

AN ACT

To amend sections 1322.01, 1322.02, 1322.03, 1322.04, 1322.05, 1322.06, 1322.07, 1322.08, 1322.09, 1322.10, 1322.101, 1322.11, 1322.99, and 4712.01 and to enact sections 1322.021, 1322.031, 1322.041, 1322.051, 1322.052, 1322.061, 1322.062, 1322.071, 1322.072, and 1322.073 of the Revised Code to revise the laws governing mortgage brokers and loan officers.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 1322.01, 1322.02, 1322.03, 1322.04, 1322.05, 1322.06, 1322.07, 1322.08, 1322.09, 1322.10, 1322.101, 1322.11, 1322.99, and 4712.01 be amended and sections 1322.021, 1322.031, 1322.041, 1322.051, 1322.052, 1322.061, 1322.062, 1322.071, 1322.072, and 1322.073 of the Revised Code be enacted to read as follows:

Sec. 1322.01. As used in sections 1322.01 to 1322.12 of the Revised Code:

(A) "Buyer" means an individual who is solicited to purchase or who purchases the services of a mortgage broker for purposes other than obtaining a business loan as described in division (B)(6) of section 1343.01 of the Revised Code.

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

(C) "Employee" means an individual for whom a mortgage broker, in addition to providing a wage or salary, pays social security and unemployment taxes, provides workers' compensation coverage, and withholds local, state, and federal income taxes. "Employee" also includes any shareholder, member, or partner of a registrant who acts as a loan officer or operations manager of the registrant, but for whom the registrant is prevented by law from making income tax withholdings.

(D) "Licensee" means any person that has been issued a loan officer license under sections 1322.01 to 1322.12 of the Revised Code.

(E) "Loan officer" means an employee who originates mortgage loans in

consideration of direct or indirect gain, profit, fees, or charges. "Loan officer" also includes an employee who solicits financial and mortgage information from the public for sale to another mortgage broker.

(E) "Mortgage" means any indebtedness secured by a deed of trust, security deed, or other lien on real property.

~~(D) "Mortgage banker" means any person that makes, services, or buys and sells mortgage loans, and is required to submit audited financial statements to, and is subject to a possible audit by, the United States department of housing and urban development, the United States department of veterans affairs, the federal national mortgage association, the federal home loan mortgage corporation, or the government national mortgage association.~~

~~(E)(G)~~ "Mortgage broker" means a any of the following:

(1) A person that, in the regular course of business, holds that person out as being able to assist a buyer in obtaining a mortgage and charges or receives from either the buyer or lender money or other valuable consideration readily convertible into money for providing this assistance- "Mortgage broker" does not include any of the following:

~~(1) A person that makes or collects loans, to the extent these activities are subject to licensure or registration by this state;~~

~~(2) A lender approved by the United States secretary of housing and urban development for participation in a mortgage insurance program under the "National Housing Act," 48 Stat. 1246 (1934), 12 U.S.C.A. 1701, as amended person that solicits financial and mortgage information from the public, provides that information to a mortgage broker, and charges or receives from the mortgage broker money or other valuable consideration readily convertible into money for providing the information;~~

~~(3) A bank, savings bank, savings and loan association, or subsidiary or affiliate of a bank, savings bank, or savings and loan association. For purposes of division (E)(3) of this section, "affiliate" has the same meaning as in division (A) of section 1101.01 of the Revised Code, and "bank," as used in division (A) of section 1101.01 of the Revised Code, is deemed to include a savings bank or savings and loan association.~~

~~(4) A credit union organized and qualified under Chapter 1733. of the Revised Code or the "Federal Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751, as amended;~~

~~(5) A budget and debt counseling service, as defined in division (D) of section 2716.03 of the Revised Code, provided that the service is a nonprofit organization exempt from taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, and~~

~~that the service is in compliance with Chapter 4710. of the Revised Code;~~

~~(6) A consumer reporting agency that is in substantial compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as amended;~~

~~(7) A mortgage banker;~~

~~(8) Any political subdivision, or any governmental or other public entity, corporation, or agency, in or of the United States or any state of the United States;~~

~~(9) A college or university, or controlled entity of a college or university, as defined in section 1713.05 of the Revised Code.~~

~~(F) person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans.~~

~~(H) "Operations manager" means the individual responsible for the everyday operations, compliance requirements, and management of a mortgage broker business.~~

~~(I) "Originate" means to do any of the following:~~

~~(1) Negotiate or arrange, or offer to negotiate or arrange, a mortgage loan between a person that makes or funds mortgage loans and a buyer;~~

~~(2) Issue a commitment for a mortgage loan to a buyer;~~

~~(3) Place, assist in placement, or find a mortgage loan for a buyer.~~

~~(J) "Registrant" means any person that has been issued a mortgage broker certificate of registration under sections 1322.01 to 1322.12 of the Revised Code.~~

~~(G)(K) "Superintendent of financial institutions" includes the deputy superintendent for consumer finance as provided in section 1181.21 of the Revised Code.~~

~~(L) "Table-funding mortgage loan" means a mortgage loan transaction in which the mortgage is initially payable to the mortgage broker, the mortgage broker does not use the mortgage broker's own funds to fund the transaction, and, by the terms of the mortgage or other agreement, the mortgage is simultaneously assigned to another person.~~

~~(M) "Warehouse-lending mortgage loan" means a mortgage loan transaction in which the mortgage is initially payable to the mortgage broker, the mortgage broker uses the mortgage broker's own funds to fund the transaction, and the mortgage is sold or assigned before the mortgage broker receives a scheduled payment on the mortgage.~~

Sec. 1322.02. (A)(1) No person, on the person's own behalf or on behalf of any other person, shall act as a mortgage broker without first having obtained a certificate of registration from the superintendent of financial institutions for every office to be maintained by the person for the

transaction of business as a mortgage broker in this state. A registrant shall maintain an office location in this state for the transaction of business as a mortgage broker in this state.

(2) No person shall act or hold that person's self out as a mortgage broker under the authority or name of a registrant or person exempt from sections 1322.01 to 1322.12 of the Revised Code without first having obtained a certificate of registration from the superintendent for every office to be maintained by the person for the transaction of business as a mortgage broker in this state.

