

**As Reported by the Senate Insurance and Financial Institutions
Committee**

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Sub. H. B. No. 489

Representative Dever

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

A BILL

To amend sections 1101.05, 1109.20, 1121.10, 1
1125.23, 1181.08, 1322.01, 1322.07, 1322.09, 2
1322.12, 1322.34, 1322.40, 1322.50, 1733.01, 3
1733.04, 1733.041, 1733.05, 1733.13, 1733.14, 4
1733.16, 1733.19, 1733.22, 1733.24, 1733.32, 5
1733.329, and 1733.39, to enact sections 103.31, 6
1121.101, 1121.61, 1349.72, 1733.051, 1733.152, 7
1733.328, 1733.441, and 1733.53, and to repeal 8
section 1733.26 of the Revised Code to revise 9
the laws governing credit unions, to provide 10
some regulatory relief to state banks and credit 11
unions, to provide for data analytics to be 12
conducted on publicly available information 13
regarding banks, credit unions, and consumer 14
finance companies, to require registration of 15
mortgage loan servicers, and to require a 16
specified notice be given to a debtor for 17
certain debt collection. 18

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

Section 1. That sections 1101.05, 1109.20, 1121.10, 19
1125.23, 1181.08, 1322.01, 1322.07, 1322.09, 1322.12, 1322.34, 20
1322.40, 1322.50, 1733.01, 1733.04, 1733.041, 1733.05, 1733.13, 21
1733.14, 1733.16, 1733.19, 1733.22, 1733.24, 1733.32, 1733.329, 22
and 1733.39 be amended and sections 103.31, 1121.101, 1121.61, 23
1349.72, 1733.051, 1733.152, 1733.328, 1733.441, and 1733.53 of 24
the Revised Code be enacted to read as follows: 25

Sec. 103.31. (A) For the purpose of providing impartial, 26
accurate information to assist the general assembly in proposing 27
and evaluating legislation, the speaker of the house of 28
representatives or the president of the senate may, at any time, 29
request the director of the legislative service commission to 30
arrange for data analytics to be conducted on any publicly 31
available information regarding state banks, credit unions 32
organized under Chapter 1733. of the Revised Code, or entities 33
licensed or registered under Chapter 1321. or 1322. of the 34
Revised Code. 35

(B) The director may, in making the arrangement described 36
in division (A) of this section, retain economists, financial 37
analysts, and any other necessary professionals on a consulting 38
basis. 39

(C) As used in this section, "data analytics" means the 40
use of qualitative and quantitative techniques to examine data 41
to gain a better understanding of the data itself and the 42
organizations that produced it. 43

Sec. 1101.05. (A) Except as otherwise expressly provided, 44
the provisions of Chapters 1101. to 1127. of the Revised Code 45

and any rules adopted under those chapters: 46

~~(A)~~ (1) Are enforceable only by the superintendent of 47
financial institutions, the superintendent's designee, the 48
federal deposit insurance corporation, the federal reserve, or, 49
with respect to Chapter 1127. of the Revised Code, a prosecuting 50
attorney; and 51

~~(B)~~ (2) Do not create or provide a private right of action 52
or defense for or on behalf of any party other than the 53
superintendent or the superintendent's designee. 54

(B) Division (A) of this section does not apply with 55
respect to sections 1109.18 and 1109.20 of the Revised Code and 56
any rules adopted under those sections. 57

Sec. 1109.20. (A) A bank may contract for and receive 58
interest or finance charges at any rate or rates agreed upon or 59
consented to by the parties to the loan contract, extension of 60
credit, or revolving credit agreement, but not exceeding an 61
annual percentage rate of twenty-five per cent. In addition, a 62
bank may charge, collect, and receive, as interest, other fees 63
and charges that are agreed upon by the bank and the borrower, 64
including, but not limited to, periodic membership fees, cash 65
advance fees, charges for exceeding a designated credit limit, 66
charges for late payments, charges for the return of a 67
dishonored check or other payment instrument, guarantee fees, 68
origination fees, processing fees, application fees, and 69
prepayment fees. Any fees and charges charged, collected, or 70
received by a bank in accordance with this division shall not be 71
included in the computation of the annual percentage rate or the 72
rates of interest or finance charges for purposes of applying 73
the twenty-five per cent limitation. 74

The computation of the loan balance on which interest and 75
finance charges are assessed and the method of compounding 76
interest on the balance shall be as agreed upon by the bank and 77
the borrower. 78

(B) For the purposes of section 85 of the "National Bank 79
Act," 48 Stat. 191 (1933), 12 U.S.C.A. 85, and section 521 of 80
the "Depository Institutions Deregulation and Monetary Control 81
Act of 1980," 94 Stat. 132, 12 U.S.C.A. 1831d, both of the 82
following apply: 83

(1) All the interest and finance charges and other fees 84
and charges authorized under division (A) of this section are 85
deemed to be interest and may be charged, collected, and 86
received as interest by a bank. 87

(2) All terms, conditions, and other provisions authorized 88
by this section and other provisions contained in any agreement 89
with the borrower, including, but not limited to, terms, 90
conditions, and other provisions relating to the method of 91
determining the balance upon which interest or finance charges 92
are applied, time periods within which fees and charges may be 93
avoided, reasons for default and rights to cure any default, 94
rights to accelerate payments, account cancellation, choice of 95
law, and change-in-terms requirements, are deemed to be material 96
to the determination of the interest rate. 97

(C) Any agreement between a bank and a borrower, wherever 98
the borrower's place of residence, shall be governed solely by 99
the laws of this state and federal law, unless otherwise 100
provided for in the agreement. 101

(D) Subject to any requirements under applicable federal 102
law, a bank and a borrower may specify in their agreement any 103

terms and conditions for modifying or amending the agreement. 104

(E) ~~Except as provided in section 1343.011 of the Revised~~ 105
~~Code, the~~ The charging, collection, or receipt of the interest 106
and finance charges, and other fees and charges authorized under 107
this section are deemed not to violate any provision of the 108
Revised Code that prescribes, regulates, or limits any fee, 109
charge, rate of interest, or finance charges. 110

Sec. 1121.10. (A) ~~As~~ Except as otherwise provided in 111
section 1121.101 of the Revised Code, as often as the 112
superintendent of financial institutions considers necessary, 113
but at least once each twenty-four-month cycle, the 114
superintendent, or any deputy or examiner appointed by the 115
superintendent for that purpose, shall thoroughly examine the 116
records and affairs of each state bank. The examination shall 117
include a review of all of the following: 118

(1) Compliance with law; 119

(2) Safety and soundness; 120

(3) Other matters the superintendent determines. 121

(B) The superintendent may examine the records and affairs 122
of any of the following as the superintendent considers 123
necessary: 124

(1) Any party to a proposed reorganization for which the 125
superintendent's approval is required by section 1115.11 or 126
1115.14 of the Revised Code; 127

(2) Any bank, savings and loan association, or savings 128
bank proposing to convert to a bank doing business under 129
authority granted by the superintendent for which the 130
superintendent's approval is required by section 1115.02 of the 131

Revised Code;	132
(3) Any person proposing to acquire control of a state bank for which the superintendent's approval is required by section 1115.06 of the Revised Code, or who acquired control of a state bank without the approval of the superintendent when that approval was required by section 1115.06 of the Revised Code, with respect to the state bank of which control is to be, or was, acquired;	133 134 135 136 137 138 139
(4) Any bank proposing to establish or acquire a branch for which the superintendent's approval is required by section 1117.02 of the Revised Code;	140 141 142
(5) Any foreign bank that maintains, or proposes to establish, one or more offices in this state;	143 144
(6) Any trust company.	145
(C) The board of directors or holders of a majority of the shares of a state bank or trust company may request the superintendent conduct a special examination of the records and affairs of the bank or trust company. The superintendent has sole discretion over the scope and timing of a special examination, and may impose restrictions and limitations on the use of the results of a special examination in addition to the restrictions and limitations otherwise imposed by law. The fee for a special examination shall be paid by the bank or trust company examined in accordance with section 1121.29 of the Revised Code.	146 147 148 149 150 151 152 153 154 155 156
(D) The superintendent may conduct all aspects of an examination concurrently or may divide the examination into constituent parts and conduct them at various times.	157 158 159
(E) The superintendent shall preserve the report of each	160

examination, including related correspondence received and 161
copies of related correspondence sent, for ten years after the 162
examination date. 163

Sec. 1121.101. (A) Notwithstanding section 1121.10 of the 164
Revised Code, and subject to division (B) of this section, the 165
superintendent of financial institutions shall not conduct an 166
examination of a state bank more frequently than once every 167
twenty-four-month cycle, if the bank meets both of the following 168
conditions: 169

(1) It has assets of ten billion dollars or less. 170

(2) Under the uniform financial institutions rating 171
system, it maintains a composite rating of one. 172

(B) The superintendent may conduct more frequent 173
examinations if either of the following applies: 174

(1) The superintendent has reasonable cause to believe 175
that there is a risk of harm to the bank and the examination of 176
the bank is necessary to fully determine the risk to the bank or 177
to determine how best to address the risk. 178

(2) The superintendent participates with financial 179
institution regulatory authorities of other states or the United 180
States in a joint, concurrent, or coordinated examination. 181

(C) A bank's composite rating used for purposes of 182
division (A) (2) of this section is not a public record under 183
section 149.43 of the Revised Code. 184

Sec. 1121.61. (A) As used in this section, "bona fide 185
error" means an unintentional clerical, calculation, computer 186
malfuction or programming, or printing error. 187

(B) A state bank, trust company, or regulated person shall 188

not be held civilly liable in any action brought under Title XI 189
or under Chapter 1309., 1317., or 1345. of the Revised Code, and 190
shall not be subject to any sanction by the superintendent of 191
financial institutions, if all of the following conditions are 192
met: 193

(1) The bank, trust company, or person shows by a 194
preponderance of evidence that the compliance failure was not 195
intentional and resulted from a bona fide error notwithstanding 196
the maintenance of procedures reasonably adapted to avoid any 197
such error. 198

