

**As Reported by the Senate Finance and 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**

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

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other than obtaining a business loan as described in division
(B)(6) of section 1343.01 of the Revised Code.

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

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

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

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

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

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

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~~(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~~

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~~section 501(c)(3) of the "Internal Revenue Code of 1986," 100~~
~~Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is~~
~~in compliance with Chapter 4710. of the Revised Code;~~

~~(6) A consumer reporting agency that is in substantial~~
~~compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15~~
~~U.S.C.A. 1681a, as amended;~~

~~(7) A mortgage banker;~~

~~(8) Any political subdivision, or any governmental or other~~
~~public entity, corporation, or agency, in or of the United States~~
~~or any state of the United States;~~

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

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

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

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

~~(1) Negotiate or arrange, or offer to negotiate or arrange, a~~
~~mortgage loan between a person that makes or funds mortgage loans~~
~~and a buyer;~~

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

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

~~(J) "Registrant" means any person that has been issued a~~
~~mortgage broker certificate of registration under sections 1322.01~~
~~to 1322.12 of the Revised Code.~~

~~(G)(K) "Superintendent of financial institutions" includes~~

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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

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~~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.~~

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

~~(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:

(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;

(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;

(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;

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

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

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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 and that meets at least one of the following criteria:

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

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

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

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

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

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

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

~~(c) To place, assist in placement, or find a mortgage loan~~ 203

~~for a buyer~~ Any individual who is employed by a person exempt from 204
sections 1322.01 to 1322.12 of the Revised Code is also exempt 205
from those sections to the extent the individual is acting within 206
the scope of the individual's employment and within the scope of 207
the exempt person's charter, license, authority, approval, or 208
certificate. 209

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

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

Sec. 1322.03. (A) An application for a certificate of 230
registration as a mortgage broker shall be in writing, under oath, 231

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and in the form prescribed by the superintendent of financial 232
institutions. The application shall be accompanied by ~~an~~ a 233
nonrefundable application fee of three hundred fifty dollars for 234
each location of an office to be maintained by the applicant in 235
accordance with division (A) of section 1322.02 of the Revised 236
Code ~~and; however, an applicant that is registered under sections~~ 237
1321.51 to 1321.60 of the Revised Code shall not be required to 238
pay an application fee. The application shall provide all of the 239
following: 240

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

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

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

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

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

(3)~~(a)~~ If the applicant is a partnership, ~~the applicant shall~~ 262

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~~designate one of the partners named in the application pursuant to~~ 263
~~division (A)(2)(b) of this section as responsible for managing the~~ 264
~~operations of the location or locations where the business is to~~ 265
~~be transacted.~~ 266

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

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

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

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

~~(b) The sole proprietor, partner, shareholder, or natural~~ 292
~~person applicable, possesses at least three years of experience in~~ 293
~~the mortgage and lending field, which experience may include~~ 294

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employment with or as a mortgage broker or with a financial 295
institution, mortgage lending institution, or other lending 296
institution, or possesses at least three years of other experience 297
related specifically to the business of mortgage loans that the 298
superintendent determines meets the requirements of division 299
(A)(4)(b) of this section; 300

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

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

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

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

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

(10) Any further information that the superintendent 325

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requires. 326

(B) Upon the filing of the application and payment of the 327
application fee, the superintendent shall investigate the 328
applicant. The investigation shall include a criminal records 329
check based on the fingerprints of the applicant and a civil 330
records check. If, in order to issue a certificate of registration 331
to an applicant, investigation by the superintendent outside this 332
state is necessary, the superintendent may require the applicant 333
to advance sufficient funds to pay the actual expenses of the 334
investigation, if it appears that these expenses will exceed three 335
hundred fifty dollars. The superintendent shall provide the 336
applicant with an itemized statement of the actual expenses that 337
the applicant is required to pay. 338

(C) All funds advanced and application and renewal fees and 339
penalties paid to the superintendent under this section and 340
section 1322.04 of the Revised Code shall be paid by the 341
superintendent to the treasurer of state to the credit of the 342
consumer finance fund created in section 1321.21 of the Revised 343
Code. 344

