

As Passed by the House

124th General Assembly

Regular Session

2001-2002

Am. Sub. S. B. No. 76

**SENATORS Harris, White, Prentiss, Spada, Carnes, Robert Gardner,
Hottinger, Fingerhut, Hagan, Johnson, Jacobson**

**REPRESENTATIVES Salerno, Blasdel, Beatty, Coates, Collier, Evans, Hoops,
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Williams, Barnes, Cates, Key, Woodard, DeWine, Faber, Niehaus, Carey,
Barrett, Britton, Cirelli, Core, Hollister, Allen, Womer Benjamin, Young,
Roman, Strahorn, Latell**

A B I L L

To amend sections 1322.01, 1322.02, 1322.03, 1322.04, 1
1322.05, 1322.06, 1322.07, 1322.08, 1322.09, 2
1322.10, 1322.101, 1322.11, 1322.99, and 4712.01 3
and to enact sections 1322.021, 1322.031, 1322.041, 4
1322.051, 1322.052, 1322.061, 1322.062, 1322.071, 5
1322.072, and 1322.073 of the Revised Code to 6
revise the laws governing mortgage brokers and loan 7
officers. 8

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

Section 1. That sections 1322.01, 1322.02, 1322.03, 1322.04, 9
1322.05, 1322.06, 1322.07, 1322.08, 1322.09, 1322.10, 1322.101, 10
1322.11, 1322.99, and 4712.01 be amended and sections 1322.021, 11
1322.031, 1322.041, 1322.051, 1322.052, 1322.061, 1322.062, 12
1322.071, 1322.072, and 1322.073 of the Revised Code be enacted to 13

read as follows:

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

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(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.

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(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.

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(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.

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

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(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.

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

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~~(D) "Mortgage banker" means any person that makes, services,~~

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~~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.~~

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

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~~(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:~~

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

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~~(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;~~

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~~(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~~

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savings bank or savings and loan association.	74
(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;	75 76 77
(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;	78 79 80 81 82 83
(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;	84 85 86
(7) A mortgage banker;	87
(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;	88 89 90
(9) A college or university, or controlled entity of a college or university, as defined in section 1713.05 of the Revised Code.	91 92 93
(F) <u>person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans.</u>	94 95
(H) <u>"Operations manager" means the individual responsible for the everyday operations, compliance requirements, and management of a mortgage broker business.</u>	96 97 98
(I) <u>"Originate" means to do any of the following:</u>	99
(1) <u>Negotiate or arrange, or offer to negotiate or arrange, a mortgage loan between a person that makes or funds mortgage loans and a buyer;</u>	100 101 102
(2) <u>Issue a commitment for a mortgage loan to a buyer;</u>	103

(3) Place, assist in placement, or find a mortgage loan for a buyer. 104
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(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. 106
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~~(G)~~(K) "Superintendent of financial institutions" includes the deputy superintendent for consumer finance as provided in section 1181.21 of the Revised Code. 109
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(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. 112
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(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. 118
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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. 124
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(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 132
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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.

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(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.

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(C) As used in this section:

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(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:

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(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;

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(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;

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(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; 165
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(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; 168
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(e) A college or university, or controlled entity of a college or university, as defined in section 1713.05 of the Revised Code; 171
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(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. 174
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(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: 180
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(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 184
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development. Division (C)(1)(g)(i) of this section does not 196
include a mortgagee approved as a loan correspondent. 197

(ii) The person has been directly approved by the federal 198
national mortgage association as a seller/servicer. Division (C) 199
(1) (g) (ii) of this section includes a person that has been 200
directly approved by the federal national mortgage association as 201
a seller/servicer and that makes loans in excess of the applicable 202
loan limit set by the federal national mortgage association, 203
provided that the loans in all respects, except loan amounts, 204
comply with the underwriting and documentation requirements of the 205
federal national mortgage association. 206

(iii) The person has been directly approved by the federal 207
home loan mortgage corporation as a seller/servicer. Division (C) 208
(1) (g) (iii) of this section includes a person that has been 209
directly approved by the federal home loan mortgage corporation as 210
a seller/servicer and that makes loans in excess of the applicable 211
loan limit set by the federal home loan mortgage corporation, 212
provided that the loans in all respects, except loan amounts, 213
comply with the underwriting and documentation requirements of the 214
federal home loan mortgage corporation. 215

(iv) The person has been directly approved by the United 216
States department of veterans affairs as a nonsupervised automatic 217
lender. Division (C)(1)(g)(iv) of this section does not include a 218
person directly approved by the United States department of 219
veterans affairs as a nonsupervised lender, an agent of a 220
nonsupervised automatic lender, or an agent of a nonsupervised 221
lender. 222

(h) A person created solely for the purpose of securitizing 223
loans secured by an interest in real estate, provided the person 224
does not service the loans. For purposes of division (C)(1)(h) of 225
this section, "securitizing" means the packaging and sale of 226
mortgage loans as a unit for sale as investment securities, but 227

only to the extent of those activities. 228

~~(2) Originate means any of the following:~~ 229

~~(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;~~ 230
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~~(b) To issue a commitment for a mortgage loan to a buyer;~~ 233

~~(c) To place, assist in placement, or find a mortgage loan
for a buyer~~ 234
Any individual who is employed by a person exempt from 235
sections 1322.01 to 1322.12 of the Revised Code is also exempt 236
from those sections to the extent the individual is acting within 237
the scope of the individual's employment and within the scope of 238
the exempt person's charter, license, authority, approval, or 239
certificate. 240

Sec. 1322.021. (A) A registrant that is a corporation, 241
limited liability company, partnership, trust, or other business 242
entity or association shall notify the division of financial 243
institutions of every sale, transfer, or hypothecation of any 244
stock, security, membership, partnership, or other equitable, 245
beneficial, or ownership interest in the entity or association, if 246
the interest represents at least a five per cent membership, 247
partnership, or other equitable, beneficial, or ownership interest 248
in the entity or association. 249

(B) Every person that acquires or otherwise receives an 250
interest described in division (A) of this section is subject to 251
sections 1322.01 to 1322.12 of the Revised Code. The division may 252
make any investigation necessary to determine whether any fact or 253
condition exists that, if it had existed at the time of the 254
original application for a certificate of registration, the fact 255
or condition would have warranted the division to deny the 256
application under section 1322.04 of the Revised Code. If such a 257

fact or condition is found, the division may, in accordance with 258
Chapter 119. of the Revised Code, revoke the registrant's 259
certificate. 260

