

As Passed by the Senate

134th General Assembly

Regular Session

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Sub. H. B. No. 133

Representative Hillyer

Cosponsors: Representatives Holmes, Riedel, Kick, Young, T., Seitz, Leland, Roemer, Abrams, Carfagna, Carruthers, Click, Cross, Denson, Edwards, Fraizer, Galonski, Grendell, Householder, Ingram, Johnson, Jones, Jordan, Lanese, Miller, A., Oelslager, Schmidt, Swearingen, Wiggam

Senators Hackett, Blessing, Brenner, Cirino, Craig, Johnson, Kunze, Rulli, Wilson

A BILL

To amend sections 135.77, 135.774, 1115.05, 1
1321.52, 1321.68, 1322.01, 1322.02, 1322.04, 2
1322.07, 1322.09, 1322.10, 1322.12, 1322.15, 3
1322.29, 1322.30, 1322.32, 1322.34, 1322.43, 4
1322.50, 1322.52, 1345.01, 1349.72, 2305.117, 5
2913.11, and 4712.05; to enact section 1319.17; 6
and to repeal sections 1322.24, 1322.25, and 7
1349.16 of the Revised Code relating to 8
commerce, to repeal the version of section 9
1322.24 of the Revised Code that is scheduled to 10
take effect October 9, 2021, and to declare an 11
emergency. 12

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

Section 1. That sections 135.77, 135.774, 1115.05, 13
1321.52, 1321.68, 1322.01, 1322.02, 1322.04, 1322.07, 1322.09, 14
1322.10, 1322.12, 1322.15, 1322.29, 1322.30, 1322.32, 1322.34, 15

1322.43, 1322.50, 1322.52, 1345.01, 1349.72, 2305.117, 2913.11, 16
and 4712.05 be amended and section 1319.17 of the Revised Code 17
be enacted to read as follows: 18

Sec. 135.77. As used in sections 135.77 to 135.774 of the 19
Revised Code: 20

(A) "Business linked deposit" means ~~share certificates~~ 21
~~issued by an eligible lending institution that are purchased by~~ 22
~~the treasurer of state in accordance with sections 135.772 to~~ 23
~~135.774 of the Revised Code.~~ a certificate of deposit or other 24
financial institution instrument placed by the treasurer of 25
state with an eligible lending institution at a rate below 26
current market rates, as determined and calculated by the 27
treasurer of state, provided the institution agrees to lend the 28
value of such deposit, according to the deposit agreement 29
provided in section 135.773 of the Revised Code, to eligible 30
small businesses at a rate that reflects an equal percentage 31
rate reduction below the present borrowing rate applicable to 32
each specific business at the time of the deposit of state funds 33
in the institution. 34

(B) "Eligible lending institution" means a federal credit 35
union, a foreign credit union licensed pursuant to section 36
1733.39 of the Revised Code, or a credit union as defined in 37
section 1733.01 of the Revised Code, located in this state. 38

(C) "Eligible small business" means any person that has 39
all of the following characteristics: 40

(1) Is domiciled in this state; 41

(2) Maintains offices and operating facilities exclusively 42
in this state and transacts business in this state; 43

(3) Employs fewer than one hundred fifty employees, the 44

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| majority of whom are residents of this state; | 45 |
| (4) Is organized for profit; | 46 |
| (5) Is able to save or create one full-time job or two part-time jobs in this state for every fifty thousand dollars borrowed. | 47 48 49 |
| (D) "Full-time job" means a job with regular hours of service totaling at least forty hours per week or any other standard of service accepted as full-time by the employee's employer. | 50 51 52 53 |
| (E) "Loan" means a contractual agreement under which an eligible lending institution agrees to lend money in the form of an upfront lump sum, a line of credit, or any other reasonable arrangement approved by the treasurer of state. | 54 55 56 57 |
| (F) "Part-time job" means a job with regular hours of service totaling fewer than forty hours per week or any other standard of service accepted as part-time by the employee's employer. | 58 59 60 61 |
| Sec. 135.774. (A) Upon the placement of a business linked deposit with an eligible lending institution, such institution is required to lend such funds to each approved eligible small business listed in the linked deposit loan package required by section 135.772 of the Revised Code and in accordance with the deposit agreement required by section 135.773 of the Revised Code. The loan shall be at a rate that reflects the following percentage rate reduction below the present borrowing rate applicable to each eligible small business: | 62 63 64 65 66 67 68 69 70 |
| (1) Three per cent if the present borrowing rate is greater than five per cent; | 71 72 |

~~(2) Two and one tenth per cent if the present borrowing rate is equal to or less than five per cent.~~ 73
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~~A certification of compliance with this section in the form and manner as prescribed by the treasurer of state shall be required of the eligible lending institution.~~ 75
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(B) The treasurer of state shall take any and all steps necessary to implement the business linked deposit program and monitor compliance of eligible lending institutions and eligible small businesses, including the development of guidelines as necessary. 78
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(C) The state and the treasurer of state are not liable to any eligible lending institution in any manner for payment of the principal or interest on the loan to an eligible small business. Any delay in payments or default on the part of an eligible small business does not in any manner affect the deposit agreement between the eligible lending institution and the treasurer of state. 83
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Sec. 1115.05. (A) As used in this section: 90

(1) "Acquire" or "acquisition" means any of the following transactions or actions: 91
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(a) A merger or consolidation with, or purchase of assets from, a bank holding company that has acquired an Ohio bank; 93
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(b) The acquisition of the direct or indirect ownership or control of voting shares of an Ohio bank if, after the acquisition, the acquiring bank holding company will directly or indirectly own or control the Ohio bank, unless the superintendent of financial institutions determines, in the superintendent's discretion, due to the nature of the acquisition, it should not be subject to the limitations of this 95
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section; 102

(c) The merger or consolidation of an Ohio bank with, or 103
the transfer of assets from an Ohio bank to, another bank, 104
whether previously existing or chartered for the purpose of the 105
transaction; 106

(d) Any other action that results in the direct or 107
indirect control of an Ohio bank. 108

(2) "Ohio bank" means a state bank or a national bank 109
whose principal place of business is in this state. 110

(B) Subject to division (C) of this section, a bank ~~or,~~ 111
bank holding company, federal savings association, or savings 112
and loan holding company whose principal place of business is in 113
this state or any other state may charter or otherwise acquire 114
an Ohio bank, and a bank may acquire banking offices in this 115
state by merger or consolidation with or transfer of assets and 116
liabilities from a bank, savings bank, or savings association 117
that has offices in this state, if, upon consummation of the 118
acquisition, both of the following will apply: 119

(1) The acquiring bank ~~with, or the acquiring,~~ bank 120
holding company through, federal savings association, or savings 121
and loan holding company, with or through its affiliate banks, 122
savings banks, and savings associations, does not control more 123
than ten per cent of the total deposits of banks, savings banks, 124
and savings associations in the United States, and either of the 125
following applies: 126

(a) The acquiring bank ~~with, or the,~~ acquiring bank 127
holding company through, federal savings association, or savings 128
and loan holding company, with or through its affiliate banks, 129
savings banks, and savings associations, does not control more 130

than thirty per cent of the total deposits of banks, savings banks, and savings associations in this state. 131
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(b) The acquiring bank ~~with, or the,~~ acquiring bank 133
holding company ~~through, federal savings association, or savings~~ 134
and loan holding company, with or through its affiliate banks, 135
savings banks, and savings associations, controls more than 136
thirty per cent of the total deposits of banks, savings banks, 137
and savings associations in this state, and the superintendent 138
approved the acquisition after determining the anticompetitive 139
effects of the acquisition were clearly outweighed in the public 140
interest by the probable effect of the transaction. 141

(2) Except in the case of a foreign bank subject to 142
Chapter 1119. of the Revised Code or a bank that by the terms of 143
its articles of incorporation or association is not permitted to 144
solicit or accept deposits other than trust funds, the Ohio bank 145
or any bank that has banking offices in this state will be an 146
insured bank as defined in section 3(h) of the "Federal Deposit 147
Insurance Act," 92 Stat. 614 (1978), 12 U.S.C.A. 1813(h). 148

(C) (1) Any bank holding company proposing to charter a 149
state bank under this section shall comply with Chapter 1113. or 150
1114. of the Revised Code and any rules adopted to implement 151
that chapter. 152

(2) If, after the proposed acquisition, the acquiring bank 153
or bank holding company will control an existing state bank the 154
acquiring bank or bank holding company did not control before 155
the acquisition, and the acquisition does not include the merger 156
or consolidation of the existing state bank with another bank, 157
the acquiring bank or bank holding company shall comply with 158
section 1115.06 of the Revised Code and any rules adopted to 159
implement that section. 160

(3) If the proposed acquisition will be accomplished by 161
means of a merger or consolidation with a state bank and the 162
resulting bank of the merger or consolidation will be a state 163
bank, the state bank shall comply with section 1115.11 of the 164
Revised Code and any rules adopted to implement that section. 165

(4) If the proposed acquisition will be accomplished by 166
means of a transfer of assets and liabilities to a state bank, 167
the state bank shall comply with section 1115.14 of the Revised 168
Code and any rules adopted to implement that section. 169

(5) If the proposed acquisition will be accomplished by 170
forming a bank to which the bank to be acquired will transfer 171
assets and liabilities, or with which the bank to be acquired 172
will be merged or consolidated and the resulting bank will be a 173
state bank, the acquiring bank holding company shall comply with 174
section 1115.23 of the Revised Code and any rules adopted to 175
implement that section. 176

Sec. 1319.17. (A) As used in this section: 177

(1) "Business" means a sole proprietorship, partnership, 178
corporation, limited liability company, or other commercial 179
entity, whether for profit or not for profit. 180

(2) "Commercial credit report" means any report provided 181
to a business for a legitimate business purpose, relating to the 182
financial status or payment habits of a business that is the 183
subject of the report. "Commercial credit report" does not 184
include any of the following: 185

(a) A report prepared for commercial insurance 186
underwriting, claims, or auditing purposes; 187

(b) A report containing information related to 188
transactions or experiences between the subject and the person 189

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| <u>making the report;</u> | 190 |
| <u>(c) An authorization or approval of a specific extension</u> | 191 |
| <u>of credit directly or indirectly by the issuer of a credit card</u> | 192 |
| <u>or similar device;</u> | 193 |
| <u>(d) Any report in which a person that has been requested</u> | 194 |
| <u>by a third party to make a specific extension of credit directly</u> | 195 |
| <u>or indirectly to the subject conveys its decision with respect</u> | 196 |
| <u>to that request.</u> | 197 |
| <u>(3) "Commercial credit reporting agency" means any person</u> | 198 |
| <u>or entity that regularly engages in the practice of compiling</u> | 199 |
| <u>and maintaining commercial credit reports on a business</u> | 200 |
| <u>operating in this state for the purpose of providing commercial</u> | 201 |
| <u>credit reports and, for monetary fees, dues, or on a cooperative</u> | 202 |
| <u>nonprofit basis, provides such commercial credit reports on a</u> | 203 |
| <u>business operating in this state to third parties.</u> | 204 |
| <u>"Commercial credit reporting agency" does not include a</u> | 205 |
| <u>person or entity that does not maintain a database of commercial</u> | 206 |
| <u>credit reports from which new commercial credit reports are</u> | 207 |
| <u>produced.</u> | 208 |
| <u>(4) "Subject" means the business operating in this state</u> | 209 |
| <u>about which a commercial credit report has been compiled.</u> | 210 |
| <u>(B) Upon the request of a representative of the subject of</u> | 211 |
| <u>a commercial credit report, a commercial credit reporting agency</u> | 212 |
| <u>shall provide the subject's commercial credit report. The report</u> | 213 |
| <u>shall be provided to the subject at a cost not greater than what</u> | 214 |
| <u>is charged to third parties and may be printed or in electronic</u> | 215 |
| <u>form. The report shall be in a format routinely made available</u> | 216 |
| <u>to third parties. A commercial credit reporting agency may</u> | 217 |
| <u>protect the identity of sources of information to be used in</u> | 218 |

commercial credit reports. 219

(C) Within thirty days after receipt of a commercial credit report, a representative of the subject of the report may file with the commercial credit reporting agency a written summary statement identifying each particular statement in the report that the subject of the report believes contains an inaccurate statement of fact and indicating the nature of the disagreement with the statement. Within thirty days after receipt of a subject's summary statement of disagreement, the commercial credit reporting agency at no cost to the subject shall do either of the following: 220
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(1) Delete the disputed statement of fact from the report and, thereafter, block any repeat reporting of that disputed statement unless its accuracy has been verified; 230
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(2) Include in the report a notice of the subject's assertion that the statement of fact is inaccurate. 233
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(D) Nothing in this section shall be construed to provide a private right of action, including a class action, with respect to any act or practice regulated under this section. 235
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Sec. 1321.52. (A) (1) A registrant may make loans, other than a residential mortgage loan as defined in section 1322.01 of the Revised Code, on terms and conditions provided by sections 1321.51 to 1321.60 of the Revised Code. 238
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(2) Each person issued a certificate of registration is subject to all the rules prescribed under sections 1321.51 to 1321.60 of the Revised Code. 242
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(B) (1) All loans made to persons who at the time are residents of this state are considered as made within this state and subject to the laws of this state, regardless of any 245
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statement in the contract or note to the contrary, except if the 248
loan is for the purpose of purchasing goods acquired by the 249
borrower when the borrower is outside of this state, the loan 250
may be governed by the laws of the other state. 251