~~(D)(1) Division (A)(4) of this section does not apply to any~~ 345
~~registrant that, on March 4, 1996, is registered as a mortgage~~ 346
~~broker under sections 1322.01 to 1322.12 of the Revised Code under~~ 347
~~a certificate of registration issued pursuant to those sections~~ 348
~~prior to March 4, 1996, provided that the certificate of~~ 349
~~registration is not surrendered by the registrant or revoked or~~ 350
~~refused renewal by the superintendent of financial institutions at~~ 351
~~any time after March 4, 1996.~~ 352

~~(2) Except as provided in division (D)(3) of this section, on~~ 353
~~and after the effective date of this amendment, evidence of~~ 354
~~education provided in division (A)(4)(a) of this section shall not~~ 355
~~be accepted on an application of a person applying as a new~~ 356
~~applicant for a certificate of registration as a mortgage broker.~~ 357

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

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

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

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

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(E) A certificate of registration, or the authority granted 390
under such a certificate, is not transferable or assignable and 391
cannot be franchised by contract or any other means. 392

Sec. 1322.031. (A) An application for a license as a loan 393
officer shall be in writing, under oath, and in the form 394
prescribed by the superintendent of financial institutions. The 395
application shall be accompanied by a nonrefundable application 396
fee of one hundred dollars and shall provide all of the following: 397

(1) The name and address of the applicant; 398

(2) A statement as to whether the applicant has been 399
convicted of or pleaded guilty to any criminal offense involving 400
theft, receiving stolen property, embezzlement, forgery, fraud, 401
passing bad checks, money laundering, or drug trafficking, or any 402
criminal offense involving money or securities; 403

(3) A statement as to whether the applicant has been subject 404
to an adverse judgment for conversion, embezzlement, 405
misappropriation of funds, fraud, misfeasance or malfeasance, or 406
breach of fiduciary duty; 407

(4) Any further information that the superintendent requires. 408
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(B) Upon the filing of the application and payment of the 410
application fee, the superintendent shall investigate the 411
applicant. The investigation shall include a criminal records 412
check based on the fingerprints of the applicant and a civil 413
records check. If, in order to issue a license to an applicant, 414
investigation by the superintendent outside this state is 415
necessary, the superintendent may require the applicant to advance 416
sufficient funds to pay the actual expenses of the investigation, 417
if it appears that these expenses will exceed one hundred dollars. 418
The superintendent shall provide the applicant with an itemized 419

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statement of the actual expenses that the applicant is required to
pay.

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

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

(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.

(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 451
basis pending the transfer of the loan officer's license to the 452
mortgage broker, if the mortgage broker receives written 453
confirmation from the superintendent that the loan officer is 454
licensed under sections 1322.01 to 1322.12 of the Revised Code. 455

(F) A license, or the authority granted under such a license, 456
is not transferable or assignable and cannot be franchised by 457
contract or any other means. 458

Sec. 1322.04. (A) Upon the conclusion of the investigation 459
required under division (B) of section 1322.03 of the Revised 460
Code, the superintendent of financial institutions shall issue a 461
certificate of registration to the applicant if the superintendent 462
finds that the following conditions are met: 463

(1) The Except as otherwise provided in division (A) of 464
section 1322.03 of the Revised Code, the application is accompanied 465
by the application fee ~~of three hundred fifty dollars for each~~ 466
~~location of an office to be maintained by the applicant in~~ 467
~~accordance with division (A) of section 1322.02 of the Revised~~ 468
~~Code and complies with division (A) of section 1322.03 of the~~ 469
~~Revised Code. If a check or other draft instrument is returned to~~ 470
the superintendent for insufficient funds, the superintendent 471
shall notify the registrant by certified mail, return receipt 472
requested, that the certificate of registration issued in reliance 473
on the check or other draft instrument will be canceled unless the 474
registrant, within thirty days after receipt of the notice, 475
submits the application fee and a one-hundred-dollar penalty to 476
the superintendent. If the registrant does not submit the 477
application fee and penalty within that time period, or if any 478
check or other draft instrument used to pay the fee or penalty is 479
returned to the superintendent for insufficient funds, the 480
certificate of registration shall be canceled immediately without 481