Sec. 1322.03. (A) An application for a certificate of 261
registration as a mortgage broker shall be in writing, under oath, 262
and in the form prescribed by the superintendent of financial 263
institutions. The application shall be accompanied by ~~an~~ a 264
nonrefundable application fee of three hundred fifty dollars for 265
each location of an office to be maintained by the applicant in 266
accordance with division (A) of section 1322.02 of the Revised 267
Code ~~and; however, an applicant that is registered under sections~~ 268
1321.51 to 1321.60 of the Revised Code shall not be required to 269
pay an application fee. The application shall provide all of the 270
following: 271

(1) The location or locations where the business is to be 272
transacted and whether any location is a residence. If any 273
location where the business is to be transacted is a residence, 274
the application shall be accompanied by a certified copy of a 275
zoning permit authorizing the use of the residence for commercial 276
purposes, or shall be accompanied by a written opinion or other 277
document issued by the county or political subdivision where the 278
residence is located certifying that the use of the residence to 279
transact business as a mortgage broker is not prohibited by the 280
county or political subdivision. The application also shall be 281
accompanied by a photograph of each location at which the business 282
will be transacted. 283

(2)(a) In the case of a sole proprietor, the name and address 284
of the sole proprietor; 285

(b) In the case of a partnership, the name and address of 286
each partner; 287

(c) In the case of a corporation, the name and address of 288

each shareholder owning five per cent or more of the corporation; 289

(d) In the case of any other entity, the name and address of 290
any person that owns five per cent or more of the entity that will 291
transact business as a mortgage broker. 292

~~(3)(a) If the applicant is a partnership, the applicant shall 293
designate one of the partners named in the application pursuant to 294
division (A)(2)(b) of this section as responsible for managing the 295
operations of the location or locations where the business is to 296
be transacted. 297~~

~~(b) If the applicant is a corporation, the applicant shall 298
designate one of the shareholders named in the application 299
pursuant to division (A)(2)(c) of this section as responsible for 300
managing the operations of the location or locations where the 301
business is to be transacted. 302~~

~~(c) If the applicant is corporation, limited liability 303
company, or any other business entity or association, the 304
applicant shall designate a natural person that owns five per cent 305
or more of the entity that will transact business as a mortgage 306
broker as responsible for managing the an employee or owner of the 307
applicant as the applicant's operations of the location or 308
locations where the business is to be transacted manager. While 309
acting as the operations manager, the employee or owner shall not 310
be employed by any other mortgage broker. 311~~

(4) Evidence that ~~at least one of the following applies to 312
the sole proprietor, partner, shareholder, or natural the person 313
designated on the application pursuant to division (A)(3) of this 314
section, as responsible for managing the operations of the 315
location or locations where the business is to be transacted:~~ 316

~~(a) Except as provided in division (D)(2) of this section, 317
the sole proprietor, partner, shareholder, or natural person has 318
earned at least an associate degree in an area relating to 319~~

~~finance, banking, or business administration, and the degree was~~ 320
~~earned at an accredited college or university, including an~~ 321
~~accredited community or technical college.~~ 322

~~(b) The sole proprietor, partner, shareholder, or natural~~ 323
~~person applicable, possesses at least three years of experience in~~ 324
~~the mortgage and lending field, which experience may include~~ 325
~~employment with or as a mortgage broker or with a financial~~ 326
~~institution, mortgage lending institution, or other lending~~ 327
~~institution, or possesses at least three years of other experience~~ 328
~~related specifically to the business of mortgage loans that the~~ 329
~~superintendent determines meets the requirements of division~~ 330
~~(A)(4)(b) of this section;~~ 331

(5) Evidence of compliance with the surety bond requirements 332
of section 1322.05 of the Revised Code and with sections 1322.01 333
to 1322.12 of the Revised Code; 334

(6) In the case of a foreign ~~corporation~~ business entity, 335
evidence that it maintains a license or registration pursuant to 336
Chapter 1703., 1705., 1775., 1777., 1782., or 1783. of the Revised 337
Code to transact business in this state; 338

(7) A statement ~~that~~ as to whether the applicant or, to the 339
best of the applicant's knowledge, any shareholder, member, 340
partner, operations manager, or employee of the applicant has ~~not~~ 341
been convicted of or pleaded guilty to a any criminal offense, ~~the~~ 342
~~violation of which is a felony~~ involving theft, receiving stolen 343
property, embezzlement, forgery, fraud, passing bad checks, money 344
laundering, or drug trafficking, or any criminal offense involving 345
fraud money or securities; 346

(8) A statement as to whether the applicant or, to the best 347
of the applicant's knowledge, any shareholder, member, partner, 348
operations manager, or employee of the applicant has been subject 349
to any adverse judgment for conversion, embezzlement, 350

misappropriation of funds, fraud, misfeasance or malfeasance, or 351
breach of fiduciary duty; 352

(9) Evidence that the applicant's operations manager has 353
successfully completed the examination required under division (A) 354
of section 1322.051 of the Revised Code; 355

(10) Any further information that the superintendent 356
requires. 357

(B) Upon the filing of the application and payment of the 358
application fee, the superintendent shall investigate the 359
applicant. The investigation shall include a criminal records 360
check based on the fingerprints of the applicant and a civil 361
records check. If, in order to issue a certificate of registration 362
to an applicant, investigation by the superintendent outside this 363
state is necessary, the superintendent may require the applicant 364
to advance sufficient funds to pay the actual expenses of the 365
investigation, if it appears that these expenses will exceed three 366
hundred fifty dollars. The superintendent shall provide the 367
applicant with an itemized statement of the actual expenses that 368
the applicant is required to pay. 369

(C) All funds advanced and application and renewal fees and 370
penalties paid to the superintendent under this section and 371
section 1322.04 of the Revised Code shall be paid by the 372
superintendent to the treasurer of state to the credit of the 373
consumer finance fund created in section 1321.21 of the Revised 374
Code. 375

