

## As Introduced

124th General Assembly  
Regular Session  
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S. B. No. 76

SENATOR Harris

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### A B I L L

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, 1322.073, 1322.074, and 1345.15 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, 1322.073, 1322.074, and 1345.15 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. "Loan officer" does not include an independent contractor of, or person having a similar relationship with, a mortgage broker.

(F) "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 112  
section 1181.21 of the Revised Code. 113

(L) "Table-funding mortgage loan" means a mortgage loan 114  
transaction in which the mortgage is initially payable to the 115  
mortgage broker, the mortgage broker does not use the mortgage 116  
broker's own funds to fund the transaction, and, by the terms of 117  
the mortgage or other agreement, the mortgage is simultaneously 118  
assigned to another person. 119

(M) "Warehouse-lending mortgage loan" means a mortgage loan 120  
transaction in which the mortgage is initially payable to the 121  
mortgage broker, the mortgage broker uses the mortgage broker's 122  
own funds to fund the transaction, and the mortgage is sold or 123  
assigned before the mortgage broker receives a scheduled payment 124  
on the mortgage. 125

**Sec. 1322.02.** (A) No person, on the person's own behalf or on 126  
behalf of any other person, shall act as a mortgage broker without 127  
first having obtained a certificate of registration from the 128  
superintendent of financial institutions for every office to be 129  
maintained by the person for the transaction of business as a 130  
mortgage broker in this state. A registrant shall maintain an 131  
office location in this state for the transaction of business as a 132  
mortgage broker in this state. 133

(B) No person, on the person's own behalf or on behalf of any 134  
other person, shall originate mortgage loans for a registrant, 135  
unless that person is an employee of the registrant act as a loan 136  
officer without first having obtained a license from the 137  
superintendent. A loan officer shall not be employed by more than 138  
one mortgage broker at any one time. 139

(C) ~~As used in this section:~~ 140

(1) ~~Employee means a person who may be required or directed 141~~  
~~by a registrant to originate mortgage loans in consideration of 142~~

~~direct or indirect gain or profit. Employee does not include an~~ 143  
~~independent contractor or any person who has a similar employment~~ 144  
~~relationship with a mortgage broker~~ The following persons are 145  
exempt from sections 1322.01 to 1322.12 of the Revised Code only 146  
with respect to business engaged in or authorized by their 147  
charter, license, authority, approval, or certificate: 148

(a) A bank, savings bank, savings and loan association, or 149  
credit union organized under the laws of this state, another 150  
state, or the United States, or a subsidiary or affiliate of a 151  
bank, savings bank, savings and loan association, or credit union; 152

(b) A budget and debt counseling service, as defined in 153  
division (D) of section 2716.03 of the Revised Code, provided that 154  
the service is a nonprofit organization exempt from taxation under 155  
section 501(c)(3) of the "Internal Revenue Code of 1986," 100 156  
Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is 157  
in compliance with Chapter 4710. of the Revised Code; 158

(c) A consumer reporting agency that is in substantial 159  
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 160  
U.S.C.A. 1681a, as amended; 161

(d) Any political subdivision, or any governmental or other 162  
public entity, corporation, or agency, in or of the United States 163  
or any state of the United States; 164

(e) A college or university, or controlled entity of a 165  
college or university, as defined in section 1713.05 of the 166  
Revised Code; 167

(f) A person registered under sections 1321.51 to 1321.60 of 168  
the Revised Code, provided that not more than five per cent of the 169  
person's mortgage loans constitute table-funding mortgage loans or 170  
warehouse-lending mortgage loans; 171

(g) A mortgage banker. For purposes of division (C)(1)(g) of 172  
this section, "mortgage banker" means any person that makes, 173

services, buys, or sells mortgage 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 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.

(iii) The person has been directly approved by the federal  
home loan mortgage corporation as a seller/servicer.

(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.

**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~~ 265  
~~or more of the entity that will transact business as a mortgage~~ 266  
~~broker as responsible for managing the~~ an employee or owner of the 267  
applicant as the applicant's ~~operations of the location or~~ 268  
~~locations where the business is to be transacted~~ manager. While 269  
acting as the operations manager, the employee or owner shall not 270  
be employed by any other mortgage broker. 271

(4) Evidence that ~~at least one of the following applies to~~ 272  
the sole proprietor, ~~partner, shareholder, or natural~~ the person 273  
designated on the application pursuant to division (A)(3) of this 274  
section, ~~as responsible for managing the operations of the~~ 275  
~~location or locations where the business is to be transacted:~~ 276

~~(a) Except as provided in division (D)(2) of this section,~~ 277  
~~the sole proprietor, partner, shareholder, or natural person has~~ 278  
~~earned at least an associate degree in an area relating to~~ 279  
~~finance, banking, or business administration, and the degree was~~ 280  
~~earned at an accredited college or university, including an~~ 281  
~~accredited community or technical college.~~ 282

