

As Passed by the Senate

124th General Assembly

Regular Session

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Sub. H. B. No. 386

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A B I L L

To amend sections 111.15, 119.01, 121.24, and 1322.062 1
and to enact sections 1.63, 1349.25, 1349.26, 2
1349.27, 1349.29, 1349.30, 1349.31, 1349.32, 3
1349.33, 1349.34, 1349.35, 1349.36, and 1349.37 of 4
the Revised Code and to amend Section 32 of Am. 5
Sub. H.B. 94 of the 124th General Assembly to 6
conform Ohio law with the federal Home Ownership 7
and Equity Protection Act of 1994 with respect to 8
specified consumer loans, to prohibit other 9
practices relative to those loans, to create the 10
Office of Consumer Affairs within the Division of 11
Financial Institutions, to state the intent of the 12
General Assembly on the relationship of state and 13
local laws regarding the regulation of loans and 14
other forms of credit, to establish the Predatory 15
Lending Study Committee to report to the General 16
Assembly about predatory lending practices in 17
mortgage lending or origination, and to make an 18

appropriation.

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

Section 1. That sections 111.15, 119.01, 121.24, and 1322.062
be amended and sections 1.63, 1349.25, 1349.26, 1349.27, 1349.29,
1349.30, 1349.31, 1349.32, 1349.33, 1349.34, 1349.35, 1349.36, and
1349.37 of the Revised Code be enacted to read as follows:

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Sec. 1.63. (A) The state solely shall regulate the business
of originating, granting, servicing, and collecting loans and
other forms of credit in the state and the manner in which any
such business is conducted, and this regulation shall be in lieu
of all other regulation of such activities by any municipal
corporation or other political subdivision.

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(B) Any ordinance, resolution, regulation, or other action by
a municipal corporation or other political subdivision to
regulate, directly or indirectly, the origination, granting,
servicing, or collection of loans or other forms of credit
constitutes a conflict with the Revised Code, including, but not
limited to, Titles XI, XIII, XVII, and XLVII, and with the uniform
operation throughout the state of lending and other credit
provisions, and is preempted.

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(C) Any ordinance, resolution, regulation, or other action by
a municipal corporation or other political subdivision constitutes
a conflict with the Revised Code, including, but not limited to,
Titles XI, XIII, XVII, and XLVII, and is pre-empted, if the
ordinance, resolution, regulation, or other action does either of
the following:

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(1) Disqualifies a person, or its subsidiaries or affiliates,
from doing business with such municipal corporation or other
political subdivision based upon the acts or practices of such

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person, or its subsidiaries or affiliates, as an originator,
grantor, servicer, or collector of loans or other forms of credit;

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(2) Imposes reporting requirements or other obligations upon
a person, or its subsidiaries or affiliates, based upon such
person's, or its subsidiaries' or affiliates', acts or practices
as an originator, grantor, servicer, or collector of loans or
other forms of credit.

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(D) If any provision of this section, or any application of
any provision of this section, is for any reason held to be
illegal or invalid, the illegality or invalidity shall not affect
any legal and valid provision or application of this section, and
the provisions and applications of this section shall be
severable.

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(E) Nothing in this section shall be construed to invalidate
or prohibit any ordinance, resolution, regulation, or other action
by a municipal corporation or other political subdivision to
establish and administer voluntary neighborhood reinvestment
programs in furtherance of the goals and purposes of the
"Community Reinvestment Act of 1977," 91 Stat. 1147, 12 U.S.C.A.
2901, as amended.

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(F) Nothing in this section shall be construed to invalidate
any ordinance, resolution, regulation, or other action by a
municipal corporation or other political subdivision that is
required to meet the criteria for adequacy of law established by
the United States department of housing and urban development in
order to obtain certification as a fair housing assistance
program.

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Sec. 111.15. (A) As used in this section:

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(1) "Rule" includes any rule, regulation, bylaw, or standard
having a general and uniform operation adopted by an agency under

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the authority of the laws governing the agency; any appendix to a
rule; and any internal management rule. "Rule" does not include
any guideline adopted pursuant to section 3301.0714 of the Revised
Code, any order respecting the duties of employees, any finding,
any determination of a question of law or fact in a matter
presented to an agency, or any rule promulgated pursuant to
Chapter 119., section 4141.14, division (C)(1) or (2) of section
5117.02, or section 5703.14 of the Revised Code. "Rule" includes
any amendment or rescission of a rule.

(2) "Agency" means any governmental entity of the state and
includes, but is not limited to, any board, department, division,
commission, bureau, society, council, institution, state college
or university, community college district, technical college
district, or state community college. "Agency" does not include
the general assembly, the controlling board, the adjutant
general's department, or any court.

(3) "Internal management rule" means any rule, regulation,
bylaw, or standard governing the day-to-day staff procedures and
operations within an agency.

(4) "Substantive revision" has the same meaning as in
division (J) of section 119.01 of the Revised Code.

(B)(1) Any rule, other than a rule of an emergency nature,
adopted by any agency pursuant to this section shall be effective
on the tenth day after the day on which the rule in final form and
in compliance with division (B)(3) of this section is filed as
follows:

(a) The rule shall be filed in electronic form with both the
secretary of state and the director of the legislative service
commission;

(b) The rule shall be filed in electronic form with the joint
committee on agency rule review. Division (B)(1)(b) of this

section does not apply to any rule to which division (D) of this
section does not apply.

An agency that adopts or amends a rule that is subject to
division (D) of this section shall assign a review date to the
rule that is not later than five years after its effective date.
If no review date is assigned to a rule, or if a review date
assigned to a rule exceeds the five-year maximum, the review date
for the rule is five years after its effective date. A rule with a
review date is subject to review under section 119.032 of the
Revised Code. This paragraph does not apply to a rule of a state
college or university, community college district, technical
college district, or state community college.

If all filings are not completed on the same day, the rule
shall be effective on the tenth day after the day on which the
latest filing is completed. If an agency in adopting a rule
designates an effective date that is later than the effective date
provided for by division (B)(1) of this section, the rule if filed
as required by such division shall become effective on the later
date designated by the agency.

Any rule that is required to be filed under division (B)(1)
of this section is also subject to division (D) of this section if
not exempted by division (D)(1), (2), (3), (4), (5), (6), (7), or
(8) of this section.

(2) A rule of an emergency nature necessary for the immediate
preservation of the public peace, health, or safety shall state
the reasons for the necessity. The emergency rule, in final form
and in compliance with division (B)(3) of this section, shall be
filed in electronic form with the secretary of state, the director
of the legislative service commission, and the joint committee on
agency rule review. The emergency rule is effective immediately
upon completion of the latest filing, except that if the agency in
adopting the emergency rule designates an effective date, or date

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and time of day, that is later than the effective date and time
provided for by division (B)(2) of this section, the emergency
rule if filed as required by such division shall become effective
at the later date, or later date and time of day, designated by
the agency.

An emergency rule becomes invalid at the end of the ninetieth
day it is in effect. Prior to that date, the agency may file the
emergency rule as a nonemergency rule in compliance with division
(B)(1) of this section. The agency may not refile the emergency
rule in compliance with division (B)(2) of this section so that,
upon the emergency rule becoming invalid under such division, the
emergency rule will continue in effect without interruption for
another ninety-day period.

(3) An agency shall file a rule under division (B)(1) or (2)
of this section in compliance with the following standards and
procedures:

(a) The rule shall be numbered in accordance with the
numbering system devised by the director for the Ohio
administrative code.

(b) The rule shall be prepared and submitted in compliance
with the rules of the legislative service commission.

(c) The rule shall clearly state the date on which it is to
be effective and the date on which it will expire, if known.

(d) Each rule that amends or rescinds another rule shall
clearly refer to the rule that is amended or rescinded. Each
amendment shall fully restate the rule as amended.