~~(D)(1) Division (A)(4) of this section does not apply to any~~ 376
~~registrant that, on March 4, 1996, is registered as a mortgage~~ 377
~~broker under sections 1322.01 to 1322.12 of the Revised Code under~~ 378
~~a certificate of registration issued pursuant to those sections~~ 379
~~prior to March 4, 1996, provided that the certificate of~~ 380
~~registration is not surrendered by the registrant or revoked or~~ 381
~~refused renewal by the superintendent of financial institutions at~~ 382

~~any time after March 4, 1996.~~ 383

~~(2) Except as provided in division (D)(3) of this section, on 384
and after the effective date of this amendment, evidence of 385
education provided in division (A)(4)(a) of this section shall not 386
be accepted on an application of a person applying as a new 387
applicant for a certificate of registration as a mortgage broker. 388
However, on and after the effective date of this amendment, a 389
person who, prior to that date, submitted evidence of education as 390
provided for in division (A)(4)(a) of this section may renew a 391
certificate of registration as a mortgage broker, provided that 392
the person is registered on that date as a mortgage broker 393
pursuant to section 1322.04 of the Revised Code, and a certificate 394
of registration as a mortgage broker is not surrendered by the 395
person or revoked or refused renewal by the superintendent at any 396
time after that date. 397~~

~~(3) For a period ending three years after the effective date 398
of this amendment, evidence that the person designated as 399
responsible for managing the operation of a location or locations 400
where business is or will be transacted meets the educational 401
requirements specified in division (A)(4)(a) of this section shall 402
be acceptable on an application for a certificate of registration 403
as a mortgage broker, if the superintendent determines that both 404
of the following apply: 405~~

~~(a) Prior to the effective date of this amendment, the person 406
was designated pursuant to division (A)(3) of this section as 407
responsible for managing the operations of a location or locations 408
where a registrant's business was transacted, having met the 409
educational requirements provided in division (A)(4)(a) of this 410
section: 411~~

~~(b) The person is designated as responsible for managing the 412
operations of an entity described in division (A)(2) of this 413
section where the mortgage broker business is or will be 414~~

transacted If an application for a certificate of registration 415
does not contain all of the information required under division 416
(A) of this section, and if that information is not submitted to 417
the superintendent within ninety days after the superintendent 418
requests the information in writing, the superintendent may 419
consider the application withdrawn. 420

(E) A certificate of registration, or the authority granted 421
under such a certificate, is not transferable or assignable and 422
cannot be franchised by contract or any other means. 423

Sec. 1322.031. (A) An application for a license as a loan 424
officer shall be in writing, under oath, and in the form 425
prescribed by the superintendent of financial institutions. The 426
application shall be accompanied by a nonrefundable application 427
fee of one hundred dollars and shall provide all of the following: 428

(1) The name and address of the applicant; 429

(2) A statement as to whether the applicant has been 430
convicted of or pleaded guilty to any criminal offense involving 431
theft, receiving stolen property, embezzlement, forgery, fraud, 432
passing bad checks, money laundering, or drug trafficking, or any 433
criminal offense involving money or securities; 434

(3) A statement as to whether the applicant has been subject 435
to an adverse judgment for conversion, embezzlement, 436
misappropriation of funds, fraud, misfeasance or malfeasance, or 437
breach of fiduciary duty; 438

(4) Any further information that the superintendent requires. 439

(B) Upon the filing of the application and payment of the 441
application fee, the superintendent shall investigate the 442
applicant. The investigation shall include a criminal records 443
check based on the fingerprints of the applicant and a civil 444

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.

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(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.

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(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)(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.

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(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

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mortgage broker by submitting a relocation application, along with 477
a fifteen dollar fee, to the superintendent or may request the 478
superintendent in writing to hold the license in escrow for a 479
period not to exceed one year. Any licensee whose license is held 480
in escrow shall cease activity as a loan officer. 481

A mortgage broker may employ a loan officer on a temporary 482
basis pending the transfer of the loan officer's license to the 483
mortgage broker, if the mortgage broker receives written 484
confirmation from the superintendent that the loan officer is 485
licensed under sections 1322.01 to 1322.12 of the Revised Code. 486

(F) A license, or the authority granted under such a license, 487
is not assignable and cannot be franchised by contract or any 488
other means. 489

Sec. 1322.04. (A) Upon the conclusion of the investigation 490
required under division (B) of section 1322.03 of the Revised 491
Code, the superintendent of financial institutions shall issue a 492
certificate of registration to the applicant if the superintendent 493
finds that the following conditions are met: 494

(1) ~~The~~ Except as otherwise provided in division (A) of 495
section 1322.03 of the Revised Code, the application is accompanied 496
by the application fee of three hundred fifty dollars for each 497
location of an office to be maintained by the applicant in 498
accordance with division (A) of section 1322.02 of the Revised 499
Code and complies with division (A) of section 1322.03 of the 500
Revised Code. If a check or other draft instrument is returned to 501
the superintendent for insufficient funds, the superintendent 502
shall notify the registrant by certified mail, return receipt 503
requested, that the certificate of registration issued in reliance 504
on the check or other draft instrument will be canceled unless the 505
registrant, within thirty days after receipt of the notice, 506
submits the application fee and a one-hundred-dollar penalty to 507

the superintendent. If the registrant does not submit the 508
application fee and penalty within that time period, or if any 509
check or other draft instrument used to pay the fee or penalty is 510
returned to the superintendent for insufficient funds, the 511
certificate of registration shall be canceled immediately without 512
a hearing and the registrant shall cease activity as a mortgage 513
broker. 514

(2) If the application is for a location that is a residence, 515
that the applicant has obtained a valid zoning permit authorizing 516
the use of the residence for commercial purposes, or has obtained 517
a valid written opinion or other document issued by the county or 518
political subdivision where the residence is located certifying 519
that the use of the residence to transact business as a mortgage 520
broker is not prohibited by the county or political subdivision. 521
The application also is accompanied by a photograph of each 522
location at which the mortgage broker's business will be 523
transacted. 524

~~(3)(a) The sole proprietor, partner, shareholder, or natural~~ 525
~~the person designated on the application, pursuant to division~~ 526
~~(A)(3) of section 1322.03 of the Revised Code, as responsible for~~ 527
~~managing the operation of the location or locations where the~~ 528
~~business is to be transacted applicable, meets the educational or~~ 529
experience requirements provided in division (A)(4) of section 530
1322.03 of the Revised Code. 531