(B) No person, on the person's own behalf or on behalf of any other person, shall originate mortgage loans for a registrant, unless that person is an employee of the registrant act as a loan officer without first having obtained a license from the superintendent. A loan officer shall not be employed by more than one mortgage broker at any one time.

(C) As used in this section:

(1) Employee means a person who may be required or directed by a registrant to originate mortgage loans in consideration of direct or indirect gain or profit. Employee does not include an independent contractor or any person who has a similar employment relationship with a mortgage broker. The following persons are exempt from sections 1322.01 to 1322.12 of the Revised Code only with respect to business engaged in or authorized by their charter, license, authority, approval, or certificate, or as otherwise authorized by division (C)(1)(g) of this section:

(a) A bank, savings bank, savings and loan association, or credit union organized under the laws of this state, another state, or the United States, or a subsidiary or affiliate of a bank, savings bank, savings and loan association, or credit union;

(b) A budget and debt counseling service, as defined in division (D) of section 2716.03 of the Revised Code, provided that the service is a nonprofit organization exempt from taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is in compliance with Chapter 4710. of the Revised Code;

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

(d) Any political subdivision, or any governmental or other public entity, corporation, or agency, in or of the United States or any state of the United States;

(e) A college or university, or controlled entity of a college or university, as defined in section 1713.05 of the Revised Code;

(f) A person registered under sections 1321.51 to 1321.60 of the Revised Code, provided that not more than five per cent of the person's mortgage loans constitute table-funding mortgage loans or warehouse-lending mortgage loans. Division (C)(1)(f) of this section does not include any person that is also registered or licensed under sections 1322.01 to 1322.12 of the Revised Code.

(g) A mortgage banker. For purposes of division (C)(1)(g) of this section, "mortgage banker" means any person that makes, services, buys, or sells mortgage loans, that underwrites the loans, and that meets at least one of the following criteria:

(i) The person has been directly approved by the United States department of housing and urban development as a nonsupervised mortgagee with participation in the direct endorsement program. Division (C) (1) (g) (i) of this section includes a person that has been directly approved by the United States department of housing and urban development as a nonsupervised mortgagee with participation in the direct endorsement program and that makes loans in excess of the applicable loan limit set by the federal national mortgage association, provided that the loans in all respects, except loan amounts, comply with the underwriting and documentation requirements of the United States department of housing and urban development. Division (C)(1)(g)(i) of this section does not include a mortgagee approved as a loan correspondent.

(ii) The person has been directly approved by the federal national mortgage association as a seller/servicer. Division (C) (1) (g) (ii) of this section includes a person that has been directly approved by the federal national mortgage association as a seller/servicer and that makes loans in excess of the applicable loan limit set by the federal national mortgage association, provided that the loans in all respects, except loan amounts, comply with the underwriting and documentation requirements of the federal national mortgage association.

(iii) The person has been directly approved by the federal home loan mortgage corporation as a seller/servicer. Division (C) (1) (g) (iii) of this section includes a person that has been directly approved by the federal home loan mortgage corporation as a seller/servicer and that makes loans in excess of the applicable loan limit set by the federal home loan mortgage corporation, provided that the loans in all respects, except loan amounts, comply with the underwriting and documentation requirements of the federal home loan mortgage corporation.

(iv) The person has been directly approved by the United States department of veterans affairs as a nonsupervised automatic lender. Division

(C)(1)(g)(iv) of this section does not include a person directly approved by the United States department of veterans affairs as a nonsupervised lender, an agent of a nonsupervised automatic lender, or an agent of a nonsupervised lender.

(h) A person created solely for the purpose of securitizing loans secured by an interest in real estate, provided the person does not service the loans. For purposes of division (C)(1)(h) of this section, "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.

(2) Originate means any of the following:

~~(a) To negotiate or arrange, or to offer to negotiate or arrange, a mortgage loan between a person that makes or funds mortgage loans and a buyer;~~

~~(b) To issue a commitment for a mortgage loan to a buyer;~~

~~(c) To place, assist in placement, or find a mortgage loan for a buyer~~
Any individual who is employed by a person exempt from sections 1322.01 to 1322.12 of the Revised Code is also exempt from those sections to the extent the individual is acting within the scope of the individual's employment and within the scope of the exempt person's charter, license, authority, approval, or certificate.

Sec. 1322.021. (A) A registrant that is a corporation, limited liability company, partnership, trust, or other business entity or association shall notify the division of financial institutions of every sale, transfer, or hypothecation of any stock, security, membership, partnership, or other equitable, beneficial, or ownership interest in the entity or association, if the interest represents at least a five per cent membership, partnership, or other equitable, beneficial, or ownership interest in the entity or association.

(B) Every person that acquires or otherwise receives an interest described in division (A) of this section is subject to sections 1322.01 to 1322.12 of the Revised Code. The division may make any investigation necessary to determine whether any fact or condition exists that, if it had existed at the time of the original application for a certificate of registration, the fact or condition would have warranted the division to deny the application under section 1322.04 of the Revised Code. If such a fact or condition is found, the division may, in accordance with Chapter 119. of the Revised Code, revoke the registrant's certificate.

Sec. 1322.03. (A) An application for a certificate of registration as a mortgage broker shall be in writing, under oath, and in the form prescribed by the superintendent of financial institutions. The application shall be accompanied by ~~an~~ a nonrefundable application fee of three hundred fifty

dollars for each location of an office to be maintained by the applicant in accordance with division (A) of section 1322.02 of the Revised Code ~~and;~~ however, an applicant that is registered under sections 1321.51 to 1321.60 of the Revised Code shall not be required to pay an application fee. The application shall provide all of the following:

(1) The location or locations where the business is to be transacted and whether any location is a residence. If any location where the business is to be transacted is a residence, the application shall be accompanied by a certified copy of a zoning permit authorizing the use of the residence for commercial purposes, or shall be accompanied by a written opinion or other document issued by the county or political subdivision where the residence is located certifying that the use of the residence to transact business as a mortgage broker is not prohibited by the county or political subdivision. The application also shall be accompanied by a photograph of each location at which the business will be transacted.

