

As Reported by the House Financial Institutions Committee

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Sub. H. B. No. 38

Representative Hillyer

Cosponsors: Representatives Cross, Hood, Miller, J., Riedel, Weinstein

A BILL

To amend sections 1321.52, 1322.01, 1322.07, 1
1322.09, 1322.12, 1322.29, 1349.72, and 2913.11; 2
to enact section 1319.17; and to repeal section 3
1349.16 of the Revised Code relating to 4
commercial credit reports, the General Loan Law, 5
and the Residential Mortgage Loan Law. 6

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

Section 1. That sections 1321.52, 1322.01, 1322.07, 7
1322.09, 1322.12, 1322.29, 1349.72, and 2913.11 be amended and 8
section 1319.17 of the Revised Code be enacted to read as 9
follows: 10

Sec. 1319.17. (A) As used in this section: 11

(1) "Business" means a sole proprietorship, partnership, 12
corporation, limited liability company, or other commercial 13
entity, whether for profit or not for profit. 14

(2) "Commercial credit report" means any report provided 15
to a business for a legitimate business purpose, relating to the 16
financial status or payment habits of a business that is the 17
subject of the report. "Commercial credit report" does not 18

<u>include any of the following:</u>	19
<u>(a) A report prepared for commercial insurance</u>	20
<u>underwriting, claims, or auditing purposes;</u>	21
<u>(b) A report containing information related to</u>	22
<u>transactions or experiences between the subject and the person</u>	23
<u>making the report;</u>	24
<u>(c) An authorization or approval of a specific extension</u>	25
<u>of credit directly or indirectly by the issuer of a credit card</u>	26
<u>or similar device;</u>	27
<u>(d) Any report in which a person that has been requested</u>	28
<u>by a third party to make a specific extension of credit directly</u>	29
<u>or indirectly to the subject conveys its decision with respect</u>	30
<u>to that request.</u>	31
<u>(3) "Commercial credit reporting agency" means any person</u>	32
<u>or entity that regularly engages in the practice of compiling</u>	33
<u>and maintaining commercial credit reports on a business</u>	34
<u>operating in this state for the purpose of providing commercial</u>	35
<u>credit reports and, for monetary fees, dues, or on a cooperative</u>	36
<u>nonprofit basis, provides such commercial credit reports on a</u>	37
<u>business operating in this state to third parties.</u>	38
<u>"Commercial credit reporting agency" does not include a</u>	39
<u>person or entity that does not maintain a database of commercial</u>	40
<u>credit reports from which new commercial credit reports are</u>	41
<u>produced.</u>	42
<u>(4) "Subject" means the business operating in this state</u>	43
<u>about which a commercial credit report has been compiled.</u>	44
<u>(B) Upon the request of a representative of the subject of</u>	45
<u>a commercial credit report, a commercial credit reporting agency</u>	46

shall provide the subject's commercial credit report. The report 47
shall be provided to the subject at a cost not greater than what 48
is charged to third parties and may be printed or in electronic 49
form. The report shall be in a format routinely made available 50
to third parties. A commercial credit reporting agency may 51
protect the identity of sources of information to be used in 52
commercial credit reports. 53

(C) Within thirty days after receipt of a commercial 54
credit report, a representative of the subject of the report may 55
file with the commercial credit reporting agency a written 56
summary statement identifying each particular statement in the 57
report that the subject of the report believes contains an 58
inaccurate statement of fact and indicating the nature of the 59
disagreement with the statement. Within thirty days after 60
receipt of a subject's summary statement of disagreement, the 61
commercial credit reporting agency at no cost to the subject 62
shall do either of the following: 63

(1) Delete the disputed statement of fact from the report 64
and, thereafter, block any repeat reporting of that disputed 65
statement unless its accuracy has been verified; 66

(2) Include in the report a notice of the subject's 67
assertion that the statement of fact is inaccurate. 68

(D) Nothing in this section shall be construed to provide 69
a private right of action, including a class action, with 70
respect to any act or practice regulated under this section. 71

Sec. 1321.52. (A) (1) A registrant may make loans, other 72
than a residential mortgage loan as defined in section 1322.01 73
of the Revised Code, on terms and conditions provided by 74
sections 1321.51 to 1321.60 of the Revised Code. 75

(2) Each person issued a certificate of registration is 76
subject to all the rules prescribed under sections 1321.51 to 77
1321.60 of the Revised Code. 78