~~(b) If a partner, shareholder, or natural person designated~~ 532
~~pursuant to division (A)(3) of section 1322.03 of the Revised Code~~ 533
~~ceases to be responsible for managing the operation of the~~ 534
~~location or locations where the business is to be transacted, the~~ 535
~~applicant shall comply with the requirements that apply to a~~ 536
~~registrant under division (E) of this section.~~ 537

~~(4) In the case of a foreign corporation, the~~ 538
~~The applicant~~ 538
~~maintains a license pursuant to Chapter 1703. of the Revised Code~~ 539

~~to transact business in this all licenses and registrations~~ 540
~~required by the secretary of state.~~ 541

(5) The applicant complies with the surety bond requirements 542
of section 1322.05 of the Revised Code. 543

(6) The applicant complies with sections 1322.01 to 1322.12 544
of the Revised Code. 545

(7) ~~The~~ Neither the applicant nor any shareholder, member, 546
partner, operations manager, or employee of the applicant has not 547
pleaded guilty to or been convicted of a any criminal offense, the 548
violation of which is a felony, or any criminal offense involving 549
fraud described in division (A)(7) of section 1322.03 of the 550
Revised Code, or, if the applicant or any of those other persons 551
has pleaded guilty to or been convicted of such an offense, the 552
applicant has proven to the superintendent, by a preponderance of 553
the evidence, that the applicant's or other person's activities 554
and employment record since the conviction show that the applicant 555
or other person is honest, truthful, and of good reputation, and 556
there is no basis in fact for believing that the applicant or 557
other person will commit such an offense again. 558

(8) Neither the applicant nor any shareholder, member, 559
partner, operations manager, or employee of the applicant has been 560
subject to any adverse judgment for conversion, embezzlement, 561
misappropriation of funds, fraud, misfeasance or malfeasance, or 562
breach of fiduciary duty, or, if the applicant or any of those 563
other persons has been subject to such a judgment, the applicant 564
has proven to the superintendent, by a preponderance of the 565
evidence, that the applicant's or other person's activities and 566
employment record since the judgment show that the applicant or 567
other person is honest, truthful, and of good reputation, and 568
there is no basis in fact for believing that the applicant or 569
other person will be subject to such a judgment again. 570

(9) The applicant's operations manager successfully completed 571

the examination required under division (A) of section 1322.051 of
the Revised Code.

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(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.

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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.

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(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:

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(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

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by certified mail, return receipt requested, that the certificate 604
of registration renewed in reliance on the check or other draft 605
instrument will be canceled unless the registrant, within thirty 606
days after receipt of the notice, submits the renewal fee and a 607
one-hundred-dollar penalty to the superintendent. If the 608
registrant does not submit the renewal fee and penalty within that 609
time period, or if any check or other draft instrument used to pay 610
the fee or penalty is returned to the superintendent for 611
insufficient funds, the certificate of registration shall be 612
canceled immediately without a hearing and the registrant shall 613
cease activity as a mortgage broker. 614

(2) On and after January 1, 2003, the operations manager 615
designated under division (A)(3) of section 1322.03 of the Revised 616
Code has completed, during the immediately preceding calendar 617
year, at least six hours of continuing education as required under 618
section 1322.052 of the Revised Code. 619

(3) The applicant meets the conditions set forth in divisions 620
(A)(2) to (8)(10) of this section and that the. 621

(4) The applicant's certificate of registration is not 622
subject to an order of suspension or revocation by the 623
superintendent. If 624

(C)(1) Subject to division (C)(2) of this section, if a 625
renewal fee is received by the superintendent after the thirtieth 626
day of April, the certificate of registration shall not be 627
considered renewed, and the applicant shall cease activity as a 628
mortgage broker and apply for a certificate of registration as a 629
mortgage broker. 630

~~(C) No application or renewal fee required by division (A) or~~ 631
~~(B) of this section shall be returned after a certificate of~~ 632
~~registration has been issued or renewed by the superintendent.~~ 633

~~(D) Division (A)(3) of this section does not apply to any~~ 634

~~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.~~

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~~(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.

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(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:

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(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;

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

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(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.

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Sec. 1322.041. (A) Upon the conclusion of the investigation

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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,

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misfeasance or malfeasance, or breach of fiduciary duty, or, if 697
the applicant has been subject to such a judgment, the applicant 698
has proven to the superintendent, by a preponderance of the 699
evidence, that the applicant's activities and employment record 700
since the judgment show that the applicant is honest, truthful, 701
and of good reputation, and there is no basis in fact for 702
believing that the applicant will be subject to such a judgment 703
again. 704

(5) The applicant's character and general fitness command the 705
confidence of the public and warrant the belief that the business 706
will be operated honestly and fairly in compliance with the 707
purposes of sections 1322.01 to 1322.12 of the Revised Code. 708

(B) The license issued under division (A) of this section may 709
be renewed annually on or before the thirtieth day of April if the 710
superintendent finds that all of the following conditions are met: 711

(1) The renewal application is accompanied by a nonrefundable 713
renewal fee of one hundred dollars. If a check or other draft 714
instrument is returned to the superintendent for insufficient 715
funds, the superintendent shall notify the licensee by certified 716
mail, return receipt requested, that the license renewed in 717
reliance on the check or other draft instrument will be canceled 718
unless the licensee, within thirty days after receipt of the 719
notice, submits the renewal fee and a one-hundred-dollar penalty 720
to the superintendent. If the licensee does not submit the renewal 721
fee and penalty within that time period, or if any check or other 722
draft instrument used to pay the fee or penalty is returned to the 723
superintendent for insufficient funds, the license shall be 724
canceled immediately without a hearing and the licensee shall 725
cease activity as a loan officer. 726

(2) On and after January 1, 2003, the loan officer has 727
completed, during the immediately preceding calendar year, at 728

least six hours of continuing education as required under section 729
1322.052 of the Revised Code. 730

(3) The applicant meets the conditions set forth in divisions 731
(A)(2) to (5) of this section. 732

(4) The applicant's license is not subject to an order of 733
suspension or revocation by the superintendent. 734

(C)(1) Subject to division (C)(2) of this section, if a 735
license renewal application or renewal fee is received by the 736
superintendent after the thirtieth day of April, the license shall 737
not be considered renewed, and the applicant shall cease activity 738
as a loan officer. 739

