

As Passed by the Senate

124th General Assembly

Regular Session

2001-2002

Sub. S. B. No. 76

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

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, and 1322.073 of the Revised Code to
revise the laws governing mortgage brokers and loan
officers.

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

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

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

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

(B)(6) of section 1343.01 of the Revised Code.

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

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

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

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

(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~~

section 1181.21 of the Revised Code.

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

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

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

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

(B) No person, on the person's own behalf or on behalf of any other person, shall originate mortgage loans for a registrant, unless that person is an employee of the registrant act as a loan

officer without first having obtained a license from the 142
superintendent. A loan officer shall not be employed by more than 143
one mortgage broker at any one time. 144

(C) As used in this section: 145

(1) Employee means a person who may be required or directed 146
by a registrant to originate mortgage loans in consideration of 147
direct or indirect gain or profit. Employee does not include an 148
independent contractor or any person who has a similar employment 149
relationship with a mortgage broker. The following persons are 150
exempt from sections 1322.01 to 1322.12 of the Revised Code only 151
with respect to business engaged in or authorized by their 152
charter, license, authority, approval, or certificate: 153

(a) A bank, savings bank, savings and loan association, or 154
credit union organized under the laws of this state, another 155
state, or the United States, or a subsidiary or affiliate of a 156
bank, savings bank, savings and loan association, or credit union; 157

(b) A budget and debt counseling service, as defined in 158
division (D) of section 2716.03 of the Revised Code, provided that 159
the service is a nonprofit organization exempt from taxation under 160
section 501(c)(3) of the "Internal Revenue Code of 1986," 100 161
Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is 162
in compliance with Chapter 4710. of the Revised Code; 163

(c) A consumer reporting agency that is in substantial 164
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 165
U.S.C.A. 1681a, as amended; 166

(d) Any political subdivision, or any governmental or other 167
public entity, corporation, or agency, in or of the United States 168
or any state of the United States; 169

(e) A college or university, or controlled entity of a 170
college or university, as defined in section 1713.05 of the 171
Revised Code; 172

(f) A person registered under sections 1321.51 to 1321.60 of 173
the Revised Code, provided that not more than five per cent of the 174
person's mortgage loans constitute table-funding mortgage loans or 175
warehouse-lending mortgage loans. Division (C)(1)(f) of this 176
section does not include any person that is also registered or 177
licensed under sections 1322.01 to 1322.12 of the Revised Code. 178

(g) A mortgage banker. For purposes of division (C)(1)(g) of 179
this section, "mortgage banker" means any person that makes, 180
services, buys, or sells mortgage loans and that meets at least 181
one of the following criteria: 182

(i) The person has been directly approved by the United 183
States department of housing and urban development as a 184
nonsupervised mortgagee with participation in the direct 185
endorsement program. Division (C)(1)(g)(i) of this section does 186
not include a mortgagee approved as a loan correspondent. 187

(ii) The person has been directly approved by the federal 188
national mortgage association as a seller/servicer. 189

(iii) The person has been directly approved by the federal 190
home loan mortgage corporation as a seller/servicer. 191

(h) A person created solely for the purpose of securitizing 192
loans secured by an interest in real estate, provided the person 193
does not service the loans. For purposes of division (C)(1)(h) of 194
this section, "securitizing" means the packaging and sale of 195
mortgage loans as a unit for sale as investment securities, but 196
only to the extent of those activities. 197

(2) Originate means any of the following: 198

(a) To negotiate or arrange, or to offer to negotiate or 199
arrange, a mortgage loan between a person that makes or funds 200
mortgage loans and a buyer; 201

(b) To issue a commitment for a mortgage loan to a buyer; 202

~~(c) To place, assist in placement, or find a mortgage loan~~ 203
~~for a buyer~~ Any individual who is employed by a person exempt from 204
sections 1322.01 to 1322.12 of the Revised Code is also exempt 205
from those sections to the extent the individual is acting within 206
the scope of the individual's employment and within the scope of 207
the exempt person's charter, license, authority, approval, or 208
certificate. 209

Sec. 1322.021. (A) A registrant that is a corporation, 210
limited liability company, partnership, trust, or other business 211
entity or association shall notify the division of financial 212
institutions of every sale, transfer, or hypothecation of any 213
stock, security, membership, partnership, or other equitable, 214
beneficial, or ownership interest in the entity or association, if 215
the interest represents at least a five per cent membership, 216
partnership, or other equitable, beneficial, or ownership interest 217
in the entity or association. 218