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

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

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

(d) In the case of any other entity, the name and address of any person that owns five per cent or more of the entity that will transact business as a mortgage broker.

~~(3)(a) If the applicant is a partnership, the applicant shall designate one of the partners named in the application pursuant to division (A)(2)(b) of this section as responsible for managing the operations of the location or locations where the business is to be transacted.~~

~~(b) If the applicant is a corporation, the applicant shall designate one of the shareholders named in the application pursuant to division (A)(2)(c) of this section as responsible for managing the operations of the location or locations where the business is to be transacted.~~

~~(c) If the applicant is corporation, limited liability company, or any other business entity or association, the applicant shall designate ~~a natural person that owns five per cent or more of the entity that will transact business as a mortgage broker as responsible for managing the~~ an employee or owner of the applicant as the applicant's operations of the location or locations where the business is to be transacted manager. While acting as the operations manager, the employee or owner shall not be employed by any other mortgage broker.~~

~~(4) Evidence that at least one of the following applies to the sole~~

~~proprietor, partner, shareholder, or natural~~ the person designated on the application pursuant to division (A)(3) of this section, ~~as responsible for managing the operations of the location or locations where the business is to be transacted:~~

~~(a) Except as provided in division (D)(2) of this section, the sole proprietor, partner, shareholder, or natural person has earned at least an associate degree in an area relating to finance, banking, or business administration, and the degree was earned at an accredited college or university, including an accredited community or technical college.~~

~~(b) The sole proprietor, partner, shareholder, or natural person applicable, possesses at least three years of experience in the mortgage and lending field, which experience may include employment with or as a mortgage broker or with a financial institution, mortgage lending institution, or other lending institution, or possesses at least three years of other experience related specifically to the business of mortgage loans that the superintendent determines meets the requirements of division (A)(4)(b) of this section;~~

(5) Evidence of compliance with the surety bond requirements of section 1322.05 of the Revised Code and with sections 1322.01 to 1322.12 of the Revised Code;

(6) In the case of a foreign ~~corporation~~ business entity, evidence that it maintains a license or registration pursuant to Chapter 1703., 1705., 1775., 1777., 1782., or 1783. of the Revised Code to transact business in this state;

(7) A statement ~~that~~ as to whether the applicant or, to the best of the applicant's knowledge, any shareholder, member, partner, operations manager, or employee of the applicant has ~~not~~ been convicted of or pleaded guilty to a any criminal offense, ~~the violation of which is a felony involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking,~~ or any criminal offense involving fraud money or securities;

(8) A statement as to whether the applicant or, to the best of the applicant's knowledge, any shareholder, member, partner, operations manager, or employee of the applicant has been subject to any adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty;

(9) Evidence that the applicant's operations manager has successfully completed the examination required under division (A) of section 1322.051 of the Revised Code;

(10) Any further information that the superintendent requires.

(B) Upon the filing of the application and payment of the application

fee, the superintendent shall investigate the applicant. The investigation shall include a criminal records check based on the fingerprints of the applicant and a civil records check. If, in order to issue a certificate of registration to an applicant, investigation by the superintendent outside this state is necessary, the superintendent may require the applicant to advance sufficient funds to pay the actual expenses of the investigation, if it appears that these expenses will exceed three hundred fifty dollars. The superintendent shall provide the applicant with an itemized statement of the actual expenses that the applicant is required to pay.

(C) All funds advanced and application and renewal fees and penalties paid to the superintendent under this section and section 1322.04 of the Revised Code shall be paid by the superintendent to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code.

~~(D)(1) Division (A)(4) of this section does not apply to any registrant that, on March 4, 1996, is registered as a mortgage broker under sections 1322.01 to 1322.12 of the Revised Code under a certificate of registration issued pursuant to those sections prior to March 4, 1996, provided that the certificate of registration is not surrendered by the registrant or revoked or refused renewal by the superintendent of financial institutions at any time after March 4, 1996.~~

~~(2) Except as provided in division (D)(3) of this section, on and after the effective date of this amendment, evidence of education provided in division (A)(4)(a) of this section shall not be accepted on an application of a person applying as a new applicant for a certificate of registration as a mortgage broker. However, on and after the effective date of this amendment, a person who, prior to that date, submitted evidence of education as provided for in division (A)(4)(a) of this section may renew a certificate of registration as a mortgage broker, provided that the person is registered on that date as a mortgage broker pursuant to section 1322.04 of the Revised Code, and a certificate of registration as a mortgage broker is not surrendered by the person or revoked or refused renewal by the superintendent at any time after that date.~~

~~(3) For a period ending three years after the effective date of this amendment, evidence that the person designated as responsible for managing the operation of a location or locations where business is or will be transacted meets the educational requirements specified in division (A)(4)(a) of this section shall be acceptable on an application for a certificate of registration as a mortgage broker, if the superintendent determines that both of the following apply:~~

~~(a) Prior to the effective date of this amendment, the person was designated pursuant to division (A)(3) of this section as responsible for managing the operations of a location or locations where a registrant's business was transacted, having met the educational requirements provided in division (A)(4)(a) of this section;~~

~~(b) The person is designated as responsible for managing the operations of an entity described in division (A)(2) of this section where the mortgage broker business is or will be transacted. If an application for a certificate of registration does not contain all of the information required under division (A) of this section, and if that information is not submitted to the superintendent within ninety days after the superintendent requests the information in writing, the superintendent may consider the application withdrawn.~~

~~(E) A certificate of registration, or the authority granted under such a certificate, is not transferable or assignable and cannot be franchised by contract or any other means.~~

~~Sec. 1322.031. (A) An application for a license as a loan officer shall be in writing, under oath, and in the form prescribed by the superintendent of financial institutions. The application shall be accompanied by a nonrefundable application fee of one hundred dollars and shall provide all of the following:~~

~~(1) The name and address of the applicant;~~

~~(2) A statement as to whether the applicant has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities;~~

~~(3) A statement as to whether the applicant has been subject to an adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty;~~

~~(4) Any further information that the superintendent requires.~~

~~(B) Upon the filing of the application and payment of the application fee, the superintendent shall investigate the applicant. The investigation shall include a criminal records check based on the fingerprints of the applicant and a civil records check. If, in order to issue a license to an applicant, investigation by the superintendent outside this state is necessary, the superintendent may require the applicant to advance sufficient funds to pay the actual expenses of the investigation, if it appears that these expenses will exceed one hundred dollars. The superintendent shall provide the applicant with an itemized statement of the actual expenses that the~~

applicant is required to pay.