(2) Division (C)(1) of this section shall not apply if the 740
applicant, no later than the thirty-first day of May, submits the 741
renewal application and fee and a one-hundred-dollar penalty to 742
the superintendent. 743

Sec. 1322.05. (A) No registrant shall conduct business in 744
this state, unless the registrant has obtained and maintains in 745
effect at all times a corporate surety bond issued by a bonding 746
company or insurance company authorized to do business in this 747
state. The bond shall be in favor of the superintendent of 748
financial institutions and in the penal sum of at least 749
~~twenty-five~~ fifty thousand dollars and an additional penal sum of 750
~~five~~ ten thousand dollars for each location, in excess of one, at 751
which the registrant conducts business. The term of the bond shall 752
coincide with the term of registration. A copy of the bond shall 753
be filed with the superintendent. The bond shall be for the 754
exclusive benefit of any ~~person~~ buyer injured by a violation by an 755
employee, licensee, or registrant of any provision of sections 756
1322.01 to 1322.12 of the Revised Code. The aggregate liability of 757
the corporate surety for any and all breaches of the conditions of 758
the bond shall not exceed the penal sum of the bond. 759

(B)(1) The registrant shall give notice to the superintendent 760
by certified mail of any action that is brought by a buyer against 761
the registrant or loan officer of the registrant alleging injury 762
by a violation of any provision of sections 1322.01 to 1322.12 of 763
the Revised Code, and of any judgment that is entered against the 764
registrant or loan officer of the registrant by a ~~person~~ buyer 765
injured by a violation of any provision of sections 1322.01 to 766
1322.12 of the Revised Code. The notice shall provide details 767
sufficient to identify the action or judgment, and shall be filed 768
with the superintendent within ten days after the commencement of 769
the action or notice to the registrant of entry of a judgment. ~~The~~ 770

(2) A corporate surety, within ten days after it pays any 772
claim or judgment, shall give notice to the superintendent by 773
certified mail of the payment, with details sufficient to identify 774
the person and the claim or judgment paid. 775

(C) Whenever the penal sum of the corporate surety bond is 776
reduced by one or more recoveries or payments, the registrant 777
shall furnish a new or additional bond under this section, so that 778
the total or aggregate penal sum of the bond or bonds equals the 779
sum required by this section, or shall furnish an endorsement 780
executed by the corporate surety reinstating the bond to the 781
required penal sum of it. 782

(D) The liability of the corporate surety on the bond to the 783
superintendent and to any ~~person~~ buyer injured by a violation of 784
any provision of sections 1322.01 to 1322.12 of the Revised Code 785
shall not be affected in any way by any misrepresentation, breach 786
of warranty, or failure to pay the premium, by any act or omission 787
upon the part of the registrant, by the insolvency or bankruptcy 788
of the registrant, or by the insolvency of the registrant's 789
estate. The liability for any act or omission that occurs during 790
the term of the corporate surety bond shall be maintained and in 791

effect for at least two years after the date on which the 792
corporate surety bond is terminated or canceled. 793

(E) The corporate surety bond shall not be canceled by the 794
registrant or the corporate surety except upon notice to the 795
superintendent by certified mail, return receipt requested. The 796
cancellation shall not be effective prior to thirty days after the 797
superintendent receives the notice. 798

(F) No registrant shall fail to comply with this section. Any 799
registrant that fails to comply with this section shall cease all 800
mortgage broker activity in this state until the registrant 801
complies with this section. 802

Sec. 1322.051. (A) Each person designated under division 803
(A)(3) of section 1322.03 of the Revised Code to act as operations 804
manager for a mortgage broker business shall submit to an 805
examination approved by the superintendent of financial 806
institutions. 807

(B) Each licensee, within ninety days after the original 808
issuance of the loan officer license, shall successfully complete 809
an examination approved by the superintendent. Failure to comply 810
with this division results in the termination of the license by 811
operation of law. 812

Sec. 1322.052. On and after January 1, 2002, each licensee 813
and each person designated under division (A)(3) of section 814
1322.03 of the Revised Code to act as operations manager for a 815
mortgage broker business shall complete at least six hours of 816
continuing education every calendar year. To fulfill this 817
requirement, the six hours of continuing education must be offered 818
in a course or program of study approved by the superintendent of 819
financial institutions. 820

Sec. 1322.06. (A) As often as the superintendent of financial 821
institutions considers it necessary, the superintendent may 822
examine the registrant's records pertaining to business transacted 823
pursuant to sections 1322.01 to 1322.12 of the Revised Code. 824

(B) A registrant shall maintain records pertaining to 825
business transacted pursuant to sections 1322.01 to 1322.12 of the 826
Revised Code for ~~two~~ four years ~~or more after the final entry on~~ 827
~~such records~~. No registrant shall fail to comply with this 828
division. 829
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~~(C) All information obtained by the superintendent or the 831
superintendent's deputies, examiners, assistants, agents, or 832
clerks by reason of their official position, including information 833
obtained by such persons in the course of examining a registrant 834
or investigating an applicant for a certificate of registration, 835
is privileged and confidential. All such information shall remain 836
privileged and confidential for all purposes except when it is 837
necessary for the superintendent and the superintendent's 838
deputies, examiners, assistants, agents, or clerks to take 839
official action regarding the affairs of the registrant or in 840
connection with criminal proceedings. 841~~

Sec. 1322.061. (A)(1) The following information is privileged 842
and confidential: 843

(a) Examination information, and any information leading to 844
or arising from an examination; 845

(b) Investigation information, and any information arising 846
from or leading to an investigation. 847

(2) The information described in division (A)(1) of this 848
section shall remain privileged and confidential for all purposes 849
except when it is necessary for the superintendent of financial 850

institutions to take official action regarding the affairs of a 851
registrant, or in connection with civil or criminal investigations 852
or proceedings conducted by the attorney general or a county 853
prosecutor. The superintendent may share examination and 854
investigation information with any law enforcement agency or any 855
other state or federal regulatory agency. Any information shared 856
with the attorney general, a county prosecutor, or a law 857
enforcement agency or other state or federal regulatory agency 858
shall remain privileged and confidential and shall only be used in 859
connection with an official investigation, proceeding, or action. 860

