

**As Reported by the House Government Accountability and Oversight  
Committee**

**132nd General Assembly**

**Regular Session  
2017-2018**

**Sub. H. B. No. 489**

**Representative Dever**

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**A BILL**

To amend sections 1101.05, 1109.20, 1121.10, 1  
1125.23, 1181.08, 1322.01, 1322.07, 1322.09, 2  
1322.12, 1322.34, 1322.40, 1322.50, 1733.01, 3  
1733.04, 1733.05, 1733.32, and 5726.04 and to 4  
enact sections 103.31, 1121.101, 1121.61, 5  
1349.72, 1733.328, 1733.441, and 1733.53 of the 6  
Revised Code to provide some regulatory and tax 7  
relief to state banks and credit unions, to 8  
provide for data analytics to be conducted on 9  
publicly available information regarding banks, 10  
credit unions, and consumer finance companies, 11  
to require registration of mortgage loan 12  
servicers, and to require a specified notice be 13  
given to a debtor for certain debt collection. 14

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

**Section 1.** That sections 1101.05, 1109.20, 1121.10, 15  
1125.23, 1181.08, 1322.01, 1322.07, 1322.09, 1322.12, 1322.34, 16  
1322.40, 1322.50, 1733.01, 1733.04, 1733.05, 1733.32, and 17  
5726.04 be amended and sections 103.31, 1121.101, 1121.61, 18  
1349.72, 1733.328, 1733.441, and 1733.53 of the Revised Code be 19

enacted to read as follows: 20

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

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

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

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

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

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

superintendent or the superintendent's designee. 49

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

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

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

(B) For the purposes of section 85 of the "National Bank 74  
Act," 48 Stat. 191 (1933), 12 U.S.C.A. 85, and section 521 of 75  
the "Depository Institutions Deregulation and Monetary Control 76  
Act of 1980," 94 Stat. 132, 12 U.S.C.A. 1831d, both of the 77  
following apply: 78

(1) All the interest and finance charges and other fees 79  
and charges authorized under division (A) of this section are 80  
deemed to be interest and may be charged, collected, and 81  
received as interest by a bank. 82

(2) All terms, conditions, and other provisions authorized 83  
by this section and other provisions contained in any agreement 84  
with the borrower, including, but not limited to, terms, 85  
conditions, and other provisions relating to the method of 86  
determining the balance upon which interest or finance charges 87  
are applied, time periods within which fees and charges may be 88  
avoided, reasons for default and rights to cure any default, 89  
rights to accelerate payments, account cancellation, choice of 90  
law, and change-in-terms requirements, are deemed to be material 91  
to the determination of the interest rate. 92

(C) Any agreement between a bank and a borrower, wherever 93  
the borrower's place of residence, shall be governed solely by 94  
the laws of this state and federal law, unless otherwise 95  
provided for in the agreement. 96

(D) Subject to any requirements under applicable federal 97  
law, a bank and a borrower may specify in their agreement any 98  
terms and conditions for modifying or amending the agreement. 99

(E) ~~Except as provided in section 1343.011 of the Revised~~ 100  
~~Code, the~~ The charging, collection, or receipt of the interest 101  
and finance charges, and other fees and charges authorized under 102  
this section are deemed not to violate any provision of the 103  
Revised Code that prescribes, regulates, or limits any fee, 104  
charge, rate of interest, or finance charges. 105

**Sec. 1121.10.** (A) As-Except as otherwise provided in 106  
section 1121.101 of the Revised Code, as often as the 107

superintendent of financial institutions considers necessary, 108  
but at least once each twenty-four-month cycle, the 109  
superintendent, or any deputy or examiner appointed by the 110  
superintendent for that purpose, shall thoroughly examine the 111  
records and affairs of each state bank. The examination shall 112  
include a review of all of the following: 113