(2) Within sixty days after discovering the error, and 199
prior to the initiation of any action by the superintendent or 200
the receipt of written notice of the error from the consumer, 201
the bank, trust company, or person notifies the superintendent 202
and the consumer of the error and the manner in which the bank, 203
trust company, or person intends to make full restitution to the 204
consumer. 205

(3) The bank, trust company, or person promptly makes 206
reasonable restitution to the consumer. 207

(C) If, in the event of a compliance failure, the bank, 208
trust company, or regulated person does not meet the conditions 209
set forth in division (B) of this section, a consumer injured by 210
the error has a cause of action to recover damages. Such an 211
action may not, however, be maintained as a class action. 212

Sec. 1125.23. (A) The receiver shall promptly cause notice 213
of the claims procedure to be published, in print or in a 214
comparable electronic format, once a month for two consecutive 215
months in a local newspaper of general circulation and to be 216
mailed to each person whose name appears as a creditor upon the 217

books of the state bank, at the last address of record.	218
(B) (1) All parties having claims of any kind against the bank, including prior judgments and claims of security, preference, priority, and offset, shall present their claims substantiated by legal proof to the receiver within one hundred eighty days after the date of the first publication of notice of the claims procedure or after actual receipt of notice of the claims procedure, whichever occurs first.	219 220 221 222 223 224 225
(2) Within one hundred eighty days after receipt of a claim, the receiver shall notify the claimant in writing whether the claim has been allowed or disallowed. The receiver may reject any claim in whole or in part, or may reject any claim of security, preference, priority, or offset against the bank. Any claimant whose claim has been rejected by the receiver shall petition the court for a hearing on the claim within sixty days after the date the notice was mailed or be forever barred from asserting the rejected claim.	226 227 228 229 230 231 232 233 234
(C) Any claims filed after the claim period and subsequently accepted by the receiver or allowed by the court, shall be entitled to share in the distribution of assets only to the extent of the undistributed assets in the hands of the receiver on the date the claims are accepted or allowed.	235 236 237 238 239
Sec. 1181.08. (A) In addition to the specific authority given the superintendent of financial institutions by other provisions of the Revised Code, the superintendent may from time to time adopt such rules as the superintendent considers necessary or appropriate for the administration of the division of financial institutions or to carry out any other duty of the superintendent.	240 241 242 243 244 245 246

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

Sec. 1322.01. As used in this chapter: 250

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

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

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

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

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

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

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

(1) The address of the location appears on business cards,

stationery, or advertising used by the registrant;	275
(2) The registrant's name or advertising at the location suggests that mortgage transactions are made at the location;	276 277
(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	278 279 280
(4) The location within this state is controlled directly or indirectly by the registrant.	281 282
(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. <u>"Buyer" includes an individual whose mortgage loan is serviced by a mortgage servicer.</u>	283 284 285 286 287
(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.	288 289 290
(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:	291 292 293 294
(1) Is a director, general partner, or executive officer or is an individual that occupies a similar position or performs a similar function;	295 296 297
(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;	298 299 300 301
(3) In the case of a limited liability company, is a	302

managing member; or	303
(4) In the case of a partnership, has the right to receive	304
upon dissolution or has contributed five per cent or more of the	305
capital.	306
(K) "Depository institution" has the same meaning as in	307
section 3 of the "Federal Deposit Insurance Act," 12 U.S.C.	308
1813(c), and also includes any credit union.	309
(L) "Dwelling" has the same meaning as in 15 U.S.C.	310
1602(w). "Dwelling" includes a single condominium unit,	311
cooperative unit, mobile home, and trailer, if it is used as a	312
residence, whether or not that structure is attached to real	313
property.	314
(M) "Employee" means an individual for whom a mortgage	315
broker or mortgage lender, in addition to providing a wage or	316
salary, pays social security and unemployment taxes, provides	317
workers' compensation coverage, and withholds local, state, and	318
federal income taxes. "Employee" also includes any individual	319
who acts as a mortgage loan originator or operations manager of	320
a registrant, but for whom the registrant is prevented by law	321
from making income tax withholdings.	322
(N) "Entity" means a business organization, including a	323
sole proprietorship.	324
(O) "Expungement" means a court-ordered process that	325
involves the destruction of documentation related to past	326
arrests and convictions.	327
(P) "Federal banking agency" means the board of governors	328
of the federal reserve system, the comptroller of the currency,	329
the national credit union administration, or the federal deposit	330
insurance corporation.	331

(Q) "Immediate family" means an individual's spouse, 332
child, stepchild, parent, stepparent, grandparent, grandchild, 333
brother, sister, parent-in-law, brother-in-law, or sister-in- 334
law. 335

(R) "Independent contractor" means an individual who 336
performs duties for another person and is not subject to that 337
person's supervision or control. 338

(S) "Individual" means a natural person. 339

(T) "Licensee" means any individual who has been issued a 340
mortgage loan originator license under this chapter. 341

(U) "Loan commitment" means a statement transmitted in 342
writing or electronically by a mortgage lender setting forth the 343
terms and conditions upon which the mortgage lender is willing 344
to make a particular residential mortgage loan to a particular 345
borrower. 346

(V) "Loan processor or underwriter" means an individual 347
who, with respect to the origination of a residential mortgage 348
loan, performs administrative or clerical tasks as an employee 349
at the direction of and subject to the supervision of a mortgage 350
lender or mortgage broker. For purposes of this division, 351
"origination of a residential mortgage loan" means all 352
activities related to a residential mortgage loan, from the 353
taking of a loan application through the completion of all 354
required loan closing documents and the funding of the loan. 355

(W) "Mortgage" means the consensual interest in real 356
property located in this state, including improvements to that 357
property, securing a debt evidence by a mortgage, trust 358
indenture, deed of trust, or other lien on real property. 359

(X) "Mortgage broker" means an entity that obtains, 360

attempts to obtain, or assists in obtaining a mortgage loan for 361
a borrower from a mortgage lender in return for consideration or 362
in anticipation of consideration. For purposes of this division, 363
"attempting to obtain or assisting in obtaining" a mortgage loan 364
includes referring a borrower to a mortgage lender, soliciting 365
or offering to solicit a mortgage loan on behalf of a borrower, 366
or negotiating or offering to negotiate the terms or conditions 367
of a mortgage loan with a mortgage lender on behalf of a 368
borrower. 369

(Y) "Mortgage lender" means an entity that consummates a 370
residential mortgage loan, advances funds, offers to advance 371
funds, or commits to advancing funds for a residential mortgage 372
loan applicant. 373

(Z) (1) "Mortgage loan originator" means an individual who 374
for compensation or gain, or in the expectation of compensation 375
or gain, does any of the following: 376

(a) Takes a residential mortgage loan application; 377

(b) Assists or offers to assist a buyer in obtaining or 378
applying to obtain a residential mortgage loan by, among other 379
things, advising on loan terms, including rates, fees, and other 380
costs; 381

(c) Offers or negotiates terms of a residential mortgage 382
loan; 383

(d) Issues or offers to issue a commitment for a 384
residential mortgage loan to a buyer. 385

(2) "Mortgage loan originator" does not include any of the 386
following: 387

(a) An individual who performs purely administrative or 388

clerical tasks on behalf of a mortgage loan originator;	389
(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;	390 391 392 393 394 395
(c) A person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. 101;	396 397 398
(d) An employee of a mortgage lender or mortgage broker who acts solely as a loan processor or underwriter and who does not represent to the public, through advertising or other means of communicating, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the employee can or will perform any of the activities of a mortgage loan originator;	399 400 401 402 403 404 405
(e) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a mortgage lender, a mortgage broker, or another mortgage loan originator, or by any agent thereof;	406 407 408 409 410 411
(f) Any person engaged in the retail sale of manufactured homes, mobile homes, or industrialized units if, in connection with financing those retail sales, the person only assists the borrower by providing or transmitting the loan application and does not do any of the following:	412 413 414 415 416
(i) Offer or negotiate the residential mortgage loan rates	417

or terms;	418
(ii) Provide any counseling with borrowers about residential mortgage loan rates or terms;	419 420
(iii) Receive any payment or fee from any company or individual for assisting the borrower obtain or apply for financing to purchase the manufactured home, mobile home, or industrialized unit;	421 422 423 424
(iv) Assist the borrower in completing a residential mortgage loan application.	425 426
(g) An individual employed by a nonprofit organization that is recognized as tax exempt under 26 U.S.C. 501(c)(3) and whose primary activity is the construction, remodeling, or rehabilitation of homes for use by low-income families, provided that the nonprofit organization makes no-profit mortgage loans or mortgage loans at zero per cent interest to low-income families and no fees accrue directly to the nonprofit organization or individual employed by the nonprofit organization from those mortgage loans and that the United States department of housing and urban development does not deny this exemption.	427 428 429 430 431 432 433 434 435 436 437
(AA) <u>"Mortgage servicer" means an entity that, for itself or on behalf of the holder of a mortgage loan, holds the servicing rights, records mortgage payments on its books, or performs other functions to carry out the mortgage holder's obligations or rights under the mortgage agreement including, when applicable, the receipt of funds from the mortgagor to be held in escrow for payment of real estate taxes and insurance premiums and the distribution of such funds to the taxing authority and insurance company.</u>	438 439 440 441 442 443 444 445 446

(BB) "Nationwide mortgage licensing system and registry" 447
means a licensing system developed and maintained by the 448
conference of state bank supervisors and the American 449
association of residential mortgage regulators, or their 450
successor entities, for the licensing and registration of 451
persons providing non-depository financial services. 452

~~(BB)~~ (CC) "Nontraditional mortgage product" means any 453
mortgage product other than a thirty-year fixed rate mortgage. 454

~~(CC)~~ (DD) "Person" means an individual, sole 455
proprietorship, corporation, company, limited liability company, 456
partnership, limited liability partnership, trust, or 457
association. 458

~~(DD)~~ (EE) "Real estate brokerage activity" means any 459
activity that involves offering or providing real estate 460
brokerage services to the public, including all of the 461
following: 462

(1) Acting as a real estate salesperson or real estate 463
broker for a buyer, seller, lessor, or lessee of real property; 464

(2) Bringing together parties interested in the sale, 465
purchase, lease, rental, or exchange of real property; 466

