

As Reported by the House Financial Institutions Committee

124th General Assembly

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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,
Husted, Kilbane, R. Miller, Ogg, Otterman, Reidelbach, Reinhard, Schmidt,
Setzer, G. Smith, Sulzer, Webster, Wilson**

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: 14

Sec. 1322.01. As used in sections 1322.01 to 1322.12 of the 15
Revised Code: 16

(A) "Buyer" means an individual who is solicited to purchase 17
or who purchases the services of a mortgage broker for purposes 18
other than obtaining a business loan as described in division 19
(B)(6) of section 1343.01 of the Revised Code. 20

(B) "Consumer reporting agency" has the same meaning as in 21
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, 22
as amended. 23

(C) "Employee" means an individual for whom a mortgage 24
broker, in addition to providing a wage or salary, pays social 25
security and unemployment taxes, provides workers' compensation 26
coverage, and withholds local, state, and federal income taxes. 27
"Employee" also includes any shareholder, member, or partner of a 28
registrant who acts as a loan officer or operations manager of the 29
registrant, but for whom the registrant is prevented by law from 30
making income tax withholdings. 31

(D) "Licensee" means any person that has been issued a loan 32
officer license under sections 1322.01 to 1322.12 of the Revised 33
Code. 34

(E) "Loan officer" means an employee who originates mortgage 35
loans in consideration of direct or indirect gain, profit, fees, 36
or charges. "Loan officer" also includes an employee who solicits 37
financial and mortgage information from the public for sale to 38
another mortgage broker. 39

(F) "Mortgage" means any indebtedness secured by a deed of 40
trust, security deed, or other lien on real property. 41

~~(D) "Mortgage banker" means any person that makes, services, 42~~
~~or buys and sells mortgage loans, and is required to submit 43~~
~~audited financial statements to, and is subject to a possible 44~~
~~audit by, the United States department of housing and urban 45~~
~~development, the United States department of veterans affairs, the 46~~
~~federal national mortgage association, the federal home loan 47~~

mortgage corporation, or the government national mortgage
association. 48
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~~(E)(G)~~ "Mortgage broker" means a any of the following: 50

(1) A person that, in the regular course of business, holds 51
that person out as being able to assist a buyer in obtaining a 52
mortgage and charges or receives from either the buyer or lender 53
money or other valuable consideration readily convertible into 54
money for providing this assistance. "Mortgage broker" does not 55
include any of the following: 56

~~(1) A person that makes or collects loans, to the extent~~ 57
~~these activities are subject to licensure or registration by this~~ 58
~~state;~~ 59

~~(2) A lender approved by the United States secretary of~~ 60
~~housing and urban development for participation in a mortgage~~ 61
~~insurance program under the "National Housing Act," 48 Stat. 1246~~ 62
~~(1934), 12 U.S.C.A. 1701, as amended person that solicits~~ 63
financial and mortgage information from the public, provides that 64
information to a mortgage broker, and charges or receives from the 65
mortgage broker money or other valuable consideration readily 66
convertible into money for providing the information; 67

~~(3) A bank, savings bank, savings and loan association, or~~ 68
~~subsidiary or affiliate of a bank, savings bank, or savings and~~ 69
~~loan association. For purposes of division (E)(3) of this section,~~ 70
~~"affiliate" has the same meaning as in division (A) of section~~ 71
~~1101.01 of the Revised Code, and "bank," as used in division (A)~~ 72
~~of section 1101.01 of the Revised Code, is deemed to include a~~ 73
~~savings bank or savings and loan association.~~ 74

~~(4) A credit union organized and qualified under Chapter~~ 75
~~1733. of the Revised Code or the "Federal Credit Union Act," 84~~ 76
~~Stat. 994 (1970), 12 U.S.C.A. 1751, as amended;~~ 77

~~(5) A budget and debt counseling service, as defined in~~ 78

~~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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~~(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;~~

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~~(7) A mortgage banker;~~

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~~(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;~~

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

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

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

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

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~~(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;~~

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

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

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~~(J) "Registrant" means any person that has been issued a
mortgage broker certificate of registration under sections 1322.01~~

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to 1322.12 of the Revised Code. 108

~~(G)~~(K) "Superintendent of financial institutions" includes 109
the deputy superintendent for consumer finance as provided in 110
section 1181.21 of the Revised Code. 111

(L) "Table-funding mortgage loan" means a mortgage loan 112
transaction in which the mortgage is initially payable to the 113
mortgage broker, the mortgage broker does not use the mortgage 114
broker's own funds to fund the transaction, and, by the terms of 115
the mortgage or other agreement, the mortgage is simultaneously 116
assigned to another person. 117

(M) "Warehouse-lending mortgage loan" means a mortgage loan 118
transaction in which the mortgage is initially payable to the 119
mortgage broker, the mortgage broker uses the mortgage broker's 120
own funds to fund the transaction, and the mortgage is sold or 121
assigned before the mortgage broker receives a scheduled payment 122
on the mortgage. 123

Sec. 1322.02. (A)(1) No person, on the person's own behalf or 124
on behalf of any other person, shall act as a mortgage broker 125
without first having obtained a certificate of registration from 126
the superintendent of financial institutions for every office to 127
be maintained by the person for the transaction of business as a 128
mortgage broker in this state. A registrant shall maintain an 129
office location in this state for the transaction of business as a 130
mortgage broker in this state. 131

(2) No person shall act or hold that person's self out as a 132
mortgage broker under the authority or name of a registrant or 133
person exempt from sections 1322.01 to 1322.12 of the Revised Code 134
without first having obtained a certificate of registration from 135
the superintendent for every office to be maintained by the person 136
for the transaction of business as a mortgage broker in this 137
state. 138