If the director of the legislative service commission or the
director's designee gives an agency notice pursuant to section
103.05 of the Revised Code that a rule filed by the agency is not
in compliance with the rules of the legislative service
commission, the agency shall within thirty days after receipt of

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the notice conform the rule to the rules of the commission as 171
directed in the notice. 172

(C) All rules filed pursuant to divisions (B)(1)(a) and (2) 173
of this section shall be recorded by the secretary of state and 174
the director under the title of the agency adopting the rule and 175
shall be numbered according to the numbering system devised by the 176
director. The secretary of state and the director shall preserve 177
the rules in an accessible manner. Each such rule shall be a 178
public record open to public inspection and may be transmitted to 179
any law publishing company that wishes to reproduce it. 180

(D) At least sixty-five days before a board, commission, 181
department, division, or bureau of the government of the state 182
files a rule under division (B)(1) of this section, it shall file 183
the full text of the proposed rule in electronic form with the 184
joint committee on agency rule review, and the proposed rule is 185
subject to legislative review and invalidation under division (I) 186
of section 119.03 of the Revised Code. If a state board, 187
commission, department, division, or bureau makes a substantive 188
revision in a proposed rule after it is filed with the joint 189
committee, the state board, commission, department, division, or 190
bureau shall promptly file the full text of the proposed rule in 191
its revised form in electronic form with the joint committee. The 192
latest version of a proposed rule as filed with the joint 193
committee supersedes each earlier version of the text of the same 194
proposed rule. Except as provided in division (F) of this section, 195
a state board, commission, department, division, or bureau shall 196
also file the rule summary and fiscal analysis prepared under 197
section 121.24 or 127.18 of the Revised Code, or both, in 198
electronic form along with a proposed rule, and along with a 199
proposed rule in revised form, that is filed under this division. 200

As used in this division, "commission" includes the public 201
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utilities commission when adopting rules under a federal or state statute.	203 204
This division does not apply to any of the following:	205
(1) A proposed rule of an emergency nature;	206
(2) A rule proposed under section 1121.05, 1121.06, 1155.18, <u>1349.33</u> , 1733.412, 4123.29, 4123.34, 4123.341, 4123.342, 4123.40, 4123.411, 4123.44, or 4123.442 of the Revised Code;	207 208 209
(3) A rule proposed by an agency other than a board, commission, department, division, or bureau of the government of the state;	210 211 212
(4) A proposed internal management rule of a board, commission, department, division, or bureau of the government of the state;	213 214 215
(5) Any proposed rule that must be adopted verbatim by an agency pursuant to federal law or rule, to become effective within sixty days of adoption, in order to continue the operation of a federally reimbursed program in this state, so long as the proposed rule contains both of the following:	216 217 218 219 220
(a) A statement that it is proposed for the purpose of complying with a federal law or rule;	221 222
(b) A citation to the federal law or rule that requires verbatim compliance.	223 224
(6) An initial rule proposed by the director of health to impose safety standards, quality-of-care standards, and quality-of-care data reporting requirements with respect to a health service specified in section 3702.11 of the Revised Code, or an initial rule proposed by the director to impose quality standards on a facility listed in division (A)(4) of section 3702.30 of the Revised Code, if section 3702.12 of the Revised Code requires that the rule be adopted under this section;	225 226 227 228 229 230 231 232

(7) A rule of the state lottery commission pertaining to 233
instant game rules. 234

If a rule is exempt from legislative review under division 235
(D)(5) of this section, and if the federal law or rule pursuant to 236
which the rule was adopted expires, is repealed or rescinded, or 237
otherwise terminates, the rule is thereafter subject to 238
legislative review under division (D) of this section. 239

(E) Whenever a state board, commission, department, division, 240
or bureau files a proposed rule or a proposed rule in revised form 241
under division (D) of this section, it shall also file the full 242
text of the same proposed rule or proposed rule in revised form in 243
electronic form with the secretary of state and the director of 244
the legislative service commission. Except as provided in division 245
(F) of this section, a state board, commission, department, 246
division, or bureau shall file the rule summary and fiscal 247
analysis prepared under section 121.24 or 127.18 of the Revised 248
Code, or both, in electronic form along with a proposed rule or 249
proposed rule in revised form that is filed with the secretary of 250
state or the director of the legislative service commission. 251
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(F) Except as otherwise provided in this division, the 253
auditor of state or the auditor of state's designee is not 254
required to file a rule summary and fiscal analysis along with a 255
proposed rule, or proposed rule in revised form, that the auditor 256
of state proposes under section 117.12, 117.19, 117.38, or 117.43 257
of the Revised Code and files under division (D) or (E) of this 258
section. If, however, the auditor of state or the designee 259
prepares a rule summary and fiscal analysis of the original 260
version of such a proposed rule for purposes of complying with 261
section 121.24 of the Revised Code, the auditor of state or 262
designee shall file the rule summary and fiscal analysis in 263
electronic form along with the original version of the proposed 264

rule filed under division (D) or (E) of this section.

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Sec. 119.01. As used in sections 119.01 to 119.13 of the
Revised Code:

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(A)(1) "Agency" means, except as limited by this division,
any official, board, or commission having authority to promulgate
rules or make adjudications in the civil service commission, the
division of liquor control, the department of taxation, the
industrial commission, the bureau of workers' compensation, the
functions of any administrative or executive officer, department,
division, bureau, board, or commission of the government of the
state specifically made subject to sections 119.01 to 119.13 of
the Revised Code, and the licensing functions of any
administrative or executive officer, department, division, bureau,
board, or commission of the government of the state having the
authority or responsibility of issuing, suspending, revoking, or
canceling licenses.

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Except as otherwise provided in division (I) of this section,
sections 119.01 to 119.13 of the Revised Code do not apply to the
public utilities commission. Sections 119.01 to 119.13 of the
Revised Code do not apply to the utility radiological safety
board; to the controlling board; to actions of the superintendent
of financial institutions and the superintendent of insurance in
the taking possession of, and rehabilitation or liquidation of,
the business and property of banks, savings and loan associations,
savings banks, credit unions, insurance companies, associations,
reciprocal fraternal benefit societies, and bond investment
companies; or to any action that may be taken by the
superintendent of financial institutions under section 1113.03,
1121.05, 1121.06, 1121.10, 1125.09, 1125.12, 1125.18, 1155.18,
1157.01, 1157.02, 1157.10, 1163.22, 1165.01, 1165.02, 1165.10,
1349.33, 1733.35, 1733.361, 1733.37, 1733.412, or 1761.03 of the

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Revised Code.	296
Sections 119.01 to 119.13 of the Revised Code do not apply to	297
actions of the industrial commission or the bureau of workers'	298
compensation under sections 4123.01 to 4123.94 of the Revised Code	299
with respect to all matters of adjudication, and to the actions of	300
the industrial commission and bureau of workers' compensation	301
under division (D) of section 4121.32 and sections 4123.29,	302
4123.34, 4123.341, 4123.342, 4123.40, 4123.411, 4123.44, 4123.442,	303
and divisions (B), (C), and (E) of section 4131.14 of the Revised	304
Code.	305
(2) "Agency" also means any official or work unit having	306
authority to promulgate rules or make adjudications in the	307
department of job and family services, but only with respect to	308
both of the following:	309
(a) The adoption, amendment, or rescission of rules that	310
section 5101.09 of the Revised Code requires be adopted in	311
accordance with this chapter;	312
(b) The issuance, suspension, revocation, or cancellation of	313
licenses.	314
(B) "License" means any license, permit, certificate,	315
commission, or charter issued by any agency. "License" does not	316
include any arrangement whereby a person, institution, or entity	317
furnishes medicaid services under a provider agreement with the	318
department of job and family services pursuant to Title XIX of the	319
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as	320
amended.	321
(C) "Rule" means any rule, regulation, or standard, having a	322
general and uniform operation, adopted, promulgated, and enforced	323
by any agency under the authority of the laws governing such	324
agency, and includes any appendix to a rule. "Rule" does not	325
include any internal management rule of an agency unless the	326

internal management rule affects private rights and does not 327
include any guideline adopted pursuant to section 3301.0714 of the 328
Revised Code. 329

(D) "Adjudication" means the determination by the highest or 330
ultimate authority of an agency of the rights, duties, privileges, 331
benefits, or legal relationships of a specified person, but does 332
not include the issuance of a license in response to an 333
application with respect to which no question is raised, nor other 334
acts of a ministerial nature. 335

(E) "Hearing" means a public hearing by any agency in 336
compliance with procedural safeguards afforded by sections 119.01 337
to 119.13 of the Revised Code. 338

(F) "Person" means a person, firm, corporation, association, 339
or partnership. 340

(G) "Party" means the person whose interests are the subject 341
of an adjudication by an agency. 342

(H) "Appeal" means the procedure by which a person, aggrieved 343
by a finding, decision, order, or adjudication of any agency, 344
invokes the jurisdiction of a court. 345