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

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

- (1) Any party to a proposed reorganization for which the 120  
superintendent's approval is required by section 1115.11 or 121  
1115.14 of the Revised Code; 122
- (2) Any bank, savings and loan association, or savings 123  
bank proposing to convert to a bank doing business under 124  
authority granted by the superintendent for which the 125  
superintendent's approval is required by section 1115.02 of the 126  
Revised Code; 127
- (3) Any person proposing to acquire control of a state 128  
bank for which the superintendent's approval is required by 129  
section 1115.06 of the Revised Code, or who acquired control of 130  
a state bank without the approval of the superintendent when 131  
that approval was required by section 1115.06 of the Revised 132  
Code, with respect to the state bank of which control is to be, 133  
or was, acquired; 134
- (4) Any bank proposing to establish or acquire a branch 135

for which the superintendent's approval is required by section	136
1117.02 of the Revised Code;	137
(5) Any foreign bank that maintains, or proposes to	138
establish, one or more offices in this state;	139
(6) Any trust company.	140
(C) The board of directors or holders of a majority of the	141
shares of a state bank or trust company may request the	142
superintendent conduct a special examination of the records and	143
affairs of the bank or trust company. The superintendent has	144
sole discretion over the scope and timing of a special	145
examination, and may impose restrictions and limitations on the	146
use of the results of a special examination in addition to the	147
restrictions and limitations otherwise imposed by law. The fee	148
for a special examination shall be paid by the bank or trust	149
company examined in accordance with section 1121.29 of the	150
Revised Code.	151
(D) The superintendent may conduct all aspects of an	152
examination concurrently or may divide the examination into	153
constituent parts and conduct them at various times.	154
(E) The superintendent shall preserve the report of each	155
examination, including related correspondence received and	156
copies of related correspondence sent, for ten years after the	157
examination date.	158
<u>Sec. 1121.101. (A) Notwithstanding section 1121.10 of the</u>	159
<u>Revised Code, and subject to division (B) of this section, the</u>	160
<u>superintendent of financial institutions shall not conduct an</u>	161
<u>examination of a state bank more frequently than once every</u>	162
<u>twenty-four-month cycle, if the bank meets both of the following</u>	163
<u>conditions:</u>	164

<u>(1) It has assets of ten billion dollars or less.</u>	165
<u>(2) Under the uniform financial institutions rating system, it maintains a composite rating of one.</u>	166 167
<u>(B) The superintendent may conduct more frequent examinations if either of the following applies:</u>	168 169
<u>(1) The superintendent has reasonable cause to believe that there is a risk of harm to the bank and the examination of the bank is necessary to fully determine the risk to the bank or to determine how best to address the risk.</u>	170 171 172 173
<u>(2) The superintendent participates with financial institution regulatory authorities of other states or the United States in a joint, concurrent, or coordinated examination.</u>	174 175 176
<u>(C) A bank's composite rating used for purposes of division (A) (2) of this section is not a public record under section 149.43 of the Revised Code.</u>	177 178 179
<b>Sec. 1121.61.</b> <u>(A) As used in this section, "bona fide error" means an unintentional clerical, calculation, computer malfunction or programming, or printing error.</u>	180 181 182
<u>(B) A state bank, trust company, or regulated person shall not be held civilly liable in any action brought under Title XI or under Chapter 1309., 1317., or 1345. of the Revised Code, and shall not be subject to any sanction by the superintendent of financial institutions, if all of the following conditions are met:</u>	183 184 185 186 187 188
<u>(1) The bank, trust company, or person shows by a preponderance of evidence that the compliance failure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any</u>	189 190 191 192

such error. 193

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

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

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

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

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

(2) Within one hundred eighty days after receipt of a 221

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

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

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

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

**Sec. 1322.01.** As used in this chapter: 245

(A) "Administrative or clerical tasks" mean the receipt, 246  
collection, and distribution of information common for the 247  
processing or underwriting of a loan in the mortgage industry, 248  
without performing any analysis of the information, and 249  
communication with a consumer to obtain information necessary 250

