is a director, general partner, or executive officer or is an individual that occupies a similar position or performs a similar function; 2729
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- (2) Directly or indirectly has the right to vote five per 2732

cent or more of a class of a voting security or has the power to 2733
sell or direct the sale of five per cent or more of a class of 2734
voting securities; 2735

(3) In the case of a limited liability company, is a 2736
managing member; or 2737

(4) In the case of a partnership, has the right to receive 2738
upon dissolution or has contributed five per cent or more of the 2739
capital. 2740

(M) "Depository institution" has the same meaning as in 2741
section 3 of the "Federal Deposit Insurance Act," 12 U.S.C. 2742
1813(c), and also includes any credit union. 2743

(N) "Dwelling" has the same meaning as in 15 U.S.C. 2744
1602(w). 2745

(O) "Employee" means an individual for whom a mortgage 2746
broker or mortgage lender, in addition to providing a wage or 2747
salary, pays social security and unemployment taxes, provides 2748
workers' compensation coverage, and withholds local, state, and 2749
federal income taxes. "Employee" also includes any individual 2750
who acts as a mortgage loan originator or operations manager of 2751
a registrant, but for whom the registrant is prevented by law 2752
from making income tax withholdings. 2753

~~(D)~~ (P) "Entity" means a business organization, including 2754
a sole proprietorship. 2755

(Q) "Escrow account" means a deposit account with a 2756
financial institution that provides deposit insurance, which 2757
account is separate and distinct from any personal, business, or 2758
other account of the mortgage lender or mortgage servicer and is 2759
maintained solely for the holding and payment of escrow funds. 2760

(R) "Escrow funds" means funds entrusted to a mortgage lender or mortgage servicer by a borrower for payment of taxes, insurance, or other payments to be made in connection with the servicing of a loan. 2761
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(S) "Expungement" means a court-ordered process that involves the destruction of documentation related to past arrests and convictions. 2765
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(T) "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. 2768
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(U) "Housing finance agency" includes the Ohio housing finance agency created under section 175.02 of the Revised Code. 2772
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(V) "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. 2774
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(W) "Independent contractor" means an individual who performs duties for another person and is not subject to that person's supervision or control. 2778
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(X) "Individual" means a natural person. 2781

(Y) "Licensee" means any individual who has been issued a mortgage loan originator license under ~~sections 1322.01 to 1322.12~~ of the Revised Code this chapter. 2782
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~~(E)-(1)-(Z)~~ (Z) "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 2785
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particular borrower. 2789

(AA) "Loan processor or underwriter" means an individual 2790
who, with respect to the origination of a residential mortgage 2791
loan, performs administrative or clerical tasks as an employee 2792
at the direction of and subject to the supervision of a mortgage 2793
lender or mortgage broker. For purposes of this division, 2794
"origination of a residential mortgage loan" means all 2795
activities related to a residential mortgage loan, from the 2796
taking of a loan application through the completion of all 2797
required loan closing documents and the funding of the loan. 2798

(BB) "Mortgage" means the consensual interest in real 2799
property located in this state, including improvements to that 2800
property, securing a debt evidence by a mortgage, trust 2801
indenture, deed of trust, or other lien on real property. 2802

(CC) "Mortgage broker" means an entity that obtains, 2803
attempts to obtain, or assists in obtaining a mortgage loan for 2804
a borrower from a mortgage lender in return for consideration or 2805
in anticipation of consideration. For purposes of this division, 2806
"attempting to obtain or assisting in obtaining" a mortgage loan 2807
includes referring a borrower to a mortgage lender, soliciting 2808
or offering to solicit a mortgage loan on behalf of a borrower, 2809
or negotiating or offering to negotiate the terms or conditions 2810
of a mortgage loan with a mortgage lender on behalf of a 2811
borrower. 2812

(DD) "Mortgage lender" means an entity that consummates a 2813
residential mortgage loan, advances funds, offers to advance 2814
funds, or commits to advancing funds for a residential mortgage 2815
loan applicant. 2816

(EE) (1) "~~Loan~~ Mortgage loan originator" means an 2817

individual who for compensation or gain, or in ~~anticipation~~ the 2818
expectation of compensation or gain, does any of the following: 2819

(a) Takes ~~or offers to take~~ a residential mortgage loan 2820
application; 2821

(b) Assists or offers to assist a buyer in obtaining or 2822
applying to obtain a residential mortgage loan by, among other 2823
things, advising on loan terms, including rates, fees, and other 2824
costs; 2825

(c) Offers or negotiates terms of a residential mortgage 2826
loan; 2827

(d) Issues or offers to issue a commitment for a 2828
residential mortgage loan to a buyer. 2829

(2) "~~Loan~~ Mortgage loan originator" does not include any 2830
of the following: 2831

(a) An individual who performs purely administrative or 2832
clerical tasks on behalf of a mortgage loan originator; 2833

(b) A person licensed under Chapter 4735. of the Revised 2834
Code, or under the similar law of another state, who performs 2835
only real estate brokerage activities permitted by that license, 2836
provided the person is not compensated by a mortgage lender, 2837
mortgage broker, mortgage loan originator, or by any agent 2838
thereof; 2839

(c) A person solely involved in extensions of credit 2840
relating to timeshare plans, as that term is defined in 11 2841
U.S.C. 101 ~~in effect on January 1, 2009;~~ 2842

(d) An employee of a ~~registrant~~ mortgage lender or 2843
mortgage broker who acts solely as a loan processor or 2844
underwriter and who does not represent to the public, through 2845

advertising or other means of communicating, including the use 2846
of business cards, stationery, brochures, signs, rate lists, or 2847
other promotional items, that the employee can or will perform 2848
any of the activities of a mortgage loan originator; 2849

(e) A ~~mortgage~~ loan originator licensed under sections 2850
1321.51 to 1321.60 of the Revised Code, when acting solely under 2851
that authority; 2852

(f) A licensed attorney who negotiates the terms of a 2853
residential mortgage loan on behalf of a client as an ancillary 2854
matter to the attorney's representation of the client, unless 2855
the attorney is compensated by a mortgage lender, a mortgage 2856
broker, or another mortgage loan originator, or by any agent 2857
thereof; 2858

(g) Any person engaged in the retail sale of manufactured 2859
homes, mobile homes, or industrialized units if, in connection 2860
with financing those retail sales, the person only assists the 2861
borrower by providing or transmitting the loan application and 2862
does not do any of the following: 2863

(i) Offer or negotiate the residential mortgage loan rates 2864
or terms; 2865

(ii) Provide any counseling with borrowers about 2866
residential mortgage loan rates or terms; 2867

(iii) Receive any payment or fee from any company or 2868
individual for assisting the borrower obtain or apply for 2869
financing to purchase the manufactured home, mobile home, or 2870
industrialized unit; 2871

(iv) Assist the borrower in completing a residential 2872
mortgage loan application. 2873

(h) An individual employed by a nonprofit organization 2874
that is recognized as tax exempt under 26 U.S.C. 501(c)(3) and 2875
whose primary activity is the construction, remodeling, or 2876
rehabilitation of homes for use by low-income families, provided 2877
that the nonprofit organization makes no-profit mortgage loans 2878
or mortgage loans at zero per cent interest to low-income 2879
families and no fees accrue directly to the nonprofit 2880
organization or individual employed by the nonprofit 2881
organization from those mortgage loans and that the United 2882
States department of housing and urban development does not deny 2883
this exemption. 2884

~~(F) "Mortgage" means any indebtedness secured by a deed of 2885
trust, security deed, or other lien on real property. 2886~~

~~(G) (1) "Mortgage broker" means any of the following: 2887~~

~~(a) A person that holds that person out as being able to 2888
assist a buyer in obtaining a mortgage and charges or receives 2889
from either the buyer or lender money or other valuable 2890
consideration readily convertible into money for providing this 2891
assistance; 2892~~

~~(b) A person that solicits financial and mortgage 2893
information from the public, provides that information to a 2894
mortgage broker or a person that makes residential mortgage 2895
loans, and charges or receives from either of them money or 2896
other valuable consideration readily convertible into money for 2897
providing the information; 2898~~

~~(c) A person engaged in table funding or warehouse lending 2899
mortgage loans that are first lien residential mortgage loans. 2900~~

~~(2) "Mortgage broker" does not include any of the 2901
following persons only with respect to business engaged in or 2902~~

~~authorized by the person's charter, license, authority, approval, or certificate, or as otherwise authorized by division (G) (2) (h) of this section.~~ 2903
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~~(a) A person that makes residential mortgage loans and receives a scheduled payment on each of those mortgage loans;~~ 2906
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~~(b) Any entity chartered and lawfully doing business under the authority of any law of this state, another state, or the United States as a bank, savings bank, trust company, savings and loan association, or credit union, or a subsidiary of any such entity, which subsidiary is regulated by a federal banking agency and is owned and controlled by a depository institution;~~ 2908
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~~(c) A consumer reporting agency that is in substantial compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as amended;~~ 2914
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~~(d) Any political subdivision, or any governmental or other public entity, corporation, instrumentality, or agency, in or of the United States or any state;~~ 2917
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~~(e) A college or university, or controlled entity of a college or university, as those terms are defined in section 1713.05 of the Revised Code;~~ 2920
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~~(f) Any entity created solely for the purpose of securitizing loans secured by an interest in real estate, provided the entity does not service the loans. For purposes of division (G) (2) (f) of this section, "securitizing" means the packaging and sale of mortgage loans as a unit for sale as investment securities, but only to the extent of those activities.~~ 2923
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~~(g) Any person engaged in the retail sale of manufactured homes, mobile homes, or industrialized units if, in connection~~ 2930
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~~with obtaining financing by others for those retail sales, the~~ 2932
~~person only assists the borrower by providing or transmitting~~ 2933
~~the loan application and does not do any of the following:~~ 2934

~~(i) Offer or negotiate the residential mortgage loan rates~~ 2935
~~or terms;~~ 2936

~~(ii) Provide any counseling with borrowers about~~ 2937
~~residential mortgage loan rates or terms;~~ 2938

~~(iii) Receive any payment or fee from any company or~~ 2939
~~individual for assisting the borrower obtain or apply for~~ 2940
~~financing to purchase the manufactured home, mobile home, or~~ 2941
~~industrialized unit;~~ 2942

~~(iv) Assist the borrower in completing the residential~~ 2943
~~mortgage loan application.~~ 2944

~~(h) A mortgage banker, provided it complies with section~~ 2945
~~1322.022 of the Revised Code and holds a valid letter of~~ 2946
~~exemption issued by the superintendent. For purposes of this~~ 2947
~~section, "mortgage banker" means any person that makes,~~ 2948
~~services, buys, or sells residential mortgage loans secured by a~~ 2949
~~first lien, that underwrites the loans, and that meets at least~~ 2950
~~one of the following criteria:~~ 2951

~~(i) The person has been directly approved by the United~~ 2952
~~States department of housing and urban development as a~~ 2953
~~nonsupervised mortgagee with participation in the direct~~ 2954
~~endorsement program. Division (G) (2) (h) (i) of this section~~ 2955
~~includes a person that has been directly approved by the United~~ 2956
~~States department of housing and urban development as a~~ 2957
~~nonsupervised mortgagee with participation in the direct~~ 2958
~~endorsement program and that makes loans in excess of the~~ 2959
~~applicable loan limit set by the federal national mortgage~~ 2960

~~association, provided that the loans in all respects, except~~ 2961
~~loan amounts, comply with the underwriting and documentation~~ 2962
~~requirements of the United States department of housing and~~ 2963
~~urban development. Division (G) (2) (h) (i) of this section does~~ 2964
~~not include a mortgagee approved as a loan correspondent.~~ 2965

~~(ii) The person has been directly approved by the federal~~ 2966
~~national mortgage association as a seller/servicer. Division (G)~~ 2967
~~(2) (h) (ii) of this section includes a person that has been~~ 2968
~~directly approved by the federal national mortgage association~~ 2969
~~as a seller/servicer and that makes loans in excess of the~~ 2970
~~applicable loan limit set by the federal national mortgage~~ 2971
~~association, provided that the loans in all respects, except~~ 2972
~~loan amounts, comply with the underwriting and documentation~~ 2973
~~requirements of the federal national mortgage association.~~ 2974

~~(iii) The person has been directly approved by the federal~~ 2975
~~home loan mortgage corporation as a seller/servicer. Division~~ 2976
~~(G) (2) (h) (iii) of this section includes a person that has been~~ 2977
~~directly approved by the federal home loan mortgage corporation~~ 2978
~~as a seller/servicer and that makes loans in excess of the~~ 2979
~~applicable loan limit set by the federal home loan mortgage~~ 2980
~~corporation, provided that the loans in all respects, except~~ 2981
~~loan amounts, comply with the underwriting and documentation~~ 2982
~~requirements of the federal home loan mortgage corporation.~~ 2983

~~(iv) The person has been directly approved by the United~~ 2984
~~States department of veterans affairs as a nonsupervised~~ 2985
~~automatic lender. Division (G) (2) (h) (iv) of this section does~~ 2986
~~not include a person directly approved by the United States~~ 2987
~~department of veterans affairs as a nonsupervised lender, an~~ 2988
~~agent of a nonsupervised automatic lender, or an agent of a~~ 2989
~~nonsupervised lender.~~ 2990

~~(i) 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 percent interest to low income families and no fees accrue directly to the nonprofit organization from those mortgage loans and that the United States department of housing and urban development does not deny this exemption.~~ 2991-2999

~~(j) A credit union service organization, provided that the organization utilizes services provided by registered loan originators or that it holds a valid letter of exemption issued by the superintendent under section 1322.023 of the Revised Code and complies with that section.~~ 3000-3004

~~(H) "Operations manager" means the employee or owner responsible for the everyday operations, compliance requirements, and management of a mortgage broker business.~~ 3005-3007

~~(I) "Registered loan originator" means an individual to whom both of the following apply:~~ 3008-3009

~~(1) The individual is a 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.~~ 3010-3014

~~(2) The individual is registered with, and maintains a unique identifier through, the nationwide mortgage licensing system and registry.~~ 3015-3017

~~(J) "Registrant" means any person that has been issued a mortgage broker certificate of registration under sections~~ 3018-3019

~~1322.01 to 1322.12 of the Revised Code.~~ 3020

~~(K) "Superintendent of financial institutions" includes the deputy superintendent for consumer finance as provided in section 1181.21 of the Revised Code.~~ 3021
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~~(L) "Table funding mortgage loan" means a residential mortgage loan transaction in which the residential mortgage loan is initially payable to the mortgage broker, the mortgage broker does not use the mortgage broker's own funds to fund the transaction, and, by the terms of the mortgage or other agreement, the mortgage is simultaneously assigned to another person.~~ 3024
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~~(M) "Warehouse lending mortgage loan" means a residential mortgage loan transaction in which the residential mortgage loan is initially payable to the mortgage broker, the mortgage broker uses the mortgage broker's own funds to fund the transaction, and the mortgage is sold or assigned before the mortgage broker receives a scheduled payment on the residential mortgage loan.~~ 3031
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~~(N) "Administrative or clerical tasks" means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry, and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.~~ 3037
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~~(O) "Appraisal company" means a sole proprietorship, partnership, corporation, limited liability company, or any other business entity or association, that employs or retains the services of a person licensed or certified under Chapter 4763. of the Revised Code for purposes of performing residential real estate appraisals for mortgage loans.~~ 3043
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~~(P) "Depository institution" has the same meaning as in section 3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813, and includes any credit union.~~ 3049
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~~(Q) "Federal banking agency" means the board of governors of the federal reserve system, the comptroller of the currency, the director of the office of thrift supervision, the national credit union administration, and the federal deposit insurance corporation.~~ 3052
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~~(R) "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.~~ 3057
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~~(S) "Individual" means a natural person.~~ 3061

~~(T) "Loan processor or underwriter" means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of a licensed loan originator or registered loan originator. For purposes of this division, to "perform clerical or support duties" means to do all of the following activities:~~ 3062
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~~(1) Receiving, collecting, distributing, and analyzing information common for the processing or underwriting of a residential mortgage loan;~~ 3068
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~~(2) Communicating with a buyer 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 buyers about residential mortgage loan rates or terms.~~ 3071
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~~(U) (FF) "Nationwide mortgage licensing system and registry" means a mortgage licensing system developed and~~ 3076
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maintained by the conference of state bank supervisors and the 3078
American association of residential mortgage regulators, or 3079
their successor entities, for the licensing and registration of 3080
~~loan originators, or any system established by the secretary of~~ 3081
~~housing and urban development pursuant to the "Secure and Fair~~ 3082
~~Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810,~~ 3083
~~12 U.S.C. 5101~~ persons providing non-depository financial 3084
services. 3085

~~(V)~~ (GG) "Nontraditional mortgage product" means any 3086
mortgage product other than a thirty-year fixed rate mortgage. 3087

~~(W)~~ (HH) "Person" means an individual, sole 3088
proprietorship, corporation, company, limited liability company, 3089
partnership, limited liability partnership, trust, or 3090
association. 3091

(II) "Real estate brokerage activity" means any activity 3092
that involves offering or providing real estate brokerage 3093
services to the public, including all of the following: 3094

(1) Acting as a real estate ~~agent~~ salesperson or real 3095
estate broker for a buyer, seller, lessor, or lessee of real 3096
property; 3097

(2) Bringing together parties interested in the sale, 3098
purchase, lease, rental, or exchange of real property, ~~other~~ 3099
~~than in connection with providing financing for any such~~ 3100
~~transaction;~~ 3101

(3) Negotiating, on behalf of any party, any portion of a 3102
contract relating to the sale, purchase, lease, rental, or 3103
exchange of real property, other than in connection with 3104
providing financing for any such transaction; 3105

(4) Engaging in any activity for which a person engaged in 3106

that activity is required to be ~~registered or~~ licensed as a real 3107
estate ~~agent~~ salesperson or real estate broker under ~~any~~ 3108
~~applicable the law of this state;~~ 3109

(5) Offering to engage in any activity, or to act in any 3110
capacity, described in division ~~(W)~~ (II) of this section. 3111

~~(X)~~ (JJ) "Registered mortgage loan originator" means an 3112
individual to whom both of the following apply: 3113

(1) The individual is a mortgage loan originator and an 3114
employee of a depository institution, a subsidiary that is owned 3115
and controlled by a depository institution and regulated by a 3116
federal banking agency, or an institution regulated by the farm 3117
credit administration. 3118

(2) The individual is registered with, and maintains a 3119
unique identifier through, the nationwide mortgage licensing 3120
system and registry. 3121

(KK) "Registrant" means any person that has been issued a 3122
certificate of registration under this chapter. 3123

(LL) "Residential mortgage loan" means any loan that meets 3124
both of the following requirements: 3125

(1) It is primarily for personal, family, or household use 3126
~~that and is~~ secured by a mortgage, deed of trust, or other 3127
equivalent consensual security interest on a dwelling or on 3128
residential real estate ~~upon which is constructed or intended to~~ 3129
~~be constructed a dwelling. For purposes of this division,~~ 3130
~~"dwelling" has the same meaning as in section 103 of the "Truth-~~ 3131
~~in Lending Act," 82 Stat. 146, 15 U.S.C 1602~~ located in Ohio. 3132

(2) It is provided and secured by a first lien holder 3133
secured creditor or by a second lien holder secured creditor. 3134

~~(Y) "State," in the context of referring to states in addition to Ohio, means any state of the United States, the district of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the trust territory of the Pacific islands, the virgin islands, and the northern Mariana islands.~~ 3135
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~~(Z)-(MM) "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.~~ 3140
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~~(NN) "Superintendent of financial institutions" includes the deputy superintendent for consumer finance as provided in section 1181.21 of the Revised Code.~~ 3147
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~~(OO) "Ultimate equity owner" means an individual who, directly or indirectly, owns or controls an ownership interest in a corporation, a foreign corporation, an alien business organization, or any other form of business organization, regardless of whether the individual owns or controls an ownership interest, individually or in any combination, through one or more persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint-stock companies, or other entities or devices.~~ 3150
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~~(PP) "Unique identifier" means a number or other identifier that permanently identifies a loan originator and is assigned by protocols established by the nationwide mortgage licensing system and registry or federal banking agencies to facilitate electronic tracking of loan originators and uniform identification of, and public access to, the employment history~~ 3159
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~~of and the publicly adjudicated disciplinary and enforcement~~ 3165
~~actions against loan originators.~~ 3166

Sec. ~~1322.024~~ 1322.02. The superintendent of financial 3167
institutions may, by rule, ~~expand~~ amend the definition of 3168
mortgage loan originator ~~or~~, mortgage broker, or mortgage 3169
lender in section 1322.01 of the Revised Code ~~by adding~~ 3170
~~individuals, persons, or entities, or may exempt additional~~ 3171
~~individuals, persons, or entities from those definitions, or the~~ 3172
criteria for an entity to obtain a letter of exemption under 3173
division (B) (1) of section 1322.05 of the Revised Code, if the 3174
superintendent finds that the addition or exemption change is 3175
necessary to remain consistent with the purposes ~~fairly~~ intended 3176
by the policy and provisions of ~~sections 1322.01 to 1322.12 of~~ 3177
~~the Revised Code and the "Secure and Fair Enforcement for~~ 3178
~~Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.~~ 3179

Rules authorized by this section shall be adopted in 3180
accordance with Chapter 119. of the Revised Code. 3181

Sec. 1322.04. This chapter does not apply to any of the 3182
following: 3183

(A) Any entity chartered and lawfully doing business under 3184
the authority of any law of this state, another state, or the 3185
United States as a bank, savings bank, trust company, savings 3186
and loan association, or credit union, or a subsidiary of any 3187
such entity, which subsidiary is regulated by a federal banking 3188
agency and is owned and controlled by a depository institution; 3189

(B) A consumer reporting agency that is in substantial 3190
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 3191
15 U.S.C. 1681a, as amended; 3192

(C) Any political subdivision, or any governmental or 3193

other public entity, corporation, instrumentality, or agency, in 3194
or of the United States or any state; 3195

(D) A college or university, or controlled entity of a 3196
college or university, as those terms are defined in section 3197
1713.05 of the Revised Code; 3198

(E) Any entity created solely for the purpose of 3199
securitizing loans secured by an interest in real estate, 3200
provide the entity does not service the loans. As used in this 3201
division, "securitizing" means the packaging and sale of 3202
mortgage loans as a unit for sale as investment securities, but 3203
only to the extent of those activities. 3204

(F) Any person engaged in the retail sale of manufactured 3205
homes, mobile homes, or industrialized units if, in connection 3206
with obtaining financing by others for those retail sales, the 3207
person only assists the borrower by providing or transmitting 3208
the loan application and does not do any of the following: 3209

(1) Offer or negotiate the residential mortgage loan rates 3210
or terms; 3211

(2) Provide any counseling with borrowers about 3212
residential mortgage loan rates or terms; 3213

(3) Receive any payment or fee from any company or 3214
individual for assisting the borrower to obtain or apply for 3215
financing to purchase the manufactured home, mobile home, or 3216
industrialized unit; 3217

(4) Assist the borrower in completing the residential 3218
mortgage loan application. 3219

(G) A bona fide nonprofit organization that is recognized 3220
as tax exempt under 26 U.S.C. 501(c)(3) and whose primary 3221

activity is the construction, remodeling, or rehabilitation of 3222
homes for use by low-income families, provided that the 3223
organization makes no-profit mortgage loans or mortgage loans at 3224
zero per cent interest to low-income families and no fees accrue 3225
directly to the organization from those mortgage loans and that 3226
the United States department of housing and urban development 3227
does not deny this exemption; 3228

(H) A credit union service organization, provided that the 3229
organization utilizes services provided by registered mortgage 3230
loan originators or that it holds a valid letter of exemption 3231
issued by the superintendent of financial institutions under 3232
division (B) (1) of section 1322.05 of the Revised Code. 3233

(I) A depository institution not otherwise required to be 3234
licensed under this chapter that voluntarily makes a filing on 3235
the nationwide mortgage licensing system and registry as an 3236
exempt entity for the purpose of licensing loan originators 3237
exclusively associated with the institution and that holds a 3238
valid letter of exemption issued by the superintendent pursuant 3239
to division (B) (1) of section 1322.05 of the Revised Code. 3240