(2) Nothing in division (B)(1) of this section prevents a 252
choice of law or requires registration of persons outside of 253
this state in a transaction involving the solicitation of 254
residents of this state to obtain non-real estate secured loans 255
that require the borrowers to physically visit a lender's out- 256
of-state office to apply for and obtain the disbursement of loan 257
funds. 258

(C) A registrant may make unsecured loans and loans 259
secured by other than residential real estate or a dwelling as 260
those terms are defined in section 1322.01 of the Revised Code. 261

(D) For the purpose of registering persons under and 262
requiring compliance with sections 1321.51 to 1321.60 of the 263
Revised Code, the superintendent may do any of the following: 264

(1) Require any person registered under or applying for 265
registration under these sections to do both of the following: 266

(a) Utilize the national multistate licensing system for 267
application, renewal, amendment, or surrender of a license or 268
for any other activity as the superintendent may require; 269

(b) Pay all applicable charges to utilize the national 270
multistate licensing system. 271

(2) Establish requirements as necessary for the use of the 272
national multistate licensing system to meet the purposes of 273
these sections, including: 274

(a) Background checks for: 275

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| <u>(i) Criminal history through fingerprint or other</u> | 276 |
| <u>databases;</u> | 277 |
| <u>(ii) Civil or administrative records;</u> | 278 |
| <u>(iii) Credit history;</u> | 279 |
| <u>(iv) Any other information considered necessary by the</u> | 280 |
| <u>national multistate licensing system or the superintendent.</u> | 281 |
| <u>(b) The payment of fees to apply for or renew licenses</u> | 282 |
| <u>through the multistate licensing system;</u> | 283 |
| <u>(c) The setting or resetting of renewal or reporting</u> | 284 |
| <u>dates;</u> | 285 |
| <u>(d) Requirements for amending or surrendering a license or</u> | 286 |
| <u>any other such activities as the superintendent considers</u> | 287 |
| <u>necessary for participation in the national multistate licensing</u> | 288 |
| <u>system.</u> | 289 |
| Sec. 1321.68. (A) A licensee may contract for and receive | 290 |
| interest, calculated according to the actuarial method, at a | 291 |
| rate or rates not exceeding twenty-five per cent per year on the | 292 |
| unpaid principal balances of the loan. Loans may be interest- | 293 |
| bearing or precomputed. | 294 |
| (B) For purposes of computation of time on interest- | 295 |
| bearing and precomputed loans, including, but not limited to, | 296 |
| the calculation of interest, a month is considered one-twelfth | 297 |
| of a year, and a day is considered one three hundred sixty-fifth | 298 |
| of a year when calculation is made for a fraction of a month. A | 299 |
| year is as defined in section 1.44 of the Revised Code. A month | 300 |
| is that period described in section 1.45 of the Revised Code. | 301 |
| Alternatively, a licensee may consider a day as one three | 302 |
| hundred sixtieth of a year and each month as having thirty days. | 303 |

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| (C) With respect to interest-bearing loans: | 304 |
| (1) (a) Interest shall be computed on unpaid principal | 305 |
| balances outstanding from time to time, for the time | 306 |
| outstanding. | 307 |
| (b) As an alternative to the method of computing interest | 308 |
| set forth in division (C) (1) (a) of this section, a licensee may | 309 |
| charge and collect interest for the first installment period | 310 |
| based on elapsed time from the date of the loan to the first | 311 |
| scheduled payment due date, and for each succeeding installment | 312 |
| period from the scheduled payment due date to the next scheduled | 313 |
| payment due date, regardless of the date or dates the payments | 314 |
| are actually made. | 315 |
| (c) Whether a licensee computes interest pursuant to | 316 |
| division (C) (1) (a) or (b) of this section, each payment shall be | 317 |
| applied first to unpaid charges, then to interest, and the | 318 |
| remainder to the unpaid principal balance. However, if the | 319 |
| amount of the payment is insufficient to pay the accumulated | 320 |
| interest, the unpaid interest continues to accumulate to be paid | 321 |
| from the proceeds of subsequent payments and is not added to the | 322 |
| principal balance. | 323 |
| (2) Interest shall not be compounded, collected, or paid | 324 |
| in advance. However, both of the following apply: | 325 |
| (a) Interest may be charged to extend the first monthly | 326 |
| installment period by not more than fifteen days, and the | 327 |
| interest charged for the extension may be added to the principal | 328 |
| amount of the loan. | 329 |
| (b) If part or all of the consideration for a new loan | 330 |
| contract is the unpaid principal balance of a prior loan, the | 331 |
| principal amount payable under the new loan contract may include | 332 |

any unpaid interest that has accrued. The resulting loan 333
contract shall be deemed a new and separate loan transaction for 334
purposes of this section. The unpaid principal balance of a 335
precomputed loan is the balance due after refund or credit of 336
unearned interest as provided in division (D) (3) of this 337
section. 338

(D) With respect to precomputed loans: 339

(1) Loans shall be repayable in monthly installments of 340
principal and interest combined, except that: 341

(a) The first installment period may exceed one month by 342
not more than fifteen days, and the first installment payment 343
amount may be larger than the remaining payments by the amount 344
of interest charged for the extra days. 345

(b) Monthly installment payment dates may be omitted to 346
accommodate borrowers with seasonal income. 347

(2) Payments may be applied to the combined total of 348
principal and precomputed interest until maturity of the loan. A 349
licensee may charge interest after the original or deferred 350
maturity of a precomputed loan at the rate specified in division 351
(A) of this section on all unpaid principal balances for the 352
time outstanding. 353

(3) When any loan contract is paid in full by cash, 354
renewal, refinancing, or a new loan, one month or more before 355
the final installment due date, the licensee shall refund, or 356
credit the borrower with, the total of the applicable charges 357
for all fully unexpired installment periods, as originally 358
scheduled or as deferred, that follow the day of prepayment. If 359
the prepayment is made other than on a scheduled installment due 360
date, the nearest scheduled installment due date shall be used 361

in such computation. If the prepayment occurs prior to the first 362
installment due date, the licensee may retain one-thirtieth of 363
the applicable charge for a first installment period of one 364
month for each day from date of loan to date of prepayment, and 365
shall refund, or credit the borrower with, the balance of the 366
total interest contracted for. If the maturity of the loan is 367
accelerated for any reason and judgment is entered, the licensee 368
shall credit the borrower with the same refund as if prepayment 369
in full had been made on the date the judgment is entered. 370

(4) If the parties agree in writing, either in the loan 371
contract or in a subsequent agreement, to a deferment of wholly 372
unpaid installments, a licensee may grant a deferment and may 373
collect a deferment charge as provided in this section. A 374
deferment postpones the scheduled due date of the earliest 375
unpaid installment and all subsequent installments as originally 376
scheduled, or as previously deferred, for a period equal to the 377
deferment period. The deferment period is that period during 378
which no installment is scheduled to be paid by reason of the 379
deferment. The deferment charge for a one-month period may not 380
exceed the applicable charge for the installment period 381
immediately following the due date of the last undeferred 382
installment. A proportionate charge may be made for deferment 383
for periods of more or less than one month. A deferment charge 384
is earned pro rata during the deferment period and is fully 385
earned on the last day of the deferment period. If a loan is 386
prepaid in full during a deferment period, the licensee shall 387
make, or credit to the borrower, a refund of the unearned 388
deferment charge in addition to any other refund or credit made 389
for prepayment of the loan in full. 390

(E) A licensee, at the request of the borrower, may 391
obtain, on one or more borrowers, credit life insurance, credit 392

accident and health insurance, and unemployment insurance. The 393
premium or identifiable charge for the insurance may be included 394
in the principal amount of the loan and may not exceed the 395
premium rate filed by the insurer with the superintendent of 396
insurance and not disapproved by the superintendent. If a 397
licensee obtains the insurance at the request of the borrower, 398
the borrower shall have the right to cancel the insurance for a 399
period of twenty-five days after the loan is made. If the 400
borrower chooses to cancel the insurance, the borrower shall 401
give the licensee written notice of this choice and shall return 402
all of the policies or certificates of insurance or notices of 403
proposed insurance to the licensee during such period, and the 404
full premium or identifiable charge for the insurance shall be 405
refunded to the borrower by the licensee. If the borrower 406
requests, in the notice to cancel the insurance, that this 407
refund be applied to reduce the balance of a precomputed loan, 408
the licensee shall credit the amount of the refund plus the 409
amount of interest applicable to the refund to the loan balance. 410
If the licensee obtains the insurance at the request of the 411
borrower, the licensee shall not charge or collect interest on 412
any insured amount that remains unpaid after the insured 413
borrower's date of death. 414

(F) A licensee may require the borrower to provide 415
insurance or a loss payable endorsement covering reasonable 416
risks of loss, damage, and destruction of property used as 417
security for the loan and with the consent of the borrower such 418
insurance may cover property of the borrower other than that 419
which is security for the loan. The amount and term of required 420
property insurance shall be reasonable in relation to the amount 421
and term of the loan contract and the type and value of the 422
security, and the insurance shall be procured in accordance with 423

the insurance laws of this state. The purchase of this insurance 424
through the licensee or an agent or broker designated by the 425
licensee shall not be a condition precedent to the granting of 426
the loan. If the borrower purchases the insurance from or 427
through the licensee or from another source, the premium may be 428
included in the principal amount of the loan. 429

(G) (1) In addition to the interest and charges provided 430
for by this section, no further or other amount, whether in the 431
form of broker fees, placement fees, or any other fees 432
whatsoever, shall be charged or received by the licensee, except 433
that: 434

(a) The licensee may charge and receive costs and 435
disbursements in connection with any suit to collect a loan or 436
any lawful activity to realize on a security interest after 437
default, including reasonable attorney's fees incurred by the 438
licensee as a result of the suit or activity and to which the 439
licensee becomes entitled by law. 440

(b) The licensee may include the following additional 441
charges in the principal amount of the loan or collect the 442
following additional charges at any time after the loan is made: 443

(i) The amounts of fees authorized by law to record, file, 444
or release security interests on a loan; 445

(ii) Fees received from borrowers to record, file, or 446
release a security interest on a loan for purposes either of 447
purchasing insurance to insure the licensee against losses for 448
failure to record or file or creating a self-insurance fund to 449
reimburse the licensee against losses for failure to record or 450
file; 451

(iii) Fees for credit investigations not exceeding twenty- 452

five dollars provided a licensee obtains a consumer report in 453
connection with an application for a grant, extension, or other 454
provision of credit to a consumer that is based in whole or in 455
part on the consumer report. 456

(2) Division (G)(1) of this section does not limit the 457
rights of licensees to engage in other transactions with 458
borrowers, provided the transactions are not a condition of the 459
loan. As used in this division, a transaction shall not be 460
considered a "condition of the loan" if it meets both of the 461
following conditions: 462

(a) It is not required for the extension of the credit. 463

(b) It is a charge that is not considered a "finance 464
charge" pursuant to 12 C.F.R. 1026.4. 465

(H) If the loan contract or security instrument contains 466
covenants by the borrower to perform certain duties pertaining 467
to insuring or preserving security and the licensee pursuant to 468
the loan contract or security instrument pays for performance of 469
the duties on behalf of the borrower, the licensee may add the 470
amounts paid to the unpaid principal balance of the loan or 471
collect them separately. A charge for interest may be made for 472
sums advanced not exceeding the rate of interest permitted by 473
division (A) of this section. Within a reasonable time after 474
advancing a sum, the licensee shall notify the borrower in 475
writing of the amount advanced, any interest charged with 476
respect to the amount advanced, and any revised payment 477
schedule, and shall include a brief description of the reason 478
for the advance. 479

(I)(1) In addition to any other permissible fees and 480
charges, a licensee may charge and receive the following: 481

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| (a) If the principal amount of the loan is five hundred | 482 |
| dollars or less, loan origination charges not exceeding fifteen | 483 |
| dollars; | 484 |
| (b) If the principal amount of the loan is more than five | 485 |
| hundred dollars but less than one thousand dollars, loan | 486 |
| origination charges not exceeding thirty dollars; | 487 |
| (c) If the principal amount of the loan is at least one | 488 |
| thousand dollars but less than two thousand dollars, loan | 489 |
| origination charges not exceeding one hundred dollars; | 490 |
| (d) If the principal amount of the loan is at least two | 491 |
| thousand dollars but less than five thousand dollars, loan | 492 |
| origination charges not exceeding two hundred dollars; | 493 |
| (e) If the principal amount of the loan is at least five | 494 |
| thousand dollars, loan origination charges not exceeding the | 495 |
| greater of two hundred fifty dollars or one per cent of the | 496 |
| principal amount of the loan. | 497 |
| (2) Loan origination charges may be paid by the borrower | 498 |
| at the time of the loan or may be included in the principal | 499 |
| amount of the loan. | 500 |
| (J) A licensee may charge and receive check collection | 501 |
| charges not greater than twenty dollars plus any amount passed | 502 |
| on from other depository institutions for each check, negotiable | 503 |
| order of withdrawal, share draft, or other negotiable instrument | 504 |
| returned or dishonored for any reason. | 505 |
| (K) If the loan contract so provides, a licensee may | 506 |
| collect a default charge on any installment not paid in full | 507 |
| within ten days after its due date. For this purpose, all | 508 |
| installments are considered paid in the order in which they | 509 |
| become due. Any amounts applied to an outstanding loan balance | 510 |

as a result of voluntary release of a security interest, sale of 511
security on the loan, or cancellation of insurance shall be 512
considered payments on the loan, unless the parties otherwise 513
agree in writing at the time the amounts are applied. A licensee 514
shall not collect more than one default charge per unpaid 515
installment regardless of the number of months the installment 516
remains fully unpaid. The amount of the default charge shall not 517
exceed the greater of five per cent of the scheduled installment 518
or fifteen dollars. 519