(B) Every person that acquires or otherwise receives an 219
interest described in division (A) of this section is subject to 220
sections 1322.01 to 1322.12 of the Revised Code. The division may 221
make any investigation necessary to determine whether any fact or 222
condition exists that, if it had existed at the time of the 223
original application for a certificate of registration, the fact 224
or condition would have warranted the division to deny the 225
application under section 1322.04 of the Revised Code. If such a 226
fact or condition is found, the division may, in accordance with 227
Chapter 119. of the Revised Code, revoke the registrant's 228
certificate. 229

Sec. 1322.03. (A) An application for a certificate of 230
registration as a mortgage broker shall be in writing, under oath, 231
and in the form prescribed by the superintendent of financial 232
institutions. The application shall be accompanied by an a 233

nonrefundable application fee of three hundred fifty dollars for 234
each location of an office to be maintained by the applicant in 235
accordance with division (A) of section 1322.02 of the Revised 236
Code ~~and~~; however, an applicant that is registered under sections 237
1321.51 to 1321.60 of the Revised Code shall not be required to 238
pay an application fee. The application shall provide all of the 239
following: 240

(1) The location or locations where the business is to be 241
transacted and whether any location is a residence. If any 242
location where the business is to be transacted is a residence, 243
the application shall be accompanied by a certified copy of a 244
zoning permit authorizing the use of the residence for commercial 245
purposes, or shall be accompanied by a written opinion or other 246
document issued by the county or political subdivision where the 247
residence is located certifying that the use of the residence to 248
transact business as a mortgage broker is not prohibited by the 249
county or political subdivision. The application also shall be 250
accompanied by a photograph of each location at which the business 251
will be transacted. 252

(2)(a) In the case of a sole proprietor, the name and address 253
of the sole proprietor; 254

(b) In the case of a partnership, the name and address of 255
each partner; 256

(c) In the case of a corporation, the name and address of 257
each shareholder owning five per cent or more of the corporation; 258

(d) In the case of any other entity, the name and address of 259
any person that owns five per cent or more of the entity that will 260
transact business as a mortgage broker. 261

~~(3)(a) If the applicant is a partnership, the applicant shall~~ 262
~~designate one of the partners named in the application pursuant to~~ 263
~~division (A)(2)(b) of this section as responsible for managing the~~ 264

operations of the location or locations where the business is to 265
be transacted. 266

~~(b) If the applicant is a corporation, the applicant shall 267
designate one of the shareholders named in the application 268
pursuant to division (A)(2)(c) of this section as responsible for 269
managing the operations of the location or locations where the 270
business is to be transacted. 271~~

~~(c) If the applicant is corporation, limited liability 272
company, or any other business entity or association, the 273
applicant shall designate a natural person that owns five per cent 274
or more of the entity that will transact business as a mortgage 275
broker as responsible for managing the an employee or owner of the 276
applicant as the applicant's operations of the location or 277
locations where the business is to be transacted manager. While 278
acting as the operations manager, the employee or owner shall not 279
be employed by any other mortgage broker. 280~~

~~(4) Evidence that at least one of the following applies to 281
the sole proprietor, partner, shareholder, or natural the person 282
designated on the application pursuant to division (A)(3) of this 283
section, as responsible for managing the operations of the 284
location or locations where the business is to be transacted: 285~~

~~(a) Except as provided in division (D)(2) of this section, 286
the sole proprietor, partner, shareholder, or natural person has 287
earned at least an associate degree in an area relating to 288
finance, banking, or business administration, and the degree was 289
earned at an accredited college or university, including an 290
accredited community or technical college. 291~~

~~(b) The sole proprietor, partner, shareholder, or natural 292
person applicable, possesses at least three years of experience in 293
the mortgage and lending field, which experience may include 294
employment with or as a mortgage broker or with a financial 295
institution, mortgage lending institution, or other lending 296~~

institution, or possesses at least three years of other experience 297
related specifically to the business of mortgage loans that the 298
superintendent determines meets the requirements of division 299
(A)(4)(~~b~~) of this section; 300