(B) (1) All loans made to persons who at the time are 79
residents of this state are considered as made within this state 80
and subject to the laws of this state, regardless of any 81
statement in the contract or note to the contrary, except if the 82
loan is for the purpose of purchasing goods acquired by the 83
borrower when the borrower is outside of this state, the loan 84
may be governed by the laws of the other state. 85

(2) Nothing in division (B) (1) of this section prevents a 86
choice of law or requires registration of persons outside of 87
this state in a transaction involving the solicitation of 88
residents of this state to obtain non-real estate secured loans 89
that require the borrowers to physically visit a lender's out- 90
of-state office to apply for and obtain the disbursement of loan 91
funds. 92

(C) A registrant may make unsecured loans and loans 93
secured by other than residential real estate or a dwelling as 94
those terms are defined in section 1322.01 of the Revised Code. 95

(D) For the purpose of registering persons under and 96
requiring compliance with sections 1321.51 to 1321.60 of the 97
Revised Code, the superintendent may do any of the following: 98

(1) Require any person registered under or applying for 99
registration under these sections to do both of the following: 100

(a) Utilize the national multistate licensing system for 101
application, renewal, amendment, or surrender of a license or 102
for any other activity as the superintendent may require; 103

(b) Pay all applicable charges to utilize the national 104

<u>multistate licensing system.</u>	105
<u>(2) Establish requirements as necessary for the use of the</u>	106
<u>national multistate licensing system to meet the purposes of</u>	107
<u>these sections, including:</u>	108
<u>(a) Background checks for:</u>	109
<u>(i) Criminal history through fingerprint or other</u>	110
<u>databases;</u>	111
<u>(ii) Civil or administrative records;</u>	112
<u>(iii) Credit history;</u>	113
<u>(iv) Any other information considered necessary by the</u>	114
<u>national multistate licensing system or the superintendent.</u>	115
<u>(b) The payment of fees to apply for or renew licenses</u>	116
<u>through the multistate licensing system;</u>	117
<u>(c) The setting or resetting of renewal or reporting</u>	118
<u>dates;</u>	119
<u>(d) Requirements for amending or surrendering a license or</u>	120
<u>any other such activities as the superintendent considers</u>	121
<u>necessary for participation in the national multistate licensing</u>	122
<u>system.</u>	123
Sec. 1322.01. As used in this chapter:	124
(A) "Administrative or clerical tasks" mean the receipt,	125
collection, and distribution of information common for the	126
processing or underwriting of a loan in the mortgage industry,	127
without performing any analysis of the information, and	128
communication with a consumer to obtain information necessary	129
for the processing or underwriting of a residential mortgage	130
loan.	131

(B) "Advertising" means a commercial message in any medium	132
that promotes, either directly or indirectly, a residential	133
mortgage lending transaction.	134
(C) "Application" has the same meaning as in 12 C.F.R.	135
1026.2(a)(3).	136
(D) "Approved education course" means any course approved	137
by the nationwide mortgage licensing system and registry.	138
(E) "Approved test provider" means any test provider	139
approved by the nationwide mortgage licensing system and	140
registry.	141
(F) "Borrower" means a person seeking a residential	142
mortgage loan or an obligor on a residential mortgage loan.	143
(G) "Branch office" means a location at which a licensee	144
conducts business other than a registrant's principal place of	145
business, if at least one of the following applies to the	146
location:	147
(1) The address of the location appears on business cards,	148
stationery, or advertising used by the registrant;	149
(2) The registrant's name or advertising at the location	150
suggests that mortgage transactions are made at the location;	151
(3) The location is held out to the public as a licensee's	152
place of business due to the actions of an employee or	153
independent contractor of the registrant; or	154
(4) The location within this state is controlled directly	155
or indirectly by the registrant.	156
(H) "Buyer" means an individual who is solicited to	157
purchase or who purchases the services of a mortgage loan	158

originator for purposes of obtaining a residential mortgage 159
loan. "Buyer" includes an individual whose mortgage loan is 160
serviced by a mortgage servicer. 161

(I) "Consumer reporting agency" has the same meaning as in 162
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 163
1681a, as amended. 164

(J) "Control" means the power, directly or indirectly, to 165
direct the management or policies of an entity, whether through 166
ownership of securities, by contract, or otherwise. A person is 167
presumed to control an entity if that person: 168

