

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.~~

~~(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. 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 139
other person, shall originate mortgage loans for a registrant, 140
unless that person is an employee of the registrant act as a loan 141
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, or as 153
otherwise authorized by division (C)(1)(g) of this section: 154

(a) A bank, savings bank, savings and loan association, or 155
credit union organized under the laws of this state, another 156
state, or the United States, or a subsidiary or affiliate of a 157
bank, savings bank, savings and loan association, or credit union; 158

(b) A budget and debt counseling service, as defined in 159
division (D) of section 2716.03 of the Revised Code, provided that 160
the service is a nonprofit organization exempt from taxation under 161
section 501(c)(3) of the "Internal Revenue Code of 1986," 100 162
Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is 163
in compliance with Chapter 4710. of the Revised Code; 164

(c) A consumer reporting agency that is in substantial 165
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 166
U.S.C.A. 1681a, as amended; 167

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

or any state of the United States;

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

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

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

(i) The person has been directly approved by the United States department of housing and urban development as a nonsupervised mortgagee with participation in the direct endorsement program, 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.

(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.

(iii) The person has been directly approved by the federal 201
home loan mortgage corporation as a seller/servicer, or, provided 202
that the loans in all respects, except loan amounts, comply with 203
the underwriting and documentation requirements of the federal 204
home loan mortgage corporation, the person makes loans in excess 205
of the applicable loan limit set by the federal home loan mortgage 206
corporation. 207

(iv) The person has been directly approved by the United 208
States department of veterans affairs as a nonsupervised automatic 209
lender. Division (C)(1)(g)(iv) of this section does not include a 210
person directly approved by the United States department of 211
veterans affairs as a nonsupervised lender, an agent of a 212
nonsupervised automatic lender, or an agent of a nonsupervised 213
lender. 214

(h) A person created solely for the purpose of securitizing 215
loans secured by an interest in real estate, provided the person 216
does not service the loans. For purposes of division (C)(1)(h) of 217
this section, "securitizing" means the packaging and sale of 218
mortgage loans as a unit for sale as investment securities, but 219
only to the extent of those activities. 220

~~(2) Originate means any of the following:~~ 221

~~(a) To negotiate or arrange, or to offer to negotiate or~~ 222
~~arrange, a mortgage loan between a person that makes or funds~~ 223
~~mortgage loans and a buyer;~~ 224

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

~~(c) To place, assist in placement, or find a mortgage loan~~ 226
~~for a buyer~~ Any individual who is employed by a person exempt from 227
sections 1322.01 to 1322.12 of the Revised Code is also exempt 228
from those sections to the extent the individual is acting within 229
the scope of the individual's employment and within the scope of 230
the exempt person's charter, license, authority, approval, or 231

certificate.

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

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

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

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following: 263

(1) The location or locations where the business is to be 264
transacted and whether any location is a residence. If any 265
location where the business is to be transacted is a residence, 266
the application shall be accompanied by a certified copy of a 267
zoning permit authorizing the use of the residence for commercial 268
purposes, or shall be accompanied by a written opinion or other 269
document issued by the county or political subdivision where the 270
residence is located certifying that the use of the residence to 271
transact business as a mortgage broker is not prohibited by the 272
county or political subdivision. The application also shall be 273
accompanied by a photograph of each location at which the business 274
will be transacted. 275

(2)(a) In the case of a sole proprietor, the name and address 276
of the sole proprietor; 277

(b) In the case of a partnership, the name and address of 278
each partner; 279

(c) In the case of a corporation, the name and address of 280
each shareholder owning five per cent or more of the corporation; 281

(d) In the case of any other entity, the name and address of 282
any person that owns five per cent or more of the entity that will 283
transact business as a mortgage broker. 284

~~(3)(a) If the applicant is a partnership, the applicant shall 285
designate one of the partners named in the application pursuant to 286
division (A)(2)(b) of this section as responsible for managing the 287
operations of the location or locations where the business is to 288
be transacted. 289~~

~~(b) If the applicant is a corporation, the applicant shall 290
designate one of the shareholders named in the application 291
pursuant to division (A)(2)(c) of this section as responsible for 292
managing the operations of the location or locations where the 293~~

~~business is to be transacted.~~

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

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

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

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

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(5) Evidence of compliance with the surety bond requirements

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

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

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

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

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

(10) Any further information that the superintendent
requires.