~~(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.~~ 139
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~~(C) As used in this section:~~ 145

~~(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:~~ 146
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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;~~ 155
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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;~~ 159
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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~~ 168
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or any state of the United States; 170

(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, or, provided that the loans in all respects, except loan amounts, comply with the underwriting and documentation requirements of the United States department of housing and urban development, the person makes loans in excess of the applicable loan limit set by the federal national mortgage association. Division (C)(1)(g)(i) of this section does not include a mortgagee approved as a loan correspondent. 184
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(ii) The person has been directly approved by the federal national mortgage association as a seller/servicer, or, provided that the loans in all respects, except loan amounts, comply with the underwriting and documentation requirements of the federal national mortgage association, the person makes loans in excess of the applicable loan limit set by the federal national mortgage association. 194
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(iii) The person has been directly approved by the federal home loan mortgage corporation as a seller/servicer, or, provided that the loans in all respects, except loan amounts, comply with the underwriting and documentation requirements of the federal home loan mortgage corporation, the person makes loans in excess of the applicable loan limit set by the federal home loan mortgage corporation. 201
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(iv) The person has been directly approved by the United States department of veterans affairs as a nonsupervised automatic lender. Division (C)(1)(g)(iv) of this section does not include a person directly approved by the United States department of veterans affairs as a nonsupervised lender, an agent of a nonsupervised automatic lender, or an agent of a nonsupervised lender. 208
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(h) A person created solely for the purpose of securitizing loans secured by an interest in real estate, provided the person does not service the loans. For purposes of division (C)(1)(h) of this section, "securitizing" means the packaging and sale of mortgage loans as a unit for sale as investment securities, but only to the extent of those activities. 215
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~~(2) Originate means any of the following:~~ 221

~~(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;~~ 222
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~~(b) To issue a commitment for a mortgage loan to a buyer;~~ 225

~~(c) To place, assist in placement, or find a mortgage loan for a buyer~~ Any individual who is employed by a person exempt from sections 1322.01 to 1322.12 of the Revised Code is also exempt from those sections to the extent the individual is acting within the scope of the individual's employment and within the scope of the exempt person's charter, license, authority, approval, or 226
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certificate. 232

Sec. 1322.021. (A) A registrant that is a corporation, 233
limited liability company, partnership, trust, or other business 234
entity or association shall notify the division of financial 235
institutions of every sale, transfer, or hypothecation of any 236
stock, security, membership, partnership, or other equitable, 237
beneficial, or ownership interest in the entity or association, if 238
the interest represents at least a five per cent membership, 239
partnership, or other equitable, beneficial, or ownership interest 240
in the entity or association. 241

(B) Every person that acquires or otherwise receives an 242
interest described in division (A) of this section is subject to 243
sections 1322.01 to 1322.12 of the Revised Code. The division may 244
make any investigation necessary to determine whether any fact or 245
condition exists that, if it had existed at the time of the 246
original application for a certificate of registration, the fact 247
or condition would have warranted the division to deny the 248
application under section 1322.04 of the Revised Code. If such a 249
fact or condition is found, the division may, in accordance with 250
Chapter 119. of the Revised Code, revoke the registrant's 251
certificate. 252

Sec. 1322.03. (A) An application for a certificate of 253
registration as a mortgage broker shall be in writing, under oath, 254
and in the form prescribed by the superintendent of financial 255
institutions. The application shall be accompanied by ~~an~~ a 256
nonrefundable application fee of three hundred fifty dollars for 257
each location of an office to be maintained by the applicant in 258
accordance with division (A) of section 1322.02 of the Revised 259
Code ~~and~~; however, an applicant that is registered under sections 260
1321.51 to 1321.60 of the Revised Code shall not be required to 261
pay an application fee. The application shall provide all of the 262

following:	263
(1) The location or locations where the business is to be transacted and whether any location is a residence. If any location where the business is to be transacted is a residence, the application shall be accompanied by a certified copy of a zoning permit authorizing the use of the residence for commercial purposes, or shall be accompanied by a written opinion or other document issued by the county or political subdivision where the residence is located certifying that the use of the residence to transact business as a mortgage broker is not prohibited by the county or political subdivision. The application also shall be accompanied by a photograph of each location at which the business will be transacted.	264 265 266 267 268 269 270 271 272 273 274 275
(2)(a) In the case of a sole proprietor, the name and address of the sole proprietor;	276 277
(b) In the case of a partnership, the name and address of each partner;	278 279
(c) In the case of a corporation, the name and address of each shareholder owning five per cent or more of the corporation;	280 281
(d) In the case of any other entity, the name and address of any person that owns five per cent or more of the entity that will transact business as a mortgage broker.	282 283 284
(3)(a) If the applicant is a partnership, the applicant shall designate one of the partners named in the application pursuant to division (A)(2)(b) of this section as responsible for managing the operations of the location or locations where the business is to be transacted.	285 286 287 288 289
(b) If the applicant is a corporation, the applicant shall designate one of the shareholders named in the application pursuant to division (A)(2)(c) of this section as responsible for managing the operations of the location or locations where the	290 291 292 293

~~business is to be transacted.~~ 294

~~(c) If the applicant is corporation, limited liability 295
company, or any other business entity or association, the 296
applicant shall designate a natural person that owns five per cent 297
or more of the entity that will transact business as a mortgage 298
broker as responsible for managing the an employee or owner of the 299
applicant as the applicant's operations of the location or 300
locations where the business is to be transacted manager. While 301
acting as the operations manager, the employee or owner shall not 302
be employed by any other mortgage broker. 303~~