(1) Is a director, general partner, or executive officer 169
or is an individual that occupies a similar position or performs 170
a similar function; 171

(2) Directly or indirectly has the right to vote five per 172
cent or more of a class of a voting security or has the power to 173
sell or direct the sale of five per cent or more of a class of 174
voting securities; 175

(3) In the case of a limited liability company, is a 176
managing member; or 177

(4) In the case of a partnership, has the right to receive 178
upon dissolution or has contributed five per cent or more of the 179
capital. 180

(K) "Depository institution" has the same meaning as in 181
section 3 of the "Federal Deposit Insurance Act," 12 U.S.C. 182
1813(c), and also includes any credit union. 183

(L) "Dwelling" has the same meaning as in 15 U.S.C. 184
1602(w). "Dwelling" includes a single condominium unit, 185
cooperative unit, mobile home, and trailer, if it is used as a 186

residence, whether or not that structure is attached to real property.	187 188
(M) "Employee" means an individual for whom a mortgage broker or mortgage lender, in addition to providing a wage or salary, pays social security and unemployment taxes, provides workers' compensation coverage, and withholds local, state, and federal income taxes. "Employee" also includes any individual who acts as a mortgage loan originator or operations manager of a registrant, but for whom the registrant is prevented by law from making income tax withholdings.	189 190 191 192 193 194 195 196
(N) "Entity" means a business organization, including a sole proprietorship.	197 198
(O) "Expungement" means a court-ordered process that involves the destruction of documentation related to past arrests and convictions.	199 200 201
(P) "Federal banking agency" means the board of governors of the federal reserve system, the comptroller of the currency, the national credit union administration, or the federal deposit insurance corporation.	202 203 204 205
(Q) "Immediate family" means an individual's spouse, child, stepchild, parent, stepparent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, or sister-in-law.	206 207 208 209
(R) "Independent contractor" means an individual who performs duties for another person and is not subject to that person's supervision or control.	210 211 212
(S) "Individual" means a natural person.	213
(T) "Licensee" means any individual who has been issued a	214

mortgage loan originator license under this chapter. 215

(U) "Loan commitment" means a statement transmitted in 216
writing or electronically by a mortgage lender setting forth the 217
terms and conditions upon which the mortgage lender is willing 218
to make a particular residential mortgage loan to a particular 219
borrower. 220

(V) "Loan processor or underwriter" means an individual 221
who, with respect to the origination of a residential mortgage 222
loan, performs ~~administrative or clerical tasks as an employee~~ 223
~~at the direction of and subject to the supervision of a mortgage~~ 224
~~lender or mortgage broker. For purposes of this division,~~ 225
~~"origination of a residential mortgage loan" means all~~ 226
~~activities related to a residential mortgage loan, from the~~ 227
~~taking of a loan application through the completion of all~~ 228
~~required loan closing documents and the funding of the loan~~ any 229
of the following activities at the direction or subject to the 230
supervision of a licensed mortgage loan originator or registered 231
mortgage loan originator: 232

(1) Receiving, collecting, distributing, or analyzing 233
information common for the processing or underwriting of a 234
residential mortgage loan; 235

(2) Communicating with a borrower to obtain the 236
information necessary for the processing or underwriting of a 237
loan, to the extent the communication does not include offering 238
or negotiating loan rates or terms or counseling borrowers about 239
residential mortgage loan rates or terms. 240

(W) "Mortgage" means the consensual interest in real 241
property located in this state, including improvements to that 242
property, securing a debt evidence by a mortgage, trust 243

indenture, deed of trust, or other lien on real property. 244

(X) "Mortgage broker" means an entity that obtains, 245
attempts to obtain, or assists in obtaining a mortgage loan for 246
a borrower from a mortgage lender in return for consideration or 247
in anticipation of consideration. For purposes of this division, 248
"attempting to obtain or assisting in obtaining" a mortgage loan 249
includes referring a borrower to a mortgage lender, soliciting 250
or offering to solicit a mortgage loan on behalf of a borrower, 251
or negotiating or offering to negotiate the terms or conditions 252
of a mortgage loan with a mortgage lender on behalf of a 253
borrower. 254

(Y) "Mortgage lender" means an entity that consummates a 255
residential mortgage loan, advances funds, offers to advance 256
funds, or commits to advancing funds for a residential mortgage 257
loan applicant. 258

(Z) (1) "Mortgage loan originator" means an individual who 259
for compensation or gain, or in the expectation of compensation 260
or gain, does any of the following: 261