for the processing or underwriting of a residential mortgage loan.	251 252
(B) "Advertising" means a commercial message in any medium that promotes, either directly or indirectly, a residential mortgage lending transaction.	253 254 255
(C) "Application" has the same meaning as in 12 C.F.R. 1026.2(a)(3).	256 257
(D) "Approved education course" means any course approved by the nationwide mortgage licensing system and registry.	258 259
(E) "Approved test provider" means any test provider approved by the nationwide mortgage licensing system and registry.	260 261 262
(F) "Borrower" means a person seeking a residential mortgage loan or an obligor on a residential mortgage loan.	263 264
(G) "Branch office" means a location at which a licensee conducts business other than a registrant's principal place of business, if at least one of the following applies to the location:	265 266 267 268
(1) The address of the location appears on business cards, stationery, or advertising used by the registrant;	269 270
(2) The registrant's name or advertising at the location suggests that mortgage transactions are made at the location;	271 272
(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	273 274 275
(4) The location within this state is controlled directly or indirectly by the registrant.	276 277

(H) "Buyer" means an individual who is solicited to purchase or who purchases the services of a mortgage loan originator for purposes of obtaining a residential mortgage loan. "Buyer" includes an individual whose mortgage loan is serviced by a mortgage servicer.

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

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

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

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

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

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

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

(L) "Dwelling" has the same meaning as in 15 U.S.C.

1602(w). "Dwelling" includes a single condominium unit,	306
cooperative unit, mobile home, and trailer, if it is used as a	307
residence, whether or not that structure is attached to real	308
property.	309
(M) "Employee" means an individual for whom a mortgage	310
broker or mortgage lender, in addition to providing a wage or	311
salary, pays social security and unemployment taxes, provides	312
workers' compensation coverage, and withholds local, state, and	313
federal income taxes. "Employee" also includes any individual	314
who acts as a mortgage loan originator or operations manager of	315
a registrant, but for whom the registrant is prevented by law	316
from making income tax withholdings.	317
(N) "Entity" means a business organization, including a	318
sole proprietorship.	319
(O) "Expungement" means a court-ordered process that	320
involves the destruction of documentation related to past	321
arrests and convictions.	322
(P) "Federal banking agency" means the board of governors	323
of the federal reserve system, the comptroller of the currency,	324
the national credit union administration, or the federal deposit	325
insurance corporation.	326
(Q) "Immediate family" means an individual's spouse,	327
child, stepchild, parent, stepparent, grandparent, grandchild,	328
brother, sister, parent-in-law, brother-in-law, or sister-in-	329
law.	330
(R) "Independent contractor" means an individual who	331
performs duties for another person and is not subject to that	332
person's supervision or control.	333
(S) "Individual" means a natural person.	334

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

(U) "Loan commitment" means a statement transmitted in writing or electronically by a mortgage lender setting forth the terms and conditions upon which the mortgage lender is willing to make a particular residential mortgage loan to a particular borrower.

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

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

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

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

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

(a) Takes a residential mortgage loan application;

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

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

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

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

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

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

(c) A person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11

U.S.C. 101;	393
(d) An employee of a mortgage lender or mortgage broker	394
who acts solely as a loan processor or underwriter and who does	395
not represent to the public, through advertising or other means	396
of communicating, including the use of business cards,	397
stationery, brochures, signs, rate lists, or other promotional	398
items, that the employee can or will perform any of the	399
activities of a mortgage loan originator;	400
(e) A licensed attorney who negotiates the terms of a	401
residential mortgage loan on behalf of a client as an ancillary	402
matter to the attorney's representation of the client, unless	403
the attorney is compensated by a mortgage lender, a mortgage	404
broker, or another mortgage loan originator, or by any agent	405
thereof;	406
(f) Any person engaged in the retail sale of manufactured	407
homes, mobile homes, or industrialized units if, in connection	408
with financing those retail sales, the person only assists the	409
borrower by providing or transmitting the loan application and	410
does not do any of the following:	411
(i) Offer or negotiate the residential mortgage loan rates	412
or terms;	413
(ii) Provide any counseling with borrowers about	414
residential mortgage loan rates or terms;	415
(iii) Receive any payment or fee from any company or	416
individual for assisting the borrower obtain or apply for	417
financing to purchase the manufactured home, mobile home, or	418
industrialized unit;	419
(iv) Assist the borrower in completing a residential	420
mortgage loan application.	421