(4) Evidence that ~~at least one of the following applies to~~ 304
the sole proprietor, ~~partner, shareholder, or natural~~ the person 305
designated on the application pursuant to division (A)(3) of this 306
section, ~~as responsible for managing the operations of the~~ 307
~~location or locations where the business is to be transacted:~~ 308

~~(a) Except as provided in division (D)(2) of this section,~~ 309
~~the sole proprietor, partner, shareholder, or natural person has~~ 310
~~earned at least an associate degree in an area relating to~~ 311
~~finance, banking, or business administration, and the degree was~~ 312
~~earned at an accredited college or university, including an~~ 313
~~accredited community or technical college.~~ 314

~~(b) The sole proprietor, partner, shareholder, or natural~~ 315
~~person applicable,~~ possesses at least three years of experience in 316
the mortgage and lending field, which experience may include 317
employment with or as a mortgage broker or with a financial 318
institution, mortgage lending institution, or other lending 319
institution, or possesses at least three years of other experience 320
related specifically to the business of mortgage loans that the 321
superintendent determines meets the requirements of division 322
(A)(4)~~(b)~~ of this section. ~~i~~ 323

(5) Evidence of compliance with the surety bond requirements 324

of section 1322.05 of the Revised Code and with sections 1322.01 325
to 1322.12 of the Revised Code; 326

(6) In the case of a foreign ~~corporation~~ business entity, 327
evidence that it maintains a license or registration pursuant to 328
Chapter 1703., 1705., 1775., 1777., 1782., or 1783. of the Revised 329
Code to transact business in this state; 330

(7) A statement ~~that as to whether~~ the applicant or, to the 331
best of the applicant's knowledge, any shareholder, member, 332
partner, operations manager, or employee of the applicant has ~~not~~ 333
been convicted of or pleaded guilty to a any criminal offense, ~~the~~ 334
~~violation of which is a felony involving theft, receiving stolen~~ 335
property, embezzlement, forgery, fraud, passing bad checks, money 336
laundering, or drug trafficking, or any criminal offense involving 337
fraud money or securities; 338

(8) A statement as to whether the applicant or, to the best 339
of the applicant's knowledge, any shareholder, member, partner, 340
operations manager, or employee of the applicant has been subject 341
to any adverse judgment for conversion, embezzlement, 342
misappropriation of funds, fraud, misfeasance or malfeasance, or 343
breach of fiduciary duty; 344

(9) Evidence that the applicant's operations manager has 345
successfully completed the examination required under division (A) 346
of section 1322.051 of the Revised Code; 347

(10) Any further information that the superintendent 348
requires. 349

(B) Upon the filing of the application and payment of the 350
application fee, the superintendent shall investigate the 351
applicant. The investigation shall include a criminal records 352
check based on the fingerprints of the applicant and a civil 353
records check. If, in order to issue a certificate of registration 354
to an applicant, investigation by the superintendent outside this 355

state is necessary, the superintendent may require the applicant 356
to advance sufficient funds to pay the actual expenses of the 357
investigation, if it appears that these expenses will exceed three 358
hundred fifty dollars. The superintendent shall provide the 359
applicant with an itemized statement of the actual expenses that 360
the applicant is required to pay. 361

(C) All funds advanced and application and renewal fees and 362
penalties paid to the superintendent under this section and 363
section 1322.04 of the Revised Code shall be paid by the 364
superintendent to the treasurer of state to the credit of the 365
consumer finance fund created in section 1321.21 of the Revised 366
Code. 367

~~(D)(1) Division (A)(4) of this section does not apply to any 368
registrant that, on March 4, 1996, is registered as a mortgage 369
broker under sections 1322.01 to 1322.12 of the Revised Code under 370
a certificate of registration issued pursuant to those sections 371
prior to March 4, 1996, provided that the certificate of 372
registration is not surrendered by the registrant or revoked or 373
refused renewal by the superintendent of financial institutions at 374
any time after March 4, 1996. 375~~

~~(2) Except as provided in division (D)(3) of this section, on 376
and after the effective date of this amendment, evidence of 377
education provided in division (A)(4)(a) of this section shall not 378
be accepted on an application of a person applying as a new 379
applicant for a certificate of registration as a mortgage broker. 380
However, on and after the effective date of this amendment, a 381
person who, prior to that date, submitted evidence of education as 382
provided for in division (A)(4)(a) of this section may renew a 383
certificate of registration as a mortgage broker, provided that 384
the person is registered on that date as a mortgage broker 385
pursuant to section 1322.04 of the Revised Code, and a certificate 386
of registration as a mortgage broker is not surrendered by the 387~~

~~person or revoked or refused renewal by the superintendent at any
time after that date.~~

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~~(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:~~

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~~(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;~~

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~~(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.~~

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~~(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~~

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application shall be accompanied by a nonrefundable application 419
fee of one hundred dollars and shall provide all of the following: 420

(1) The name and address of the applicant; 421

(2) A statement as to whether the applicant has been 422
convicted of or pleaded guilty to any criminal offense involving 423
theft, receiving stolen property, embezzlement, forgery, fraud, 424
passing bad checks, money laundering, or drug trafficking, or any 425
criminal offense involving money or securities; 426

(3) A statement as to whether the applicant has been subject 427
to an adverse judgment for conversion, embezzlement, 428
misappropriation of funds, fraud, misfeasance or malfeasance, or 429
breach of fiduciary duty; 430

(4) Any further information that the superintendent requires. 431

(B) Upon the filing of the application and payment of the 433
application fee, the superintendent shall investigate the 434
applicant. The investigation shall include a criminal records 435
check based on the fingerprints of the applicant and a civil 436
records check. If, in order to issue a license to an applicant, 437
investigation by the superintendent outside this state is 438
necessary, the superintendent may require the applicant to advance 439
sufficient funds to pay the actual expenses of the investigation, 440
if it appears that these expenses will exceed one hundred dollars. 441
The superintendent shall provide the applicant with an itemized 442
statement of the actual expenses that the applicant is required to 443
pay. 444

(C) All funds advanced and application and renewal fees and 445
penalties paid to the superintendent under this section and 446
section 1322.041 of the Revised Code shall be paid by the 447
superintendent to the treasurer of state to the credit of the 448
consumer finance fund created in section 1321.21 of the Revised 449

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

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

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

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other means.