(5) Evidence of compliance with the surety bond requirements 301
of section 1322.05 of the Revised Code and with sections 1322.01 302
to 1322.12 of the Revised Code; 303

(6) In the case of a foreign ~~corporation~~ business entity, 304
evidence that it maintains a license or registration pursuant to 305
Chapter 1703., 1705., 1775., 1777., 1782., or 1783. of the Revised 306
Code to transact business in this state; 307

(7) A statement ~~that~~ as to whether the applicant or, to the 308
best of the applicant's knowledge, any shareholder, member, 309
partner, operations manager, or employee of the applicant has ~~not~~ 310
been convicted of or pleaded guilty to a any criminal offense, the 311
violation of which is a felony involving theft, receiving stolen 312
property, embezzlement, forgery, fraud, passing bad checks, money 313
laundering, or drug trafficking, or any criminal offense involving 314
fraud money or securities; 315

(8) A statement as to whether the applicant or, to the best 316
of the applicant's knowledge, any shareholder, member, partner, 317
operations manager, or employee of the applicant has been subject 318
to any adverse judgment for conversion, embezzlement, 319
misappropriation of funds, fraud, misfeasance or malfeasance, or 320
breach of fiduciary duty; 321

(9) Evidence that the applicant's operations manager has 322
successfully completed the examination required under division (A) 323
of section 1322.051 of the Revised Code; 324

(10) Any further information that the superintendent 325
requires. 326

(B) Upon the filing of the application and payment of the 327

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

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

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

~~(2) Except as provided in division (D)(3) of this section, on
and after the effective date of this amendment, evidence of
education provided in division (A)(4)(a) of this section shall not
be accepted on an application of a person applying as a new
applicant for a certificate of registration as a mortgage broker.
However, on and after the effective date of this amendment, a
person who, prior to that date, submitted evidence of education as~~

~~provided for in division (A)(4)(a) of this section may renew a
certificate of registration as a mortgage broker, provided that
the person is registered on that date as a mortgage broker
pursuant to section 1322.04 of the Revised Code, and a certificate
of registration as a mortgage broker is not surrendered by the
person or revoked or refused renewal by the superintendent at any
time after that date.~~

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

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

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

~~(E) A certificate of registration, or the authority granted
under such a certificate, is not transferable or assignable and~~

cannot be franchised by contract or any other means.

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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:

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(1) The name and address of the applicant;

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(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;

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(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;

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(4) Any further information that the superintendent requires.

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(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.

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(C) All funds advanced and application and renewal fees and 422
penalties paid to the superintendent under this section and 423
section 1322.041 of the Revised Code shall be paid by the 424
superintendent to the treasurer of state to the credit of the 425
consumer finance fund created in section 1321.21 of the Revised 426
Code. 427

(D) If an application for a license does not contain all of 428
the information required under division (A) of this section, and 429
if that information is not submitted to the superintendent within 430
ninety days after the superintendent requests the information in 431
writing, the superintendent may consider the application 432
withdrawn. 433

(E)(1) The business of a loan officer shall principally be 434
transacted at an office of the employing mortgage broker, which 435
office is registered in accordance with division (A) of section 436
1322.02 of the Revised Code. Each original license shall be 437
deposited with and maintained by the employing mortgage broker at 438
the mortgage broker's main office. A copy of the license shall be 439
maintained and displayed at the office where the loan officer 440
principally transacts business. 441

(2) If a loan officer's employment is terminated, the 442
mortgage broker shall return the original license to the 443
superintendent within five business days after the termination. 444
The licensee may request the transfer of the license to another 445
mortgage broker by submitting a relocation application, along with 446
a fifteen dollar fee, to the superintendent or may request the 447
superintendent in writing to hold the license in escrow for a 448
period not to exceed one year. Any licensee whose license is held 449
in escrow shall cease activity as a loan officer. 450

A mortgage broker may employ a loan officer on a temporary 451
basis pending the transfer of the loan officer's license to the 452
mortgage broker, if the mortgage broker receives written 453

confirmation from the superintendent that the loan officer is
licensed under sections 1322.01 to 1322.12 of the Revised Code.