~~(b) The sole proprietor, partner, shareholder, or natural~~ 283  
~~person applicable,~~ possesses at least three years of experience in 284  
the mortgage and lending field, which experience may include 285  
employment with or as a mortgage broker or with a financial 286  
institution, mortgage lending institution, or other lending 287  
institution, or possesses at least three years of other experience 288  
related specifically to the business of mortgage loans that the 289  
superintendent determines meets the requirements of division 290  
(A)(4)~~(b)~~ of this section. 291

(5) Evidence of compliance with the surety bond requirements 292  
of section 1322.05 of the Revised Code and with sections 1322.01 293  
to 1322.12 of the Revised Code; 294

(6) In the case of a foreign ~~corporation~~ business entity, 295  
evidence that it maintains a license or registration pursuant to 296

Chapter 1703., 1705., 1775., 1777., 1782., or 1783. of the Revised 297  
Code to transact business in this state; 298

(7) A statement ~~that~~ as to whether the applicant or, to the 299  
best of the applicant's knowledge, any shareholder, member, 300  
partner, operations manager, or employee of the applicant has ~~not~~ 301  
been convicted of or pleaded guilty to ~~a~~ any criminal offense, ~~the~~ 302  
~~violation of which is a felony~~ involving theft, receiving stolen 303  
property, embezzlement, forgery, fraud, passing bad checks, money 304  
laundering, or drug trafficking, or any criminal offense involving 305  
fraud money or securities; 306

(8) A statement as to whether the applicant or, to the best 307  
of the applicant's knowledge, any shareholder, member, partner, 308  
operations manager, or employee of the applicant has been subject 309  
to any adverse judgment for conversion, embezzlement, 310  
misappropriation of funds, fraud, misfeasance or malfeasance, or 311  
breach of fiduciary duty; 312

(9) Evidence that the applicant's operations manager has 313  
successfully completed the examination required under division (A) 314  
of section 1322.051 of the Revised Code; 315

(10) Any further information that the superintendent 316  
requires. 317

(B) Upon the filing of the application and payment of the 318  
application fee, the superintendent shall investigate the 319  
applicant. The investigation shall include a criminal records 320  
check based on the fingerprints of the applicant and a civil 321  
records check. If, in order to issue a certificate of registration 322  
to an applicant, investigation by the superintendent outside this 323  
state is necessary, the superintendent may require the applicant 324  
to advance sufficient funds to pay the actual expenses of the 325  
investigation, if it appears that these expenses will exceed three 326  
hundred fifty dollars. The superintendent shall provide the 327  
applicant with an itemized statement of the actual expenses that 328

the applicant is required to pay. 329

(C) All funds advanced and application and renewal fees paid 330  
to the superintendent under this section and section 1322.04 of 331  
the Revised Code shall be paid by the superintendent to the 332  
treasurer of state to the credit of the consumer finance fund 333  
created in section 1321.21 of the Revised Code. 334

~~(D)(1) Division (A)(4) of this section does not apply to any 335~~  
~~registrant that, on March 4, 1996, is registered as a mortgage 336~~  
~~broker under sections 1322.01 to 1322.12 of the Revised Code under 337~~  
~~a certificate of registration issued pursuant to those sections 338~~  
~~prior to March 4, 1996, provided that the certificate of 339~~  
~~registration is not surrendered by the registrant or revoked or 340~~  
~~refused renewal by the superintendent of financial institutions at 341~~  
~~any time after March 4, 1996. 342~~

~~(2) Except as provided in division (D)(3) of this section, on 343~~  
~~and after the effective date of this amendment, evidence of 344~~  
~~education provided in division (A)(4)(a) of this section shall not 345~~  
~~be accepted on an application of a person applying as a new 346~~  
~~applicant for a certificate of registration as a mortgage broker. 347~~  
~~However, on and after the effective date of this amendment, a 348~~  
~~person who, prior to that date, submitted evidence of education as 349~~  
~~provided for in division (A)(4)(a) of this section may renew a 350~~  
~~certificate of registration as a mortgage broker, provided that 351~~  
~~the person is registered on that date as a mortgage broker 352~~  
~~pursuant to section 1322.04 of the Revised Code, and a certificate 353~~  
~~of registration as a mortgage broker is not surrendered by the 354~~  
~~person or revoked or refused renewal by the superintendent at any 355~~  
~~time after that date. 356~~

~~(3) For a period ending three years after the effective date 357~~  
~~of this amendment, evidence that the person designated as 358~~  
~~responsible for managing the operation of a location or locations 359~~  
~~where business is or will be transacted meets the educational 360~~

~~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 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.

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(E) 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.

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If a loan officer's employment is terminated, the mortgage  
broker shall return the original license to the superintendent  
within thirty 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.