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a hearing and the registrant shall cease activity as a mortgage broker. 482
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(2) If the application is for a location that is a residence, 484
that the applicant has obtained a valid zoning permit authorizing 485
the use of the residence for commercial purposes, or has obtained 486
a valid written opinion or other document issued by the county or 487
political subdivision where the residence is located certifying 488
that the use of the residence to transact business as a mortgage 489
broker is not prohibited by the county or political subdivision. 490
The application also is accompanied by a photograph of each 491
location at which the mortgage broker's business will be 492
transacted. 493

(3)~~(a)~~ The sole proprietor, ~~partner, shareholder, or natural~~ 494
~~the~~ person designated on the application, pursuant to division 495
(A)(3) of section 1322.03 of the Revised Code, as ~~responsible for~~ 496
~~managing the operation of the location or locations where the~~ 497
~~business is to be transacted~~ applicable, meets the ~~educational or~~ 498
experience requirements provided in division (A)(4) of section 499
1322.03 of the Revised Code. 500

~~(b) If a partner, shareholder, or natural person designated~~ 501
~~pursuant to division (A)(3) of section 1322.03 of the Revised Code~~ 502
~~ceases to be responsible for managing the operation of the~~ 503
~~location or locations where the business is to be transacted, the~~ 504
~~applicant shall comply with the requirements that apply to a~~ 505
~~registrant under division (E) of this section.~~ 506

(4) ~~In the case of a foreign corporation, the~~ The applicant 507
maintains a license pursuant to Chapter 1703. of the Revised Code 508
to transact business in this all licenses and registrations 509
required by the secretary of state. 510

(5) The applicant complies with the surety bond requirements 511
of section 1322.05 of the Revised Code. 512

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(6) The applicant complies with sections 1322.01 to 1322.12 of the Revised Code. 513 514

(7) ~~The~~ Neither the applicant nor any shareholder, member, partner, operations manager, or employee of the applicant has not 515 516
pleaded guilty to or been convicted of a any criminal offense, the 517
violation of which is a felony, or any criminal offense involving 518
fraud described in division (A)(7) of section 1322.03 of the 519
Revised Code, or, if the applicant or any of those other persons 520
has pleaded guilty to or been convicted of such an offense, the 521
applicant has proven to the superintendent, by a preponderance of 522
the evidence, that the applicant's or other person's activities 523
and employment record since the conviction show that the applicant 524
or other person is honest, truthful, and of good reputation, and 525
there is no basis in fact for believing that the applicant or 526
other person will commit such an offense again. 527

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

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

(10) The applicant's financial responsibility, experience, 543
character, and general fitness command the confidence of the 544

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public and warrant the belief that the business will be operated 545
honestly and fairly in compliance with the purposes of sections 546
1322.01 to 1322.12 of the Revised Code. 547

For purposes of determining whether an applicant that is a 548
partnership, corporation, or other business entity or association 549
has met the conditions set forth in ~~division~~ divisions (A)(7), 550
(A)(8), and (A)(10) of this section, the superintendent shall 551
determine which partners, shareholders, or persons named in the 552
application pursuant to division (A)(2) of section 1322.03 of the 553
Revised Code must meet the conditions set forth in ~~division~~ 554
divisions (A)(7), (A)(8), and (A)(10) of this section. This 555
determination shall be based on the extent and nature of the 556
partner's, shareholder's, or person's ownership interest in the 557
partnership, corporation, or other business entity or association 558
that is the applicant. 559

(B) The certificate of registration issued pursuant to 560
division (A) of this section may be renewed annually on or before 561
the thirtieth day of April ~~upon payment of a~~ if the superintendent 562
finds that all of the following conditions are met: 563