(I) "Rule-making agency" means any board, commission, 346
department, division, or bureau of the government of the state 347
that is required to file proposed rules, amendments, or 348
rescissions under division (D) of section 111.15 of the Revised 349
Code and any agency that is required to file proposed rules, 350
amendments, or rescissions under divisions (B) and (H) of section 351
119.03 of the Revised Code. "Rule-making agency" includes the 352
public utilities commission. "Rule-making agency" does not include 353
any state-supported college or university. 354

(J) "Substantive revision" means any addition to, elimination 355
from, or other change in a rule, an amendment of a rule, or a 356
rescission of a rule, whether of a substantive or procedural 357

nature, that changes any of the following: 358

(1) That which the rule, amendment, or rescission permits, 359
authorizes, regulates, requires, prohibits, penalizes, rewards, or 360
otherwise affects; 361

(2) The scope or application of the rule, amendment, or 362
rescission. 363

(K) "Internal management rule" means any rule, regulation, or 364
standard governing the day-to-day staff procedures and operations 365
within an agency. 366

Sec. 121.24. (A) As used in this section: 367

(1) "Agency" means any agency as defined in division (A)(2) 368
of section 111.15 or division (A) of section 119.01 of the Revised 369
Code. 370

(2) "Employee" means a person who is employed by a small 371
business or small organization for at least one thousand eight 372
hundred hours per year. 373

(3) A rule is "filed in final form" when it is filed with the 374
secretary of state, the director of the legislative service 375
commission, and the joint committee on agency rule review under 376
division (B)(1) of section 111.15, division (A)(1) of section 377
119.04, division (B)(1) of section 4141.14, or division (A) of 378
section 5703.14 of the Revised Code. 379

(4) "History trail" means the supplementary information 380
required to be provided on each copy of a proposed rule, which 381
information is not part of the text of the rule, and sets forth 382
the statute prescribing the procedure in accordance with which the 383
proposed rule is required to be adopted, the statute that 384
authorizes the agency to adopt the proposed rule, the statute that 385
the agency intends to amplify or implement by adopting the 386
proposed rule, the effective dates of any previous versions of the 387

rule that is the subject of the proposal, and other similar 388
information as prescribed in rules of the legislative service 389
commission. 390

(5) "Individual" means any individual who is affected by a 391
rule in the individual's capacity as an officer or employee of a 392
small business or small organization. 393

(6) "Rule summary and fiscal analysis" means a rule summary 394
and fiscal analysis of a proposed rule that provides the 395
information required by division (B) of section 127.18 of the 396
Revised Code, and that has been prepared in the form prescribed by 397
the joint committee on agency rule review under division (E) of 398
that section. 399

(7) "Rate" means any rate, classification, fare, toll, 400
rental, or charge of a public utility. 401

(8) "Rule" means any rule, regulation, or standard having a 402
general and uniform operation, including any appendix thereto, 403
that is adopted, promulgated, and enforced by an agency under the 404
authority of the laws governing the agency. "Rule" includes the 405
adoption of a new rule or the amendment or rescission of an 406
existing rule. "Rule" does not include any of the following: 407

(a) A rule proposed under section 1121.05, 1121.06, 1155.18, 408
~~or~~ 1163.22, or 1349.33 of the Revised Code; 409

(b) A rule governing the internal management of an agency 410
that does not affect private rights; 411

(c) A rule authorized by law to be issued as a temporary 412
written order; 413

(d) Except as otherwise provided in division (A)(8)(d) of 414
this section, a rule or order, whether of a quasi-legislative or 415
quasi-judicial nature, proposed by the public utilities 416
commission. Any rule or order, whether of a quasi-legislative or 417
quasi-judicial nature, proposed by the public utilities commission 418

that determines a rate of a public utility to be just and 419
reasonable is a "rule" for purposes of this section, unless the 420
rule or order contains findings that the public utility, in 421
applying for approval of the rate under section 4909.18 of the 422
Revised Code, stated facts and grounds sufficient for the 423
commission to determine that the proposed rate was just and 424
reasonable. 425

(e) A proposed rule, the adoption of which is mandated by a 426
federal law or rule, and which must be adopted substantially as 427
prescribed by federal law or rule, to become effective within one 428
hundred twenty days of adoption, so long as the history trail of 429
the proposed rule contains a statement that it is proposed for the 430
purpose of complying with a federal law or rule and a citation to 431
the federal law or rule that mandates substantial compliance; 432

(9) "Small business" means an independently owned and 433
operated business having fewer than four hundred employees. 434

(10) "Small organization" means an unincorporated 435
association, sheltered workshop, or nonprofit enterprise having 436
fewer than four hundred employees. This definition is not limited 437
to the types of small organizations expressly mentioned, and 438
includes all other types of small organizations, so long as such 439
organizations have fewer than four hundred employees. 440

(B) If an agency intends to adopt a rule, and reasonably 441
believes that the proposed rule, if adopted, will be likely to 442
affect individuals, small businesses, or small organizations, the 443
agency shall comply with the following procedure in adopting the 444
rule, in addition to any other procedure required by section 445
111.15, 119.03, 119.032, 119.04, 127.18, 4141.14, or 5117.02 of 446
the Revised Code or any other statute of this state: 447

(1) The agency shall prepare a complete and accurate rule 448
summary and fiscal analysis of the original version of the 449

proposed rule.

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(2) After complying with division (B)(1) of this section, and
at least sixty days before the agency files the proposed rule in
final form, the agency shall file with the office of small
business, in electronic form, the full text of the original
version of the proposed rule and the rule summary and fiscal
analysis of such proposed rule.

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(3) During a period commencing on the date the original
version of the proposed rule is filed pursuant to division (B)(2)
of this section and ending forty days thereafter:

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(a) The chairperson of the standing committee of the senate
or house of representatives having jurisdiction over individuals,
small businesses, or small organizations, or any other person
having an interest in the proposed rule, may submit comments in
electronic form to the agency, to the joint committee on agency
rule review, or to both, concerning the expected effect of the
proposed rule, if adopted, upon individuals, small businesses, and
small organizations. The agency and joint committee shall accept
all such timely submitted written comments.

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(b) The chairperson of the standing committee of the senate
or house of representatives having jurisdiction over individuals,
small businesses, or small organizations, in electronic form, may
request the agency to appear before the committee and testify,
answer questions asked by members of the committee, and produce
information in the possession of the agency as requested by the
committee, concerning the expected effect of the proposed rule, if
adopted, upon individuals, small businesses, or small
organizations. Upon receipt of a request from the chairperson of
the appropriate standing committee of the senate or house of
representatives under division (B)(3)(b) of this section, the
agency shall designate an officer or employee of the agency to
appear before the committee, and shall otherwise comply with the

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request, in the manner directed by the request.

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(4) The agency shall not proceed to file the proposed rule in final form until it has considered any comments timely submitted to it under division (B)(3)(a) of this section, has identified the issues raised by the comments, has assessed the proposed rule in light of the issues raised by the comments, and has made such revisions in the proposed rule as it considers advisable in light of its assessment.

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An agency is not required to put any revised version of a proposed rule through the procedure of divisions (B)(1) to (4) of this section.

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(C) Any original version of a proposed rule, rule summary and fiscal analysis, or written comment filed or submitted under division (B) of this section shall be preserved by the agency with which it is filed or to which it is submitted, and is a public record open to public inspection.

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(D) Each agency shall prepare a plan that provides for the periodic review, at least once every five years, of each rule of the agency that is not otherwise subject to review under section 119.032 of the Revised Code and that affects individuals, small businesses, or small organizations. The purpose of each periodic review shall be to determine whether the rule that is being reviewed should be continued without change or amended or rescinded, consistent with the purpose, scope, and intent of the applicable statute authorizing adoption of the rule, so as to minimize the economic impact of the rule upon individuals, small businesses, or small organizations. Accordingly, in making each periodic review of a rule, the agency shall consider the continued need for the rule, the nature of any written complaints or comments that the agency has received with regard to the rule, the extent to which the rule duplicates, overlaps, or conflicts with other currently effective rules, and the degree to which

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technology, economic conditions, and other relevant factors have 514
changed in the area affected by the rule. 515