Sec. 1322.01. As used in this chapter: 520

(A) "Administrative or clerical tasks" mean the receipt, 521
collection, and distribution of information common for the 522
processing or underwriting of a loan in the mortgage industry, 523
~~without performing any analysis of the information, and~~ 524
communication with a consumer to obtain information necessary 525
for the processing or underwriting of a residential mortgage 526
loan, to the extent the communication does not include offering 527
or negotiating loan rates or terms or counseling borrowers about 528
residential mortgage loan rates or terms. 529

(B) "Advertising" means a commercial message in any medium 530
that promotes, either directly or indirectly, a residential 531
mortgage lending transaction. 532

(C) "Application" has the same meaning as in 12 C.F.R. 533
1026.2(a)(3). 534

(D) "Approved education course" means any course approved 535
by the nationwide mortgage licensing system and registry. 536

(E) "Approved test provider" means any test provider 537
approved by the nationwide mortgage licensing system and 538
registry. 539

| | |
|---|-----|
| <u>(F) "Bona fide nonprofit organization" means an</u> | 540 |
| <u>organization that meets all of the following:</u> | 541 |
| <u>(1) Has the status of a tax-exempt organization under</u> | 542 |
| <u>section 501(c) (3) of the Internal Revenue Code of 1986, as</u> | 543 |
| <u>amended;</u> | 544 |
| <u>(2) Promotes affordable housing or provides homeownership</u> | 545 |
| <u>education or similar services;</u> | 546 |
| <u>(3) Conducts its activities in a manner that serves public</u> | 547 |
| <u>or charitable purposes, rather than commercial purposes;</u> | 548 |
| <u>(4) Receives funding and revenue and charges fees in a</u> | 549 |
| <u>manner that does not incentivize it or its employees to act</u> | 550 |
| <u>other than in the best interests of its clients;</u> | 551 |
| <u>(5) Compensates its employees in a manner that does not</u> | 552 |
| <u>incentivize employees to act other than in the best interests of</u> | 553 |
| <u>its clients;</u> | 554 |
| <u>(6) Provides, or identifies for the borrower, residential</u> | 555 |
| <u>mortgage loans with terms favorable to the borrower and</u> | 556 |
| <u>comparable to mortgage loans and housing assistance provided</u> | 557 |
| <u>under government housing assistance programs;</u> | 558 |
| <u>(7) Has obtained a valid letter of exemption from the</u> | 559 |
| <u>superintendent of financial institutions.</u> | 560 |
| <u>(G) "Borrower" means a person seeking a residential</u> | 561 |
| <u>mortgage loan or an obligor on a residential mortgage loan.</u> | 562 |
| (G) <u>(H) "Branch office" means a location at which a</u> | 563 |
| <u>licensee conducts business other than a registrant's principal</u> | 564 |
| <u>place of business, if at least one of the following applies to</u> | 565 |
| <u>the location:</u> | 566 |

- (1) The address of the location appears on business cards, 567
stationery, or advertising used by the registrant; 568
- (2) The registrant's name or advertising at the location 569
suggests that mortgage transactions are made at the location; 570
- (3) The location is held out to the public as a licensee's 571
place of business due to the actions of an employee or 572
independent contractor of the registrant; or 573
- (4) The location within this state is controlled directly 574
or indirectly by the registrant. 575
- ~~(H)~~ (I) "Buyer" means an individual who is solicited to 576
purchase or who purchases the services of a mortgage loan 577
originator for purposes of obtaining a residential mortgage 578
loan. "Buyer" includes an individual whose mortgage loan is 579
serviced by a mortgage servicer. 580
- ~~(I)~~ (J) "Consumer reporting agency" has the same meaning 581
as in the "Fair Credit Reporting Act," 84 Stat. 1128, 15 582
U.S.C.A. 1681a, as amended. 583
- ~~(J)~~ (K) "Control" means the power, directly or indirectly, 584
to direct the management or policies of an entity, whether 585
through ownership of securities, by contract, or otherwise. A 586
person is presumed to control an entity if that person: 587
- (1) Is a director, general partner, or executive officer 588
or is an individual that occupies a similar position or performs 589
a similar function; 590
- (2) Directly or indirectly has the right to vote five per 591
cent or more of a class of a voting security or has the power to 592
sell or direct the sale of five per cent or more of a class of 593
voting securities; 594

(3) In the case of a limited liability company, is a 595
managing member; or 596

(4) In the case of a partnership, has the right to receive 597
upon dissolution or has contributed five per cent or more of the 598
capital. 599

~~(K)~~ (L) "Depository institution" has the same meaning as 600
in section 3 of the "Federal Deposit Insurance Act," 12 U.S.C. 601
1813(c), and also includes any credit union. 602

~~(I)~~ (M) "Dwelling" has the same meaning as in 15 U.S.C. 603
1602(w). "Dwelling" includes a single condominium unit, 604
cooperative unit, mobile home, and trailer, if it is used as a 605
residence, whether or not that structure is attached to real 606
property. 607

~~(M)~~ (N) "Employee" means an individual for whom a mortgage 608
broker ~~or~~, mortgage lender, or mortgage servicer, in addition to 609
providing a wage or salary, pays social security and 610
unemployment taxes, provides workers' compensation coverage, and 611
withholds local, state, and federal income taxes. "Employee" 612
also includes any individual who acts as a mortgage loan 613
originator or operations manager of a registrant, but for whom 614
the registrant is prevented by law from making income tax 615
withholdings. 616

~~(N)~~ (O) "Entity" means a business organization, including 617
a sole proprietorship. 618

~~(O)~~ (P) "Expungement" means a court-ordered process that 619
involves the destruction of documentation related to past 620
arrests and convictions. 621

~~(P)~~ (Q) "Federal banking agency" means the board of 622
governors of the federal reserve system, the comptroller of the 623

currency, the national credit union administration, or the 624
federal deposit insurance corporation. 625

~~(Q)~~ (R) "Immediate family" means an individual's spouse, 626
child, stepchild, parent, stepparent, grandparent, grandchild, 627
brother, sister, parent-in-law, brother-in-law, or sister-in- 628
law. 629

~~(R)~~ (S) "Independent contractor" means an individual who 630
performs duties for another person and is not subject to that 631
person's supervision or control. 632

~~(S)~~ (T) "Individual" means a natural person. 633

~~(T)~~ (U) "Licensee" means any individual who has been 634
issued a mortgage loan originator license under this chapter. 635

~~(U)~~ (V) "Loan commitment" means a statement transmitted in 636
writing or electronically by a mortgage lender setting forth the 637
terms and conditions upon which the mortgage lender is willing 638
to make a particular residential mortgage loan to a particular 639
borrower. 640

~~(V)~~ (W) "Loan processor or underwriter" means an 641
individual who, with respect to the origination of a residential 642
mortgage loan, performs ~~administrative or clerical tasks as an~~ 643
~~employee at the direction of and subject to the supervision of a~~ 644
~~mortgage lender or mortgage broker. For purposes of this~~ 645
~~division, "origination of a residential mortgage loan" means all~~ 646
~~activities related to a residential mortgage loan, from the~~ 647
~~taking of a loan application through the completion of all~~ 648
~~required loan closing documents and the funding of the loan~~ any 649
of the following activities at the direction or subject to the 650
supervision of a licensed mortgage loan originator or registered 651
mortgage loan originator: 652

(1) Receiving, collecting, distributing, or analyzing 653
information common for the processing or underwriting of a 654
residential mortgage loan; 655

(2) Communicating with a borrower to obtain the 656
information necessary for the processing or underwriting of a 657
loan, to the extent the communication does not include offering 658
or negotiating loan rates or terms or counseling borrowers about 659
residential mortgage loan rates or terms. 660

~~(W)~~(X) "Mortgage" means the consensual interest in real 661
property located in this state, including improvements to that 662
property, securing a debt evidence by a mortgage, trust 663
indenture, deed of trust, or other lien on real property. 664

~~(X)~~(Y) "Mortgage broker" means an entity that for 665
compensation or gain, or in the expectation of compensation or 666
gain, obtains, attempts to obtain, or assists in obtaining a 667
residential mortgage loan for a borrower from a mortgage lender 668
~~in return for consideration or in anticipation of consideration.~~ 669
For purposes of this division, "attempting to obtain or 670
assisting in obtaining" a residential mortgage loan includes 671
referring a borrower to a mortgage lender, soliciting or 672
offering to solicit a mortgage loan on behalf of a borrower, or 673
negotiating or offering to negotiate the terms or conditions of 674
a mortgage loan with a mortgage lender on behalf of a borrower. 675

~~(Y)~~(Z) "Mortgage lender" means an entity that for 676
compensation or gain, or in the expectation of compensation or 677
gain consummates a residential mortgage loan, advances funds, 678
offers to advance funds, or commits to advancing funds for a 679
~~residential mortgage loan applicant~~borrower. 680

~~(Z)~~~~(1)~~(AA) (1) "Mortgage loan originator" means an 681

individual who for compensation or gain, or in the expectation 682
of compensation or gain, does any of the following: 683

(a) Takes a residential mortgage loan application; 684

(b) Assists or offers to assist a buyer in obtaining or 685
applying to obtain a residential mortgage loan by, among other 686
things, advising on loan terms, including rates, fees, and other 687
costs; 688

(c) Offers or negotiates terms of a residential mortgage 689
loan; 690

(d) Issues or offers to issue a commitment for a 691
residential mortgage loan to a buyer. 692

(2) "Mortgage loan originator" does not include any of the 693
following: 694

(a) An individual who performs purely administrative or 695
clerical tasks on behalf of a mortgage loan originator; 696

(b) A person licensed under Chapter 4735. of the Revised 697
Code, or under the similar law of another state, who performs 698
only real estate brokerage activities permitted by that license, 699
provided the person is not compensated by a mortgage lender, 700
mortgage broker, mortgage loan originator, or by any agent 701
thereof; 702

(c) A person solely involved in extensions of credit 703
relating to timeshare plans, as that term is defined in 11 704
U.S.C. 101; 705

(d) An employee of a mortgage lender or mortgage broker 706
who acts solely as a loan processor or underwriter and who does 707
not represent to the public, through advertising or other means 708
of communicating, including the use of business cards, 709

stationery, brochures, signs, rate lists, or other promotional 710
items, that the employee can or will perform any of the 711
activities of a mortgage loan originator; 712

(e) A licensed attorney who negotiates the terms of a 713
residential mortgage loan on behalf of a client as an ancillary 714
matter to the attorney's representation of the client, unless 715
the attorney is compensated by a mortgage lender, a mortgage 716
broker, or another mortgage loan originator, or by any agent 717
thereof; 718

(f) Any person engaged in the retail sale of manufactured 719
homes, mobile homes, or industrialized units, including a 720
manufactured home park operator, as defined in section 4781.01 721
of the Revised Code if, in connection with financing those 722
retail sales, the person ~~only assists the borrower by providing~~ 723
~~or transmitting the loan application and does not do any of the~~ 724
following: 725

(i) Offer or negotiate the residential mortgage loan rates 726
or terms; 727

~~(ii) Provide any counseling with borrowers about~~ 728
~~residential mortgage loan rates or terms~~ Fail to give a borrower 729
written disclosure of any corporate affiliation the person has 730
with any lender, or fail to refer a borrower to at least one 731
unaffiliated lender if the person recommends a lender with which 732
the person has a corporate affiliation; 733

(iii) Receive any ~~payment~~ compensation or fee gain from 734
any company or individual for assisting the borrower obtain or 735
apply for financing to purchase the manufactured home, mobile 736
home, or industrialized unit; 737

~~(iv) Assist the borrower in completing a residential~~ 738

~~mortgage loan application.~~ 739

(g) An individual employed by a bona fide nonprofit 740
~~organization that is recognized as tax exempt under 26 U.S.C.~~ 741
~~501(c)(3) and whose primary activity is the construction,~~ 742
~~remodeling, or rehabilitation of homes for use by low income~~ 743
~~families, provided that the nonprofit organization makes no~~ 744
~~profit mortgage loans or mortgage loans at zero per cent~~ 745
~~interest to low income families and no fees accrue directly to~~ 746
~~the nonprofit organization or individual employed by the~~ 747
~~nonprofit organization from those mortgage loans and that the~~ 748
~~United States department of housing and urban development does~~ 749
~~not deny this exemption.~~ acting within the scope of employment 750
with respect to residential mortgage loans with terms that are 751
favorable to the borrower; 752