(1) The renewal application is accompanied by a nonrefundable 564
renewal fee of three hundred fifty dollars for each location of an 565
office to be maintained by the applicant in accordance with 566
division (A) of section 1322.02 of the Revised Code and a finding 567
by the superintendent that the; however, an applicant that is 568
registered under sections 1321.51 to 1321.60 of the Revised Code 569
shall not be required to pay a renewal fee. If a check or other 570
draft instrument is returned to the superintendent for 571
insufficient funds, the superintendent shall notify the registrant 572
by certified mail, return receipt requested, that the certificate 573
of registration renewed in reliance on the check or other draft 574
instrument will be canceled unless the registrant, within thirty 575
days after receipt of the notice, submits the renewal fee and a 576

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one-hundred-dollar penalty to the superintendent. If the 577
registrant does not submit the renewal fee and penalty within that 578
time period, or if any check or other draft instrument used to pay 579
the fee or penalty is returned to the superintendent for 580
insufficient funds, the certificate of registration shall be 581
canceled immediately without a hearing and the registrant shall 582
cease activity as a mortgage broker. 583

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

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

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

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

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

~~(D) Division (A)(3) of this section does not apply to any~~ 603
~~registrant that, on March 4, 1996, is registered as a mortgage~~ 604
~~broker under sections 1322.01 to 1322.12 of the Revised Code under~~ 605
~~a certificate of registration issued pursuant to those sections~~ 606
~~prior to March 4, 1996, provided that the certificate of~~ 607

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~~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.~~

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

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

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

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

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

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

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(1) The application is accompanied by the application fee. If 638
a check or other draft instrument is returned to the 639
superintendent for insufficient funds, the superintendent shall 640
notify the licensee by certified mail, return receipt requested, 641
that the license issued in reliance on the check or other draft 642
instrument will be canceled unless the licensee, within thirty 643
days after receipt of the notice, submits the application fee and 644
a one-hundred-dollar penalty to the superintendent. If the 645
licensee does not submit the application fee and penalty within 646
that time period, or if any check or other draft instrument used 647
to pay the fee or penalty is returned to the superintendent for 648
insufficient funds, the license shall be canceled immediately 649
without a hearing and the licensee shall cease activity as a loan 650
officer. 651

(2) The applicant complies with sections 1322.01 to 1322.12 652
of the Revised Code. 653

(3) The applicant has not been convicted of or pleaded guilty 654
to any criminal offense described in division (A)(2) of section 655
1322.031 of the Revised Code, or, if the applicant has been 656
convicted of or pleaded guilty to such an offense, the applicant 657
has proven to the superintendent, by a preponderance of the 658
evidence, that the applicant's activities and employment record 659
since the conviction show that the applicant is honest, truthful, 660
and of good reputation, and there is no basis in fact for 661
believing that the applicant will commit such an offense again. 662

(4) The applicant has not been subject to an adverse judgment 664
for conversion, embezzlement, misappropriation of funds, fraud, 665
misfeasance or malfeasance, or breach of fiduciary duty, or, if 666
the applicant has been subject to such a judgment, the applicant 667
has proven to the superintendent, by a preponderance of the 668
evidence, that the applicant's activities and employment record 669

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since the judgment show that the applicant is honest, truthful,
and of good reputation, and there is no basis in fact for
believing that the applicant will be subject to such a judgment
again.

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

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

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

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

(3) The applicant meets the conditions set forth in divisions

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(A)(2) to (5) of this section.

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

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

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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.

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

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(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

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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

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

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

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

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

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

Sec. 1322.06. (A) As often as the superintendent of financial
institutions considers it necessary, the superintendent may
examine the registrant's records pertaining to business transacted

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pursuant to sections 1322.01 to 1322.12 of the Revised Code. 793

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(B) A registrant shall maintain records pertaining to 795
business transacted pursuant to sections 1322.01 to 1322.12 of the 796
Revised Code for ~~two~~ four years ~~or more after the final entry on~~ 797
~~such records~~. No registrant shall fail to comply with this 798
division. 799

~~(C) All information obtained by the superintendent or the 800
superintendent's deputies, examiners, assistants, agents, or 801
clerks by reason of their official position, including information 802
obtained by such persons in the course of examining a registrant 803
or investigating an applicant for a certificate of registration, 804
is privileged and confidential. All such information shall remain 805
privileged and confidential for all purposes except when it is 806
necessary for the superintendent and the superintendent's 807
deputies, examiners, assistants, agents, or clerks to take 808
official action regarding the affairs of the registrant or in 809
connection with criminal proceedings. 810~~