(a) Takes a residential mortgage loan application; 262

(b) Assists or offers to assist a buyer in obtaining or 263
applying to obtain a residential mortgage loan by, among other 264
things, advising on loan terms, including rates, fees, and other 265
costs; 266

(c) Offers or negotiates terms of a residential mortgage 267
loan; 268

(d) Issues or offers to issue a commitment for a 269
residential mortgage loan to a buyer. 270

(2) "Mortgage loan originator" does not include any of the 271

following:	272
(a) An individual who performs purely administrative or clerical tasks on behalf of a mortgage loan originator;	273 274
(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;	275 276 277 278 279 280
(c) A person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. 101;	281 282 283
(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;	284 285 286 287 288 289 290
(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;	291 292 293 294 295 296
(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	297 298 299 300

does not do any of the following:	301
(i) Offer or negotiate the residential mortgage loan rates or terms;	302 303
(ii) Provide any counseling with borrowers about residential mortgage loan rates or terms;	304 305
(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;	306 307 308 309
(iv) Assist the borrower in completing a residential mortgage loan application.	310 311
(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.	312 313 314 315 316 317 318 319 320 321 322
(AA) "Mortgage servicer" means an entity <u>a person</u> that, for itself or on behalf of the holder of a mortgage loan, holds the servicing rights <u>for more than five mortgage loans</u> , records mortgage payments on its books <u>for more than five mortgage</u> <u>loans</u> , or performs other functions to carry out the mortgage holder's obligations or rights under the mortgage agreement <u>for</u> <u>more than five mortgage loans</u> including, when applicable, the	323 324 325 326 327 328 329

receipt of funds from the mortgagor to be held in escrow for 330
payment of real estate taxes and insurance premiums and the 331
distribution of such funds to the taxing authority and insurance 332
company. 333

(BB) "Nationwide mortgage licensing system and registry" 334
means a licensing system developed and maintained by the 335
conference of state bank supervisors and the American 336
association of residential mortgage regulators, or their 337
successor entities, for the licensing and registration of 338
persons providing non-depository financial services. 339

(CC) "Nontraditional mortgage product" means any mortgage 340
product other than a thirty-year fixed rate mortgage. 341

(DD) "Person" means an individual, sole proprietorship, 342
corporation, company, limited liability company, partnership, 343
limited liability partnership, trust, or association. 344

(EE) "Real estate brokerage activity" means any activity 345
that involves offering or providing real estate brokerage 346
services to the public, including all of the following: 347

(1) Acting as a real estate salesperson or real estate 348
broker for a buyer, seller, lessor, or lessee of real property; 349

(2) Bringing together parties interested in the sale, 350
purchase, lease, rental, or exchange of real property; 351

(3) Negotiating, on behalf of any party, any portion of a 352
contract relating to the sale, purchase, lease, rental, or 353
exchange of real property, other than in connection with 354
providing financing for any such transaction; 355

(4) Engaging in any activity for which a person engaged in 356
that activity is required to be licensed as a real estate 357

salesperson or real estate broker under the law of this state;	358
(5) Offering to engage in any activity, or to act in any capacity, described in division (EE) of this section.	359 360
(FF) "Registered mortgage loan originator" means an individual to whom both of the following apply:	361 362
(1) The individual is a mortgage loan originator and an employee of a depository institution, a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the farm credit administration.	363 364 365 366 367
(2) The individual is registered with, and maintains a unique identifier through, the nationwide mortgage licensing system and registry.	368 369 370
(GG) "Registrant" means any person that has been issued a certificate of registration under this chapter.	371 372
(HH) "Residential mortgage loan" means any loan that meets both of the following requirements:	373 374
(1) It is primarily for personal, family, or household use and is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real estate located in Ohio .	375 376 377 378
(2) It is provided and secured by a first lien holder secured creditor or by a second <u>subordinate</u> lien holder secured creditor.	379 380 381
(II) "Residential real estate" means any real property located in this state upon which is constructed a dwelling or upon which a dwelling is intended to be built within a two-year period, subject to 24 C.F.R. 3500.5(b)(4). For purposes of this	382 383 384 385

division, a borrower's intent to build a dwelling within a two- 386
year period is presumed unless the borrower has submitted a 387
written, signed statement to the contrary. 388

(JJ) "Superintendent of financial institutions" includes 389
the deputy superintendent for consumer finance as provided in 390
section 1181.21 of the Revised Code. 391