(3) Negotiating, on behalf of any party, any portion of a 467
contract relating to the sale, purchase, lease, rental, or 468
exchange of real property, other than in connection with 469
providing financing for any such transaction; 470

(4) Engaging in any activity for which a person engaged in 471
that activity is required to be licensed as a real estate 472
salesperson or real estate broker under the law of this state; 473

(5) Offering to engage in any activity, or to act in any 474

capacity, described in division ~~(DD)~~(EE) of this section. 475

~~(EE)~~(FF) "Registered mortgage loan originator" means an 476
individual to whom both of the following apply: 477

(1) The individual is a mortgage loan originator and an 478
employee of a depository institution, a subsidiary that is owned 479
and controlled by a depository institution and regulated by a 480
federal banking agency, or an institution regulated by the farm 481
credit administration. 482

(2) The individual is registered with, and maintains a 483
unique identifier through, the nationwide mortgage licensing 484
system and registry. 485

~~(FF)~~(GG) "Registrant" means any person that has been 486
issued a certificate of registration under this chapter. 487

~~(GG)~~(HH) "Residential mortgage loan" means any loan that 488
meets both of the following requirements: 489

(1) It is primarily for personal, family, or household use 490
and is secured by a mortgage, deed of trust, or other equivalent 491
consensual security interest on a dwelling or on residential 492
real estate located in Ohio. 493

(2) It is provided and secured by a first lien holder 494
secured creditor or by a second lien holder secured creditor. 495

~~(HH)~~(II) "Residential real estate" means any real 496
property located in this state upon which is constructed a 497
dwelling or upon which a dwelling is intended to be built within 498
a two-year period, subject to 24 C.F.R. 3500.5(b)(4). For 499
purposes of this division, a borrower's intent to build a 500
dwelling within a two-year period is presumed unless the 501
borrower has submitted a written, signed statement to the 502

contrary. 503

~~(II)~~ (JJ) "Superintendent of financial institutions" 504
includes the deputy superintendent for consumer finance as 505
provided in section 1181.21 of the Revised Code. 506

~~(JJ)~~ (KK) "Unique identifier" means a number or other 507
identifier assigned by protocols established by the nationwide 508
mortgage licensing system and registry. 509

Sec. 1322.07. (A) No person, on the person's own behalf or 510
on behalf of any other person, shall act as a mortgage lender, 511
mortgage servicer, or mortgage broker without first having 512
obtained a certificate of registration from the superintendent 513
of financial institutions for the principal office and every 514
branch office to be maintained by the person for the transaction 515
of business as a mortgage lender, mortgage servicer, or mortgage 516
broker in this state. A registrant shall maintain an office 517
location for the transaction of business as a mortgage lender, 518
mortgage servicer, or mortgage broker in this state. 519

(B) (1) No individual shall act as a mortgage loan 520
originator without first having obtained a license from the 521
superintendent. A mortgage loan originator shall be employed by 522
or associated with a mortgage lender, mortgage broker, or entity 523
holding a valid letter of exemption under division (B) (1) of 524
section 1322.05 of the Revised Code, but shall not be employed 525
by or associated with more than one registrant or entity holding 526
a valid letter of exemption under division (B) (1) of section 527
1322.05 of the Revised Code at any one time. 528

(2) An individual acting under the individual's authority 529
as a registered mortgage loan originator shall not be required 530
to be licensed under division (B) (1) of this section. 531

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

Sec. 1322.09. (A) An application for a certificate of registration shall be in writing, under oath, and in a form prescribed by the superintendent of financial institutions that complies with the requirements of the nationwide mortgage licensing system and registry. The application shall be accompanied by a nonrefundable application fee of five hundred dollars for each location of an office to be maintained by the applicant in accordance with division (A) of section 1322.07 of the Revised Code and any additional fee required by the nationwide mortgage licensing system and registry.

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

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

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

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

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

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

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

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

(E) If an application for a certificate of registration does not contain all of the information required under this section, and if that information is not submitted to the superintendent or to the nationwide mortgage licensing system and registry within ninety days after the superintendent or the

nationwide mortgage licensing system and registry requests the 591
information in writing, including by electronic transmission or 592
facsimile, the superintendent may consider the application 593
withdrawn. 594

(F) A certificate of registration and the authority 595
granted under that certificate is not transferable or assignable 596
and cannot be franchised by contract or any other means. 597

(G) (1) The superintendent may establish relationships or 598
enter into contracts with the nationwide mortgage licensing 599
system and registry, or any entities designated by it, to 600
collect and maintain records and process transaction fees or 601
other fees related to mortgage lender, mortgage servicer, or 602
mortgage broker certificates of registration or the persons 603
associated with a mortgage lender, mortgage servicer, or 604
mortgage broker. 605

(2) For purposes of this section and to reduce the points 606
of contact that the federal bureau of investigation may have to 607
maintain, the division of financial institutions may use the 608
nationwide mortgage licensing system and registry as a 609
channeling agent for requesting information from and 610
distributing information to the United States department of 611
justice or other governmental agencies. 612

(3) For purposes of this section and to reduce the points 613
of contact that the division may have to maintain, the division 614
may use the nationwide mortgage licensing system and registry as 615
a channeling agent for requesting information from and 616
distributing information to any source as determined by the 617
division. 618

Sec. 1322.12. Each registrant or entity holding a valid 619

letter of exemption under division (B) (1) of section 1322.05 of 620
the Revised Code shall designate an employee or owner of that 621
registrant's business as the operations manager. The operations 622
manager shall be responsible for the management, supervision, 623
and control of a particular location. 624

To be eligible for such a designation, an employee or 625
owner shall have at least three years of experience as a 626
mortgage loan originator or registered mortgage loan originator. 627
While acting as the operations manager, the employee or owner 628
shall be licensed as a mortgage loan originator under this 629
chapter and shall not be employed by any other mortgage lender 630
or mortgage broker. This paragraph shall not apply to the 631
designated operations manager of an entity registered 632
exclusively as a mortgage servicer. 633

Sec. 1322.34. (A) As often as the superintendent of 634
financial institutions considers it necessary, the 635
superintendent may examine the registrant's or licensee's 636
records, including all records created or processed by a 637
licensee, pertaining to business transacted pursuant to this 638
chapter. 639

(B) A registrant or licensee shall maintain records 640
pertaining to business transacted pursuant to this chapter for 641
four years. For purposes of this division, "registrant or 642
licensee" includes any person whose certificate of registration 643
or license is cancelled, surrendered, or revoked or who 644
otherwise ceases to engage in business as a mortgage lender, 645
mortgage servicer, mortgage broker, or mortgage loan originator. 646

No registrant or licensee shall fail to comply with this 647
division. 648

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

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

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

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

(B) Make false or misleading statements of a material

fact, omissions of statements required by state or federal law, 679
or false promises regarding a material fact, through advertising 680
or other means, or engage in a continued course of 681
misrepresentations; 682

(C) Engage in conduct that constitutes improper, 683
fraudulent, or dishonest dealings; 684

(D) Fail to notify the division of financial institutions 685
within thirty days after any of the following: 686

(1) Being convicted of or pleading guilty or nolo 687
contendere to a felony in a domestic, foreign, or military 688
court; 689

(2) Being convicted of or pleading guilty or nolo 690
contendere to any criminal offense involving theft, receiving 691
stolen property, embezzlement, forgery, fraud, passing bad 692
checks, money laundering, breach of trust, dishonesty, or drug 693
trafficking, or any criminal offense involving money or 694
securities, in a domestic, foreign, or military court; 695

(3) Having a mortgage lender, mortgage servicer, or 696
mortgage broker certificate of registration or mortgage loan 697
originator license, or any comparable authority, revoked in any 698
governmental jurisdiction. 699

(E) Knowingly make, propose, or solicit fraudulent, false, 700
or misleading statements on any mortgage loan document or on any 701
document related to a mortgage loan, including a mortgage 702
application, real estate appraisal, or real estate settlement or 703
closing document. For purposes of this division, "fraudulent, 704
false, or misleading statements" does not include mathematical 705
errors, inadvertent transposition of numbers, typographical 706
errors, or any other bona fide error. 707

(F) Knowingly instruct, solicit, propose, or otherwise	708
cause a buyer to sign in blank a mortgage related document;	709
(G) Knowingly compensate, instruct, induce, coerce, or	710
intimidate, or attempt to compensate, instruct, induce, coerce,	711
or intimidate, a person licensed or certified under Chapter	712
4763. of the Revised Code for the purpose of corrupting or	713
improperly influencing the independent judgment of the person	714
with respect to the value of the dwelling offered as security	715
for repayment of a mortgage loan;	716
(H) Promise to refinance a loan in the future at a lower	717
interest rate or with more favorable terms, unless the promise	718
is set forth in writing and is initialed by the buyer;	719
(I) Engage in any unfair, deceptive, or unconscionable act	720
or practice prohibited under sections 1345.01 to 1345.13 of the	721
Revised Code.	722
Sec. 1322.50. (A) After notice and opportunity for a	723
hearing conducted in accordance with Chapter 119. of the Revised	724
Code, the superintendent of financial institutions may do the	725
following:	726
(1) Suspend, revoke, or refuse to issue or renew a	727
certificate of registration or license if the superintendent	728
finds any of the following:	729
(a) A violation of or failure to comply with any provision	730
of this chapter or the rules adopted under this chapter, federal	731
lending law, or any other law applicable to the business	732
conducted under a certificate of registration or license;	733
(b) A conviction of or guilty or nolo contendere plea to a	734
felony in a domestic, foreign, or military court;	735

(c) A conviction of or guilty or nolo contendere plea to 736
any criminal offense involving theft, receiving stolen property, 737
embezzlement, forgery, fraud, passing bad checks, money 738
laundering, breach of trust, dishonesty, or drug trafficking, or 739
any criminal offense involving money or securities, in a 740
domestic, foreign, or military court; 741

(d) The revocation of a certificate of registration or 742
mortgage loan originator license, or any comparable authority, 743
in any governmental jurisdiction. 744