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

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

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

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

~~(CC)~~ (DD) "Person" means an individual, sole 450  
proprietorship, corporation, company, limited liability company, 451

partnership, limited liability partnership, trust, or 452  
association. 453

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

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

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

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

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

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

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

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

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

system and registry. 480

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

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

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

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

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

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

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

**Sec. 1322.07.** (A) No person, on the person's own behalf or 505  
on behalf of any other person, shall act as a mortgage lender, 506  
mortgage servicer, or mortgage broker without first having 507

obtained a certificate of registration from the superintendent 508  
of financial institutions for the principal office and every 509  
branch office to be maintained by the person for the transaction 510  
of business as a mortgage lender, mortgage servicer, or mortgage 511  
broker in this state. A registrant shall maintain an office 512  
location for the transaction of business as a mortgage lender,  513  
mortgage servicer, or mortgage broker in this state. 514

(B) (1) No individual shall act as a mortgage loan 515  
originator without first having obtained a license from the 516  
superintendent. A mortgage loan originator shall be employed by 517  
or associated with a mortgage lender, mortgage broker, or entity 518  
holding a valid letter of exemption under division (B) (1) of 519  
section 1322.05 of the Revised Code, but shall not be employed 520  
by or associated with more than one registrant or entity holding 521  
a valid letter of exemption under division (B) (1) of section 522  
1322.05 of the Revised Code at any one time. 523

(2) An individual acting under the individual's authority 524  
as a registered mortgage loan originator shall not be required 525  
to be licensed under division (B) (1) of this section. 526

(3) An individual who holds a valid temporary mortgage 527  
loan originator license issued pursuant to section 1322.24 of 528  
the Revised Code may engage in the business of a mortgage loan 529  
originator in accordance with this chapter during the term of 530  
the temporary license. 531

**Sec. 1322.09.** (A) An application for a certificate of 532  
registration shall be in writing, under oath, and in a form 533  
prescribed by the superintendent of financial institutions that 534  
complies with the requirements of the nationwide mortgage 535  
licensing system and registry. The application shall be 536  
accompanied by a nonrefundable application fee of five hundred 537

dollars for each location of an office to be maintained by the 538  
applicant in accordance with division (A) of section 1322.07 of 539  
the Revised Code and any additional fee required by the 540  
nationwide mortgage licensing system and registry. 541

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

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

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

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

(2) Personal history and experience in a form prescribed 566

by the nationwide mortgage licensing system and registry, along 567  
with authorization for the superintendent and the nationwide 568  
mortgage licensing system and registry to obtain both of the 569  
following: 570

(a) An independent credit report from a consumer reporting 571  
agency; 572

(b) Information related to any administrative, civil, or 573  
criminal findings by any governmental jurisdiction. 574

(D) The superintendent shall pay all funds advanced and 575  
application and renewal fees and penalties the superintendent 576  
receives pursuant to this section and section 1322.10 of the 577  
Revised Code to the treasurer of state to the credit of the 578  
consumer finance fund created in section 1321.21 of the Revised 579  
Code. 580

(E) If an application for a certificate of registration 581  
does not contain all of the information required under this 582  
section, and if that information is not submitted to the 583  
superintendent or to the nationwide mortgage licensing system 584  
and registry within ninety days after the superintendent or the 585  
nationwide mortgage licensing system and registry requests the 586  
information in writing, including by electronic transmission or 587  
facsimile, the superintendent may consider the application 588  
withdrawn. 589

(F) A certificate of registration and the authority 590  
granted under that certificate is not transferable or assignable 591  
and cannot be franchised by contract or any other means. 592

(G) (1) The superintendent may establish relationships or 593  
enter into contracts with the nationwide mortgage licensing 594  
system and registry, or any entities designated by it, to 595

collect and maintain records and process transaction fees or 596  
other fees related to mortgage lender, mortgage servicer, or 597  
mortgage broker certificates of registration or the persons 598  
associated with a mortgage lender, mortgage servicer, or 599  
mortgage broker. 600