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

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

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

(2) If the application is for a location that is a residence,

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

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

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

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

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

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

(7) ~~The~~ Neither the applicant nor any shareholder, member,

partner, operations manager, or employee of the applicant has not 516
pleaded guilty to or been convicted of a any criminal offense, the 517
violation of which is a felony, or any criminal offense involving 518
fraud described in division (A)(7) of section 1322.03 of the 519
Revised Code, or, if the applicant or any of those other persons 520
has pleaded guilty to or been convicted of such an offense, the 521
applicant has proven to the superintendent, by a preponderance of 522
the evidence, that the applicant's or other person's activities 523
and employment record since the conviction show that the applicant 524
or other person is honest, truthful, and of good reputation, and 525
there is no basis in fact for believing that the applicant or 526
other person will commit such an offense again. 527

(8) Neither the applicant nor any shareholder, member, 528
partner, operations manager, or employee of the applicant has been 529
subject to any adverse judgment for conversion, embezzlement, 530
misappropriation of funds, fraud, misfeasance or malfeasance, or 531
breach of fiduciary duty, or, if the applicant or any of those 532
other persons has been subject to such a judgment, the applicant 533
has proven to the superintendent, by a preponderance of the 534
evidence, that the applicant's or other person's activities and 535
employment record since the judgment show that the applicant or 536
other person is honest, truthful, and of good reputation, and 537
there is no basis in fact for believing that the applicant or 538
other person will be subject to such a judgment again. 539

(9) The applicant's operations manager successfully completed 540
the examination required under division (A) of section 1322.051 of 541
the Revised Code. 542

(10) The applicant's financial responsibility, experience, 543
character, and general fitness command the confidence of the 544
public and warrant the belief that the business will be operated 545
honestly and fairly in compliance with the purposes of sections 546
1322.01 to 1322.12 of the Revised Code. 547

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

(B) The certificate of registration issued pursuant to
division (A) of this section may be renewed annually on or before
the thirtieth day of April ~~upon payment of a~~ if the superintendent
finds that all of the following conditions are met:

(1) The renewal application is accompanied by a nonrefundable
renewal fee of three hundred fifty dollars for each location of an
office to be maintained by the applicant in accordance with
division (A) of section 1322.02 of the Revised Code ~~and a finding~~
~~by the superintendent that the;~~ however, an applicant that is
registered under sections 1321.51 to 1321.60 of the Revised Code
shall not be required to pay a renewal fee. If a check or other
draft instrument is returned to the superintendent for
insufficient funds, the superintendent shall notify the registrant
by certified mail, return receipt requested, that the certificate
of registration renewed in reliance on the check or other draft
instrument will be canceled unless the registrant, within thirty
days after receipt of the notice, submits the renewal fee and a
one-hundred-dollar penalty to the superintendent. If the
registrant does not submit the renewal fee and penalty within that
time period, or if any check or other draft instrument used to pay

the fee or penalty is returned to the superintendent for 580
insufficient funds, the certificate of registration shall be 581
canceled immediately without a hearing and the registrant shall 582
cease activity as a mortgage broker. 583

(2) On and after January 1, 2003, the operations manager 584
designated under division (A)(3) of section 1322.03 of the Revised 585
Code has completed, during the immediately preceding calendar 586
year, at least six hours of continuing education as required under 587
section 1322.052 of the Revised Code. 588

(3) The applicant meets the conditions set forth in divisions 589
(A)(2) to (8)(10) of this section and that the. 590

(4) The applicant's certificate of registration is not 591
subject to an order of suspension or revocation by the 592
superintendent. If 593

(C)(1) Subject to division (C)(2) of this section, if a 594
renewal fee is received by the superintendent after the thirtieth 595
day of April, the certificate of registration shall not be 596
considered renewed, and the applicant shall cease activity as a 597
mortgage broker and apply for a certificate of registration as a 598
mortgage broker. 599

~~(C) No application or renewal fee required by division (A) or~~ 600
~~(B) of this section shall be returned after a certificate of~~ 601
~~registration has been issued or renewed by the superintendent.~~ 602

~~(D) Division (A)(3) of this section does not apply to any~~ 603
~~registrant that, on March 4, 1996, is registered as a mortgage~~ 604
~~broker under sections 1322.01 to 1322.12 of the Revised Code under~~ 605
~~a certificate of registration issued pursuant to those sections~~ 606
~~prior to March 4, 1996, provided that the certificate of~~ 607
~~registration is not surrendered by the registrant or revoked or~~ 608
~~refused renewal by the superintendent of financial institutions at~~ 609
~~any time after March 4, 1996.~~ 610

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

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

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

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

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

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

(1) The application is accompanied by the application fee. If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall

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

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

(3) The applicant has not been convicted of or pleaded guilty
to any criminal offense described in division (A)(2) of section
1322.031 of the Revised Code, or, if the applicant has been
convicted of or pleaded guilty to such an offense, the applicant
has proven to the superintendent, by a preponderance of the
evidence, that the applicant's activities and employment record
since the conviction show that the applicant is honest, truthful,
and of good reputation, and there is no basis in fact for
believing that the applicant will commit such an offense again.