(B) All application information, except social security 861
numbers, employer identification numbers, financial account 862
numbers, the identity of the institution where financial accounts 863
are maintained, personal financial information, fingerprint cards 864
and the information contained on such cards, and criminal 865
background information, is a public record as defined in section 866
149.43 of the Revised Code. 867

Sec. 1322.062. (A) Within three business days after taking an 868
application for a loan from a buyer, a registrant shall deliver to 869
the buyer a mortgage loan origination disclosure statement that 870
contains all of the following: 871

(1) The name, address, and telephone number of the buyer; 872

(2) The typewritten name of the loan officer and the number 873
designated on the loan officer's license; 874

(3) The street address, telephone number, and facsimile 875
number of the registrant and the number designated on the 876
registrant's certificate of registration; 877

(4) The signature of the loan officer or registrant; 878

(5) A statement indicating whether the buyer is to pay for 879
the services of a bona fide third party if the registrant is 880

unable to assist the buyer in obtaining a mortgage; 881

(6) A statement that describes the method by which the fee to be paid by the buyer to the registrant will be calculated; 882
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(7) A statement that the lender may pay compensation to the registrant; 884
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(8) A description of all the services the registrant has agreed to perform for the buyer; 886
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(9) A statement that the buyer has not entered into an exclusive agreement for brokerage services. 888
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(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. 890
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(C) No registrant shall fail to comply with this section. 895

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: 896
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(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; 900
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(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; 905
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(C) Engage in conduct that constitutes improper, fraudulent, 909

or dishonest dealings;

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(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;

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(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.

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

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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.

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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 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;

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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. 940
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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: 945
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(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; 949
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(B) Tamper with, alter, or manufacture any evidence. 953

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. 954
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Sec. 1322.08. (A) No registrant shall fail to do any of the following: 958
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(1) Maintain a special account; 960

(2) Deposit into the registrant's special account any bona fide third-party fee the registrant receives; 961
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(3) Pay bona fide third-party fees to a bona fide third party from the registrant's special account. 963
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(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 965
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services that the registrant has agreed to perform for the buyer 968
are completed, and the proceeds of the mortgage loan have been 969
disbursed to or on behalf of the buyer. However, prior to 970
completion of such services the following fees may be paid for 971
services performed by a bona fide third party in assisting the 972
buyer to obtain a mortgage if the fees are either paid directly by 973
the buyer to the bona fide third party or, except as provided in 974
division ~~(A)~~(6)(B)(5) of this section, the fees are deposited by 975
the registrant into the registrant's special account for services 976
performed by the bona fide third party: 977

(1) Fees to obtain a report from a credit reporting agency; 978

(2) Fees for notary services; 979

~~(3) Fees authorized by law to record, file, or release a 980
security interest or mortgage;~~ 981

~~(4) Fees for the performance of a title search, appraisal of 982
the real estate, or survey of the real estate;~~ 983

~~(5)~~(4) Fees charged by a lender for locking in an interest 984
rate in connection with obtaining or refinancing a mortgage, 985
provided that the fees do not exceed an amount equal to one and 986
one-half per cent of the mortgage loan amount; 987

~~(6)~~(5) Fees not exceeding five hundred dollars paid directly 988
by the buyer to a state or federal government agency or 989
instrumentality for purposes of processing a mortgage application 990
relating to a government sponsored or guaranteed mortgage program. 991

~~(B)~~(C) If fees are paid by a buyer for the performance of any 992
of the services described in division ~~(A)~~~~(4)~~ (B)(3) of this 993
section and the registrant is unable to assist in obtaining a 994
mortgage for the buyer, the registrant shall return to the buyer 995
the original documents prepared by the bona fide third party at 996
the time that the request for the mortgage is refused or denied. 997
With respect to any appraisal, however, the registrant may return 998

either the original or a copy. No registrant shall fail to comply 999
with this division. 1000

~~(C)~~(D) For purposes of this section: 1001

(1) "Bona fide third party" means a person that is not an 1002
employee of, related to, or affiliated with, the registrant, and 1003
that is not used for the purpose of circumvention or evasion of 1004
this section. 1005

(2) "Special account" means a depository account with a 1006
financial institution, the deposits of which are insured by the 1007
federal deposit insurance corporation, that is separate and 1008
distinct from any personal or other account of the registrant, and 1009
that is maintained solely for the holding and payment of fees 1010
described in ~~division (A)~~ of this section for services performed 1011
by bona fide third parties and received by the registrant from 1012
buyers that the registrant assists in obtaining mortgages. 1013

Sec. 1322.09. A mortgage broker shall disclose in any 1014
printed, televised, broadcast, electronically transmitted, or 1015
published advertisement relating to the mortgage broker's 1016
services, including on any electronic site accessible through the 1017
internet, the name and street address of the mortgage broker and 1018
the number designated on the certificate of registration that is 1019
issued to the mortgage broker by the superintendent of financial 1020
institutions under sections 1322.01 to 1322.12 of the Revised 1021
Code. ~~No~~ 1022

No mortgage broker shall fail to comply with this section. 1023

Sec. 1322.10. (A) After notice and opportunity for a hearing 1024
conducted in accordance with Chapter 119. of the Revised Code, the 1025
superintendent of financial institutions may do the following: 1026

(1) Suspend, revoke, or refuse to issue or renew a 1027
1028

certificate of registration or license if the superintendent finds 1029
a either of the following: 1030

(a) A violation of division (B) of section 1322.06 or section 1031
1322.05, 1322.07, 1322.08, or 1322.09 or failure to comply with 1032
any provision of sections 1322.01 to 1322.12 of the Revised Code 1033
or the rules adopted under those sections or any other law 1034
applicable to the business conducted under a certificate of 1035
registration; 1036

(b) A conviction of or guilty plea to any criminal offense 1037
involving theft, receiving stolen property, embezzlement, forgery, 1038
fraud, passing bad checks, money laundering, or drug trafficking, 1039
or any criminal offense involving money or securities. 1040

(2) Impose a fine of not more than one thousand dollars, for 1041
each day a violation of a law or rule is committed, repeated, or 1042
continued. If the registrant or licensee engages in a pattern of 1043
repeated violations of a law or rule, the superintendent may 1044
impose a fine of not more than two thousand dollars for each day 1045
the violation is committed, repeated, or continued. All fines 1046
collected pursuant to this division shall be paid to the treasurer 1047
of state to the credit of the consumer finance fund created in 1048
section 1321.21 of the Revised Code. In determining the amount of 1049
a fine to be imposed pursuant to this division, the superintendent 1050
shall consider all of the following: 1051