(h) An employee of a loan processing or underwriting 753
company that provides loan processing or underwriting services 754
to one or more mortgage lenders or mortgage brokers under a 755
contract between the loan processing or underwriting company and 756
the mortgage lenders or mortgage brokers, provided the employee 757
performs only clerical or support duties and performs those 758
duties only at the direction of and subject to the supervision 759
and instruction of a licensed mortgage loan originator employee 760
of the same loan processing and underwriting company, and 761
provided that the loan processing and underwriting company has 762
obtained a letter of exemption provided for in a rule adopted by 763
the superintendent of financial institutions. 764

~~(AA)-(BB)~~ "Mortgage servicer" means an entity a person 765
that, for compensation or gain for itself or on behalf of the 766
holder of a residential mortgage loan, holds the servicing 767
rights for more than five residential mortgage loans, records 768

mortgage payments on its books for more than five residential 769
mortgage loans, or performs other functions to carry out the 770
residential mortgage holder's obligations or rights under the 771
mortgage agreement for more than five residential mortgage loans 772
including, when applicable, the receipt of funds from the 773
mortgagor to be held in escrow for payment of real estate taxes 774
and insurance premiums and the distribution of such funds to the 775
taxing authority and insurance company. 776

~~(BB)~~ (CC) "Nationwide mortgage licensing system and 777
registry" means a licensing system developed and maintained by 778
the conference of state bank supervisors and the American 779
association of residential mortgage regulators, or their 780
successor entities, for the licensing and registration of 781
persons providing non-depository financial services. 782

~~(CC)~~ (DD) "Nontraditional mortgage product" means any 783
mortgage product other than a thirty-year fixed rate mortgage. 784

~~(DD)~~ (EE) "Person" means an individual, sole 785
proprietorship, corporation, company, limited liability company, 786
partnership, limited liability partnership, trust, or 787
association. 788

~~(EE)~~ (FF) "Real estate brokerage activity" means any 789
activity that involves offering or providing real estate 790
brokerage services to the public, including all of the 791
following: 792

(1) Acting as a real estate salesperson or real estate 793
broker for a buyer, seller, lessor, or lessee of real property; 794

(2) Bringing together parties interested in the sale, 795
purchase, lease, rental, or exchange of real property; 796

(3) Negotiating, on behalf of any party, any portion of a 797

contract relating to the sale, purchase, lease, rental, or 798
exchange of real property, other than in connection with 799
providing financing for any such transaction; 800

(4) Engaging in any activity for which a person engaged in 801
that activity is required to be licensed as a real estate 802
salesperson or real estate broker under the law of this state; 803

(5) Offering to engage in any activity, or to act in any 804
capacity, described in division ~~(EE)~~(FF) of this section. 805

~~(FF)~~(GG) "Registered mortgage loan originator" means an 806
individual to whom both of the following apply: 807

(1) The individual is a mortgage loan originator and an 808
employee of a depository institution, a subsidiary that is owned 809
and controlled by a depository institution and regulated by a 810
federal banking agency, or an institution regulated by the farm 811
credit administration. 812

(2) The individual is registered with, and maintains a 813
unique identifier through, the nationwide mortgage licensing 814
system and registry. 815

~~(GG)~~(HH) "Registrant" means any person that has been 816
issued a certificate of registration under this chapter. 817

~~(HH)~~(II) "Residential mortgage loan" means any loan that 818
meets both of the following requirements: 819

(1) It is primarily for personal, family, or household use 820
and is secured by a mortgage, deed of trust, or other equivalent 821
consensual security interest on a dwelling or on residential 822
real estate ~~located in Ohio.~~ 823

(2) It is provided and secured by a first lien holder 824
secured creditor or by a ~~second~~subordinate lien holder secured 825

creditor. 826

~~(II)~~ (JJ) "Residential real estate" means any real 827
property located in this state upon which is constructed a 828
dwelling or upon which a dwelling is intended to be built within 829
a two-year period, subject to 24 C.F.R. 3500.5(b)(4). For 830
purposes of this division, a borrower's intent to build a 831
dwelling within a two-year period is presumed unless the 832
borrower has submitted a written, signed statement to the 833
contrary. 834

~~(JJ)~~ (KK) "Superintendent of financial institutions" 835
includes the deputy superintendent for consumer finance as 836
provided in section 1181.21 of the Revised Code. 837

~~(KK)~~ (LL) "Transaction of business as a mortgage lender, 838
mortgage servicer, or mortgage broker in this state" means 839
originating, brokering, or servicing five or more residential 840
mortgage loans in any twelve-month period in any of the 841
following circumstances: 842

(1) For any resident in this state; 843

(2) For any property in this state; 844

(3) By a person who is physically located in this state 845
even if the property in question is in another state. 846

(MM) "Unique identifier" means a number or other 847
identifier assigned by protocols established by the nationwide 848
mortgage licensing system and registry. 849

Sec. 1322.02. The superintendent of financial institutions 850
may, by rule, amend the definition of mortgage loan originator, 851
mortgage broker, ~~or mortgage lender,~~ mortgage servicer, or any 852
other definition in section 1322.01 of the Revised Code, or the 853

criteria for an entity to obtain a letter of exemption ~~under~~ 854
~~division (B) (1) of section 1322.05 of the Revised Code, or a~~ 855
registration or license, under this chapter, if the 856
superintendent finds that the change is necessary to remain 857
consistent with the purposes intended by the policy and 858
provisions of the "Secure and Fair Enforcement for Mortgage 859
Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101. 860

Rules authorized by this section shall be adopted in 861
accordance with Chapter 119. of the Revised Code. 862

Sec. 1322.04. This chapter does not apply to any of the 863
following: 864

(A) Any entity chartered and lawfully doing business under 865
the authority of any law of this state, another state, or the 866
United States as a bank, savings bank, trust company, savings 867
and loan association, or credit union, or a subsidiary of any 868
such entity, which subsidiary is regulated by a federal banking 869
agency and is owned and controlled by a depository institution; 870

(B) A consumer reporting agency that is in substantial 871
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 872
15 U.S.C. 1681a, as amended; 873

(C) Any political subdivision, or any governmental or 874
other public entity, corporation, instrumentality, or agency, in 875
or of the United States or any state; 876

(D) A college or university, or controlled entity of a 877
college or university, as those terms are defined in section 878
1713.05 of the Revised Code; 879

(E) Any entity created solely for the purpose of 880
securitizing loans secured by an interest in real estate, 881
~~provide~~ provided the entity does not service the loans. As used 882

in this division, "securitizing" means the packaging and sale of mortgage loans as a unit for sale as investment securities, but only to the extent of those activities.

(F) Any person engaged in the retail sale of manufactured homes, mobile homes, or industrialized units, including a manufactured home park operator, as defined in section 4781.01 of the Revised Code, if, in connection with obtaining financing by others for those retail sales, the person ~~only assists the borrower by providing or transmitting the loan application and does not do any of the following:~~

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

~~(2) Provide any counseling with borrowers about residential mortgage loan rates or terms.~~ Fail to give a borrower written disclosure of any corporate affiliation the person has with any lender, or fail to refer a borrower to at least one unaffiliated lender if the person recommends a lender with which the person has a corporate affiliation;

(3) Receive any ~~payment compensation or fee gain~~ from any company or individual for assisting the borrower to obtain or apply for financing to purchase the manufactured home, mobile home, or industrialized unit;

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

(G) A bona fide 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 organization makes no profit mortgage loans or mortgage loans at~~

~~zero per cent interest to low income families and no fees accrue~~ 912
~~directly to the organization from those mortgage loans and that~~ 913
~~the United States department of housing and urban development~~ 914
~~does not deny this exemption;~~ 915

(H) A credit union service organization, provided that the 916
organization utilizes services provided by registered mortgage 917
loan originators or that it holds a valid letter of exemption 918
issued by the superintendent of financial institutions under 919
division (B) (1) of section 1322.05 of the Revised Code. 920

(I) A depository institution not otherwise required to be 921
licensed under this chapter that voluntarily makes a filing on 922
the nationwide mortgage licensing system and registry as an 923
exempt entity for the purpose of licensing loan originators 924
exclusively associated with the institution and that holds a 925
valid letter of exemption issued by the superintendent pursuant 926
to division (B) (1) of section 1322.05 of the Revised Code. 927

Sec. 1322.07. (A) (1) No person, on the person's own behalf 928
or on behalf of any other person, shall ~~act engage in the~~ 929
transaction of business as a mortgage lender, mortgage servicer, 930
or mortgage broker in this state without first having obtained a 931
certificate of registration from the superintendent of financial 932
institutions for the principal office and every branch office to 933
be maintained by the person for the transaction of business as a 934
mortgage lender, mortgage servicer, or mortgage broker in this 935
state. ~~A-~~ 936

(2) A registrant shall maintain an office location for the 937
transaction of business as a mortgage lender, mortgage servicer, 938
or mortgage broker in ~~this any state of the United States.~~ 939
Registrants are not required to maintain a physical location in 940
this state. 941

(B) (1) No individual shall act as a mortgage loan 942
originator without first having obtained a license from the 943
superintendent. A mortgage loan originator shall be employed by 944
or associated with a ~~mortgage lender, mortgage broker,~~ 945
registrant or entity holding a valid letter of exemption under 946
~~division (B) (1) of section 1322.05 of the Revised Code~~this 947
chapter, but shall not be employed by or associated with more 948
than one registrant or entity holding a valid letter of 949
exemption under ~~division (B) (1) of section 1322.05 of the~~ 950
~~Revised Code~~ this chapter at any one time. 951

(2) An individual acting under the individual's authority 952
as a registered mortgage loan originator shall not be required 953
to be licensed under division (B) (1) of this section. 954

~~(3) An individual who holds a valid temporary mortgage~~ 955
~~loan originator license issued pursuant to section 1322.24 of~~ 956
~~the Revised Code may engage in the business of a mortgage loan~~ 957
~~originator in accordance with this chapter during the term of~~ 958
~~the temporary license.~~ 959

Sec. 1322.09. (A) (1) An application for a certificate of 960
registration shall be in writing, under oath, and in a form 961
prescribed by the superintendent of financial institutions that 962
complies with the requirements of the nationwide mortgage 963
licensing system and registry. The application shall be 964
accompanied by a nonrefundable application fee of five hundred 965
dollars for each location of an office to be maintained by the 966
applicant in accordance with division (A) of section 1322.07 of 967
the Revised Code and any additional fee required by the 968
nationwide mortgage licensing system and registry. 969

(2) The application shall include the names and addresses 970
of the owners, officers, or partners having control of the 971

| | |
|---|------|
| <u>applicant, including all of the following:</u> | 972 |
| <u>(a) In the case of a sole proprietor, the name and address</u> | 973 |
| <u>of the sole proprietor;</u> | 974 |
| <u>(b) In the case of a partnership, the name and address of</u> | 975 |
| <u>each partner;</u> | 976 |
| <u>(c) In the case of a corporation, the name and address of</u> | 977 |
| <u>each shareholder owning five per cent or more of the</u> | 978 |
| <u>corporation;</u> | 979 |
| <u>(d) In the case of any other entity, the name and address</u> | 980 |
| <u>of any person that owns five per cent or more of any entity that</u> | 981 |
| <u>will transact business under the certificate of registration.</u> | 982 |
| <u>(3) In addition to any information required by this</u> | 983 |
| <u>section, an applicant shall furnish to the superintendent any</u> | 984 |
| <u>reasonable information the superintendent may require.</u> | 985 |
| (B) Upon the filing of the application and payment of the | 986 |
| nonrefundable application fee and any fee required by the | 987 |
| nationwide mortgage licensing system and registry, the | 988 |
| superintendent shall investigate the applicant and any | 989 |
| individual whose identity is required to be disclosed in the | 990 |
| application. As part of that investigation, the superintendent | 991 |
| shall conduct a civil records check. | 992 |
| If, in order to issue a certificate of registration to an | 993 |
| applicant, additional investigation by the superintendent | 994 |
| outside this state is necessary, the superintendent may require | 995 |
| the applicant to advance sufficient funds to pay the actual | 996 |
| expenses of the investigation, if it appears that these expenses | 997 |
| will exceed five hundred dollars. The superintendent shall | 998 |
| provide the applicant with an itemized statement of the actual | 999 |
| expenses that the applicant is required to pay. | 1000 |

(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 for the applicant and any individual with control of the applicant:

(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 1030
nationwide mortgage licensing system and registry requests the 1031
information in writing, including by electronic transmission or 1032
facsimile, the superintendent may consider the application 1033
withdrawn. 1034

(F) A certificate of registration and the authority 1035
granted under that certificate is not transferable or assignable 1036
and cannot be franchised by contract or any other means. 1037

(G) (1) The superintendent may establish relationships or 1038
enter into contracts with the nationwide mortgage licensing 1039
system and registry, or any entities designated by it, to 1040
collect and maintain records and process transaction fees or 1041
other fees related to mortgage lender, mortgage servicer, or 1042
mortgage broker certificates of registration or the persons 1043
associated with a mortgage lender, mortgage servicer, or 1044
mortgage broker. 1045