(C) All funds advanced and application and renewal fees and penalties paid to the superintendent under this section and section 1322.041 of the Revised Code shall be paid by the superintendent to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code.

(D) If an application for a license does not contain all of the information required under division (A) of this section, and if that information is not submitted to the superintendent within ninety days after the superintendent requests the information in writing, the superintendent may consider the application withdrawn.

(E)(1) The business of a loan officer shall principally be transacted at an office of the employing mortgage broker, which office is registered in accordance with division (A) of section 1322.02 of the Revised Code. Each original license shall be deposited with and maintained by the employing mortgage broker at the mortgage broker's main office. A copy of the license shall be maintained and displayed at the office where the loan officer principally transacts business.

(2) If a loan officer's employment is terminated, the mortgage broker shall return the original license to the superintendent within five business days after the termination. The licensee may request the transfer of the license to another mortgage broker by submitting a relocation application, along with a fifteen dollar fee, to the superintendent or may request the superintendent in writing to hold the license in escrow for a period not to exceed one year. Any licensee whose license is held in escrow shall cease activity as a loan officer.

A mortgage broker may employ a loan officer on a temporary basis pending the transfer of the loan officer's license to the mortgage broker, if the mortgage broker receives written confirmation from the superintendent that the loan officer is licensed under sections 1322.01 to 1322.12 of the Revised Code.

(F) A license, or the authority granted under such a license, is not assignable and cannot be franchised by contract or any other means.

Sec. 1322.04. (A) Upon the conclusion of the investigation required under division (B) of section 1322.03 of the Revised Code, the superintendent of financial institutions shall issue a certificate of registration to the applicant if the superintendent finds that the following conditions are met:

(1) The Except as otherwise provided in division (A) of section 1322.03 of the Revised Code, the application is accompanied by the application fee of

~~three hundred fifty dollars for each location of an office to be maintained by the applicant in accordance with division (A) of section 1322.02 of the Revised Code and complies with division (A) of section 1322.03 of the Revised Code. If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the registrant by certified mail, return receipt requested, that the certificate of registration issued in reliance on the check or other draft instrument will be canceled unless the registrant, within thirty days after receipt of the notice, submits the application fee and a one-hundred-dollar penalty to the superintendent. If the registrant does not submit the application fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the certificate of registration shall be canceled immediately without a hearing and the registrant shall cease activity as a mortgage broker.~~

(2) If the application is for a location that is a residence, that the applicant has obtained a valid zoning permit authorizing the use of the residence for commercial purposes, or has obtained a valid written opinion or other document issued by the county or political subdivision where the residence is located certifying that the use of the residence to transact business as a mortgage broker is not prohibited by the county or political subdivision. The application also is accompanied by a photograph of each location at which the mortgage broker's business will be transacted.

~~(3)(a) The sole proprietor, partner, shareholder, or natural~~ the person designated on the application; pursuant to division (A)(3) of section 1322.03 of the Revised Code, as ~~responsible for managing the operation of the location or locations where the business is to be transacted~~ applicable, meets the ~~educational or~~ experience requirements provided in division (A)(4) of section 1322.03 of the Revised Code.

~~(b) If a partner, shareholder, or natural person designated pursuant to division (A)(3) of section 1322.03 of the Revised Code ceases to be responsible for managing the operation of the location or locations where the business is to be transacted, the applicant shall comply with the requirements that apply to a registrant under division (E) of this section.~~

~~(4) In the case of a foreign corporation, the~~ The applicant maintains a license pursuant to Chapter 1703. of the Revised Code to transact business ~~in this~~ all licenses and registrations required by the secretary of state.

(5) The applicant complies with the surety bond requirements of section 1322.05 of the Revised Code.

(6) The applicant complies with sections 1322.01 to 1322.12 of the

Revised Code.

(7) ~~The~~ Neither the applicant nor any shareholder, member, partner, operations manager, or employee of the applicant has not pleaded guilty to or been convicted of a any criminal offense, the violation of which is a felony, or any criminal offense involving fraud described in division (A)(7) of section 1322.03 of the Revised Code, or, if the applicant or any of those other persons has pleaded guilty to or been convicted of such an offense, the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's or other person's activities and employment record since the conviction show that the applicant or other person is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant or other person will commit such an offense again.

(8) Neither the applicant nor any shareholder, member, partner, operations manager, or employee of the applicant has been subject to any adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty, or, if the applicant or any of those other persons has been subject to such a judgment, the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's or other person's activities and employment record since the judgment show that the applicant or other person is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant or other person will be subject to such a judgment again.

(9) The applicant's operations manager successfully completed the examination required under division (A) of section 1322.051 of the Revised Code.

(10) The applicant's financial responsibility, experience, character, and general fitness command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of sections 1322.01 to 1322.12 of the Revised Code.

For purposes of determining whether an applicant that is a partnership, corporation, or other business entity or association has met the conditions set forth in ~~division~~ divisions (A)(7), (A)(8), and (A)(10) of this section, the superintendent shall determine which partners, shareholders, or persons named in the application pursuant to division (A)(2) of section 1322.03 of the Revised Code must meet the conditions set forth in ~~division~~ divisions (A)(7), (A)(8), and (A)(10) of this section. This determination shall be based on the extent and nature of the partner's, shareholder's, or person's ownership interest in the partnership, corporation, or other business entity or association that is the applicant.