(KK) "Transaction of business as a mortgage lender, 392
mortgage servicer, or mortgage broker in this state" means the 393
provision or offering of mortgage lender, mortgage servicer, or 394
mortgage broker services on a residential mortgage loan in any 395
of the following circumstances: 396

(1) For any resident in this state; 397

(2) For any property in this state; 398

(3) By a person who is physically located in this state 399
but who regularly provides or offers to provide mortgage lender 400
or mortgage broker services in, or for property located in, 401
other states. 402

(LL) "Unique identifier" means a number or other 403
identifier assigned by protocols established by the nationwide 404
mortgage licensing system and registry. 405

Sec. 1322.07. (A) (1) No person, on the person's own behalf 406
or on behalf of any other person, shall ~~act~~engage in the 407
transaction of business as a mortgage lender, mortgage servicer, 408
or mortgage broker in this state without first having obtained a 409
certificate of registration from the superintendent of financial 410
institutions for the principal office and every branch office to 411
be maintained by the person for the transaction of business as a 412
mortgage lender, mortgage servicer, or mortgage broker in this 413
state. ~~A~~ 414

(2) A registrant shall maintain an office location for the 415
transaction of business as a mortgage lender, mortgage servicer, 416
or mortgage broker in ~~this any state of the United States.~~ 417
Registrants are not required to maintain a physical location in 418
this state. 419

(B) (1) No individual shall act as a mortgage loan 420
originator without first having obtained a license from the 421
superintendent. A mortgage loan originator shall be employed by 422
or associated with a mortgage lender, mortgage broker, or entity 423
holding a valid letter of exemption under division (B) (1) of 424
section 1322.05 of the Revised Code, but shall not be employed 425
by or associated with more than one registrant or entity holding 426
a valid letter of exemption under division (B) (1) of section 427
1322.05 of the Revised Code at any one time. 428

(2) An individual acting under the individual's authority 429
as a registered mortgage loan originator shall not be required 430
to be licensed under division (B) (1) of this section. 431

(3) An individual who holds a valid temporary mortgage 432
loan originator license issued pursuant to section 1322.24 of 433
the Revised Code may engage in the business of a mortgage loan 434
originator in accordance with this chapter during the term of 435
the temporary license. 436

Sec. 1322.09. (A) (1) An application for a certificate of 437
registration shall be in writing, under oath, and in a form 438
prescribed by the superintendent of financial institutions that 439
complies with the requirements of the nationwide mortgage 440
licensing system and registry. The application shall be 441
accompanied by a nonrefundable application fee of five hundred 442
dollars for each location of an office to be maintained by the 443
applicant in accordance with division (A) of section 1322.07 of 444

the Revised Code and any additional fee required by the 445
nationwide mortgage licensing system and registry. 446

(2) The application shall include the names and addresses 447
of the owners, officers, or partners having control of the 448
applicant, including all of the following: 449

(a) In the case of a sole proprietor, the name and address 450
of the sole proprietor; 451

(b) In the case of a partnership, the name and address of 452
each partner; 453

(c) In the case of a corporation, the name and address of 454
each shareholder owning five per cent or more of the 455
corporation; 456

(d) In the case of any other entity, the name and address 457
of any person that owns five per cent or more of any entity that 458
will transact business under the certificate of registration. 459

(3) In addition to any information required by this 460
section, an applicant shall furnish to the superintendent any 461
reasonable information the superintendent may require. 462

(B) Upon the filing of the application and payment of the 463
nonrefundable application fee and any fee required by the 464
nationwide mortgage licensing system and registry, the 465
superintendent shall investigate the applicant and any 466
individual whose identity is required to be disclosed in the 467
application. As part of that investigation, the superintendent 468
shall conduct a civil records check. 469

If, in order to issue a certificate of registration to an 470
applicant, additional investigation by the superintendent 471
outside this state is necessary, the superintendent may require 472

the applicant to advance sufficient funds to pay the actual 473
expenses of the investigation, if it appears that these expenses 474
will exceed five hundred dollars. The superintendent shall 475
provide the applicant with an itemized statement of the actual 476
expenses that the applicant is required to pay. 477

(C) In connection with applying for a certificate of 478
registration, the applicant shall furnish to the nationwide 479
mortgage licensing system and registry information concerning 480
the applicant's identity, including all of the following: 481