Each agency shall annually report to the governor and general 516
assembly, with regard to each of its rules that have been reviewed 517
under this division during the preceding calendar year, the title 518
and administrative code rule number of the rule, a brief summary 519
of the content and operation of the rule, and a brief summary of 520
the results of the review. If the agency is otherwise required to 521
make an annual report to the governor and general assembly, the 522
agency shall report this information in an appropriately 523
designated section of its annual report, whether its annual report 524
is in print or electronic form or both. If, however, the agency is 525
not otherwise required to make an annual report to the governor 526
and general assembly, the agency, on or before the first day of 527
February, shall report this information in a separate report, in 528
electronic form, to the governor and general assembly. In addition 529
to the submissions required by section 101.68 of the Revised Code, 530
and in addition to any requirement of that section to submit 531
notice of the availability of a report instead of copies of the 532
report, the agency shall submit its annual or separate report in 533
electronic form, which provides the information required by this 534
division, to the chairpersons of the standing committees of the 535
senate and house of representatives having jurisdiction over 536
individuals, small businesses, and small organizations. 537

Each agency having rules in effect on January 1, 1985, that 538
affect individuals, small businesses, or small organizations shall 539
divide those rules into groups, so that at least one-fifth of 540
those rules are reviewed during each year of a five-year period 541
commencing on January 1, 1985. A rule that is newly adopted after 542
January 1, 1985, shall be reviewed five years after its effective 543
date. When a rule has once been reviewed, it shall thereafter be 544
reviewed again at five-year intervals. 545

(E) Each agency shall designate an individual or office 546
within the agency to be responsible for complying with this 547
division. Each individual or office that has been so designated 548
shall, within ten days after receiving a request therefor from any 549
person: 550

(1) Provide the person with copies of any rule proposed by 551
the agency that would affect individuals, small businesses, or 552
small organizations; 553

(2) Provide the person with copies of the rule summary and 554
fiscal analysis of any rule proposed by the agency that would 555
affect individuals, small businesses, or small organizations; or 556

(3) Find, collate, and make available to the person any 557
information in the possession of the agency regarding a rule 558
proposed by the agency, which information would be of interest to 559
individuals, small businesses, or small organizations. 560

The agency shall inform the office of small business in 561
writing of the name, address, and telephone number of each 562
individual or office designated under this division. The agency 563
shall promptly inform the office of small business in writing of 564
any change in the information thus provided. 565

(F) Division (B) of this section does not apply to any 566
emergency rule adopted under division (B)(2) of section 111.15 or 567
division (F) of section 119.03 of the Revised Code, except that 568
the emergency rule becomes subject to such division when it is 569
adopted pursuant to the procedure of section 111.15 or 119.03 of 570
the Revised Code for the adoption of rules not of an emergency 571
nature. 572

(G) The department of taxation shall provide a copy of the 573
full text of any rule proposed by the department that may affect 574
any business in electronic form to the office of small business, 575
and the department shall designate an office within the agency 576

responsible for providing a copy of any such rule within ten days
of receiving a request from any person.

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Sec. 1322.062. (A)(1) Within three business days after taking
an application for a loan from a buyer, a registrant shall deliver
to the buyer a mortgage loan origination disclosure statement that
contains all of the following:

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~~(1)~~(a) The name, address, and telephone number of the buyer;

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~~(2)~~(b) The typewritten name of the loan officer and the
number designated on the loan officer's license;

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~~(3)~~(c) The street address, telephone number, and facsimile
number of the registrant and the number designated on the
registrant's certificate of registration;

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~~(4)~~(d) The signature of the loan officer or registrant;

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~~(5)~~(e) A statement indicating whether the buyer is to pay for
the services of a bona fide third party if the registrant is
unable to assist the buyer in obtaining a mortgage;

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~~(6)~~(f) A statement that describes the method by which the fee
to be paid by the buyer to the registrant will be calculated;

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~~(7)~~(g) A statement that the lender may pay compensation to
the registrant;

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~~(8)~~(h) A description of all the services the registrant has
agreed to perform for the buyer;

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~~(9)~~(i) A statement that the buyer has not entered into an
exclusive agreement for brokerage services.

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(2) If the loan is a covered loan as defined in section
1349.25 of the Revised Code, the registrant shall also deliver a
copy of the mortgage loan origination disclosure statement to the
lender.

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(B) If there is any change in the information provided under 605
division (A)~~(6)~~(1)~~(f)~~ or ~~(8)~~(h) of this section, the registrant 606
shall provide the buyer with the revised mortgage loan origination 607
disclosure statement no later than three days after the change 608
occurs, or the date the loan is closed, whichever is earlier. 609

(C) No registrant shall fail to comply with this section. 610

Sec. 1349.25. As used in sections 1349.25 to 1349.37 of the 611
Revised Code: 612

(A) "Actuarial method" means the method of allocating 613
payments made on a debt between the amount financed and the 614
finance charge pursuant to which a payment is applied first to the 615
accumulated finance charge and any remainder is subtracted from, 616
or any deficiency is added to, the unpaid balance of the amount 617
financed. 618

(B) "Consumer" means a natural person to whom credit is 619
offered or extended primarily for personal, family, or household 620
purposes. 621

(C) "Consummation" means the time that a consumer becomes 622
contractually obligated on a credit transaction. 623

(D) "Covered loan" means a consumer credit mortgage loan 624
transaction that meets both of the following criteria: 625

(1) The loan involves property located within this state. 626

(2) The loan is considered a mortgage under section 152(a) of 627
the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 628
2190, 15 U.S.C.A. 1602(aa), as amended, and the regulations 629
adopted thereunder by the federal reserve board, as amended. 630

(E) "Credit" means the right granted by a creditor to a 631
debtor to defer payment of debt or to incur debt and defer its 632
payment. 633

(F) "Creditor" has the same meaning as in section 152(c) of the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2190, 15 U.S.C.A. 1602(f), as amended, and the regulations adopted thereunder by the federal reserve board, as amended. 634
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(G) "Person" means a natural person, partnership, association, trust, corporation, or any other legal entity. 638
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Sec. 1349.26. (A) A creditor shall provide, for each covered loan, both of the following disclosures. The disclosures shall be in conspicuous type size and be in substantially the following form: 640
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(1) "You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application." 644
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(2) "If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan." 647
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(B) In addition to the disclosures required under division (A) of this section, a creditor shall disclose, for each covered loan, either of the following: 651
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(1) In the case of a credit transaction with a fixed rate of interest, the annual percentage rate, the amount of the regular monthly payment, and the amount of any balloon payment; 654
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(2) In the case of any other credit transaction, the annual percentage rate of the loan, the amount of the regular monthly payment, a statement that the interest rate and monthly payment may increase, and the amount of the maximum monthly payment, based on the maximum interest rate allowed pursuant to 12 U.S.C.A. 3806. 657
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(C) With respect to any mortgage that is refinanced on or after October 1, 2002, the creditor shall also disclose the total 662
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amount the consumer will borrow, as reflected by the face amount
of the note. If the amount borrowed includes premiums or other
charges for optional credit insurance or debt-cancellation
coverage, that fact shall be stated, grouped together with the
disclosure of the amount borrowed. The disclosure of the amount
borrowed shall be treated as accurate if it is not more than one
hundred dollars above or below the amount required to be
disclosed.

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(D)(1) Subject to division (D)(2) of this section, each
creditor shall provide the disclosures required under this section
not less than three business days prior to consummation of the
transaction. After providing those disclosures, a creditor shall
not change the terms of the extension of credit if such changes
make the disclosures inaccurate, unless new disclosures are
provided in accordance with this section. A creditor may provide
such new disclosures by telephone, if both of the following
requirements are met:

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(a) The change is initiated by the consumer.

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(b) At the consummation of the loan transaction, the creditor
provides to the consumer the new disclosures in writing and the
creditor and consumer certify in writing that, not later than
three days prior to the date of consummation of the transaction,
the new disclosures were provided by telephone.

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(2) A consumer may, after receiving the disclosures required
under this section, modify or waive the three-day waiting period
between delivery of those disclosures and consummation of the loan
transaction, if the consumer determines that the extension of
credit is needed to meet a bona fide personal financial emergency.
To modify or waive the right, the consumer shall give the creditor
a dated written statement that describes the emergency,
specifically modifies or waives the waiting period, and bears the
signature of all of the consumers entitled to the waiting period.

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(E) Compliance with sections 226.31(c)(1) and 226.32(c) of Title 12 of the Code of Federal Regulations, as amended, shall be deemed compliance with this section.

Sec. 1349.27. A creditor shall not do any of the following:

(A) Make a covered loan that includes any of the following:

(1) Terms under which a consumer must pay a prepayment penalty for paying all or part of the principal before the date on which the principal is due. For purposes of division (A)(1) of this section, any method of computing a refund of unearned scheduled interest is a prepayment penalty if it is less favorable to the consumer than the actuarial method.