(a) The seriousness of the violation; 1052

(b) The registrant's or licensee's good faith efforts to 1053
prevent the violation; 1054

(c) The registrant's or licensee's history regarding 1055
violations and compliance with division orders; 1056

(d) The registrant's or licensee's financial resources; 1057

(e) Any other matters the superintendent considers 1058

appropriate in enforcing sections 1322.01 to 1322.12 of the 1059
Revised Code. 1060

(B) The superintendent may investigate alleged violations of 1061
~~section~~ sections 1322.01 to 1322.12 of the Revised Code or the 1062
rules adopted under those sections or complaints concerning any 1063
such violation. The superintendent may make application to the 1064
court of common pleas for an order enjoining any such violation, 1065
and, upon a showing by the superintendent that a person has 1066
committed or is about to commit such a violation, the court shall 1067
grant an injunction, restraining order, or other appropriate 1068
relief. 1069

(C) In conducting any investigation pursuant to this section, 1070
the superintendent may compel, by subpoena, witnesses to testify 1071
in relation to any matter over which the superintendent has 1072
jurisdiction and may require the production of any book, record, 1073
or other document pertaining to that matter. If a person fails to 1074
file any statement or report, obey any subpoena, give testimony, 1075
produce any book, record, or other document as required by a 1076
subpoena, or permit photocopying of any book, record, or other 1077
document subpoenaed, the court of common pleas of any county in 1078
this state, upon application made to it by the superintendent, 1079
shall compel obedience by attachment proceedings for contempt, as 1080
in the case of disobedience of the requirements of a subpoena 1081
issued from the court or a refusal to testify therein. 1082

(D) If the superintendent determines that a person is engaged 1083
in or is believed to be engaged in activities that may constitute 1084
a violation of sections 1322.01 to 1322.12 of the Revised Code, 1085
the superintendent, after notice and a hearing conducted in 1086
accordance with Chapter 119. of the Revised Code, may issue a 1087
cease and desist order. Such an order shall be enforceable in the 1088
court of common pleas. 1089

(E) If the superintendent revokes the certificate of 1090

registration or license of a registrant or licensee who is 1091
convicted of or pleads guilty to a criminal violation of any 1092
provision of sections 1322.01 to 1322.12 of the Revised Code or 1093
any criminal offense described in division (A)(1)(b) of this 1094
section, the revocation shall be permanent. 1095

Sec. 1322.101. On receipt of a notice pursuant to section 1096
3123.43 of the Revised Code, the division of financial 1097
institutions shall comply with sections 3123.41 to 3123.50 of the 1098
Revised Code and any applicable rules adopted under section 1099
3123.63 of the Revised Code with respect to a certificate or 1100
license issued pursuant to this chapter. 1101

Sec. 1322.11. (A)(1) A buyer injured by a violation of 1102
section 1322.02 ~~or, 1322.062, 1322.07, division (B) of section~~ 1103
~~1322.06, or division (A) or (B) of section~~ 1322.071, 1322.08, or 1104
1322.09 of the Revised Code may bring an action for recovery of 1105
damages. 1106

(2) Damages awarded under division (A)(1) of this section 1107
shall not be less than the amount paid by the buyer to the 1108
mortgage broker, plus reasonable attorney's fees and court costs. 1109

(3) The buyer may be awarded punitive damages. 1110

(B)(1) The superintendent of financial institutions, the 1111
attorney general, or a buyer may bring an action to enjoin a 1112
violation of sections 1322.01 to 1322.12 of the Revised Code. 1113

(2) The superintendent may initiate ~~criminate~~ criminal 1114
proceedings under sections 1322.01 to 1322.12 of the Revised Code 1115
by presenting any evidence of criminal violation to the 1116
prosecuting attorney of the county in which the offense may be 1117
prosecuted. If the prosecuting attorney does not prosecute the 1118
violations, or at the request of the prosecuting attorney, the 1119
superintendent shall present any evidence of criminal violations 1120

to the attorney general, who may proceed in the prosecution with 1121
all the rights, privileges, and powers conferred by law on 1122
prosecuting attorneys, including the power to appear before grand 1123
juries and to interrogate witnesses before such grand juries. 1124
These powers of the attorney general shall be in addition to any 1125
other applicable powers of the attorney general. 1126

(C) The remedies provided by this section are in addition to 1127
any other remedy provided by law. 1128

(D) In any proceeding or action brought under sections 1129
1322.01 to 1322.12 of the Revised Code, the burden of proving an 1130
exemption under those sections is on the person claiming the 1131
benefit of the exemption. 1132

(E) No person shall be deemed to violate sections 1322.01 to 1133
1322.12 of the Revised Code with respect to any act taken or 1134
omission made in reliance on a written notice, written 1135
interpretation, or written report from the superintendent, unless 1136
there is a subsequent amendment to those sections, or rules 1137
promulgated thereunder, that affects the superintendent's notice, 1138
interpretation, or report. 1139

(F) Upon disbursement of mortgage loan proceeds to or on 1140
behalf of the buyer, the registrant that assisted the buyer to 1141
obtain the mortgage loan is deemed to have completed the 1142
performance of the registrant's services for the buyer and owes no 1143
additional duties or obligations to the buyer with respect to the 1144
mortgage loan. However, nothing in this division shall be 1145
construed to limit or preclude the civil or criminal liability of 1146
a registrant for failing to comply with sections 1322.01 to 1147
1322.12 of the Revised Code or any rule adopted under those 1148
sections, for failing to comply with any provision of or duty 1149
arising under an agreement with a buyer or lender under sections 1150
1322.01 to 1322.12 of the Revised Code, or for violating any other 1151
provision of state or federal law. 1152

Sec. 1322.99. (A) Whoever violates division (A)(1) or (2) of 1153
section 1322.02, division (E) or (F) of section 1322.07 or, 1154
division (A)(B)(1) or (B)(2) of section 1322.071, or section 1155
1322.08 of the Revised Code is guilty of a felony of the fifth 1156
degree. 1157

(B) Whoever violates division (B)(3) of section 1322.071 of 1158
the Revised Code is guilty of a felony of the fourth degree. 1159