Sec. ~~1322.023~~ 1322.05. (A) A credit union service 3241
organization or depository institution seeking exemption from 3242
registration pursuant to division ~~(G) (2) (j)~~ (H) or (I) of 3243
section ~~1322.01-1322.04~~ of the Revised Code or rules adopted by 3244
the superintendent in accordance with section 1322.02 of the 3245
Revised Code shall submit an application to the superintendent 3246
of financial institutions along with a nonrefundable fee of 3247
three hundred fifty dollars for each location of an office to be 3248
maintained by the organization or institution seeking exemption. 3249
The application shall be in a form prescribed by the 3250
superintendent and shall include all of the following: 3251

- (1) The organization's or institution's business name and 3252
state of incorporation or business registration; 3253
- (2) The names of the owners, officers, or partners having 3254
control of the organization or institution; 3255
- (3) An attestation to all of the following: 3256
- (a) That the organization or institution and its owners, 3257
officers, or partners identified in division (A) (2) of this 3258
section have not had a credit union service organization 3259
registration or license, mortgage banker license, mortgage 3260
broker certificate of registration, or mortgage loan originator 3261
license, or any comparable authority, revoked in any 3262
governmental jurisdiction; 3263
- (b) That the organization or institution and its owners, 3264
officers, or partners identified in division (A) (2) of this 3265
section have not been convicted of, or pleaded guilty or nolo 3266
contendere to, any of the following in a domestic, foreign, or 3267
military court: 3268
- (i) During the seven-year period immediately preceding the 3269
date of application for exemption, a misdemeanor involving theft 3270
or any felony; 3271
- (ii) At any time prior to the date the application for 3272
exemption is approved, a felony involving an act of fraud, 3273
dishonesty, a breach of trust, theft, or money laundering. 3274
- (c) That, with respect to financing residential mortgage 3275
loans, the organization or institution conducts business with 3276
residents of this state or secures its loans with property 3277
located in this state. 3278
- (4) The names of all mortgage loan originators or 3279

licensees under the organization's or institution's control and 3280
direction; 3281

(5) An acknowledgment of understanding that the 3282
organization or institution is subject to the regulatory 3283
authority of the division of financial institutions as described 3284
in this section; 3285

(6) Any further reasonable information that the 3286
superintendent may require. 3287

(B) (1) If the superintendent determines that the credit 3288
union service organization ~~honestly made the attestation~~ 3289
~~required under division (A) (3) of this section and otherwise~~ or 3290
depository institution qualifies for exemption, the 3291
superintendent shall issue a letter of exemption. Additional 3292
certified copies of a letter of exemption shall be provided upon 3293
request and the payment of seventy-five dollars per copy. 3294

(2) If the superintendent determines that the organization 3295
or institution does not qualify for exemption, the 3296
superintendent shall issue a notice of denial, and the 3297
organization or institution may request a hearing in accordance 3298
with Chapter 119. of the Revised Code. 3299

(C) All of the following conditions apply to any credit 3300
union service organization or depository institution holding a 3301
valid letter of exemption: 3302

(1) The organization or institution shall be subject to 3303
examination in the same manner as a registrant with respect to 3304
the conduct of the organization's or institution's mortgage loan 3305
originators. In conducting any out-of-state examination, the 3306
organization or institution shall be responsible for paying the 3307
costs of the division in the same manner as a registrant. 3308

(2) The organization or institution shall have an 3309
affirmative duty to supervise the conduct of its mortgage loan 3310
originators, and to cooperate with investigations by the 3311
division with respect to that conduct, in the same manner as is 3312
required of registrants. 3313

(3) The organization or institution shall keep and 3314
maintain records of all transactions relating to the conduct of 3315
its mortgage loan originators in the same manner as is required 3316
of registrants. 3317

(4) The organization or institution may provide the surety 3318
bond for its licensees in the same manner as is permitted for 3319
registrants. 3320

(D) A letter of exemption expires annually on the thirty- 3321
first day of December and may be renewed on or before that date 3322
by submitting an application that meets the requirements of 3323
division (A) of this section and a nonrefundable renewal fee of 3324
three hundred fifty dollars for each location of an office to be 3325
maintained by the credit union service organization or 3326
depository institution. 3327

(E) The superintendent may issue a notice to revoke or 3328
suspend a letter of exemption if the superintendent finds that 3329
the letter was obtained through a false or fraudulent 3330
representation of a material fact, or the omission of a material 3331
fact, required by law, or that a condition for exemption is no 3332
longer being met. Prior to issuing an order of revocation or 3333
suspension, the credit union service organization or depository 3334
institution shall be given an opportunity for a hearing in 3335
accordance with Chapter 119. of the Revised Code. 3336

(F) All information obtained by the division pursuant to 3337

an examination or investigation under this section shall be 3338
subject to the confidentiality requirements set forth in section 3339
~~1322.061~~ 1322.36 of the Revised Code. 3340

(G) All money collected under this section shall be 3341
deposited into the state treasury to the credit of the consumer 3342
finance fund created in section 1321.21 of the Revised Code. 3343

Sec. ~~1322.02~~ 1322.07. (A) ~~(1)~~ No person, on the person's 3344
own behalf or on behalf of any other person, shall act as a 3345
mortgage lender or mortgage broker without first having obtained 3346
a certificate of registration from the superintendent of 3347
financial institutions for ~~every~~ the principal office and every 3348
branch office to be maintained by the person for the transaction 3349
of business as a mortgage lender or mortgage broker in this 3350
state. A registrant shall maintain an office location ~~in this~~ 3351
~~state~~ for the transaction of business as a mortgage lender or 3352
mortgage broker in this state. 3353

~~(2) No person shall act or hold that person's self out as~~ 3354
~~a mortgage broker under the authority or name of a registrant or~~ 3355
~~person exempt from sections 1322.01 to 1322.12 of the Revised~~ 3356
~~Code without first having obtained a certificate of registration~~ 3357
~~from the superintendent for every office to be maintained by the~~ 3358
~~person for the transaction of business as a mortgage broker in~~ 3359
~~this state.~~ 3360

(B) (1) No individual shall act as a mortgage loan 3361
originator without first having obtained a license from the 3362
superintendent. A mortgage loan originator shall be employed by 3363
or associated with a mortgage lender, mortgage broker ~~or any~~ 3364
~~person or entity listed in division (G) (2) of section 1322.01 of~~ 3365
~~the Revised Code, or entity holding a valid letter of exemption~~ 3366
under division (B) (1) of section 1322.05 of the Revised Code, 3367

but shall not be employed by or associated with more than one 3368
~~mortgage broker or person or entity registrant or entity holding~~ 3369
a valid letter of exemption under division (B) (1) of section 3370
1322.05 of the Revised Code at any one time. 3371

(2) An individual acting under the individual's authority 3372
as a registered mortgage loan originator shall not be required 3373
to be licensed under division (B) (1) of this section. 3374

(3) An individual who holds a valid temporary mortgage 3375
loan originator license issued pursuant to section ~~1322.042~~ 3376
1322.24 of the Revised Code may engage in the business of a 3377
mortgage loan originator in accordance with ~~sections 1322.01 to~~ 3378
~~1322.12 of the Revised Code~~ this chapter during the term of the 3379
temporary license. 3380

~~(C) (1) No person acting as a mortgage broker or loan~~ 3381
~~originator shall fail to register with, and maintain a valid~~ 3382
~~unique identifier issued by, the nationwide mortgage licensing~~ 3383
~~system and registry.~~ 3384

~~(2) No person shall use a mortgage broker's or loan~~ 3385
~~originator's unique identifier for any purpose other than as set~~ 3386
~~forth in the "Secure and Fair Enforcement for Mortgage Licensing~~ 3387
~~Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.~~ 3388

Sec. ~~1322.03~~ 1322.09. (A) An application for a certificate 3389
of registration ~~as a mortgage broker~~ shall be in writing, under 3390
oath, and in ~~the~~ a form prescribed by the superintendent of 3391
financial institutions that complies with the requirements of 3392
the nationwide mortgage licensing system and registry. The 3393
application shall be accompanied by a nonrefundable application 3394
fee of five hundred dollars for each location of an office to be 3395
maintained by the applicant in accordance with division (A) of 3396

section ~~1322.02-1322.07~~ of the Revised Code and any additional 3397
fee required by the nationwide mortgage licensing system and 3398
registry. ~~The application shall provide all of the following:-~~ 3399

~~(1) The location or locations where the business is to be 3400
transacted and whether any location is a residence. If any 3401
location where the business is to be transacted is a residence, 3402
the superintendent may require that the application be 3403
accompanied by a copy of a zoning permit authorizing the use of 3404
the residence for commercial purposes, or by a written opinion 3405
or other document issued by the county or political subdivision 3406
where the residence is located certifying that the use of the 3407
residence to transact business as a mortgage broker is not 3408
prohibited by the county or political subdivision. 3409~~

~~(2) (a) In the case of a sole proprietor, the name and 3410
address of the sole proprietor; 3411~~

~~(b) In the case of a partnership, the name and address of 3412
each partner; 3413~~

~~(c) In the case of a corporation, the name and address of 3414
each shareholder owning five per cent or more of the 3415
corporation; 3416~~

~~(d) In the case of any other entity, the name and address 3417
of any person that owns five per cent or more of the entity that 3418
will transact business as a mortgage broker. 3419~~

~~(3) Each applicant shall designate an employee or owner of 3420
the applicant as the applicant's operations manager. While 3421
acting as the operations manager, the employee or owner shall be 3422
licensed as a loan originator under sections 1322.01 to 1322.12- 3423
of the Revised Code and shall not be employed by any other 3424
mortgage broker. 3425~~

~~(4) Evidence that the person designated on the application pursuant to division (A) (3) of this section possesses at least three years of experience in the residential mortgage and lending field, which experience may include employment with or as a mortgage broker or with a depository institution, mortgage lending institution, or other lending institution, or possesses at least three years of other experience related specifically to the business of residential mortgage loans that the superintendent determines meets the requirements of division (A) (4) of this section;~~ 3426
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~~(5) Evidence that the person designated on the application pursuant to division (A) (3) of this section has successfully completed the pre-licensing instruction requirements set forth in section 1322.031 of the Revised Code;~~ 3436
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~~(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;~~ 3440
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~~(7) In the case of a foreign business entity, evidence that it maintains a license or registration pursuant to Chapter 1703., 1705., 1775., 1776., 1777., 1782., or 1783. of the Revised Code to transact business in this state;~~ 3443
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~~(8) Evidence that the applicant's operations manager has successfully completed the written test required by section 1322.051 of the Revised Code;~~ 3447
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~~(9) Any further information that the superintendent requires.~~ 3450
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(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 3452
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superintendent ~~of financial institutions~~ shall investigate the 3455
applicant, and any individual whose identity is required to be 3456
disclosed in the application, ~~as set forth in division (B) of~~ 3457
~~this section.~~ 3458

~~(1) (a) Notwithstanding division (K) of section 121.08 of~~ 3459
~~the Revised Code, the superintendent shall obtain a criminal~~ 3460
~~history records check and, as part of that records check,~~ 3461
~~request that criminal record information from the federal bureau~~ 3462
~~of investigation be obtained. To fulfill this requirement, the~~ 3463
~~superintendent shall do either of the following:~~ 3464

~~(i) Request the superintendent of the bureau of criminal~~ 3465
~~identification and investigation, or a vendor approved by the~~ 3466
~~bureau, to conduct a criminal records check based on the~~ 3467
~~applicant's fingerprints or, if the fingerprints are unreadable,~~ 3468
~~based on the applicant's social security number, in accordance~~ 3469
~~with section 109.572 of the Revised Code;~~ 3470

~~(ii) Authorize the nationwide mortgage licensing system~~ 3471
~~and registry to request a criminal history background check.~~ 3472

~~(b) Any fee required under division (C) (3) of section~~ 3473
~~109.572 of the Revised Code or by the nationwide mortgage~~ 3474
~~licensing system and registry shall be paid by the applicant.~~ 3475

~~(2) The . As part of that investigation, the~~ 3476
superintendent shall conduct a civil records check. 3477

~~(3) If, in order to issue a certificate of registration to~~ 3478
an applicant, additional investigation by the superintendent 3479
outside this state is necessary, the superintendent may require 3480
the applicant to advance sufficient funds to pay the actual 3481
expenses of the investigation, if it appears that these expenses 3482
will exceed five hundred dollars. The superintendent shall 3483

provide the applicant with an itemized statement of the actual 3484
expenses that the applicant is required to pay. 3485

(C) In connection with applying for a certificate of 3486
registration, the applicant shall furnish to the nationwide 3487
mortgage licensing system and registry information concerning 3488
the applicant's identity, including all of the following: 3489

(1) The applicant's fingerprints for submission to the 3490
federal bureau of investigation, and any other governmental 3491
agency or entity authorized to receive such information, for 3492
purposes of a state, national, and international criminal 3493
history background check; 3494

(2) Personal history and experience in a form prescribed 3495
by the nationwide mortgage licensing system and registry, along 3496
with authorization for the superintendent and the nationwide 3497
mortgage licensing system and registry to obtain both of the 3498
following: 3499

(a) An independent credit report from a consumer reporting 3500
agency; 3501

(b) Information related to any administrative, civil, or 3502
criminal findings by any governmental jurisdiction. 3503

(D) The superintendent shall pay all funds advanced and 3504
application and renewal fees and penalties the superintendent 3505
receives pursuant to this section and section ~~1322.04~~ 1322.10 of 3506
the Revised Code to the treasurer of state to the credit of the 3507
consumer finance fund created in section 1321.21 of the Revised 3508
Code. 3509

~~(D)~~ (E) If an application for a mortgage broker 3510
certificate of registration does not contain all of the 3511
information required under ~~division (A)~~ of this section, and if 3512

that information is not submitted to the superintendent or to 3513
the nationwide mortgage licensing system and registry within 3514
ninety days after the superintendent or the nationwide mortgage 3515
licensing system and registry requests the information in 3516
writing, including by electronic transmission or facsimile, the 3517
superintendent may consider the application withdrawn. 3518

~~(E) (F) A mortgage broker certificate of registration and 3519
the authority granted under that certificate is not transferable 3520
or assignable and cannot be franchised by contract or any other 3521
means. 3522~~

~~(F) The registration requirements of this chapter apply to 3523
any person acting as a mortgage broker, and no person is exempt 3524
from the requirements of this chapter on the basis of prior work 3525
or employment as a mortgage broker. 3526~~

(G) (1) The superintendent may establish relationships or 3527
enter into contracts with the nationwide mortgage licensing 3528
system and registry, or any entities designated by it, to 3529
collect and maintain records and process transaction fees or 3530
other fees related to mortgage lender or mortgage broker 3531
certificates of registration or the persons associated with a 3532
mortgage lender or mortgage broker. 3533

(2) For purposes of this section and to reduce the points 3534
of contact that the federal bureau of investigation may have to 3535
maintain, the division of financial institutions may use the 3536
nationwide mortgage licensing system and registry as a 3537
channeling agent for requesting information from and 3538
distributing information to the United States department of 3539
justice or other governmental agencies. 3540

(3) For purposes of this section and to reduce the points 3541

of contact that the division may have to maintain, the division 3542
may use the nationwide mortgage licensing system and registry as 3543
a channeling agent for requesting information from and 3544
distributing information to any source as determined by the 3545
division. 3546

Sec. ~~1322.04~~ 1322.10. (A) Upon the conclusion of the 3547
investigation required under division (B) of section ~~1322.03~~ 3548
~~1322.09~~ of the Revised Code, the superintendent of financial 3549
institutions shall issue a certificate of registration to the 3550
applicant if the superintendent finds that the following 3551
conditions are met: 3552

(1) The application is accompanied by the application fee 3553
and any fee required by the nationwide mortgage licensing system 3554
and registry. 3555

(a) If a check or other draft instrument is returned to 3556
the superintendent for insufficient funds, the superintendent 3557
shall notify the applicant by certified mail, return receipt 3558
requested, that the application will be withdrawn unless the 3559
applicant, within thirty days after receipt of the notice, 3560
submits the application fee and a one-hundred-dollar penalty to 3561
the superintendent. If the applicant does not submit the 3562
application fee and penalty within that time period, or if any 3563
check or other draft instrument used to pay the fee or penalty 3564
is returned to the superintendent for insufficient funds, the 3565
application shall be withdrawn. 3566

(b) If a check or other draft instrument is returned to 3567
the superintendent for insufficient funds after the certificate 3568
of registration has been issued, the superintendent shall notify 3569
the registrant by certified mail, return receipt requested, that 3570
the certificate of registration issued in reliance on the check 3571

or other draft instrument will be canceled unless the 3572
registrant, within thirty days after receipt of the notice, 3573
submits the application fee and a one-hundred-dollar penalty to 3574
the superintendent. If the registrant does not submit the 3575
application fee and penalty within that time period, or if any 3576
check or other draft instrument used to pay the fee or penalty 3577
is returned to the superintendent for insufficient funds, the 3578
certificate of registration shall be canceled immediately 3579
without a hearing, and the registrant shall cease activity as a 3580
mortgage broker. 3581

(2) If the application is for a location that is a 3582
residence, evidence that the use of the residence to transact 3583
business as a mortgage lender or mortgage broker is not 3584
prohibited. 3585

~~(3) The person designated on the application pursuant to 3586
division (A) (3) of section 1322.03 of the Revised Code meets the 3587
experience requirements provided in division (A) (4) of section 3588
1322.03 of the Revised Code and the education requirements set 3589
forth in division (A) (5) of section 1322.03 of the Revised Code. 3590~~

~~(4) The applicant maintains all necessary filings and 3591
approvals required by the secretary of state. 3592~~

~~(5) (4) The applicant complies with the surety bond 3593
requirements of section ~~1322.05~~ 1322.32 of the Revised Code. 3594~~

~~(6) (5) The applicant complies with sections 1322.01 to 3595
1322.12 of the Revised Code and the rules adopted thereunder has 3596
not made a material misstatement of fact or material omission of 3597
fact in the application. 3598~~

~~(7) (6) Neither the applicant nor any person whose 3599
identity is required to be disclosed on an application for a 3600~~

~~mortgage broker~~ certificate of registration has had such a 3601
~~mortgage broker~~ certificate of registration or mortgage loan 3602
originator license, or any comparable authority, revoked in any 3603
governmental jurisdiction or has pleaded guilty or nolo 3604
contendere to or been convicted of any of the following in a 3605
domestic, foreign, or military court: 3606

(a) During the seven-year period immediately preceding the 3607
date of application for the certificate of registration, a 3608
misdemeanor involving theft or any felony; 3609

(b) At any time prior to the date the application for the 3610
certificate of registration is approved, a felony involving an 3611
act of fraud, dishonesty, a breach of trust, theft, or money 3612
laundering. 3613

~~(8) Based on the totality of the circumstances and~~ 3614
~~information submitted in the application, the applicant has~~ 3615
~~proven to the superintendent, by a preponderance of the~~ 3616
~~evidence, that the applicant is of good business repute, appears~~ 3617
~~qualified to act as a mortgage broker, has fully complied with~~ 3618
~~sections 1322.01 to 1322.12 of the Revised Code and the rules~~ 3619
~~adopted thereunder, and meets all of the conditions for issuing~~ 3620
~~a mortgage broker certificate of registration.~~ 3621

~~(9)~~ (7) The applicant's operations manager successfully 3622
completed the examination required by section ~~1322.051~~ 1322.27 3623
of the Revised Code. 3624

~~(10)~~ (8) The applicant's financial responsibility, 3625
experience, character, and general fitness command the 3626
confidence of the public and warrant the belief that the 3627
business will be operated honestly ~~and~~, fairly, and efficiently 3628
in compliance with the purposes of ~~sections 1322.01 to 1322.12~~ 3629

~~of the Revised Code~~ this chapter and the rules adopted 3630
thereunder. The superintendent shall not use a credit score or a 3631
bankruptcy as the sole basis for registration denial. 3632

(B) For purposes of determining whether an applicant that 3633
is a partnership, corporation, or other business entity or 3634
association has met the conditions set forth in divisions ~~(A)~~ 3635
~~(7),~~ (A) (6) and (8), ~~and (A) (10)~~ of this section, the 3636
superintendent shall determine which partners, shareholders, or 3637
persons named in the application ~~pursuant to division (A) (2) of~~ 3638
~~section 1322.03 of the Revised Code~~ must meet the those 3639
~~conditions set forth in divisions (A) (7), (A) (8), and (A) (10) of~~ 3640
~~this section~~. This determination shall be based on the extent 3641
and nature of the partner's, shareholder's, or person's 3642
ownership interest in the partnership, corporation, or other 3643
business entity or association that is the applicant and on 3644
whether the person is in a position to direct, control, or 3645
adversely influence the operations of the applicant. 3646

(C) The certificate of registration issued pursuant to 3647
division (A) of this section may be renewed annually on or 3648
before the thirty-first day of December if the superintendent 3649
finds that all of the following conditions are met: 3650

(1) The renewal application is accompanied by a 3651
nonrefundable renewal fee of five hundred dollars for each 3652
location of an office to be maintained by the applicant in 3653
accordance with division (A) of section ~~1322.02-1322.07~~ of the 3654
Revised Code and any fee required by the nationwide mortgage 3655
licensing system and registry. If a check or other draft 3656
instrument is returned to the superintendent for insufficient 3657
funds, the superintendent shall notify the registrant by 3658
certified mail, return receipt requested, that the certificate 3659

of registration renewed in reliance on the check or other draft 3660
instrument will be canceled unless the registrant, within thirty 3661
days after receipt of the notice, submits the renewal fee and a 3662
one-hundred-dollar penalty to the superintendent. If the 3663
registrant does not submit the renewal fee and penalty within 3664
that time period, or if any check or other draft instrument used 3665
to pay the fee or penalty is returned to the superintendent for 3666
insufficient funds, the certificate of registration shall be 3667
canceled immediately without a hearing and the registrant shall 3668
cease activity as a mortgage broker. 3669

(2) The operations manager designated under ~~division (A)~~ 3670
~~(3) of section 1322.03-1322.12~~ of the Revised Code has 3671
completed, at least eight hours of continuing education as 3672
required under section ~~1322.052-1322.28~~ of the Revised Code. 3673

(3) The applicant meets the conditions set forth in 3674
divisions (A) (2) to ~~(10)~~ (8) of this section. 3675

(4) The applicant's ~~mortgage broker~~ certificate of 3676
registration is not subject to an order of suspension or an 3677
unpaid and past due fine imposed by the superintendent. 3678

(D) (1) Subject to division (D) (2) of this section, if a 3679
renewal fee or additional fee required by the nationwide 3680
mortgage licensing system and registry is received by the 3681
superintendent after the thirty-first day of December, the 3682
~~mortgage broker~~ certificate of registration shall not be 3683
considered renewed, and the applicant shall cease activity as a 3684
mortgage lender or mortgage broker. 3685

(2) Division (D) (1) of this section shall not apply if the 3686
applicant, ~~no not later than the thirty-first day of January~~ 3687
forty-five days after the renewal deadline, submits the renewal 3688

fee or additional fee and a one-hundred-dollar penalty to the superintendent. 3689
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~~(E) If the person designated as the operations manager pursuant to division (A) (3) of section 1322.03 of the Revised Code is no longer the operations manager, the registrant shall do all of the following:~~ 3691
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~~(1) Within ninety days after the departure of the designated operations manager, designate another person as the operations manager;~~ 3695
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~~(2) Within ten days after the designation described in division (E) (1) of this section, notify the superintendent in writing of the designation;~~ 3698
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3700

~~(3) Submit any additional information that the superintendent requires to establish that the newly designated operations manager complies with the requirements set forth in section 1322.03 of the Revised Code.~~ 3701
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~~(F) 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.~~ 3705
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~~(G) Mortgage broker certificates~~ Certificates of 3709
registration issued ~~on or after May 1, 2010,~~ under this chapter 3710
annually expire on the thirty-first day of December. 3711

(F) The pardon or expungement of a conviction shall not be considered a conviction for purposes of this section. When determining the eligibility of an applicant, the superintendent may consider the underlying crime, facts, or circumstances connected with a pardoned or expunged conviction. 3712
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Sec. 1322.12. 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.

To be eligible for such a designation, an employee or owner shall have at least three years of experience as a mortgage loan originator or registered mortgage loan originator. 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.

~~Sec. 1322.073~~ 1322.15. No person shall acquire, sell, transfer, or hypothecate any interest in a registrant or an applicant for a certificate of registration under this chapter in order to obfuscate or conceal the true ownership or control of the registrant or applicant.

~~Sec. 1322.021~~ 1322.16. (A) A registrant that is a corporation, limited liability company, partnership, trust, or other business entity or association shall notify the division of financial institutions of every sale, transfer, or hypothecation of any stock, security, membership, partnership, or other equitable, beneficial, or ownership interest in the entity or association, if the interest represents at least a five per cent membership, partnership, or other equitable, beneficial, or ownership interest in the entity or association.