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

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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.~~

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

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

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

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

Sec. 1322.031. ~~(A) An application for a license as a loan
officer shall be in writing, under oath, and in the form
prescribed by the superintendent of financial institutions. The~~

application shall be accompanied by a nonrefundable application 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

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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

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

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

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

(2) On and after January 1, 2003, the operations manager 607
designated under division (A)(3) of section 1322.03 of the Revised 608
Code has completed, during the immediately preceding calendar 609
year, at least six hours of continuing education as required under 610
section 1322.052 of the Revised Code. 611

(3) The applicant meets the conditions set forth in divisions 612
(A)(2) to (8)(10) of this section ~~and that the.~~ 613

(4) The applicant's certificate of registration is not 614
subject to an order of suspension or revocation by the 615
superintendent. ~~if~~ 616

(C)(1) Subject to division (C)(2) of this section, if a 617
renewal fee is received by the superintendent after the thirtieth 618
day of April, the certificate of registration shall not be 619
considered renewed, and the applicant shall cease activity as a 620
mortgage broker and apply for a certificate of registration as a 621
mortgage broker. 622

~~(C) No application or renewal fee required by division (A) or~~ 623
~~(B) of this section shall be returned after a certificate of~~ 624
~~registration has been issued or renewed by the superintendent.~~ 625

~~(D) Division (A)(3) of this section does not apply to any~~ 626
~~registrant that, on March 4, 1996, is registered as a mortgage~~ 627
~~broker under sections 1322.01 to 1322.12 of the Revised Code under~~ 628
~~a certificate of registration issued pursuant to those sections~~ 629
~~prior to March 4, 1996, provided that the certificate of~~ 630
~~registration is not surrendered by the registrant or revoked or~~ 631
~~refused renewal by the superintendent of financial institutions at~~ 632
~~any time after March 4, 1996.~~ 633

(E)(2) Division (C)(1) of this section shall not apply if the 634
applicant, no later than the thirty-first day of May, submits the 635
renewal fee and a one-hundred-dollar penalty to the 636
superintendent. 637

~~(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.

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

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

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

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

(B) The license issued under division (A) of this section may 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

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

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

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

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

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

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

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

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

Sec. 1322.051. (A) Each person designated under division 795
(A)(3) of section 1322.03 of the Revised Code to act as operations 796
manager for a mortgage broker business shall submit to an 797
examination approved by the superintendent of financial 798
institutions. 799

(B) Each licensee, within ninety days after the original 800
issuance of the loan officer license, shall successfully complete 801
an examination approved by the superintendent. Failure to comply 802
with this division results in the termination of the license by 803
operation of law. 804

Sec. 1322.052. On and after January 1, 2002, each licensee 805
and each person designated under division (A)(3) of section 806
1322.03 of the Revised Code to act as operations manager for a 807
mortgage broker business shall complete at least six hours of 808
continuing education every calendar year. To fulfill this 809
requirement, the six hours of continuing education must be offered 810
in a course or program of study approved by the superintendent of 811
financial institutions. 812

Sec. 1322.06. (A) As often as the superintendent of financial 813
institutions considers it necessary, the superintendent may 814
examine the registrant's records pertaining to business transacted 815
pursuant to sections 1322.01 to 1322.12 of the Revised Code. 816
817

(B) A registrant shall maintain records pertaining to 818
business transacted pursuant to sections 1322.01 to 1322.12 of the 819
Revised Code for ~~two~~ four years ~~or more after the final entry on~~ 820
~~such records.~~ No registrant shall fail to comply with this 821
division. 822

~~(C) All information obtained by the superintendent or the~~ 823

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

estate appraisal, or real estate settlement or closing document. 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 943
witness; 944

(B) Tamper with, alter, or manufacture any evidence. 945

Sec. 1322.073. No person shall acquire, sell, transfer, or 946
hypothecate any interest in a registrant or an applicant for a 947
certificate of registration in order to obfuscate or conceal the 948
true ownership or control of the registrant or applicant. 949

Sec. 1322.08. (A)No registrant shall fail to do any of the 950
following: 951

(1) Maintain a special account; 952

(2) Deposit into the registrant's special account any bona 953
fide third-party fee the registrant receives; 954

(3) Pay bona fide third-party fees to a bona fide third party 955
from the registrant's special account. 956

(B) Except as otherwise provided in this division, no 957
registrant shall charge or receive, directly or indirectly, fees 958
for assisting a buyer in obtaining a mortgage, until all of the 959
services that the registrant has agreed to perform for the buyer 960
are completed, and the proceeds of the mortgage loan have been 961
disbursed to or on behalf of the buyer. However, prior to 962
completion of such services the following fees may be paid for 963
services performed by a bona fide third party in assisting the 964
buyer to obtain a mortgage if the fees are either paid directly by 965
the buyer to the bona fide third party or, except as provided in 966
division ~~(A)(6)~~(B)(5) of this section, the fees are deposited by 967
the registrant into the registrant's special account for services 968
performed by the bona fide third party: 969