(B) The certificate of registration issued pursuant to division (A) of this

section may be renewed annually on or before the thirtieth day of April ~~upon payment of a~~ if the superintendent finds that all of the following conditions are met:

(1) The renewal application is accompanied by a nonrefundable renewal fee of three hundred fifty dollars for each location of an office to be maintained by the applicant in accordance with division (A) of section 1322.02 of the Revised Code and a finding by the superintendent that the; however, an applicant that is registered under sections 1321.51 to 1321.60 of the Revised Code shall not be required to pay a renewal fee. If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the registrant by certified mail, return receipt requested, that the certificate of registration renewed in reliance on the check or other draft instrument will be canceled unless the registrant, within thirty days after receipt of the notice, submits the renewal fee and a one-hundred-dollar penalty to the superintendent. If the registrant does not submit the renewal fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the certificate of registration shall be canceled immediately without a hearing and the registrant shall cease activity as a mortgage broker.

(2) On and after January 1, 2003, the operations manager designated under division (A)(3) of section 1322.03 of the Revised Code has completed, during the immediately preceding calendar year, at least six hours of continuing education as required under section 1322.052 of the Revised Code.

(3) The applicant meets the conditions set forth in divisions (A)(2) to (8)(10) of this section and that the.

(4) The applicant's certificate of registration is not subject to an order of suspension or revocation by the superintendent. If

(C)(1) Subject to division (C)(2) of this section, if a renewal fee is received by the superintendent after the thirtieth day of April, the certificate of registration shall not be considered renewed, and the applicant shall cease activity as a mortgage broker and apply for a certificate of registration as a mortgage broker.

~~(C) No application or renewal fee required by division (A) or (B) of this section shall be returned after a certificate of registration has been issued or renewed by the superintendent.~~

~~(D) Division (A)(3) of this section does not apply to any registrant that, on March 4, 1996, is registered as a mortgage broker under sections 1322.01 to 1322.12 of the Revised Code under a certificate of registration issued~~

~~pursuant to those sections prior to March 4, 1996, provided that the certificate of registration is not surrendered by the registrant or revoked or refused renewal by the superintendent of financial institutions at any time after March 4, 1996.~~

~~(E)(2) Division (C)(1) of this section shall not apply if the applicant, no later than the thirty-first day of May, submits the renewal fee and a one-hundred-dollar penalty to the superintendent.~~

~~(D) If a partner, shareholder, or natural~~ the person designated as the operations manager pursuant to division (A)(3) of section 1322.03 of the Revised Code is no longer responsible for managing the operation of the location or locations where business is to be transacted ~~the operations manager,~~ the registrant shall do all of the following:

(1) Designate another ~~partner, shareholder, or natural~~ person as responsible for managing the operation of the location or locations where business is to be transacted the operations manager;

(2) Within ten days after the designation described in division ~~(E)(D)~~(1) of this section, notify the superintendent in writing of the designation;

(3) Submit any additional information that the superintendent requires to establish that the newly designated ~~partner, shareholder, or natural person~~ operations manager complies with the experience requirements set forth in division (A)(4)~~(b)~~ of section 1322.03 of the Revised Code.

Sec. 1322.041. (A) Upon the conclusion of the investigation required under division (B) of section 1322.031 of the Revised Code, the superintendent of financial institutions shall issue a loan officer license to the applicant if the superintendent finds that the following conditions are met:

(1) The application is accompanied by the application fee. If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the licensee by certified mail, return receipt requested, that the license issued in reliance on the check or other draft instrument will be canceled unless the licensee, within thirty days after receipt of the notice, submits the application fee and a one-hundred-dollar penalty to the superintendent. If the licensee does not submit the application fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the license shall be canceled immediately without a hearing and the licensee shall cease activity as a loan officer.

(2) The applicant complies with sections 1322.01 to 1322.12 of the Revised Code.

(3) The applicant has not been convicted of or pleaded guilty to any

criminal offense described in division (A)(2) of section 1322.031 of the Revised Code, or, if the applicant has been convicted of or pleaded guilty to such an offense, the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again.

(4) The applicant has not been subject to an adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty, or, if the applicant has been subject to such a judgment, the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the judgment show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will be subject to such a judgment again.

(5) The applicant's character and general fitness command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of sections 1322.01 to 1322.12 of the Revised Code.

(B) The license issued under division (A) of this section may be renewed annually on or before the thirtieth day of April if the superintendent finds that all of the following conditions are met:

(1) The renewal application is accompanied by a nonrefundable renewal fee of one hundred dollars. If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the licensee by certified mail, return receipt requested, that the license renewed in reliance on the check or other draft instrument will be canceled unless the licensee, within thirty days after receipt of the notice, submits the renewal fee and a one-hundred-dollar penalty to the superintendent. If the licensee does not submit the renewal fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the license shall be canceled immediately without a hearing and the licensee shall cease activity as a loan officer.

(2) On and after January 1, 2003, the loan officer has completed, during the immediately preceding calendar year, at least six hours of continuing education as required under section 1322.052 of the Revised Code.

(3) The applicant meets the conditions set forth in divisions (A)(2) to (5) of this section.

(4) The applicant's license is not subject to an order of suspension or

revocation by the superintendent.

(C)(1) Subject to division (C)(2) of this section, if a license renewal application or renewal fee is received by the superintendent after the thirtieth day of April, the license shall not be considered renewed, and the applicant shall cease activity as a loan officer.

(2) Division (C)(1) of this section shall not apply if the applicant, no later than the thirty-first day of May, submits the renewal application and fee and a one-hundred-dollar penalty to the superintendent.

Sec. 1322.05. (A) No registrant shall conduct business in this state, unless the registrant has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the superintendent of financial institutions and in the penal sum of at least ~~twenty-five~~ fifty thousand dollars and an additional penal sum of ~~five~~ ten thousand dollars for each location, in excess of one, at which the registrant conducts business. The term of the bond shall coincide with the term of registration. A copy of the bond shall be filed with the superintendent. The bond shall be for the exclusive benefit of any ~~person~~ buyer injured by a violation by an employee, licensee, or registrant of any provision of sections 1322.01 to 1322.12 of the Revised Code. The aggregate liability of the corporate surety for any and all breaches of the conditions of the bond shall not exceed the penal sum of the bond.