(2) Impose a fine of not more than one thousand dollars, 745
for each day a violation of a law or rule is committed, 746
repeated, or continued. If the registrant or licensee engages in 747
a pattern of repeated violations of a law or rule, the 748
superintendent may impose a fine of not more than two thousand 749
dollars for each day the violation is committed, repeated, or 750
continued. All fines collected pursuant to this division shall 751
be paid to the treasurer of state to the credit of the consumer 752
finance fund created in section 1321.21 of the Revised Code. In 753
determining the amount of a fine to be imposed pursuant to this 754
division, the superintendent may consider all of the following, 755
to the extent known by the division of financial institutions: 756

(a) The seriousness of the violation; 757

(b) The registrant's or licensee's good faith efforts to 758
prevent the violation; 759

(c) The registrant's or licensee's history regarding 760
violations and compliance with division orders; 761

(d) The registrant's or licensee's financial resources; 762

(e) Any other matters the superintendent considers 763
appropriate in enforcing this chapter. 764

(B) The superintendent may investigate alleged violations 765
of this chapter or the rules adopted under this chapter or 766
complaints concerning any violation. 767

(1) The superintendent may make application to the court 768
of common pleas for an order enjoining any violation and, upon a 769
showing by the superintendent that a person has committed or is 770
about to commit that violation, the court shall grant an 771
injunction, restraining order, or other appropriate relief. 772

(2) The superintendent may make application to the court 773
of common pleas for an order enjoining any person from acting as 774
a mortgage lender, mortgage servicer, mortgage broker, 775
registrant, mortgage loan originator, or licensee in violation 776
of division (A) or (B) of section 1322.07 of the Revised Code, 777
and may seek and obtain civil penalties for unregistered or 778
unlicensed conduct of not more than five thousand dollars per 779
violation. 780

(C) In conducting any investigation pursuant to this 781
section, the superintendent may compel, by subpoena, witnesses 782
to testify in relation to any matter over which the 783
superintendent has jurisdiction and may require the production 784
of any book, record, or other document pertaining to that 785
matter. If a person fails to file any statement or report, obey 786
any subpoena, give testimony, produce any book, record, or other 787
document as required by a subpoena, or permit photocopying of 788
any book, record, or other document subpoenaed, the court of 789
common pleas of any county in this state, upon application made 790
to it by the superintendent, shall compel obedience by 791
attachment proceedings for contempt, as in the case of 792
disobedience of the requirements of a subpoena issued from the 793
court or a refusal to testify therein. 794

(D) If the superintendent determines that a person is 795
engaged in or is believed to be engaged in activities that may 796
constitute a violation of this chapter or any rule adopted 797
thereunder, the superintendent, after notice and a hearing 798
conducted in accordance with Chapter 119. of the Revised Code, 799
may issue a cease and desist order. If the administrative action 800
is to enjoin a person from acting as a mortgage lender, mortgage 801
servicer, mortgage broker, or mortgage loan originator in 802
violation of division (A) or (B) of section 1322.07 of the 803
Revised Code, the superintendent may seek and impose fines for 804
that conduct in an amount not to exceed five thousand dollars 805
per violation. Such an order shall be enforceable in the court 806
of common pleas. 807

(E) If the superintendent revokes a certificate of 808
registration or mortgage loan originator license, the revocation 809
shall be permanent and with prejudice. 810

(F) (1) To protect the public interest, the superintendent 811
may, without a prior hearing, do any of the following: 812

(a) Suspend the certificate of registration or mortgage 813
loan originator license of a registrant or licensee who is 814
convicted of or pleads guilty or nolo contendere to a criminal 815
violation of any provision of this chapter or any criminal 816
offense described in division (A) (1) (b) or (c) of this section; 817

(b) Suspend the certificate of registration of a 818
registrant who violates division (F) of section 1322.32 of the 819
Revised Code; 820

(c) Suspend the certificate of registration or mortgage 821
loan originator license of a registrant or licensee who fails to 822
comply with a request made by the superintendent under section 823

1322.09 or 1322.20 of the Revised Code to inspect qualifying 824
education transcripts located at the registrant's or licensee's 825
place of business. 826

(2) The superintendent may, in accordance with Chapter 827
119. of the Revised Code, subsequently revoke any registration 828
or license suspended under division (F) (1) of this section. 829

(G) The imposition of fines under this section does not 830
preclude any penalty imposed under section 1322.99 of the 831
Revised Code. 832

Sec. 1349.72. (A) Before a person collecting a debt 833
secured by residential real property collects or attempts to 834
collect any part of the debt, the person shall first send a 835
written notice as described in division (B) of this section via 836
United States mail to the residential address of the debtor, if 837
both of the following apply: 838

(1) The debt is a second mortgage or junior lien on the 839
debtor's residential real property. 840

(2) The debt is in default. 841

(B) The written notice shall be printed in at least 842
twelve-point type and state the following: 843

(1) The name and contact information of the person 844
collecting the debt; 845

(2) The amount of the debt; 846

(3) A statement that the debtor has a right to an 847
attorney; 848

(4) A statement that the debtor may qualify for debt 849
relief under Chapter 7 or 13 of the United States Bankruptcy 850

Code, 11 U.S.C. Chapter 7 or 13, as amended; 851

(5) A statement that a debtor that qualifies under Chapter 852
13 of the United States Bankruptcy Code may be able to protect 853
their residential real property from foreclosure. 854

(C) Upon written request of the debtor, the owner of the 855
debt shall provide a copy of the note and the loan history to 856
the debtor. 857

(D) (1) As used in this division, "bona fide error" means 858
an unintentional clerical, calculation, computer malfunction or 859
programming, or printing error. 860

(2) Any owner of debt subject to divisions (A), (B), and 861
(C) of this section shall not be held civilly liable in any 862
action, if all of the following are met: 863

(a) The owner of the debt shows by a preponderance of 864
evidence that the compliance failure was not intentional and 865
resulted from a bona fide error notwithstanding the maintenance 866
of procedures reasonably adapted to avoid any such error. 867

(b) Within sixty days after discovering the error, and 868
prior to the initiation of any action, the owner of the debt 869
notifies the debtor of the error and the manner in which the 870
owner of the debt intends to make full restitution to the 871
debtor. 872

(c) The owner of the debt promptly makes reasonable 873
restitution to the debtor. 874

(3) If, in the event of a compliance failure, the owner of 875
the debt does not meet the conditions set forth in division (D) 876
(2) of this section, a debtor injured by the error has a cause 877
of action to recover damages. Such an action shall not, however, 878

<u>be maintained as a class action.</u>	879
Sec. 1733.01. As used in this chapter, unless the context otherwise requires:	880 881
(A) "Credit union" means a corporation organized and qualified as such under this chapter. In addition to the powers enumerated in this chapter and unless restricted in this chapter, every credit union has the general powers conferred upon corporations by Chapter 1701. of the Revised Code. A credit union is a nonprofit cooperative financial institution and as such is organized and operates for the mutual benefit and general welfare of its members with the earnings, savings, benefits, or services of the credit union being distributed to its members as patron savers and borrowers and not to its members as individuals.	882 883 884 885 886 887 888 889 890 891 892
(B) "Corporate credit union" means a credit union, eligibility for membership in which is being a credit union qualified to do business in this state. Such credit union shall use the term "corporate" in its official name.	893 894 895 896
(C) "Foreign credit union" means a credit union formed under the laws of another state which are substantially similar to this chapter.	897 898 899
(D) "Member" means a person who is a member of a credit union.	900 901
(E) "Association member" means any member of a credit union other than a credit union or an individual member.	902 903
(F) "Voting member" means an association member or an individual member who is qualified to vote as provided by law, the articles, or the regulations.	904 905 906

(G) "Person" includes, without limitation, an individual, 907
the estate of a deceased individual, a corporation, an 908
unincorporated society or association, or any other organization 909
of individuals. 910

(H) "Articles" includes original articles of 911
incorporation, agreements of merger, amended articles, and 912
amendments to any of these. 913

(I) "Regulations" includes the code of regulations of a 914
credit union and any amendments thereto or an amended code of 915
regulations and any amendments thereto. 916

(J) Persons having a "common bond of association" include 917
those persons and their families. 918

(K) ~~"Membership share" means a share of the credit union,~~ 919
~~the subscription to which shall be a prerequisite for membership~~ 920
~~in the credit union.~~ 921

~~(L)~~ "Share account" means an account established for a 922
member for which no share certificates are issued but which are 923
included in the registry of shares, which includes all 924
transactions of the credit union pertaining to such shares. 925

~~(M)~~ (L) "Undivided earnings" consist of all accumulated 926
net earnings and reserves required under division (B) of section 927
1733.31 of the Revised Code. 928

~~(N)~~ (M) "State" means the United States, any state, 929
territory, insular possession, or other political subdivision of 930
the United States, including the District of Columbia. 931

~~(O)~~ (N) An "emergency" exists when an emergency exists for 932
other corporations as the same is defined and described in 933
section 1701.01 of the Revised Code. 934

~~(P)~~(O) "Superintendent of credit unions" means the 935
"division of financial institutions," ~~or~~ the "superintendent of 936
~~the division of financial institutions of this state,~~" or the 937
"deputy superintendent for credit unions"; and whenever the 938
context requires it, may be read as "director of commerce" ~~or as~~ 939
~~"chief of the division of financial institutions."~~ Whenever the 940
division or superintendent of credit unions is referred to or 941
designated in any statute, rule, contract, or other document, 942
the reference or designation shall be deemed to refer to the 943
division ~~or~~ of financial institutions, the superintendent of 944
financial institutions, or the deputy superintendent for credit 945
unions, as the case may be. 946

~~(Q)~~(P) "Outside auditor" means an accountant who is 947
licensed to practice as a certified public accountant or public 948
accountant by this state, and who is retained by a credit union 949
to audit its accounts, but who is not otherwise employed by the 950
credit union. 951

~~(R)~~(Q) "Regulated individual" means a director, committee 952
member, officer, or employee of a credit union. 953

~~(S)~~(R) "Financial institution regulatory authority" 954
includes a regulator of business activity in which a credit 955
union is engaged, or has applied to engage in, to the extent 956
that the regulator has jurisdiction over a credit union engaged 957
in that business activity. A credit union is engaged in a 958
business activity, and a regulator of that business activity has 959
jurisdiction over the credit union, whether the credit union 960
conducts the activity directly or a subsidiary or affiliate of 961
the credit union conducts the activity. 962

Sec. 1733.04. (A) In addition to the authority conferred 963
by section 1701.13 of the Revised Code, but subject to any 964

limitations contained in sections 1733.01 to 1733.45 of the Revised Code, and its articles and regulations, a credit union may do any of the following:

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

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

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

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

(5) Purchase group savings life insurance and group credit life insurance;

(6) Make reasonable contributions to any nonprofit civic, charitable, or service organizations;

(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.