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

again.

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(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.

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(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:

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

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

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

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

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

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

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

(B)(1) The registrant shall give notice to the superintendent
by certified mail of any action that is brought by a buyer against
the registrant or loan officer of the registrant alleging injury
by a violation of any provision of sections 1322.01 to 1322.12 of
the Revised Code, and of any judgment that is entered against the
registrant or loan officer of the registrant by a ~~person~~ buyer

injured by a violation of any provision of sections 1322.01 to 735
1322.12 of the Revised Code. The notice shall provide details 736
sufficient to identify the action or judgment, and shall be filed 737
with the superintendent within ten days after the commencement of 738
the action or notice to the registrant of entry of a judgment. ~~The~~ 739
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(2) A corporate surety, within ten days after it pays any 741
claim or judgment, shall give notice to the superintendent by 742
certified mail of the payment, with details sufficient to identify 743
the person and the claim or judgment paid. 744

(C) Whenever the penal sum of the corporate surety bond is 745
reduced by one or more recoveries or payments, the registrant 746
shall furnish a new or additional bond under this section, so that 747
the total or aggregate penal sum of the bond or bonds equals the 748
sum required by this section, or shall furnish an endorsement 749
executed by the corporate surety reinstating the bond to the 750
required penal sum of it. 751

(D) The liability of the corporate surety on the bond to the 752
superintendent and to any ~~person~~ buyer injured by a violation of 753
any provision of sections 1322.01 to 1322.12 of the Revised Code 754
shall not be affected in any way by any misrepresentation, breach 755
of warranty, or failure to pay the premium, by any act or omission 756
upon the part of the registrant, by the insolvency or bankruptcy 757
of the registrant, or by the insolvency of the registrant's 758
estate. The liability for any act or omission that occurs during 759
the term of the corporate surety bond shall be maintained and in 760
effect for at least two years after the date on which the 761
corporate surety bond is terminated or canceled. 762

(E) The corporate surety bond shall not be canceled by the 763
registrant or the corporate surety except upon notice to the 764
superintendent by certified mail, return receipt requested. The 765
cancellation shall not be effective prior to thirty days after the 766

superintendent receives the notice.

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(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.

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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.

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(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.

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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.

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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.

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(B) A registrant shall maintain records pertaining to

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business transacted pursuant to sections 1322.01 to 1322.12 of the
Revised Code for ~~two~~ four years or more after the final entry on
~~such records~~. No registrant shall fail to comply with this
division.

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

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

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

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

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

enforcement agency or other state or federal regulatory agency 827
shall remain privileged and confidential and shall only be used in 828
connection with an official investigation, proceeding, or action. 829

(B) All application information, except social security 830
numbers, employer identification numbers, financial account 831
numbers, the identity of the institution where financial accounts 832
are maintained, personal financial information, fingerprint cards 833
and the information contained on such cards, and criminal 834
background information, is a public record as defined in section 835
149.43 of the Revised Code. 836

Sec. 1322.062. (A) Within three business days after taking an 837
application for a loan from a buyer, a registrant shall deliver to 838
the buyer a mortgage loan origination disclosure statement that 839
contains all of the following: 840

(1) The name, address, and telephone number of the buyer; 841

(2) The typewritten name of the loan officer and the number 842
designated on the loan officer's license; 843

(3) The address, telephone number, and facsimile number of 844
the registrant and the number designated on the registrant's 845
certificate of registration; 846

(4) The signature of the loan officer or registrant; 847

(5) A statement indicating whether the buyer is to pay for 848
the services of a bona fide third party if the registrant is 849
unable to assist the buyer in obtaining a mortgage; 850

(6) A statement that describes the method by which the fee to 851
be paid by the buyer to the registrant will be calculated; 852