(1) Fees to obtain a report from a credit reporting agency; 970

(2) Fees for notary services; 971

(3) Fees authorized by law to record, file, or release a security interest or mortgage;	972
	973
(4) Fees for the performance of a title search, appraisal of the real estate, or survey of the real estate;	974
	975
(5) (4) Fees charged by a lender for locking in an interest rate in connection with obtaining or refinancing a mortgage, provided that the fees do not exceed an amount equal to one and one-half per cent of the mortgage loan amount;	976
	977
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	979
(6) (5) Fees not exceeding five hundred dollars paid directly by the buyer to a state or federal government agency or instrumentality for purposes of processing a mortgage application relating to a government sponsored or guaranteed mortgage program.	980
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(B) (C) If fees are paid by a buyer for the performance of any of the services described in division (A) (4) <u>(B)(3)</u> of this section and the registrant is unable to assist in obtaining a mortgage for the buyer, the registrant shall return to the buyer the original documents prepared by the bona fide third party at the time that the request for the mortgage is refused or denied. <u>With respect to any appraisal, however, the registrant may return either the original or a copy.</u> No registrant shall fail to comply with this division.	984
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(C) (D) For purposes of this section:	993
(1) "Bona fide third party" means a person that is not an employee of, related to, or affiliated with, the registrant, and that is not used for the purpose of circumvention or evasion of this section.	994
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(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	998
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described in ~~division (A)~~ of this section for services performed
by bona fide third parties and received by the registrant from
buyers that the registrant assists in obtaining mortgages.

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

No mortgage broker shall fail to comply with this section.

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

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

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

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

(2) Impose a fine of not more than one thousand dollars, for 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
jurisdiction and may require the production of any book, record,
or other document pertaining to that matter. If a person fails to
file any statement or report, obey any subpoena, give testimony,
produce any book, record, or other document as required by a
subpoena, or permit photocopying of any book, record, or other
document subpoenaed, the court of common pleas of any county in
this state, upon application made to it by the superintendent,
shall compel obedience by attachment proceedings for contempt, as
in the case of disobedience of the requirements of a subpoena
issued from the court or a refusal to testify therein.

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

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

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

Sec. 1322.11. (A)(1) A buyer injured by a violation of 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) "Buyer" means an individual who is solicited to purchase 1156
or who purchases the services of a credit services organization 1157
for purposes other than obtaining a business loan as described in 1158
division (B)(6) of section 1343.01 of the Revised Code. 1159

(B) "Consumer reporting agency" has the same meaning as in 1160
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, 1161
as amended. 1162

(C)(1) "Credit services organization" means any person that, 1163
in return for the payment of money or other valuable consideration 1164
readily convertible into money for the following services, sells, 1165
provides, or performs, or represents that the person can or will 1166
sell, provide, or perform, one or more of the following services: 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 1170
with division (C)(1)(a) or (b) of this section; 1171

(d) Removing adverse credit information that is accurate and 1172
not obsolete from the buyer's credit record, history, or rating; 1173

(e) Altering the buyer's identification to prevent the 1174
display of the buyer's credit record, history, or rating. 1175

(2) "Credit services organization" does not include any of 1176
the following: 1177

(a) A person that makes or collects loans, to the extent 1178
these activities are subject to licensure or registration by this 1179
state; 1180

(b) A mortgage broker, as defined in ~~division (E)~~ of section 1181
1322.01 of the Revised Code, that holds a valid certificate of 1182
registration under sections 1322.01 to 1322.12 of the Revised 1183
Code; 1184

(c) A lender approved by the United States secretary of 1185
housing and urban development for participation in a mortgage 1186
insurance program under the "National Housing Act," 48 Stat. 1246 1187
(1934), 12 U.S.C.A. 1701, as amended; 1188

(d) A bank, savings bank, or savings and loan association, or 1189
a subsidiary or an affiliate of a bank, savings bank, or savings 1190
and loan association. For purposes of division (C)(2)(d) of this 1191
section, "affiliate" has the same meaning as in division (A) of 1192
section 1101.01 of the Revised Code and "bank," as used in 1193
division (A) of section 1101.01 of the Revised Code, is deemed to 1194
include a savings bank or savings and loan association. 1195

(e) A credit union organized and qualified under Chapter 1196
1733. of the Revised Code or the "Federal Credit Union Act," 84 1197
Stat. 994 (1970), 12 U.S.C.A. 1751, as amended; 1198

(f) A budget and debt counseling service, as defined in 1199
division (D) of section 2716.03 of the Revised Code, provided that 1200
the service is a nonprofit organization exempt from taxation under 1201
section 501(c)(3) of the "Internal Revenue Code of 1986," 100 1202
Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is 1203
in compliance with Chapter 4710. of the Revised Code; 1204

(g) A consumer reporting agency that is in substantial 1205
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 1206
U.S.C.A. 1681a, as amended. 1207

(h) A mortgage banker; 1208

(i) Any political subdivision, or any governmental or other 1209
public entity, corporation, or agency, in or of the United States 1210
or any state of the United States; 1211

(j) A college or university, or controlled entity of a 1212
college or university, as defined in section 1713.05 of the 1213
Revised Code; 1214

(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

As Reported by the House Financial Institutions Committee

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