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

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**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:

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(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

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~~Code and complies with division (A) of section 1322.03 of the~~ 453  
~~Revised Code. If a check or other draft instrument is returned to~~ 454  
~~the superintendent for insufficient funds, the certificate of~~ 455  
~~registration issued in reliance on the check or other draft~~ 456  
~~instrument shall be canceled immediately without a hearing and the~~ 457  
~~registrant shall cease activity as a mortgage broker.~~ 458

(2) If the application is for a location that is a residence, 459  
that the applicant has obtained a valid zoning permit authorizing 460  
the use of the residence for commercial purposes, or has obtained 461  
a valid written opinion or other document issued by the county or 462  
political subdivision where the residence is located certifying 463  
that the use of the residence to transact business as a mortgage 464  
broker is not prohibited by the county or political subdivision. 465  
The application also is accompanied by a photograph of each 466  
location at which the mortgage broker's business will be 467  
transacted. 468

~~(3)(a) The sole proprietor, partner, shareholder, or natural~~ 469  
~~the person designated on the application, pursuant to division~~ 470  
~~(A)(3) of section 1322.03 of the Revised Code, as responsible for~~ 471  
~~managing the operation of the location or locations where the~~ 472  
~~business is to be transacted applicable, meets the educational or~~ 473  
~~experience requirements provided in division (A)(4) of section~~ 474  
~~1322.03 of the Revised Code.~~ 475

~~(b) If a partner, shareholder, or natural person designated~~ 476  
~~pursuant to division (A)(3) of section 1322.03 of the Revised Code~~ 477  
~~ceases to be responsible for managing the operation of the~~ 478  
~~location or locations where the business is to be transacted, the~~ 479  
~~applicant shall comply with the requirements that apply to a~~ 480  
~~registrant under division (E) of this section.~~ 481

~~(4) In the case of a foreign corporation, the~~ 482  
~~The applicant~~ 483  
~~maintains a license pursuant to Chapter 1703. of the Revised Code~~ 483  
~~to transact business in this~~ all licenses and registrations 484



required by the secretary of state. 485

(5) The applicant complies with the surety bond requirements 486  
of section 1322.05 of the Revised Code. 487

(6) The applicant complies with sections 1322.01 to 1322.12 488  
of the Revised Code. 489

(7) ~~The~~ Neither the applicant nor any shareholder, member, 490  
partner, operations manager, or employee of the applicant has not 491  
pleaded guilty to or been convicted of a any criminal offense, the 492  
violation of which is a felony, or any criminal offense involving 493  
fraud described in division (A)(7) of section 1322.03 of the 494  
Revised Code, or, if the applicant or any of those other persons 495  
has pleaded guilty to or been convicted of such an offense, the 496  
applicant has proven to the superintendent, by a preponderance of 497  
the evidence, that the applicant's or other person's activities 498  
and employment record since the conviction show that the applicant 499  
or other person is honest, truthful, and of good reputation, and 500  
there is no basis in fact for believing that the applicant or 501  
other person will commit the offense again. 502

(8) Neither the applicant nor any shareholder, member, 503  
partner, operations manager, or employee of the applicant has been 504  
subject to any adverse judgment for conversion, embezzlement, 505  
misappropriation of funds, fraud, misfeasance or malfeasance, or 506  
breach of fiduciary duty, or, if the applicant or any of those 507  
other persons has been subject to such a judgment, the applicant 508  
has proven to the superintendent, by a preponderance of the 509  
evidence, that the applicant's or other person's activities and 510  
employment record since the judgment show that the applicant or 511  
other person is honest, truthful, and of good reputation, and 512  
there is no basis in fact for believing that the applicant or 513  
other person will be subject to such a judgment again. 514

(9) The applicant's operations manager successfully completed 515  
the examination required under division (A) of section 1322.051 of 516

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 certificate of registration renewed in reliance on the check or other draft instrument shall be canceled

immediately without a hearing and the registrant shall cease 549  
activity as a mortgage broker. 550

(2) On and after January 1, 2003, the operations manager 551  
designated under division (A)(3) of section 1322.03 of the Revised 552  
Code has completed, during the immediately preceding calendar 553  
year, at least six hours of continuing education as required under 554  
section 1322.052 of the Revised Code. 555

(3) The applicant meets the conditions set forth in divisions 556  
(A)(2) to (8)(10) of this section and that the. 557

(4) The applicant's certificate of registration is not 558  
subject to an order of suspension or revocation by the 559  
superintendent. ~~if~~ 560

(C) If a renewal fee is received by the superintendent after 561  
the thirtieth day of April, the certificate of registration shall 562  
not be considered renewed, and the applicant shall cease activity 563  
as a mortgage broker and apply for a certificate of registration 564  
as a mortgage broker. 565

~~(C) No application or renewal fee required by division (A) or~~ 566  
~~(B) of this section shall be returned after a certificate of~~ 567  
~~registration has been issued or renewed by the superintendent.~~ 568