(7) A statement that the lender may pay compensation to the 853
registrant; 854

(8) A description of all the services the registrant has 855

agreed to perform for the buyer;

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

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

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

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

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

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

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

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

money laundering, or drug trafficking, or any criminal offense 886
involving fraud money or securities; 887

(E) Knowingly make, propose, or solicit fraudulent, false, or 888
misleading statements on any mortgage document or on any document 889
related to a mortgage, including a mortgage application, real 890
estate appraisal, or real estate settlement or closing document. 891
For purposes of this division, "fraudulent, false, or misleading 892
statements" does not include mathematical errors, inadvertent 893
transposition of numbers, typographical errors, or any other bona 894
fide error. 895

(F) Knowingly instruct, solicit, propose, or otherwise cause 896
a buyer to sign in blank a mortgage related document. 897

Sec. 1322.071. (A) As used in this section, "bona fide third 898
party" has the same meaning as in section 1322.08 of the Revised 899
Code. 900

(B) No mortgage broker, registrant, or licensee shall do any 901
of the following: 902

(1) Retain original documents provided to the registrant or 903
licensee by the buyer in connection with the loan application, 904
including income tax returns, account statements, or other 905
financial related documents; 906

(2) Receive, directly or indirectly, a premium on the fees 907
charged for services performed by a bona fide third party; 908

(3) Pay or receive, directly or indirectly, a referral fee or 909
kickback of any kind to or from a bona fide third party or other 910
party with a related interest in the transaction, such as a home 911
improvement builder, real estate developer, or real estate broker 912
or agent, for the referral of business. 913

Sec. 1322.072. No person, in connection with any examination 914

or investigation conducted by the superintendent of financial
institutions under sections 1322.01 to 1322.12 of the Revised
Code, shall knowingly do either of the following:

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

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

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

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

(1) Maintain a special account;

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

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

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

division ~~(A)~~~~(6)~~(B)(5) of this section, the fees are deposited by 944
the registrant into the registrant's special account for services 945
performed by the bona fide third party: 946

(1) Fees to obtain a report from a credit reporting agency; 947

(2) Fees for notary services; 948

(3) ~~Fees authorized by law to record, file, or release a~~ 949
~~security interest or mortgage;~~ 950

~~(4)~~ Fees for the performance of a title search, appraisal of 951
the real estate, or survey of the real estate; 952

~~(5)~~(4) Fees charged by a lender for locking in an interest 953
rate in connection with obtaining or refinancing a mortgage, 954
provided that the fees do not exceed an amount equal to one and 955
one-half per cent of the mortgage loan amount; 956

~~(6)~~(5) Fees not exceeding five hundred dollars paid directly 957
by the buyer to a state or federal government agency or 958
instrumentality for purposes of processing a mortgage application 959
relating to a government sponsored or guaranteed mortgage program. 960

~~(B)~~(C) If fees are paid by a buyer for the performance of any 961
of the services described in division ~~(A)~~~~(4)~~ (B)(3) of this 962
section and the registrant is unable to assist in obtaining a 963
mortgage for the buyer, the registrant shall return to the buyer 964
the original documents prepared by the bona fide third party at 965
the time that the request for the mortgage is refused or denied. 966
With respect to any appraisal, however, the registrant may return 967
either the original or a copy. No registrant shall fail to comply 968
with this division. 969

~~(C)~~(D) For purposes of this section: 970

(1) "Bona fide third party" means a person that is not an 971
employee of, related to, or affiliated with, the registrant, and 972
that is not used for the purpose of circumvention or evasion of 973

this section.

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

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

No mortgage broker shall fail to comply with this section.

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

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

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

applicable to the business conducted under a certificate of 1004
registration; 1005

(b) A conviction of or guilty plea to any criminal offense 1006
involving theft, receiving stolen property, embezzlement, forgery, 1007
fraud, passing bad checks, money laundering, or drug trafficking, 1008
or any criminal offense involving money or securities. 1009

(2) Impose a fine of not more than one thousand dollars, for 1010
each day a violation of a law or rule is committed, repeated, or 1011
continued. If the registrant or licensee engages in a pattern of 1012
repeated violations of a law or rule, the superintendent may 1013
impose a fine of not more than two thousand dollars for each day 1014
the violation is committed, repeated, or continued. All fines 1015
collected pursuant to this division shall be paid to the treasurer 1016
of state to the credit of the consumer finance fund created in 1017
section 1321.21 of the Revised Code. In determining the amount of 1018
a fine to be imposed pursuant to this division, the superintendent 1019
shall consider all of the following: 1020