(B) Every person that acquires or otherwise receives an interest described in division (A) of this section is subject to ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter.

The division may make any investigation necessary to determine 3747
whether any fact or condition exists that, if it had existed at 3748
the time of the original application for a certificate of 3749
registration, the fact or condition would have warranted the 3750
division to deny the application under section ~~1322.04~~1322.10 3751
of the Revised Code. If such a fact or condition is found, the 3752
division may, in accordance with Chapter 119. of the Revised 3753
Code, revoke the registrant's certificate. 3754

Sec. ~~1322.065~~ 1322.17. A person registered ~~as a mortgage~~ 3755
~~broker under this chapter~~ solely to sell leads of potential 3756
buyers to residential mortgage lenders or mortgage brokers, or 3757
solely to match buyers with residential mortgage lenders or 3758
mortgage brokers through a computerized loan origination system 3759
recognized by the United States department of housing and urban 3760
development, shall be required to make only those disclosures 3761
under ~~sections 1322.01 to 1322.12 of the Revised Code~~ this 3762
chapter that apply to the portion of the transaction during 3763
which they have direct buyer contact, and shall be subject to 3764
all fair conduct and prohibition requirements in their dealing 3765
with buyers. 3766

Sec. ~~1322.031~~ 1322.20. (A) An application for a license as 3767
a mortgage loan originator shall be in writing, under oath, and 3768
in ~~the a~~ form prescribed by the superintendent of financial 3769
institutions that complies with the requirements of the 3770
nationwide mortgage licensing system and registry. The 3771
application shall be accompanied by a nonrefundable application 3772
fee of one hundred fifty dollars and any additional fee required 3773
by the nationwide mortgage licensing system and registry. 3774

(B) (1) The application shall provide evidence, acceptable 3775
to the superintendent, that the applicant has successfully 3776

completed at least twenty-four hours of pre-licensing 3777
instruction consisting of all of the following: 3778

(a) Twenty hours of instruction in ~~a~~ an approved education 3779
~~course or program of study reviewed and approved by the~~ 3780
~~nationwide mortgage licensing system and registry;~~ 3781

(b) Four hours of instruction in a course or program of 3782
study reviewed and approved by the superintendent concerning 3783
~~state~~ Ohio lending laws and the Ohio consumer sales practices 3784
act, Chapter 1345. of the Revised Code, as it applies to 3785
registrants and licensees. 3786

(2) ~~Notwithstanding division (B)(1) of this section, until~~ 3787
~~the nationwide mortgage licensing system and registry implements~~ 3788
~~a review and approval program, the application shall provide~~ 3789
~~evidence, as determined by the superintendent, that the~~ 3790
~~applicant has successfully completed at least twenty four hours~~ 3791
~~of instruction in a course or program of study approved by the~~ 3792
~~superintendent that consists of at least all of the following:~~ 3793

(a) ~~Four hours of instruction concerning state and federal~~ 3794
~~mortgage lending laws, which shall include no less than two~~ 3795
~~hours on this chapter;~~ 3796

(b) ~~Four hours of instruction concerning the Ohio consumer~~ 3797
~~sales practices act, Chapter 1345. of the Revised Code, as it~~ 3798
~~applies to registrants and licensees;~~ 3799

(c) ~~Four hours of instruction concerning the loan~~ 3800
~~application process;~~ 3801

(d) ~~Two hours of instruction concerning the underwriting~~ 3802
~~process;~~ 3803

(e) ~~Two hours of instruction concerning the secondary~~ 3804

~~market for mortgage loans;~~ 3805

~~(f) Four hours of instruction concerning the loan closing process;~~ 3806
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~~(g) Two hours of instruction covering basic mortgage financing concepts and terms;~~ 3808
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~~(h) Two hours of instruction concerning the ethical responsibilities of a registrant and 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.~~ 3810
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~~(3) For purposes of division (B) (1) (a) of this section, the review and approval of a course or program of study includes the review and approval of the provider of the course or program of study.~~ 3815
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~~(4) If an applicant held a valid mortgage loan originator license issued by this state at any time during the immediately preceding five-year period, the applicant shall not be required to complete any additional pre-licensing instruction. For this purpose, any time during which the individual is a registered mortgage loan originator shall not be taken into account.~~ 3819
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~~(5) (3) A person having successfully completed the pre-licensing education requirement reviewed and approved by the nationwide mortgage licensing system and registry for any state within the previous five years shall be granted credit toward completion of the pre-licensing education requirement of this state.~~ 3825
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(C) In addition to the information required under division (B) of this section, the application shall provide both of the following: 3831
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(1) Evidence that the applicant passed a written test that 3834
meets the requirements described in section ~~1322.051~~1322.27 of 3835
the Revised Code; 3836

(2) Any further information that the superintendent 3837
requires. 3838

(D) Upon the filing of the application and payment of the 3839
application fee and any fee required by the nationwide mortgage 3840
licensing system and registry, the superintendent of financial 3841
institutions shall investigate the applicant ~~as set forth in~~ 3842
~~division (D) of this section.~~ 3843

~~(1) (a) Notwithstanding division (K) of section 121.08 of~~ 3844
~~the Revised Code, the superintendent shall obtain a criminal~~ 3845
~~history records check and, as part of the records check, request~~ 3846
~~that criminal record information from the federal bureau of~~ 3847
~~investigation be obtained. To fulfill this requirement, the~~ 3848
~~superintendent shall do either of the following:~~ 3849

~~(i) Request the superintendent of the bureau of criminal~~ 3850
~~identification and investigation, or a vendor approved by the~~ 3851
~~bureau, to conduct a criminal records check based on the~~ 3852
~~applicant's fingerprints or, if the fingerprints are unreadable,~~ 3853
~~based on the applicant's social security number, in accordance~~ 3854
~~with section 109.572 of the Revised Code;~~ 3855

~~(ii) Authorize the nationwide mortgage licensing system~~ 3856
~~and registry to request a criminal history background check.~~ 3857

~~(b) Any fee required under division (C) (3) of section~~ 3858
~~109.572 of the Revised Code or by the nationwide mortgage~~ 3859
~~licensing system and registry shall be paid by the applicant.~~ 3860

~~(2) The~~. As part of that investigation, the 3861
superintendent shall conduct a civil records check. 3862

~~(3)~~ If, in order to issue a license to an applicant, 3863
additional investigation by the superintendent outside this 3864
state is necessary, the superintendent may require the applicant 3865
to advance sufficient funds to pay the actual expenses of the 3866
investigation, if it appears that these expenses will exceed ~~one~~ 3867
five hundred ~~fifty~~ dollars. The superintendent shall provide the 3868
applicant with an itemized statement of the actual expenses that 3869
the applicant is required to pay. 3870

(E) ~~(1)~~ In connection with applying for a loan originator 3871
license, the applicant shall furnish to the nationwide mortgage 3872
licensing system and registry ~~the following~~ information 3873
concerning the applicant's identity, including all of the 3874
following: 3875

~~(a)~~ (1) The applicant's fingerprints for submission to the 3876
federal bureau of investigation, and any other governmental 3877
agency or entity authorized to receive such information, for 3878
purposes of a state, national, and international criminal 3879
history background check; 3880

~~(b)~~ (2) Personal history and experience in a form 3881
prescribed by the nationwide mortgage licensing system and 3882
registry, along with authorization for the superintendent and 3883
the nationwide mortgage licensing system and registry to obtain 3884
both of the following: 3885

~~(i)~~ (a) An independent credit report from a consumer 3886
reporting agency; 3887

~~(ii)~~ (b) Information related to any administrative, civil, 3888
or criminal findings by any governmental jurisdiction. 3889

~~(2) In order to effectuate the purposes of divisions (E)~~ 3890
~~(1) (a) and (E) (1) (b) (ii) of this section, the superintendent may~~ 3891

~~use the conference of state bank supervisors, or a wholly owned subsidiary, as a channeling agent for requesting information from and distributing information to the United States department of justice or any other governmental agency. The superintendent may also use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to any source related to matters subject to those divisions of this section.~~

(F) 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~~ 1322.21 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.

(G) If an application for a mortgage loan originator license 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.

~~(H) (1) The business of a loan originator shall principally be transacted at an office of the mortgage broker with whom the licensee is employed or associated, which office is registered in accordance with division (A) of section 1322.02 of the Revised Code. Each original loan originator license shall be deposited with and maintained by the 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 originator
principally transacts business.~~ 3922
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~~(2) If a loan originator's employment or association is
terminated for any reason, the mortgage broker shall return the
original loan originator 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 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. Any licensee whose license is held in escrow shall cease
activity as a 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.~~ 3924
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~~(3) A mortgage broker may employ or be associated with a
loan originator on a temporary basis pending the transfer of the
loan originator's license to the mortgage broker, if the
mortgage broker receives written confirmation from the
superintendent that the loan originator is licensed under
sections 1322.01 to 1322.12 of the Revised Code.~~ 3937
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~~(4) Notwithstanding divisions (H) (1) to (3) of this
section, if a licensee is employed by or associated with a
person or entity listed in division (G) (2) of section 1322.01 of
the Revised Code, all of the following apply:~~ 3943
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~~(a) The licensee shall maintain and display the original
loan originator license at the office where the licensee
principally transacts business;~~ 3947
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~~(b) If the loan originator's employment or association is~~ 3950

~~terminated, the loan originator shall return the original loan- 3951
originator license to the superintendent within five business- 3952
days after termination. The licensee may request the transfer of- 3953
the license to a mortgage broker or another person or entity- 3954
listed in division (G)(2) of section 1322.01 of the Revised Code- 3955
by submitting a transfer application, along with a fifteen- 3956
dollar fee and any fee required by the national mortgage- 3957
licensing system and registry, to the superintendent or may- 3958
request the superintendent in writing to hold the license in- 3959
escrow. A licensee whose license is held in escrow shall cease- 3960
activity as a loan originator. A licensee whose license is held- 3961
in escrow shall be required to apply for renewal annually and to- 3962
comply with the annual continuing education requirement. 3963~~

~~(c) The licensee may seek to be employed or associated- 3964
with a mortgage broker or person or entity listed in division- 3965
(G)(2) of section 1322.01 of the Revised Code if the mortgage- 3966
broker or person or entity receives written confirmation from- 3967
the superintendent that the loan originator is licensed under- 3968
sections 1322.01 to 1322.12 of the Revised Code. 3969~~

~~(I) The superintendent may establish relationships or 3970
enter into contracts with the nationwide mortgage licensing 3971
system and registry, or any entities designated by it, to 3972
collect and maintain records and process transaction fees or 3973
other fees related to mortgage loan originator licenses or the 3974
persons associated with a licensee. 3975~~

(2) For purposes of this section and to reduce the points 3976
of contact that the federal bureau of investigation may have to 3977
maintain, the division of financial institutions may use the 3978
nationwide mortgage licensing system and registry as a 3979
channeling agent for requesting information from and 3980

distributing information to the United States department of 3981
justice or other governmental agencies. 3982

(3) For purposes of this section and to reduce the points 3983
of contact that the division may have to maintain, the division 3984
may use the nationwide mortgage licensing system and registry as 3985
a channeling agent for requesting information from and 3986
distributing information to any source as determined by the 3987
division. 3988

~~(J)~~ (I) A mortgage loan originator license, or the 3989
authority granted under that license, is not assignable ~~and~~ 3990
~~cannot be franchised by contract or any other means or~~ 3991
transferable. 3992

Sec. ~~1322.041~~ 1322.21. (A) Upon the conclusion of the 3993
investigation required under division ~~(D)~~ (C) of section 3994
~~1322.031~~ 1322.20 of the Revised Code, the superintendent of 3995
financial institutions shall issue a mortgage loan originator 3996
license to the applicant if the superintendent finds that the 3997
following conditions are met: 3998

(1) The application is accompanied by the application fee 3999
and any fee required by the nationwide mortgage licensing system 4000
and registry. 4001

(a) If a check or other draft instrument is returned to 4002
the superintendent for insufficient funds, the superintendent 4003
shall notify the applicant by certified mail, return receipt 4004
requested, that the application will be withdrawn unless the 4005
applicant, within thirty days after receipt of the notice, 4006
submits the application fee and a one-hundred-dollar penalty to 4007
the superintendent. If the applicant does not submit the 4008
application fee and penalty within that time period, or if any 4009

check or other draft instrument used to pay the fee or penalty 4010
is returned to the superintendent for insufficient funds, the 4011
application shall be withdrawn. 4012

(b) If a check or other draft instrument is returned to 4013
the superintendent for insufficient funds after the license has 4014
been issued, the superintendent shall notify the licensee by 4015
certified mail, return receipt requested, that the license 4016
issued in reliance on the check or other draft instrument will 4017
be canceled unless the licensee, within thirty days after 4018
receipt of the notice, submits the application fee and a one- 4019
hundred-dollar penalty to the superintendent. If the licensee 4020
does not submit the application fee and penalty within that time 4021
period, or if any check or other draft instrument used to pay 4022
the fee or penalty is returned to the superintendent for 4023
insufficient funds, the license shall be canceled immediately 4024
without a hearing, and the licensee shall cease activity as a 4025
loan originator. 4026

(2) ~~The applicant complies with sections 1322.01 to~~ 4027
~~1322.12 of the Revised Code and the rules adopted thereunder~~ has 4028
not made a material misstatement of fact or material omission of 4029
fact in the application. 4030

(3) The applicant has not been convicted of or pleaded 4031
guilty or nolo contendere to any of the following in a domestic, 4032
foreign, or military court: 4033

(a) During the seven-year period immediately preceding the 4034
date of application for the license, a misdemeanor involving 4035
theft or any felony; 4036

(b) At any time prior to the date the application for the 4037
license is approved, a felony involving an act of fraud, 4038

dishonesty, a breach of trust, theft, or money laundering. 4039

~~(4) Based on the totality of the circumstances and information submitted in the application, the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant is of good business repute, appears qualified to act as a loan originator, has fully complied with sections 1322.01 to 1322.12 of the Revised Code and the rules adopted thereunder, and meets all of the conditions for issuing a loan originator license.~~ 4040
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~~(5) The applicant successfully completed the written test required by section 1322.051 of the Revised Code and completed the prelicensing instruction set forth in division (B) of section 1322.031-1322.20 of the Revised Code.~~ 4048
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~~(6)~~ (5) The applicant's financial responsibility, character, and general fitness command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter. The superintendent shall not use a credit score or bankruptcy as the sole basis for a license denial. 4052
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~~(7)~~ (6) The applicant is in compliance with the surety bond requirements of section ~~1322.05-1322.32~~ of the Revised Code. 4059
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~~(8)~~ (7) The applicant has not had a mortgage loan originator license, or comparable authority, revoked in any governmental jurisdiction. 4062
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(B) The license issued under division (A) of this section may be renewed annually on or before the thirty-first day of December if the superintendent finds that all of the following 4065
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conditions are met: 4068

(1) The renewal application is accompanied by a 4069
nonrefundable renewal fee of one hundred fifty dollars and any 4070
fee required by the nationwide mortgage licensing system and 4071
registry. If a check or other draft instrument is returned to 4072
the superintendent for insufficient funds, the superintendent 4073
shall notify the licensee by certified mail, return receipt 4074
requested, that the license renewed in reliance on the check or 4075
other draft instrument will be canceled unless the licensee, 4076
within thirty days after receipt of the notice, submits the 4077
renewal fee and a one-hundred-dollar penalty to the 4078
superintendent. If the licensee does not submit the renewal fee 4079
and penalty within that time period, or if any check or other 4080
draft instrument used to pay the fee or penalty is returned to 4081
the superintendent for insufficient funds, the license shall be 4082
canceled immediately without a hearing, and the licensee shall 4083
cease activity as a loan originator. 4084

(2) The applicant has completed at least eight hours of 4085
continuing education as required under section ~~1322.052~~1322.28 4086
of the Revised Code. 4087

(3) The applicant meets the conditions set forth in 4088
divisions (A) (2) to ~~(8)~~(7) of this section; ~~provided, however,~~ 4089
~~that an applicant who was issued a loan officer license prior to~~ 4090
~~January 1, 2010, and has continuously maintained that license~~ 4091
~~shall not be required to meet the condition described in~~ 4092
~~division (B) (1) (b) of section 1322.031 of the Revised Code.~~ 4093

(4) The applicant's license is not subject to an order of 4094
suspension or an unpaid and past due fine imposed by the 4095
superintendent. 4096

(C) (1) Subject to division (C) (2) of this section, if a license renewal application ~~or renewal fee~~, including any fee required by the nationwide mortgage licensing system and registry, is received by the superintendent after the thirty-first day of December, the license shall not be considered renewed, and the applicant shall cease activity as a mortgage loan originator.

(2) Division (C) (1) of this section shall not apply if the applicant, ~~no not later than the thirty first day of January forty-five days after the renewal deadline~~, submits the renewal application and any other required fees and a one-hundred-dollar penalty to the superintendent.

(D) ~~Loan-Mortgage~~ originator licenses ~~issued on or after May 1, 2010~~, annually expire on the thirty-first day of December.

(E) The pardon or expungement of a conviction shall not be considered a conviction for purposes of this section. When determining the eligibility of an applicant, the superintendent may consider the underlying crime, facts, or circumstances connected with a pardoned or expunged conviction.

Sec. ~~1322.042~~ 1322.24. (A) As used in this section:

(1) "Out-of-state mortgage loan originator" means an individual to whom both of the following apply:

(a) The individual holds a valid mortgage loan originator license, or comparable authority, issued pursuant to the law of any other state of the United States.

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

(2) "Sponsor" means a registrant ~~or entity described in~~ 4126
~~division (C) (2) of section 1322.01 of the Revised Code~~ that 4127
employs or is associated with an applicant for a temporary 4128
mortgage loan originator license and, during the term of the 4129
applicant's temporary license, covers the applicant under its 4130
corporate surety bond or requires the applicant to obtain and 4131
maintain a corporate surety bond. 4132

(B) The superintendent of financial institutions may, in 4133
accordance with this section, issue to an out-of-state mortgage 4134
loan originator a temporary mortgage loan originator license 4135
that enables the licensee to engage in the business of a 4136
mortgage loan originator while the individual completes the 4137
requirements necessary to meet the conditions set forth in 4138
section ~~1322.041~~-1322.21 of the Revised Code for a mortgage loan 4139
originator license. A temporary mortgage loan originator license 4140
shall be valid for a term of not more than one hundred twenty 4141
days from the date of issuance. A temporary mortgage loan 4142
originator license may not be renewed. 4143

(C) An application for a temporary mortgage loan 4144
originator license shall be in writing, under oath, and in a 4145
form that meets the requirements of the nationwide mortgage 4146
licensing system and registry. The application shall be 4147
accompanied by a nonrefundable application fee, the amount of 4148
which shall be determined by the superintendent in rule, and a 4149
certification that, as of the date of application, the applicant 4150
meets the following conditions: 4151

(1) The applicant has at least two years of experience in 4152
the field of residential mortgage lending in the five years 4153
immediately preceding the date of application for the temporary 4154
mortgage loan originator license. 4155

(2) The applicant has not previously applied for a 4156
temporary mortgage loan originator license in this state. 4157

(3) The applicant has not had a mortgage loan originator 4158
license, or comparable authority, revoked in any governmental 4159
jurisdiction. For purposes of division (C) (3) of this section, a 4160
subsequent formal vacation of such a revocation shall not be 4161
considered a revocation. 4162

(4) The applicant has not been convicted of, or pleaded 4163
guilty or nolo contendere to, any of the following in a 4164
domestic, foreign, or military court: 4165

(a) During the seven-year period immediately preceding the 4166
date of application, a misdemeanor involving theft or any 4167
felony; 4168

(b) At any time prior to the date of application, a felony 4169
involving an act of fraud, dishonesty, a breach of trust, theft, 4170
or money laundering. 4171

For purposes of division (C) (4) of this section, any 4172
conviction for which the applicant has received a pardon shall 4173
not be considered a conviction. 4174

(D) The superintendent shall issue a temporary mortgage 4175
loan originator license to the applicant if the superintendent 4176
finds that all of the following conditions are met: 4177

(1) The application is accompanied by the application fee 4178
and the certification described in division (C) of this section. 4179

(2) The applicant is registered, fingerprinted, and has a 4180
valid unique identifier through the nationwide mortgage 4181
licensing system and registry as of the date of application. 4182

(3) The applicant has authorized the nationwide mortgage 4183

licensing system and registry to obtain a credit report for 4184
submission to the superintendent. 4185

(4) The applicant has a sponsor that certifies employment 4186
of, or association with, the applicant and has signed the 4187
application. 4188

(E) The sponsor of a temporary licensee shall have an 4189
affirmative duty to supervise the conduct of ~~each~~ the temporary 4190
~~loan originator~~ licensee in the same manner as is required of 4191
its other licensees. If the temporary licensee's employment or 4192
association with the sponsor is terminated, the sponsor shall 4193
notify the division of financial institutions of the termination 4194
through the nationwide mortgage licensing system and registry. 4195
Upon the division's receipt of the notice, the sponsor shall no 4196
longer be held responsible for the conduct of the temporary 4197
licensee. 4198

~~(F) The superintendent may, in accordance with Chapter~~ 4199
~~119. of the Revised Code, adopt rules necessary for the~~ 4200
~~implementation and operation of this section.~~ 4201

Sec. ~~1322.043~~ 1322.25. If the "Secure and Fair Enforcement 4202
for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 4203
5101, as amended, is modified after the effective date of this 4204
section amendment, or any regulation, statement, or position is 4205
adopted under that act, to permit states to issue a temporary 4206
mortgage loan originator license to a registered loan 4207
originator, the superintendent shall, in accordance with section 4208
111.15 of the Revised Code, adopt rules the superintendent 4209
considers necessary and appropriate to issue a temporary license 4210
to a registered loan originator. 4211

Sec. ~~1322.051~~ 1322.27. Each ~~person designated under~~ 4212

~~division (A) (3) of section 1322.03 of the Revised Code to act as~~ 4213
~~operations manager for a mortgage broker business and each~~ 4214
applicant for a mortgage loan originator license shall submit to 4215
a written test that is developed and approved by the nationwide 4216
mortgage licensing system and registry and administered by ~~a~~ an 4217
approved test provider ~~approved by the nationwide mortgage~~ 4218
~~licensing system and registry based on reasonable standards.~~ 4219

(A) The test shall adequately measure the ~~designee's or~~ 4220
applicant's knowledge and comprehension in appropriate subject 4221
areas, including ethics, federal and state law related to 4222
mortgage origination, fraud, consumer protection, and the 4223
nontraditional mortgage marketplace, and fair lending issues. 4224

(B) An individual shall not be considered to have passed 4225
the written test unless the individual answers at least seventy- 4226
five per cent of the questions correctly. 4227

(C) An individual may retake the test three consecutive 4228
times provided the period between taking the tests is at least 4229
thirty days. If an individual fails three consecutive tests, the 4230
individual shall be required to wait at least six months before 4231
taking the test again. 4232

(D) If a mortgage loan originator fails to maintain a 4233
valid mortgage loan originator license for a period of five 4234
years or longer, the individual shall be required to retake the 4235
test. 4236

For this purpose, any time during which the individual is 4237
a registered mortgage loan originator shall not be taken into 4238
account. 4239

Sec. ~~1322.052~~ 1322.28. (A) Each licensee ~~and each person~~ 4240
~~designated under division (A) (3) of section 1322.03 of the~~ 4241

~~Revised Code to act as operations manager for a mortgage broker-~~ 4242
~~business~~ shall complete at least eight hours of continuing 4243
education every calendar year. To fulfill this requirement, the 4244
eight hours of continuing education must be offered in a course 4245
or program of study reviewed and approved by the ~~nationwide~~ 4246
~~mortgage licensing system and registry~~ superintendent of 4247
financial institutions. The course or program of study shall 4248
include all of the following: 4249

(1) Three hours of applicable federal law and regulations; 4250

(2) Two hours of ethics, which shall include instruction 4251
on fraud, consumer protection, and fair lending issues; 4252

(3) Two hours of training related to lending standards for 4253
non-qualified mortgages, as defined in 12 C.F.R. 1026.43, or the 4254
nontraditional mortgage product marketplace. 4255

(B) Continuing education courses shall be reviewed and 4256
approved by the nationwide mortgage licensing system and 4257
registry based upon reasonable standards. 4258

(C) The following conditions shall apply to the continuing 4259
education required by this section: 4260