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

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(1) The Except as otherwise provided in division (A) of section 1322.03 of the Revised Code, the application is accompanied by the application fee of three hundred fifty dollars for each location of an office to be maintained by the applicant in accordance with division (A) of section 1322.02 of the Revised 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.

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(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

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that the use of the residence to transact business as a mortgage broker is not prohibited by the county or political subdivision. The application also is accompanied by a photograph of each location at which the mortgage broker's business will be transacted.

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

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

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

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

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

(7) ~~The~~ Neither the applicant nor any shareholder, member, partner, operations manager, or employee of the applicant has ~~not~~ pleaded guilty to or been convicted of ~~a~~ any criminal offense, ~~the~~ violation of which is a felony, or any criminal offense involving ~~fraud~~ described in division (A)(7) of section 1322.03 of the

Revised Code, or, if the applicant or any of those other persons 543
has pleaded guilty to or been convicted of such an offense, the 544
applicant has proven to the superintendent, by a preponderance of 545
the evidence, that the applicant's or other person's activities 546
and employment record since the conviction show that the applicant 547
or other person is honest, truthful, and of good reputation, and 548
there is no basis in fact for believing that the applicant or 549
other person will commit such an offense again. 550

(8) Neither the applicant nor any shareholder, member, 551
partner, operations manager, or employee of the applicant has been 552
subject to any adverse judgment for conversion, embezzlement, 553
misappropriation of funds, fraud, misfeasance or malfeasance, or 554
breach of fiduciary duty, or, if the applicant or any of those 555
other persons has been subject to such a judgment, the applicant 556
has proven to the superintendent, by a preponderance of the 557
evidence, that the applicant's or other person's activities and 558
employment record since the judgment show that the applicant or 559
other person is honest, truthful, and of good reputation, and 560
there is no basis in fact for believing that the applicant or 561
other person will be subject to such a judgment again. 562

(9) The applicant's operations manager successfully completed 563
the examination required under division (A) of section 1322.051 of 564
the Revised Code. 565

(10) The applicant's financial responsibility, experience, 566
character, and general fitness command the confidence of the 567
public and warrant the belief that the business will be operated 568
honestly and fairly in compliance with the purposes of sections 569
1322.01 to 1322.12 of the Revised Code. 570

For purposes of determining whether an applicant that is a 571
partnership, corporation, or other business entity or association 572
has met the conditions set forth in ~~division~~ divisions (A)(7), 573
(A)(8), and (A)(10) of this section, the superintendent shall 574

determine which partners, shareholders, or persons named in the 575
application pursuant to division (A)(2) of section 1322.03 of the 576
Revised Code must meet the conditions set forth in ~~division~~ 577
divisions (A)(7), (A)(8), and (A)(10) of this section. This 578
determination shall be based on the extent and nature of the 579
partner's, shareholder's, or person's ownership interest in the 580
partnership, corporation, or other business entity or association 581
that is the applicant. 582

(B) The certificate of registration issued pursuant to 583
division (A) of this section may be renewed annually on or before 584
the thirtieth day of April ~~upon payment of a~~ if the superintendent 585
finds that all of the following conditions are met: 586

(1) The renewal application is accompanied by a nonrefundable 587
renewal fee of three hundred fifty dollars for each location of an 588
office to be maintained by the applicant in accordance with 589
division (A) of section 1322.02 of the Revised Code and a finding 590
by the superintendent that the; however, an applicant that is 591
registered under sections 1321.51 to 1321.60 of the Revised Code 592
shall not be required to pay a renewal fee. If a check or other 593
draft instrument is returned to the superintendent for 594
insufficient funds, the superintendent shall notify the registrant 595
by certified mail, return receipt requested, that the certificate 596
of registration renewed in reliance on the check or other draft 597
instrument will be canceled unless the registrant, within thirty 598
days after receipt of the notice, submits the renewal fee and a 599
one-hundred-dollar penalty to the superintendent. If the 600
registrant does not submit the renewal fee and penalty within that 601
time period, or if any check or other draft instrument used to pay 602
the fee or penalty is returned to the superintendent for 603
insufficient funds, the certificate of registration shall be 604
canceled immediately without a hearing and the registrant shall 605
cease activity as a mortgage broker. 606

(2) On and after January 1, 2003, the operations manager designated under division (A)(3) of section 1322.03 of the Revised Code has completed, during the immediately preceding calendar year, at least six hours of continuing education as required under section 1322.052 of the Revised Code. 607
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(3) The applicant meets the conditions set forth in divisions (A)(2) to ~~(8)~~(10) of this section and that the. 612
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(4) The applicant's certificate of registration is not subject to an order of suspension or revocation by the superintendent. If 614
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(C)(1) Subject to division (C)(2) of this section, if a renewal fee is received by the superintendent after the thirtieth day of April, the certificate of registration shall not be considered renewed, and the applicant shall cease activity as a mortgage broker and apply for a certificate of registration as a mortgage broker. 617
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~~(C) No application or renewal fee required by division (A) or (B) of this section shall be returned after a certificate of registration has been issued or renewed by the superintendent.~~ 623
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~~(D) Division (A)(3) of this section does not apply to any registrant that, on March 4, 1996, is registered as a mortgage broker under sections 1322.01 to 1322.12 of the Revised Code under a certificate of registration issued pursuant to those sections prior to March 4, 1996, provided that the certificate of registration is not surrendered by the registrant or revoked or refused renewal by the superintendent of financial institutions at any time after March 4, 1996.~~ 626
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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. 634
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~~(D) If a partner, shareholder, or natural~~ the person 638
designated as the operations manager pursuant to division (A)(3) 639
of section 1322.03 of the Revised Code is no longer ~~responsible~~ 640
~~for managing the operation of the location or locations where~~ 641
~~business is to be transacted~~ the operations manager, the 642
registrant shall do all of the following: 643