(2) For purposes of this section and to reduce the points 1046
of contact that the federal bureau of investigation may have to 1047
maintain, the division of financial institutions may use the 1048
nationwide mortgage licensing system and registry as a 1049
channeling agent for requesting information from and 1050
distributing information to the United States department of 1051
justice or other governmental agencies. 1052

(3) For purposes of this section and to reduce the points 1053
of contact that the division may have to maintain, the division 1054
may use the nationwide mortgage licensing system and registry as 1055
a channeling agent for requesting information from and 1056
distributing information to any source as determined by the 1057
division. 1058

Sec. 1322.10. (A) Upon the conclusion of the investigation 1059
required under division (B) of section 1322.09 of the Revised 1060
Code, the superintendent of financial institutions shall issue a 1061
certificate of registration to the applicant if the 1062
superintendent finds that the following conditions are met: 1063

(1) The application is accompanied by the application fee 1064
and any fee required by the nationwide mortgage licensing system 1065
and registry. 1066

(a) If a check or other draft instrument is returned to 1067
the superintendent for insufficient funds, the superintendent 1068
shall notify the applicant by certified mail, return receipt 1069
requested, that the application will be withdrawn unless the 1070
applicant, within thirty days after receipt of the notice, 1071
submits the application fee and a one-hundred-dollar penalty to 1072
the superintendent. If the applicant does not submit the 1073
application fee and penalty within that time period, or if any 1074
check or other draft instrument used to pay the fee or penalty 1075
is returned to the superintendent for insufficient funds, the 1076
application shall be withdrawn. 1077

(b) If a check or other draft instrument is returned to 1078
the superintendent for insufficient funds after the certificate 1079
of registration has been issued, the superintendent shall notify 1080
the registrant by certified mail, return receipt requested, that 1081
the certificate of registration issued in reliance on the check 1082
or other draft instrument will be canceled unless the 1083
registrant, within thirty days after receipt of the notice, 1084
submits the application fee and a one-hundred-dollar penalty to 1085
the superintendent. If the registrant does not submit the 1086
application fee and penalty within that time period, or if any 1087
check or other draft instrument used to pay the fee or penalty 1088

is returned to the superintendent for insufficient funds, the 1089
certificate of registration shall be canceled immediately 1090
without a hearing, and the registrant shall cease activity as a 1091
mortgage broker, mortgage lender, or mortgage servicer. 1092

(2) If the application is for a location that is a 1093
residence, evidence that the use of the residence to transact 1094
business as a mortgage lender ~~or~~, mortgage broker, or mortgage
servicer is not prohibited. 1095
1096

(3) The applicant maintains all necessary filings and 1097
approvals required by the secretary of state. 1098

(4) The applicant complies with the surety bond 1099
requirements of section 1322.32 of the Revised Code. 1100

(5) The applicant has not made a material misstatement of 1101
fact or material omission of fact in the application. 1102

(6) Neither the applicant nor any person whose identity is 1103
required to be disclosed on an application for a certificate of 1104
registration has had such a certificate of registration or 1105
mortgage loan originator license, or any comparable authority, 1106
revoked in any governmental jurisdiction or has pleaded guilty 1107
or nolo contendere to or been convicted of any of the following 1108
in a domestic, foreign, or military court: 1109

(a) During the seven-year period immediately preceding the 1110
date of application for the certificate of registration, a 1111
misdemeanor involving theft or any felony; 1112

(b) At any time prior to the date the application for the 1113
certificate of registration is approved, a felony involving an 1114
act of fraud, dishonesty, a breach of trust, theft, or money 1115
laundering. 1116

(7) The applicant's operations manager successfully 1117
completed the examination required by section 1322.27 of the 1118
Revised Code. 1119

(8) The applicant's financial responsibility, experience, 1120
character, and general fitness command the confidence of the 1121
public and warrant the belief that the business will be operated 1122
honestly, fairly, and efficiently in compliance with the 1123
purposes of this chapter and the rules adopted thereunder. The 1124
superintendent shall not use a credit score or a bankruptcy as 1125
the sole basis for registration denial. 1126

(B) For purposes of determining whether an applicant that 1127
is a partnership, corporation, or other business entity or 1128
association has met the conditions set forth in divisions (A) (6) 1129
and (8) of this section, the superintendent shall determine 1130
which partners, shareholders, or persons named in the 1131
application must meet those conditions. This determination shall 1132
be based on the extent and nature of the partner's, 1133
shareholder's, or person's ownership interest in the 1134
partnership, corporation, or other business entity or 1135
association that is the applicant and on whether the person is 1136
in a position to direct, control, or adversely influence the 1137
operations of the applicant. 1138

(C) The certificate of registration issued pursuant to 1139
division (A) of this section may be renewed annually on or 1140
before the thirty-first day of December if the superintendent 1141
finds that all of the following conditions are met: 1142

(1) The renewal application is accompanied by a 1143
nonrefundable renewal fee of five hundred dollars for each 1144
location of an office to be maintained by the applicant in 1145
accordance with division (A) of section 1322.07 of the Revised 1146

Code and any fee required by the nationwide mortgage licensing 1147
system and registry. If a check or other draft instrument is 1148
returned to the superintendent for insufficient funds, the 1149
superintendent shall notify the registrant by certified mail, 1150
return receipt requested, that the certificate of registration 1151
renewed in reliance on the check or other draft instrument will 1152
be canceled unless the registrant, within thirty days after 1153
receipt of the notice, submits the renewal fee and a one- 1154
hundred-dollar penalty to the superintendent. If the registrant 1155
does not submit the renewal fee and penalty within that time 1156
period, or if any check or other draft instrument used to pay 1157
the fee or penalty is returned to the superintendent for 1158
insufficient funds, the certificate of registration shall be 1159
canceled immediately without a hearing and the registrant shall 1160
cease activity as a mortgage broker, mortgage lender, or 1161
mortgage servicer. 1162

~~(2) The operations manager designated under section 1163
1322.12 of the Revised Code has completed at least eight hours 1164
of continuing education as required under section 1322.29 of the 1165
Revised Code. 1166~~

~~(3) The applicant meets the conditions set forth in 1167
divisions (A) (2) to (8) of this section. 1168~~

~~(4) (3) The applicant's certificate of registration is not 1169
subject to an order of suspension or an unpaid and past due fine 1170
imposed by the superintendent. 1171~~

(D) (1) Subject to division (D) (2) of this section, if a 1172
renewal fee or additional fee required by the nationwide 1173
mortgage licensing system and registry is received by the 1174
superintendent after the thirty-first day of December, the 1175
certificate of registration shall not be considered renewed, and 1176

the applicant shall cease activity as a mortgage lender ~~or,~~ 1177
mortgage broker, or mortgage servicer. 1178

(2) Division (D) (1) of this section shall not apply if the 1179
applicant, not later than forty-five days after the renewal 1180
deadline, submits the renewal fee or additional fee and a one- 1181
hundred-dollar penalty to the superintendent. 1182

(E) Certificates of registration issued under this chapter 1183
annually expire on the thirty-first day of December. 1184

(F) The pardon or expungement of a conviction shall not be 1185
considered a conviction for purposes of this section. When 1186
determining the eligibility of an applicant, the superintendent 1187
may consider the underlying crime, facts, or circumstances 1188
connected with a pardoned or expunged conviction. 1189

Sec. 1322.12. (A) Each registrant or entity holding a 1190
valid letter of exemption under division (B) (1) of section 1191
1322.05 of the Revised Code shall designate an employee or owner 1192
of that registrant's business as the operations manager. The 1193
operations manager shall be responsible for the management, 1194
supervision, and control of a particular ~~location~~ registrant. 1195

(B) To be eligible for such a designation, an employee or 1196
owner shall have at least three years of experience in the 1197
residential mortgage and lending field including experience as a 1198
mortgage loan originator ~~or,~~ registered mortgage loan 1199
originator, or other experience related to the business of 1200
residential mortgage lending that the superintendent determines 1201
is sufficient. While acting as the operations manager, the 1202
employee or owner shall be licensed as a mortgage loan 1203
originator under this chapter and shall not be employed by any 1204
other mortgage lender ~~or,~~ mortgage broker, or mortgage servicer. 1205

~~This paragraph shall not apply to the designated operations manager of an entity registered exclusively as a mortgage servicer.~~ 1206
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1208

(C) If the person designated as the operations manager pursuant to this section ceases to be the operations manager, the registrant shall do all of the following: 1209
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1211

(1) Within ninety days after the person ceases to be the operations manager, designate another person as the operations manager; 1212
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(2) Within ten days after the designation described in division (C) (1) of this section, notify the superintendent in writing of the new designation; 1215
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1217

(3) Submit any additional information that the superintendent requires to establish that the newly designated operations manager meets the requirements set forth in this section. 1218
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(D) The registrant shall cease operations if it is without an operations manager approved by the superintendent for more than one hundred eighty days unless otherwise authorized in writing by the superintendent due to exigent circumstances. 1222
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Sec. 1322.15. No person shall acquire, sell, transfer, or hypothecate any interest in a registrant, or an entity holding a letter of exemption issued under this chapter, or an applicant for a certificate of registration under this chapter in order to obfuscate or conceal the true ownership or control of the registrant, exemption holder, or applicant. 1226
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Sec. 1322.29. (A) A registrant or entity holding a valid letter of exemption under division (B) (1) of section 1322.05 of the Revised Code shall supervise all business of a mortgage loan 1232
1233
1234

originator conducted at the principal office, any branch office, 1235
or other location used by the individual mortgage loan 1236
originator. 1237

(B) If a mortgage loan originator's employment or 1238
association is terminated for any reason, the licensee may 1239
request the transfer of the license to another ~~mortgage lender-~~ 1240
~~or mortgage broker-registrant~~ by submitting a transfer 1241
application, along with a fifteen-dollar fee and any fee 1242
required by the national mortgage licensing system and registry, 1243
to the superintendent of financial institutions or may request 1244
the superintendent in writing to hold the license in escrow. Any 1245
licensee whose license is held in escrow shall cease activity as 1246
a mortgage loan originator. A licensee whose license is held in 1247
escrow shall be required to apply for renewal annually and to 1248
comply with the annual continuing education requirement. 1249

(C) A registrant may employ or be associated with a 1250
mortgage loan originator on a temporary basis pending the 1251
transfer of the mortgage loan originator's license to the 1252
registrant, if the registrant receives written confirmation from 1253
the superintendent that the mortgage loan originator is licensed 1254
under this chapter. 1255

(D) Notwithstanding divisions (A) to (C) of this section, 1256
if a licensee is employed by or associated with a person or 1257
entity holding a valid letter of exemption under division (B) (1) 1258
of section 1322.05 of the Revised Code, ~~all of the following-~~ 1259
~~apply:~~ 1260

~~(1) The licensee shall maintain and display a copy of the-~~ 1261
~~mortgage loan originator license at the office where the-~~ 1262
~~licensee principally transacts business.~~ 1263

~~(2) If and if~~ the mortgage loan originator's employment or 1264
association is terminated, the mortgage loan originator shall 1265
notify the superintendent within five business days after 1266
termination. The licensee may request the transfer of the 1267
license to another person or entity holding a valid letter of 1268
exemption under division (B) (1) of section 1322.05 of the 1269
Revised Code by submitting a transfer application, along with a 1270
fifteen-dollar fee and any fee required by the national mortgage 1271
licensing system and registry, to the superintendent or may 1272
request the superintendent in writing to hold the license in 1273
escrow. A licensee whose license is held in escrow shall cease 1274
activity as a mortgage loan originator. A licensee whose license 1275
is held in escrow shall be required to apply for renewal 1276
annually and to comply with the annual continuing education 1277
requirement. 1278

(E) A licensee may seek to be employed by or associated 1279
with a registrant or a person or entity holding a valid letter 1280
of exemption under division (B) (1) of section 1322.05 of the 1281
Revised Code, if the ~~mortgage lender, mortgage broker, or person~~ 1282
~~or entity~~ registrant receives written confirmation from the 1283
superintendent that the mortgage loan originator is licensed 1284
under this chapter. 1285

Sec. 1322.30. A registrant or entity holding a letter of 1286
exemption under this chapter may contract for and receive 1287
interest at any rate or rates agreed upon or consented to by the 1288
parties to the ~~dwelling secured loan or residential~~ mortgage 1289
loan, but not exceeding an annual percentage rate of twenty-five 1290
per cent. 1291

Sec. 1322.32. (A) (1) No registrant shall conduct business 1292
in this state, unless the registrant has obtained and maintains 1293

in effect at all times a corporate surety bond issued by a 1294
bonding company or insurance company authorized to do business 1295
in this state. The bond shall be in favor of the superintendent 1296
of financial institutions and in the penal sum of one-half per 1297
cent of the aggregate loan amount of residential mortgage loans 1298
originated in the immediately preceding calendar year, but not 1299
exceeding one hundred fifty thousand dollars. Under no 1300
circumstances, however, shall the bond for mortgage lenders and 1301
mortgage brokers be less than fifty thousand dollars and an 1302
additional penal sum of ten thousand dollars for each location, 1303
in excess of one, at which the registrant conducts business. The 1304
bond amount for registrants that engage exclusively in the 1305
business of mortgage servicing shall be a minimum of one hundred 1306
fifty thousand dollars. The term of the bond shall coincide with 1307
the term of registration. A copy of the bond shall be filed with 1308
the superintendent. The bond shall be for the exclusive benefit 1309
of any buyer injured by a violation by an employee of the 1310
registrant, mortgage loan originator employed by or associated 1311
with the registrant, or registrant of any provision of this 1312
chapter or any rule adopted thereunder. The aggregate liability 1313
of the corporate surety for any and all breaches of the 1314
conditions of the bond shall not exceed the penal sum of the 1315
bond. 1316