(1) An individual cannot take the same approved course in 4261
the same or successive years to meet the annual requirement for 4262
continuing education. 4263

(2) An individual can only receive credit for a continuing 4264
education course in the year in which the course is taken, 4265
unless the individual is making up a deficiency in continuing 4266
education as permitted by rule or order of the superintendent ~~of~~ 4267
~~financial institutions~~. 4268

(3) A licensee who subsequently becomes unlicensed must 4269

complete the continuing education requirement for the last year 4270
in which the license was held prior to the issuance of a new or 4271
renewed license. 4272

(4) A licensee who is approved as an instructor of a 4273
continuing education course receives credit for the licensee's 4274
own annual continuing education requirement at the rate of two 4275
credit hours for every one hour taught. 4276

(5) If an individual successfully completed a continuing 4277
education course reviewed and approved by the nationwide 4278
mortgage licensing system and registry as required by another 4279
state, the individual can receive credit toward completion of 4280
the continuing education requirement of this state. 4281

~~(D) Notwithstanding division (A) of this section, until 4282
the nationwide mortgage licensing system and registry implements 4283
a review and approval process, each licensee or person 4284
designated under division (A) (3) of section 1322.03 of the 4285
Revised Code shall provide evidence that the licensee or person 4286
has successfully completed at least eight hours of continuing 4287
education in a course or program of study approved by the 4288
superintendent of financial institutions. 4289~~

Sec. 1322.29. (A) A registrant or entity holding a valid 4290
letter of exemption under division (B) (1) of section 1322.05 of 4291
the Revised Code shall supervise all business of a mortgage loan 4292
originator conducted at the principal office, any branch office, 4293
or other location used by the individual mortgage loan 4294
originator. 4295

(B) If a mortgage loan originator's employment or 4296
association is terminated for any reason, the licensee may 4297
request the transfer of the license to another mortgage lender 4298

or mortgage broker by submitting a transfer application, along 4299
with a fifteen-dollar fee and any fee required by the national 4300
mortgage licensing system and registry, to the superintendent of 4301
financial institutions or may request the superintendent in 4302
writing to hold the license in escrow. Any licensee whose 4303
license is held in escrow shall cease activity as a mortgage 4304
loan originator. A licensee whose license is held in escrow 4305
shall be required to apply for renewal annually and to comply 4306
with the annual continuing education requirement. 4307

(C) A registrant may employ or be associated with a 4308
mortgage loan originator on a temporary basis pending the 4309
transfer of the mortgage loan originator's license to the 4310
registrant, if the registrant receives written confirmation from 4311
the superintendent that the mortgage loan originator is licensed 4312
under this chapter. 4313

(D) Notwithstanding divisions (A) to (C) of this section, 4314
if a licensee is employed by or associated with a person or 4315
entity holding a valid letter of exemption under division (B) (1) 4316
of section 1322.05 of the Revised Code, all of the following 4317
apply: 4318

(1) The licensee shall maintain and display a copy of the 4319
mortgage loan originator license at the office where the 4320
licensee principally transacts business. 4321

(2) If the mortgage loan originator's employment or 4322
association is terminated, the mortgage loan originator shall 4323
notify the superintendent within five business days after 4324
termination. The licensee may request the transfer of the 4325
license to another person or entity holding a valid letter of 4326
exemption under division (B) (1) of section 1322.05 of the 4327
Revised Code by submitting a transfer application, along with a 4328

fifteen-dollar fee and any fee required by the national mortgage 4329
licensing system and registry, to the superintendent or may 4330
request the superintendent in writing to hold the license in 4331
escrow. A licensee whose license is held in escrow shall cease 4332
activity as a mortgage loan originator. A licensee whose license 4333
is held in escrow shall be required to apply for renewal 4334
annually and to comply with the annual continuing education 4335
requirement. 4336

(E) A licensee may seek to be employed by or associated 4337
with a registrant or a person or entity holding a valid letter 4338
of exemption under division (B)(1) of section 1322.05 of the 4339
Revised Code, if the mortgage lender, mortgage broker, or person 4340
or entity receives written confirmation from the superintendent 4341
that the mortgage loan originator is licensed under this 4342
chapter. 4343

Sec. ~~1322.05~~ 1322.32. (A) (1) No registrant shall conduct 4344
business in this state, unless the registrant has obtained and 4345
maintains in effect at all times a corporate surety bond issued 4346
by a bonding company or insurance company authorized to do 4347
business in this state. The bond shall be in favor of the 4348
superintendent of financial institutions and in the penal sum of 4349
one-half per cent of the aggregate loan amount of residential 4350
mortgage loans originated in the immediately preceding calendar 4351
year, but not exceeding one hundred fifty thousand dollars. 4352
Under no circumstances, however, shall the bond be less than 4353
fifty thousand dollars and an additional penal sum of ten 4354
thousand dollars for each location, in excess of one, at which 4355
the registrant conducts business. The term of the bond shall 4356
coincide with the term of registration. A copy of the bond shall 4357
be filed with the superintendent. The bond shall be for the 4358
exclusive benefit of any buyer injured by a violation by an 4359

employee of the registrant, mortgage loan originator employed by 4360
or associated with the registrant, or registrant of any 4361
provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ 4362
this chapter or any rule adopted thereunder. The aggregate 4363
liability of the corporate surety for any and all breaches of 4364
the conditions of the bond shall not exceed the penal sum of the 4365
bond. 4366

(2) (a) No licensee who is employed by or associated with a 4367
person or entity ~~listed in holding a valid letter of exemption~~ 4368
under division (G) (2) (B) (1) of section 1322.01-1322.05 of the 4369
Revised Code shall conduct business in this state, unless either 4370
the licensee or the person or entity on the licensee's behalf 4371
has obtained and maintains in effect at all times a corporate 4372
surety bond issued by a bonding company or insurance company 4373
authorized to do business in this state. The bond shall be in 4374
favor of the superintendent of financial institutions and in the 4375
penal sum of one-half per cent of the aggregate loan amount of 4376
residential mortgage loans originated in the immediately 4377
preceding calendar year, but not exceeding one hundred thousand 4378
dollars. Under no circumstances, however, shall the bond be less 4379
than fifty thousand dollars. The term of the bond shall coincide 4380
with the term of licensure. A copy of the bond shall be filed 4381
with the superintendent. The bond shall be for the exclusive 4382
benefit of any buyer injured by a violation by the licensee of 4383
any provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ 4384
this chapter or any rule adopted thereunder. The aggregate 4385
liability of the corporate surety for any and all breaches of 4386
the conditions of the bond shall not exceed the penal sum of the 4387
bond. 4388

(b) Licensees covered by a corporate surety bond obtained 4389
by a registrant, or by a person or entity ~~listed in holding a~~ 4390

valid letter of exemption under division ~~(G) (2)~~ (B) (1) of 4391
section ~~1322.01-1322.05~~ of the Revised Code, they are employed 4392
by or associated with shall not be required to obtain an 4393
individual bond. 4394

(B) (1) (a) The registrant shall give notice to the 4395
superintendent by certified mail of any action that is brought 4396
by a buyer against the registrant, mortgage loan originator, or 4397
employee alleging injury by a violation of any provision of 4398
~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter or 4399
any rule adopted thereunder, and of any judgment that is entered 4400
against the registrant, mortgage loan originator, or employee by 4401
a buyer injured by a violation of any provision of ~~sections~~ 4402
~~1322.01 to 1322.12 of the Revised Code~~ this chapter or any rule 4403
adopted thereunder. The notice shall provide details sufficient 4404
to identify the action or judgment, and shall be filed with the 4405
superintendent within ten days after the commencement of the 4406
action or notice to the registrant of entry of a judgment. 4407

(b) The licensee shall give notice to the superintendent 4408
by certified mail of any action that is brought by a buyer 4409
against the licensee alleging injury by a violation of any 4410
provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ 4411
this chapter or any rule adopted thereunder, and of any judgment 4412
that is entered against the licensee by a buyer injured by a 4413
violation of any provision of ~~sections 1322.01 to 1322.12 of the~~ 4414
~~Revised Code~~ this chapter or any rule adopted thereunder. The 4415
notice shall provide details sufficient to identify the action 4416
or judgment, and shall be filed with the superintendent within 4417
ten days after the commencement of the action or notice to the 4418
licensee of entry of a judgment. A person or entity ~~listed in~~ 4419
holding a valid letter of exemption under division ~~(G) (2)~~ (B) (1) 4420
of section ~~1322.01-1322.05~~ of the Revised Code that secures 4421

bonding for the licensees employed by or associated with the 4422
person or entity shall report such actions or judgments in the 4423
same manner as is required of registrants. 4424

(2) A corporate surety, within ten days after it pays any 4425
claim or judgment, shall give notice to the superintendent by 4426
certified mail of the payment, with details sufficient to 4427
identify the person and the claim or judgment paid. 4428

(C) Whenever the penal sum of the corporate surety bond is 4429
reduced by one or more recoveries or payments, the registrant or 4430
licensee shall furnish a new or additional bond under this 4431
section, so that the total or aggregate penal sum of the bond or 4432
bonds equals the sum required by this section, or shall furnish 4433
an endorsement executed by the corporate surety reinstating the 4434
bond to the required penal sum of it. 4435

(D) The liability of the corporate surety on the bond to 4436
the superintendent and to any buyer injured by a violation of 4437
any provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ 4438
this chapter or any rule adopted thereunder shall not be 4439
affected in any way by any misrepresentation, breach of 4440
warranty, or failure to pay the premium, by any act or omission 4441
upon the part of the registrant or licensee, by the insolvency 4442
or bankruptcy of the registrant or licensee, or by the 4443
insolvency of the registrant's or licensee's estate. The 4444
liability for any act or omission that occurs during the term of 4445
the corporate surety bond shall be maintained and in effect for 4446
at least two years after the date on which the corporate surety 4447
bond is terminated or canceled. 4448

(E) The corporate surety bond shall not be canceled by the 4449
registrant, the licensee, or the corporate surety except upon 4450
notice to the superintendent by certified mail, return receipt 4451

requested. The cancellation shall not be effective prior to 4452
thirty days after the superintendent receives the notice. 4453

(F) No registrant or licensee employed by or associated 4454
with a person or entity ~~listed in~~ holding a valid letter of 4455
~~exemption under division (G) (2)~~ (B) (1) of section ~~1322.01~~ 4456
~~1322.05~~ of the Revised Code shall fail to comply with this 4457
section. Any registrant or licensee that fails to comply with 4458
this section shall cease all mortgage lender, mortgage broker, 4459
or mortgage loan originator activity in this state until the 4460
registrant or licensee complies with this section. 4461

Sec. ~~1322.06~~ 1322.34. (A) As often as the superintendent 4462
of financial institutions considers it necessary, the 4463
superintendent may examine the registrant's or licensee's 4464
records, including all records created or processed by a 4465
licensee, pertaining to business transacted pursuant to ~~sections~~ 4466
~~1322.01 to 1322.12 of the Revised Code~~ this chapter. 4467

(B) A registrant or licensee shall maintain records 4468
pertaining to business transacted pursuant to ~~sections 1322.01~~ 4469
~~to 1322.12 of the Revised Code, including copies of all mortgage~~ 4470
~~loan origination disclosure statements prepared in accordance~~ 4471
~~with section 1322.062 of the Revised Code, this chapter~~ for four 4472
years. For purposes of this division, "registrant or licensee" 4473
includes any person whose certificate of registration or license 4474
is cancelled, surrendered, or revoked or who otherwise ceases to 4475
engage in business as a mortgage lender, mortgage broker, or 4476
mortgage loan originator. 4477

No registrant or licensee shall fail to comply with this 4478
division. 4479

(C) Each registrant ~~and~~, licensee, and entity holding a 4480

valid letter of exemption under division (B) (1) of section 4481
1322.05 of the Revised Code shall submit to the nationwide 4482
mortgage licensing system and registry call reports or other 4483
reports of condition, which reports shall be in such form and 4484
shall contain such information as the nationwide mortgage 4485
licensing system and registry may require. Each registrant and 4486
entity holding a valid letter of exemption under division (B) (1) 4487
of section 1322.05 of the Revised Code shall ensure that all 4488
residential mortgage loans that are consummated as a result of a 4489
mortgage loan originator's loan origination activities are 4490
included in the report of condition submitted to the nationwide 4491
mortgage licensing system and registry. 4492

~~(D) (1) As required by the superintendent, each registrant~~ 4493
~~shall file with the division of financial institutions an annual~~ 4494
~~report under oath or affirmation, on forms supplied by the~~ 4495
~~division, concerning the business and operations of the~~ 4496
~~registrant for the preceding calendar year. If a registrant~~ 4497
~~operates two or more registered offices, or two or more~~ 4498
~~affiliated registrants operate registered offices, a composite~~ 4499
~~report of the group of registered offices may be filed in lieu~~ 4500
~~of individual reports. For purposes of compliance with this~~ 4501
~~requirement, the superintendent may accept call reports or other~~ 4502
~~reports of condition submitted to the nationwide mortgage~~ 4503
~~licensing system and registry in lieu of the annual report.~~ 4504

~~(2) The superintendent shall publish annually an analysis~~ 4505
~~of the information required under division (D) (1) of this~~ 4506
~~section, but the individual reports, whether filed with the~~ 4507
~~superintendent or the nationwide mortgage licensing system and~~ 4508
~~registry, shall not be public records and shall not be open to~~ 4509
~~public inspection or otherwise be subject to section 149.43 of~~ 4510
~~the Revised Code. Any document or record that is required to be~~ 4511

signed and that is filed in this state as an electronic record 4512
through the nationwide mortgage licensing system and registry, 4513
and any other electronic record filed through the nationwide 4514
mortgage licensing system and registry, shall be considered a 4515
valid original document upon reproduction to paper form by the 4516
division of financial institutions. 4517

Sec. ~~1322.072~~ 1322.35. No person, in connection with any 4518
examination or investigation conducted by the superintendent of 4519
financial institutions under ~~sections 1322.01 to 1322.12 of the~~ 4520
~~Revised Code~~ this chapter, shall knowingly do any of the 4521
following: 4522

(A) Circumvent, interfere with, obstruct, or fail to 4523
cooperate, including making a false or misleading statement, 4524
failing to produce records, or intimidating or suborning any 4525
witness; 4526

(B) Tamper with, alter, or manufacture any evidence; 4527

(C) Withhold, abstract, remove, mutilate, destroy, or 4528
secrete any books, records, computer records, or other 4529
information. 4530

Sec. ~~1322.061~~ 1322.36. (A) (1) The following information is 4531
confidential: 4532

(a) Examination information, and any information leading 4533
to or arising from an examination; 4534

(b) Investigation information, and any information arising 4535
from or leading to an investigation. 4536

(2) The information described in division (A) (1) of this 4537
section shall remain confidential for all purposes except when 4538
it is necessary for the superintendent of financial institutions 4539

to take official action regarding the affairs of a registrant or 4540
licensee, or in connection with criminal or civil proceedings to 4541
be initiated by a prosecuting attorney or the attorney general. 4542
This information may also be introduced into evidence or 4543
disclosed when and in the manner authorized by section 1181.25 4544
of the Revised Code. 4545

(B) All application information, except social security 4546
numbers, employer identification numbers, financial account 4547
numbers, the identity of the institution where financial 4548
accounts are maintained, personal financial information, 4549
fingerprint cards and the information contained on such cards, 4550
and criminal background information, is a public record as 4551
defined in section 149.43 of the Revised Code. 4552

(C) This section does not prevent the division of 4553
financial institutions from releasing to or exchanging with 4554
other financial institution regulatory authorities information 4555
relating to registrants and licensees. For this purpose, a 4556
"financial institution regulatory authority" includes a 4557
regulator of a business activity in which a registrant or 4558
licensee is engaged, or has applied to engage in, to the extent 4559
that the regulator has jurisdiction over a registrant or 4560
licensee engaged in that business activity. A registrant or 4561
licensee is engaged in a business activity, and a regulator of 4562
that business activity has jurisdiction over the registrant or 4563
licensee, whether the registrant or licensee conducts the 4564
activity directly or a subsidiary or affiliate of the registrant 4565
or licensee conducts the activity. 4566

(D) The superintendent shall, on a regular basis, report 4567
violations of ~~sections 1322.01 to 1322.12 of the Revised Code~~ 4568
any provision of this chapter, as well as enforcement actions 4569

and other relevant information, to the nationwide mortgage 4570
licensing system and registry. 4571

(E) (1) Any confidentiality or privilege arising under 4572
federal or state law with respect to any information or material 4573
provided to the nationwide mortgage licensing system and 4574
registry shall continue to apply to the information or material 4575
after the information or material is provided to the nationwide 4576
mortgage licensing system and registry. The information and 4577
material so provided may be released to any state or federal 4578
regulatory official with mortgage industry oversight authority 4579
without the loss of confidentiality or privilege protections 4580
provided by federal law or the law of any state. Information or 4581
material described in division (E) (1) of this section to which 4582
confidentiality or privilege applies shall not be subject to any 4583
of the following: 4584

(a) Disclosure under any federal or state law governing 4585
disclosure to the public of information held by an officer or an 4586
agency of the federal government or of the respective state; 4587

(b) Subpoena or discovery, or admission into evidence, in 4588
any private civil action or administrative process, unless the 4589
person to whom such information or material pertains waives, in 4590
whole or in part and at the discretion of the person, any 4591
privilege held by the nationwide mortgage licensing system and 4592
registry with respect to that information or material. 4593

(2) The superintendent, in order to promote more effective 4594
regulation and reduce regulatory burden through supervisory 4595
information sharing, may enter into sharing arrangements with 4596
other governmental agencies, the conference of state bank 4597
supervisors, and the American association of residential 4598
mortgage regulators. 4599

(3) Any state law, including section 149.43 of the Revised Code, relating to the disclosure of confidential supervisory information or any information or material described in division (A) (1) or (E) (1) of this section that is inconsistent with this section shall be superseded by the requirements of this section.

(F) This section shall not apply with respect to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that is included in the nationwide mortgage licensing system and registry for access by the public.

(G) This section does not prevent the division from releasing information relating to registrants and licensees to the attorney general, to the superintendent of real estate and professional licensing for purposes relating to the administration of Chapters 4735. and 4763. of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the commissioner of securities for purposes relating to the administration of Chapter 1707. of the Revised Code, or to local law enforcement agencies and local prosecutors. Information the division releases pursuant to this section remains confidential.

(H) The superintendent of financial institutions shall, by rule adopted in accordance with Chapter 119. of the Revised Code, establish a process by which mortgage loan originators may challenge any information provided to the nationwide mortgage licensing system and registry by the superintendent.

~~Sec. 1322.07~~ **1322.40.** No registrant, licensee, or person required to be registered or licensed under ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter, or individual

disclosed in an application as required by ~~division (A) (2) of~~ 4630
~~section 1322.03 of the Revised Code~~ this chapter, shall do any 4631
of the following: 4632

(A) Obtain a ~~mortgage broker~~ certificate of registration 4633
or mortgage loan originator license through any false or 4634
fraudulent representation of a material fact or any omission of 4635
a material fact required by state law, or make any substantial 4636
misrepresentation in any registration or license application; 4637

(B) Make false or misleading statements of a material 4638
fact, omissions of statements required by state or federal law, 4639
or false promises regarding a material fact, through advertising 4640
or other means, or engage in a continued course of 4641
misrepresentations; 4642

(C) Engage in conduct that constitutes improper, 4643
fraudulent, or dishonest dealings; 4644

(D) Fail to notify the division of financial institutions 4645
within thirty days after any of the following: 4646

(1) Being convicted of or pleading guilty or nolo 4647
contendere to a felony in a domestic, foreign, or military 4648
court; 4649

(2) Being convicted of or pleading guilty or nolo 4650
contendere to any criminal offense involving theft, receiving 4651
stolen property, embezzlement, forgery, fraud, passing bad 4652
checks, money laundering, breach of trust, dishonesty, or drug 4653
trafficking, or any criminal offense involving money or 4654
securities, in a domestic, foreign, or military court; 4655

(3) Having a mortgage lender or mortgage broker 4656
certificate of registration or mortgage loan originator license, 4657
or any comparable authority, revoked in any governmental 4658

jurisdiction. 4659

(E) Knowingly make, propose, or solicit fraudulent, false, 4660
or misleading statements on any mortgage loan document or on any 4661
document related to a mortgage loan, including a mortgage 4662
application, real estate appraisal, or real estate settlement or 4663
closing document. For purposes of this division, "fraudulent, 4664
false, or misleading statements" does not include mathematical 4665
errors, inadvertent transposition of numbers, typographical 4666
errors, or any other bona fide error. 4667

(F) Knowingly instruct, solicit, propose, or otherwise 4668
cause a buyer to sign in blank a mortgage related document; 4669

(G) Knowingly compensate, instruct, induce, coerce, or 4670
intimidate, or attempt to compensate, instruct, induce, coerce, 4671
or intimidate, a person licensed or certified under Chapter 4672
4763. of the Revised Code for the purpose of corrupting or 4673
improperly influencing the independent judgment of the person 4674
with respect to the value of the dwelling offered as security 4675
for repayment of a mortgage loan; 4676

(H) Promise to refinance a loan in the future at a lower 4677
interest rate or with more favorable terms, unless the promise 4678
is set forth in writing and is initialed by the buyer; 4679

(I) Engage in any unfair, deceptive, or unconscionable act 4680
or practice prohibited under sections 1345.01 to 1345.13 of the 4681
Revised Code. 4682

Sec. ~~1322.074~~ 1322.41. (A) Except as otherwise provided in 4683
division (B) of this section, no registrant, or any member of 4684
the immediate family of an owner of a registrant, shall own or 4685
control a majority interest in an appraisal company. 4686

(B) Division (A) of this section shall not apply to any 4687

registrant, or any member of the immediate family of an owner of 4688
a registrant, who, on January 1, 2010, directly or indirectly 4689
owns or controls a majority interest in an appraisal company. 4690
However, such ownership or control is subject to the following 4691
conditions: 4692

(1) The registrant and members of the immediate family of 4693
an owner of a registrant shall not increase their interest in 4694
the company. 4695

(2) The interest is not transferable to a member of the 4696
immediate family of an owner of a registrant. 4697

(3) If the registrant is convicted of or pleads guilty or 4698
nolo contendere to a criminal violation of ~~sections 1322.01 to~~ 4699
~~1322.12 of the Revised Code this chapter~~ or any criminal offense 4700
described in division (A) (1) (b) of section ~~1322.10-1322.50~~ of 4701
the Revised Code, the superintendent of financial institutions 4702
may, in addition to any of the actions authorized under section 4703
~~1322.10-1322.50~~ of the Revised Code, order the registrant or 4704
members of the immediate family of an owner of a registrant to 4705
divest their interest in the company. 4706

Sec. ~~1322.075~~ 1322.42. (A) (1) No registrant or licensee or 4707
person required to be registered or licensed under ~~sections~~ 4708
~~1322.01 to 1322.12 of the Revised Code this chapter~~ shall refer 4709
a buyer to any settlement service provider, including any title 4710
insurance company, that has an affiliated business arrangement 4711
with the registrant, licensee, or person without providing the 4712
buyer with written notice ~~disclosing all of the following:~~ 4713

~~(1) Any business relationship that exists between the~~ 4714
~~registrant, licensee, or person required to be registered or~~ 4715
~~licensed under sections 1322.01 to 1322.12 of the Revised Code,~~ 4716

~~and the provider to which the buyer is being referred, and any
financial benefit that the registrant, licensee, or person may
be provided because of the relationship;~~ 4717
4718
4719

~~(2) The percentage of ownership interest the registrant,
licensee, or person required to be registered or licensed under
sections 1322.01 to 1322.12 of the Revised Code has in the
provider to which the buyer is being referred;~~ 4720
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~~(3) The estimated charge or range of charges for the
settlement service listed;~~ 4724
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~~(4) The following statement, printed in boldface type of
the minimum size of sixteen points: "There are frequently other
settlement service providers available with similar services.
You are free to shop around to determine that you are receiving
the best services and the best rate for these services."as
required by rule adopted by the superintendent.~~ 4726
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(2) As used in division (A) (1) of this section, 4732
"affiliated business arrangement" has the same meaning as in 12 4733
U.S.C. 2602. 4734

(B) No registrant or licensee shall refer a buyer to an 4735
appraisal company, if the registrant or licensee, a member of 4736
the immediate family of an owner of the registrant, or a member 4737
of the licensee's immediate family, has either of the following 4738
financial relationships with the appraisal company: 4739

(1) An ownership or investment interest in the company, 4740
whether through debt, equity, or other means; 4741

(2) Any compensation arrangement involving any 4742
remuneration, directly or indirectly, overtly or covertly, in 4743
cash or in kind. 4744

(C) No registrant or licensee shall knowingly enter into an arrangement or scheme, including a cross-referral arrangement, that has a principal purpose of assuring referrals by a registrant or licensee to a particular appraisal company that would violate division (B) of this section.