Division (A)(1) of this section does not apply to a prepayment penalty imposed in accordance with section 129(c)(2) of the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2190, 15 U.S.C.A. 1639(c)(2), as amended, and the regulations adopted thereunder by the federal reserve board, as amended.

(2) Terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due;

(3) Terms under which more than two periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the consumer;

(4) Terms under which a rebate of interest arising from a loan acceleration due to default is calculated by a method less favorable than the actuarial method.

(B) Make a covered loan that provides for an interest rate applicable after default that is higher than the interest rate that applies before default;

(C) Make a covered loan having a term of less than five years that includes terms under which the aggregate amount of the regular periodic payments would not fully amortize the outstanding principal balance. This division does not apply to any covered loan with a maturity of less than one year, if the purpose of the loan is a "bridge" loan connected with the acquisition or construction of a dwelling intended to become the consumer's principal dwelling. 726
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(D) Engage in a pattern or practice of extending credit to consumers under covered loans based on the consumers' collateral without regard to the consumers' repayment ability, including the consumers' current and expected income, current obligations, and employment; 734
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(E) Make a payment to a contractor under a home improvement contract from amounts extended as credit under a covered loan, except in either of the following ways: 739
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(1) By an instrument that is payable to the consumer or jointly to the consumer and the contractor; 742
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(2) At the election of the consumer, by a third party escrow agent in accordance with terms established in a written agreement signed by the consumer, the creditor, and the contractor before the date of payment. 744
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(F) On or after October 1, 2002, make a covered loan that includes a demand feature that permits the creditor to terminate the loan in advance of the original maturity date and to demand repayment of the entire outstanding balance, except in any of the following circumstances: 748
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(1) There is fraud or material misrepresentation by the consumer in connection with the loan. 753
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(2) The consumer fails to meet the repayment terms of the agreement for any outstanding balance. 755
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(3) There is any action or inaction by the consumer that 757
adversely affects the creditor's security for the loan or any 758
right of the creditor in that security. 759

(G)(1) Within one year after having made a covered loan, 760
refinance a covered loan to the same borrower into another covered 761
loan, unless the refinancing is in the consumer's interest. An 762
assignee holding or servicing a covered loan shall not, for the 763
remainder of the one-year period following the date of origination 764
of the covered loan, refinance any covered loan to the same 765
consumer into another covered loan, unless the refinancing is in 766
the consumer's interest. 767

A creditor or assignee shall not engage in acts or practices 768
to evade division (G)(1) of this section, including a pattern or 769
practice of arranging for the refinancing of its own loans by 770
affiliated or unaffiliated creditors, or modifying a loan 771
agreement, whether or not the existing loan is satisfied and 772
replaced by the new loan, and charging a fee. 773

(2) Division (G)(1) of this section shall apply on and after 774
October 1, 2002. 775

(H) Make a covered loan without first obtaining a copy of the 776
mortgage loan origination disclosure statement that was delivered 777
to the buyer in accordance with division (A)(1) of section 778
1322.062 of the Revised Code; 779

(I) Finance, directly or indirectly, into a covered loan or 780
finance to the same borrower within thirty days of a covered loan 781
any credit life or credit disability insurance premiums sold in 782
connection with the covered loan, provided that any credit life or 783
credit disability insurance premiums calculated and paid on a 784
monthly or other periodic basis shall not be considered financed 785
by the person originating the loan. For purposes of this division, 786
credit life or credit disability insurance does not include a 787

contract issued by a government agency or private mortgage 788
insurance company to insure the lender against loss caused by a 789
mortgagor's default. 790

(J) Replace or consolidate a zero interest rate or other 791
low-rate loan made by a governmental or nonprofit lender with a 792
covered loan within the first ten years of the low-rate loan 793
unless the current holder of the loan consents in writing to the 794
refinancing. For purposes of this division, a "low-rate loan" 795
means a loan that carries a current interest rate two percentage 796
points or more below the current yield on United States treasury 797
securities with a comparable maturity. If the loan's current 798
interest rate is either a discounted introductory rate or a rate 799
that automatically steps up over time, the fully indexed rate or 800
the fully stepped-up rate, as applicable, shall be used, in lieu 801
of the current rate, to determine whether a loan is a low-rate 802
loan. 803

Sec. 1349.29. If a covered loan transaction includes any term 804
prohibited by section 1349.27 of the Revised Code, the consumer 805
shall have the right to rescind the transaction in accordance with 806
section 129(j) of the "Home Ownership and Equity Protection Act of 807
1994," 108 Stat. 2190, 15 U.S.C.A. 1639(j), as amended, and the 808
regulations adopted thereunder by the federal reserve board, as 809
amended. 810

Sec. 1349.30. (A) A person has no liability under section 811
1349.31 of the Revised Code, and shall not be subject to any 812
sanction by the superintendent of financial institutions, for any 813
failure to comply with section 1349.26 or 1349.27 of the Revised 814
Code, if within sixty days after discovering the error, whether 815
pursuant to the person's own procedures or an examination or 816
investigation by the superintendent under division (A) or (B) of 817
section 1349.34 of the Revised Code, and prior to the initiation 818

of any action by the superintendent under divisions (C) to (F) of
section 1349.34 of the Revised Code or the receipt of written
notice of the error from the consumer, the person notifies the
consumer or other person concerned of the error and makes whatever
adjustments in the appropriate account are necessary to assure
that the consumer will not be required to pay an amount in excess
of the charge actually disclosed, or the dollar equivalent of the
annual percentage rate actually disclosed, whichever is lower.

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(B) A creditor or assignee shall not be held liable in any
action brought under section 1349.29 of the Revised Code, if the
creditor or assignee shows by a preponderance of evidence that the
compliance failure was not intentional and resulted from a bona
fide error notwithstanding the maintenance of procedures
reasonably adapted to avoid any such error. For purposes of this
division, "bona fide error" includes, but is not limited to,
clerical, calculation, computer malfunction and programming, and
printing errors. "Bona fide error" does not include an error of
legal judgment with respect to a person's obligations under
sections 1349.25 to 1349.36 of the Revised Code.

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Sec. 1349.31. (A)(1) No creditor shall willfully and
knowingly fail to comply with section 1349.26 or 1349.27 of the
Revised Code. For purposes of division (A)(1) of this section,
"willfully and knowingly" has the same meaning as in section 112
of the "Truth in Lending Act," 82 Stat. 146 (1968), 15 U.S.C.A.
1611, as amended.

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(2) Whoever violates division (A)(1) of this section is
guilty of a felony of the fifth degree.

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(B) The superintendent of financial institutions may initiate
criminal proceedings under this section by presenting any evidence
of criminal violations to the prosecuting attorney of the county
in which the offense may be prosecuted. If the prosecuting

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attorney does not prosecute the violations, or at the request of 850
the prosecuting attorney, the superintendent shall present any 851
evidence of criminal violations to the attorney general, who may 852
proceed in the prosecution with all the rights, privileges, and 853
powers conferred by law on prosecuting attorneys, including the 854
power to appear before grand juries and to interrogate witnesses 855
before such grand juries. These powers of the attorney general 856
shall be in addition to any other applicable powers of the 857
attorney general. 858

Sec. 1349.32. The purpose of sections 1349.25 to 1349.36 of 859
the Revised Code is to bring Ohio law into conformance with the 860
"Home Ownership and Equity Protection Act of 1994," 108 Stat. 861
2190, 15 U.S.C.A. 1601 note, as amended, and the regulations and 862
interpretations adopted thereunder by the federal reserve board, 863
in order to facilitate the uniform administration and enforcement 864
of state and federal laws on the regulation of certain high cost 865
mortgages. 866

In furtherance of that purpose, the regulations and 867
interpretations adopted by the federal reserve board to implement 868
the "Home Ownership and Equity Protection Act of 1994," which 869
regulations and interpretations are effective as of the effective 870
date of this section, are hereby deemed applicable to sections 871
1349.25 to 1349.36 of the Revised Code. Such regulations and 872
interpretations include the amendment of sections 226.32 and 873
226.34 of Title 12 of the Code of Federal Regulations, which 874
amendment was approved by the federal reserve board on December 875
12, 2001, and takes effect October 1, 2002. 876