~~(D) Division (A)(3) of this section does not apply to any~~ 569  
~~registrant that, on March 4, 1996, is registered as a mortgage~~ 570  
~~broker under sections 1322.01 to 1322.12 of the Revised Code under~~ 571  
~~a certificate of registration issued pursuant to those sections~~ 572  
~~prior to March 4, 1996, provided that the certificate of~~ 573  
~~registration is not surrendered by the registrant or revoked or~~ 574  
~~refused renewal by the superintendent of financial institutions at~~ 575  
~~any time after March 4, 1996.~~ 576

~~(E)(D)~~ If a partner, shareholder, or natural the person 577  
designated as the operations manager pursuant to division (A)(3) 578  
of section 1322.03 of the Revised Code is no longer responsible 579

~~for managing the operation of the location or locations where~~ 580  
~~business is to be transacted~~ the operations manager, the 581  
registrant shall do all of the following: 582

(1) Designate another ~~partner, shareholder, or natural person~~ 583  
~~as responsible for managing the operation of the location or~~ 584  
~~locations where business is to be transacted~~ the operations 585  
manager; 586

(2) Within ten days after the designation described in 587  
division ~~(E)~~(D)(1) of this section, notify the superintendent in 588  
writing of the designation; 589

(3) Submit any additional information that the superintendent 590  
requires to establish that the newly designated ~~partner,~~ 591  
~~shareholder, or natural person~~ operations manager complies with 592  
the experience requirements set forth in division (A)(4)~~(b)~~ of 593  
section 1322.03 of the Revised Code. 594

**Sec. 1322.041.** (A) Upon the conclusion of the investigation 595  
required under division (B) of section 1322.031 of the Revised 596  
Code, the superintendent of financial institutions shall issue a 597  
loan officer license to the applicant if the superintendent finds 598  
that the following conditions are met: 599

(1) The application is accompanied by the application fee. If 600  
a check or other draft instrument is returned to the 601  
superintendent for insufficient funds, any license issued in 602  
reliance on the check or other draft instrument shall be canceled 603  
immediately without a hearing and the licensee shall cease 604  
activity as a loan officer. 605

(2) The applicant complies with sections 1322.01 to 1322.12 606  
of the Revised Code. 607

(3) The applicant has not been convicted of or pleaded guilty 608  
to any criminal offense described in division (A)(2) of section 609

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 the 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, any license issued in reliance on the check or other draft  
instrument 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 641  
completed, during the immediately preceding calendar year, at 642  
least six hours of continuing education as required under section 643  
1322.052 of the Revised Code. 644

(3) The applicant meets the conditions set forth in divisions 645  
(A)(2) to (5) of this section. 646

(4) The applicant's license is not subject to an order of 647  
suspension or revocation by the superintendent. 648

(C) If a license renewal application or renewal fee is 649  
received by the superintendent after the thirtieth day of April, 650  
the license shall not be considered renewed, and the applicant 651  
shall cease activity as a loan officer. 652

**Sec. 1322.05.** (A) No registrant shall conduct business in 653  
this state, unless the registrant has obtained and maintains in 654  
effect at all times a corporate surety bond issued by a bonding 655  
company or insurance company authorized to do business in this 656  
state. The bond shall be in favor of the superintendent of 657  
financial institutions and in the penal sum of at least 658  
~~twenty-five~~ fifty thousand dollars and an additional penal sum of 659  
~~five~~ ten thousand dollars for each location, in excess of one, at 660  
which the registrant conducts business. The term of the bond shall 661  
coincide with the term of registration. A copy of the bond shall 662  
be filed with the superintendent. The bond shall be for the 663  
exclusive benefit of any ~~person~~ buyer injured by a violation of 664  
any provision of sections 1322.01 to 1322.12 of the Revised Code. 665  
The aggregate liability of the corporate surety for any and all 666  
breaches of the conditions of the bond shall not exceed the penal 667  
sum of the bond. 668

(B)(1) The registrant shall give notice to the superintendent 669  
by certified mail of any action that is brought by a buyer against 670  
the registrant or loan officer of the registrant alleging injury 671

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. 733

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(B) A registrant shall maintain records pertaining to 735  
business transacted pursuant to sections 1322.01 to 1322.12 of the 736  
Revised Code for ~~two~~ four years ~~or more after the final entry on~~ 737  
~~such records~~. No registrant shall fail to comply with this 738  
division. 739

~~(C) All information obtained by the superintendent or the 740  
superintendent's deputies, examiners, assistants, agents, or 741  
clerks by reason of their official position, including information 742  
obtained by such persons in the course of examining a registrant 743  
or investigating an applicant for a certificate of registration, 744  
is privileged and confidential. All such information shall remain 745  
privileged and confidential for all purposes except when it is 746  
necessary for the superintendent and the superintendent's 747  
deputies, examiners, assistants, agents, or clerks to take 748  
official action regarding the affairs of the registrant or in 749  
connection with criminal proceedings. 750~~