(8) Participate in and pledge assets in connection with	993
the business linked deposit program under sections 135.77 to	994
135.774 of the Revised Code and the agricultural linked deposit	995
program under sections 135.71 to 135.76 of the Revised Code.	996
(B) The authority of a credit union shall be subject to	997
the following:	998
(1) A credit union may not borrow money in excess of	999
twenty-five per cent of its shares and undivided earnings,	1000
without prior specific authorization by the superintendent of	1001
credit unions.	1002
(2) A credit union may not pay a commission or other	1003
compensation to any person for securing members or for the sale	1004
of its shares, except that reasonable incentives may be made	1005
available directly to members or potential members to promote	1006
thrift.	1007
(3) (C) (1) A credit union, subject to the approval of the	1008
superintendent, may have service facilities other than its home	1009
office.	1010
(4) (2) Real estate may be acquired by lease, purchase, or	1011
otherwise as necessary and to the extent required for use of the	1012
credit union presently and in the future operation of its office	1013
or headquarters, and in case of a purchase of real estate, the	1014
superintendent must first be notified in writing prior to the	1015
purchase of the real estate. The superintendent shall notify the	1016
credit union not more than thirty days after receipt of the	1017
notification to purchase the real estate if the purchase is	1018
denied, approved, or modified. If the superintendent does not	1019
respond within thirty days after receipt of the notification to	1020
purchase the real estate, it shall be deemed approved. Nothing	1021

herein contained shall be deemed to prohibit a credit union from 1022
taking title to real estate in connection with a default in the 1023
payment of a loan, provided that title to such real estate shall 1024
not be held by the credit union for more than two years without 1025
the prior written approval of the superintendent. A credit union 1026
also may lease space in any real estate it acquires in 1027
accordance with rules adopted by the superintendent. 1028

~~(C)~~ (D) (1) As used in division ~~(C)~~ (D) of this section: 1029

(a) "School" means an elementary or secondary school. 1030

(b) "Student" means a child enrolled in a school. 1031

(c) "Student branch" means the designation provided to the 1032
credit union for the in-school services and financial education 1033
offered to students. 1034

(2) A credit union, upon agreement with a school board, in 1035
the case of a public school, or the governing authority, in the 1036
case of a nonpublic school, and with the permission of the 1037
superintendent, may open and maintain a student branch. 1038

(3) Notwithstanding any other provision of this section, 1039
any student enrolled in the school maintaining a student branch 1040
who is not otherwise qualified for membership in the credit 1041
union maintaining the student branch is qualified to be a member 1042
of that student branch. 1043

(4) The student's membership in the student branch expires 1044
upon the student's graduation from secondary school. 1045

(5) The student branch is for the express use of students 1046
and may not be used by faculty, staff, or lineal ancestors or 1047
descendents of students. 1048

(6) Faculty, staff, or lineal ancestors or descendents of 1049

students are not eligible for membership in the credit union 1050
maintaining the student branch unless otherwise qualified by 1051
this section to be members. 1052

(7) The superintendent may adopt rules appropriate to the 1053
formation and operation of student branches. 1054

~~(D)~~ (E) A credit union may guarantee the signature of a 1055
member in connection with a transaction involving tangible or 1056
intangible property in which a member has or seeks to acquire an 1057
interest. 1058

Sec. 1733.041. Each credit union operating under this 1059
chapter or otherwise authorized to do business in this state 1060
shall obtain insurance for the protection of their members' 1061
accounts. Such share guarantee insurance may be obtained from 1062
the national credit union administration operating under the 1063
"Federal Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C. 1751, 1064
and any amendments thereto, or from ~~the national deposit a~~ 1065
credit union share guaranty corporation, established under 1066
Chapter 1761. of the Revised Code, or from any insurer qualified 1067
under the laws of this state to write such insurance. 1068

Sec. 1733.05. (A) Persons otherwise qualifying for 1069
membership in a credit union under this section, the articles, 1070
and the regulations, and who are elected to membership by the 1071
board of directors, shall become members of a credit union, 1072
provided that in lieu of electing persons to membership, the 1073
board of directors may elect or appoint one or more membership 1074
officers and delegate authority to any such membership officer 1075
to accept persons into membership. 1076

~~(B) No~~ (1) A person ~~shall qualified for membership may~~ 1077
become a member of a credit union ~~who has not subscribed to or~~ 1078

~~purchased at least one upon the occurrence of any of the~~ 1079
following: 1080

(a) The purchase of a membership share of such in the 1081
credit union as provided in the credit union's bylaws; 1082

(b) The payment of an entrance fee established from time 1083
to time by the board of directors of the credit union; 1084

(c) The purchase of one or more shares in the credit union 1085
as provided in the credit union's bylaws. 1086

(2) Each member is responsible for maintaining a current 1087
address with the credit union. 1088

(C) The membership of a credit union shall be limited to 1089
groups having a common bond of occupation or association or 1090
groups within a well-defined neighborhood, community, or rural 1091
district; however, except as otherwise provided in the articles 1092
or regulations, a person shall be deemed to retain affiliation 1093
with the credit union so long as ~~he~~ the person remains a member 1094
of the credit union even though no longer within the field of 1095
membership. 1096

(D) Unless otherwise provided in the articles of 1097
incorporation or the code of regulations, and subject to such 1098
conditions as the superintendent of credit unions may establish, 1099
groups composed of persons within the field of membership of a 1100
credit union may become members of such credit union. 1101

(1) Any credit union may, with the approval of the 1102
superintendent, pursuant to section 1733.33 of the Revised Code, 1103
amend its articles of incorporation and, if appropriate, its 1104
code of regulations, to permit select groups having a common 1105
bond of occupation or association or select groups within a 1106
well-defined neighborhood, community, or rural district, to 1107

become members of such credit union in accordance with rules 1108
adopted by the superintendent. 1109

(2) Before the select group is permitted membership in a 1110
credit union, the superintendent must approve, in writing, both 1111
the select group and the credit union. 1112

(E) With the approval of the superintendent, any select 1113
group, within a field of membership and described in division 1114
(D)(1) of this section, may disaffiliate from the credit union 1115
with which it is associated if a majority of the persons within 1116
the select group vote for disaffiliation. Any such proposed 1117
disaffiliation must be pursuant to a written plan approved by 1118
the superintendent. This plan shall be distributed to such 1119
persons in advance of the vote on the proposed disaffiliation, 1120
which plan must have due regard for the equitable division of 1121
assets and liabilities, including share accounts and loans of 1122
the select group seeking to disaffiliate, and any other 1123
consideration required by the superintendent. 1124

(F) Credit unions qualified to do business in this state 1125
have a common bond of association for the purpose of forming and 1126
operating a corporate credit union. 1127

(G) No interstate charter amendment, conversion, merger, 1128
or other expansion of a credit union field of membership shall 1129
be authorized without the approval of all supervisory 1130
authorities affected, whether state or federal, in accordance 1131
with rules adopted by the superintendent in terms of 1132
administrative control and authority, the location of the 1133
surviving credit union in the case of a merger, or the home 1134
office in the case of an expansion, is controlling. 1135

Sec. 1733.051. (A) The senior management officials of a 1136

credit union may terminate the membership of, or some or all 1137
services to, a member of the credit union, if the member does 1138
any of the following: 1139

(1) Causes a loss to the credit union; 1140

(2) Commits fraud or any similar misdeed against the 1141
credit union or against any person on the premises of the credit 1142
union; 1143

(3) Engages in inappropriate behavior involving another 1144
person, such as physical or verbal abuse of another member or an 1145
employee of the credit union; 1146

(4) Otherwise engages in conduct detrimental to the credit 1147
union. 1148

(B) A member that has its membership terminated or 1149
services suspended under division (A) of this section may, 1150
within ninety days after the termination or suspension, appeal 1151
the action to the board of directors of the credit union. The 1152
board may affirm, disaffirm, or modify the action, and its 1153
decision is final. 1154

Sec. 1733.13. (A) Each voting member present in person, by 1155
proxy, ~~or~~ by mail ballot, by electronic ballot, or as otherwise 1156
prescribed by a credit union's bylaws is entitled to cast one 1157
vote, irrespective of the number of shares the member owns, on 1158
each matter properly submitted to the members for their vote, 1159
consent, waiver, release, or other action. 1160

(B) The chairperson of the board, the president, any vice- 1161
president, secretary, or treasurer of any association member of 1162
the credit union shall conclusively be presumed to have 1163
authority to cast the vote of such association member and to 1164
appoint proxies and execute consents, waivers, releases, on its 1165

behalf, unless before a vote is taken or a consent, waiver, or 1166
release is acted upon, it appears by a certified copy of the 1167
code of regulations, bylaws, or a resolution of the trustees, 1168
directors, or executive committee of the said association 1169
member, that such authority does not exist or is vested in some 1170
other officer or person. For the purposes of this section, a 1171
person exercising such authority as such officer is prima-facie 1172
to be considered duly elected, qualified, and acting as such 1173
officer. 1174

(C) If the articles or regulations so provide, any person, 1175
who is entitled to attend a members' meeting to vote thereat, or 1176
to execute consents, waivers, or releases, may: 1177

(1) Vote thereat, and execute consents, waivers, and 1178
releases, and exercise any of the person's other rights, by mail 1179
ballot delivered to, or electronic ballot received by, the 1180
office of the credit union at least seven days prior to the date 1181
set for the meeting. At least thirty days' notice shall be given 1182
to all eligible members of the date set for such meeting. No 1183
mail ballot or electronic ballot shall be valid after the 1184
expiration of eleven months after delivery to or receipt by the 1185
credit union. The form of any mail ballot or electronic ballot 1186
shall comply with criteria established by the superintendent of 1187
financial institutions or have the prior written approval of the 1188
superintendent ~~of credit unions~~. 1189