(1) The applicant's fingerprints for submission to the 482
federal bureau of investigation, and any other governmental 483
agency or entity authorized to receive such information, for 484
purposes of a state, national, and international criminal 485
history background check; 486

(2) Personal history and experience in a form prescribed 487
by the nationwide mortgage licensing system and registry, along 488
with authorization for the superintendent and the nationwide 489
mortgage licensing system and registry to obtain both of the 490
following: 491

(a) An independent credit report from a consumer reporting 492
agency; 493

(b) Information related to any administrative, civil, or 494
criminal findings by any governmental jurisdiction. 495

(D) The superintendent shall pay all funds advanced and 496
application and renewal fees and penalties the superintendent 497
receives pursuant to this section and section 1322.10 of the 498
Revised Code to the treasurer of state to the credit of the 499
consumer finance fund created in section 1321.21 of the Revised 500
Code. 501

(E) If an application for a certificate of registration 502
does not contain all of the information required under this 503
section, and if that information is not submitted to the 504
superintendent or to the nationwide mortgage licensing system 505
and registry within ninety days after the superintendent or the 506
nationwide mortgage licensing system and registry requests the 507
information in writing, including by electronic transmission or 508
facsimile, the superintendent may consider the application 509
withdrawn. 510

(F) A certificate of registration and the authority 511
granted under that certificate is not transferable or assignable 512
and cannot be franchised by contract or any other means. 513

(G) (1) The superintendent may establish relationships or 514
enter into contracts with the nationwide mortgage licensing 515
system and registry, or any entities designated by it, to 516
collect and maintain records and process transaction fees or 517
other fees related to mortgage lender, mortgage servicer, or 518
mortgage broker certificates of registration or the persons 519
associated with a mortgage lender, mortgage servicer, or 520
mortgage broker. 521

(2) For purposes of this section and to reduce the points 522
of contact that the federal bureau of investigation may have to 523
maintain, the division of financial institutions may use the 524
nationwide mortgage licensing system and registry as a 525
channeling agent for requesting information from and 526
distributing information to the United States department of 527
justice or other governmental agencies. 528

(3) For purposes of this section and to reduce the points 529
of contact that the division may have to maintain, the division 530
may use the nationwide mortgage licensing system and registry as 531

a channeling agent for requesting information from and 532
distributing information to any source as determined by the 533
division. 534

Sec. 1322.12. (A) Each registrant or entity holding a 535
valid letter of exemption under division (B) (1) of section 536
1322.05 of the Revised Code shall designate an employee or owner 537
of that registrant's business as the operations manager. The 538
operations manager shall be responsible for the management, 539
supervision, and control of a particular ~~location~~ registrant. 540

(B) To be eligible for such a designation, an employee or 541
owner shall have at least three years of experience in the 542
residential mortgage and lending field including experience as a 543
mortgage loan originator ~~or,~~ registered mortgage loan 544
originator, or other experience related to the business of 545
residential mortgage lending that the superintendent determines 546
is sufficient. While acting as the operations manager, the 547
employee or owner shall be licensed as a mortgage loan 548
originator under this chapter and shall not be employed by any 549
other mortgage lender or mortgage broker. This paragraph shall 550
not apply to the designated operations manager of an entity 551
registered exclusively as a mortgage servicer. 552

(C) If the person designated as the operations manager 553
pursuant to this section ceases to be the operations manager, 554
the registrant shall do all of the following: 555

(1) Within ninety days after the person ceases to be the 556
operations manager, designate another person as the operations 557
manager; 558

(2) Within ten days after the designation described in 559
division (C) (1) of this section, notify the superintendent in 560

writing of the new designation; 561

(3) Submit any additional information that the 562
superintendent requires to establish that the newly designated 563
operations manager meets the requirements set forth in this 564
section. 565

(D) The registrant shall cease operations if it is without 566
an operations manager approved by the superintendent for more 567
than one hundred eighty days unless otherwise authorized in 568
writing by the superintendent due to exigent circumstances. 569

Sec. 1322.29. (A) A registrant or entity holding a valid 570
letter of exemption under division (B) (1) of section 1322.05 of 571
the Revised Code shall supervise all business of a mortgage loan 572
originator conducted at the principal office, any branch office, 573
or other location used by the individual mortgage loan 574
originator. 575