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

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

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

To be eligible for such a designation, an employee or 620  
owner shall have at least three years of experience as a 621  
mortgage loan originator or registered mortgage loan originator. 622  
While acting as the operations manager, the employee or owner 623  
shall be licensed as a mortgage loan originator under this 624  
chapter and shall not be employed by any other mortgage lender 625

or mortgage broker. This paragraph shall not apply to the 626  
designated operations manager of an entity registered 627  
exclusively as a mortgage servicer. 628

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

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

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

(C) Each registrant, licensee, and entity holding a valid 644  
letter of exemption under division (B) (1) of section 1322.05 of 645  
the Revised Code shall submit to the nationwide mortgage 646  
licensing system and registry call reports or other reports of 647  
condition, which reports shall be in such form and shall contain 648  
such information as the nationwide mortgage licensing system and 649  
registry may require. Each registrant and entity holding a valid 650  
letter of exemption under division (B) (1) of section 1322.05 of 651  
the Revised Code shall ensure that all residential mortgage 652  
loans that are consummated as a result of a mortgage loan 653  
originator's loan origination activities are included in the 654  
report of condition submitted to the nationwide mortgage 655

licensing system and registry. 656

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

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

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

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

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

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

(1) Being convicted of or pleading guilty or nolo 682  
contendere to a felony in a domestic, foreign, or military 683  
court; 684

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

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

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

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

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

(H) Promise to refinance a loan in the future at a lower  
interest rate or with more favorable terms, unless the promise

is set forth in writing and is initialed by the buyer; 714

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

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

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

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

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

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

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

(2) Impose a fine of not more than one thousand dollars, 740  
for each day a violation of a law or rule is committed, 741

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

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

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

- (1) The superintendent may make application to the court 763  
of common pleas for an order enjoining any violation and, upon a 764  
showing by the superintendent that a person has committed or is 765  
about to commit that violation, the court shall grant an 766  
injunction, restraining order, or other appropriate relief. 767
- (2) The superintendent may make application to the court 768  
of common pleas for an order enjoining any person from acting as 769

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

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

(D) If the superintendent determines that a person is 790  
engaged in or is believed to be engaged in activities that may 791  
constitute a violation of this chapter or any rule adopted 792  
thereunder, the superintendent, after notice and a hearing 793  
conducted in accordance with Chapter 119. of the Revised Code, 794  
may issue a cease and desist order. If the administrative action 795  
is to enjoin a person from acting as a mortgage lender, mortgage 796  
servicer, mortgage broker, or mortgage loan originator in 797  
violation of division (A) or (B) of section 1322.07 of the 798  
Revised Code, the superintendent may seek and impose fines for 799  
that conduct in an amount not to exceed five thousand dollars 800

per violation. Such an order shall be enforceable in the court 801  
of common pleas. 802

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

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

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

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

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

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

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

**Sec. 1349.72.** (A) Before a person collecting a debt 828

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

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

(2) The debt is in default. 836

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

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

(2) The amount of the debt; 841

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

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

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

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

(D) (1) As used in this division, "bona fide error" means 853  
an unintentional clerical, calculation, computer malfunction or 854  
programming, or printing error. 855

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

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

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

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

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

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

(A) "Credit union" means a corporation organized and 877  
qualified as such under this chapter. In addition to the powers 878  
enumerated in this chapter and unless restricted in this 879  
chapter, every credit union has the general powers conferred 880  
upon corporations by Chapter 1701. of the Revised Code. A credit 881  
union is a nonprofit cooperative financial institution and as 882  
such is organized and operates for the mutual benefit and 883  
general welfare of its members with the earnings, savings, 884

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

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

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

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

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

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

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

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

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

(J) Persons having a "common bond of association" include 911  
those persons and their families. 912

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

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

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

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

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

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

~~(Q)~~ (P) "Outside auditor" means an accountant who is 941

licensed to practice as a certified public accountant or public 942  
accountant by this state, and who is retained by a credit union 943  
to audit its accounts, but who is not otherwise employed by the 944  
credit union. 945

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

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

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

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

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

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

(4) If authorized by the regulations, charge a membership 969  
or entrance fee not to exceed one dollar per member; 970