(D) The registrant, licensee, and entity holding a valid letter of exemption under division (B) (1) of section 1322.05 of the Revised Code, or person required to be registered or licensed under ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter shall retain proof that the buyer received the written disclosures required by division (A) of this section for four years.

Sec. 1322.43. No registrant and entity holding a valid letter of exemption under division (B) (1) of section 1322.05 of the Revised Code, through its operations manager or otherwise, shall fail to do either of the following:

(A) Reasonably supervise a mortgage loan originator or any other person associated with the registrant;

(B) Establish reasonable procedures designed to avoid violations of any provision of this chapter or the rules adopted under this chapter, or violations of applicable state and federal consumer and lending laws or rules, by mortgage loan originators or any other person associated with the registrant.

~~Sec. 1322.081~~ 1322.45. (A) A registrant, a licensee, and any person required to be registered or licensed under ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter, in addition to duties imposed by other statutes or common law, shall do all of the following:

(1) Safeguard and account for any money handled for the

buyer; 4774

(2) Follow reasonable and lawful instructions from the 4775
buyer; 4776

(3) Act with reasonable skill, care, and diligence; 4777

(4) Act in good faith and with fair dealing in any 4778
transaction, practice, or course of business in connection with 4779
the brokering or originating of any residential mortgage loan; 4780

(5) Make reasonable efforts to secure a residential 4781
mortgage loan, from lenders with whom the registrant, licensee, 4782
or person regularly does business, with rates, charges, and 4783
repayment terms that are advantageous to the buyer. 4784

(B) Division (A) of this section shall not apply to 4785
wholesale lenders. However, wholesale lenders are subject to all 4786
other requirements applicable to mortgage brokers and nonbank 4787
mortgage lenders. For purposes of this division, "wholesale 4788
lender" means a company that has been issued a ~~mortgage broker~~ 4789
certificate of registration and that enters into transactions 4790
with buyers exclusively through unaffiliated third-party 4791
mortgage brokers. 4792

(C) The duties and standards of care created in this 4793
section cannot be waived or modified. 4794

(D) (1) A buyer injured by a ~~violation of failure to comply~~ 4795
with this section may bring an action for recovery of damages. 4796

(2) Damages awarded under division (D) (1) of this section 4797
shall not be less than all compensation paid directly or 4798
indirectly to a mortgage broker from any source, plus reasonable 4799
attorney's fees and court costs. 4800

(3) The buyer may be awarded punitive damages. 4801

(E) A buyer injured by a ~~violation of failure to comply~~ 4802
~~with~~ this section is precluded from recovering any damages, plus 4803
reasonable attorney's fees and costs, if the buyer has also 4804
recovered any damages in a cause of action initiated under 4805
section ~~1322.11-1322.52~~ of the Revised Code and the recovery of 4806
damages for a ~~violation of failure to comply with~~ this section 4807
is based on the same acts or circumstances as the basis for 4808
recovery of damages in section ~~1322.11-1322.52~~ of the Revised 4809
Code. 4810

~~(F) This section shall not be interpreted by the~~ 4811
~~superintendent to require a separate account for deposit of~~ 4812
~~buyer funds.~~ 4813

Sec. ~~1322.09~~ 1322.46. (A) A ~~mortgage broker-registrant~~ or 4814
~~mortgage~~ loan originator shall disclose in any printed, 4815
televised, broadcast, electronically transmitted, or published 4816
advertisement relating to the ~~mortgage broker's-registrant's~~ or 4817
~~mortgage~~ loan originator's services, including on any electronic 4818
site accessible through the internet, the ~~business name and~~ 4819
~~street address~~ of the ~~mortgage broker-registrant~~ or ~~mortgage~~ 4820
loan originator and the ~~number designated on the certificate of~~ 4821
~~registration or license that is issued to~~ ~~unique identifier of~~ 4822
the ~~mortgage broker-registrant~~ or ~~mortgage~~ loan originator ~~by~~ 4823
~~the superintendent of financial institutions under sections~~ 4824
~~1322.01 to 1322.12 of the Revised Code.~~ 4825

(B) In making any advertisement, a ~~mortgage broker-~~ 4826
~~registrant~~ shall comply with 12 C.F.R. 226.16, as amended. 4827

~~(C) No mortgage broker or loan originator shall fail to~~ 4828
~~comply with this section.~~ 4829

Sec. ~~1322.10~~ 1322.50. (A) After notice and opportunity for 4830

a hearing conducted in accordance with Chapter 119. of the 4831
Revised Code, the superintendent of financial institutions may 4832
do the following: 4833

(1) Suspend, revoke, or refuse to issue or renew a 4834
certificate of registration or license if the superintendent 4835
finds any of the following: 4836

(a) A violation of or failure to comply with any provision 4837
of ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter 4838
or the rules adopted under ~~those sections~~ this chapter, federal 4839
lending law, or any other law applicable to the business 4840
conducted under a certificate of registration or license; 4841

(b) A conviction of or guilty or nolo contendere plea to a 4842
felony in a domestic, foreign, or military court; 4843

(c) A conviction of or guilty or nolo contendere plea to 4844
any criminal offense involving theft, receiving stolen property, 4845
embezzlement, forgery, fraud, passing bad checks, money 4846
laundering, breach of trust, dishonesty, or drug trafficking, or 4847
any criminal offense involving money or securities, in a 4848
domestic, foreign, or military court; 4849

(d) The revocation of a ~~mortgage broker~~ certificate of 4850
registration or mortgage loan originator license, or any 4851
comparable authority, in any governmental jurisdiction. 4852

(2) Impose a fine of not more than one thousand dollars, 4853
for each day a violation of a law or rule is committed, 4854
repeated, or continued. If the registrant or licensee engages in 4855
a pattern of repeated violations of a law or rule, the 4856
superintendent may impose a fine of not more than two thousand 4857
dollars for each day the violation is committed, repeated, or 4858
continued. All fines collected pursuant to this division shall 4859

be paid to the treasurer of state to the credit of the consumer
finance fund created in section 1321.21 of the Revised Code. In
determining the amount of a fine to be imposed pursuant to this
division, the superintendent may consider all of the following,
to the extent known by the division of financial institutions:

(a) The seriousness of the violation; 4865

(b) The registrant's or licensee's good faith efforts to
prevent the violation; 4866
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(c) The registrant's or licensee's history regarding
violations and compliance with division orders; 4868
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(d) The registrant's or licensee's financial resources; 4870

(e) Any other matters the superintendent considers
appropriate in enforcing ~~sections 1322.01 to 1322.12 of the~~
Revised Code this chapter. 4871
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(B) The superintendent may investigate alleged violations
of ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter
or the rules adopted under ~~those sections~~ this chapter or
complaints concerning any violation. 4874
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(1) The superintendent may make application to the court
of common pleas for an order enjoining any violation and, upon a
showing by the superintendent that a person has committed or is
about to commit that violation, the court shall grant an
injunction, restraining order, or other appropriate relief. 4878
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(2) The superintendent may make application to the court
of common pleas for an order enjoining any person from acting as
a mortgage lender, mortgage broker, registrant, mortgage loan
originator, or licensee in violation of division (A) or (B) of
section ~~1322.02-1322.07~~ of the Revised Code, and may seek and 4883
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obtain civil penalties for unregistered or unlicensed conduct of 4888
not more than five thousand dollars per violation. 4889

(C) In conducting any investigation pursuant to this 4890
section, the superintendent may compel, by subpoena, witnesses 4891
to testify in relation to any matter over which the 4892
superintendent has jurisdiction and may require the production 4893
of any book, record, or other document pertaining to that 4894
matter. If a person fails to file any statement or report, obey 4895
any subpoena, give testimony, produce any book, record, or other 4896
document as required by a subpoena, or permit photocopying of 4897
any book, record, or other document subpoenaed, the court of 4898
common pleas of any county in this state, upon application made 4899
to it by the superintendent, shall compel obedience by 4900
attachment proceedings for contempt, as in the case of 4901
disobedience of the requirements of a subpoena issued from the 4902
court or a refusal to testify therein. 4903

(D) If the superintendent determines that a person is 4904
engaged in or is believed to be engaged in activities that may 4905
constitute a violation of ~~sections 1322.01 to 1322.12 of the~~ 4906
~~Revised Code~~ this chapter or any rule adopted thereunder, the 4907
superintendent, after notice and a hearing conducted in 4908
accordance with Chapter 119. of the Revised Code, may issue a 4909
cease and desist order. If the administrative action is to 4910
enjoin a person from acting as a mortgage lender, mortgage 4911
broker, or mortgage loan originator in violation of division (A) 4912
or (B) of section ~~1322.02-1322.07~~ of the Revised Code, the 4913
superintendent may seek and impose fines for that conduct in an 4914
amount not to exceed five thousand dollars per violation. Such 4915
an order shall be enforceable in the court of common pleas. 4916

(E) If the superintendent revokes a ~~mortgage broker~~ 4917

certificate of registration or mortgage loan originator license, 4918
the revocation shall be permanent and with prejudice. 4919

(F) (1) To protect the public interest, the superintendent 4920
may, without a prior hearing, do any of the following: 4921

(a) Suspend the ~~mortgage broker~~ certificate of 4922
registration or mortgage loan originator license of a registrant 4923
or licensee who is convicted of or pleads guilty or nolo 4924
contendere to a criminal violation of any provision of ~~sections~~ 4925
~~1322.01 to 1322.12 of the Revised Code~~ this chapter or any 4926
criminal offense described in division (A) (1) (b) or (c) of this 4927
section; 4928

(b) Suspend the ~~mortgage broker~~ certificate of 4929
registration of a registrant who violates division (F) of 4930
section ~~1322.05~~ 1322.32 of the Revised Code; 4931

(c) Suspend the ~~mortgage broker~~ certificate of 4932
registration or mortgage loan originator license of a registrant 4933
or licensee who fails to comply with a request made by the 4934
superintendent under section ~~1322.03~~ 1322.09 or ~~1322.031~~ 1322.20 4935
of the Revised Code to inspect qualifying education transcripts 4936
located at the registrant's or licensee's place of business. 4937

(2) The superintendent may, in accordance with Chapter 4938
119. of the Revised Code, subsequently revoke any registration 4939
or license suspended under division (F) (1) of this section. 4940

~~(3) The superintendent shall, in accordance with Chapter~~ 4941
~~119. of the Revised Code, adopt rules establishing the maximum~~ 4942
~~amount of time a suspension under division (F) (1) of this~~ 4943
~~section may continue before a hearing is conducted.~~ 4944

(G) The imposition of fines under this section does not 4945
preclude any penalty imposed under section 1322.99 of the 4946

Revised Code. 4947

Sec. ~~1322.101~~ 1322.51. On receipt of a notice pursuant to 4948
section 3123.43 of the Revised Code, the division of financial 4949
institutions shall comply with sections 3123.41 to 3123.50 of 4950
the Revised Code and any applicable rules adopted under section 4951
3123.63 of the Revised Code with respect to a certificate or 4952
license issued pursuant to this chapter. 4953

Sec. ~~1322.11~~ 1322.52. (A) (1) A buyer injured by a 4954
violation of section ~~1322.02, 1322.062, 1322.063, 1322.064,~~ 4955
~~1322.07, 1322.071, 1322.08, or 1322.09~~ 1322.40, or 1322.46 of 4956
the Revised Code may bring an action for recovery of damages. 4957

(2) Damages awarded under division (A) (1) of this section 4958
shall not be less than all compensation paid directly and 4959
indirectly to a ~~mortgage broker registrant~~ or mortgage loan 4960
originator from any source, plus reasonable attorney's fees and 4961
court costs. 4962

(3) The buyer may be awarded punitive damages. 4963

(B) (1) The superintendent of financial institutions or a 4964
buyer may directly bring an action to enjoin a violation of 4965
~~sections 1322.01 to 1322.12 of the Revised Code~~ any provision of 4966
this chapter. The attorney general may directly bring an action 4967
to enjoin a violation of ~~sections 1322.01 to 1322.12 of the~~ 4968
~~Revised Code~~ any provision of this chapter with the same rights, 4969
privileges, and powers as those described in section 1345.06 of 4970
the Revised Code. The prosecuting attorney of the county in 4971
which the action may be brought may bring an action to enjoin a 4972
violation of ~~sections 1322.01 to 1322.12 of the Revised Code~~ any 4973
provision of this chapter only if the prosecuting attorney first 4974
presents any evidence of the violation to the attorney general 4975

and, within a reasonable period of time, the attorney general 4976
has not agreed to bring the action. 4977

(2) The superintendent may initiate criminal proceedings 4978
under ~~sections 1322.01 to 1322.12 of the Revised Code~~ this 4979
chapter by presenting any evidence of criminal violation to the 4980
prosecuting attorney of the county in which the offense may be 4981
prosecuted. If the prosecuting attorney does not prosecute the 4982
violations, or at the request of the prosecuting attorney, the 4983
superintendent shall present any evidence of criminal violations 4984
to the attorney general, who may proceed in the prosecution with 4985
all the rights, privileges, and powers conferred by law on 4986
prosecuting attorneys, including the power to appear before 4987
grand juries and to interrogate witnesses before such grand 4988
juries. These powers of the attorney general shall be in 4989
addition to any other applicable powers of the attorney general. 4990

(3) The prosecuting attorney of the county in which an 4991
alleged offense may be prosecuted may initiate criminal 4992
proceedings under ~~sections 1322.01 to 1322.12 of the Revised~~ 4993
~~Code~~ this chapter. 4994

(4) In order to initiate criminal proceedings under 4995
~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter, 4996
the attorney general shall first present any evidence of 4997
criminal violations to the prosecuting attorney of the county in 4998
which the alleged offense may be prosecuted. If, within a 4999
reasonable period of time, the prosecuting attorney has not 5000
agreed to prosecute the violations, the attorney general may 5001
proceed in the prosecution with all the rights, privileges, and 5002
powers described in division (B)(2) of this section. 5003

(5) When a judgment under this section becomes final, the 5004
clerk of court shall mail a copy of the judgment, including 5005

supporting opinions, to the superintendent. 5006

(C) The remedies provided by this section are in addition 5007
to any other remedy provided by law. 5008

(D) In any proceeding or action brought under ~~sections~~ 5009
~~1322.01 to 1322.12 of the Revised Code~~ this chapter, the burden 5010
of proving an exemption under those sections is on the person 5011
claiming the benefit of the exemption. 5012

(E) No person shall be deemed to violate ~~sections 1322.01~~ 5013
~~to 1322.12 of the Revised Code~~ any provision of this chapter 5014
with respect to any act taken or omission made in reliance on a 5015
written notice, written interpretation, or written report from 5016
the superintendent, unless there is a subsequent amendment to 5017
those ~~sections~~ provisions, or rules promulgated thereunder, that 5018
affects the superintendent's notice, interpretation, or report. 5019

(F) Upon disbursement of mortgage loan proceeds to or on 5020
behalf of the buyer, the registrant that assisted the buyer to 5021
obtain the mortgage loan is deemed to have completed the 5022
performance of the registrant's services for the buyer and owes 5023
no additional duties or obligations to the buyer with respect to 5024
the mortgage loan. However, nothing in this division shall be 5025
construed to limit or preclude the civil or criminal liability 5026
of a registrant for failing to comply with ~~sections 1322.01 to~~ 5027
~~1322.12 of the Revised Code~~ this chapter or any rule adopted 5028
under ~~those sections~~ this chapter, for failing to comply with 5029
any provision of or duty arising under an agreement with a buyer 5030
or lender under ~~sections 1322.01 to 1322.12 of the Revised Code~~ 5031
this chapter, or for violating any other provision of state or 5032
federal law. 5033

(G) A buyer injured by a violation of any of the sections 5034

specified in division (A) (1) of this section is precluded from 5035
recovering any damages, plus reasonable attorney's fees and 5036
costs, if the buyer has also recovered any damages in a cause of 5037
action initiated under section ~~1322.081~~1322.45 of the Revised 5038
Code and the recovery of damages for a violation of any of the 5039
sections specified in division (A) (1) of this section is based 5040
on the same acts or circumstances as the basis for recovery of 5041
damages in section ~~1322.081~~1322.45 of the Revised Code. 5042

Sec. ~~1322.025~~ 1322.55. (A) Notwithstanding any provision 5043
~~of sections 1322.01 to 1322.12 of the Revised Code~~ this chapter, 5044
or any rule adopted thereunder, if the "Secure and Fair 5045
Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 5046
12 U.S.C. 5101, as amended, is modified after ~~the effective date~~ 5047
~~of this section~~ October 16, 2009, or any regulation, statement, 5048
or position is adopted under that act, and the item modified or 5049
adopted affects any matter within the scope of ~~sections 1322.01~~ 5050
~~to 1322.12 of the Revised Code~~ this chapter, the superintendent 5051
of financial institutions may by rule adopt a similar provision. 5052

(B) The superintendent shall adopt the rules authorized by 5053
this section in accordance with section 111.15 of the Revised 5054
Code. Chapter 119. of the Revised Code does not apply to rules 5055
adopted under the authority of this section. 5056

(C) A rule adopted by the superintendent under the 5057
authority of this section is effective on the later of the 5058
following dates: 5059

(1) The date the superintendent issues the rule; 5060

(2) The date the regulation, rule, interpretation, 5061
procedure, or guideline the superintendent's rule is based on 5062
becomes effective. 5063

(D) The superintendent may, upon thirty days' written notice, revoke any rule adopted under the authority of this section. A rule adopted under the authority of this section, and not revoked by the superintendent, lapses and has no further force and effect eighteen months after the rule's effective date.

Sec. 1322.56. The superintendent of financial institutions may adopt, in accordance with Chapter 119. of the Revised Code, any rule necessary to comply with the requirements of the nationwide mortgage licensing system and registry, including requirements pertaining to all of the following:

(A) Payment of nonrefundable fees to apply for, maintain, and renew licenses through the nationwide mortgage licensing system and registry;

(B) Renewal or reporting dates;

(C) Procedures to amend or to surrender a license;

(D) Any other activity necessary for participation in the nationwide mortgage licensing system and registry.

~~Sec. 1322.12~~ 1322.57. The superintendent of financial institutions, in accordance with Chapter 119. of the Revised Code, may adopt reasonable rules to administer and enforce ~~sections 1322.01 to 1322.12 of the Revised Code this chapter and to carry out the purposes of those sections this chapter.~~

Sec. 1322.99. (A) (1) Whoever violates division (A) ~~(1) or (2)~~ of section ~~1322.02, 1322.07 or~~ division (E), (F), or (G) of section 1322.07, division (B) (1) or (2) of section 1322.071, ~~or section 1322.08-1322.40~~ of the Revised Code is guilty of a felony of the fifth degree.

~~(B) Whoever violates division (B) (3) of section 1322.071 of the Revised Code is guilty of a felony of the fourth degree.~~ 5092
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~~(C) (2) Whoever violates division (B) or (C) (1) or (2) of section 1322.02-1322.07 of the Revised Code is guilty of a misdemeanor of the first degree.~~ 5094
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(B) The offenses established under divisions (A) and (B) of section 1322.07 of the Revised Code are strict liability offenses, and section 2901.20 of the Revised Code does not apply. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense for which there is no specified degree of culpability, whether in this section or another section of the Revised Code, is not a strict liability offense. 5097
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Sec. 1329.71. (A) As used in this section, "financial institution" means any bank, savings and loan association, savings bank, or credit union; any affiliate or subsidiary of a bank, savings and loan association, savings bank, or credit union; ~~or~~ any registrant as defined in section 1321.51 of the Revised Code; or any person registered as a mortgage lender under Chapter 1322. of the Revised Code. 5105
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(B) Any financial institution may proceed by suit to enjoin the use of the financial institution's name or logo in connection with the sale, offering for sale, distribution, or advertising of any product or service without the express written consent of the financial institution, if such use is misleading or deceptive as to the source of origin or sponsorship of, or the affiliation with, the product or service. Any court of competent jurisdiction may grant injunctions to restrain such use as the court considers just and reasonable and may require the defendants to pay to the financial institution 5112
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all profits derived from and all damages suffered by reason of 5122
the wrongful use of the name or logo. 5123

(C) Notwithstanding division (B) of this section, the only 5124
remedies that are available for the wrongful use of a financial 5125
institution's name or logo by a registrant or licensee under 5126
~~sections 1322.01 to 1322.12~~ Chapter 1322. of the Revised Code 5127
are those set forth in section ~~1322.10~~ 1322.50 of the Revised 5128
Code or otherwise provided by statute or common law. 5129

(D) The provisions of this section are not intended to be 5130
exclusive remedies and do not preclude the use of any other 5131
remedy provided by law. 5132

Sec. 1335.02. (A) As used in this section: 5133

(1) "Debtor" means a person that obtains credit or seeks a 5134
loan agreement with a financial institution or owes money to a 5135
financial institution. 5136

(2) "Financial institution" means ~~either~~ any of the 5137
following: 5138

(a) A federally or state-chartered bank, savings bank, 5139
savings and loan association, or credit union, or a holding 5140
company, subsidiary, or affiliate of a bank, savings bank, or 5141
savings and loan association; 5142

(b) A licensee under sections 1321.01 to 1321.19 of the 5143
Revised Code, or a registrant under sections 1321.51 to 1321.60 5144
of the Revised Code, or a parent company, subsidiary, or 5145
affiliate of a licensee or registrant; 5146

(c) A person registered as a mortgage lender under Chapter 5147
1322. of the Revised Code or a parent company, subsidiary, or 5148
affiliate of such a person. 5149

(3) "Loan agreement" means one or more promises, 5150
promissory notes, agreements, undertakings, security agreements, 5151
mortgages, or other documents or commitments, or any combination 5152
of these documents or commitments, pursuant to which a financial 5153
institution loans or delays, or agrees to loan or delay, 5154
repayment of money, goods, or anything of value, or otherwise 5155
extends credit or makes a financial accommodation. "Loan 5156
agreement" does not include a promise, promissory note, 5157
agreement, undertaking, or other document or commitment relating 5158
to a credit card, a charge card, a revolving budget agreement 5159
subject to section 1317.11 of the Revised Code, an open-end loan 5160
agreement subject to section 1321.16 or 1321.58 of the Revised 5161
Code, or an open-end credit agreement subject to section 1109.18 5162
of the Revised Code. 5163

(B) No party to a loan agreement may bring an action on a 5164
loan agreement unless the agreement is in writing and is signed 5165
by the party against whom the action is brought or by the 5166
authorized representative of the party against whom the action 5167
is brought. However, a loan agreement need not be signed by an 5168
officer or other authorized representative of a financial 5169
institution, if the loan agreement is in the form of a 5170
promissory note or other document or commitment that describes 5171
the credit or loan and the loan agreement, by its terms, 5172
satisfies all of the following conditions: 5173

(1) The loan agreement is intended by the parties to be 5174
signed by the debtor but not by an officer or other authorized 5175
representative of the financial institution. 5176

(2) The loan agreement has been signed by the debtor. 5177

(3) The delivery of the loan agreement has been accepted 5178
by the financial institution. 5179

(C) The terms of a loan agreement subject to this section, 5180
including the rights and obligations of the parties to the loan 5181
agreement, shall be determined solely from the written loan 5182
agreement, and shall not be varied by any oral agreements that 5183
are made or discussions that occur before or contemporaneously 5184
with the execution of the loan agreement. Any prior oral 5185
agreements between the parties are superseded by the loan 5186
agreement. 5187

(D) This section does not apply to any loan agreement in 5188
which the proceeds of the loan agreement are used by the debtor 5189
primarily for personal, household, or family purposes and either 5190
of the following applies: 5191

(1) The proceeds of the loan agreement are less than forty 5192
thousand dollars; 5193

(2) A security interest securing the loan agreement is or 5194
will be acquired in the primary residence of the debtor. 5195

Sec. 1345.01. As used in sections 1345.01 to 1345.13 of 5196
the Revised Code: 5197