(1) Designate another ~~partner, shareholder, or natural~~ person 644
as ~~responsible for managing the operation of the location or~~ 645
~~locations where business is to be transacted~~ the operations 646
manager; 647

(2) Within ten days after the designation described in 648
division ~~(E)~~(D)(1) of this section, notify the superintendent in 649
writing of the designation; 650

(3) Submit any additional information that the superintendent 651
requires to establish that the newly designated ~~partner,~~ 652
~~shareholder, or natural person~~ operations manager complies with 653
the experience requirements set forth in division (A)(4)~~(b)~~ of 654
section 1322.03 of the Revised Code. 655

Sec. 1322.041. (A) Upon the conclusion of the investigation 656
required under division (B) of section 1322.031 of the Revised 657
Code, the superintendent of financial institutions shall issue a 658
loan officer license to the applicant if the superintendent finds 659
that the following conditions are met: 660

(1) The application is accompanied by the application fee. If 661
a check or other draft instrument is returned to the 662
superintendent for insufficient funds, the superintendent shall 663
notify the licensee by certified mail, return receipt requested, 664
that the license issued in reliance on the check or other draft 665
instrument will be canceled unless the licensee, within thirty 666
days after receipt of the notice, submits the application fee and 667
a one-hundred-dollar penalty to the superintendent. If the 668

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.

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

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(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.

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(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 701
be renewed annually on or before the thirtieth day of April if the 702
superintendent finds that all of the following conditions are met: 703

(1) The renewal application is accompanied by a nonrefundable 705
renewal fee of one hundred dollars. If a check or other draft 706
instrument is returned to the superintendent for insufficient 707
funds, the superintendent shall notify the licensee by certified 708
mail, return receipt requested, that the license renewed in 709
reliance on the check or other draft instrument will be canceled 710
unless the licensee, within thirty days after receipt of the 711
notice, submits the renewal fee and a one-hundred-dollar penalty 712
to the superintendent. If the licensee does not submit the renewal 713
fee and penalty within that time period, or if any check or other 714
draft instrument used to pay the fee or penalty is returned to the 715
superintendent for insufficient funds, the license shall be 716
canceled immediately without a hearing and the licensee shall 717
cease activity as a loan officer. 718

(2) On and after January 1, 2003, the loan officer has 719
completed, during the immediately preceding calendar year, at 720
least six hours of continuing education as required under section 721
1322.052 of the Revised Code. 722

(3) The applicant meets the conditions set forth in divisions 723
(A)(2) to (5) of this section. 724

(4) The applicant's license is not subject to an order of 725
suspension or revocation by the superintendent. 726

(C)(1) Subject to division (C)(2) of this section, if a 727
license renewal application or renewal fee is received by the 728
superintendent after the thirtieth day of April, the license shall 729
not be considered renewed, and the applicant shall cease activity 730
as a loan officer. 731

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

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

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

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

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

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

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

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

Sec. 1322.051. (A) Each person designated under division (A)(3) of section 1322.03 of the Revised Code to act as operations manager for a mortgage broker business shall submit to an examination approved by the superintendent of financial institutions. 795
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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. 800
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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. 805
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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. 813
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(B) A registrant shall maintain records pertaining to business transacted pursuant to sections 1322.01 to 1322.12 of the Revised Code for two ~~four~~ years ~~or more after the final entry on such records~~. No registrant shall fail to comply with this division. 817
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~~(C) All information obtained by the superintendent or the~~ 823

~~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.~~

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

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

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

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

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(B) All application information, except social security
numbers, employer identification numbers, financial account

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numbers, the identity of the institution where financial accounts 855
are maintained, personal financial information, fingerprint cards 856
and the information contained on such cards, and criminal 857
background information, is a public record as defined in section 858
149.43 of the Revised Code. 859

Sec. 1322.062. (A) Within three business days after taking an 860
application for a loan from a buyer, a registrant shall deliver to 861
the buyer a mortgage loan origination disclosure statement that 862
contains all of the following: 863

(1) The name, address, and telephone number of the buyer; 864

(2) The typewritten name of the loan officer and the number 865
designated on the loan officer's license; 866

(3) The street address, telephone number, and facsimile 867
number of the registrant and the number designated on the 868
registrant's certificate of registration; 869

(4) The signature of the loan officer or registrant; 870

(5) A statement indicating whether the buyer is to pay for 871
the services of a bona fide third party if the registrant is 872
unable to assist the buyer in obtaining a mortgage; 873

(6) A statement that describes the method by which the fee to 874
be paid by the buyer to the registrant will be calculated; 875

(7) A statement that the lender may pay compensation to the 876
registrant; 877

(8) A description of all the services the registrant has 878
agreed to perform for the buyer; 879

(9) A statement that the buyer has not entered into an 880
exclusive agreement for brokerage services. 881