(5) Purchase group savings life insurance and group credit life insurance;	971 972
(6) Make reasonable contributions to any nonprofit civic, charitable, or service organizations;	973 974
(7) Act as trustee or custodian, for which reasonable compensation may be received, under any written trust instrument or custodial agreement created or organized in the United States and forming part of a tax-advantaged savings plan that qualifies for specific tax treatment under sections 223, 401(d), 408, 408A, and 530 of the Internal Revenue Code, 26 U.S.C. 223, 401(d), 408, 408A, and 530, as amended, for its members or groups of its members, provided that the funds of such plans are invested in share accounts or share certificate accounts of the credit union. These services include, but are not limited to, acting as a trustee or custodian for member retirement, education, or health savings accounts.	975 976 977 978 979 980 981 982 983 984 985 986
(8) Participate in and pledge assets in connection with the business linked deposit program under sections 135.77 to 135.774 of the Revised Code and the agricultural linked deposit program under sections 135.71 to 135.76 of the Revised Code.	987 988 989 990
(B) The authority of a credit union shall be subject to the following:	991 992
(1) A credit union may not borrow money in excess of twenty-five per cent of its shares and undivided earnings, without prior specific authorization by the superintendent of credit unions.	993 994 995 996
(2) A credit union may not pay a commission or other compensation to any person for securing members or for the sale of its shares, except that reasonable incentives may be made	997 998 999

available directly to members or potential members to promote 1000  
thrift. 1001

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

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

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

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

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

(c) "Student branch" means the designation provided to the 1026  
credit union for the in-school services and financial education 1027  
offered to students. 1028

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

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

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

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

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

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

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

**Sec. 1733.05.** (A) Persons otherwise qualifying for 1053  
membership in a credit union under this section, the articles, 1054  
and the regulations, and who are elected to membership by the 1055  
board of directors, shall become members of a credit union, 1056  
provided that in lieu of electing persons to membership, the 1057

board of directors may elect or appoint one or more membership 1058  
officers and delegate authority to any such membership officer 1059  
to accept persons into membership. 1060

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

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

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

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

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

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

(D) Unless otherwise provided in the articles of 1081  
incorporation or the code of regulations, and subject to such 1082  
conditions as the superintendent of credit unions may establish, 1083  
groups composed of persons within the field of membership of a 1084  
credit union may become members of such credit union. 1085

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

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

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

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

(G) No interstate charter amendment, conversion, merger, 1112  
or other expansion of a credit union field of membership shall 1113  
be authorized without the approval of all supervisory 1114  
authorities affected, whether state or federal, in accordance 1115

with rules adopted by the superintendent in terms of 1116  
administrative control and authority, the location of the 1117  
surviving credit union in the case of a merger, or the home 1118  
office in the case of an expansion, is controlling. 1119

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

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

(3) The superintendent of financial institutions shall 1140  
develop and implement a system for evaluating the safety and 1141  
soundness of credit unions and for determining when examinations 1142  
and supervisory actions are necessary. ~~Credit~~ Except as 1143  
otherwise provided in section 1733.328 of the Revised Code, 1144  
credit unions shall be subject to periodic examinations, as 1145

specified in rules adopted by the superintendent, and their 1146  
books, records, and accounts shall be open to the inspection of 1147  
the superintendent at all times. For the purpose of such 1148  
examination or inspection, the superintendent may subpoena 1149  
witnesses, administer oaths, receive testimony, and order the 1150  
submission of documents. 1151

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

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

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

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

(2) If the superintendent gives written notice to the 1173  
president of the credit union of the superintendent's intention 1174

to do so, issue an order revoking the credit union's articles of 1175  
incorporation and appointing a liquidating agent to liquidate 1176  
the credit union in accordance with section 1733.37 of the 1177  
Revised Code. 1178