Sec. 1322.061. (A)(1) The following information is privileged 811
and confidential: 812

(a) Examination information, and any information leading to 813
or arising from an examination; 814

(b) Investigation information, and any information arising 815
from or leading to an investigation. 816

(2) The information described in division (A)(1) of this 817
section shall remain privileged and confidential for all purposes 818
except when it is necessary for the superintendent of financial 819
institutions to take official action regarding the affairs of a 820
registrant, or in connection with civil or criminal investigations 821
or proceedings conducted by the attorney general or a county 822
prosecutor. The superintendent may share examination and 823

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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 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;

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

(8) A description of all the services the registrant has 855
agreed to perform for the buyer; 856

(9) A statement that the buyer has not entered into an 857
exclusive agreement for brokerage services. 858

(B) If there is any change in the information provided under 859
division (A)(6) or (8) of this section, the registrant shall 860
provide the buyer with the revised mortgage loan origination 861
disclosure statement no later than three days after the change 862
occurs, or the date the loan is closed, whichever is earlier. 863

(C) No registrant shall fail to comply with this section. 864

Sec. 1322.07. No mortgage broker, registrant, licensee, or 865
applicant for a certificate of registration or license under 866
sections 1322.01 to 1322.12 of the Revised Code shall do any of 867
the following: 868

(A) Obtain a certificate of registration or license through 869
any false or fraudulent representation of a material fact or any 870
omission of a material fact required by state law, or make any 871
substantial misrepresentation in any registration or license 872
application; 873

(B) Make false or misleading statements of a material fact, 874
omissions of statements required by state law, or false promises 875
regarding a material fact, through advertising or other means, or 876
engage in a continued course of misrepresentations; 877

(C) Engage in conduct that constitutes improper, fraudulent, 878
or dishonest dealings; 879

(D) Fail to notify the division of financial institutions ~~if~~ 880
within thirty days after the registrant, licensee, or applicant, 881

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in a court of competent jurisdiction of this state or any other 882
state, is convicted of or pleads guilty to ~~a~~ any criminal offense, 883
~~the violation of which is a felony~~ involving theft, receiving 884
stolen property, embezzlement, forgery, fraud, passing bad checks, 885
money laundering, or drug trafficking, or any criminal offense 886
involving ~~fraud~~ money or securities; 887

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

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

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

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

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

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

(3) Pay or receive, directly or indirectly, a referral fee or 909
kickback of any kind to or from a bona fide third party or other 910
party with a related interest in the transaction, such as a home 911

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improvement builder, real estate developer, or real estate broker 912
or agent, for the referral of business. 913

Sec. 1322.072. No person, in connection with any examination 914
or investigation conducted by the superintendent of financial 915
institutions under sections 1322.01 to 1322.12 of the Revised 916
Code, shall knowingly do either of the following: 917

(A) Circumvent, interfere with, obstruct, or fail to 918
cooperate, including making a false or misleading statement, 919
failing to produce records, or intimidating or suborning any 920
witness; 921

(B) Tamper with, alter, or manufacture any evidence. 922

Sec. 1322.073. No person shall acquire, sell, transfer, or 923
hypothecate any interest in a registrant or an applicant for a 924
certificate of registration in order to obfuscate or conceal the 925
true ownership or control of the registrant or applicant. 926

Sec. 1322.08. (A) No registrant shall fail to do any of the 927
following: 928

(1) Maintain a special account; 929
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(2) Deposit into the registrant's special account any bona 929
fide third-party fee the registrant receives; 931
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(3) Pay bona fide third-party fees to a bona fide third party 931
from the registrant's special account. 932

(B) Except as otherwise provided in this division, no 934
registrant shall charge or receive, directly or indirectly, fees 935
for assisting a buyer in obtaining a mortgage, until all of the 936
services that the registrant has agreed to perform for the buyer 937
are completed, and the proceeds of the mortgage loan have been 938
disbursed to or on behalf of the buyer. However, prior to 939