Sec. 1349.33. (A) Notwithstanding any provision of sections 877
1349.25 to 1349.36 of the Revised Code, or any rule adopted 878
thereunder, if the "Home Ownership and Equity Protection Act of 879
1994," 108 Stat. 2190, 15 U.S.C.A. 1601 note, as amended, or any 880

regulation adopted thereunder by the federal reserve board, as 881
amended, is amended or otherwise modified after the effective date 882
of this section, the superintendent of financial institutions may 883
by rule adopt similar provisions. If an amendment or other 884
modification to the "Home Ownership and Equity Protection Act of 885
1994" requires the adoption of implementing regulations by the 886
federal reserve board, the superintendent shall not adopt any rule 887
under the authority of this section until those regulations are 888
adopted. 889

(B) The superintendent shall adopt the rules authorized by 890
division (A) of this section in accordance with section 111.15 of 891
the Revised Code. Chapter 119. of the Revised Code does not apply 892
to rules adopted under the authority of this section. 893

(C) A rule adopted by the superintendent under the authority 894
of this section is effective on the later of the following dates: 895

(1) The date the superintendent issues the rule; 896

(2) The date the regulation, rule, interpretation, procedure, 897
or guideline the superintendent's rule is based on becomes 898
effective. 899

(D) The superintendent may, upon thirty days' written notice, 900
revoke any rule adopted under the authority of this section. A 901
rule adopted under the authority of this section, and not revoked 902
by the superintendent, lapses and has no further force and effect 903
thirty months after its effective date. 904

Sec. 1349.34. (A) As often as the superintendent of financial 905
institutions considers it necessary, the superintendent may 906
examine a person's records regarding covered loans. The 907
superintendent may recover from the person any costs incurred in 908
connection with and reasonably related to the examination. 909

(B) The superintendent may investigate alleged failures to 910

comply with sections 1349.25 to 1349.36 of the Revised Code, or
any rule adopted thereunder, or complaints concerning any such
failure to comply. In conducting any investigation under this
section, the superintendent may compel, by subpoena, witnesses to
testify in relation to any matter over which the superintendent
has jurisdiction and may require the production of any book,
record, or other document pertaining to that matter. If a person
fails to file any statement or report, obey any subpoena, give
testimony, produce any book, record, or other document as required
by a subpoena, or permit photocopying of any book, record, or
other document subpoenaed, the court of common pleas of any county
in this state, upon application made to it by the superintendent,
shall compel obedience by attachment proceedings for contempt, as
in the case of disobedience of the requirements of a subpoena
issued from the court or a refusal to testify therein.

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(C) Whenever it appears to the superintendent that a person
has engaged in, is engaging in, or is about to engage in, any
activity constituting a failure to comply with section 1349.26 or
1349.27 of the Revised Code, the superintendent may make
application to the court of common pleas of any county in this
state for an order enjoining any such activity. Upon a showing by
the superintendent that a person has engaged in, is engaging in,
or is about to engage in, any activity constituting a failure to
comply with section 1349.26 or 1349.27 of the Revised Code, the
court shall grant an injunction, restraining order, or other
appropriate relief.

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(D) Whenever it appears to the superintendent that a person
has engaged in, is engaging in, or is about to engage in, any
activity that may constitute a failure to comply with section
1349.26 or 1349.27 of the Revised Code, the superintendent, after
notice and a hearing conducted in accordance with Chapter 119. of
the Revised Code, may issue a cease and desist order. Such an

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order shall be enforceable in any court of common pleas in this 943
state. 944

(E) If a person that fails to comply with section 1349.26 or 945
1349.27 of the Revised Code is licensed, registered, or chartered 946
by, or otherwise operates under the authority of, the 947
superintendent, the superintendent may, in accordance with Chapter 948
119. of the Revised Code, suspend, revoke, or deny the renewal of 949
such license, registration, charter, or other authority. 950

(F) If a person fails to comply with section 1349.26 or 951
1349.27 of the Revised Code, the superintendent may, in accordance 952
with Chapter 119. of the Revised Code, impose a fine of not more 953
than two thousand five hundred dollars per compliance failure. If 954
the person fails to comply two or more times, the superintendent 955
may, in accordance with Chapter 119. of the Revised Code, impose a 956
fine of not more than five thousand dollars per compliance 957
failure. If the person injured by the failure to comply is 958
sixty-five years of age or older, the superintendent may double 959
the amount of the fine. 960

An order to pay a fine pursuant to this division shall be 961
enforceable in any court of common pleas in this state. All fines 962
collected under this division shall be paid to the superintendent 963
and shall be deposited by the superintendent into the state 964
treasury to the credit of the consumer finance fund created under 965
section 1321.21 of the Revised Code. 966

In determining the amount of a fine to be imposed under this 967
division, the superintendent shall consider all of the following: 968

(1) The seriousness of the conduct; 969

(2) The person's good faith efforts to prevent the conduct; 970

(3) The person's history regarding violations and compliance 971
with the superintendent's orders; 972

(4) The person's financial resources; 973

(5) Any other matter the superintendent considers appropriate 974
in enforcing sections 1349.26 and 1349.27 of the Revised Code. 975
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The superintendent shall not impose a fine under this 977
division if the superintendent has imposed or will impose a fine 978
under another provision of the Revised Code for the same conduct. 979

(G)(1) The superintendent may take any of the actions set 980
forth in this section with respect to any person other than a 981
federally chartered financial institution or its operating 982
subsidiaries. Whenever it appears to the superintendent that a 983
federally chartered financial institution or its operating 984
subsidiary has engaged in, is engaging in, or is about to engage 985
in, any activity that may constitute a failure to comply with 986
section 1349.26 or 1349.27 of the Revised Code, the superintendent 987
may present any evidence of such activity to the institution's 988
appropriate federal regulatory authority, along with any 989
recommendations regarding the imposition of specific sanctions. 990

(2) Any action taken by the superintendent under this section 991
shall be commenced within three years after the alleged compliance 992
failure. 993

(H) The remedies available to the superintendent under this 994
section are cumulative and concurrent, and the exercise of one 995
remedy by the superintendent does not preclude or require the 996
exercise of any other remedy. 997

(I) The remedies available to the superintendent under this 998
section or to the appropriate federal regulatory authority, the 999
right of rescission described in section 1349.29 of the Revised 1000
Code, and the criminal penalty provided in section 1349.31 of the 1001
Revised Code shall constitute the sole and exclusive remedies for 1002
any failure to comply with section 1349.26 or 1349.27 of the 1003

Revised Code. 1004

Sec. 1349.35. The superintendent of financial institutions shall include, as part of the annual report required by section 1181.09 of the Revised Code, the number of complaints received, the number of enforcement actions taken, and any other relevant data regarding covered loans. 1005
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Sec. 1349.36. The superintendent of financial institutions may, in accordance with Chapter 119. of the Revised Code, adopt reasonable rules to administer and enforce sections 1349.25 to 1349.35 of the Revised Code and to carry out the purpose of those sections as stated in section 1349.32 of the Revised Code. 1010
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Sec. 1349.37. There is hereby created in the division of financial institutions the office of consumer affairs. The responsibilities of the office shall, at a minimum, include all of the following: 1015
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1018

(A) Providing education to residents of this state regarding borrowing and related financial topics; 1019
1020

(B) Providing referrals to credit counseling services; 1021

(C) Receiving complaints regarding alleged failures to comply with section 1349.26 or 1349.27 of the Revised Code; 1022
1023

(D) Contacting the persons that are the subject of such complaints, on behalf of the consumers; 1024
1025

(E) Referring matters to the superintendent of financial institutions for action under section 1349.34 of the Revised Code. 1026
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Section 2. That existing sections 111.15, 119.01, 121.24, and 1322.062 of the Revised Code are hereby repealed. 1028
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Section 3. (A) The provisions of the Revised Code, including, 1030

but not limited to, Titles XI, XIII, XVII, and XLVII, relating to 1031
the origination, granting, servicing, and collection of loans and 1032
other forms of credit prescribe rules of conduct upon citizens 1033
generally, comprise a comprehensive regulatory framework intended 1034
to operate uniformly throughout the state under the same 1035
circumstances and conditions, and constitute general laws within 1036
the meaning of Section 3 of Article XVIII of the Ohio 1037
Constitution. 1038

(B) The provisions of the Revised Code, including, but not 1039
limited to, Titles XI, XIII, XVII, and XLVII, relating to the 1040
origination, granting, servicing, and collection of loans and 1041
other forms of credit have been enacted in furtherance of the 1042
police powers of the state. 1043

(C) Silence in the Revised Code, including, but not limited 1044
to, Titles XI, XIII, XVII, and XLVII, with respect to any act or 1045
practice in the origination, granting, servicing, or collection of 1046
loans or other forms of credit shall not be interpreted to mean 1047
that the state has not completely occupied the field or has only 1048
set minimum standards in its regulation of lending and other 1049
credit activities. 1050