(B) If there is any change in the information provided under 882
division (A)(6) or (8) of this section, the registrant shall 883

provide the buyer with the revised mortgage loan origination 884
disclosure statement no later than three days after the change 885
occurs, or the date the loan is closed, whichever is earlier. 886

(C) No registrant shall fail to comply with this section. 887

Sec. 1322.07. No mortgage broker, registrant, licensee, or 888
applicant for a certificate of registration or license under 889
sections 1322.01 to 1322.12 of the Revised Code shall do any of 890
the following: 891

(A) Obtain a certificate of registration or license through 892
any false or fraudulent representation of a material fact or any 893
omission of a material fact required by state law, or make any 894
substantial misrepresentation in any registration or license 895
application; 896

(B) Make false or misleading statements of a material fact, 897
omissions of statements required by state law, or false promises 898
regarding a material fact, through advertising or other means, or 899
engage in a continued course of misrepresentations; 900

(C) Engage in conduct that constitutes improper, fraudulent, 901
or dishonest dealings; 902

(D) Fail to notify the division of financial institutions if 903
within thirty days after the registrant, licensee, or applicant, 904
in a court of competent jurisdiction of this state or any other 905
state, is convicted of or pleads guilty to a any criminal offense, 906
the violation of which is a felony involving theft, receiving 907
stolen property, embezzlement, forgery, fraud, passing bad checks, 908
money laundering, or drug trafficking, or any criminal offense 909
involving fraud money or securities; 910

(E) Knowingly make, propose, or solicit fraudulent, false, or 911
misleading statements on any mortgage document or on any document 912
related to a mortgage, including a mortgage application, real 913

estate appraisal, or real estate settlement or closing document. 914
For purposes of this division, "fraudulent, false, or misleading 915
statements" does not include mathematical errors, inadvertent 916
transposition of numbers, typographical errors, or any other bona 917
fide error. 918

(F) Knowingly instruct, solicit, propose, or otherwise cause 919
a buyer to sign in blank a mortgage related document. 920

Sec. 1322.071. (A) As used in this section, "bona fide third 921
party" has the same meaning as in section 1322.08 of the Revised 922
Code. 923

(B) No mortgage broker, registrant, or licensee shall do any 924
of the following: 925

(1) Retain original documents provided to the mortgage 926
broker, registrant, or licensee by the buyer in connection with 927
the loan application, including income tax returns, account 928
statements, or other financial related documents; 929

(2) Receive, directly or indirectly, a premium on the fees 930
charged for services performed by a bona fide third party; 931

(3) Pay or receive, directly or indirectly, a referral fee or 932
kickback of any kind to or from a bona fide third party or other 933
party with a related interest in the transaction, such as a home 934
improvement builder, real estate developer, or real estate broker 935
or agent, for the referral of business. 936

Sec. 1322.072. No person, in connection with any examination 937
or investigation conducted by the superintendent of financial 938
institutions under sections 1322.01 to 1322.12 of the Revised 939
Code, shall knowingly do either of the following: 940

(A) Circumvent, interfere with, obstruct, or fail to 941
cooperate, including making a false or misleading statement, 942

failing to produce records, or intimidating or suborning any witness; 943
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(B) Tamper with, alter, or manufacture any evidence. 945

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. 946
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Sec. 1322.08. (A)No registrant shall fail to do any of the following: 950
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(1) Maintain a special account; 952

(2) Deposit into the registrant's special account any bona fide third-party fee the registrant receives; 953
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(3) Pay bona fide third-party fees to a bona fide third party from the registrant's special account. 955
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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 services that the registrant has agreed to perform for the buyer are completed, and the proceeds of the mortgage loan have been disbursed to or on behalf of the buyer. However, prior to completion of such services the following fees may be paid for services performed by a bona fide third party in assisting the buyer to obtain a mortgage if the fees are either paid directly by the buyer to the bona fide third party or, except as provided in division ~~(A)(6)~~(B)(5) of this section, the fees are deposited by the registrant into the registrant's special account for services performed by the bona fide third party: 957
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(1) Fees to obtain a report from a credit reporting agency; 970

(2) Fees for notary services; 971

described in ~~division (A)~~ of this section for services performed 1003
by bona fide third parties and received by the registrant from 1004
buyers that the registrant assists in obtaining mortgages. 1005

Sec. 1322.09. A mortgage broker shall disclose in any 1006
printed, televised, broadcast, electronically transmitted, or 1007
published advertisement relating to the mortgage broker's 1008
services, including on any electronic site accessible through the 1009
internet, the name and street address of the mortgage broker and 1010
the number designated on the certificate of registration that is 1011
issued to the mortgage broker by the superintendent of financial 1012
institutions under sections 1322.01 to 1322.12 of the Revised 1013
Code. ~~No~~ 1014

No mortgage broker shall fail to comply with this section. 1015

Sec. 1322.10. (A) After notice and opportunity for a hearing 1016
conducted in accordance with Chapter 119. of the Revised Code, the 1017
superintendent of financial institutions may do the following: 1018

(1) Suspend, revoke, or refuse to issue or renew a 1020
certificate of registration or license if the superintendent finds 1021
a either of the following: 1022

(a) A violation of division (B) of section 1322.06 or section 1023
1322.05, 1322.07, 1322.08, or 1322.09 or failure to comply with 1024
any provision of sections 1322.01 to 1322.12 of the Revised Code 1025
or the rules adopted under those sections or any other law 1026
applicable to the business conducted under a certificate of 1027
registration; 1028

(b) A conviction of or guilty plea to any criminal offense 1029
involving theft, receiving stolen property, embezzlement, forgery, 1030
fraud, passing bad checks, money laundering, or drug trafficking, 1031
or any criminal offense involving money or securities. 1032