(A) "Consumer transaction" means a sale, lease, 5198
assignment, award by chance, or other transfer of an item of 5199
goods, a service, a franchise, or an intangible, to an 5200
individual for purposes that are primarily personal, family, or 5201
household, or solicitation to supply any of these things. 5202
"Consumer transaction" does not include transactions between 5203
persons, defined in sections 4905.03 and 5725.01 of the Revised 5204
Code, and their customers, except for transactions involving a 5205
loan made pursuant to sections 1321.35 to 1321.48 of the Revised 5206
Code and transactions in connection with residential mortgages 5207
between loan officers, mortgage brokers, or nonbank mortgage 5208

lenders and their customers; transactions involving a home 5209
construction service contract as defined in section 4722.01 of 5210
the Revised Code; transactions between certified public 5211
accountants or public accountants and their clients; 5212
transactions between attorneys, physicians, or dentists and 5213
their clients or patients; and transactions between 5214
veterinarians and their patients that pertain to medical 5215
treatment but not ancillary services. 5216

(B) "Person" includes an individual, corporation, 5217
government, governmental subdivision or agency, business trust, 5218
estate, trust, partnership, association, cooperative, or other 5219
legal entity. 5220

(C) "Supplier" means a seller, lessor, assignor, 5221
franchisor, or other person engaged in the business of effecting 5222
or soliciting consumer transactions, whether or not the person 5223
deals directly with the consumer. If the consumer transaction is 5224
in connection with a residential mortgage, "supplier" does not 5225
include an assignee or purchaser of the loan for value, except 5226
as otherwise provided in section 1345.091 of the Revised Code. 5227
For purposes of this division, in a consumer transaction in 5228
connection with a residential mortgage, "seller" means a loan 5229
officer, mortgage broker, or nonbank mortgage lender. 5230

(D) "Consumer" means a person who engages in a consumer 5231
transaction with a supplier. 5232

(E) "Knowledge" means actual awareness, but such actual 5233
awareness may be inferred where objective manifestations 5234
indicate that the individual involved acted with such awareness. 5235

(F) "Natural gas service" means the sale of natural gas, 5236
exclusive of any distribution or ancillary service. 5237

(G) "Public telecommunications service" means the 5238
transmission by electromagnetic or other means, other than by a 5239
telephone company as defined in section 4927.01 of the Revised 5240
Code, of signs, signals, writings, images, sounds, messages, or 5241
data originating in this state regardless of actual call 5242
routing. "Public telecommunications service" excludes a system, 5243
including its construction, maintenance, or operation, for the 5244
provision of telecommunications service, or any portion of such 5245
service, by any entity for the sole and exclusive use of that 5246
entity, its parent, a subsidiary, or an affiliated entity, and 5247
not for resale, directly or indirectly; the provision of 5248
terminal equipment used to originate telecommunications service; 5249
broadcast transmission by radio, television, or satellite 5250
broadcast stations regulated by the federal government; or cable 5251
television service. 5252

(H) (1) "Loan officer" means an individual who for 5253
compensation or gain, or in anticipation of compensation or 5254
gain, takes or offers to take a residential mortgage loan 5255
application; assists or offers to assist a buyer in obtaining or 5256
applying to obtain a residential mortgage loan by, among other 5257
things, advising on loan terms, including rates, fees, and other 5258
costs; offers or negotiates terms of a residential mortgage 5259
loan; or issues or offers to issue a commitment for a 5260
residential mortgage loan. "Loan officer" also includes a 5261
mortgage loan originator as defined in division ~~(E) (1)~~ (EE) of 5262
section 1322.01 of the Revised Code. 5263

(2) "Loan officer" does not include an employee of a bank, 5264
savings bank, savings and loan association, credit union, or 5265
credit union service organization organized under the laws of 5266
this state, another state, or the United States; an employee of 5267
a subsidiary of such a bank, savings bank, savings and loan 5268

association, or credit union; or an employee of an affiliate 5269
that (a) controls, is controlled by, or is under common control 5270
with, such a bank, savings bank, savings and loan association, 5271
or credit union and (b) is subject to examination, supervision, 5272
and regulation, including with respect to the affiliate's 5273
compliance with applicable consumer protection requirements, by 5274
the board of governors of the federal reserve system, the 5275
comptroller of the currency, the office of thrift supervision, 5276
the federal deposit insurance corporation, or the national 5277
credit union administration. 5278

(I) "Residential mortgage" or "mortgage" means an 5279
obligation to pay a sum of money evidenced by a note and secured 5280
by a lien upon real property located within this state 5281
containing two or fewer residential units or on which two or 5282
fewer residential units are to be constructed and includes such 5283
an obligation on a residential condominium or cooperative unit. 5284

(J) (1) "Mortgage broker" means any of the following: 5285

(a) A person that holds that person out as being able to 5286
assist a buyer in obtaining a mortgage and charges or receives 5287
from either the buyer or lender money or other valuable 5288
consideration readily convertible into money for providing this 5289
assistance; 5290

(b) A person that solicits financial and mortgage 5291
information from the public, provides that information to a 5292
mortgage broker or a person that makes residential mortgage 5293
loans, and charges or receives from either of them money or 5294
other valuable consideration readily convertible into money for 5295
providing the information; 5296

(c) A person engaged in table-funding or warehouse-lending 5297

mortgage loans that are residential mortgage loans. 5298

(2) "Mortgage broker" does not include a bank, savings 5299
bank, savings and loan association, credit union, or credit 5300
union service organization organized under the laws of this 5301
state, another state, or the United States; a subsidiary of such 5302
a bank, savings bank, savings and loan association, or credit 5303
union; an affiliate that (a) controls, is controlled by, or is 5304
under common control with, such a bank, savings bank, savings 5305
and loan association, or credit union and (b) is subject to 5306
examination, supervision, and regulation, including with respect 5307
to the affiliate's compliance with applicable consumer 5308
protection requirements, by the board of governors of the 5309
federal reserve system, the comptroller of the currency, the 5310
office of thrift supervision, the federal deposit insurance 5311
corporation, or the national credit union administration; or an 5312
employee of any such entity. 5313

(K) "Nonbank mortgage lender" means any person that 5314
engages in a consumer transaction in connection with a 5315
residential mortgage, except for a bank, savings bank, savings 5316
and loan association, credit union, or credit union service 5317
organization organized under the laws of this state, another 5318
state, or the United States; a subsidiary of such a bank, 5319
savings bank, savings and loan association, or credit union; or 5320
an affiliate that (1) controls, is controlled by, or is under 5321
common control with, such a bank, savings bank, savings and loan 5322
association, or credit union and (2) is subject to examination, 5323
supervision, and regulation, including with respect to the 5324
affiliate's compliance with applicable consumer protection 5325
requirements, by the board of governors of the federal reserve 5326
system, the comptroller of the currency, the office of thrift 5327
supervision, the federal deposit insurance corporation, or the 5328

national credit union administration. 5329

(L) For purposes of divisions (H), (J), and (K) of this 5330
section: 5331

(1) "Control" of another entity means ownership, control, 5332
or power to vote twenty-five per cent or more of the outstanding 5333
shares of any class of voting securities of the other entity, 5334
directly or indirectly or acting through one or more other 5335
persons. 5336

(2) "Credit union service organization" means a CUSO as 5337
defined in 12 C.F.R. 702.2. 5338

Sec. 1349.27. A creditor shall not do any of the 5339
following: 5340

(A) Make a covered loan that includes any of the 5341
following: 5342

(1) Terms under which a consumer must pay a prepayment 5343
penalty for paying all or part of the principal before the date 5344
on which the principal is due. For purposes of division (A) (1) 5345
of this section, any method of computing a refund of unearned 5346
scheduled interest is a prepayment penalty if it is less 5347
favorable to the consumer than the actuarial method. 5348

Division (A) (1) of this section does not apply to a 5349
prepayment penalty imposed in accordance with section 129(c) (2) 5350
of the "Home Ownership and Equity Protection Act of 1994," 108 5351
Stat. 2190, 15 U.S.C.A. 1639(c) (2), as amended, and the 5352
regulations adopted thereunder by the federal reserve board, as 5353
amended. 5354

(2) Terms under which the outstanding principal balance 5355
will increase at any time over the course of the loan because 5356

the regular periodic payments do not cover the full amount of 5357
interest due; 5358

(3) Terms under which more than two periodic payments 5359
required under the loan are consolidated and paid in advance 5360
from the loan proceeds provided to the consumer; 5361

(4) Terms under which a rebate of interest arising from a 5362
loan acceleration due to default is calculated by a method less 5363
favorable than the actuarial method. 5364

(B) Make a covered loan that provides for an interest rate 5365
applicable after default that is higher than the interest rate 5366
that applies before default; 5367

(C) Make a covered loan having a term of less than five 5368
years that includes terms under which the aggregate amount of 5369
the regular periodic payments would not fully amortize the 5370
outstanding principal balance. This division does not apply to 5371
any covered loan with a maturity of less than one year, if the 5372
purpose of the loan is a "bridge" loan connected with the 5373
acquisition or construction of a dwelling intended to become the 5374
consumer's principal dwelling. 5375

(D) Engage in a pattern or practice of extending credit to 5376
consumers under covered loans based on the consumers' collateral 5377
without regard to the consumers' repayment ability, including 5378
the consumers' current and expected income, current obligations, 5379
and employment; 5380

(E) Make a payment to a contractor under a home 5381
improvement contract from amounts extended as credit under a 5382
covered loan, except in either of the following ways: 5383

(1) By an instrument that is payable to the consumer or 5384
jointly to the consumer and the contractor; 5385

(2) At the election of the consumer, by a third party 5386
escrow agent in accordance with terms established in a written 5387
agreement signed by the consumer, the creditor, and the 5388
contractor before the date of payment. 5389

(F) On or after October 1, 2002, make a covered loan that 5390
includes a demand feature that permits the creditor to terminate 5391
the loan in advance of the original maturity date and to demand 5392
repayment of the entire outstanding balance, except in any of 5393
the following circumstances: 5394

(1) There is fraud or material misrepresentation by the 5395
consumer in connection with the loan. 5396

(2) The consumer fails to meet the repayment terms of the 5397
agreement for any outstanding balance. 5398

(3) There is any action or inaction by the consumer that 5399
adversely affects the creditor's security for the loan or any 5400
right of the creditor in that security. 5401

(G) (1) Within one year after having made a covered loan, 5402
refinance a covered loan to the same borrower into another 5403
covered loan, unless the refinancing is in the consumer's 5404
interest. An assignee holding or servicing a covered loan shall 5405
not, for the remainder of the one-year period following the date 5406
of origination of the covered loan, refinance any covered loan 5407
to the same consumer into another covered loan, unless the 5408
refinancing is in the consumer's interest. 5409

A creditor or assignee shall not engage in acts or 5410
practices to evade division (G) (1) of this section, including a 5411
pattern or practice of arranging for the refinancing of its own 5412
loans by affiliated or unaffiliated creditors, or modifying a 5413
loan agreement, whether or not the existing loan is satisfied 5414

and replaced by the new loan, and charging a fee. 5415

(2) Division (G) (1) of this section shall apply on and 5416
after October 1, 2002. 5417

~~(H) Make a covered loan without first obtaining a copy of 5418
the mortgage loan origination disclosure statement that was 5419
delivered to the buyer in accordance with division (A) (1) of 5420
section 1322.062 of the Revised Code; 5421~~

~~(I) Finance, directly or indirectly, into a covered loan 5422
or finance to the same borrower within thirty days of a covered 5423
loan any credit life or credit disability insurance premiums 5424
sold in connection with the covered loan, provided that any 5425
credit life or credit disability insurance premiums calculated 5426
and paid on a monthly or other periodic basis shall not be 5427
considered financed by the person originating the loan. For 5428
purposes of this division, credit life or credit disability 5429
insurance does not include a contract issued by a government 5430
agency or private mortgage insurance company to insure the 5431
lender against loss caused by a mortgagor's default. 5432~~

~~(J) (I) Replace or consolidate a zero interest rate or 5433
other low-rate loan made by a governmental or nonprofit lender 5434
with a covered loan within the first ten years of the low-rate 5435
loan unless the current holder of the loan consents in writing 5436
to the refinancing. For purposes of this division, a "low-rate 5437
loan" means a loan that carries a current interest rate two 5438
percentage points or more below the current yield on United 5439
States treasury securities with a comparable maturity. If the 5440
loan's current interest rate is either a discounted introductory 5441
rate or a rate that automatically steps up over time, the fully 5442
indexed rate or the fully stepped-up rate, as applicable, shall 5443
be used, in lieu of the current rate, to determine whether a 5444~~

loan is a low-rate loan. 5445

~~(K)~~ (J) Make a covered loan if, at the time the loan was 5446
consummated, the consumer's total monthly debt, including 5447
amounts owed under the loan, exceed fifty per cent of the 5448
consumer's monthly gross income, as verified by the credit 5449
application, the consumer's financial statement, a credit 5450
report, financial information provided to the person originating 5451
the loan by or on behalf of the consumer, or any other 5452
reasonable means, unless the consumer submits both of the 5453
following: 5454

(1) Verification that the consumer received prepurchase 5455
counseling from a counseling service that meets the criteria 5456
established by the superintendent of financial institutions 5457
under section 1349.271 of the Revised Code; 5458

(2) A disclosure, signed by the consumer, that 5459
acknowledges the risk of entering into such a loan. 5460

Sec. 1349.43. (A) As used in this section, "loan officer," 5461
"mortgage broker," and "nonbank mortgage lender" have the same 5462
meanings as in section 1345.01 of the Revised Code. 5463

(B) The department of commerce shall establish and 5464
maintain an electronic database accessible through the internet 5465
that contains information on all of the following: 5466

(1) The enforcement actions taken by the superintendent of 5467
financial institutions for each violation of or failure to 5468
comply with any provision of ~~sections 1322.01 to 1322.12~~ Chapter 5469
1322. of the Revised Code, upon final disposition of the action; 5470

(2) The enforcement actions taken by the attorney general 5471
under Chapter 1345. of the Revised Code against loan officers, 5472
mortgage brokers, and nonbank mortgage lenders, upon final 5473

disposition of each action; 5474

(3) All judgments by courts of this state, concerning 5475
which appellate remedies have been exhausted or lost by the 5476
expiration of the time for appeal, finding either of the 5477
following: 5478

(a) A violation of any provision of ~~sections 1322.01 to~~ 5479
~~1322.12~~ Chapter 1322. of the Revised Code; 5480

(b) That specific acts or practices by a loan officer, 5481
mortgage broker, or nonbank mortgage lender violate section 5482
1345.02, 1345.03, or 1345.031 of the Revised Code. 5483

(C) The attorney general shall notify the department of 5484
all enforcement actions and judgments described in divisions (B) 5485
(2) and (3) (b) of this section. 5486

(D) The department may adopt rules in accordance with 5487
Chapter 119. of the Revised Code that are necessary to implement 5488
this section. 5489

(E) The electronic database maintained by the department 5490
in accordance with this section shall not include information 5491
that, pursuant to section ~~1322.061~~ 1322.36 of the Revised Code, 5492
is confidential. 5493

Sec. 1349.44. (A) The superintendent of financial 5494
institutions shall report semiannually to the governor and the 5495
general assembly on the operations of the division of financial 5496
institutions with respect to the following: 5497

(1) Enforcement actions instituted by the superintendent 5498
for a violation of or failure to comply with any provision of 5499
~~sections 1322.01 to 1322.12~~ Chapter 1322. of the Revised Code, 5500
and their final dispositions; 5501

(2) Suspensions, revocations, or refusals to issue or 5502
renew certificates of registration and licenses under ~~sections~~ 5503
~~1322.01 to 1322.12~~ Chapter 1322. of the Revised Code; 5504

(3) Outreach efforts of the office of consumer affairs to 5505
provide education regarding predatory lending, borrowing, and 5506
related financial topics. 5507

(B) The information required under divisions (A) (1) and 5508
(2) of this section does not include information that, pursuant 5509
to section ~~1322.061~~ 1322.36 of the Revised Code, is 5510
confidential. 5511

Sec. 1349.45. (A) As used in this section, "financial 5512
institution" means any bank, savings and loan association, 5513
savings bank, or credit union; any affiliate or subsidiary of a 5514
bank, savings and loan association, savings bank, or credit 5515
union; ~~or~~ any registrant as defined in section 1321.51 of the 5516
Revised Code; or any person registered as a mortgage lender 5517
under Chapter 1322. of the Revised Code. 5518

(B) No person shall use the name or logo of any financial 5519
institution in connection with the sale, offering for sale, 5520
distribution, or advertising of any product or service without 5521
the express written consent of the financial institution, if 5522
such use is misleading or deceptive as to the source of origin 5523
or sponsorship of, or the affiliation with, the product or 5524
service. 5525

Sec. 1349.99. (A) Whoever violates section 1349.06 or 5526
1349.17 of the Revised Code is guilty of a minor misdemeanor. 5527

(B) (1) Whoever violates section 1349.45 of the Revised 5528
Code is guilty of a misdemeanor of the first degree. 5529

(2) Notwithstanding division (B) (1) of this section, the 5530

only remedies that are available for a violation of section 5531
1349.45 of the Revised Code by a registrant or licensee under 5532
~~sections 1322.01 to 1322.12~~ Chapter 1322. of the Revised Code 5533
are those set forth in section ~~1322.10~~ 1322.50 of the Revised 5534
Code or otherwise provided by statute or common law. 5535

(3) The provisions of division (B) of this section are not 5536
intended to be exclusive remedies and do not preclude the use of 5537
any other remedy provided by law. 5538

Sec. 2923.31. As used in sections 2923.31 to 2923.36 of 5539
the Revised Code: 5540

(A) "Beneficial interest" means any of the following: 5541

(1) The interest of a person as a beneficiary under a 5542
trust in which the trustee holds title to personal or real 5543
property; 5544

(2) The interest of a person as a beneficiary under any 5545
other trust arrangement under which any other person holds title 5546
to personal or real property for the benefit of such person; 5547

(3) The interest of a person under any other form of 5548
express fiduciary arrangement under which any other person holds 5549
title to personal or real property for the benefit of such 5550
person. 5551

"Beneficial interest" does not include the interest of a 5552
stockholder in a corporation or the interest of a partner in 5553
either a general or limited partnership. 5554

(B) "Costs of investigation and prosecution" and "costs of 5555
investigation and litigation" mean all of the costs incurred by 5556
the state or a county or municipal corporation under sections 5557
2923.31 to 2923.36 of the Revised Code in the prosecution and 5558

investigation of any criminal action or in the litigation and 5559
investigation of any civil action, and includes, but is not 5560
limited to, the costs of resources and personnel. 5561

(C) "Enterprise" includes any individual, sole 5562
proprietorship, partnership, limited partnership, corporation, 5563
trust, union, government agency, or other legal entity, or any 5564
organization, association, or group of persons associated in 5565
fact although not a legal entity. "Enterprise" includes illicit 5566
as well as licit enterprises. 5567

(D) "Innocent person" includes any bona fide purchaser of 5568
property that is allegedly involved in a violation of section 5569
2923.32 of the Revised Code, including any person who 5570
establishes a valid claim to or interest in the property in 5571
accordance with division (E) of section 2981.04 of the Revised 5572
Code, and any victim of an alleged violation of that section or 5573
of any underlying offense involved in an alleged violation of 5574
that section. 5575

(E) "Pattern of corrupt activity" means two or more 5576
incidents of corrupt activity, whether or not there has been a 5577
prior conviction, that are related to the affairs of the same 5578
enterprise, are not isolated, and are not so closely related to 5579
each other and connected in time and place that they constitute 5580
a single event. 5581

At least one of the incidents forming the pattern shall 5582
occur on or after January 1, 1986. Unless any incident was an 5583
aggravated murder or murder, the last of the incidents forming 5584
the pattern shall occur within six years after the commission of 5585
any prior incident forming the pattern, excluding any period of 5586
imprisonment served by any person engaging in the corrupt 5587
activity. 5588

For the purposes of the criminal penalties that may be 5589
imposed pursuant to section 2923.32 of the Revised Code, at 5590
least one of the incidents forming the pattern shall constitute 5591
a felony under the laws of this state in existence at the time 5592
it was committed or, if committed in violation of the laws of 5593
the United States or of any other state, shall constitute a 5594
felony under the law of the United States or the other state and 5595
would be a criminal offense under the law of this state if 5596
committed in this state. 5597

(F) "Pecuniary value" means money, a negotiable 5598
instrument, a commercial interest, or anything of value, as 5599
defined in section 1.03 of the Revised Code, or any other 5600
property or service that has a value in excess of one hundred 5601
dollars. 5602

(G) "Person" means any person, as defined in section 1.59 5603
of the Revised Code, and any governmental officer, employee, or 5604
entity. 5605

(H) "Personal property" means any personal property, any 5606
interest in personal property, or any right, including, but not 5607
limited to, bank accounts, debts, corporate stocks, patents, or 5608
copyrights. Personal property and any beneficial interest in 5609
personal property are deemed to be located where the trustee of 5610
the property, the personal property, or the instrument 5611
evidencing the right is located. 5612

(I) "Corrupt activity" means engaging in, attempting to 5613
engage in, conspiring to engage in, or soliciting, coercing, or 5614
intimidating another person to engage in any of the following: 5615

(1) Conduct defined as "racketeering activity" under the 5616
"Organized Crime Control Act of 1970," 84 Stat. 941, 18 U.S.C. 5617

1961(1)(B), (1)(C), (1)(D), and (1)(E), as amended; 5618

(2) Conduct constituting any of the following: 5619

(a) A violation of section 1315.55, ~~1322.02~~ 1322.07, 5620
2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 5621
2905.02, 2905.11, 2905.22, 2905.32 as specified in division (I) 5622
(2)(g) of this section, 2907.321, 2907.322, 2907.323, 2909.02, 5623
2909.03, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 5624
2909.29, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 5625
2913.05, 2913.06, 2921.02, 2921.03, 2921.04, 2921.11, 2921.12, 5626
2921.32, 2921.41, 2921.42, 2921.43, 2923.12, or 2923.17; 5627
division (F)(1)(a), (b), or (c) of section 1315.53; division (A) 5628
(1) or (2) of section 1707.042; division (B), (C)(4), (D), (E), 5629
or (F) of section 1707.44; division (A)(1) or (2) of section 5630
2923.20; division (E) or (G) of section 3772.99; division (J)(1) 5631
of section 4712.02; section 4719.02, 4719.05, or 4719.06; 5632
division (C), (D), or (E) of section 4719.07; section 4719.08; 5633
or division (A) of section 4719.09 of the Revised Code. 5634

(b) Any violation of section 3769.11, 3769.15, 3769.16, or 5635
3769.19 of the Revised Code as it existed prior to July 1, 1996, 5636
any violation of section 2915.02 of the Revised Code that occurs 5637
on or after July 1, 1996, and that, had it occurred prior to 5638
that date, would have been a violation of section 3769.11 of the 5639
Revised Code as it existed prior to that date, or any violation 5640
of section 2915.05 of the Revised Code that occurs on or after 5641
July 1, 1996, and that, had it occurred prior to that date, 5642
would have been a violation of section 3769.15, 3769.16, or 5643
3769.19 of the Revised Code as it existed prior to that date. 5644

(c) Any violation of section 2907.21, 2907.22, 2907.31, 5645
2913.02, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.42, 5646
2913.47, 2913.51, 2915.03, 2925.03, 2925.04, 2925.05, or 2925.37 5647

of the Revised Code, any violation of section 2925.11 of the Revised Code that is a felony of the first, second, third, or fourth degree and that occurs on or after July 1, 1996, any violation of section 2915.02 of the Revised Code that occurred prior to July 1, 1996, any violation of section 2915.02 of the Revised Code that occurs on or after July 1, 1996, and that, had it occurred prior to that date, would not have been a violation of section 3769.11 of the Revised Code as it existed prior to that date, any violation of section 2915.06 of the Revised Code as it existed prior to July 1, 1996, or any violation of division (B) of section 2915.05 of the Revised Code as it exists on and after July 1, 1996, when the proceeds of the violation, the payments made in the violation, the amount of a claim for payment or for any other benefit that is false or deceptive and that is involved in the violation, or the value of the contraband or other property illegally possessed, sold, or purchased in the violation exceeds one thousand dollars, or any combination of violations described in division (I) (2) (c) of this section when the total proceeds of the combination of violations, payments made in the combination of violations, amount of the claims for payment or for other benefits that is false or deceptive and that is involved in the combination of violations, or value of the contraband or other property illegally possessed, sold, or purchased in the combination of violations exceeds one thousand dollars;

(d) Any violation of section 5743.112 of the Revised Code when the amount of unpaid tax exceeds one hundred dollars;