(2) Be represented at such meeting or vote thereat, and 1190
execute consents, waivers, and releases, and exercise any of the 1191
person's other rights, by proxy or proxies appointed by a 1192
writing signed by such person. No appointment of a proxy shall 1193
be valid after the expiration of eleven months after it is made. 1194
The form of any proxy shall comply with criteria established by 1195

the superintendent or have the prior written approval of the 1196
superintendent. 1197

Sec. 1733.14. The quorum for a members' meeting, which may 1198
be set forth in the articles or regulations of a credit union, 1199
shall include those members present and eligible to vote as 1200
provided in section 1733.13 of the Revised Code. Unless the 1201
articles or regulations otherwise provide: 1202

(A) ~~Ten~~ One per cent of the voting members of a credit 1203
union, ~~whether they are present in person, by mail ballot, or by~~ 1204
~~proxy or twenty-five, whichever is lower, constitutes a quorum~~ 1205
at any meeting of members ~~constitute a quorum for such meeting.~~ 1206

(B) The act of a majority of the voting members 1207
represented in person, by mail ballot, ~~or by electronic ballot,~~ 1208
by proxy, or as otherwise prescribed by a credit union's bylaws, 1209
at a meeting at which a quorum is present shall control, but no 1210
action required by law, the articles, or regulations to be 1211
authorized or taken by a designated proportion of the members 1212
may be authorized or taken by a lesser proportion. 1213

(C) The voting members represented at a meeting, whether 1214
or not a quorum is present, may adjourn such meeting from time 1215
to time. 1216

Sec. 1733.152. (A) The board of directors of a credit 1217
union may, in its discretion, appoint one or more associate 1218
directors to serve in an advisory, ex officio capacity. The 1219
board shall prescribe the duties of an associate director and 1220
the manner in which associate directors are appointed and 1221
removed. 1222

(B) Prior to appointing an associate director, the board 1223
shall confirm that the person meets all of the requirements to 1224

serve as a director. 1225

(C) An associate director may participate in meetings of 1226
the board but may not vote or otherwise act as a director. An 1227
associate director shall not be considered a director for 1228
purposes of this chapter. 1229

(D) The board shall require each associate director to 1230
sign a confidentiality agreement to ensure that information 1231
concerning the credit union remains confidential. 1232

Sec. 1733.16. Unless otherwise provided in the articles, 1233
regulations, or bylaws, and subject to the exceptions applicable 1234
during an emergency, as that term is defined in section 1733.01 1235
of the Revised Code: 1236

(A) Meetings of the directors may be called by the 1237
chairperson, vice-chairperson, president, or any vice-president 1238
of the board or any two directors. 1239

(B) Regularly scheduled meetings of the directors shall be 1240
held in the manner prescribed by the credit union's code of 1241
regulations, but not less frequently than quarterly. 1242

(C) Meetings of the directors may be held within or 1243
without the state. Unless the articles or regulations prohibit 1244
participation by directors at a meeting by means of 1245
communication equipment, meetings of the directors may be held 1246
through any communication equipment if all the persons 1247
participating can hear each other, and participation in the 1248
meeting pursuant to this division constitutes presence at the 1249
meeting. 1250

~~(C)~~ (D) Notice of the place, if any, and time of each 1251
meeting of the directors shall be given to each director either 1252
by personal delivery or by mail, telegram, cablegram, overnight 1253

delivery service, or any other means of communication authorized 1254
by the director at least two days before the meeting, unless 1255
otherwise specified in the regulations or bylaws. The notice 1256
described in this division need not specify the purpose of the 1257
meeting. 1258

~~(D)~~-(E) Notice of adjournment of a meeting need not be 1259
given, if the time and place to which it is adjourned are fixed 1260
and announced at the meeting. 1261

Sec. 1733.19. (A) The regulations may provide for the 1262
creation by the directors of an executive committee consisting 1263
of not less than three directors, and may authorize the 1264
delegation to any such committee of any of the authority of 1265
directors other than any action requiring more than a majority 1266
vote of the board of directors; provided, that the executive 1267
committee shall exercise only such authority in the interim 1268
between the meetings of the board and shall make a full report 1269
of, and the board shall review, all actions taken at any meeting 1270
of such committee at the next regular meeting of the board of 1271
directors following the meeting of the executive committee. 1272

(B) Unless the articles or regulations provide a different 1273
method for the establishment of a supervisory audit committee, 1274
the board of directors shall appoint a supervisory audit 1275
committee of not less than three individual voting members for 1276
such term as is provided in the regulations. The committee shall 1277
audit the books of the credit union at least annually, using 1278
generally accepted auditing procedures and standards, and shall 1279
report its findings to the board. Under the supervision of the 1280
supervisory audit committee, accounts showing installment 1281
payments by members upon shares of the credit union shall be 1282
verified at least annually. 1283

(C) In lieu of the appointment of a supervisory audit committee as provided in division (B) of this section, the board of directors may employ a public accountant or a firm of public accountants to perform the functions of a supervisory audit committee. The board of directors may appoint an audit committee to oversee the public accountant or firm of public accountants.

(D) The superintendent of credit unions may require at any time that a credit union have its accounts audited in accordance with generally accepted auditing standards by an outside auditor. The outside auditor shall be retained, and expense of any such audit shall be paid, by the credit union.

(E) (1) Unless the articles or regulations provide for the appointment of loan officers in lieu of a credit committee, the board of directors shall appoint, or the members shall elect, a credit committee composed of not less than three individual voting members, which committee shall have such powers in the granting of loans and the supervision of lending practices as shall be delegated to it by the articles, regulations, or resolutions of the board of directors. The credit committee shall make regular reports of their activities to the board of directors, and the board of directors shall review the reports.

(2) The credit committee may be delegated the authority to appoint one or more loan officers, and delegate to them power to approve loans within limits fixed by the regulations, bylaws, or resolutions of the board of directors. Such loan officers also may be loan originators registered with the nationwide mortgage licensing system and registry as provided in section 1733.352 of the Revised Code.

(3) If loan officers are appointed pursuant to division (E) (2) of this section, all applications for loans denied by a

loan officer may be reviewed by the credit committee, and the 1314
approval of the majority of the members of the committee who are 1315
present at the meeting when the review is undertaken shall be 1316
required to reverse the decision of the loan officer, provided 1317
that a majority of the full committee is present. 1318

(4) In the absence of a credit committee, the board shall, 1319
upon the written request of a member, review a loan application 1320
denied by a loan officer. 1321

(F) If the articles or regulations so provide, a credit 1322
union may establish an advisory board consisting of persons 1323
selected by the board of directors or their designee. Persons 1324
serving on the advisory board need not be members of the credit 1325
union, they may be paid per diem not exceeding thirty dollars 1326
per day and expenses for their services on such board, and their 1327
duties shall be to make recommendations on financial and policy 1328
matters of the credit union. 1329

(G) A credit union may establish such other committee or 1330
committees as shall be provided for in the articles, 1331
regulations, bylaws, or by resolution of the board of directors. 1332

Sec. 1733.22. ~~(A) No officer, director, or employee of any~~ 1333
~~credit union shall receive any commission, salary, or other~~ 1334
~~emolument for services arising out of the officer's, director's,~~ 1335
~~or employee's association with the credit union except per diem,~~ 1336
~~wages, or salary which the officer, director, or employee~~ 1337
~~receives, subject to rules adopted under section 1733.411 of the~~ 1338
~~Revised Code, as compensation for services to the credit union.~~ 1339

~~(B) No director or member of any committee shall receive~~ 1340
~~any compensation for services as such; however, unless otherwise~~ 1341
~~provided in the articles or regulations, a A credit union may~~ 1342

provide, at its expense, a director or committee member 1343
reasonable health, accident, and related types of personal 1344
insurance protection. A director or committee member is 1345
entitled, subject to rules adopted under section 1733.411 of the 1346
Revised Code and when so authorized by the board of directors, 1347
to reimbursement for the director's or committee member's 1348
expenses incurred in connection with the business of the credit 1349
union. 1350

(B) A credit union may provide any of the following to its 1351
directors and supervisory audit committee members: 1352

(1) Reasonable compensation for their service as directors 1353
or supervisory audit committee members; 1354

(2) Gifts of minimal value; 1355

(3) Insurance coverage or other benefits that are 1356
available to employees generally; 1357

(4) Reimbursement for reasonable expenses incurred on 1358
behalf of themselves and their spouses in the performance of 1359
their duties as directors or supervisory audit committee 1360
members. 1361

(C) The superintendent of financial institutions may, in 1362
accordance with Chapter 119. of the Revised Code, adopt any rule 1363
necessary for the implementation of this section. 1364

Sec. 1733.24. (A) A credit union is authorized to receive 1365
funds for deposit in share accounts, share draft accounts, and 1366
share certificates from its members, from other credit unions, 1367
and from an officer, employee, or agent of the federal, state, 1368
or local governments, or political subdivisions of the state, in 1369
accordance with such terms, rates, and conditions as may be 1370
established by its board of directors, and for purposes of the 1371

agricultural linked deposit program created under sections 1372
135.71 to 135.76 of the Revised Code and the business linked 1373
deposit program created under sections 135.77 to 135.774 of the 1374
Revised Code. 1375

(B) The shares and share accounts of the credit union may 1376
be of one or more classes, as designated by the board of 1377
directors, subject to approval of the superintendent of credit 1378
unions based on rules that shall assure equitable distribution 1379
of dividends among classes, considering costs and advantages of 1380
each class to the members of the credit union, including without 1381
limitation special services rendered, length of ownership, 1382
minimum investment, conditions of repurchase, and other 1383
appropriate standards or combinations thereof. In the event the 1384
articles of incorporation of the credit union indicate the 1385
authorized number of shares to be unlimited, the designation of 1386
classification of shares and share accounts of the credit union 1387
may be effected by the board of directors, subject to the 1388
approval of the superintendent, and does not require amendment 1389
of the articles of incorporation. All shares of the credit union 1390
shall have a par value per share as set by the board of 1391
directors. Redemptions and liquidating dividends shall be 1392
prorated to each member on the basis of the price paid the 1393
credit union for such share, irrespective of the class of such 1394
shares. 1395