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completion of such services the following fees may be paid for 940
services performed by a bona fide third party in assisting the 941
buyer to obtain a mortgage if the fees are either paid directly by 942
the buyer to the bona fide third party or, except as provided in 943
division ~~(A)(6)~~(B)(5) of this section, the fees are deposited by 944
the registrant into the registrant's special account for services 945
performed by the bona fide third party: 946

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

(2) Fees for notary services; 948

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

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

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

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

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

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

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(1) "Bona fide third party" means a person that is not an 971
employee of, related to, or affiliated with, the registrant, and 972
that is not used for the purpose of circumvention or evasion of 973
this section. 974

(2) "Special account" means a depository account with a 975
financial institution, the deposits of which are insured by the 976
federal deposit insurance corporation, that is separate and 977
distinct from any personal or other account of the registrant, and 978
that is maintained solely for the holding and payment of fees 979
described in ~~division (A)~~ of this section for services performed 980
by bona fide third parties and received by the registrant from 981
buyers that the registrant assists in obtaining mortgages. 982

Sec. 1322.09. A mortgage broker shall disclose in any 983
printed, televised, broadcast, electronically transmitted, or 984
published advertisement relating to the mortgage broker's 985
services, including on any electronic site accessible through the 986
internet, the name and street address of the mortgage broker and 987
the number designated on the certificate of registration that is 988
issued to the mortgage broker by the superintendent of financial 989
institutions under sections 1322.01 to 1322.12 of the Revised 990
Code. ~~No~~ 991

No mortgage broker shall fail to comply with this section. 992

Sec. 1322.10. (A) After notice and opportunity for a hearing 993
conducted in accordance with Chapter 119. of the Revised Code, the 994
superintendent of financial institutions may do the following: 995

(1) Suspend, revoke, or refuse to issue or renew a 997
certificate of registration or license if the superintendent finds 998
~~a~~ either of the following: 999

(a) A violation of ~~division (B) of section 1322.06 or section~~ 1000

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~~1322.05, 1322.07, 1322.08, or 1322.09~~ or failure to comply with 1001
any provision of sections 1322.01 to 1322.12 of the Revised Code 1002
or the rules adopted under those sections or any other law 1003
applicable to the business conducted under a certificate of 1004
registration; 1005

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

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

(a) The seriousness of the violation; 1021

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

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

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

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

(B) The superintendent may investigate alleged violations of 1030
~~section~~ sections 1322.01 to 1322.12 of the Revised Code or the 1031

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rules adopted under those sections or complaints concerning any 1032
such violation. The superintendent may make application to the 1033
court of common pleas for an order enjoining any such violation, 1034
and, upon a showing by the superintendent that a person has 1035
committed or is about to commit such a violation, the court shall 1036
grant an injunction, restraining order, or other appropriate 1037
relief. 1038

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

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

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

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section, the revocation shall be permanent.

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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.

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

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

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(3) The buyer may be awarded punitive damages.

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

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

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the attorney general shall be in addition to any other applicable powers of the attorney general. 1094
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(C) The remedies provided by this section are in addition to any other remedy provided by law. 1096
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(D) In any proceeding or action brought under sections 1098
1322.01 to 1322.12 of the Revised Code, the burden of proving an 1099
exemption under those sections is on the person claiming the 1100
benefit of the exemption. 1101

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

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

Sec. 1322.99. (A) Whoever violates division (A)(1) or (2) of 1122
section 1322.02, division (E) or (F) of section 1322.07 or, 1123
division (A)(B)(1) or (B)(2) of section 1322.071, or section 1124

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1322.08 of the Revised Code is guilty of a felony of the fifth degree. 1125
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(B) Whoever violates division (B)(3) of section 1322.071 of the Revised Code is guilty of a felony of the fourth degree. 1127
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(C) Whoever violates division (B) of section 1322.02 of the Revised Code is guilty of a misdemeanor of the first degree. 1129
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Sec. 4712.01. As used in sections 4712.01 to 4712.14 of the Revised Code: 1131
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(A) "Buyer" 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. 1133
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(B) "Consumer reporting agency" has the same meaning as in the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as amended. 1137
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(C)(1) "Credit services organization" 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: 1140
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(a) Improving a buyer's credit record, history, or rating; 1145