(E) (1) Except as provided in division (E) (2) of this 1179  
section, each credit union doing business in this state shall 1180  
remit, semiannually and within fifteen days after billing, to 1181  
the treasurer of state, a supervisory fee in an amount 1182  
determined by the superintendent and confirmed by the credit 1183  
union council. The supervisory fee described in division (E) (1) 1184  
of this section shall be based on a percentage of the gross 1185  
assets of the credit union as shown by its last annual financial 1186  
report filed with the superintendent in accordance with division 1187  
(C) of this section. The minimum supervisory fee shall be 1188  
determined by the superintendent and confirmed by the credit 1189  
union council. 1190

(2) Each corporate credit union doing business in this 1191  
state shall remit, semiannually and within fifteen days after 1192  
billing, to the treasurer of state, a supervisory fee determined 1193  
by rule adopted by the superintendent and confirmed by the 1194  
credit union council. The aggregate annual amount of the fee 1195  
shall not exceed the annual operating fee that the national 1196  
credit union administration charges a federally chartered credit 1197  
union pursuant to the "Federal Credit Union Act," 84 Stat. 994 1198  
(1970), 12 U.S.C.A. 1751. 1199

(3) The superintendent annually shall present to the 1200  
credit union council for confirmation the supervisory fees to be 1201  
billed credit unions and corporate credit unions pursuant to 1202  
division (E) of this section. 1203

(4) If any supervisory fee is not remitted in accordance 1204

with division (E) (1) or (2) of this section, the superintendent 1205  
may assess a fine, determined by rule adopted by the 1206  
superintendent, for each day that each fee is in arrears. 1207

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

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

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

(F) A report of such examination shall be forwarded to the 1233  
president of each credit union after the completion of the 1234

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

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

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

(H) Except as provided in this division, information 1257  
obtained by the superintendent of financial institutions and the 1258  
superintendent's employees as a result of or arising out of the 1259  
examination or independent audit of a credit union, from 1260  
required reports, or because of their official position, shall 1261  
be confidential. Such information may be disclosed only in 1262  
connection with criminal proceedings or, subject to section 1263  
1733.327 of the Revised Code, when it is necessary for the 1264

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

Sec. 1733.328. (A) Notwithstanding section 1733.32 of the 1291  
Revised Code, and subject to division (B) of this section, the 1292  
superintendent of financial institutions shall not conduct an 1293  
examination of a credit union more frequently than once every 1294  
twenty-four-month cycle, if the credit union meets both of the 1295

<u>following conditions:</u>	1296
<u>(1) It has assets of ten billion dollars or less.</u>	1297
<u>(2) Under the uniform financial institutions rating system, it maintains a composite rating of one.</u>	1298 1299
<u>(B) The superintendent may conduct more frequent examinations if either of the following applies:</u>	1300 1301
<u>(1) The superintendent has reasonable cause to believe that there is a risk of harm to the credit union and the examination of the credit union is necessary to fully determine the risk to the credit union or to determine how best to address the risk.</u>	1302 1303 1304 1305 1306
<u>(2) The superintendent participates with financial institution regulatory authorities of other states or the United States in a joint, concurrent, or coordinated examination.</u>	1307 1308 1309
<u>(C) A credit union's composite rating used for purposes of division (A) (2) of this section is not a public record under section 149.43 of the Revised Code.</u>	1310 1311 1312
<u><b>Sec. 1733.441.</b> (A) Absent the express written permission of the credit union, no person shall use the name of a credit union in an advertisement, solicitation, promotional, or other material in a way that may mislead another person, or cause another person to be misled, into believing that the person issuing the advertisement, solicitation, promotional, or other material is associated or affiliated with the credit union.</u>	1313 1314 1315 1316 1317 1318 1319
<u>(B) (1) Whoever violates division (A) of this section shall be subject to a civil penalty of up to ten thousand dollars for each day the violation is committed, repeated, or continued.</u>	1320 1321 1322
<u>(2) A credit union injured by a violation of division (A)</u>	1323

of this section may bring an action in law or equity for 1324  
recovery of damages, a temporary restraining order, an 1325  
injunction, or any other available remedy. 1326

**Sec. 1733.53.** (A) As used in this section, "bona fide 1327  
error" means an unintentional clerical, calculation, computer 1328  
malfunction or programming, or printing error. 1329