(B)(1) The registrant shall give notice to the superintendent by certified mail of any action that is brought by a buyer against the registrant or loan officer of the registrant alleging injury by a violation of any provision of sections 1322.01 to 1322.12 of the Revised Code, and of any judgment that is entered against the registrant or loan officer of the registrant by a ~~person~~ buyer injured by a violation of any provision of sections 1322.01 to 1322.12 of the Revised Code. The notice shall provide details sufficient to identify the action or judgment, and shall be filed with the superintendent within ten days after the commencement of the action or notice to the registrant of entry of a judgment. ~~The~~

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

(C) Whenever the penal sum of the corporate surety bond is reduced by one or more recoveries or payments, the registrant shall furnish a new or additional bond under this section, so that the total or aggregate penal sum of the bond or bonds equals the sum required by this section, or shall furnish

an endorsement executed by the corporate surety reinstating the bond to the required penal sum of it.

(D) The liability of the corporate surety on the bond to the superintendent and to any ~~person~~ buyer injured by a violation of any provision of sections 1322.01 to 1322.12 of the Revised Code shall not be affected in any way by any misrepresentation, breach of warranty, or failure to pay the premium, by any act or omission upon the part of the registrant, by the insolvency or bankruptcy of the registrant, or by the insolvency of the registrant's estate. The liability for any act or omission that occurs during the term of the corporate surety bond shall be maintained and in effect for at least two years after the date on which the corporate surety bond is terminated or canceled.

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

(F) No registrant shall fail to comply with this section. Any registrant that fails to comply with this section shall cease all mortgage broker activity in this state until the registrant complies with this section.

Sec. 1322.051. (A) Each person designated under division (A)(3) of section 1322.03 of the Revised Code to act as operations manager for a mortgage broker business shall submit to an examination approved by the superintendent of financial institutions.

(B) Each licensee, within ninety days after the original issuance of the loan officer license, shall successfully complete an examination approved by the superintendent. Failure to comply with this division results in the termination of the license by operation of law.

Sec. 1322.052. On and after January 1, 2002, each licensee and each person designated under division (A)(3) of section 1322.03 of the Revised Code to act as operations manager for a mortgage broker business shall complete at least six hours of continuing education every calendar year. To fulfill this requirement, the six hours of continuing education must be offered in a course or program of study approved by the superintendent of financial institutions.

Sec. 1322.06. (A) As often as the superintendent of financial institutions considers it necessary, the superintendent may examine the registrant's records pertaining to business transacted pursuant to sections 1322.01 to 1322.12 of the Revised Code.

(B) A registrant shall maintain records pertaining to business transacted pursuant to sections 1322.01 to 1322.12 of the Revised Code for ~~two~~ four

~~years or more after the final entry on such records. No registrant shall fail to comply with this division.~~

~~(C) All information obtained by the superintendent or the superintendent's deputies, examiners, assistants, agents, or clerks by reason of their official position, including information obtained by such persons in the course of examining a registrant or investigating an applicant for a certificate of registration, is privileged and confidential. All such information shall remain privileged and confidential for all purposes except when it is necessary for the superintendent and the superintendent's deputies, examiners, assistants, agents, or clerks to take official action regarding the affairs of the registrant or in connection with criminal proceedings.~~

Sec. 1322.061. (A)(1) The following information is privileged and confidential:

(a) Examination information, and any information leading to or arising from an examination;

(b) Investigation information, and any information arising from or leading to an investigation.

(2) The information described in division (A)(1) of this section shall remain privileged and confidential for all purposes except when it is necessary for the superintendent of financial institutions to take official action regarding the affairs of a registrant, or in connection with civil or criminal investigations or proceedings conducted by the attorney general or a county prosecutor. The superintendent may share examination and investigation information with any law enforcement agency or any other state or federal regulatory agency. Any information shared with the attorney general, a county prosecutor, or a law enforcement agency or other state or federal regulatory agency shall remain privileged and confidential and shall only be used in connection with an official investigation, proceeding, or action.

(B) All application information, except social security numbers, employer identification numbers, financial account numbers, the identity of the institution where financial accounts are maintained, personal financial information, fingerprint cards and the information contained on such cards, and criminal background information, is a public record as defined in section 149.43 of the Revised Code.

Sec. 1322.062. (A) 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:

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

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

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

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

(5) 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;

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

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

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

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

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

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

Sec. 1322.07. No mortgage broker, registrant, licensee, or applicant for a certificate of registration or license under sections 1322.01 to 1322.12 of the Revised Code shall do any of the following:

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

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

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

(D) Fail to notify the division of financial institutions ~~if~~ within thirty days after the registrant, licensee, or applicant, in a court of competent jurisdiction of this state or any other state, is convicted of or pleads guilty to a any criminal offense, the violation of which is a felony involving theft,

receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving fraud money or securities;

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

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

Sec. 1322.071. (A) As used in this section, "bona fide third party" has the same meaning as in section 1322.08 of the Revised Code.

(B) No mortgage broker, registrant, or licensee shall do any of the following:

(1) Retain original documents provided to the mortgage broker, registrant, or licensee by the buyer in connection with the loan application, including income tax returns, account statements, or other financial related documents;

(2) Receive, directly or indirectly, a premium on the fees charged for services performed by a bona fide third party;

(3) 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, such as a home improvement builder, real estate developer, or real estate broker or agent, for the referral of business.

Sec. 1322.072. No person, in connection with any examination or investigation conducted by the superintendent of financial institutions under sections 1322.01 to 1322.12 of the Revised Code, shall knowingly do either of the following:

(A) Circumvent, interfere with, obstruct, or fail to cooperate, including making a false or misleading statement, failing to produce records, or intimidating or suborning any witness;

(B) Tamper with, alter, or manufacture any evidence.

Sec. 1322.073. No person shall acquire, sell, transfer, or hypothecate any interest in a registrant or an applicant for a certificate of registration in order to obfuscate or conceal the true ownership or control of the registrant or applicant.