(2) (a) No licensee who is employed by or associated with a 1317
person or entity holding a valid letter of exemption under 1318
division (B) (1) of section 1322.05 of the Revised Code shall 1319
conduct business in this state, unless either the licensee or 1320
the person or entity on the licensee's behalf has obtained and 1321
maintains in effect at all times a corporate surety bond issued 1322
by a bonding company or insurance company authorized to do 1323
business in this state. The bond shall be in favor of the 1324

superintendent of financial institutions and in the penal sum of 1325
one-half per cent of the aggregate loan amount of residential 1326
mortgage loans originated in the immediately preceding calendar 1327
year, but not exceeding one hundred thousand dollars. Under no 1328
circumstances, however, shall the bond be less than fifty 1329
thousand dollars. The term of the bond shall coincide with the 1330
term of licensure. A copy of the bond shall be filed with the 1331
superintendent. The bond shall be for the exclusive benefit of 1332
any buyer injured by a violation by the licensee of any 1333
provision of this chapter or any rule adopted thereunder. The 1334
aggregate liability of the corporate surety for any and all 1335
breaches of the conditions of the bond shall not exceed the 1336
penal sum of the bond. 1337

(b) Licensees covered by a corporate surety bond obtained 1338
by a registrant, or by a person or entity holding a valid letter 1339
of exemption under division (B) (1) of section 1322.05 of the 1340
Revised Code, they are employed by or associated with shall not 1341
be required to obtain an individual bond. 1342

(B) (1) (a) The registrant shall give notice to the 1343
superintendent by certified mail of any action that is brought 1344
by a buyer against the registrant, mortgage loan originator, or 1345
employee alleging injury by a violation of any provision of this 1346
chapter or any rule adopted thereunder, and of any judgment that 1347
is entered against the registrant, mortgage loan originator, or 1348
employee by a buyer injured by a violation of any provision of 1349
this chapter or any rule adopted thereunder. The notice shall 1350
provide details sufficient to identify the action or judgment, 1351
and shall be filed with the superintendent within ten days after 1352
the commencement of the action or notice to the registrant of 1353
entry of a judgment. 1354

(b) The licensee shall give notice to the superintendent 1355
by certified mail of any action that is brought by a buyer 1356
against the licensee alleging injury by a violation of any 1357
provision of this chapter or any rule adopted thereunder, and of 1358
any judgment that is entered against the licensee by a buyer 1359
injured by a violation of any provision of this chapter or any 1360
rule adopted thereunder. The notice shall provide details 1361
sufficient to identify the action or judgment, and shall be 1362
filed with the superintendent within ten days after the 1363
commencement of the action or notice to the licensee of entry of 1364
a judgment. A person or entity holding a valid letter of 1365
exemption under division (B)(1) of section 1322.05 of the 1366
Revised Code that secures bonding for the licensees employed by 1367
or associated with the person or entity shall report such 1368
actions or judgments in the same manner as is required of 1369
registrants. 1370

(2) A corporate surety, within ten days after it pays any 1371
claim or judgment, shall give notice to the superintendent by 1372
certified mail of the payment, with details sufficient to 1373
identify the person and the claim or judgment paid. 1374

(C) Whenever the penal sum of the corporate surety bond is 1375
reduced by one or more recoveries or payments, the registrant or 1376
licensee shall furnish a new or additional bond under this 1377
section, so that the total or aggregate penal sum of the bond or 1378
bonds equals the sum required by this section, or shall furnish 1379
an endorsement executed by the corporate surety reinstating the 1380
bond to the required penal sum of it. 1381

(D) The liability of the corporate surety on the bond to 1382
the superintendent and to any buyer injured by a violation of 1383
any provision of this chapter or any rule adopted thereunder 1384

shall not be affected in any way by any misrepresentation, 1385
breach of warranty, or failure to pay the premium, by any act or 1386
omission upon the part of the registrant or licensee, by the 1387
insolvency or bankruptcy of the registrant or licensee, or by 1388
the insolvency of the registrant's or licensee's estate. The 1389
liability for any act or omission that occurs during the term of 1390
the corporate surety bond shall be maintained and in effect for 1391
at least two years after the date on which the corporate surety 1392
bond is terminated or canceled. 1393

(E) The corporate surety bond shall not be canceled by the 1394
registrant, the licensee, or the corporate surety except upon 1395
notice to the superintendent by certified mail, return receipt 1396
requested. The cancellation shall not be effective prior to 1397
thirty days after the superintendent receives the notice. 1398

(F) No registrant or licensee employed by or associated 1399
with a person or entity holding a valid letter of exemption 1400
under division (B) (1) of section 1322.05 of the Revised Code 1401
shall fail to comply with this section. Any registrant or 1402
licensee that fails to comply with this section shall cease all 1403
mortgage lender, mortgage broker, mortgage servicer, or mortgage 1404
loan originator activity in this state until the registrant or 1405
licensee complies with this section. 1406

Sec. 1322.34. (A) As often as the superintendent of 1407
financial institutions considers it necessary, the 1408
superintendent may examine the ~~registrant's or licensee's~~ 1409
records records of a registrant or licensee or holder of a 1410
letter of exemption issued under this chapter, including all 1411
records created or processed by a licensee, pertaining to 1412
business transacted pursuant to this chapter. 1413

(B) A registrant or licensee shall maintain records 1414

pertaining to business transacted pursuant to this chapter for 1415
four years. For purposes of this division, "registrant or 1416
licensee" includes any person whose certificate of registration 1417
or license is cancelled, surrendered, or revoked or who 1418
otherwise ceases to engage in business as a mortgage lender, 1419
mortgage servicer, mortgage broker, or mortgage loan originator. 1420

No registrant or licensee shall fail to comply with this 1421
division. 1422

(C) Each registrant, licensee, and entity holding a valid 1423
letter of exemption ~~under division (B) (1) of section 1322.05 of~~ 1424
~~the Revised Code issued under this chapter~~ shall submit to the 1425
nationwide mortgage licensing system and registry call reports 1426
or other reports of condition, which reports shall be in such 1427
form and shall contain such information as the nationwide 1428
mortgage licensing system and registry may require. Each 1429
registrant and entity holding a valid letter of exemption under 1430
~~division (B) (1) of section 1322.05 of the Revised Code~~ this 1431
chapter shall ensure that all residential mortgage loans that 1432
are consummated as a result of a mortgage loan originator's loan 1433
origination activities or serviced by the registrant or entity 1434
holding a valid exemption are included in the report of 1435
condition submitted to the nationwide mortgage licensing system 1436
and registry. 1437

(D) Any document or record that is required to be signed 1438
and that is filed in this state as an electronic record through 1439
the nationwide mortgage licensing system and registry, and any 1440
other electronic record filed through the nationwide mortgage 1441
licensing system and registry, shall be considered a valid 1442
original document upon reproduction to paper form by the 1443
division of financial institutions. 1444

(E) In the event electronic records, books, records, data, and documents of a registrant or holder of a letter of exemption issued under this chapter are located outside of this state and the superintendent determines that an in-person examination is necessary, the registrant or holder of a letter of exemption shall, upon the request of the superintendent, pay the estimated costs of the examination, including the proportionate cost of the salaries of division of financial institutions employees who conduct the examination. 1445
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Sec. 1322.43. (A) No registrant and entity holding a valid letter of exemption under ~~division (B) (1) of section 1322.05 of the Revised Code~~ this chapter, through its operations manager or otherwise, shall fail to do either of the following: 1454
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~~(A) (1)~~ Reasonably supervise a mortgage loan originator or any other person associated with the registrant or entity; 1458
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~~(B) (2)~~ Establish reasonable procedures designed to avoid violations of any provision of this chapter or the rules adopted under this chapter, or violations of applicable state and federal consumer and lending laws or rules, by mortgage loan originators or any other person associated with the registrant or entity. 1460
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(B) No registrant or entity holding a letter of exemption issued under this chapter shall: 1466
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(1) Receive, directly or indirectly, a premium on the fees charged for services performed by a bona fide third party; 1468
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(2) Pay or receive, directly or indirectly, a referral fee or kickback of any kind to or from a bona fide third party or other party with a related interest in the transaction, including a home improvement builder, real estate developer, or 1470
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real estate broker or agent, for the referral of business. 1474

Sec. 1322.50. (A) After notice and opportunity for a 1475
hearing conducted in accordance with Chapter 119. of the Revised 1476
Code, the superintendent of financial institutions may do the 1477
following: 1478

(1) Suspend, revoke, or refuse to issue or renew a 1479
certificate of registration or, license, or letter of exemption 1480
if the superintendent finds any of the following: 1481

(a) A violation of or failure to comply with any provision 1482
of this chapter or the rules adopted under this chapter, federal 1483
lending law, or any other law applicable to the business 1484
conducted under a certificate of registration or license; 1485

(b) A conviction of or guilty or nolo contendere plea to a 1486
felony in a domestic, foreign, or military court; 1487

(c) A conviction of or guilty or nolo contendere plea to 1488
any criminal offense involving theft, receiving stolen property, 1489
embezzlement, forgery, fraud, passing bad checks, money 1490
laundering, breach of trust, dishonesty, or drug trafficking, or 1491
any criminal offense involving money or securities, in a 1492
domestic, foreign, or military court; 1493

(d) The revocation of a certificate of registration or 1494
mortgage loan originator license, or any comparable authority, 1495
in any governmental jurisdiction. 1496

(2) Impose a fine of not more than one thousand dollars, 1497
for each day a violation of a law or rule is committed, 1498
repeated, or continued. If the registrant, letter of exemption 1499
holder, or licensee engages in a pattern of repeated violations 1500
of a law or rule, the superintendent may impose a fine of not 1501
more than two thousand dollars for each day the violation is 1502

committed, repeated, or continued. All fines collected pursuant 1503
to this division shall be paid to the treasurer of state to the 1504
credit of the consumer finance fund created in section 1321.21 1505
of the Revised Code. In determining the amount of a fine to be 1506
imposed pursuant to this division, the superintendent may 1507
consider all of the following, to the extent known by the 1508
division of financial institutions: 1509

(a) The seriousness of the violation; 1510

(b) The registrant's or licensee's good faith efforts to 1511
prevent the violation; 1512

(c) The registrant's or licensee's history regarding 1513
violations and compliance with division orders; 1514

(d) The registrant's or licensee's financial resources; 1515

(e) Any other matters the superintendent considers 1516
appropriate in enforcing this chapter. 1517

(B) The superintendent may investigate alleged violations 1518
of this chapter or the rules adopted under this chapter or 1519
complaints concerning any violation. 1520

(1) The superintendent may make application to the court 1521
of common pleas for an order enjoining any violation and, upon a 1522
showing by the superintendent that a person has committed or is 1523
about to commit that violation, the court shall grant an 1524
injunction, restraining order, or other appropriate relief. 1525

(2) The superintendent may make application to the court 1526
of common pleas for an order enjoining any person from acting as 1527
a mortgage lender, mortgage servicer, mortgage broker, 1528
registrant, mortgage loan originator, or licensee in violation 1529
of division (A) or (B) of section 1322.07 of the Revised Code, 1530

and may seek and obtain civil penalties for unregistered or 1531
unlicensed conduct of not more than five thousand dollars per 1532
violation. 1533

(C) In conducting any investigation pursuant to this 1534
section, the superintendent may compel, by subpoena, witnesses 1535
to testify in relation to any matter over which the 1536
superintendent has jurisdiction and may require the production 1537
of any book, record, or other document pertaining to that 1538
matter. If a person fails to file any statement or report, obey 1539
any subpoena, give testimony, produce any book, record, or other 1540
document as required by a subpoena, or permit photocopying of 1541
any book, record, or other document subpoenaed, the court of 1542
common pleas of any county in this state, upon application made 1543
to it by the superintendent, shall compel obedience by 1544
attachment proceedings for contempt, as in the case of 1545
disobedience of the requirements of a subpoena issued from the 1546
court or a refusal to testify therein. 1547

(D) If the superintendent determines that a person is 1548
engaged in or is believed to be engaged in activities that may 1549
constitute a violation of this chapter or any rule adopted 1550
thereunder, the superintendent, after notice and a hearing 1551
conducted in accordance with Chapter 119. of the Revised Code, 1552
may issue a cease and desist order. If the administrative action 1553
is to enjoin a person from acting as a mortgage lender, mortgage 1554
servicer, mortgage broker, or mortgage loan originator in 1555
violation of division (A) or (B) of section 1322.07 of the 1556
Revised Code, the superintendent may seek and impose fines for 1557
that conduct in an amount not to exceed five thousand dollars 1558
per violation. Such an order shall be enforceable in the court 1559
of common pleas. 1560