(2) Impose a fine of not more than one thousand dollars, for 1033
each day a violation of a law or rule is committed, repeated, or 1034
continued. If the registrant or licensee engages in a pattern of 1035
repeated violations of a law or rule, the superintendent may 1036
impose a fine of not more than two thousand dollars for each day 1037
the violation is committed, repeated, or continued. All fines 1038
collected pursuant to this division shall be paid to the treasurer 1039
of state to the credit of the consumer finance fund created in 1040
section 1321.21 of the Revised Code. In determining the amount of 1041
a fine to be imposed pursuant to this division, the superintendent 1042
shall consider all of the following: 1043

(a) The seriousness of the violation; 1044

(b) The registrant's or licensee's good faith efforts to 1045
prevent the violation; 1046

(c) The registrant's or licensee's history regarding 1047
violations and compliance with division orders; 1048

(d) The registrant's or licensee's financial resources; 1049

(e) Any other matters the superintendent considers 1050
appropriate in enforcing sections 1322.01 to 1322.12 of the 1051
Revised Code. 1052

(B) The superintendent may investigate alleged violations of 1053
~~section~~ sections 1322.01 to 1322.12 of the Revised Code or the 1054
rules adopted under those sections or complaints concerning any 1055
such violation. The superintendent may make application to the 1056
court of common pleas for an order enjoining any such violation, 1057
and, upon a showing by the superintendent that a person has 1058
committed or is about to commit such a violation, the court shall 1059
grant an injunction, restraining order, or other appropriate 1060
relief. 1061

(C) In conducting any investigation pursuant to this section, 1062
the superintendent may compel, by subpoena, witnesses to testify 1063

in relation to any matter over which the superintendent has 1064
jurisdiction and may require the production of any book, record, 1065
or other document pertaining to that matter. If a person fails to 1066
file any statement or report, obey any subpoena, give testimony, 1067
produce any book, record, or other document as required by a 1068
subpoena, or permit photocopying of any book, record, or other 1069
document subpoenaed, the court of common pleas of any county in 1070
this state, upon application made to it by the superintendent, 1071
shall compel obedience by attachment proceedings for contempt, as 1072
in the case of disobedience of the requirements of a subpoena 1073
issued from the court or a refusal to testify therein. 1074

(D) If the superintendent determines that a person is engaged 1075
in or is believed to be engaged in activities that may constitute 1076
a violation of sections 1322.01 to 1322.12 of the Revised Code, 1077
the superintendent, after notice and a hearing conducted in 1078
accordance with Chapter 119. of the Revised Code, may issue a 1079
cease and desist order. Such an order shall be enforceable in the 1080
court of common pleas. 1081

(E) If the superintendent revokes the certificate of 1082
registration or license of a registrant or licensee who is 1083
convicted of or pleads guilty to a criminal violation of any 1084
provision of sections 1322.01 to 1322.12 of the Revised Code or 1085
any criminal offense described in division (A)(1)(b) of this 1086
section, the revocation shall be permanent. 1087

Sec. 1322.101. On receipt of a notice pursuant to section 1088
3123.43 of the Revised Code, the division of financial 1089
institutions shall comply with sections 3123.41 to 3123.50 of the 1090
Revised Code and any applicable rules adopted under section 1091
3123.63 of the Revised Code with respect to a certificate or 1092
license issued pursuant to this chapter. 1093

Sec. 1322.11. (A)(1) A buyer injured by a violation of 1094
section 1322.02 ~~or, 1322.062,~~ 1322.07, ~~division (B) of section~~ 1095
~~1322.06, or division (A) or (B) of section~~ 1322.071, 1322.08, ~~or~~ 1096
1322.09 of the Revised Code may bring an action for recovery of 1097
damages. 1098

(2) Damages awarded under division (A)(1) of this section 1099
shall not be less than the amount paid by the buyer to the 1100
mortgage broker, plus reasonable attorney's fees and court costs. 1101

(3) The buyer may be awarded punitive damages. 1102

(B)(1) The superintendent of financial institutions, the 1103
attorney general, or a buyer may bring an action to enjoin a 1104
violation of sections 1322.01 to 1322.12 of the Revised Code. 1105

(2) The superintendent may initiate ~~criminate~~ criminal 1106
proceedings under sections 1322.01 to 1322.12 of the Revised Code 1107
by presenting any evidence of criminal violation to the 1108
prosecuting attorney of the county in which the offense may be 1109
prosecuted. If the prosecuting attorney does not prosecute the 1110
violations, or at the request of the prosecuting attorney, the 1111
superintendent shall present any evidence of criminal violations 1112
to the attorney general, who may proceed in the prosecution with 1113
all the rights, privileges, and powers conferred by law on 1114
prosecuting attorneys, including the power to appear before grand 1115
juries and to interrogate witnesses before such grand juries. 1116
These powers of the attorney general shall be in addition to any 1117
other applicable powers of the attorney general. 1118

(C) The remedies provided by this section are in addition to 1119
any other remedy provided by law. 1120

(D) In any proceeding or action brought under sections 1121
1322.01 to 1322.12 of the Revised Code, the burden of proving an 1122
exemption under those sections is on the person claiming the 1123
benefit of the exemption. 1124

(E) No person shall be deemed to violate sections 1322.01 to 1125
1322.12 of the Revised Code with respect to any act taken or 1126
omission made in reliance on a written notice, written 1127
interpretation, or written report from the superintendent, unless 1128
there is a subsequent amendment to those sections, or rules 1129
promulgated thereunder, that affects the superintendent's notice, 1130
interpretation, or report. 1131