Sec. 1322.08. (A) No registrant shall fail to do any of the following:

(1) Maintain a special account;

(2) Deposit into the registrant's special account any bona fide third-party fee the registrant receives;

(3) Pay bona fide third-party fees to a bona fide third party from the registrant's special account.

(B) Except as otherwise provided in this division, no registrant shall charge or receive, directly or indirectly, fees for assisting a buyer in obtaining a mortgage, until all of the services that the registrant has agreed to perform for the buyer are completed, and the proceeds of the mortgage loan have been disbursed to or on behalf of the buyer. However, prior to completion of such services the following fees may be paid for services performed by a bona fide third party in assisting the buyer to obtain a mortgage if the fees are either paid directly by the buyer to the bona fide third party or, except as provided in division ~~(A)(6)~~(B)(5) of this section, the fees are deposited by the registrant into the registrant's special account for services performed by the bona fide third party:

(1) Fees to obtain a report from a credit reporting agency;

(2) Fees for notary services;

~~(3) Fees authorized by law to record, file, or release a security interest or mortgage;~~

~~(4)~~ Fees for the performance of a title search, appraisal of the real estate, or survey of the real estate;

~~(5)~~(4) Fees charged by a lender for locking in an interest rate in connection with obtaining or refinancing a mortgage, provided that the fees do not exceed an amount equal to one and one-half per cent of the mortgage loan amount;

~~(6)~~(5) Fees not exceeding five hundred dollars paid directly by the buyer to a state or federal government agency or instrumentality for purposes of processing a mortgage application relating to a government sponsored or guaranteed mortgage program.

~~(B)~~(C) If fees are paid by a buyer for the performance of any of the services described in division ~~(A)(4)~~ (B)(3) of this section and the registrant is unable to assist in obtaining a mortgage for the buyer, the registrant shall return to the buyer the original documents prepared by the bona fide third party at the time that the request for the mortgage is refused or denied. With respect to any appraisal, however, the registrant may return either the original or a copy. No registrant shall fail to comply with this division.

~~(C)~~(D) For purposes of this section:

(1) "Bona fide third party" means a person that is not an employee of, related to, or affiliated with, the registrant, and that is not used for the purpose of circumvention or evasion of this section.

(2) "Special account" means a depository account with a financial institution, the deposits of which are insured by the federal deposit insurance corporation, that is separate and distinct from any personal or other account of the registrant, and that is maintained solely for the holding and payment of fees described in ~~division (A) of this section~~ for services performed by bona fide third parties and received by the registrant from buyers that the registrant assists in obtaining mortgages.

Sec. 1322.09. A mortgage broker shall disclose in any printed, televised, broadcast, electronically transmitted, or published advertisement relating to the mortgage broker's services, including on any electronic site accessible through the internet, the name and street address of the mortgage broker and the number designated on the certificate of registration that is issued to the mortgage broker by the superintendent of financial institutions under sections 1322.01 to 1322.12 of the Revised Code. ~~No~~

No mortgage broker shall fail to comply with this section.

Sec. 1322.10. (A) After notice and opportunity for a hearing conducted in accordance with Chapter 119. of the Revised Code, the superintendent of financial institutions may do the following:

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

(a) A violation of ~~division (B) of section 1322.06 or section 1322.05, 1322.07, 1322.08, or 1322.09~~ or failure to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections or any other law applicable to the business conducted under a certificate of registration;

(b) A conviction of or guilty plea to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities.

(2) Impose a fine of not more than one thousand dollars, for each day a violation of a law or rule is committed, repeated, or continued. If the registrant or licensee engages in a pattern of repeated violations of a law or rule, the superintendent may impose a fine of not more than two thousand dollars for each day the violation is committed, repeated, or continued. All fines collected pursuant to this division shall be paid to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code. In determining the amount of a fine to be imposed pursuant to this division, the superintendent shall consider all of the following:

(a) The seriousness of the violation;

(b) The registrant's or licensee's good faith efforts to prevent the

n;

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

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

(e) Any other matters the superintendent considers appropriate in enforcing sections 1322.01 to 1322.12 of the Revised Code.

(B) The superintendent may investigate alleged violations of ~~section~~ sections 1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections or complaints concerning any such violation. The superintendent may make application to the court of common pleas for an order enjoining any such violation, and, upon a showing by the superintendent that a person has committed or is about to commit such a violation, the court shall grant an injunction, restraining order, or other appropriate relief.

(C) In conducting any investigation pursuant to 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.

(D) If the superintendent determines that a person is engaged in or is believed to be engaged in activities that may constitute a violation of sections 1322.01 to 1322.12 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 order shall be enforceable in the court of common pleas.

(E) If the superintendent revokes the certificate of registration or license of a registrant or licensee who is convicted of or pleads guilty to a criminal violation of any provision of sections 1322.01 to 1322.12 of the Revised Code or any criminal offense described in division (A)(1)(b) of this section, the revocation shall be permanent.

Sec. 1322.101. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the division of financial institutions shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules

adopted under section 3123.63 of the Revised Code with respect to a certificate or license issued pursuant to this chapter.

Sec. 1322.11. (A)(1) A buyer injured by a violation of section 1322.02 ~~or, 1322.062, 1322.07, division (B) of section 1322.06, or division (A) or (B) of section 1322.071, 1322.08, or 1322.09~~ of the Revised Code may bring an action for recovery of damages.

(2) Damages awarded under division (A)(1) of this section shall not be less than the amount paid by the buyer to the mortgage broker, plus reasonable attorney's fees and court costs.

(3) The buyer may be awarded punitive damages.

(B)(1) The superintendent of financial institutions, the attorney general, or a buyer may bring an action to enjoin a violation of sections 1322.01 to 1322.12 of the Revised Code.

(2) The superintendent may initiate ~~eliminate~~ criminal proceedings under sections 1322.01 to 1322.12 of the Revised Code by presenting any evidence of criminal violation to the prosecuting attorney of the county in which the offense may be prosecuted. If the prosecuting attorney does not prosecute the violations, or at the request of the prosecuting attorney, the superintendent shall present any evidence of criminal violations to the attorney general, who may proceed in the prosecution with all the rights, privileges, and powers conferred by law on prosecuting attorneys, including the power to appear before grand juries and to interrogate witnesses before such grand juries. These powers of the attorney general shall be in addition to any other applicable powers of the attorney general.