(C) (1) Each credit union shall have one class of shares 1396
designated as "membership share." The membership shares, or if a 1397
credit union has but one class of shares, then all of the shares 1398
of the credit union, shall have a par value as set by the board 1399
of directors. 1400

(2) Two or more persons that are eligible for membership 1401

that have jointly subscribed for one or more shares under a 1402
joint account each may be admitted to membership. 1403

(D) A credit union need not issue certificates for any or 1404
all of its classes of shares but irrespective of whether 1405
certificates are issued, a registry of shares must be kept, 1406
including all of the transactions of the credit union pertaining 1407
to such shares. 1408

(E) A credit union is authorized to maintain share draft 1409
accounts in accordance with rules prescribed by the 1410
superintendent. The credit union may pay dividends on share 1411
draft accounts, may pay dividends at different rates on 1412
different types of share draft accounts, and may permit the 1413
owners of such share draft accounts to make withdrawals by 1414
negotiable or transferable instruments or other orders for the 1415
purpose of making transfers to third parties. 1416

(F) Unless otherwise provided by written agreement of the 1417
parties, the rights, responsibilities, and liabilities attaching 1418
to a share draft withdrawn from, transferred to, or otherwise 1419
handled by a credit union are defined in and governed by 1420
Chapters 1303. and 1304. of the Revised Code, as if the credit 1421
union were a bank. 1422

(G) Unless otherwise provided in the articles or 1423
regulations, a member may designate any person or persons to own 1424
or hold shares, or share accounts with the member in joint 1425
tenancy with right of survivorship and not as tenants in common. 1426

(H) Shares or share accounts may be issued in the name of 1427
a custodian under the Ohio transfers to minors act, a member in 1428
trust for a beneficiary, a fiduciary or custodian in trust for a 1429
member beneficiary, or a fiduciary or custodian in trust upon 1430

the death of a member. Redemption of such shares or payment of 1431
such share accounts to a member, to the extent of the payment, 1432
discharges the liability of the credit union to the member and 1433
the beneficiary, and the credit union shall be under no 1434
obligation to see to the application of the payment. Unless 1435
prior to the death of a member, the member has notified the 1436
credit union in writing in a form approved by the credit union 1437
of a different beneficiary to receive the proceeds of such 1438
shares or share accounts, then the proceeds shall be paid to the 1439
beneficiary or to the beneficiary's parent or legal 1440
representative. Any payment made pursuant to written 1441
instructions of the member or pursuant to the provisions herein 1442
contained shall be a valid and sufficient release and discharge 1443
of the credit union in connection with any such share or share 1444
accounts. 1445

(I) (1) Except as otherwise provided in the articles or 1446
regulations, and subject to the provisions thereof, a minor may 1447
purchase shares, share accounts, or other depository 1448
instruments, and except for qualification as a voting member, 1449
the credit union may deal with the minor with respect to shares, 1450
share accounts, or other depository instruments owned by the 1451
minor as if the minor were a person of legal age. 1452

(2) If shares, share accounts, or other depository 1453
instruments are issued in the name of a minor, redemption of any 1454
part or all of the shares or withdrawal of funds by payment to 1455
the minor of the shares or funds and any declared dividends or 1456
interest releases the credit union from all obligation to the 1457
minor as to the shares reduced or funds withdrawn. 1458

(J) The regulations may require advance written notice of 1459
a member's intention to withdraw the member's shares. Such 1460

advance notice shall not exceed sixty days. 1461

(K) Notwithstanding any provision of law to the contrary, 1462
funds deposited in a share account, share certificate, or in any 1463
other manner pursuant to a program offered by a credit union to 1464
promote consumer savings do not constitute valuable 1465
consideration for purposes of a scheme of chance under Chapter 1466
2915. of the Revised Code. 1467

Sec. 1733.32. (A) (1) The superintendent of financial 1468
institutions shall see that the laws relating to credit unions 1469
are executed and enforced. 1470

(2) The deputy superintendent for credit unions shall be 1471
the principal supervisor of credit unions. In that position, the 1472
deputy superintendent for credit unions shall, notwithstanding 1473
division (A) (3) of this section, be responsible for conducting 1474
examinations and preparing examination reports under that 1475
division. In addition, the deputy superintendent for credit 1476
unions shall, notwithstanding sections 1733.191, 1733.41, 1477
1733.411, and 1733.412 of the Revised Code, have the authority 1478
to adopt rules in accordance with those sections, and, 1479
notwithstanding section 1733.05 of the Revised Code, shall have 1480
the authority to approve issues and matters pertaining to fields 1481
of membership. In performing or exercising any of the 1482
examination, rule-making, or other regulatory functions, powers, 1483
or duties vested by division (A) (2) of this section in the 1484
deputy superintendent for credit unions, the deputy 1485
superintendent for credit unions shall be subject to the control 1486
of the superintendent of financial institutions. 1487

(3) The superintendent of financial institutions shall 1488
develop and implement a system for evaluating the safety and 1489
soundness of credit unions and for determining when examinations 1490

and supervisory actions are necessary. ~~Credit~~ Except as 1491
otherwise provided in section 1733.328 of the Revised Code, 1492
credit unions shall be subject to periodic examinations, as 1493
specified in rules adopted by the superintendent, and their 1494
books, records, and accounts shall be open to the inspection of 1495
the superintendent at all times. For the purpose of such 1496
examination or inspection, the superintendent may subpoena 1497
witnesses, administer oaths, receive testimony, and order the 1498
submission of documents. 1499

(B) Every credit union shall prepare and submit, on forms 1500
provided by the superintendent, a financial report to the 1501
superintendent showing its assets and liabilities whenever 1502
requested to do so by the superintendent. Every financial report 1503
shall be verified by the oaths of the two principal officers in 1504
charge of the affairs of the credit union at the time of such 1505
verification and shall be submitted to the superintendent within 1506
thirty days after the superintendent requests the financial 1507
report. 1508

(C) An annual financial report of the affairs and business 1509
of the credit union, showing its condition as of the thirty- 1510
first day of December unless otherwise authorized by the 1511
superintendent, shall be filed with the superintendent not later 1512
than the date authorized in the rules adopted by the 1513
superintendent. 1514

(D) If a financial report or an annual financial report is 1515
not filed with the superintendent in accordance with division 1516
(B) or (C) of this section, the superintendent may do both of 1517
the following: 1518

(1) Assess a fine, determined by rule adopted by the 1519
superintendent, for each day the report is in arrears; 1520

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

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

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

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

division (E) of this section. 1551

(4) If any supervisory fee is not remitted in accordance 1552
with division (E) (1) or (2) of this section, the superintendent 1553
may assess a fine, determined by rule adopted by the 1554
superintendent, for each day that each fee is in arrears. 1555

(5) (a) Subject to division (E) (5) (b) of this section, the 1556
total amount of each semiannual billing to all credit unions and 1557
corporate credit unions combined shall equal one-half of the 1558
appropriation made by the main operating appropriation act, 1559
including any modifications made by the controlling board, to 1560
the division of financial institutions for the regulation of 1561
credit unions for the fiscal year in which the billings occur, 1562
except that the superintendent, in determining the supervisory 1563
fees, may take into consideration any funds lapsed from the 1564
appropriation made in the previous fiscal year. 1565

(b) If during the period between the credit union 1566
council's confirmation of supervisory fees and when supervisory 1567
fees described in this section are collected, the credit union 1568
council determines additional money is required to adequately 1569
fund the operations of the division of financial institutions 1570
for that fiscal year, the credit union council may, by the 1571
affirmative vote of five of its members, increase the 1572
supervisory fees billed. The superintendent promptly shall 1573
notify each credit union and corporate credit union of the 1574
increased supervisory fees, and each credit union or corporate 1575
credit union shall pay the increased supervisory fees billed by 1576
the superintendent. 1577

(6) The fees or fines collected pursuant to this section 1578
shall be credited to the credit unions fund created in section 1579
1733.321 of the Revised Code. 1580

(F) A report of such examination shall be forwarded to the 1581
president of each credit union after the completion of the 1582
examination. The report may contain comments relative to the 1583
management of the affairs of the credit union and also as to the 1584
general condition of its assets. Within thirty days of the 1585
receipt of the report, a meeting of the directors shall be 1586
called to consider matters contained in the report, and the 1587
president shall notify the superintendent of any action taken at 1588
the meeting. 1589

(G) (1) The superintendent shall furnish reports of 1590
examinations or other appropriate information to any 1591
organization referred to in section 1733.041 of the Revised Code 1592
when requested by the organization and authorized by the credit 1593
union. The superintendent may charge a fee for such reports and 1594
other information as may be established by rules adopted by the 1595
superintendent. 1596

(2) A report of examination furnished pursuant to division 1597
(G) (1) of this section is the property of the division of credit 1598
unions and may be used by the examined credit union only in the 1599
conduct of its business. Under no circumstances may the credit 1600
union, its current or former directors, officers, employees, 1601
agents, shareholders, participants in the conduct of its 1602
affairs, or their agents disclose or make public, in any manner, 1603
a report of examination or its contents. 1604

(H) Except as provided in this division, information 1605
obtained by the superintendent of financial institutions and the 1606
superintendent's employees as a result of or arising out of the 1607
examination or independent audit of a credit union, from 1608
required reports, or because of their official position, shall 1609
be confidential. Such information may be disclosed only in 1610

connection with criminal proceedings or, subject to section 1611
1733.327 of the Revised Code, when it is necessary for the 1612
superintendent to take official action pursuant to Chapter 1733. 1613
of the Revised Code and the rules adopted thereunder regarding 1614
the affairs of the credit union examined. Such information may 1615
also be introduced into evidence or disclosed when and in the 1616
manner authorized in section 1181.25 of the Revised Code. This 1617
division does not prevent the superintendent from properly 1618
exchanging information relating to an examined credit union 1619
pursuant to division (F) or (G) of this section, with officials 1620
of properly authorized state or federal financial institution 1621
regulatory authorities, with any insurer recognized under 1622
section 1733.041, or with any surety recognized under section 1623
1733.23 of the Revised Code. This division also does not prevent 1624
the superintendent from disclosing information contained in the 1625
financial reports or annual financial reports described in 1626
division (B) or (C) of this section to recognized credit union 1627
trade associations, to share guarantee insurance organizations, 1628
to federal or state agencies, or to the general public. 1629
Financial reports and annual financial reports described in 1630
divisions (B) and (C) of this section, call reports, or 1631
financial statements required to be filed with the division of 1632
financial institutions are public records for purposes of 1633
section 149.43 of the Revised Code. Information relating to the 1634
examination or independent audit of a credit union, other than 1635
information that is permitted to be disclosed by this section or 1636
is a public record, is not a public record for purposes of 1637
section 149.43 of the Revised Code. 1638