(E) If the superintendent revokes a certificate of registration, letter of exemption, or mortgage loan originator license, the revocation shall be permanent and with prejudice. 1561
1562
1563

(F) (1) To protect the public interest, the superintendent may, without a prior hearing, do any of the following: 1564
1565

(a) Suspend the certificate of registration, letter of exemption, or mortgage loan originator license of a registrant or licensee who is convicted of or pleads guilty or nolo contendere to a criminal violation of any provision of this chapter or any criminal offense described in division (A) (1) (b) or (c) of this section; 1566
1567
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1571

(b) Suspend the certificate of registration of a registrant who violates division (F) of section 1322.32 of the Revised Code; 1572
1573
1574

(c) Suspend the certificate of registration or mortgage loan originator license of a registrant or licensee who fails to comply with a request made by the superintendent under section 1322.09 or 1322.20 of the Revised Code to inspect qualifying education transcripts located at the registrant's or licensee's place of business. 1575
1576
1577
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1580

(2) The superintendent may, in accordance with Chapter 119. of the Revised Code, subsequently revoke any registration or license suspended under division (F) (1) of this section. 1581
1582
1583

(G) The imposition of fines under this section does not preclude any penalty imposed under section 1322.99 of the Revised Code. 1584
1585
1586

Sec. 1322.52. (A) (1) A buyer injured by a violation of section 1322.07, 1322.40, or 1322.46 of the Revised Code may bring an action for recovery of damages. 1587
1588
1589

(2) Damages awarded under division (A) (1) of this section 1590
shall not be less than all compensation paid directly and 1591
indirectly to a registrant or mortgage loan originator from any 1592
source, plus reasonable attorney's fees and court costs. 1593

(3) The buyer may be awarded punitive damages. 1594

(B) (1) The superintendent of financial institutions or a 1595
buyer may directly bring an action to enjoin a violation of any 1596
provision of this chapter. The attorney general may directly 1597
bring an action to enjoin a violation of any provision of this 1598
chapter with the same rights, privileges, and powers as those 1599
described in section 1345.06 of the Revised Code. The 1600
prosecuting attorney of the county in which the action may be 1601
brought may bring an action to enjoin a violation of any 1602
provision of this chapter only if the prosecuting attorney first 1603
presents any evidence of the violation to the attorney general 1604
and, within a reasonable period of time, the attorney general 1605
has not agreed to bring the action. 1606

(2) The superintendent may initiate criminal proceedings 1607
under this chapter by presenting any evidence of criminal 1608
violation to the prosecuting attorney of the county in which the 1609
offense may be prosecuted. If the prosecuting attorney does not 1610
prosecute the violations, or at the request of the prosecuting 1611
attorney, the superintendent shall present any evidence of 1612
criminal violations to the attorney general, who may proceed in 1613
the prosecution with all the rights, privileges, and powers 1614
conferred by law on prosecuting attorneys, including the power 1615
to appear before grand juries and to interrogate witnesses 1616
before such grand juries. These powers of the attorney general 1617
shall be in addition to any other applicable powers of the 1618
attorney general. 1619

(3) The prosecuting attorney of the county in which an
alleged offense may be prosecuted may initiate criminal
proceedings under this chapter.

(4) In order to initiate criminal proceedings under this
chapter, the attorney general shall first present any evidence
of criminal violations to the prosecuting attorney of the county
in which the alleged offense may be prosecuted. If, within a
reasonable period of time, the prosecuting attorney has not
agreed to prosecute the violations, the attorney general may
proceed in the prosecution with all the rights, privileges, and
powers described in division (B) (2) of this section.

(5) When a judgment under this section becomes final, the
clerk of court shall mail a copy of the judgment, including
supporting opinions, to the superintendent.

(C) The remedies provided by this section are in addition
to any other remedy provided by law.

(D) In any proceeding or action brought under this
chapter, the burden of proving an exemption under those sections
is on the person claiming the benefit of the exemption.

(E) No person shall be deemed to violate any provision of
this chapter with respect to any act taken or omission made in
reliance on a written notice, written interpretation, or written
report from the superintendent, unless there is a subsequent
amendment to that written notice, written interpretation,
written report from the superintendent, or those provisions, or
rules promulgated thereunder, that affects the superintendent's
notice, interpretation, or report.

(F) Upon disbursement of mortgage loan proceeds to or on
behalf of the buyer, the registrant that assisted the buyer to

obtain the mortgage loan is deemed to have completed the 1649
performance of the registrant's services for the buyer and owes 1650
no additional duties or obligations to the buyer with respect to 1651
the mortgage loan. However, nothing in this division shall be 1652
construed to limit or preclude the civil or criminal liability 1653
of a registrant for failing to comply with this chapter or any 1654
rule adopted under this chapter, for failing to comply with any 1655
provision of or duty arising under an agreement with a buyer or 1656
lender under this chapter, or for violating any other provision 1657
of state or federal law. 1658

(G) A buyer injured by a violation of any of the sections 1659
specified in division (A) (1) of this section is precluded from 1660
recovering any damages, plus reasonable attorney's fees and 1661
costs, if the buyer has also recovered any damages in a cause of 1662
action initiated under section 1322.45 of the Revised Code and 1663
the recovery of damages for a violation of any of the sections 1664
specified in division (A) (1) of this section is based on the 1665
same acts or circumstances as the basis for recovery of damages 1666
in section 1322.45 of the Revised Code. 1667

Sec. 1345.01. As used in sections 1345.01 to 1345.13 of 1668
the Revised Code: 1669

(A) "Consumer transaction" means a sale, lease, 1670
assignment, award by chance, or other transfer of an item of 1671
goods, a service, a franchise, or an intangible, to an 1672
individual for purposes that are primarily personal, family, or 1673
household, or solicitation to supply any of these things. 1674
"Consumer transaction" does not include transactions between 1675
persons, defined in sections 4905.03 and 5725.01 of the Revised 1676
Code, and their customers, except for transactions involving a 1677
loan made pursuant to sections 1321.35 to 1321.48 of the Revised 1678

Code and transactions in connection with residential mortgages 1679
between loan officers, mortgage brokers, or nonbank mortgage 1680
lenders and their customers; transactions involving a home 1681
construction service contract as defined in section 4722.01 of 1682
the Revised Code; transactions between certified public 1683
accountants or public accountants and their clients; 1684
transactions between attorneys, physicians, or dentists and 1685
their clients or patients; and transactions between 1686
veterinarians and their patients that pertain to medical 1687
treatment but not ancillary services. 1688

(B) "Person" includes an individual, corporation, 1689
government, governmental subdivision or agency, business trust, 1690
estate, trust, partnership, association, cooperative, or other 1691
legal entity. 1692

(C) "Supplier" means a seller, lessor, assignor, 1693
franchisor, or other person engaged in the business of effecting 1694
or soliciting consumer transactions, whether or not the person 1695
deals directly with the consumer. If the consumer transaction is 1696
in connection with a residential mortgage, "supplier" does not 1697
include an assignee or purchaser of the loan for value, except 1698
as otherwise provided in section 1345.091 of the Revised Code. 1699
For purposes of this division, in a consumer transaction in 1700
connection with a residential mortgage, "seller" means a loan 1701
officer, mortgage broker, or nonbank mortgage lender. 1702

(D) "Consumer" means a person who engages in a consumer 1703
transaction with a supplier. 1704

(E) "Knowledge" means actual awareness, but such actual 1705
awareness may be inferred where objective manifestations 1706
indicate that the individual involved acted with such awareness. 1707

(F) "Natural gas service" means the sale of natural gas, 1708
exclusive of any distribution or ancillary service. 1709

(G) "Public telecommunications service" means the 1710
transmission by electromagnetic or other means, other than by a 1711
telephone company as defined in section 4927.01 of the Revised 1712
Code, of signs, signals, writings, images, sounds, messages, or 1713
data originating in this state regardless of actual call 1714
routing. "Public telecommunications service" excludes a system, 1715
including its construction, maintenance, or operation, for the 1716
provision of telecommunications service, or any portion of such 1717
service, by any entity for the sole and exclusive use of that 1718
entity, its parent, a subsidiary, or an affiliated entity, and 1719
not for resale, directly or indirectly; the provision of 1720
terminal equipment used to originate telecommunications service; 1721
broadcast transmission by radio, television, or satellite 1722
broadcast stations regulated by the federal government; or cable 1723
television service. 1724

(H) (1) "Loan officer" means an individual who for 1725
compensation or gain, or in anticipation of compensation or 1726
gain, takes or offers to take a residential mortgage loan 1727
application; assists or offers to assist a buyer in obtaining or 1728
applying to obtain a residential mortgage loan by, among other 1729
things, advising on loan terms, including rates, fees, and other 1730
costs; offers or negotiates terms of a residential mortgage 1731
loan; or issues or offers to issue a commitment for a 1732
residential mortgage loan. "Loan officer" also includes a 1733
mortgage loan originator as defined in ~~division (Z)~~ of section 1734
1322.01 of the Revised Code. 1735

(2) "Loan officer" does not include an employee of a bank, 1736
savings bank, savings and loan association, credit union, or 1737

credit union service organization organized under the laws of 1738
this state, another state, or the United States; an employee of 1739
a subsidiary of such a bank, savings bank, savings and loan 1740
association, or credit union; or an employee of an affiliate 1741
that (a) controls, is controlled by, or is under common control 1742
with, such a bank, savings bank, savings and loan association, 1743
or credit union and (b) is subject to examination, supervision, 1744
and regulation, including with respect to the affiliate's 1745
compliance with applicable consumer protection requirements, by 1746
the board of governors of the federal reserve system, the 1747
comptroller of the currency, the office of thrift supervision, 1748
the federal deposit insurance corporation, or the national 1749
credit union administration. 1750

(I) "Residential mortgage" or "mortgage" means an 1751
obligation to pay a sum of money evidenced by a note and secured 1752
by a lien upon real property located within this state 1753
containing two or fewer residential units or on which two or 1754
fewer residential units are to be constructed and includes such 1755
an obligation on a residential condominium or cooperative unit. 1756

(J) (1) "Mortgage broker" means any of the following: 1757

(a) A person that holds that person out as being able to 1758
assist a buyer in obtaining a mortgage and charges or receives 1759
from either the buyer or lender money or other valuable 1760
consideration readily convertible into money for providing this 1761
assistance; 1762

(b) A person that solicits financial and mortgage 1763
information from the public, provides that information to a 1764
mortgage broker or a person that makes residential mortgage 1765
loans, and charges or receives from either of them money or 1766
other valuable consideration readily convertible into money for 1767

providing the information; 1768

(c) A person engaged in table-funding or warehouse-lending 1769
mortgage loans that are residential mortgage loans. 1770

(2) "Mortgage broker" does not include a bank, savings 1771
bank, savings and loan association, credit union, or credit 1772
union service organization organized under the laws of this 1773
state, another state, or the United States; a subsidiary of such 1774
a bank, savings bank, savings and loan association, or credit 1775
union; an affiliate that (a) controls, is controlled by, or is 1776
under common control with, such a bank, savings bank, savings 1777
and loan association, or credit union and (b) is subject to 1778
examination, supervision, and regulation, including with respect 1779
to the affiliate's compliance with applicable consumer 1780
protection requirements, by the board of governors of the 1781
federal reserve system, the comptroller of the currency, the 1782
office of thrift supervision, the federal deposit insurance 1783
corporation, or the national credit union administration; or an 1784
employee of any such entity. 1785

(K) "Nonbank mortgage lender" means any person that 1786
engages in a consumer transaction in connection with a 1787
residential mortgage, except for a bank, savings bank, savings 1788
and loan association, credit union, or credit union service 1789
organization organized under the laws of this state, another 1790
state, or the United States; a subsidiary of such a bank, 1791
savings bank, savings and loan association, or credit union; or 1792
an affiliate that (1) controls, is controlled by, or is under 1793
common control with, such a bank, savings bank, savings and loan 1794
association, or credit union and (2) is subject to examination, 1795
supervision, and regulation, including with respect to the 1796
affiliate's compliance with applicable consumer protection 1797

requirements, by the board of governors of the federal reserve 1798
system, the comptroller of the currency, the office of thrift 1799
supervision, the federal deposit insurance corporation, or the 1800
national credit union administration. 1801

(L) For purposes of divisions (H), (J), and (K) of this 1802
section: 1803

(1) "Control" of another entity means ownership, control, 1804
or power to vote twenty-five per cent or more of the outstanding 1805
shares of any class of voting securities of the other entity, 1806
directly or indirectly or acting through one or more other 1807
persons. 1808

(2) "Credit union service organization" means a CUSO as 1809
defined in 12 C.F.R. 702.2. 1810

Sec. 1349.72. (A) ~~Before~~ Not less than thirty days prior 1811
to a person collecting ~~filing a foreclosure action to collect on~~ 1812
a debt secured by residential real property ~~collects or attempts~~ 1813
~~to collect any part of the debt,~~ the person shall first send a 1814
written notice as described in division (B) of this section via 1815
United States mail to the residential address of the debtor, if 1816
both of the following apply: 1817