(C) Whoever violates division (B) of section 1322.02 of the 1160
Revised Code is guilty of a misdemeanor of the first degree. 1161

Sec. 4712.01. As used in sections 4712.01 to 4712.14 of the 1162
Revised Code: 1163

(A) "Buyer" means an individual who is solicited to purchase 1164
or who purchases the services of a credit services organization 1165
for purposes other than obtaining a business loan as described in 1166
division (B)(6) of section 1343.01 of the Revised Code. 1167

(B) "Consumer reporting agency" has the same meaning as in 1168
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, 1169
as amended. 1170

(C)(1) "Credit services organization" means any person that, 1171
in return for the payment of money or other valuable consideration 1172
readily convertible into money for the following services, sells, 1173
provides, or performs, or represents that the person can or will 1174
sell, provide, or perform, one or more of the following services: 1175

(a) Improving a buyer's credit record, history, or rating; 1176

(b) Obtaining an extension of credit by others for a buyer; 1177

(c) Providing advice or assistance to a buyer in connection 1178
with division (C)(1)(a) or (b) of this section; 1179

(d) Removing adverse credit information that is accurate and 1180

not obsolete from the buyer's credit record, history, or rating; 1181

(e) Altering the buyer's identification to prevent the 1182
display of the buyer's credit record, history, or rating. 1183

(2) "Credit services organization" does not include any of 1184
the following: 1185

(a) A person that makes or collects loans, to the extent 1186
these activities are subject to licensure or registration by this 1187
state; 1188

(b) A mortgage broker, as defined in ~~division (E)~~ of section 1189
1322.01 of the Revised Code, that holds a valid certificate of 1190
registration under sections 1322.01 to 1322.12 of the Revised 1191
Code; 1192

(c) A lender approved by the United States secretary of 1193
housing and urban development for participation in a mortgage 1194
insurance program under the "National Housing Act," 48 Stat. 1246 1195
(1934), 12 U.S.C.A. 1701, as amended; 1196

(d) A bank, savings bank, or savings and loan association, or 1197
a subsidiary or an affiliate of a bank, savings bank, or savings 1198
and loan association. For purposes of division (C)(2)(d) of this 1199
section, "affiliate" has the same meaning as in division (A) of 1200
section 1101.01 of the Revised Code and "bank," as used in 1201
division (A) of section 1101.01 of the Revised Code, is deemed to 1202
include a savings bank or savings and loan association. 1203

(e) A credit union organized and qualified under Chapter 1204
1733. of the Revised Code or the "Federal Credit Union Act," 84 1205
Stat. 994 (1970), 12 U.S.C.A. 1751, as amended; 1206

(f) A budget and debt counseling service, as defined in 1207
division (D) of section 2716.03 of the Revised Code, provided that 1208
the service is a nonprofit organization exempt from taxation under 1209
section 501(c)(3) of the "Internal Revenue Code of 1986," 100 1210

Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is 1211
in compliance with Chapter 4710. of the Revised Code; 1212

(g) A consumer reporting agency that is in substantial 1213
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 1214
U.S.C.A. 1681a, as amended. 1215

(h) A mortgage banker; 1216

(i) Any political subdivision, or any governmental or other 1217
public entity, corporation, or agency, in or of the United States 1218
or any state of the United States; 1219

(j) A college or university, or controlled entity of a 1220
college or university, as defined in section 1713.05 of the 1221
Revised Code; 1222

(k) A motor vehicle dealer licensed pursuant to Chapter 4517. 1223
of the Revised Code acting within the scope and authority of that 1224
license or a motor vehicle auction owner licensed pursuant to 1225
Chapters 4517. and 4707. of the Revised Code acting within the 1226
scope and authority of that license. 1227

(D) "Extension of credit" means the right to defer payment of 1228
debt, or to incur debt and defer its payment, offered or granted 1229
primarily for personal, family, or household purposes. "Extension 1230
of credit" does not include a mortgage. 1231

(E) "Mortgage" means any indebtedness secured by a deed of 1232
trust, security deed, or other lien on real property. 1233

(F) "Mortgage banker" means any person that makes, services, 1234
or buys and sells mortgage loans and is approved by the United 1235
States department of housing and urban development, the United 1236
States department of veterans affairs, the federal national 1237
mortgage association, or the federal home loan mortgage 1238
corporation. 1239

(G) "Superintendent of financial institutions" includes the 1240

deputy superintendent for consumer finance as provided in section 1241
1181.21 of the Revised Code. 1242

Section 2. That existing sections 1322.01, 1322.02, 1322.03, 1243
1322.04, 1322.05, 1322.06, 1322.07, 1322.08, 1322.09, 1322.10, 1244
1322.101, 1322.11, 1322.99, and 4712.01 of the Revised Code are 1245
hereby repealed. 1246

Section 3. Sections 1 and 2 of this act shall take effect six 1247
months after the effective date of this act. 1248

Section 4. It is the intent of the General Assembly that the 1249
Superintendent of Financial Institutions take any action necessary 1250
to provide for an orderly transition for those persons who, on the 1251
effective date of this act, perform the functions, duties, or 1252
powers prescribed for registrants and licensees under this act. 1253
Consequently, the Division of Financial Institutions shall accept 1254
registration and license applications submitted by such persons 1255
beginning on the effective date of this act and shall make every 1256
effort possible to act upon such applications within the six-month 1257
period immediately following that date. 1258

Section 5. The prior operation of section 1322.03 of the 1259
Revised Code, which permitted evidence on an application for a 1260
certificate of registration as a mortgage broker that the person 1261
designated as responsible for managing the operations of a 1262
mortgage broker business meets the educational requirements then 1263
in effect if, prior to March 18, 1999, that person was designated 1264
as being responsible for managing the operations of the 1265
registrant's business, shall continue and not be affected by the 1266
enactment of this act until March 18, 2002; except that, all 1267
requirements, except the experience requirements, applicable to 1268
operations managers under this act apply to that person on the 1269

date this act takes effect. On and after March 18, 2002, a person 1270
not meeting the experience requirements provided in division 1271
(A)(4) of section 1322.03 of the Revised Code, as amended by this 1272
act, or any other requirement applicable to an operations manager 1273
under this act shall not be designated as an operations manager on 1274
an application for a certificate of registration as a mortgage 1275
broker. 1276