(D) It is the intent of the General Assembly to entirely 1051
preempt municipal corporations and other political subdivisions 1052
from the regulation and licensing of lending and other credit 1053
activities. 1054

Section 4. (A) The enactment of section 1.63 of the Revised 1055
Code by this act is intended as a clarification of existing law 1056
and not as a substantive change in the law. 1057

(B) The enactment of section 1.63 of the Revised Code by this 1058
act expresses the legislative intent of the General Assembly 1059
currently and at the time of the original enactment of the 1060
provisions of the Revised Code, including, but not limited to, 1061

Titles XI, XIII, XVII, and XLVII, relating to the origination, 1062
granting, servicing, and collection of loans and other forms of 1063
credit. 1064

Section 5. (A) There is hereby created the Predatory Lending 1065
Study Committee, which shall conduct a thorough investigation of 1066
the impact of predatory lending practices on the citizens and 1067
communities of Ohio. These predatory lending practices include, 1068
but are not limited to, loan flipping, balloon payments, 1069
origination fees, prepayment penalties, single premium credit 1070
insurance, packing unnecessary insurance coverages, lending 1071
without due regard to ability to pay, lending without due regard 1072
to tangible benefits to consumers, payments to home improvement 1073
contractors, foreclosure rates, appropriateness of subprime loans 1074
for customer populations, collusion among occupations related to 1075
real estate loans, and equity stripping. As part of its 1076
investigation, the Study Committee shall identify and evaluate 1077
current state and federal laws, rules, and regulations that 1078
address fraud, misrepresentation, and other deceptive practices in 1079
mortgage lending or origination. The Study Committee shall 1080
evaluate the effectiveness of Am. Sub. S.B. 76 of the 124th 1081
General Assembly in deterring these practices and shall make 1082
recommendations it determines necessary to achieve that 1083
deterrence. The Study Committee shall also review the operation of 1084
the Office of Consumer Affairs within the Division of Financial 1085
Institutions, including its outreach efforts to provide education 1086
regarding predatory lending, borrowing, and related financial 1087
topics and, based on the effectiveness of its operation, make 1088
recommendations regarding its continued funding. 1089

(B) The Study Committee shall consist of fifteen members as 1090
follows: 1091

(1) Three members of the Senate appointed by the President of 1092

the Senate, two of whom are members of the majority party, and one
of whom is a member of the minority party; 1093
1094

(2) Three members of the House of Representatives appointed
by the Speaker of the House of Representatives, two of whom are
members of the majority party, and one of whom is a member of the
minority party; 1095
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(3) The Director of the Department of Commerce or the
Director's designee; 1099
1100

(4) The Attorney General or the Attorney General's designee; 1101

(5) The Director of Aging or the Director's designee; 1102

(6) Three members representing consumer advocacy
organizations, as follows: 1103
1104

(a) One representative from the Coalition on Homelessness and
Housing in Ohio, appointed by the President of the Senate; 1105
1106

(b) One representative from the Ohio chapter of AARP,
appointed by the Speaker of the House of Representatives; 1107
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(c) One representative from a nonprofit housing
organization, appointed by the President of the Senate. 1109
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(7) Three members representing the lending community, two of
whom shall be appointed by the Speaker of the House of
Representatives, and one of whom shall be appointed by the
President of the Senate. 1111
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(C)(1) The Speaker of the House of Representatives shall
designate one of the members of the Study Committee to serve as
chairperson of the Study Committee. 1115
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1117

(2) Members of the Study Committee shall serve without
compensation or reimbursement. 1118
1119

(3) Vacancies on the Study Committee shall be filled in the
same manner as the original appointment. 1120
1121

(D) The Department of Commerce shall provide necessary staff, facilities, supplies, and services to the Study Committee.

(E) The Study Committee shall meet initially within sixty days after the appointments to the Study Committee at the call of the chairperson and shall meet at least every ninety days thereafter at the call of the chairperson until the Study Committee submits the report described in division (F) of this section. The chairperson shall consider holding some regional public hearings to ensure that perspectives from throughout the state are presented to the Study Committee.

(F) The Study Committee shall publish its findings in a report and submit the report to the Governor, the Speaker and the Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate not later than June 30, 2003. Included in the report shall be recommendations on legislation related to predatory lending to be enacted by the General Assembly. Upon submission of the report, the Study Committee shall cease to exist.

Section 6. That Section 32 of Am. Sub. H.B. 94 of the 124th General Assembly be amended to read as follows:

"Sec. 32. COM DEPARTMENT OF COMMERCE				1142
General Revenue Fund				1143
GRF 800-402	Grants-Volunteer Fire	\$ 912,500	\$ 793,750	1144
Departments				
GRF 800-410	Labor and Worker	\$ 3,898,792	\$ 4,042,587	1145
Safety				
Total GRF	General Revenue Fund	\$ 4,811,292	\$ 4,836,337	1146
General Services Fund Group				1147
163 800-620	Division of	\$ 5,873,604	\$ 6,189,578	1148
Administration				

5F1	800-635	Small Government Fire	\$	250,000	\$	250,000	1149
		Departments					
TOTAL	GSF	General Services Fund					1150
Group			\$	6,123,604	\$	6,439,578	1151
Federal	Special	Revenue Fund Group					1152
348	800-622	Underground Storage	\$	195,008	\$	195,008	1153
		Tanks					
348	800-624	Leaking Underground	\$	1,850,000	\$	1,850,000	1154
		Storage Tanks					
349	800-626	OSHA Enforcement	\$	1,346,000	\$	1,386,380	1155
TOTAL	FED	Federal Special Revenue					1156
Fund	Group		\$	3,391,008	\$	3,431,388	1157
State	Special	Revenue Fund Group					1158
4B2	800-631	Real Estate Appraisal	\$	69,870	\$	71,267	1159
		Recovery					
4H9	800-608	Cemeteries	\$	260,083	\$	273,465	1160
4L5	800-609	Fireworks Training and	\$	10,526	\$	10,976	1161
		Education					
4X2	800-619	Financial Institutions	\$	2,020,646	\$	2,134,754	1162
5B8	800-628	Auctioneers	\$	60,000	\$	0	1163
5B9	800-632	PI & Security Guard	\$	1,139,377	\$	1,188,716	1164
		Provider					
5K7	800-621	Penalty Enforcement	\$	2,000	\$	2,000	1165
543	800-602	Unclaimed	\$	5,921,792	\$	6,151,051	1166
		Funds-Operating					
543	800-625	Unclaimed Funds-Claims	\$	24,890,602	\$	25,512,867	1167
544	800-612	Banks	\$	6,346,230	\$	6,657,997	1168
545	800-613	Savings Institutions	\$	2,790,960	\$	2,894,399	1169
546	800-610	Fire Marshal	\$	10,245,737	\$	10,777,694	1170
547	800-603	Real Estate	\$	258,796	\$	264,141	1171
		Education/Research					
548	800-611	Real Estate Recovery	\$	150,000	\$	150,000	1172

549	800-614	Real Estate	\$	2,885,785	\$	3,039,837	1173
550	800-617	Securities	\$	4,611,800	\$	4,864,800	1174
552	800-604	Credit Union	\$	2,368,450	\$	2,477,852	1175
553	800-607	Consumer Finance	\$	2,305,339	\$	2,258,822	1176
				<u>2,830,339</u>		<u>2,908,822</u>	1177
556	800-615	Industrial Compliance	\$	22,176,840	\$	23,415,776	1178
6A4	800-630	Real Estate	\$	522,125	\$	548,006	1179
		Appraiser-Operating					
653	800-629	UST	\$	1,072,795	\$	1,121,632	1180
		Registration/Permit					
		Fee					
TOTAL SSR State Special Revenue							1181
Fund Group			\$	90,109,753	\$	93,816,052	1182
				<u>90,634,753</u>		<u>94,466,052</u>	1183
Liquor Control Fund Group							1184
043	800-601	Merchandising	\$	322,741,245	\$	341,222,192	1185
043	800-627	Liquor Control	\$	16,250,400	\$	15,801,163	1186
		Operating					
043	800-633	Development Assistance	\$	16,134,800	\$	16,141,100	1187
		Debt Service					
043	800-636	Revitalization Debt	\$	1,600,000	\$	6,700,000	1188
		Service					
TOTAL LCF Liquor Control							1189
Fund Group			\$	356,726,445	\$	379,864,455	1190
TOTAL ALL BUDGET FUND GROUPS							1191
			\$	461,162,102	\$	488,387,810	1191
				<u>461,687,102</u>		<u>489,037,810</u>	1192