(B) A credit union or regulated individual shall not be 1330  
held civilly liable in any action brought under this chapter or 1331  
Chapter 1309., 1317., or 1345. of the Revised Code, and shall 1332  
not be subject to any sanction by the superintendent of 1333  
financial institutions, if all of the following conditions are 1334  
met: 1335

(1) The credit union or individual shows by a 1336  
preponderance of evidence that the compliance failure was not 1337  
intentional and resulted from a bona fide error notwithstanding 1338  
the maintenance of procedures reasonably adapted to avoid any 1339  
such error. 1340

(2) Within sixty days after discovering the error, and 1341  
prior to the initiation of any action by the superintendent or 1342  
the receipt of written notice of the error from the member, the 1343  
credit union or individual notifies the superintendent and the 1344  
member of the error and the manner in which the credit union or 1345  
individual intends to make full restitution to the member. 1346

(3) The credit union or individual promptly makes 1347  
reasonable restitution to the member. 1348

(C) If, in the event of a compliance failure, the credit 1349  
union or regulated individual does not meet the conditions set 1350  
forth in division (B) of this section, a member injured by the 1351  
error has a cause of action to recover damages. Such an action 1352

may not, however, be maintained as a class action. 1353

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

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

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

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

(C) For the purposes of this section, "total Ohio equity 1375  
capital" means the product of (1) the total equity capital of a 1376  
financial institution as of the end of a taxable year to the 1377  
extent that the total equity capital does not exceed fourteen 1378  
per cent of the financial institution's total assets shown on 1379  
the reporting person's FR-Y9 or call report as of the end of the 1380  
taxable year, multiplied by (2) the Ohio apportionment ratio 1381

calculated for the financial institution under section 5726.05 1382  
of the Revised Code, except as provided in section 5726.041 of 1383  
the Revised Code. 1384

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

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

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

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

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

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

(3) If, for the tax year beginning on January 1, 2014, the 1407  
total amount of taxes collected from all taxpayers under this 1408  
chapter is less than ninety per cent of the first target tax 1409  
amount, the tax commissioner shall increase the tax rate for 1410

each dollar of total Ohio equity capital equal to or greater 1411  
than one billion three hundred million dollars as provided in 1412  
division (A) (2) of this section by a percentage equal to a 1413  
fraction, the denominator of which is the aggregate sum of each 1414  
dollar of each taxpayer's Ohio equity capital greater than or 1415  
equal to one billion three hundred million dollars, as reported 1416  
by each taxpayer for tax year 2014, multiplied by the tax rate 1417  
for each dollar of total Ohio equity capital greater than or 1418  
equal to one billion three hundred million dollars provided 1419  
under division (A) (2) of this section, and the numerator of 1420  
which is the sum of the denominator and the difference obtained 1421  
by subtracting the amount of taxes collected under this chapter 1422  
in tax year 2014 from ninety per cent of the first target tax 1423  
amount. 1424

(4) If, for the tax year beginning on January 1, 2016, the 1425  
total amount of taxes collected from all taxpayers under this 1426  
chapter is greater than one hundred ten per cent of the second 1427  
target tax amount, the tax commissioner shall decrease each tax 1428  
rate in effect on January 1, 2016, by a percentage equal to the 1429  
percentage by which the amount of taxes collected exceeded the 1430  
second target tax amount. 1431

(5) If, for the tax year beginning on January 1, 2016, the 1432  
total amount of taxes collected from all taxpayers under this 1433  
chapter is less than ninety per cent of the second target tax 1434  
amount, the tax commissioner shall increase the tax rate for 1435  
each dollar of total Ohio equity capital equal to or greater 1436  
than one billion three hundred million dollars as provided in 1437  
division (A) (2) of this section by a percentage equal to a 1438  
fraction, the denominator of which is the aggregate sum of each 1439  
dollar of each taxpayer's Ohio equity capital greater than or 1440  
equal to one billion three hundred million dollars, as reported 1441

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

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

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

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

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

**Section 5.** The amendment by this act of section 5726.04 of 1468  
the Revised Code applies to tax years beginning on or after 1469  
January 1, 2019. 1470