Sec. 1733.328. (A) Notwithstanding section 1733.32 of the 1639
Revised Code, and subject to division (B) of this section, the 1640
superintendent of financial institutions shall not conduct an 1641

examination of a credit union more frequently than once every 1642
twenty-four-month cycle, if the credit union meets both of the 1643
following conditions: 1644

(1) It has assets of ten billion dollars or less. 1645

(2) Under the uniform financial institutions rating 1646
system, it maintains a composite rating of one. 1647

(B) The superintendent may conduct more frequent 1648
examinations if either of the following applies: 1649

(1) The superintendent has reasonable cause to believe 1650
that there is a risk of harm to the credit union and the 1651
examination of the credit union is necessary to fully determine 1652
the risk to the credit union or to determine how best to address 1653
the risk. 1654

(2) The superintendent participates with financial 1655
institution regulatory authorities of other states or the United 1656
States in a joint, concurrent, or coordinated examination. 1657

(C) A credit union's composite rating used for purposes of 1658
division (A) (2) of this section is not a public record under 1659
section 149.43 of the Revised Code. 1660

Sec. 1733.329. (A) There is hereby created in the division 1661
of financial institutions the credit union council, which shall 1662
consist of seven members. The deputy superintendent for credit 1663
unions shall be a member of the council and its chairperson. The 1664
governor, with the advice and consent of the senate, shall 1665
appoint the remaining six members. 1666

(B) (1) At least five of the six members appointed to the 1667
council shall have had credit union experience. 1668

(2) At least four of the six members appointed to the 1669

council shall be, at the time of appointment, individuals 1670
currently engaged in the exercise of duties, responsibilities, 1671
rights, and powers of a director or chief executive officer of a 1672
state-chartered credit union having its principal office in this 1673
state and doing business in this state pursuant to this chapter 1674
under the authority of the superintendent of financial 1675
institutions. 1676

(3) At least one of the six members appointed to the 1677
council shall be a director or chief executive officer of a 1678
state-chartered, federally insured credit union. 1679

(4) At least one of the six members appointed to the 1680
council shall be a director or chief executive officer of a 1681
state-chartered, privately insured credit union. 1682

(5) At least one of the six members appointed to the 1683
council shall be a director or chief executive officer of a 1684
state-chartered credit union with ~~thirty five~~ one hundred 1685
million dollars or less in assets. 1686

~~(6) At least one of the six members appointed to the~~ 1687
~~council shall be a director or chief executive officer of a~~ 1688
~~state-chartered credit union with more than fifty million~~ 1689
~~dollars in assets.~~ 1690

(C) (1) Initial appointments to the council shall be made 1691
within sixty days after ~~the effective date of this section~~ 1692
September 22, 2000. Of the initial appointments, two shall 1693
expire one year after ~~the effective date of this section~~ 1694
September 22, 2000, two shall expire two years after ~~the~~ 1695
~~effective date of this section~~ September 22, 2000, and two shall 1696
expire three years after ~~the effective date of this section~~ 1697
September 22, 2000. Thereafter, terms of office shall be for 1698

three years. 1699

(2) Each member shall hold office from the date of 1700
appointment until the end of the term for which the member was 1701
appointed. In the case of a vacancy in the office of any member, 1702
the governor shall appoint a successor, who shall hold office 1703
for the remainder of the term for which the successor's 1704
predecessor was appointed. Any member shall continue in office 1705
subsequent to the expiration date of the member's term until the 1706
member's successor takes office, or until sixty days has 1707
elapsed, whichever occurs first. 1708

(3) If during a member's term on the council, the member 1709
ceases to be a director or chief executive officer of a credit 1710
union as described in divisions (B) (2) to ~~(6)~~ (5) of this 1711
section for a period exceeding ninety days, the member shall be 1712
ineligible to continue to serve as a member of the council, and 1713
the member's position on the council shall be considered vacant. 1714

(D) No person appointed as a member of the credit union 1715
council may serve more than two consecutive full terms. However, 1716
a member may serve two consecutive full terms following the 1717
remainder of a term for which the member was appointed to fill a 1718
vacancy or following any term for which the member was appointed 1719
prior to ~~the effective date of this section~~ September 22, 2000. 1720

(E) (1) The council shall hold regular meetings at the time 1721
and place it fixes, but at least once every six months, and 1722
shall meet at any time on call of the deputy superintendent to 1723
conduct its business and to decide by vote of the members the 1724
location of future meetings. Each member shall be provided with 1725
written notice of the time and location of each council meeting 1726
at least two days prior to the scheduled date of the meeting, 1727
unless the council by resolution provides for a shorter time. 1728

Four of the members of the council constitute a quorum to 1729
transact and vote on all business coming before the council. 1730

(2) The council, by a majority vote of those present at a 1731
meeting at which there is a quorum, may adopt and amend bylaws 1732
and rules the council considers necessary and proper. The 1733
council shall select one of its members as secretary, who shall 1734
keep a record of all its proceedings. 1735

(3) No member shall participate in a proceeding before the 1736
council involving any credit union of which the member is or was 1737
at any time in the preceding twelve months a member of the board 1738
of directors, an officer, an employee, or a shareholder. A 1739
member may refrain from participating in the proceedings of the 1740
council for any other cause the member considers sufficient. 1741

(F) The members of the council shall receive no salary, 1742
but their expenses incurred in performance of their duties shall 1743
be paid from funds appropriated for that purpose. 1744

(G) The governor may remove any of the six members 1745
appointed to the council whenever in the governor's judgment the 1746
public interest requires removal. Upon removing a member of the 1747
council, the governor shall file with the superintendent of 1748
financial institutions a statement of the cause for the removal. 1749

Sec. 1733.39. No credit union which is not organized under 1750
sections 1733.01 to 1733.45 of the Revised Code, or the "Federal 1751
Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C. 1751, as 1752
amended, shall transact any business in this state until: 1753

(A) It submits to the superintendent of credit unions an 1754
application for qualification in such form as shall be 1755
prescribed by the superintendent. Such application shall be 1756
accompanied by a copy of the articles of such credit union duly 1757

certified by, and under the seal of, the secretary of state, or 1758
other proper official, of the state under the laws of which the 1759
credit union was incorporated, which, when approved by the 1760
superintendent, shall be transmitted to the secretary of state 1761
for filing. 1762

(B) It furnishes to the superintendent a copy of its rules 1763
duly certified by its president and secretary; 1764

~~(C) It files with the superintendent a duly authorized and 1765
properly executed document appointing the superintendent as its 1766
agent for service of process in this state; 1767~~

~~(D) It submits to the superintendent a filing fee of fifty 1768
dollars payable to the treasurer of state, which shall be 1769
credited to the division of credit unions fund; provided, that 1770
in no event shall the fees paid for qualification in this state 1771
by any credit union domiciled in another state be less than the 1772
fees required to be paid by a credit union domiciled in this 1773
state for qualification in the state of domicile of such other 1774
credit union; 1775~~

~~(E) (D) Obtains a license to transact business as a 1776
foreign credit union from the superintendent. 1777~~

Sec. 1733.441. (A) Absent the express written permission 1778
of the credit union, no person shall use the name of a credit 1779
union in an advertisement, solicitation, promotional, or other 1780
material in a way that may mislead another person, or cause 1781
another person to be misled, into believing that the person 1782
issuing the advertisement, solicitation, promotional, or other 1783
material is associated or affiliated with the credit union. 1784

(B) (1) Whoever violates division (A) of this section shall 1785
be subject to a civil penalty of up to ten thousand dollars for 1786

each day the violation is committed, repeated, or continued. 1787

(2) A credit union injured by a violation of division (A) of this section may bring an action in law or equity for recovery of damages, a temporary restraining order, an injunction, or any other available remedy. 1788
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Sec. 1733.53. (A) As used in this section, "bona fide error" means an unintentional clerical, calculation, computer malfunction or programming, or printing error. 1792
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(B) A credit union or regulated individual shall not be held civilly liable in any action brought under this chapter or Chapter 1309., 1317., or 1345. of the Revised Code, and shall not be subject to any sanction by the superintendent of financial institutions, if all of the following conditions are met: 1795
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(1) The credit union or individual shows by a preponderance of evidence that the compliance failure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. 1801
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(2) Within sixty days after discovering the error, and prior to the initiation of any action by the superintendent or the receipt of written notice of the error from the member, the credit union or individual notifies the superintendent and the member of the error and the manner in which the credit union or individual intends to make full restitution to the member. 1806
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(3) The credit union or individual promptly makes reasonable restitution to the member. 1812
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(C) If, in the event of a compliance failure, the credit union or regulated individual does not meet the conditions set 1814
1815

forth in division (B) of this section, a member injured by the 1816
error has a cause of action to recover damages. Such an action 1817
may not, however, be maintained as a class action. 1818

Section 2. That existing sections 1101.05, 1109.20, 1819
1121.10, 1125.23, 1181.08, 1322.01, 1322.07, 1322.09, 1322.12, 1820
1322.34, 1322.40, 1322.50, 1733.01, 1733.04, 1733.041, 1733.05, 1821
1733.13, 1733.14, 1733.16, 1733.19, 1733.22, 1733.24, 1733.32, 1822
1733.329, and 1733.39 and section 1733.26 of the Revised Code 1823
are hereby repealed. 1824

Section 3. Sections 1321.51 to 1321.60 of the Revised 1825
Code, as amended or enacted by Sub. H.B. 199 of the 132nd 1826
General Assembly, shall be known as the "General Loan Law." 1827