(1) The debt is ~~a second~~ secured by a mortgage or junior 1818
lien on the debtor's residential real property that is not in 1819
the first mortgage position. 1820

(2) The debt has either been accelerated or is in default 1821
in accordance with the terms set forth in the promissory note. 1822

(B) The written notice may be included on, or accompany, 1823
any other communication, and shall be printed in at least 1824
twelve-point type and ~~state~~ include the following: 1825

- (1) The name and contact information of the person
collecting the debt; 1826
1827
- (2) ~~The~~ A statement of the amount of the debt; 1828
- (3) A statement that the debtor has a right to engage an
attorney; 1829
1830
- (4) A statement that the debtor may qualify for debt
relief under Chapter 7 or 13 of the United States Bankruptcy
Code, 11 U.S.C. Chapter 7 or 13, as amended; 1831
1832
1833
- (5) A statement that a debtor that qualifies under Chapter
13 of the United States Bankruptcy Code may be able to protect
their residential real property from foreclosure. 1834
1835
1836
- (C) Upon written request of the debtor, the owner of the
debt shall provide a copy of the note and the loan history to
the debtor. 1837
1838
1839
- (D) (1) As used in this division ~~7~~: 1840
- (a) "bona-fide error" means an unintentional
clerical, calculation, computer malfunction or programming, or
printing error. 1841
1842
1843
- (b) "Restitution" means either of the following: 1844
- (i) A waiver of all fees, costs, or expenses proximately
associated with the failure to provide the notice to the debtor;
or 1845
1846
1847
- (ii) Actual damages. 1848
- (2) Any owner of debt subject to divisions (A), (B), and
(C) of this section shall not be held civilly liable in any
action, if all of the following are met: 1849
1850
1851
- (a) The owner of the debt shows by a preponderance of 1852

evidence that the compliance failure was not intentional and 1853
resulted from a bona fide error notwithstanding the maintenance 1854
of procedures reasonably adapted to avoid any such error. 1855

(b) Within sixty days after discovering the error, and 1856
prior to the initiation of any action, the owner of the debt 1857
notifies the debtor of the error and the manner in which the 1858
owner of the debt intends to make full restitution to the 1859
debtor. 1860

(c) The owner of the debt promptly makes reasonable 1861
restitution to the debtor. 1862

(3) If, in the event of a compliance failure, the owner of 1863
the debt does not meet the conditions set forth in division (D) 1864
(2) of this section, a debtor injured by the error has a cause 1865
of action to recover damages. Such an action shall not, however, 1866
be maintained as a class action. 1867

Sec. 2305.117. (A) Except as otherwise provided in this 1868
section, an action upon a legal malpractice claim against an 1869
attorney or a law firm or legal professional association shall 1870
be commenced within one year after the cause of action accrued. 1871

(B) Except as to persons within the age of minority or of 1872
unsound mind as provided by section 2305.16 of the Revised Code, 1873
and except as provided in ~~division~~divisions (C) and (D) of this 1874
section, both of the following apply: 1875

(1) No action upon a legal malpractice claim against an 1876
attorney or a law firm or legal professional association shall 1877
be commenced more than four years after the occurrence of the 1878
act or omission constituting the alleged basis of the legal 1879
malpractice claim. 1880

(2) If an action upon a legal malpractice claim against an 1881

attorney or a law firm or legal professional association is not 1882
commenced within four years after the occurrence of the act or 1883
omission constituting the alleged basis of the claim, then, any 1884
action upon that claim is barred. 1885

(C) (1) If a person making a legal malpractice claim 1886
against an attorney or a law firm or legal professional 1887
association, in the exercise of reasonable care and diligence, 1888
could not have discovered the injury resulting from the act or 1889
omission constituting the alleged basis of the claim within 1890
three years after the occurrence of the act or omission, but, in 1891
the exercise of reasonable care and diligence, discovers the 1892
injury resulting from that act or omission before the expiration 1893
of the four-year period specified in division (B) (1) of this 1894
section, the person may commence an action upon the claim not 1895
later than one year after the person discovers the injury 1896
resulting from that act or omission. 1897

(2) A person who commences an action upon a legal 1898
malpractice claim under the circumstances described in division 1899
(C) (1) of this section has the affirmative burden of proving, by 1900
clear and convincing evidence, that the person, with reasonable 1901
care and diligence, could not have discovered the injury 1902
resulting from the act or omission constituting the alleged 1903
basis of the claim within the three-year period described in 1904
that division. 1905

(D) An action upon a legal malpractice claim against an 1906
attorney or a law firm or legal professional association arising 1907
from an act or omission related to the attorney's, law firm's, 1908
or legal professional association's issuance of an opinion of 1909
title issued prior to June 16, 2021, shall be commenced within 1910
one year after the cause of action accrued without regard to 1911

when the act or omission constituting the alleged basis of the 1912
legal malpractice claim occurred. 1913

Sec. 2913.11. (A) As used in this section: 1914

(1) "Check" includes any form of debit from a demand 1915
deposit account, including, but not limited to any of the 1916
following: 1917

(a) A check, bill of exchange, draft, order of withdrawal, 1918
or similar negotiable or non-negotiable instrument; 1919

(b) An electronic check, electronic transaction, debit 1920
card transaction, check card transaction, substitute check, web 1921
check, or any form of automated clearing house transaction. 1922

(2) "Issue a check" means causing any form of debit from a 1923
demand deposit account. 1924

(B) No person, with purpose to defraud, shall issue or 1925
transfer or cause to be issued or transferred a check or other 1926
negotiable instrument, knowing that it will be dishonored or 1927
knowing that a person has ordered or will order stop payment on 1928
the check or other negotiable instrument. 1929

(C) For purposes of this section, a person who issues or 1930
transfers a check or other negotiable instrument is presumed to 1931
know that it will be dishonored if either of the following 1932
occurs: 1933

(1) The drawer had no account with the drawee at the time 1934
of issue or the stated date, whichever is later; 1935

(2) The check or other negotiable instrument was properly 1936
refused payment for insufficient funds upon presentment within 1937
thirty days after issue or the stated date, whichever is later, 1938
and the liability of the drawer, indorser, or any party who may 1939

be liable thereon is not discharged by payment or satisfaction 1940
within ten days after receiving notice of dishonor. 1941

~~(D) For purposes of this section, a person who issues or 1942
transfers a check, bill of exchange, or other draft is presumed 1943
to have the purpose to defraud if the drawer fails to comply 1944
with section 1349.16 of the Revised Code by doing any of the 1945
following when opening a checking account intended for personal, 1946
family, or household purposes at a financial institution: 1947~~

~~(1) Falsely stating that the drawer has not been issued a 1948
valid driver's or commercial driver's license or identification 1949
card issued under section 4507.50 of the Revised Code; 1950~~

~~(2) Furnishing such license or card, or another 1951
identification document that contains false information; 1952~~

~~(3) Making a false statement with respect to the drawer's 1953
current address or any additional relevant information 1954
reasonably required by the financial institution. 1955~~

~~(E)~~ In determining the value of the payment for purposes 1956
of division ~~(F)~~ (E) of this section, the court may aggregate all 1957
checks and other negotiable instruments that the offender issued 1958
or transferred or caused to be issued or transferred in 1959
violation of division (A) of this section within a period of one 1960
hundred eighty consecutive days. 1961

~~(F)~~ (E) Whoever violates this section is guilty of passing 1962
bad checks. Except as otherwise provided in this division, 1963
passing bad checks is a misdemeanor of the first degree. If the 1964
check or checks or other negotiable instrument or instruments 1965
are issued or transferred to a single vendor or single other 1966
person for the payment of one thousand dollars or more but less 1967
than seven thousand five hundred dollars or if the check or 1968

checks or other negotiable instrument or instruments are issued 1969
or transferred to multiple vendors or persons for the payment of 1970
one thousand five hundred dollars or more but less than seven 1971
thousand five hundred dollars, passing bad checks is a felony of 1972
the fifth degree. If the check or checks or other negotiable 1973
instrument or instruments are for the payment of seven thousand 1974
five hundred dollars or more but less than one hundred fifty 1975
thousand dollars, passing bad checks is a felony of the fourth 1976
degree. If the check or checks or other negotiable instrument or 1977
instruments are for the payment of one hundred fifty thousand 1978
dollars or more, passing bad checks is a felony of the third 1979
degree. 1980

Sec. 4712.05. (A) Each contract between the buyer and a 1981
credit services organization for the purchase of the services of 1982
the organization shall be in writing, dated and signed by the 1983
buyer, and shall include all of the following: 1984

(1) A statement, in type that is boldfaced, capitalized, 1985
underlined, or otherwise conspicuously set out from surrounding 1986
written material and that is in immediate proximity to the space 1987
reserved for the signature of the buyer, as follows: 1988

"If you, the buyer, have been denied credit within the 1989
last sixty days, you may obtain a free copy of the consumer 1990
credit report from the consumer reporting agency. You also have 1991
the right to dispute inaccurate information in a report. 1992

You may cancel this contract at any time before midnight 1993
of the third business day after the date you signed it. See the 1994
attached notice of cancellation form for an explanation of this 1995
right." 1996

(2) The terms and conditions of payment, including the 1997

total of all payments to be made by the buyer, whether to the 1998
credit services organization or to another person; 1999

(3) A full and detailed description of the services to be 2000
performed for the buyer by the credit services organization, 2001
including all guarantees and all promises of full or partial 2002
refunds, and the estimated length of time, not exceeding sixty 2003
days or any shorter time period prescribed by the superintendent 2004
of financial institutions, for performing the services⁷. The 2005
performance of services under a contract to which all of the 2006
following conditions apply is not subject to the time limit 2007
identified in division (A) (3) of this section, but is subject to 2008
a twelve-month limit: 2009

(a) The buyer agrees to make substantially equal periodic 2010
payments at fixed time intervals for the services after they are 2011
performed during the term of the contract. 2012

(b) The buyer may cancel the contract at any time without 2013
penalty or obligation to pay for any services that have not yet 2014
been rendered. 2015

(c) The contract solely provides for the ongoing 2016
performance of either of the following services: 2017

(i) Services described in division (C) (1) (a) of section 2018
4712.01 of the Revised Code or providing advice or assistance to 2019
a buyer in connection with such services; 2020

(ii) Services described in division (C) (1) (d) of section 2021
4712.01 of the Revised Code. 2022

(d) The buyer's explicit, affirmative, and documented 2023
assent is provided before a contract is renewed. 2024

(e) During the term of the contract period, the credit 2025

services organization reviews with the buyer the adverse credit 2026
information on the buyer's credit report. 2027

(4) The address of the credit services organization's 2028
principal place of business and the name and address of its 2029
agent in this state authorized to receive service of process; 2030

(5) With respect to the previous calendar year or the time 2031
period during which the credit services organization has been in 2032
business, whichever is shorter, the percentage of the 2033
organization's customers for whom the organization has fully and 2034
completely performed the services the organization agreed to 2035
perform for the buyer. 2036

(B) The contract shall have attached two easily detachable 2037
copies of a notice of cancellation. The notice shall be in 2038
boldface type and in the following form: 2039

"Notice of Cancellation 2040

You may cancel this contract, without any penalty or 2041
obligation, within three business days after the date the 2042
contract is signed. 2043

To cancel this contract, mail or deliver a signed, dated 2044
copy of this cancellation notice, or other written notice, to: 2045

_____ (Name of Seller) at _____ 2046
(Address of Seller) (Place of Business) not later than midnight 2047
_____ (Date) 2048

I hereby cancel this transaction. 2049

Dated: _____ 2050

(Buyer's signature)" 2051

(C) The credit services organization, at the time of 2052

signing, shall give to the buyer a copy of the completed 2053
contract and all other documents the organization requires the 2054
buyer to sign. 2055

(D) No credit services organization shall breach a 2056
contract described in this section or fail to comply with any 2057
obligation arising from such a contract. 2058

(E) No credit services organization shall fail to comply 2059
with division (A), (B), or (C) of this section. 2060

Section 2. That existing sections 135.77, 135.774, 2061
1115.05, 1321.52, 1321.68, 1322.01, 1322.02, 1322.04, 1322.07, 2062
1322.09, 1322.10, 1322.12, 1322.15, 1322.29, 1322.30, 1322.32, 2063
1322.34, 1322.43, 1322.50, 1322.52, 1345.01, 1349.72, 2305.117, 2064
2913.11, and 4712.05 of the Revised Code are hereby repealed. 2065

Section 3. That sections 1322.24, 1322.25, and 1349.16 of 2066
the Revised Code are hereby repealed. 2067

Section 4. That the version of section 1322.24 of the 2068
Revised Code that is scheduled to take effect October 9, 2021, 2069
is hereby repealed. 2070

Section 5. The amendment of section 2305.117 of the 2071
Revised Code in this act is hereby declared to be an emergency 2072
measure necessary for the immediate preservation of the public 2073
peace, health, and safety. The reason for such necessity is that 2074
there is an unintended consequence of S.B. 13 of the 134th 2075
General Assembly that takes effect June 16, 2021. Therefore, the 2076
amendment of section 2305.117 of the Revised Code in this act 2077
shall go into immediate effect. 2078