(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 sections 1322.01 to 1322.12 of the Revised Code, 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 sections 1322.01 to 1322.12 of the Revised Code 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 those sections, 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 performance of the registrant's services for the buyer and owes no additional duties or obligations to the buyer with respect to the mortgage loan. However, nothing in this division shall be

construed to limit or preclude the civil or criminal liability of a registrant for failing to comply with sections 1322.01 to 1322.12 of the Revised Code or any rule adopted under those sections, for failing to comply with any provision of or duty arising under an agreement with a buyer or lender under sections 1322.01 to 1322.12 of the Revised Code, or for violating any other provision of state or federal law.

Sec. 1322.99. (A) Whoever violates division (A)(1) or (2) of section 1322.02, division (E) or (F) of section 1322.07 or, division (A)(B)(1) or (B)(2) of section 1322.071, or section 1322.08 of the Revised Code is guilty of a felony of the fifth degree.

(B) Whoever violates division (B)(3) of section 1322.071 of the Revised Code is guilty of a felony of the fourth degree.

(C) Whoever violates division (B) of section 1322.02 of the Revised Code is guilty of a misdemeanor of the first degree.

Sec. 4712.01. As used in sections 4712.01 to 4712.14 of the Revised Code:

(A) "Buyer" means an individual who is solicited to purchase or who purchases the services of a credit services organization for purposes other than obtaining a business loan as described in division (B)(6) of section 1343.01 of the Revised Code.

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

(C)(1) "Credit services organization" means any person that, in return for the payment of money or other valuable consideration readily convertible into money for the following services, sells, provides, or performs, or represents that the person can or will sell, provide, or perform, one or more of the following services:

- (a) Improving a buyer's credit record, history, or rating;
- (b) Obtaining an extension of credit by others for a buyer;
- (c) Providing advice or assistance to a buyer in connection with division (C)(1)(a) or (b) of this section;
- (d) Removing adverse credit information that is accurate and not obsolete from the buyer's credit record, history, or rating;
- (e) Altering the buyer's identification to prevent the display of the buyer's credit record, history, or rating.

(2) "Credit services organization" does not include any of the following:

- (a) A person that makes or collects loans, to the extent these activities are subject to licensure or registration by this state;
- (b) A mortgage broker, as defined in ~~division (E) of section 1322.01~~ of the Revised Code, that holds a valid certificate of registration under sections

1322.01 to 1322.12 of the Revised Code;

(c) A lender approved by the United States secretary of housing and urban development for participation in a mortgage insurance program under the "National Housing Act," 48 Stat. 1246 (1934), 12 U.S.C.A. 1701, as amended;

(d) A bank, savings bank, or savings and loan association, or a subsidiary or an affiliate of a bank, savings bank, or savings and loan association. For purposes of division (C)(2)(d) of this section, "affiliate" has the same meaning as in division (A) of section 1101.01 of the Revised Code and "bank," as used in division (A) of section 1101.01 of the Revised Code, is deemed to include a savings bank or savings and loan association.

(e) A credit union organized and qualified under Chapter 1733. of the Revised Code or the "Federal Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751, as amended;

(f) A budget and debt counseling service, as defined in division (D) of section 2716.03 of the Revised Code, provided that the service is a nonprofit organization exempt from taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is in compliance with Chapter 4710. of the Revised Code;

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

(h) A mortgage banker;

(i) Any political subdivision, or any governmental or other public entity, corporation, or agency, in or of the United States or any state of the United States;

(j) A college or university, or controlled entity of a college or university, as defined in section 1713.05 of the Revised Code;

(k) A motor vehicle dealer licensed pursuant to Chapter 4517. of the Revised Code acting within the scope and authority of that license or a motor vehicle auction owner licensed pursuant to Chapters 4517. and 4707. of the Revised Code acting within the scope and authority of that license.

(D) "Extension of credit" means the right to defer payment of debt, or to incur debt and defer its payment, offered or granted primarily for personal, family, or household purposes. "Extension of credit" does not include a mortgage.

(E) "Mortgage" means any indebtedness secured by a deed of trust, security deed, or other lien on real property.

(F) "Mortgage banker" means any person that makes, services, or buys and sells mortgage loans and is approved by the United States department of

housing and urban development, the United States department of veterans affairs, the federal national mortgage association, or the federal home loan mortgage corporation.

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

SECTION 2. That existing sections 1322.01, 1322.02, 1322.03, 1322.04, 1322.05, 1322.06, 1322.07, 1322.08, 1322.09, 1322.10, 1322.101, 1322.11, 1322.99, and 4712.01 of the Revised Code are hereby repealed.

SECTION 3. Sections 1 and 2 of this act shall take effect six months after the effective date of this act.

SECTION 4. It is the intent of the General Assembly that the Superintendent of Financial Institutions take any action necessary to provide for an orderly transition for those persons who, on the effective date of this act, perform the functions, duties, or powers prescribed for registrants and licensees under this act. Consequently, the Division of Financial Institutions shall accept registration and license applications submitted by such persons beginning on the effective date of this act and shall make every effort possible to act upon such applications within the six-month period immediately following that date.

SECTION 5. The prior operation of section 1322.03 of the Revised Code, which permitted evidence on an application for a certificate of registration as a mortgage broker that the person designated as responsible for managing the operations of a mortgage broker business meets the educational requirements then in effect if, prior to March 18, 1999, that person was designated as being responsible for managing the operations of the registrant's business, shall continue and not be affected by the enactment of this act until March 18, 2002; except that, all requirements, except the experience requirements, applicable to operations managers under this act apply to that person on the date this act takes effect. On and after March 18, 2002, a person not meeting the experience requirements provided in division (A)(4) of section 1322.03 of the Revised Code, as amended by this act, or any other requirement applicable to an operations manager under this act shall not be designated as an operations manager on an application for a certificate of registration as a mortgage broker.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____