Sec. 1322.061. (A)(1) The following information is privileged 751  
and confidential: 752

(a) Examination information, and any information leading to 753  
or arising from an examination; 754

(b) Investigation information, and any information arising 755  
from or leading to an investigation. 756

(2) The information described in division (A)(1) of this 757  
section shall remain privileged and confidential for all purposes 758  
except when it is necessary for the superintendent of financial 759  
institutions to take official action regarding the affairs of a 760  
registrant, or in connection with civil or criminal investigations 761  
or proceedings conducted by the attorney general or a county 762  
prosecutor. The superintendent may share examination and 763

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 signature of the loan officer or registrant;

(3) 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;

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

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

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

(7) 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)(4) or (6) 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 ~~or make any substantial~~  
~~misrepresentation~~ in any registration or license application;

(B) Make false or misleading statements or false promises  
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) 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. 823  
For purposes of this division, "fraudulent, false, or misleading 824  
statements" does not include mathematical errors, inadvertent 825  
transposition of numbers, typographical errors, or any other bona 826  
fide error. 827

(F) Instruct, solicit, propose, or otherwise cause a buyer to 828  
sign in blank a mortgage related document; 829

(G) Engage in table-funding or warehouse-lending mortgage 830  
loans, other than first lien mortgage loans, without first 831  
obtaining a certificate of registration under sections 1321.51 to 832  
1321.60 of the Revised Code. 833

**Sec. 1322.071.** (A) As used in this section, "net branch" 834  
means a contractual arrangement under which a person who is not 835  
registered as a mortgage broker holds the person's self out as 836  
engaging in the mortgage broker business under the authority of a 837  
registrant or under an exemption to the registration requirement, 838  
and any of the following applies: 839

(1) The person is directly or indirectly responsible for 840  
rent, utilities, advertising, equipment, or other office expenses. 841

(2) The person is responsible for office expenses if funds 842  
are not available from an operating account. 843

(3) The person is directly or indirectly responsible for 844  
hiring, firing, payroll, or other personnel staffing issues and 845  
expenses. 846

(4) The person directly or indirectly pays the registrant or 847  
exempt person a fee for every closed loan transaction. 848

(5) The compensation of the person is the profit left over 849  
after expenses. 850

(6) The person pays the registrant or exempt person a fee to 851

operate the net branch, to use the number designated on the  
registrant's certificate of registration, or to use the exempt  
person's name.

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(B) No person shall operate a net branch in this state.

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**Sec. 1322.072.** (A) As used in this section, "bona fide third  
party" has the same meaning as in section 1322.08 of the Revised  
Code.

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

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

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

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(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.

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**Sec. 1322.073.** No person shall circumvent, interfere with,  
obstruct, or fail to cooperate in any examination or investigation  
conducted by the superintendent of financial institutions under  
sections 1322.01 to 1322.12 of the Revised Code, including making  
a false or misleading statement, failing to produce records,  
intimidating or suborning any witness, or tampering with,  
altering, hiding, or manufacturing any evidence.

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**Sec. 1322.074.** No person shall acquire, sell, transfer, or

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hypothecate any interest in a registrant or an applicant for a 880  
certificate of registration in order to obfuscate or conceal the 881  
true ownership or control of the registrant or applicant. 882

**Sec. 1322.08.** (A) Each registrant shall maintain a special 883  
account. A registrant shall deposit into the registrant's special 884  
account any bona fide third party fee the registrant receives and 885  
pay that fee to the bona fide third party from the special 886  
account. 887

(B) Except as otherwise provided in this division, no 888  
registrant shall charge or receive, directly or indirectly, fees 889  
for assisting a buyer in obtaining a mortgage, until all of the 890  
services that the registrant has agreed to perform for the buyer 891  
are completed, and the proceeds of the mortgage loan have been 892  
disbursed to or on behalf of the buyer. However, prior to 893  
completion of such services the following fees may be paid for 894  
services performed by a bona fide third party in assisting the 895  
buyer to obtain a mortgage if the fees are either paid directly by 896  
the buyer to the bona fide third party or, except as provided in 897  
division ~~(A)(6)~~(B)(5) of this section, the fees are deposited by 898  
the registrant into the registrant's special account for services 899  
performed by the bona fide third party: 900

(1) Fees to obtain a report from a credit reporting agency; 901

(2) Fees for notary services; 902

(3) ~~Fees authorized by law to record, file, or release a~~ 903  
~~security interest or mortgage;~~ 904

~~(4)~~ Fees for the performance of a title search, appraisal of 905  
the real estate, or survey of the real estate; 906

~~(5)~~(4) Fees charged by a lender for locking in an interest 907  
rate in connection with obtaining or refinancing a mortgage, 908  
provided that the fees do not exceed an amount equal to one and 909

one-half per cent of the mortgage loan amount; 910

~~(6)~~(5) Fees not exceeding five hundred dollars paid directly 911  
by the buyer to a state or federal government agency or 912  
instrumentality for purposes of processing a mortgage application 913  
relating to a government sponsored or guaranteed mortgage program. 914