(F) Upon disbursement of mortgage loan proceeds to or on 1132
behalf of the buyer, the registrant that assisted the buyer to 1133
obtain the mortgage loan is deemed to have completed the 1134
performance of the registrant's services for the buyer and owes no 1135
additional duties or obligations to the buyer with respect to the 1136
mortgage loan. However, nothing in this division shall be 1137
construed to limit or preclude the civil or criminal liability of 1138
a registrant for failing to comply with sections 1322.01 to 1139
1322.12 of the Revised Code or any rule adopted under those 1140
sections, for failing to comply with any provision of or duty 1141
arising under an agreement with a buyer or lender under sections 1142
1322.01 to 1322.12 of the Revised Code, or for violating any other 1143
provision of state or federal law. 1144

Sec. 1322.99. (A) Whoever violates division (A)(1) or (2) of 1145
section 1322.02, division (E) or (F) of section 1322.07 or, 1146
division (A)(B)(1) or (B)(2) of section 1322.071, or section 1147
1322.08 of the Revised Code is guilty of a felony of the fifth 1148
degree. 1149

(B) Whoever violates division (B)(3) of section 1322.071 of 1150
the Revised Code is guilty of a felony of the fourth degree. 1151

(C) Whoever violates division (B) of section 1322.02 of the 1152
Revised Code is guilty of a misdemeanor of the first degree. 1153

Sec. 4712.01. As used in sections 4712.01 to 4712.14 of the 1154

Revised Code:	1155
(A) <u>"Buyer"</u> means an individual who is solicited to purchase or who purchases the services of a credit services organization for purposes other than obtaining a business loan as described in division (B)(6) of section 1343.01 of the Revised Code.	1156 1157 1158 1159
(B) <u>"Consumer reporting agency"</u> has the same meaning as in the <u>"Fair Credit Reporting Act,"</u> 84 Stat. 1128, 15 U.S.C.A. 1681a, as amended.	1160 1161 1162
(C)(1) <u>"Credit services organization"</u> means any person that, in return for the payment of money or other valuable consideration readily convertible into money for the following services, sells, provides, or performs, or represents that the person can or will sell, provide, or perform, one or more of the following services:	1163 1164 1165 1166 1167
(a) Improving a buyer's credit record, history, or rating;	1168
(b) Obtaining an extension of credit by others for a buyer;	1169
(c) Providing advice or assistance to a buyer in connection with division (C)(1)(a) or (b) of this section;	1170 1171
(d) Removing adverse credit information that is accurate and not obsolete from the buyer's credit record, history, or rating;	1172 1173
(e) Altering the buyer's identification to prevent the display of the buyer's credit record, history, or rating.	1174 1175
(2) <u>"Credit services organization"</u> does not include any of the following:	1176 1177
(a) A person that makes or collects loans, to the extent these activities are subject to licensure or registration by this state;	1178 1179 1180
(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;	1181 1182 1183 1184

(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. 1215
of the Revised Code acting within the scope and authority of that 1216
license or a motor vehicle auction owner licensed pursuant to 1217
Chapters 4517. and 4707. of the Revised Code acting within the 1218
scope and authority of that license. 1219

(D) "Extension of credit" means the right to defer payment of 1220
debt, or to incur debt and defer its payment, offered or granted 1221
primarily for personal, family, or household purposes. "Extension 1222
of credit" does not include a mortgage. 1223

(E) "Mortgage" means any indebtedness secured by a deed of 1224
trust, security deed, or other lien on real property. 1225

(F) "Mortgage banker" means any person that makes, services, 1226
or buys and sells mortgage loans and is approved by the United 1227
States department of housing and urban development, the United 1228
States department of veterans affairs, the federal national 1229
mortgage association, or the federal home loan mortgage 1230
corporation. 1231

(G) "Superintendent of financial institutions" includes the 1232
deputy superintendent for consumer finance as provided in section 1233
1181.21 of the Revised Code. 1234

Section 2. That existing sections 1322.01, 1322.02, 1322.03, 1235
1322.04, 1322.05, 1322.06, 1322.07, 1322.08, 1322.09, 1322.10, 1236
1322.101, 1322.11, 1322.99, and 4712.01 of the Revised Code are 1237
hereby repealed. 1238

Section 3. Sections 1 and 2 of this act shall take effect six 1239
months after the effective date of this act. 1240

Section 4. It is the intent of the General Assembly that the 1241
Superintendent of Financial Institutions take any action necessary 1242
to provide for an orderly transition for those persons who, on the 1243

effective date of this act, perform the functions, duties, or 1244
powers prescribed for registrants and licensees under this act. 1245
Consequently, the Division of Financial Institutions shall accept 1246
registration and license applications submitted by such persons 1247
beginning on the effective date of this act and shall make every 1248
effort possible to act upon such applications within the six-month 1249
period immediately following that date. 1250

Section 5. The prior operation of section 1322.03 of the 1251
Revised Code, which permitted evidence on an application for a 1252
certificate of registration as a mortgage broker that the person 1253
designated as responsible for managing the operations of a 1254
mortgage broker business meets the educational requirements then 1255
in effect if, prior to March 18, 1999, that person was designated 1256
as being responsible for managing the operations of the 1257
registrant's business, shall continue and not be affected by the 1258
enactment of this act until March 18, 2002; except that, all 1259
requirements, except the experience requirements, applicable to 1260
operations managers under this act apply to that person on the 1261
date this act takes effect. On and after March 18, 2002, a person 1262
not meeting the experience requirements provided in division 1263
(A)(4) of section 1322.03 of the Revised Code, as amended by this 1264
act, or any other requirement applicable to an operations manager 1265
under this act shall not be designated as an operations manager on 1266
an application for a certificate of registration as a mortgage 1267
broker. 1268