(a) The seriousness of the violation; 1021

(b) The registrant's or licensee's good faith efforts to 1022
prevent the violation; 1023

(c) The registrant's or licensee's history regarding 1024
violations and compliance with division orders; 1025

(d) The registrant's or licensee's financial resources; 1026

(e) Any other matters the superintendent considers 1027
appropriate in enforcing sections 1322.01 to 1322.12 of the 1028
Revised Code. 1029

(B) The superintendent may investigate alleged violations of 1030
~~section~~ sections 1322.01 to 1322.12 of the Revised Code or the 1031
rules adopted under those sections or complaints concerning any 1032
such violation. The superintendent may make application to the 1033
court of common pleas for an order enjoining any such violation, 1034

and, upon a showing by the superintendent that a person has 1035
committed or is about to commit such a violation, the court shall 1036
grant an injunction, restraining order, or other appropriate 1037
relief. 1038

(C) In conducting any investigation pursuant to this section, 1039
the superintendent may compel, by subpoena, witnesses to testify 1040
in relation to any matter over which the superintendent has 1041
jurisdiction and may require the production of any book, record, 1042
or other document pertaining to that matter. If a person fails to 1043
file any statement or report, obey any subpoena, give testimony, 1044
produce any book, record, or other document as required by a 1045
subpoena, or permit photocopying of any book, record, or other 1046
document subpoenaed, the court of common pleas of any county in 1047
this state, upon application made to it by the superintendent, 1048
shall compel obedience by attachment proceedings for contempt, as 1049
in the case of disobedience of the requirements of a subpoena 1050
issued from the court or a refusal to testify therein. 1051

(D) If the superintendent determines that a person is engaged 1052
in or is believed to be engaged in activities that may constitute 1053
a violation of sections 1322.01 to 1322.12 of the Revised Code, 1054
the superintendent, after notice and a hearing conducted in 1055
accordance with Chapter 119. of the Revised Code, may issue a 1056
cease and desist order. Such an order shall be enforceable in the 1057
court of common pleas. 1058

(E) If the superintendent revokes the certificate of 1059
registration or license of a registrant or licensee who is 1060
convicted of or pleads guilty to a criminal violation of any 1061
provision of sections 1322.01 to 1322.12 of the Revised Code or 1062
any criminal offense described in division (A)(1)(b) of this 1063
section, the revocation shall be permanent. 1064

Sec. 1322.101. On receipt of a notice pursuant to section 1065

3123.43 of the Revised Code, the division of financial 1066
institutions shall comply with sections 3123.41 to 3123.50 of the 1067
Revised Code and any applicable rules adopted under section 1068
3123.63 of the Revised Code with respect to a certificate or 1069
license issued pursuant to this chapter. 1070

Sec. 1322.11. (A)(1) A buyer injured by a violation of 1071
section 1322.02 ~~or, 1322.062,~~ 1322.07, ~~division (B) of section~~ 1072
~~1322.06, or division (A) or (B) of section~~ 1322.071, 1322.08, or 1073
1322.09 of the Revised Code may bring an action for recovery of 1074
damages. 1075

(2) Damages awarded under division (A)(1) of this section 1076
shall not be less than the amount paid by the buyer to the 1077
mortgage broker, plus reasonable attorney's fees and court costs. 1078

(3) The buyer may be awarded punitive damages. 1079

(B)(1) The superintendent of financial institutions, the 1080
attorney general, or a buyer may bring an action to enjoin a 1081
violation of sections 1322.01 to 1322.12 of the Revised Code. 1082

(2) The superintendent may initiate criminate proceedings 1083
under sections 1322.01 to 1322.12 of the Revised Code by 1084
presenting any evidence of criminal violation to the prosecuting 1085
attorney of the county in which the offense may be prosecuted. If 1086
the prosecuting attorney does not prosecute the violations, or at 1087
the request of the prosecuting attorney, the superintendent shall 1088
present any evidence of criminal violations to the attorney 1089
general, who may proceed in the prosecution with all the rights, 1090
privileges, and powers conferred by law on prosecuting attorneys, 1091
including the power to appear before grand juries and to 1092
interrogate witnesses before such grand juries. These powers of 1093
the attorney general shall be in addition to any other applicable 1094
powers of the attorney general. 1095