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

(c) Providing advice or assistance to a buyer in connection with division (C)(1)(a) or (b) of this section; 1147
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(d) Removing adverse credit information that is accurate and not obsolete from the buyer's credit record, history, or rating; 1149
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(e) Altering the buyer's identification to prevent the display of the buyer's credit record, history, or rating. 1151
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(2) "Credit services organization" does not include any of 1153

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the following: 1154

(a) A person that makes or collects loans, to the extent 1155
these activities are subject to licensure or registration by this 1156
state; 1157

(b) A mortgage broker, as defined in ~~division (E)~~ of section 1158
1322.01 of the Revised Code, that holds a valid certificate of 1159
registration under sections 1322.01 to 1322.12 of the Revised 1160
Code; 1161

(c) A lender approved by the United States secretary of 1162
housing and urban development for participation in a mortgage 1163
insurance program under the "National Housing Act," 48 Stat. 1246 1164
(1934), 12 U.S.C.A. 1701, as amended; 1165

(d) A bank, savings bank, or savings and loan association, or 1166
a subsidiary or an affiliate of a bank, savings bank, or savings 1167
and loan association. For purposes of division (C)(2)(d) of this 1168
section, "affiliate" has the same meaning as in division (A) of 1169
section 1101.01 of the Revised Code and "bank," as used in 1170
division (A) of section 1101.01 of the Revised Code, is deemed to 1171
include a savings bank or savings and loan association. 1172

(e) A credit union organized and qualified under Chapter 1173
1733. of the Revised Code or the "Federal Credit Union Act," 84 1174
Stat. 994 (1970), 12 U.S.C.A. 1751, as amended; 1175

(f) A budget and debt counseling service, as defined in 1176
division (D) of section 2716.03 of the Revised Code, provided that 1177
the service is a nonprofit organization exempt from taxation under 1178
section 501(c)(3) of the "Internal Revenue Code of 1986," 100 1179
Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is 1180
in compliance with Chapter 4710. of the Revised Code; 1181

(g) A consumer reporting agency that is in substantial 1182
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 1183
U.S.C.A. 1681a, as amended. 1184

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(h) A mortgage banker;	1185
(i) Any political subdivision, or any governmental or other	1186
public entity, corporation, or agency, in or of the United States	1187
or any state of the United States;	1188
(j) A college or university, or controlled entity of a	1189
college or university, as defined in section 1713.05 of the	1190
Revised Code;	1191
(k) A motor vehicle dealer licensed pursuant to Chapter 4517.	1192
of the Revised Code acting within the scope and authority of that	1193
license or a motor vehicle auction owner licensed pursuant to	1194
Chapters 4517. and 4707. of the Revised Code acting within the	1195
scope and authority of that license.	1196
(D) <u>"Extension of credit"</u> means the right to defer payment of	1197
debt, or to incur debt and defer its payment, offered or granted	1198
primarily for personal, family, or household purposes. <u>"Extension</u>	1199
<u>of credit"</u> does not include a mortgage.	1200
(E) <u>"Mortgage"</u> means any indebtedness secured by a deed of	1201
trust, security deed, or other lien on real property.	1202
(F) <u>"Mortgage banker"</u> means any person that makes, services,	1203
or buys and sells mortgage loans and is approved by the United	1204
States department of housing and urban development, the United	1205
States department of veterans affairs, the federal national	1206
mortgage association, or the federal home loan mortgage	1207
corporation.	1208
(G) <u>"Superintendent of financial institutions"</u> includes the	1209
deputy superintendent for consumer finance as provided in section	1210
1181.21 of the Revised Code.	1211
Section 2. That existing sections 1322.01, 1322.02, 1322.03,	1212
1322.04, 1322.05, 1322.06, 1322.07, 1322.08, 1322.09, 1322.10,	1213
1322.101, 1322.11, 1322.99, and 4712.01 of the Revised Code are	1214

hereby repealed. 1215

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

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