~~(B)~~(C) If fees are paid by a buyer for the performance of any 915  
of the services described in division ~~(A)~~(4) (B)(3) of this 916  
section and the registrant is unable to assist in obtaining a 917  
mortgage for the buyer, the registrant shall return to the buyer 918  
the original documents prepared by the bona fide third party at 919  
the time that the request for the mortgage is refused or denied. 920  
No 921

(D) No registrant shall fail to comply with ~~this~~ division (A) 922  
or (C) of this section. 923

~~(C)~~(E) For purposes of this section: 924

(1) "Bona fide third party" means a person that is not an 925  
employee of, related to, or affiliated with, the registrant, and 926  
that is not used for the purpose of circumvention or evasion of 927  
this section. 928

(2) "Special account" means a depository account with a 929  
financial institution, the deposits of which are insured by the 930  
federal deposit insurance corporation, that is separate and 931  
distinct from any personal or other account of the registrant, and 932  
that is maintained solely for the holding and payment of fees 933  
described in ~~division (A)~~ of this section for services performed 934  
by bona fide third parties and received by the registrant from 935  
buyers that the registrant assists in obtaining mortgages. 936

**Sec. 1322.09.** A mortgage broker shall disclose in any 937  
printed, televised, broadcast, electronically transmitted, or 938  
published advertisement relating to the mortgage broker's 939

services, including on any electronic site accessible through the 940  
internet, the name and street address of the mortgage broker and 941  
the number designated on the certificate of registration that is 942  
issued to the mortgage broker by the superintendent of financial 943  
institutions under sections 1322.01 to 1322.12 of the Revised 944  
Code. ~~No~~ 945

No mortgage broker shall fail to comply with this section. 946

**Sec. 1322.10.** (A) After notice and opportunity for a hearing 947  
conducted in accordance with Chapter 119. of the Revised Code, the 948  
superintendent of financial institutions may do the following: 949

(1) Suspend, revoke, or refuse to issue or renew a 951  
certificate of registration or license if the superintendent finds 952  
a either of the following: 953

(a) A violation of ~~division (B) of section 1322.06 or section~~ 954  
1322.05, 1322.07, 1322.08, or 1322.09 or failure to comply with 955  
any provision of sections 1322.01 to 1322.12 of the Revised Code 956  
or the rules adopted under those sections or any other law 957  
applicable to the business conducted under a certificate of 958  
registration; 959

(b) A conviction of or guilty plea to any criminal offense 960  
involving theft, receiving stolen property, embezzlement, forgery, 961  
fraud, passing bad checks, money laundering, or drug trafficking, 962  
or any criminal offense involving money or securities. 963

(2) Impose a fine of not more than one thousand dollars, for 964  
each day a violation of a law or rule is committed, repeated, or 965  
continued. If the registrant or licensee engages in a pattern of 966  
repeated violations of a law or rule, the superintendent may 967  
impose a fine of not more than two thousand dollars for each day 968  
the violation is committed, repeated, or continued. All fines 969  
collected pursuant to this division shall be paid to the treasurer 970



of state to the credit of the consumer finance fund created in 971  
section 1321.21 of the Revised Code. In determining the amount of 972  
a fine to be imposed pursuant to this division, the superintendent 973  
shall consider all of the following: 974

(a) The seriousness of the violation; 975

(b) The registrant's or licensee's good faith efforts to 976  
prevent the violation; 977

(c) The registrant's or licensee's history regarding 978  
violations and compliance with division orders; 979

(d) The registrant's or licensee's financial resources; 980

(e) Any other matters the superintendent considers 981  
appropriate in enforcing sections 1322.01 to 1322.12 of the 982  
Revised Code. 983

(B) The superintendent may investigate alleged violations of 984  
~~section~~ sections 1322.01 to 1322.12 of the Revised Code or the 985  
rules adopted under those sections or complaints concerning any 986  
such violation. The superintendent may make application to the 987  
court of common pleas for an order enjoining any such violation, 988  
and, upon a showing by the superintendent that a person has 989  
committed or is about to commit such a violation, the court shall 990  
grant an injunction, restraining order, or other appropriate 991  
relief. 992

(C) In conducting any investigation pursuant to this section, 993  
the superintendent may compel, by subpoena, witnesses to testify 994  
in relation to any matter over which the superintendent has 995  
jurisdiction and may require the production of any book, record, 996  
or other document pertaining to that matter. If a person fails to 997  
file any statement or report, obey any subpoena, give testimony, 998  
produce any book, record, or other document as required by a 999  
subpoena, or permit photocopying of any book, record, or other 1000  
document subpoenaed, the court of common pleas of any county in 1001

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, 1322.072,  
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. 1032