(C) The remedies provided by this section are in addition to 1096

any other remedy provided by law. 1097

(D) In any proceeding or action brought under sections 1098
1322.01 to 1322.12 of the Revised Code, the burden of proving an 1099
exemption under those sections is on the person claiming the 1100
benefit of the exemption. 1101

(E) No person shall be deemed to violate sections 1322.01 to 1102
1322.12 of the Revised Code with respect to any act taken or 1103
omission made in reliance on a written notice, written 1104
interpretation, or written report from the superintendent, unless 1105
there is a subsequent amendment to those sections, or rules 1106
promulgated thereunder, that affects the superintendent's notice, 1107
interpretation, or report. 1108

(F) Upon disbursement of mortgage loan proceeds to or on 1109
behalf of the buyer, the registrant that assisted the buyer to 1110
obtain the mortgage loan is deemed to have completed the 1111
performance of the registrant's services for the buyer and owes no 1112
additional duties or obligations to the buyer with respect to the 1113
mortgage loan. However, nothing in this division shall be 1114
construed to limit or preclude the civil or criminal liability of 1115
a registrant for failing to comply with sections 1322.01 to 1116
1322.12 of the Revised Code or any rule adopted under those 1117
sections, for failing to comply with any provision of or duty 1118
arising under an agreement with a buyer or lender under sections 1119
1322.01 to 1322.12 of the Revised Code, or for violating any other 1120
provision of state or federal law. 1121

Sec. 1322.99. (A) Whoever violates division (A)(1) or (2) of 1122
section 1322.02, division (E) or (F) of section 1322.07 or, 1123
division (A)(B)(1) or (B)(2) of section 1322.071, or section 1124
1322.08 of the Revised Code is guilty of a felony of the fifth 1125
degree. 1126

(B) Whoever violates division (B)(3) of section 1322.071 of 1127

the Revised Code is guilty of a felony of the fourth degree. 1128

(C) Whoever violates division (B) of section 1322.02 of the 1129
Revised Code is guilty of a misdemeanor of the first degree. 1130

Sec. 4712.01. As used in sections 4712.01 to 4712.14 of the 1131
Revised Code: 1132

(A) "Buyer" means an individual who is solicited to purchase 1133
or who purchases the services of a credit services organization 1134
for purposes other than obtaining a business loan as described in 1135
division (B)(6) of section 1343.01 of the Revised Code. 1136

(B) "Consumer reporting agency" has the same meaning as in 1137
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, 1138
as amended. 1139

(C)(1) "Credit services organization" means any person that, 1140
in return for the payment of money or other valuable consideration 1141
readily convertible into money for the following services, sells, 1142
provides, or performs, or represents that the person can or will 1143
sell, provide, or perform, one or more of the following services: 1144

(a) Improving a buyer's credit record, history, or rating; 1145

(b) Obtaining an extension of credit by others for a buyer; 1146

(c) Providing advice or assistance to a buyer in connection 1147
with division (C)(1)(a) or (b) of this section; 1148

(d) Removing adverse credit information that is accurate and 1149
not obsolete from the buyer's credit record, history, or rating; 1150

(e) Altering the buyer's identification to prevent the 1151
display of the buyer's credit record, history, or rating. 1152

(2) "Credit services organization" does not include any of 1153
the following: 1154

(a) A person that makes or collects loans, to the extent 1155

these activities are subject to licensure or registration by this state;

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

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

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

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

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

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

(h) A mortgage banker;

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

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

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

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

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

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

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

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

Section 3. Sections 1 and 2 of this act shall take effect six 1216
months after the effective date of this act. 1217

Section 4. It is the intent of the General Assembly that the 1218
Superintendent of Financial Institutions take any action necessary 1219
to provide for an orderly transition for those persons who, on the 1220
effective date of this act, perform the functions, duties, or 1221
powers prescribed for registrants and licensees under this act. 1222
Consequently, the Division of Financial Institutions shall accept 1223
registration and license applications submitted by such persons 1224
beginning on the effective date of this act and shall make every 1225
effort possible to act upon such applications within the six-month 1226
period immediately following that date. 1227