(e) Any violation or combination of violations of section 2907.32 of the Revised Code involving any material or performance containing a display of bestiality or of sexual conduct, as defined in section 2907.01 of the Revised Code, that

is explicit and depicted with clearly visible penetration of the 5679
genitals or clearly visible penetration by the penis of any 5680
orifice when the total proceeds of the violation or combination 5681
of violations, the payments made in the violation or combination 5682
of violations, or the value of the contraband or other property 5683
illegally possessed, sold, or purchased in the violation or 5684
combination of violations exceeds one thousand dollars; 5685

(f) Any combination of violations described in division 5686
(I) (2) (c) of this section and violations of section 2907.32 of 5687
the Revised Code involving any material or performance 5688
containing a display of bestiality or of sexual conduct, as 5689
defined in section 2907.01 of the Revised Code, that is explicit 5690
and depicted with clearly visible penetration of the genitals or 5691
clearly visible penetration by the penis of any orifice when the 5692
total proceeds of the combination of violations, payments made 5693
in the combination of violations, amount of the claims for 5694
payment or for other benefits that is false or deceptive and 5695
that is involved in the combination of violations, or value of 5696
the contraband or other property illegally possessed, sold, or 5697
purchased in the combination of violations exceeds one thousand 5698
dollars; 5699

(g) Any violation of section 2905.32 of the Revised Code 5700
to the extent the violation is not based solely on the same 5701
conduct that constitutes corrupt activity pursuant to division 5702
(I) (2) (c) of this section due to the conduct being in violation 5703
of section 2907.21 of the Revised Code. 5704

(3) Conduct constituting a violation of any law of any 5705
state other than this state that is substantially similar to the 5706
conduct described in division (I) (2) of this section, provided 5707
the defendant was convicted of the conduct in a criminal 5708

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| proceeding in the other state; | 5709 |
| (4) Animal or ecological terrorism; | 5710 |
| (5) (a) Conduct constituting any of the following: | 5711 |
| (i) Organized retail theft; | 5712 |
| (ii) Conduct that constitutes one or more violations of | 5713 |
| any law of any state other than this state, that is | 5714 |
| substantially similar to organized retail theft, and that if | 5715 |
| committed in this state would be organized retail theft, if the | 5716 |
| defendant was convicted of or pleaded guilty to the conduct in a | 5717 |
| criminal proceeding in the other state. | 5718 |
| (b) By enacting division (I) (5) (a) of this section, it is | 5719 |
| the intent of the general assembly to add organized retail theft | 5720 |
| and the conduct described in division (I) (5) (a) (ii) of this | 5721 |
| section as conduct constituting corrupt activity. The enactment | 5722 |
| of division (I) (5) (a) of this section and the addition by | 5723 |
| division (I) (5) (a) of this section of organized retail theft and | 5724 |
| the conduct described in division (I) (5) (a) (ii) of this section | 5725 |
| as conduct constituting corrupt activity does not limit or | 5726 |
| preclude, and shall not be construed as limiting or precluding, | 5727 |
| any prosecution for a violation of section 2923.32 of the | 5728 |
| Revised Code that is based on one or more violations of section | 5729 |
| 2913.02 or 2913.51 of the Revised Code, one or more similar | 5730 |
| offenses under the laws of this state or any other state, or any | 5731 |
| combination of any of those violations or similar offenses, even | 5732 |
| though the conduct constituting the basis for those violations | 5733 |
| or offenses could be construed as also constituting organized | 5734 |
| retail theft or conduct of the type described in division (I) (5) | 5735 |
| (a) (ii) of this section. | 5736 |
| (J) "Real property" means any real property or any | 5737 |

interest in real property, including, but not limited to, any 5738
lease of, or mortgage upon, real property. Real property and any 5739
beneficial interest in it is deemed to be located where the real 5740
property is located. 5741

(K) "Trustee" means any of the following: 5742

(1) Any person acting as trustee under a trust in which 5743
the trustee holds title to personal or real property; 5744

(2) Any person who holds title to personal or real 5745
property for which any other person has a beneficial interest; 5746

(3) Any successor trustee. 5747

"Trustee" does not include an assignee or trustee for an 5748
insolvent debtor or an executor, administrator, administrator 5749
with the will annexed, testamentary trustee, guardian, or 5750
committee, appointed by, under the control of, or accountable to 5751
a court. 5752

(L) "Unlawful debt" means any money or other thing of 5753
value constituting principal or interest of a debt that is 5754
legally unenforceable in this state in whole or in part because 5755
the debt was incurred or contracted in violation of any federal 5756
or state law relating to the business of gambling activity or 5757
relating to the business of lending money at an usurious rate 5758
unless the creditor proves, by a preponderance of the evidence, 5759
that the usurious rate was not intentionally set and that it 5760
resulted from a good faith error by the creditor, 5761
notwithstanding the maintenance of procedures that were adopted 5762
by the creditor to avoid an error of that nature. 5763

(M) "Animal activity" means any activity that involves the 5764
use of animals or animal parts, including, but not limited to, 5765
hunting, fishing, trapping, traveling, camping, the production, 5766

preparation, or processing of food or food products, clothing or 5767
garment manufacturing, medical research, other research, 5768
entertainment, recreation, agriculture, biotechnology, or 5769
service activity that involves the use of animals or animal 5770
parts. 5771

(N) "Animal facility" means a vehicle, building, 5772
structure, nature preserve, or other premises in which an animal 5773
is lawfully kept, handled, housed, exhibited, bred, or offered 5774
for sale, including, but not limited to, a zoo, rodeo, circus, 5775
amusement park, hunting preserve, or premises in which a horse 5776
or dog event is held. 5777

(O) "Animal or ecological terrorism" means the commission 5778
of any felony that involves causing or creating a substantial 5779
risk of physical harm to any property of another, the use of a 5780
deadly weapon or dangerous ordnance, or purposely, knowingly, or 5781
recklessly causing serious physical harm to property and that 5782
involves an intent to obstruct, impede, or deter any person from 5783
participating in a lawful animal activity, from mining, 5784
forestry, harvesting, gathering, or processing natural 5785
resources, or from being lawfully present in or on an animal 5786
facility or research facility. 5787

(P) "Research facility" means a place, laboratory, 5788
institution, medical care facility, government facility, or 5789
public or private educational institution in which a scientific 5790
test, experiment, or investigation involving the use of animals 5791
or other living organisms is lawfully carried out, conducted, or 5792
attempted. 5793

(Q) "Organized retail theft" means the theft of retail 5794
property with a retail value of one thousand dollars or more 5795
from one or more retail establishments with the intent to sell, 5796

deliver, or transfer that property to a retail property fence. 5797

(R) "Retail property" means any tangible personal property 5798
displayed, held, stored, or offered for sale in or by a retail 5799
establishment. 5800

(S) "Retail property fence" means a person who possesses, 5801
procures, receives, or conceals retail property that was 5802
represented to the person as being stolen or that the person 5803
knows or believes to be stolen. 5804

(T) "Retail value" means the full retail value of the 5805
retail property. In determining whether the retail value of 5806
retail property equals or exceeds one thousand dollars, the 5807
value of all retail property stolen from the retail 5808
establishment or retail establishments by the same person or 5809
persons within any one-hundred-eighty-day period shall be 5810
aggregated. 5811

Sec. 4712.01. As used in sections 4712.01 to 4712.14 of 5812
the Revised Code: 5813

(A) "Buyer" means an individual who is solicited to 5814
purchase or who purchases the services of a credit services 5815
organization for purposes other than obtaining a business loan 5816
as described in division (B) (6) of section 1343.01 of the 5817
Revised Code. 5818

(B) "Consumer reporting agency" has the same meaning as in 5819
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 5820
1681a, as amended. 5821

(C) (1) "Credit services organization" means any person 5822
that, in return for the payment of money or other valuable 5823
consideration readily convertible into money for the following 5824
services, sells, provides, or performs, or represents that the 5825

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| person can or will sell, provide, or perform, one or more of the | 5826 |
| following services: | 5827 |
| (a) Improving a buyer's credit record, history, or rating; | 5828 |
| (b) Obtaining an extension of credit by others for a | 5829 |
| buyer; | 5830 |
| (c) Providing advice or assistance to a buyer in | 5831 |
| connection with division (C) (1) (a) or (b) of this section; | 5832 |
| (d) Removing adverse credit information that is accurate | 5833 |
| and not obsolete from the buyer's credit record, history, or | 5834 |
| rating; | 5835 |
| (e) Altering the buyer's identification to prevent the | 5836 |
| display of the buyer's credit record, history, or rating. | 5837 |
| (2) "Credit services organization" does not include any of | 5838 |
| the following: | 5839 |
| (a) A person that makes or collects loans, to the extent | 5840 |
| these activities are subject to licensure or registration by | 5841 |
| this state; | 5842 |
| (b) A mortgage broker, as defined in section 1322.01 of | 5843 |
| the Revised Code, that holds a valid certificate of registration | 5844 |
| under sections 1322.01 to 1322.12 <u>Chapter 1322.</u> of the Revised | 5845 |
| Code; | 5846 |
| (c) A lender approved by the United States secretary of | 5847 |
| housing and urban development for participation in a mortgage | 5848 |
| insurance program under the "National Housing Act," 48 Stat. | 5849 |
| 1246 (1934), 12 U.S.C.A. 1701, as amended; | 5850 |
| (d) A bank, savings bank, or savings and loan association, | 5851 |
| or a subsidiary or an affiliate of a bank, savings bank, or | 5852 |

savings and loan association. For purposes of division (C) (2) (d) 5853
of this section, "affiliate" has the same meaning as in division 5854
(A) of section 1101.01 of the Revised Code and "bank," as used 5855
in division (A) of section 1101.01 of the Revised Code, is 5856
deemed to include a savings bank or savings and loan 5857
association. 5858

(e) A credit union organized and qualified under Chapter 5859
1733. of the Revised Code or the "Federal Credit Union Act," 84 5860
Stat. 994 (1970), 12 U.S.C.A. 1751, as amended; 5861

(f) A budget and debt counseling service, as defined in 5862
division (D) of section 2716.03 of the Revised Code, provided 5863
that the service is a nonprofit organization exempt from 5864
taxation under section 501(c) (3) of the "Internal Revenue Code 5865
of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, and that 5866
the service is in compliance with Chapter 4710. of the Revised 5867
Code; 5868

(g) A consumer reporting agency that is in substantial 5869
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 5870
15 U.S.C.A. 1681a, as amended. 5871

(h) A mortgage banker; 5872

(i) Any political subdivision, or any governmental or 5873
other public entity, corporation, or agency, in or of the United 5874
States or any state of the United States; 5875

(j) A college or university, or controlled entity of a 5876
college or university, as defined in section 1713.05 of the 5877
Revised Code; 5878

(k) A motor vehicle dealer licensed pursuant to Chapter 5879
4517. of the Revised Code acting within the scope and authority 5880
of that license or a motor vehicle auction owner licensed 5881

pursuant to Chapters 4517. and 4707. of the Revised Code acting 5882
within the scope and authority of that license; 5883

(1) An attorney at law admitted to the practice of law in 5884
this state who offers, provides, or performs a legal service 5885
that is privileged by reason of the attorney-client 5886
relationship, provided that the service is not a service 5887
described in division (C) (1) (b) or (e) of this section. 5888

(D) "Extension of credit" means the right to defer payment 5889
of debt, or to incur debt and defer its payment, offered or 5890
granted primarily for personal, family, or household purposes. 5891
"Extension of credit" does not include a mortgage. 5892

(E) "Mortgage" means any indebtedness secured by a deed of 5893
trust, security deed, or other lien on real property. 5894

(F) "Mortgage banker" means any person that makes, 5895
services, or buys and sells mortgage loans and is approved by 5896
the United States department of housing and urban development, 5897
the United States department of veterans affairs, the federal 5898
national mortgage association, or the federal home loan mortgage 5899
corporation. 5900

(G) "Superintendent of financial institutions" includes 5901
the deputy superintendent for consumer finance as provided in 5902
section 1181.21 of the Revised Code. 5903

Sec. 4719.01. (A) As used in sections 4719.01 to 4719.18 5904
of the Revised Code: 5905

(1) "Affiliate" means a business entity that is owned by, 5906
operated by, controlled by, or under common control with another 5907
business entity. 5908

(2) "Communication" means a written or oral notification 5909

or advertisement that meets both of the following criteria, as 5910
applicable: 5911

(a) The notification or advertisement is transmitted by or 5912
on behalf of the seller of goods or services and by or through 5913
any printed, audio, video, cinematic, telephonic, or electronic 5914
means. 5915

(b) In the case of a notification or advertisement other 5916
than by telephone, either of the following conditions is met: 5917

(i) The notification or advertisement is followed by a 5918
telephone call from a telephone solicitor or salesperson. 5919

(ii) The notification or advertisement invites a response 5920
by telephone, and, during the course of that response, a 5921
telephone solicitor or salesperson attempts to make or makes a 5922
sale of goods or services. As used in division (A) (2) (b) (ii) of 5923
this section, "invites a response by telephone" excludes the 5924
mere listing or inclusion of a telephone number in a 5925
notification or advertisement. 5926

(3) "Gift, award, or prize" means anything of value that 5927
is offered or purportedly offered, or given or purportedly given 5928
by chance, at no cost to the receiver and with no obligation to 5929
purchase goods or services. As used in this division, "chance" 5930
includes a situation in which a person is guaranteed to receive 5931
an item and, at the time of the offer or purported offer, the 5932
telephone solicitor does not identify the specific item that the 5933
person will receive. 5934

(4) "Goods or services" means any real property or any 5935
tangible or intangible personal property, or services of any 5936
kind provided or offered to a person. "Goods or services" 5937
includes, but is not limited to, advertising; labor performed 5938

for the benefit of a person; personal property intended to be 5939
attached to or installed in any real property, regardless of 5940
whether it is so attached or installed; timeshare estates or 5941
licenses; and extended service contracts. 5942

(5) "Purchaser" means a person that is solicited to become 5943
or does become financially obligated as a result of a telephone 5944
solicitation. 5945

(6) "Salesperson" means an individual who is employed, 5946
appointed, or authorized by a telephone solicitor to make 5947
telephone solicitations but does not mean any of the following: 5948

(a) An individual who comes within one of the exemptions 5949
in division (B) of this section; 5950

(b) An individual employed, appointed, or authorized by a 5951
person who comes within one of the exemptions in division (B) of 5952
this section; 5953

(c) An individual under a written contract with a person 5954
who comes within one of the exemptions in division (B) of this 5955
section, if liability for all transactions with purchasers is 5956
assumed by the person so exempted. 5957

(7) "Telephone solicitation" means a communication to a 5958
person that meets both of the following criteria: 5959

(a) The communication is initiated by or on behalf of a 5960
telephone solicitor or by a salesperson. 5961

(b) The communication either represents a price or the 5962
quality or availability of goods or services or is used to 5963
induce the person to purchase goods or services, including, but 5964
not limited to, inducement through the offering of a gift, 5965
award, or prize. 5966

(8) "Telephone solicitor" means a person that engages in telephone solicitation directly or through one or more salespersons either from a location in this state, or from a location outside this state to persons in this state. "Telephone solicitor" includes, but is not limited to, any such person that is an owner, operator, officer, or director of, partner in, or other individual engaged in the management activities of, a business.

(B) A telephone solicitor is exempt from the provisions of sections 4719.02 to 4719.18 and section 4719.99 of the Revised Code if the telephone solicitor is any one of the following:

(1) A person engaging in a telephone solicitation that is a one-time or infrequent transaction not done in the course of a pattern of repeated transactions of a like nature;

(2) A person engaged in telephone solicitation solely for religious or political purposes; a charitable organization, fund-raising counsel, or professional solicitor in compliance with the registration and reporting requirements of Chapter 1716. of the Revised Code; or any person or other entity exempt under section 1716.03 of the Revised Code from filing a registration statement under section 1716.02 of the Revised Code;

(3) A person, making a telephone solicitation involving a home solicitation sale as defined in section 1345.21 of the Revised Code, that makes the sales presentation and completes the sale at a later, face-to-face meeting between the seller and the purchaser rather than during the telephone solicitation. However, if the person, following the telephone solicitation, causes another person to collect the payment of any money, this exemption does not apply.

(4) A licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person when making a telephone solicitation within the scope of the person's license. As used in division (B) (4) of this section, "licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person" means a person subject to licensure or registration as such by the securities and exchange commission; the National Association of Securities Dealers or other self-regulatory organization, as defined by 15 U.S.C.A. 78c; by the division of securities under Chapter 1707. of the Revised Code; or by an official or agency of any other state of the United States.

(5) (a) A person primarily engaged in soliciting the sale of a newspaper of general circulation;

(b) As used in division (B) (5) (a) of this section, "newspaper of general circulation" includes, but is not limited to, both of the following:

(i) A newspaper that is a daily law journal designated as an official publisher of court calendars pursuant to section 2701.09 of the Revised Code;

(ii) A newspaper or publication that has at least twenty-five per cent editorial, non-advertising content, exclusive of inserts, measured relative to total publication space, and an audited circulation to at least fifty per cent of the households in the newspaper's retail trade zone as defined by the audit.

(6) (a) An issuer, or its subsidiary, that has a class of securities to which all of the following apply:

(i) The class of securities is subject to section 12 of the "Securities Exchange Act of 1934," 15 U.S.C.A. 781, and is

registered or is exempt from registration under 15 U.S.C.A. 6026
781(g) (2) (A), (B), (C), (E), (F), (G), or (H); 6027

(ii) The class of securities is listed on the New York 6028
stock exchange, the American stock exchange, or the NASDAQ 6029
national market system; 6030

(iii) The class of securities is a reported security as 6031
defined in 17 C.F.R. 240.11Aa3-1(a) (4). 6032

(b) An issuer, or its subsidiary, that formerly had a 6033
class of securities that met the criteria set forth in division 6034
(B) (6) (a) of this section if the issuer, or its subsidiary, has 6035
a net worth in excess of one hundred million dollars, files or 6036
its parent files with the securities and exchange commission an 6037
S.E.C. form 10-K, and has continued in substantially the same 6038
business since it had a class of securities that met the 6039
criteria in division (B) (6) (a) of this section. As used in 6040
division (B) (6) (b) of this section, "issuer" and "subsidiary" 6041
include the successor to an issuer or subsidiary. 6042

(7) A person soliciting a transaction regulated by the 6043
commodity futures trading commission, if the person is 6044
registered or temporarily registered for that activity with the 6045
commission under 7 U.S.C.A. 1 et seq. and the registration or 6046
temporary registration has not expired or been suspended or 6047
revoked; 6048

(8) A person soliciting the sale of any book, record, 6049
audio tape, compact disc, or video, if the person allows the 6050
purchaser to review the merchandise for at least seven days and 6051
provides a full refund within thirty days to a purchaser who 6052
returns the merchandise or if the person solicits the sale on 6053
behalf of a membership club operating in compliance with 6054

regulations adopted by the federal trade commission in 16 C.F.R. 6055
425; 6056

(9) A supervised financial institution or its subsidiary. 6057
As used in division (B)(9) of this section, "supervised 6058
financial institution" means a bank, trust company, savings and 6059
loan association, savings bank, credit union, industrial loan 6060
company, consumer finance lender, commercial finance lender, or 6061
institution described in section 2(c)(2)(F) of the "Bank Holding 6062
Company Act of 1956," 12 U.S.C.A. 1841(c)(2)(F), as amended, 6063
supervised by an official or agency of the United States, this 6064
state, or any other state of the United States; or a licensee or 6065
registrant under sections 1321.01 to 1321.19, 1321.51 to 6066
1321.60, or 1321.71 to 1321.83, or Chapter 1322. of the Revised 6067
Code. 6068

(10)(a) An insurance company, association, or other 6069
organization that is licensed or authorized to conduct business 6070
in this state by the superintendent of insurance pursuant to 6071
Title XXXIX of the Revised Code or Chapter 1751. of the Revised 6072
Code, when soliciting within the scope of its license or 6073
authorization. 6074

(b) A licensed insurance broker, agent, or solicitor when 6075
soliciting within the scope of the person's license. As used in 6076
division (B)(10)(b) of this section, "licensed insurance broker, 6077
agent, or solicitor" means any person licensed as an insurance 6078
broker, agent, or solicitor by the superintendent of insurance 6079
pursuant to Title XXXIX of the Revised Code. 6080

(11) A person soliciting the sale of services provided by 6081
a cable television system operating under authority of a 6082
governmental franchise or permit; 6083

- (12) A person soliciting a business-to-business sale under which any of the following conditions are met: 6084
6085
- (a) The telephone solicitor has been operating continuously for at least three years under the same business name under which it solicits purchasers, and at least fifty-one per cent of its gross dollar volume of sales consists of repeat sales to existing customers to whom it has made sales under the same business name. 6086
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- (b) The purchaser business intends to resell the goods purchased. 6092
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- (c) The purchaser business intends to use the goods or services purchased in a recycling, reuse, manufacturing, or remanufacturing process. 6094
6095
6096
- (d) The telephone solicitor is a publisher of a periodical or of magazines distributed as controlled circulation publications as defined in division (CC) of section 5739.01 of the Revised Code and is soliciting sales of advertising, subscriptions, reprints, lists, information databases, conference participation or sponsorships, trade shows or media products related to the periodical or magazine, or other publishing services provided by the controlled circulation publication. 6097
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- (13) A person that, not less often than once each year, publishes and delivers to potential purchasers a catalog that complies with both of the following: 6106
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6108
- (a) It includes all of the following: 6109
- (i) The business address of the seller; 6110
- (ii) A written description or illustration of each good or 6111

service offered for sale; 6112

(iii) A clear and conspicuous disclosure of the sale price 6113
of each good or service; shipping, handling, and other charges; 6114
and return policy. 6115

(b) One of the following applies: 6116

(i) The catalog includes at least twenty-four pages of 6117
written material and illustrations, is distributed in more than 6118
one state, and has an annual postage-paid mail circulation of 6119
not less than two hundred fifty thousand households; 6120

(ii) The catalog includes at least ten pages of written 6121
material or an equivalent amount of material in electronic form 6122
on the internet or an on-line computer service, the person does 6123
not solicit customers by telephone but solely receives telephone 6124
calls made in response to the catalog, and during the calls the 6125
person takes orders but does not engage in further solicitation 6126
of the purchaser. As used in division (B) (13) (b) (ii) of this 6127
section, "further solicitation" does not include providing the 6128
purchaser with information about, or attempting to sell, any 6129
other item in the catalog that prompted the purchaser's call or 6130
in a substantially similar catalog issued by the seller. 6131

(14) A political subdivision or instrumentality of the 6132
United States, this state, or any state of the United States; 6133

(15) A college or university or any other public or 6134
private institution of higher education in this state; 6135

(16) A public utility as defined in section 4905.02 of the 6136
Revised Code or a retail natural gas supplier as defined in 6137
section 4929.01 of the Revised Code, if the utility or supplier 6138
is subject to regulation by the public utilities commission, or 6139
the affiliate of the utility or supplier; 6140

(17) A person that solicits sales through a television program or advertisement that is presented in the same market area no fewer than twenty days per month or offers for sale no fewer than ten distinct items of goods or services; and offers to the purchaser an unconditional right to return any good or service purchased within a period of at least seven days and to receive a full refund within thirty days after the purchaser returns the good or cancels the service;

(18) (a) A person that, for at least one year, has been operating a retail business under the same name as that used in connection with telephone solicitation and both of the following occur on a continuing basis:

(i) The person either displays goods and offers them for retail sale at the person's business premises or offers services for sale and provides them at the person's business premises.

(ii) At least fifty-one per cent of the person's gross dollar volume of retail sales involves purchases of goods or services at the person's business premises.