(3) The buyer may be awarded punitive damages. 1033

(B)(1) The superintendent of financial institutions, the 1034  
attorney general, or a buyer may bring an action to enjoin a 1035  
violation of sections 1322.01 to 1322.12 of the Revised Code. 1036

(2) The superintendent may initiate criminate proceedings 1037  
under sections 1322.01 to 1322.12 of the Revised Code by 1038  
presenting any evidence of criminal violation to the prosecuting 1039  
attorney of the county in which the offense may be prosecuted. If 1040  
the prosecuting attorney does not prosecute the violations, or at 1041  
the request of the prosecuting attorney, the superintendent shall 1042  
present any evidence of criminal violations to the attorney 1043  
general, who may proceed in the prosecution with all the rights, 1044  
privileges, and powers conferred by law on prosecuting attorneys, 1045  
including the power to appear before grand juries and to 1046  
interrogate witnesses before such grand juries. These powers of 1047  
the attorney general shall be in addition to any other applicable 1048  
powers of the attorney general. 1049

(C) The remedies provided by this section are in addition to 1050  
any other remedy provided by law. 1051

(D) In any proceeding or action brought under sections 1052  
1322.01 to 1322.12 of the Revised Code, the burden of proving an 1053  
exemption under those sections is on the person claiming the 1054  
benefit of the exemption. 1055

(E) No person shall be deemed to violate sections 1322.01 to 1056  
1322.12 of the Revised Code with respect to any act taken or 1057  
omission made in reliance on a written notice, written 1058  
interpretation, or written report from the superintendent, unless 1059  
there is a subsequent amendment to those sections, or rules 1060  
promulgated thereunder, that affects the superintendent's notice, 1061  
interpretation, or report. 1062

(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 section 1322.02 or 1322.07 or, division (A) or (B) of section 1322.08 1322.07, or section 1322.071, 1322.072, or 1322.08 of the Revised Code is guilty of a felony of the fifth fourth degree.

(B) Whoever violates division (C) or (E) of section 1322.07 of the Revised Code is guilty as follows:

(1) Except as otherwise provided in division (B)(2) of this section, if the value of the mortgage involved in the offense is less than one hundred thousand dollars, the violation is a felony of the fourth degree, and the court may impose a fine of not more than five thousand dollars. If the value of the mortgage involved in the offense is one hundred thousand dollars or more, the violation is a felony of the third degree and the court may impose a fine of not more than ten thousand dollars.

(2) If the buyer injured by the violation is sixty-five years of age or older and the mortgage involved in the offense is less than one hundred thousand dollars, the violation is a felony of the third degree, and the court may impose a fine of not more than

twenty-five thousand dollars. If the buyer injured by the  
violation is sixty-five years of age or older and the mortgage  
involved in the offense is one hundred thousand dollars or more,  
the violation is a felony of the second degree, and the court may  
impose a fine of not more than thirty thousand dollars.

(C) Whoever violates division (D) or (G) of section 1322.07  
of the Revised Code is guilty of a felony of the fifth degree.

(D) Whoever violates section 1322.073 of the Revised Code is  
guilty of a felony of the third degree.

**Sec. 1345.15.** (A) As used in this section, "knowledge" has  
the same meaning as in section 1345.01 of the Revised Code.

(B) Any person that is not registered or licensed under  
sections 1322.01 to 1322.12 of the Revised Code and that, with  
knowledge, violates division (A) or (B) of section 1322.02,  
division (B), (C), (E), or (F) of section 1322.07, or section  
1322.071 of the Revised Code is deemed to have committed an unfair  
or deceptive act or practice in violation of section 1345.02 of  
the Revised Code.

(C) Any person that is registered or licensed under sections  
1322.01 to 1322.12 of the Revised Code and that, with knowledge,  
violates division (B), (C), (E), or (F) of section 1322.07 the  
Revised Code is deemed to have committed an unfair or deceptive  
act or practice in violation of section 1345.02 of the Revised  
Code, if evidence of the alleged violation is included in the  
examination report of the division of financial institutions of  
the department of commerce.

(D) Notwithstanding section 1345.05 of the Revised Code, the  
superintendent of financial institutions retains exclusive  
authority to adopt rules with respect to the violations of  
sections 1322.01 to 1322.12 of the Revised Code that, under this

section, are deemed unfair or deceptive acts or practices in 1124  
violation of section 1345.02 of the Revised Code. 1125

**Sec. 4712.01.** As used in sections 4712.01 to 4712.14 of the 1126  
Revised Code: 1127

(A) "Buyer" means an individual who is solicited to purchase 1128  
or who purchases the services of a credit services organization 1129  
for purposes other than obtaining a business loan as described in 1130  
division (B)(6) of section 1343.01 of the Revised Code. 1131

(B) "Consumer reporting agency" has the same meaning as in 1132  
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, 1133  
as amended. 1134