(B) If a mortgage loan originator's employment or 576
association is terminated for any reason, the licensee may 577
request the transfer of the license to another mortgage lender 578
or mortgage broker by submitting a transfer application, along 579
with a fifteen-dollar fee and any fee required by the national 580
mortgage licensing system and registry, to the superintendent of 581
financial institutions or may request the superintendent in 582
writing to hold the license in escrow. Any licensee whose 583
license is held in escrow shall cease activity as a mortgage 584
loan originator. A licensee whose license is held in escrow 585
shall be required to apply for renewal annually and to comply 586
with the annual continuing education requirement. 587

(C) A registrant may employ or be associated with a 588
mortgage loan originator on a temporary basis pending the 589

transfer of the mortgage loan originator's license to the 590
registrant, if the registrant receives written confirmation from 591
the superintendent that the mortgage loan originator is licensed 592
under this chapter. 593

(D) Notwithstanding divisions (A) to (C) of this section, 594
if a licensee is employed by or associated with a person or 595
entity holding a valid letter of exemption under division (B) (1) 596
of section 1322.05 of the Revised Code, ~~all of the following~~ 597
~~apply:~~ 598

~~(1) The licensee shall maintain and display a copy of the~~ 599
~~mortgage loan originator license at the office where the~~ 600
~~licensee principally transacts business.~~ 601

~~(2) If and if~~ the mortgage loan originator's employment or 602
association is terminated, the mortgage loan originator shall 603
notify the superintendent within five business days after 604
termination. The licensee may request the transfer of the 605
license to another person or entity holding a valid letter of 606
exemption under division (B) (1) of section 1322.05 of the 607
Revised Code by submitting a transfer application, along with a 608
fifteen-dollar fee and any fee required by the national mortgage 609
licensing system and registry, to the superintendent or may 610
request the superintendent in writing to hold the license in 611
escrow. A licensee whose license is held in escrow shall cease 612
activity as a mortgage loan originator. A licensee whose license 613
is held in escrow shall be required to apply for renewal 614
annually and to comply with the annual continuing education 615
requirement. 616

(E) A licensee may seek to be employed by or associated 617
with a registrant or a person or entity holding a valid letter 618
of exemption under division (B) (1) of section 1322.05 of the 619

Revised Code, if the mortgage lender, mortgage broker, or person 620
or entity receives written confirmation from the superintendent 621
that the mortgage loan originator is licensed under this 622
chapter. 623

Sec. 1349.72. (A) ~~Before~~ Not less than thirty days prior 624
to a person collecting filing a foreclosure action to collect on 625
a debt secured by residential real property ~~collects or attempts~~ 626
~~to collect any part of the debt,~~ the person shall first send a 627
written notice as described in division (B) of this section via 628
United States mail to the residential address of the debtor, if 629
both of the following apply: 630

(1) The debt is ~~a second secured by a mortgage or junior~~ 631
lien on the debtor's residential real property that is not in 632
the first mortgage position. 633

(2) The debt has either been accelerated or is in default 634
in accordance with the terms set forth in the promissory note. 635

(B) The written notice may be included on, or accompany, 636
any other communication, and shall be printed in at least 637
twelve-point type and ~~state include~~ the following: 638

(1) The name and contact information of the person 639
collecting the debt; 640

(2) ~~The~~ A statement of the amount of the debt; 641

(3) A statement that the debtor has a right to engage an 642
attorney; 643

(4) A statement that the debtor may qualify for debt 644
relief under Chapter 7 or 13 of the United States Bankruptcy 645
Code, 11 U.S.C. Chapter 7 or 13, as amended; 646

(5) A statement that a debtor that qualifies under Chapter 647

13 of the United States Bankruptcy Code may be able to protect 648
their residential real property from foreclosure. 649

(C) Upon written request of the debtor, the owner of the 650
debt shall provide a copy of the note and the loan history to 651
the debtor. 652

(D) (1) As used in this division ~~7~~: 653

(a) "Bona fide error" means an unintentional 654
clerical, calculation, computer malfunction or programming, or 655
printing error. 656

(b) "Restitution" means either of the following: 657

(i) A waiver of all fees, costs, or expenses proximately 658
associated with the failure to provide the notice to the debtor; 659
or 660

(ii) Actual damages. 661

(2) Any owner of debt subject to divisions (A), (B), and 662
(C) of this section shall not be held civilly liable in any 663
action, if all of the following are met: 664