(b) An affiliate of a person that meets the requirements in division (B) (18) (a) of this section if the affiliate meets all of the following requirements:

(i) The affiliate has operated a retail business for a period of less than one year;

(ii) The affiliate either displays goods and offers them for retail sale at the affiliate's business premises or offers services for sale and provides them at the affiliate's business premises;

(iii) At least fifty-one per cent of the affiliate's gross dollar volume of retail sales involves purchases of goods or

services at the affiliate's business premises. 6170

(c) A person that, for a period of less than one year, has 6171
been operating a retail business in this state under the same 6172
name as that used in connection with telephone solicitation, as 6173
long as all of the following requirements are met: 6174

(i) The person either displays goods and offers them for 6175
retail sale at the person's business premises or offers services 6176
for sale and provides them at the person's business premises; 6177

(ii) The goods or services that are the subject of 6178
telephone solicitation are sold at the person's business 6179
premises, and at least sixty-five per cent of the person's gross 6180
dollar volume of retail sales involves purchases of goods or 6181
services at the person's business premises; 6182

(iii) The person conducts all telephone solicitation 6183
activities according to sections 310.3, 310.4, and 310.5 of the 6184
telemarketing sales rule adopted by the federal trade commission 6185
in 16 C.F.R. part 310. 6186

(19) A person who performs telephone solicitation sales 6187
services on behalf of other persons and to whom one of the 6188
following applies: 6189

(a) The person has operated under the same ownership, 6190
control, and business name for at least five years, and the 6191
person receives at least seventy-five per cent of its gross 6192
revenues from written telephone solicitation contracts with 6193
persons who come within one of the exemptions in division (B) of 6194
this section. 6195

(b) The person is an affiliate of one or more exempt 6196
persons and makes telephone solicitations on behalf of only the 6197
exempt persons of which it is an affiliate. 6198

(c) The person makes telephone solicitations on behalf of 6199
only exempt persons, the person and each exempt person on whose 6200
behalf telephone solicitations are made have entered into a 6201
written contract that specifies the manner in which the 6202
telephone solicitations are to be conducted and that at a 6203
minimum requires compliance with the telemarketing sales rule 6204
adopted by the federal trade commission in 16 C.F.R. part 310, 6205
and the person conducts the telephone solicitations in the 6206
manner specified in the written contract. 6207

(d) The person performs telephone solicitation for 6208
religious or political purposes, a charitable organization, a 6209
fund-raising council, or a professional solicitor in compliance 6210
with the registration and reporting requirements of Chapter 6211
1716. of the Revised Code; and meets all of the following 6212
requirements: 6213

(i) The person has operated under the same ownership, 6214
control, and business name for at least five years, and the 6215
person receives at least fifty-one per cent of its gross 6216
revenues from written telephone solicitation contracts with 6217
persons who come within the exemption in division (B) (2) of this 6218
section; 6219

(ii) The person does not conduct a prize promotion or 6220
offer the sale of an investment opportunity; 6221

(iii) The person conducts all telephone solicitation 6222
activities according to sections 310.3, 310.4, and 310.5 of the 6223
telemarketing sales rules adopted by the federal trade 6224
commission in 16 C.F.R. part 310. 6225

(20) A person that is a licensed real estate salesperson 6226
or broker under Chapter 4735. of the Revised Code when 6227

soliciting within the scope of the person's license; 6228

(21) (a) Either of the following: 6229

(i) A publisher that solicits the sale of the publisher's 6230
periodical or magazine of general, paid circulation, or a person 6231
that solicits a sale of that nature on behalf of a publisher 6232
under a written agreement directly between the publisher and the 6233
person. 6234

(ii) A publisher that solicits the sale of the publisher's 6235
periodical or magazine of general, paid circulation, or a person 6236
that solicits a sale of that nature as authorized by a publisher 6237
under a written agreement directly with a publisher's 6238
clearinghouse provided the person is a resident of Ohio for more 6239
than three years and initiates all telephone solicitations from 6240
Ohio and the person conducts the solicitation and sale in 6241
compliance with 16 C.F.R. part 310, as adopted by the federal 6242
trade commission. 6243

(b) As used in division (B) (21) of this section, 6244
"periodical or magazine of general, paid circulation" excludes a 6245
periodical or magazine circulated only as part of a membership 6246
package or given as a free gift or prize from the publisher or 6247
person. 6248

(22) A person that solicits the sale of food, as defined 6249
in section 3715.01 of the Revised Code, or the sale of products 6250
of horticulture, as defined in section 5739.01 of the Revised 6251
Code, if the person does not intend the solicitation to result 6252
in, or the solicitation actually does not result in, a sale that 6253
costs the purchaser an amount greater than five hundred dollars. 6254

(23) A funeral director licensed pursuant to Chapter 4717. 6255
of the Revised Code when soliciting within the scope of that 6256

license, if both of the following apply: 6257

(a) The solicitation and sale are conducted in compliance 6258
with 16 C.F.R. part 453, as adopted by the federal trade 6259
commission, and with sections 1107.33 and 1345.21 to 1345.28 of 6260
the Revised Code; 6261

(b) The person provides to the purchaser of any preneed 6262
funeral contract a notice that clearly and conspicuously sets 6263
forth the cancellation rights specified in division (G) of 6264
section 1107.33 of the Revised Code, and retains a copy of the 6265
notice signed by the purchaser. 6266

(24) A person, or affiliate thereof, licensed to sell or 6267
issue Ohio instruments designated as travelers checks pursuant 6268
to sections 1315.01 to 1315.18 of the Revised Code. 6269

(25) A person that solicits sales from its previous 6270
purchasers and meets all of the following requirements: 6271

(a) The solicitation is made under the same business name 6272
that was previously used to sell goods or services to the 6273
purchaser; 6274

(b) The person has, for a period of not less than three 6275
years, operated a business under the same business name as that 6276
used in connection with telephone solicitation; 6277

(c) The person does not conduct a prize promotion or offer 6278
the sale of an investment opportunity; 6279

(d) The person conducts all telephone solicitation 6280
activities according to sections 310.3, 310.4, and 310.5 of the 6281
telemarketing sales rules adopted by the federal trade 6282
commission in 16 C.F.R. part 310; 6283

(e) Neither the person nor any of its principals has been 6284

convicted of, pleaded guilty to, or has entered a plea of no 6285
contest for a felony or a theft offense as defined in sections 6286
2901.02 and 2913.01 of the Revised Code or similar law of 6287
another state or of the United States; 6288

(f) Neither the person nor any of its principals has had 6289
entered against them an injunction or a final judgment or order, 6290
including an agreed judgment or order, an assurance of voluntary 6291
compliance, or any similar instrument, in any civil or 6292
administrative action involving engaging in a pattern of corrupt 6293
practices, fraud, theft, embezzlement, fraudulent conversion, or 6294
misappropriation of property; the use of any untrue, deceptive, 6295
or misleading representation; or the use of any unfair, 6296
unlawful, deceptive, or unconscionable trade act or practice. 6297

(26) An institution defined as a home health agency in 6298
section 3701.881 of the Revised Code, that conducts all 6299
telephone solicitation activities according to sections 310.3, 6300
310.4, and 310.5 of the telemarketing sales rules adopted by the 6301
federal trade commission in 16 C.F.R. part 310, and engages in 6302
telephone solicitation only within the scope of the 6303
institution's certification, accreditation, contract with the 6304
department of aging, or status as a home health agency; and that 6305
meets one of the following requirements: 6306

(a) The institution is certified as a provider of home 6307
health services under Title XVIII of the Social Security Act, 49 6308
Stat. 620, 42 U.S.C. 301, as amended; 6309

(b) The institution is accredited by either the joint 6310
commission on accreditation of health care organizations or the 6311
community health accreditation program; 6312

(c) The institution is providing PASSPORT services under 6313

the direction of the department of aging under sections 173.52 6314
to 173.523 of the Revised Code; 6315

(d) An affiliate of an institution that meets the 6316
requirements of division (B) (26) (a), (b), or (c) of this section 6317
when offering for sale substantially the same goods and services 6318
as those that are offered by the institution that meets the 6319
requirements of division (B) (26) (a), (b), or (c) of this 6320
section. 6321

(27) A person licensed by the department of health 6322
pursuant to section 3712.04 or 3712.041 of the Revised Code to 6323
provide a hospice care program or pediatric respite care program 6324
when conducting telephone solicitations within the scope of the 6325
person's license and according to sections 310.3, 310.4, and 6326
310.5 of the telemarketing sales rules adopted by the federal 6327
trade commission in 16 C.F.R. part 310. 6328

Sec. 4728.11. This chapter does not apply to any of the 6329
following: 6330

(A) Any purchase of an article that is made of or contains 6331
gold, silver, platinum, or other precious metals or jewels of 6332
any description if both the buyer and seller, or the respective 6333
agents, brokers, or other intermediaries of both the buyer and 6334
seller, deal in such articles or otherwise by their respective 6335
occupations, or by their respective avocations as collectors, 6336
speculators, or investors, hold themselves out as having 6337
knowledge or skill peculiar to such articles or the practices 6338
involved in their purchase or sale; 6339

(B) Licensees who obtain licenses under sections 1321.01 6340
to 1321.19 of the Revised Code ~~or~~, registrants who obtain 6341
certificates of registration under sections 1321.51 to 1321.60 6342

of the Revised Code, or persons registered as mortgage lenders 6343
under Chapter 1322. of the Revised Code; 6344

(C) National banks, state banks, credit unions, or savings 6345
and loan associations; 6346

(D) The holder of a salvage motor vehicle dealer's license 6347
under Chapter 4738. of the Revised Code who purchases or sells 6348
precious metal which, in its original form, is a motor vehicle 6349
component part, or a scrap metal processor subject to Chapter 6350
4737. of the Revised Code; 6351

(E) Any purchase of silverware or an article of jewelry 6352
made of or containing gold, silver, platinum, or other precious 6353
metals or jewels that is made by a person who complies with all 6354
of the following: 6355

(1) The person is engaged in the business of selling, at 6356
retail, articles of jewelry and silverware; 6357

(2) The person holds a valid vendor's license issued under 6358
section 5739.17 of the Revised Code; 6359

(3) The person maintains a fixed place of business in this 6360
state at which the person regularly exhibits articles of jewelry 6361
and silverware that are for sale at retail; 6362

(4) The person establishes to the satisfaction of the 6363
superintendent of financial institutions or the chief or head of 6364
the local police department, upon their request, that the 6365
person's purchases of silverware and articles of jewelry that 6366
are made of or contain gold, silver, platinum, or other precious 6367
metals or jewels are incidental to the person's primary business 6368
as described in division (E) (1) of this section. Such purchases 6369
are "incidental" if: 6370

(a) In the case of a person who has been in business for 6371
less than one year, the average monthly value of the person's 6372
purchases of jewelry from the public represents less than 6373
twenty-five per cent of the person's total inventory of articles 6374
of jewelry held for sale at retail to the public, as computed 6375
under section 5711.15 of the Revised Code; 6376

(b) In the case of a person who has been in business for 6377
at least one year, the total value of the person's purchases of 6378
jewelry from the public represents less than twenty-five per 6379
cent of the person's total retail sales of articles of jewelry 6380
to the public during the immediately preceding year; 6381

(c) The purchases are of items described in division (F) 6382
of this section. 6383

(F) Any purchase of coins, hallmark bars, registered 6384
ingots, and other items as numismatic objects, and not for their 6385
content of precious metals. 6386

(G) Any purchase made under the supervision of a probate 6387
court from the estate of a decedent as provided under section 6388
2113.40 of the Revised Code. 6389

(H) Except as specified in division (B) of section 4728.02 6390
of the Revised Code, any person licensed under Chapter 4727. of 6391
the Revised Code. 6392

Sec. 4735.05. (A) The Ohio real estate commission is a 6393
part of the department of commerce for administrative purposes. 6394
The director of commerce is ex officio the executive officer of 6395
the commission, or the director may designate any employee of 6396
the department as superintendent of real estate and professional 6397
licensing to act as executive officer of the commission. 6398

The commission and the real estate appraiser board created 6399

pursuant to section 4763.02 of the Revised Code shall each 6400
submit to the director a list of three persons whom the 6401
commission and the board consider qualified to be superintendent 6402
within sixty days after the office of superintendent becomes 6403
vacant. The director shall appoint a superintendent from the 6404
lists submitted by the commission and the board, and the 6405
superintendent shall serve at the pleasure of the director. 6406

(B) The superintendent, except as otherwise provided, 6407
shall do all of the following in regard to this chapter: 6408

(1) Administer this chapter; 6409

(2) Issue all orders necessary to implement this chapter; 6410

(3) Investigate complaints concerning the violation of 6411
this chapter or the conduct of any licensee; 6412

(4) Establish and maintain an investigation and audit 6413
section to investigate complaints and conduct inspections, 6414
audits, and other inquiries as in the judgment of the 6415
superintendent are appropriate to enforce this chapter. The 6416
investigators or auditors have the right to review and audit the 6417
business records of licensees and continuing education course 6418
providers during normal business hours. 6419

(5) Appoint a hearing examiner for any proceeding 6420
involving disciplinary action under section 3123.47, 4735.052, 6421
or 4735.18 of the Revised Code; 6422

(6) Administer the real estate recovery fund. 6423

(C) The superintendent may do all of the following: 6424

(1) In connection with investigations and audits under 6425
division (B) of this section, subpoena witnesses as provided in 6426
section 4735.04 of the Revised Code; 6427

(2) Apply to the appropriate court to enjoin any violation 6428
of this chapter. Upon a showing by the superintendent that any 6429
person has violated or is about to violate any provision of this 6430
chapter, the court shall grant an injunction, restraining order, 6431
or other appropriate order. 6432

(3) Upon the death of a licensed broker or the revocation 6433
or suspension of the broker's license, if there is no other 6434
licensed broker within the business entity of the broker, 6435
appoint upon application by any interested party, or, in the 6436
case of a deceased broker, subject to the approval by the 6437
appropriate probate court, recommend the appointment of, an 6438
ancillary trustee who is qualified as determined by the 6439
superintendent to conclude the business transactions of the 6440
deceased, revoked, or suspended broker; 6441

(4) In conjunction with the enforcement of this chapter, 6442
when the superintendent of real estate has reasonable cause to 6443
believe that an applicant or licensee has committed a criminal 6444
offense, the superintendent of real estate may request the 6445
superintendent of the bureau of criminal identification and 6446
investigation to conduct a criminal records check of the 6447
applicant or licensee. The superintendent of the bureau of 6448
criminal identification and investigation shall obtain 6449
information from the federal bureau of investigation as part of 6450
the criminal records check of the applicant or licensee. The 6451
superintendent of real estate may assess the applicant or 6452
licensee a fee equal to the fee assessed for the criminal 6453
records check. 6454

(5) In conjunction with the enforcement of this chapter, 6455
issue advisory letters in lieu of initiating disciplinary action 6456
under section 4735.051 or 4735.052 of the Revised Code or 6457

issuing a citation under section 4735.16 or 4735.181 of the Revised Code.

(D) All information that is obtained by investigators and auditors performing investigations or conducting inspections, audits, and other inquiries pursuant to division (B)(4) of this section, from licensees, complainants, or other persons, and all reports, documents, and other work products that arise from that information and that are prepared by the investigators, auditors, or other personnel of the department, shall be held in confidence by the superintendent, the investigators and auditors, and other personnel of the department. Notwithstanding division (D) of section 2317.023 of the Revised Code, all information obtained by investigators or auditors from an informal mediation meeting held pursuant to section 4735.051 of the Revised Code, including but not limited to the agreement to mediate and the accommodation agreement, shall be held in confidence by the superintendent, investigators, auditors, and other personnel of the department.

(E) This section does not prevent the division of real estate and professional licensing from releasing information relating to licensees to the superintendent of financial institutions for purposes relating to the administration of ~~sections 1322.01 to 1322.12~~ Chapter 1322. of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the attorney general, or to local law enforcement agencies and local prosecutors. Information released by the division pursuant to this section remains confidential.

Sec. 4763.03. (A) In addition to any other duties imposed on the real estate appraiser board under this chapter, the board

shall: 6488

(1) Adopt rules, in accordance with Chapter 119. of the 6489
Revised Code, in furtherance of this chapter, including, but not 6490
limited to, all of the following: 6491

(a) Defining, with respect to state-certified general real 6492
estate appraisers, state-certified residential real estate 6493
appraisers, and state-licensed residential real estate 6494
appraisers, the type of educational experience, appraisal 6495
experience, and other equivalent experience that satisfy the 6496
requirements of this chapter. The rules shall require that all 6497
appraisal experience performed after January 1, 1996, meet the 6498
uniform standards of professional practice established by the 6499
appraisal foundation. 6500

(b) Establishing the examination specifications for state- 6501
certified general real estate appraisers, state-certified 6502
residential real estate appraisers, and state-licensed 6503
residential real estate appraisers; 6504

(c) Relating to disciplinary proceedings conducted in 6505
accordance with section 4763.11 of the Revised Code, including 6506
rules governing the reinstatement of certificates, 6507
registrations, and licenses that have been suspended pursuant to 6508
those proceedings; 6509

(d) Identifying any additional information to be included 6510
on the forms specified in division (C) of section 4763.12 of the 6511
Revised Code, provided that the rules shall not require any less 6512
information than is required in that division; 6513

(e) Establishing the fees set forth in section 4763.09 of 6514
the Revised Code; 6515

(f) Establishing the amount of the assessment required by 6516

division (A) (2) of section 4763.05 of the Revised Code. The 6517
board annually shall determine the amount due from each 6518
applicant for an initial certificate, registration, and license 6519
in an amount that will maintain the real estate appraiser 6520
recovery fund at the level specified in division (A) of section 6521
4763.16 of the Revised Code. The board may, if the fund falls 6522
below that amount, require current certificate holders, 6523
registrants, and licensees to pay an additional assessment. 6524

(g) Defining the educational requirements pursuant to 6525
division (C) of section 4763.05 of the Revised Code; 6526

(h) Establishing a real estate appraiser assistant program 6527
for the registration of real estate appraiser assistants. 6528

(2) Prescribe by rule the requirements for the 6529
examinations required by division (D) of section 4763.05 of the 6530
Revised Code; 6531

(3) Periodically review the standards for the development 6532
and reporting of appraisal reports provided in this chapter and 6533
adopt rules explaining and interpreting those standards; 6534

(4) Hear appeals, pursuant to Chapter 119. of the Revised 6535
Code, from decisions and orders the superintendent of real 6536
estate issues pursuant to this chapter; 6537

(5) Request the initiation by the superintendent of 6538
investigations of violations of this chapter or the rules 6539
adopted pursuant thereto, as the board determines appropriate; 6540

(6) Determine the appropriate disciplinary actions to be 6541
taken against certificate holders, registrants, and licensees 6542
under this chapter as provided in section 4763.11 of the Revised 6543
Code. 6544

(B) In addition to any other duties imposed on the 6545
superintendent of real estate under this chapter, the 6546
superintendent shall: 6547

(1) Prescribe the form and content of all applications 6548
required by this chapter; 6549

(2) Receive applications for certifications, 6550
registrations, and licenses and renewal thereof under this 6551
chapter and establish the procedures for processing, approving, 6552
and disapproving those applications; 6553

(3) Retain records and all application materials submitted 6554
to the superintendent; 6555

(4) Establish the time and place for conducting the 6556
examinations required by division (D) of section 4763.05 of the 6557
Revised Code; 6558

(5) Issue certificates, registrations, and licenses and 6559
maintain a register of the names and addresses of all persons 6560
issued a certificate, registration, or license under this 6561
chapter; 6562

(6) Perform any other functions and duties, including the 6563
employment of staff, necessary to administer this chapter; 6564

(7) Administer this chapter; 6565

(8) Issue all orders necessary to implement this chapter; 6566

(9) Investigate complaints, upon the superintendent's own 6567
motion or upon receipt of a complaint or upon a request of the 6568
board, concerning any violation of this chapter or the rules 6569
adopted pursuant thereto or the conduct of any person holding a 6570
certificate, registration, or license issued pursuant to this 6571
chapter; 6572

(10) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The investigators and auditors have the right to review and audit the business records of certificate holders, registrants, and licensees during normal business hours. The superintendent may utilize the investigators and auditors employed pursuant to division (B) (4) of section 4735.05 of the Revised Code or currently licensed certificate holders or licensees to assist in performing the duties of this division.

(11) Appoint a referee or examiner for any proceeding involving the disciplinary action of a certificate holder, licensee, or registrant under section 4763.11 of the Revised Code;

(12) Administer the real estate appraiser recovery fund;

(13) Conduct the examinations required by division (D) of section 4763.05 of the Revised Code at least four times per year.

(C) The superintendent may do all of the following:

(1) In connection with investigations and audits under division (B) of this section, subpoena witnesses as provided in section 4763.04 of the Revised Code;

(2) Apply to the appropriate court to enjoin any violation of this chapter. Upon a showing by the superintendent that any person has violated or is about to violate this chapter, the court shall grant an injunction, restraining order, or other appropriate relief, or any combination thereof.

(D) All information that is obtained by investigators and

auditors performing investigations or conducting inspections, 6602
audits, and other inquiries pursuant to division (B)(10) of this 6603
section, from certificate holders, registrants, licensees, 6604
complainants, or other persons, and all reports, documents, and 6605
other work products that arise from that information and that 6606
are prepared by the investigators, auditors, or other personnel 6607
of the department of commerce, shall be held in confidence by 6608
the superintendent, the investigators and auditors, and other 6609
personnel of the department. 6610

(E) This section does not prevent the division of real 6611
estate and professional licensing from releasing information 6612
relating to certificate holders, registrants, and licensees to 6613
the superintendent of financial institutions for purposes 6614
relating to the administration of ~~sections 1322.01 to 1322.12~~ 6615
Chapter 1322. of the Revised Code, to the superintendent of 6616
insurance for purposes relating to the administration of Chapter 6617
3953. of the Revised Code, to the attorney general, or to local 6618
law enforcement agencies and local prosecutors. Information 6619
released by the division pursuant to this section remains 6620
confidential. 6621

(F) Any rule the board adopts shall not exceed the 6622
requirements specified in federal law or regulations. 6623

Section 2. That existing sections 9.02, 109.572, 1181.21, 6624
1181.25, 1315.21, 1319.12, 1321.02, 1321.51, 1321.52, 1321.53, 6625
1321.531, 1321.532, 1321.54, 1321.55, 1321.551, 1321.57, 6626
1321.58, 1321.59, 1321.593, 1321.60, 1321.72, 1321.99, 1322.01, 6627
1322.02, 1322.021, 1322.023, 1322.024, 1322.025, 1322.03, 6628
1322.031, 1322.04, 1322.041, 1322.042, 1322.043, 1322.05, 6629
1322.051, 1322.052, 1322.06, 1322.061, 1322.065, 1322.07, 6630
1322.072, 1322.073, 1322.074, 1322.075, 1322.081, 1322.09, 6631

1322.10, 1322.101, 1322.11, 1322.12, 1322.99, 1329.71, 1335.02, 6632
1345.01, 1349.27, 1349.43, 1349.44, 1349.45, 1349.99, 2923.31, 6633
4712.01, 4719.01, 4728.11, 4735.05, and 4763.03 and sections 6634
1321.521, 1321.533, 1321.534, 1321.535, 1321.536, 1321.537, 6635
1321.538, 1321.552, 1321.592, 1321.594, 1322.022, 1322.062, 6636
1322.063, 1322.064, 1322.071, and 1322.08 of the Revised Code 6637
are hereby repealed. 6638

Section 3. (A) Sections 1 and 2 of this act shall take 6639
effect on July 1, 2017. 6640

(B) Beginning on the effective date of this section, the 6641
Superintendent of Financial Institutions may take whatever 6642
actions the Superintendent considers necessary to ensure full 6643
compliance with this act by July 1, 2017. 6644

(C) Persons holding a valid mortgage lender certificate of 6645
registration or mortgage loan originator license issued under 6646
sections 1321.51 to 1321.60 of the Revised Code as of July 1, 6647
2017, and persons holding a valid mortgage broker certificate of 6648
registration or loan originator license issued under Chapter 6649
1322. of the Revised Code as of July 1, 2017, shall not be 6650
required to be registered or licensed under section 1322.07 or 6651
1322.20 of the Revised Code, as amended by this act, until the 6652
first renewal of that certificate of registration or license 6653
after July 1, 2017. 6654

Section 4. The General Assembly, applying the principle 6655
stated in division (B) of section 1.52 of the Revised Code that 6656
amendments are to be harmonized if reasonably capable of 6657
simultaneous operation, finds that the following sections, 6658
presented in this act as composites of the sections as amended 6659
by the acts indicated, are the resulting versions of the 6660
sections in effect prior to the effective date of the sections 6661

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| as presented in this act: | 6662 |
| Section 109.572 of the Revised Code as amended by both | 6663 |
| Sub. H.B. 523 and Am. Sub. S.B. 227 of the 132nd General | 6664 |
| Assembly. | 6665 |
| Sections 1322.03 and 1322.031 of the Revised Code as | 6666 |
| amended by Am. Sub. H.B. 487 of the 129th General Assembly and | 6667 |
| Am. Sub. H.B. 483 of the 130th General Assembly. | 6668 |
| Section 2923.31 of the Revised Code as amended by both Am. | 6669 |
| Sub. H.B. 386 and Am. Sub. H.B. 262 of the 129th General | 6670 |
| Assembly. | 6671 |