(C)(1) "Credit services organization" means any person that, 1135  
in return for the payment of money or other valuable consideration 1136  
readily convertible into money for the following services, sells, 1137  
provides, or performs, or represents that the person can or will 1138  
sell, provide, or perform, one or more of the following services: 1139

(a) Improving a buyer's credit record, history, or rating; 1140

(b) Obtaining an extension of credit by others for a buyer; 1141

(c) Providing advice or assistance to a buyer in connection 1142  
with division (C)(1)(a) or (b) of this section; 1143

(d) Removing adverse credit information that is accurate and 1144  
not obsolete from the buyer's credit record, history, or rating; 1145

(e) Altering the buyer's identification to prevent the 1146  
display of the buyer's credit record, history, or rating. 1147

(2) "Credit services organization" does not include any of 1148  
the following: 1149

(a) A person that makes or collects loans, to the extent 1150  
these activities are subject to licensure or registration by this 1151  
state; 1152

(b) A mortgage broker, as defined in ~~division (E)~~ of section 1153  
1322.01 of the Revised Code, that holds a valid certificate of 1154  
registration under sections 1322.01 to 1322.12 of the Revised 1155  
Code; 1156

(c) A lender approved by the United States secretary of 1157  
housing and urban development for participation in a mortgage 1158  
insurance program under the "National Housing Act," 48 Stat. 1246 1159  
(1934), 12 U.S.C.A. 1701, as amended; 1160

(d) A bank, savings bank, or savings and loan association, or 1161  
a subsidiary or an affiliate of a bank, savings bank, or savings 1162  
and loan association. For purposes of division (C)(2)(d) of this 1163  
section, "affiliate" has the same meaning as in division (A) of 1164  
section 1101.01 of the Revised Code and "bank," as used in 1165  
division (A) of section 1101.01 of the Revised Code, is deemed to 1166  
include a savings bank or savings and loan association. 1167

(e) A credit union organized and qualified under Chapter 1168  
1733. of the Revised Code or the "Federal Credit Union Act," 84 1169  
Stat. 994 (1970), 12 U.S.C.A. 1751, as amended; 1170

(f) A budget and debt counseling service, as defined in 1171  
division (D) of section 2716.03 of the Revised Code, provided that 1172  
the service is a nonprofit organization exempt from taxation under 1173  
section 501(c)(3) of the "Internal Revenue Code of 1986," 100 1174  
Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is 1175  
in compliance with Chapter 4710. of the Revised Code; 1176

(g) A consumer reporting agency that is in substantial 1177  
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 1178  
U.S.C.A. 1681a, as amended. 1179

(h) A mortgage banker; 1180

(i) Any political subdivision, or any governmental or other 1181  
public entity, corporation, or agency, in or of the United States 1182  
or any state of the United States; 1183

(j) A college or university, or controlled entity of a 1184  
college or university, as defined in section 1713.05 of the 1185  
Revised Code; 1186

(k) A motor vehicle dealer licensed pursuant to Chapter 4517. 1187  
of the Revised Code acting within the scope and authority of that 1188  
license or a motor vehicle auction owner licensed pursuant to 1189  
Chapters 4517. and 4707. of the Revised Code acting within the 1190  
scope and authority of that license. 1191

(D) "Extension of credit" means the right to defer payment of 1192  
debt, or to incur debt and defer its payment, offered or granted 1193  
primarily for personal, family, or household purposes. "Extension 1194  
of credit" does not include a mortgage. 1195

(E) "Mortgage" means any indebtedness secured by a deed of 1196  
trust, security deed, or other lien on real property. 1197

(F) "Mortgage banker" means any person that makes, services, 1198  
or buys and sells mortgage loans and is approved by the United 1199  
States department of housing and urban development, the United 1200  
States department of veterans affairs, the federal national 1201  
mortgage association, or the federal home loan mortgage 1202  
corporation. 1203

(G) "Superintendent of financial institutions" includes the 1204  
deputy superintendent for consumer finance as provided in section 1205  
1181.21 of the Revised Code. 1206

**Section 2.** That existing sections 1322.01, 1322.02, 1322.03, 1207  
1322.04, 1322.05, 1322.06, 1322.07, 1322.08, 1322.09, 1322.10, 1208  
1322.101, 1322.11, 1322.99, and 4712.01 of the Revised Code are 1209  
hereby repealed. 1210

**Section 3.** Sections 1 and 2 of this act shall take effect six 1211  
months after the effective date of this act. 1212



**Section 4.** It is the intent of the General Assembly that the 1213  
Superintendent of Financial Institutions take any action necessary 1214  
to provide for an orderly transition for those persons who, on the 1215  
effective date of this act, perform the functions, duties, or 1216  
powers prescribed for registrants and licensees under this act. 1217  
Consequently, the Division of Financial Institutions shall accept 1218  
registration and license applications submitted by such persons 1219  
beginning on the effective date of this act and shall make every 1220  
effort possible to act upon such applications within the six-month 1221  
period immediately following that date. 1222