(a) The owner of the debt shows by a preponderance of 665
evidence that the compliance failure was not intentional and 666
resulted from a bona fide error notwithstanding the maintenance 667
of procedures reasonably adapted to avoid any such error. 668

(b) Within sixty days after discovering the error, and 669
prior to the initiation of any action, the owner of the debt 670
notifies the debtor of the error and the manner in which the 671
owner of the debt intends to make full restitution to the 672
debtor. 673

(c) The owner of the debt promptly makes reasonable 674

restitution to the debtor. 675

(3) If, in the event of a compliance failure, the owner of 676
the debt does not meet the conditions set forth in division (D) 677
(2) of this section, a debtor injured by the error has a cause 678
of action to recover damages. Such an action shall not, however, 679
be maintained as a class action. 680

Sec. 2913.11. (A) As used in this section: 681

(1) "Check" includes any form of debit from a demand 682
deposit account, including, but not limited to any of the 683
following: 684

(a) A check, bill of exchange, draft, order of withdrawal, 685
or similar negotiable or non-negotiable instrument; 686

(b) An electronic check, electronic transaction, debit 687
card transaction, check card transaction, substitute check, web 688
check, or any form of automated clearing house transaction. 689

(2) "Issue a check" means causing any form of debit from a 690
demand deposit account. 691

(B) No person, with purpose to defraud, shall issue or 692
transfer or cause to be issued or transferred a check or other 693
negotiable instrument, knowing that it will be dishonored or 694
knowing that a person has ordered or will order stop payment on 695
the check or other negotiable instrument. 696

(C) For purposes of this section, a person who issues or 697
transfers a check or other negotiable instrument is presumed to 698
know that it will be dishonored if either of the following 699
occurs: 700

(1) The drawer had no account with the drawee at the time 701
of issue or the stated date, whichever is later; 702

(2) The check or other negotiable instrument was properly 703
refused payment for insufficient funds upon presentment within 704
thirty days after issue or the stated date, whichever is later, 705
and the liability of the drawer, indorser, or any party who may 706
be liable thereon is not discharged by payment or satisfaction 707
within ten days after receiving notice of dishonor. 708

~~(D) For purposes of this section, a person who issues or 709
transfers a check, bill of exchange, or other draft is presumed 710
to have the purpose to defraud if the drawer fails to comply 711
with section 1349.16 of the Revised Code by doing any of the 712
following when opening a checking account intended for personal, 713
family, or household purposes at a financial institution: 714~~

~~(1) Falsely stating that the drawer has not been issued a 715
valid driver's or commercial driver's license or identification 716
card issued under section 4507.50 of the Revised Code; 717~~

~~(2) Furnishing such license or card, or another 718
identification document that contains false information; 719~~

~~(3) Making a false statement with respect to the drawer's 720
current address or any additional relevant information 721
reasonably required by the financial institution. 722~~

~~(E)~~—In determining the value of the payment for purposes 723
of division ~~(F)~~—(E) of this section, the court may aggregate all 724
checks and other negotiable instruments that the offender issued 725
or transferred or caused to be issued or transferred in 726
violation of division (A) of this section within a period of one 727
hundred eighty consecutive days. 728

~~(F)~~—(E) Whoever violates this section is guilty of passing 729
bad checks. Except as otherwise provided in this division, 730
passing bad checks is a misdemeanor of the first degree. If the 731

check or checks or other negotiable instrument or instruments 732
are issued or transferred to a single vendor or single other 733
person for the payment of one thousand dollars or more but less 734
than seven thousand five hundred dollars or if the check or 735
checks or other negotiable instrument or instruments are issued 736
or transferred to multiple vendors or persons for the payment of 737
one thousand five hundred dollars or more but less than seven 738
thousand five hundred dollars, passing bad checks is a felony of 739
the fifth degree. If the check or checks or other negotiable 740
instrument or instruments are for the payment of seven thousand 741
five hundred dollars or more but less than one hundred fifty 742
thousand dollars, passing bad checks is a felony of the fourth 743
degree. If the check or checks or other negotiable instrument or 744
instruments are for the payment of one hundred fifty thousand 745
dollars or more, passing bad checks is a felony of the third 746
degree. 747

Section 2. That existing sections 1321.52, 1322.01, 748
1322.07, 1322.09, 1322.12, 1322.29, 1349.72, and 2913.11 of the 749
Revised Code are hereby repealed. 750

Section 3. That section 1349.16 of the Revised Code is 751
hereby repealed. 752