GRANTS-VOLUNTEER FIRE DEPARTMENTS 1193

The foregoing appropriation item 800-402, Grants-Volunteer 1194
Fire Departments, shall be used to make annual grants to volunteer 1195
fire departments of up to \$10,000, or up to \$25,000 if the 1196
volunteer fire department provides service for an area affected by 1197
a natural disaster. The grant program shall be administered by the 1198

Fire Marshal under the Department of Commerce. The Fire Marshal 1199
shall adopt rules necessary for the administration and operation 1200
of the grant program. 1201

Notwithstanding section 3737.17 of the Revised Code, upon the 1202
request of the Director of Commerce, the Director of Budget and 1203
Management shall transfer \$200,000 cash in fiscal year 2002 and 1204
\$100,000 cash in fiscal year 2003 from the State Fire Marshal Fund 1205
(Fund 546) to the General Revenue Fund. 1206

Of the foregoing appropriation item 800-402, Grants-Volunteer 1207
Fire Departments, \$200,000 in fiscal year 2002 shall be granted to 1208
the Monday Creek Fire Department. 1209

LABOR AND WORKER SAFETY 1210

The Department of Commerce may designate a portion of 1211
appropriation item 800-410, Labor and Worker Safety, to be used to 1212
match federal funding for the OSHA on-site consultation program. 1213

SMALL GOVERNMENT FIRE DEPARTMENTS 1214

Upon the request of the Director of Commerce, the Director of 1215
Budget and Management shall transfer \$250,000 cash in each fiscal 1216
year from the State Fire Marshal Fund (Fund 546) within the State 1217
Special Revenue Fund Group to the Small Government Fire 1218
Departments Fund (Fund 5F1) within the General Services Fund 1219
Group. 1220

Notwithstanding section 3737.17 of the Revised Code, the 1221
foregoing appropriation item 800-635, Small Government Fire 1222
Departments, may be used to provide loans to private fire 1223
departments. 1224

PENALTY ENFORCEMENT 1225

The foregoing appropriation item 800-621, Penalty 1226
Enforcement, shall be used to enforce sections 4115.03 to 4115.16 1227
of the Revised Code. 1228

On July 1, 2001, or as soon thereafter as possible, the 1229
Director of Budget and Management shall transfer the cash balance 1230
in the Penalty Enforcement Fund that was in the custody of the 1231
state treasury to the Penalty Enforcement Fund (Fund 5K7) that is 1232
created in the state treasury by section 4115.10 of the Revised 1233
Code. The fund shall be used for deposit of moneys received from 1234
penalties paid under section 4115.10 of the Revised Code. 1235

UNCLAIMED FUNDS PAYMENTS 1236

The foregoing appropriation item 800-625, Unclaimed 1237
Funds-Claims, shall be used to pay claims pursuant to section 1238
169.08 of the Revised Code. If it is determined that additional 1239
amounts are necessary, the amounts are appropriated. 1240

PREDATORY LENDING ENFORCEMENT 1241

Of the foregoing appropriation item 800-607, Consumer 1242
Finance, up to \$125,000 in fiscal year 2002 and up to \$250,000 in 1243
fiscal year 2003 shall be used for the enforcement of sections 1244
1349.25 to 1349.36 of the Revised Code. 1245

OFFICE OF CONSUMER AFFAIRS 1246

Of the foregoing appropriation item 800-607, Consumer 1247
Finance, up to \$400,000 in fiscal year 2002 and up to \$400,000 in 1248
fiscal year 2003 shall be used by the Department of Commerce for 1249
the operation of the Office of Consumer Affairs created in section 1250
1349.37 of the Revised Code, including outreach efforts to provide 1251
education regarding predatory lending, borrowing, and related 1252
financial topics through seminars, local government grants, public 1253
service announcements, and brochures. On or before August 1, 2002, 1254
the Director of Budget and Management shall determine and certify 1255
to the Director of Commerce the total amount of unexpended, 1256
unobligated appropriations made to the Department for fiscal year 1257
2002 for the purposes stated above. The amount so determined and 1258
certified by the Director of Budget and Management is hereby 1259

appropriated to appropriation item 800-607, Consumer Finance, in 1260
addition to any other amounts appropriated for fiscal year 2003, 1261
and is hereby earmarked for the purposes stated above. 1262

INCREASED APPROPRIATION AUTHORITY - MERCHANDISING 1263

The Director of Commerce may, upon concurrence by the 1264
Director of Budget and Management, submit to the Controlling Board 1265
for approval a request for increased appropriation authority for 1266
appropriation item 800-601, Merchandising. 1267

CASH BALANCE TRANSFER 1268

On July 1, 2001, or as soon thereafter as possible, the 1269
Director of Budget and Management shall transfer the cash balance 1270
in the Salvage and Exchange Fund (Fund 861) to the Liquor Control 1271
Fund (Fund 043) created in section 4301.12 of the Revised Code. 1272
Upon the completion of the transfer, the Salvage and Exchange 1273
Fund, which was created by the Controlling Board during the 1274
1973-1975 biennium, is abolished. The director shall cancel any 1275
existing encumbrances against appropriation item 800-634, Salvage 1276
and Exchange, and reestablish them against appropriation item 1277
800-627, Liquor Control Operating. 1278

DEVELOPMENT ASSISTANCE DEBT SERVICE 1279

The foregoing appropriation item 800-633, Development 1280
Assistance Debt Service, shall be used to meet all payments at the 1281
times they are required to be made during the period from July 1, 1282
2001, to June 30, 2003, for bond service charges on obligations 1283
issued under section 166.08 of the Revised Code, but limited to 1284
the aggregate amount of \$32,275,900. If it is determined that 1285
additional appropriations are necessary for this purpose, such 1286
amounts are hereby appropriated, provided that the appropriation 1287
does not exceed \$25,000,000 in any fiscal year, except as may be 1288
needed for payments on obligations issued to meet guarantees. The 1289
General Assembly acknowledges that an appropriation for this 1290

purpose is not required, but is made in this form and in this act 1291
for record purposes only. 1292

REVITALIZATION DEBT SERVICE 1293

The foregoing appropriation item 800-636, Revitalization Debt 1294
Service, shall be used to pay debt service and related financing 1295
costs during the period from July 1, 2001, to June 30, 2003, on 1296
obligations to be issued for revitalization purposes under Section 1297
2o of Article VIII, Ohio Constitution, and implementing 1298
legislation. If it is determined that additional appropriations 1299
are necessary for this purpose, such amounts are hereby 1300
appropriated. The General Assembly acknowledges: (A) the priority 1301
of the pledge of a portion of receipts from that source to 1302
obligations issued and to be issued and guarantees made and to be 1303
made under Chapter 166. of the Revised Code; and (B) that this 1304
appropriation is subject to further consideration pursuant to 1305
implementing legislation. 1306

ADMINISTRATIVE ASSESSMENTS 1307

Notwithstanding any other provision of law to the contrary, 1308
Fund 163, Administration, shall receive assessments from all 1309
operating funds of the department in accordance with procedures 1310
prescribed by the Director of Commerce and approved by the 1311
Director of Budget and Management." 1312

Section 7. That existing Section 32 of Am. Sub. H.B. 94 of 1313
the 124th General Assembly is hereby repealed. 1314

Section 8. Section 121.24 of the Revised Code is presented in 1315
this act as a composite of the section as amended by both Am. Sub. 1316
H.B. 283 and Am. Sub. S.B. 11 of the 123rd General Assembly. The 1317
General Assembly, applying the principle stated in division (B) of 1318
section 1.52 of the Revised Code that amendments are to be 1319
harmonized if reasonably capable of simultaneous operation, finds 1320

that the composite is the resulting version of the section in 1321
effect prior to the effective date of the section as presented in 1322
this act. 1323

Section 9. The amendment to Section 32 of Am. Sub. H.B. 94 of 1324
the 124th General Assembly constitutes an item of law that is not 1325
subject to the referendum. Therefore, under Ohio Constitution, 1326
Article II, Section 1d and section 1.471 of the Revised Code, the 1327
amendment to Section 32 of Am. Sub. H.B. 94 of the 124th General 1328
Assembly goes into immediate effect when this act becomes law. 1329